

City Council Regular Meeting Transcript – 02/26/2015

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[10:11:25 AM]

>>> >> >>> >> >>> >> >>> February 26, 2015 Austin city council.

[10:20:32 AM]

>> Mayor Adler: We will begin today with the invocation by Carolyn Donovan, St. Martin's lutheran church. Please rise.

>> Thank you, mayor Adler. Mr. Mayor, esteemed councilmembers and citizens of Austin, it is my honor to be here on behalf of the people of St. Martin's lutheran church today, a neighbor of the state capitol and a part of the downtown Austin community for over 150 years. I bring from my faith community wishes for peace, presence of mind and fulfilling deliberation for you all today. If you would joint me in the invocation. Gracious creator, spirit of justice and love, be present and guide the work of this day. We who are proud to call ourselves austinites are from many backgrounds, many faiths, of many races of different means and every single one of us together makes this city the wonderful and weird place that it is. Be with those of us who would be leaders in this city. That we might work for justice. And the highest and best quality of life for all its people. May the challenges before us and especially before this council today be out matched by a spirit of creativity, collaboration and compassion. In your holy name, amen.

>> Mayor Adler: Thank you. A quorum is present. I'll call to order today's meeting. Today is Thursday, February 26th. We're meeting in the council chambers, 301 west second street, Austin, Texas. And the time is 10:20. I'm going to begin by reading into the record the changes and corrections for today's agenda.

[10:22:47 AM]

Action items -- we're adding in item number 3 where it says authorize execution of, it's now going to say authorize award and execution of. On item number 5 we made reference to Austin high school, Austin independent school district. And this is now going to be changed to read emergency medical technician basic training at an Austin independent school district high school. For an additional term of one year. Item number 20, on February 23rd, 2015 this was not recommended by the electric utility commission

on a vote of 3-2 with commissioners Osbourne and Heyden voting no and commissioners miyer and rhea absent. Items 34 and 35 are withdrawn. Items 26, 27 and 65, they were recommended on February 23rd, 2015 by the electric utility commission on a vote of 5-0 with commissioners major and rhea absent. Item 36, sponsors, councilmember Leslie pool has been added. Item 62 added four P.M. Time certain, a request to withdraw item 62 will be made. Time certain items, none for the 10:30 morning briefing. We have time certain at noon, general citizens communication. 2:00 zoning matters, 4:00 public hearings. 5:30 live music and proclamations. And we have the east side memorial high school jazz band with us tonight at 5:30.

[10:24:49 AM]

We have items that have been pulled off of the consent agenda. These are items 2, 10, 12, 13, 14, 16, 19, 20, 21, 23, 26, 29 and 40 pulled by Gallo. Items 7 and 16 pulled by councilmember Zimmerman. We get to item 65 we'll have to go through a drawing of lots to pick the successful bidder since three bidders all came in at the same number. We have late backup on item 10. Board recommendation, pard. Item number 11 backup, summary of agreement, the board recommendation. Item 43, backup, the site plan appeal and a backup traffic study. Item 50 a neighborhood corresponding backup. And item 65 we have a memo to the mayor and to the council. Do we have any other items to pull on the consent agenda? No? What about speakers signed up?

[10:26:59 AM]

We have more than two speakers on item 7 that was already pulled. The additional items pulled for speakers are 35, 36, 40 and number 2.

>> Mayor Adler: I'm going to read into the record the appointments and waivers to the boards and commissions, which is item number 33. Which is not pulled. Board nominees, alcohol nominates for the integrated water community taskforce, Kate seriner. Councilmember kitchen to the Austin energy integrated water resource planning team. The consent agenda today is items 1 through 40. We've already pulled the items and to that we've added 35, 36, 40 and 2 was already pulled. 35 is an item that's withdrawn. So before we approve the consent agenda, the items not pulled, we're going to talk about item 65. This was a bid for a portable three-phase meter tester analysis. The purchasing item has this on the consent agenda. This requires a casting of lots. Item number 65 is for the one-time purchase of two portable three-phase meeter testers, analyzers for Austin energy.

[10:29:05 AM]

There were identical bids among three bidders. None of which are residents of the city. Texas meter and device from Waco bid \$62,036. Radian research inc., from Lafayette, Indiana, identical bid. Way fayeer company from Jackson, Mississippi, identical bids. When bids are identical a section of the Texas government code requires that lots are cast to determine the awardee. In a manner prescribed by the mayor and in the presence of the gording body.

-- Governing body. At this time there will be a casting of lots to determine which bidder gets the award for this item. Without objection, the item will be left on the consent agenda and the casting of lots will be done prior to making the motion to approve the consent agenda. The purchasing officer has the envelope ready for the casting of lots, so please provide the envelope to the city clerk?

>> Mr. Mayor, could I ask a question? And this just shows my unfamiliarity with this. So what has to happen in order do lots? All aspects of the bid has to be done identical, all the scoring on the bid?

>> Mayor Adler: I understand that they're identical bids of process. Do you want to address that, please?

>> Mayor, councilmembers, James Scarborough, purchasing office. Yes, New Orleans with Texas statutes if the bids are identical, then there would be a drawing of lots. That identical would be based on the portions of the pricing that are subject to the competition. So if we're competing by line item or if we're competing by categorical item, we're competing by an aggregate award, so it would be based on the source of the competition. In this case it was a one-time purchase for a single device, so it was just a single price at play.

[10:31:09 AM]

>> Kitchen: Okay.

>> Mayor Adler: Ms. Tovo?

>> Tovo: This is really interesting and unusual. I did notice that councilmember Houston pulled it from the consent agenda. I don't know whether that impacts --

>> [Inaudible].

>> Tovo: Okay. I just wanted an opportunity to hear from you before we voted on it if that's what we were going to do.

>> Mayor Adler: Are we okay? Purchasing office has the envelope ready? Would you provide that to the clerk? It's been done. The clerk will open the envelope, pull one card from the envelope and hand it to me. And the winner for best actress is -- [laughter]. Walther engineering, I think, Jackson, Mississippi. Are there any comments on the casting of lots? I need a motion then to approve the consent agenda, including the casting of lots, and minus the pulled items. And in that regard the record should show for councilmember Zimmerman that he is voting for 1, abstaining from items 3 and 4, voting for items 5, 6, 8, 9, 11 and 15. Abstaining from items 18, 25, 27, 28, 30. Voting for items 31.

[10:33:10 AM]

Abstaining item 36. And voting for item
[indiscernible].

>> Zimmerman: And I've given a copy to the the clerk already, just what you've read. Thank you.

>> Mayor Adler: I think this is a really helpful practice to do this. This worked well. Anyone else being shown any particular way on the consent items? Is there a motion then to approve the unpulled consent items subject to Mr. Zimmerman's motion from -- miss Gallo seconded by Mr. Zimmerman. All in favor say aye? Those aped nay. It's unanimous on the dais. We'll then start with our items. Before we do let's talk about scheduling first today. We have a citizen communication that starts at 12:30. Do we want to plan at this point to break for lunch at that point? I'm sorry, at noon, rather, at 12 noon. Do we want to break for lunch right after that? And then we'll come so that peopled in that that's happening? We have executive session possibility during that time. But not something I think that will actually be called up,, but if there are other items that come up we can have that issue. We'll start with the issues that have been pulled and that begins with item number 2.

[10:35:10 AM]

This was pulled by councilmember Gallo.

>> Gallo: The reason that this was pulled initially at the work session was we had some questions about just the process and at least as far as I was concerned those questions have been answered, so I don't have any other issue with this unless someone else that asked questions there does.

>> Mayor Adler: Any further discussion on item number 2? Ms. Troxclair?

>> Troxclair: So I thought that there was some discussion about sending some of these items to a

committee. Did we have -- and we were waiting to hear which ones were urgent and which ones we could send to committee.

>> Mayor Adler: I think there were two issues. They were questions that came back from stuff where they had gone through the items, and I think that ultimately -- probably the question we need to consider is several of the items got pulled, for example, give rise to the issue of how do we give local preference in contracting and purchasing? Which gives rise to the issue of the code, the provisions we have with respect to [indiscernible]. One question would be whether or not we want to send these items that are already in the pipeline to a committee or whether we want to proceed on these items, but send the issue of local contracting to a committee for the committee to take a look at. And we could certainly do the latter. It would require a motion to also do the first. So regardless of the vote on that policy issue, and there may be others, we'll send that today or tomorrow to a committee to take a look at generally that local purchasing policy issue.

[10:37:13 AM]

>> Troxclair: So we had a conversation about item number 2, but I don't see -- at the work session, but I don't see item number 2 listed on the staff information that we were given. And that was the item that I was particularly -- that I had the most questions about and was particularly interested in. So so I guess it would be helpful if we have any direction from staff other than what we heard at the work session and if not it would be my preference -- I guess I would make a motion to move item number 2, refer that to a committee.

>> Zimmerman: Mr. Mayor, I wanted to be recognized for a motion to refer item number 2 to a committee. I wanted to make that motion.

>> Mayor Adler: Is there any discussion on this issue?

>> -- Any second on for suggestion of this issue?

>> I would second for suggestion.

>> Mayor Adler: Don, do you want to address your motion?

>> Zimmerman: Yeah, based on the comments that we heard at the work session, that was kind of my understanding too is that we did have several weeks that we could put this into a committee and have it kind of debated and vetted. And there would be plenty of time to get a committee to review this and recommend back to the council what we should do. So that's how I made the motion. That was based on Tuesday's discussion. It sounded like from the airport director if we didn't have a pressing issue on it. So that's why -- why I'd like to move it to a committee. If we were to make a motion to move it to committee without specifying the committee, then you would be the one to assign it to a committee, correct?

>> Mayor Adler: Correct: Mr. Renteria.

>> Renteria: According to the staff response to this, I ended up getting this questions and answers for the city council.

[10:39:18 AM]

And it basically just says that the requirement to qualify for local presence, which was the whole conversation on this item, it says local presence cannot be considered in this award because while Q and a system has an Austin address, they're not located in the Austin corporate city limits.

>> Zimmerman: We're on item 2. Was that on item 2?

>> Renteria: I'm sorry, I take that back. Never mind.

>> Mayor Adler: That's okay. This is the construction manager at risk contract at the airport. Ms. Troxclair?

>> Troxclair: So my main interest in this item is because of the dollar amount, \$120 million is the anticipated cost of the project that we are -- this is the beginning steps of us initiating that project. And because of the huge price tag as well as there being no ultimate cap on how much this project could end up costing, I do think that if it wouldn't cause significant delay if we could send this to committee, I would take the opportunity to really flesh out the process, considering that it is not one that is used very often within the city, but it is such a large amount of money.

>> Rosie Truelove, I'm the director of the city's contract review department. As we discussed at the work session, the head of the aviation department has said the delay of a couple of weeks to get in front of a committee would not be impactful, so I think that we can do that.

[10:41:21 AM]

>> Tovo: I appreciate that reminder. And it sounds -- I guess it would be interesting -- I guess I would just encourage -- I'd like to make sure that we're -- our inability of -- we don't have any committee meetings schedule. It's not clear to me whether this will go to transportation as a transportation issue or if the construction manager at risk relationship is going to be the subject of discussion or both. It would seem to me the construction manager at risk falls into audit and finance and I'm concerned that we won't be meeting until the last week probably of March. So I don't know how soon transportation is going to meet or whether there's another appropriate committee. It would seem to me that based on the questions people had on Tuesday, it would seem to me those are the bodies of concern and I don't know whether either one of them is going to be meeting within the next couple of weeks. I suppose there's no harm in waiting and seeing what happens next, but just a question.

>> Kitchen: Are you talking about transportation? I'll need of course to talk with my fellow committee members, but I am anticipating meeting in March, not the regularly scheduled time that we'll be talking about, which will be next week, but at a time that's amenable everyone.

>> Casar: Mayor, my concern is Ms. Truelove, do you mean that you would want to vote on the method of bidding this project within two weeks from today.

>> What Mr. Smith indicated is if we have a slight delay of a couple of weeks then that probably wouldn't have an overall significant impact on our ability to get the parking garage constructed and to meet the demands of service at the airport. If it was a couple of months, then I think that would become a more impactful factor.

[10:43:25 AM]

>> Mayor Adler: And what if it was a month?

>> That would probably be fine.

>> Mayor Adler: Mr. Smith? So it doesn't look like we could get it back in two weeks. It looks like it would wouldn't be more quickly than two months. So the council is looking for direction.

>> If we had a subcommittee meeting in March, hopefully as early as possible, and follow up immediately getting back on a council agenda, that wouldn't destroy the process or create undue hardship.

>> Mayor Adler: Okay. Thank you. Any further conversation on this?

>> Zimmerman: Mr. Smith, sorry, could I have a quick question? There's kind of a preliminary schedule in place now. Just out of curiosity, when is it scheduled for maybe a groundbreaking on the project? So after the contractor was decided on, what would be the estimated groundbreaking on the project?

>> I didn't bring a copy of the schedule with me, but there's a fairly lengthy solicitation process to hire the architect, then there will be another solicitation process to bring on the construction manager at risk. Both of those have to come back to council again for review before we even actually move ahead

with a more definitive schedule of the construction time.

>> Zimmerman: We're probably taking a year or so before groundbreaking.

>> At least that long.

>> I don't have an item on are a figure on the groundbreaking, but the rca anticipates construction completion tentatively in summer of 2017.

>> Zimmerman: Thank you..

>> Mayor Adler: Any further discussion, Ms. Houston.

>> Houston: Can you tell me what rca is.

>> The request for council action. The document associated with the item in the agenda system.

>> Cesar: I'll support the motion but make my intent clear if we don't see this coming up on March the 26th agenda, one month from today I'll be working with councilmembers to bring it directly to the council's agenda as a construction manager at risk project.

[10:45:33 AM]

>> Mr. Mayor.

>> Mayor Adler: Yes.

>> I agree with councilmember Cesar. I think it's clear we need to have additional parking available at the airport, and I will also be looking to see this back on our agenda to vote on in a month, no more than a month. Thank you.

>> Mayor Adler: Anything else? All in favor of referring this matter to a committee indicate by saying aye. Those opposed nay. It's unanimous on the dais. That gets us to our next pull item. Is it item ten? Seven. Item number seven. We have five members of the public to speak. Staff want to address number seven?

>> Mayor and council, this is a request for council to approve hiring of Webb & Webb to represent the city in an ongoing case followed by river place mud. As we talked about in the work session when we hire outside counsel we do so because we fetal like we knee expertise in a particular area, workload issue. We look at the economics involved, expertise of the folks involved and diversity of the firms and we recommend that Webb & Webb who has a large expertise in this area be hired to represent the city in this manner. As we talked about at the work session, we spent time trying to make sure we have the in-house capability to handle this kind of thing. We don't have writ cases very often but we're partnering with our outside firm. Webb & Webb is not here today, members of that firm, they're in an ongoing rent case right now scheduled to conclude tomorrow.

[10:47:35 AM]

We recommend that you make this --

>> Mayor Adler: So the debate is not about the merits but just about the abarredding of the contract?

>> Zimmerman: Point of inquiry, actually. Might be helpful on some of the other discussions about referring to committee. If we make a motion to approve or we make a motion to refer to committee, it still opens it up for debate, right?

>> Mayor Adler: Yes.

>> Zimmerman: I guess I'd like to make a motion on item seven that we refer to committee but of course I'd like to hear from the -- our public testimony before we debate if that's okay.

>> Mayor Adler: Let's go ahead and hear that conversation. Then we'll come back then for that motion. We have members of the public to speak. Scott Crosby. You have three minutes and then Edward Douglas then will speak. Yes, sir.

>> Mayor, city council members, my name is Scott Crosby. I'm the president of the river place

homeowners association. I'm here today to ask before voting on the request for the \$777,000, that you request the appropriate parties to attempt to reach a settlement on this issue. There is no need for either party to spend huge amounts of money to litigate. A little bit of background. Riverplace is a regional community with over 1100 homes being annexed by the city of Austin as part of what is called a limited annexation, which was initiated solely by the city. The city took owner of our municipal water district in 2014. At that time the facilities were turned over to the city of Austin and the city of Austin accepted them as being in good working order as required by the annexation agreement. Full annexation will not be completed until December 31, 2017, which is when we start receiving other city services.

[10:49:42 AM]

In October our residents began paying city of Austin water rates that were on average 104% higher for water and 198% higher for wastewater. Please note that the city uses only the mud facilities to provide water to our community and no other city of Austin facilities will be used according to the annexation agreement. During the summer, as a result of the different rate structures between our old mud rates and the city of Austin rates, it is likely that our water alone, excluding wastewater will be three to four times what we used to pay. Given that the old mud in that structure were adequate to cover the cost of operations of the water facilities, it is obvious that the city going to make a large profit from providing water services to our community. In addition to making this profit, and unlike every other city of Austin water customer whose facility debt is included in the water rates, our homeowners are also required to continue paying off the bond debt for the mud facilities that the city of Austin is now using to provide water to our community. There's currently about \$3 million of bonds outstanding or an average cost to each of our homeowners of approximately \$1,000 per year. We ask you if it's fair to take our facilities, double or triple our rates, which clearly provide a profit to the city of Austin and still require us to pay off the debt on those very facilities.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is Edward Douglas.

[10:51:45 AM]

Is Arthur still in the room?

>> Yes.

>> Mayor Adler: Mr. Douglas, you have six minutes.

>> Thank you, mayor. Council. My name is Edward Douglas. I live in riverplace. I want to share a perspective as a consumer on this situation that we face here with the takeover of our mud by Austin water. I don't know if any of you are students of history, but I gave history some thought as I pondered the situation I find myself in as a recently annexed resident of Austin. There are very few monopolies, political or otherwise, that have survived very long in modern society. Greatest monopoly of all time, the Roman empire thought it was safe and we all know how that turned out. Monopolies don't last long because the absence -- came out to riverplace to plant their flag on our turf. They brought six staff people with them, all of whom I suppose make high five-figure salaries. Six just happens to be the number of minimally paid volunteers that have managed the riverplace mud for 20 years, during which time it earned a superior rating from the state of Texas. The presenters from Austin water made a gallant effort to persuade us that we were getting a good deal by being subsumed by Austin water. And that we would now have access to wonderful services such as help in tuning our sprinkler systems each year. When I told the presenter that tuning sprinkler systems costs \$89 a year and that nothing else he

mentioned seemed to justify the additional \$1,000 or more that we would each be paying for water, he did the smartest thing he could.

[10:54:00 AM]

He looked at his feet. I could go on about the billing errors that occurred at the transition. A transition which Austin water had five years to prepare for. And I won't belabor the inept customer service they exhibited in dealing with those billing errors or its dysfunctional website or the fact that its board of directors is here today spending time pondering ways to slam its best customers about how to rate poor performance by Austin water and collecting millions of unpaid bills. A lot of my neighbors feel the same about Austin water as they do about the road infrastructure in our area, in serious need of upgrade. One might even ask whether we would have all been better served if the riverplace mud had taken over Austin water. As the board of directors for Austin water, which is a protected monopoly, I would think you would be very sensitive about how it is perceived. History would suggest constituents are not going to tolerate for ravished treatment and that imposing Austin water's much higher costs on us is not the way for this council to win friends and influence people in the western suburb. Thank you for listening.

>> Mayor Adler: Thank you. Excuse me, sir.

>> Zimmerman: Mr. Douglas? I have a quick question on -- referring to item seven in the packet that all the councilmembers have in their copies of the rate protest the public utility commission made -- you're probably familiar with that right? There are a few hundred signatures here, I believe, on the rate protest.

>> Yes.

>> Zimmerman: I want to point out a couple of things or ask your opinion and affirmation.

[10:56:03 AM]

So was the city of Austin the utility -- was the wholesale water provider for the mud? Is that right? So the wholesale water came from city of Austin and the mud redistributes the water and pays for the bills? And handles the local infrastructure?

>> That's a question I should refer to another member of our --

>> Mr. Distal.

>> Zimmerman: Can you come up to the mic, please? Thank you, Mr. Distal. Can you do that, please? Thank you.

>> [Off mic]

>> Zimmerman: Thank you very much. Quick clarification. So --

>> Yes, Mr. Mayor and councilmembers, the water supply does not come -- has not come and it does not come now the city of Austin. It comes from Icra.

>> Zimmerman: You got it directly from Icra?

>> Absolutely.

>> Zimmerman: Very important point. Second point, here, looking at the protests and it says we here by petition the public utility commission of Texas, puct to set interim rates at the level that existed before October 1, 2014. So that's how the petition reads. The reason this is important is because we did a q&a, you know, to the city and we said -- we had a couple of questions and one of the responses came back that said that the petition -- that you want the rate to be what it was on or about October 1, 2014. Okay? So thank you.

>> Mayor Adler: Next speaker. Jay Wiley. And then randy Lawson. Mr. Wiley you have three minutes.

[10:58:05 AM]

>> Thank you mayor and councilmembers. There are many more folks here much more knowledgeable about the ins and outs of history of the riverplace mud and what we're dealing with with annexation. I wanted to bring you a little bit of a window into public opinion in riverplace. So many of the folks that I talk to everyday are neighbors, really feel like we're in the cross-hairs by the city of Austin. Some people have dubbed a war on suburbia. We feel like we are really the piggy banks for so much of what the city is trying to do and when we had Austin energy come out a few months ago, talk to us about why our water rates would be 300 and 400 times what they were under mud we really didn't get good answers and so we really feel like we really haven't been heard. This is a famously underrepresented part of Austin. Now we're in Austin and we just feel like the feeling among our neighbors is that the city is really rolling out the big Canons and you can understand our misgivings about, you know, three quarters of \$1 million going now to a law firm that we're being asked to pay for as taxpayers. And so, you know, I think a more probably -- probably a more reasonable way to do this is to really vet this thing in a new committee structure that we have now. You have a perfect opportunity to really think about this and really, as Scott Crosby said, really bring this before the parties so that we can work out a reasonable solution ourselves, without -- before we pull the trigger on spending three quarters of a million dollars, we think that's a much more reasonable solution to this. We hope you'll consider that. Thank you.

>> Mayor Adler: Okay. Randy Lawson.

[11:00:11 AM]

>> Thank you, Mr. Mayor and councilmembers. My name is Randy Lawson, I'm a resident of riverplace. I've been so about ten years. I'm also on the riverplace HOA board of directors. I'd like to start off by saying I do not oppose city annexation per se. That's not what we're talking about. The HOA -- city of Austin is -- of course you've heard planning full annexation at the end of 2017. The city of Austin really could not wait until the end of 2017 to take over our water facilities because, obviously, it was going to be a very profitable operation. Now, riverplace has had -- has a very significant bond debt that we are still paying. So in my opinion, it is not fair for the residents of riverplace, who are still paying for this bond debt, which will not be retired until the end of 2017, to pay the significantly higher Austin rates, Austin water rates, that will at least double, nine have already doubled and it's wintertime. We're not even in the summer peak water usage period yet. So I fully expect my water bill and most residents of riverplace I think can expect a tripling of that water rate. So what I would really like the board to consider is what's been discussed before is is there a way that this is be arbitrated, discussed in committee? Is it really necessary to spend up to \$777,000 of city money to do this? Isn't it worth talking about without taking a full legal position on it?

[11:02:12 AM]

That's my opinion. And the net bottom line is to the residents of riverplace, we're looking at double taxation. That's really what we're talking about here. We're going to be paying until the end of 2017 our bond debt, and in addition we get to pay the double and tripling of our water bills using the same mud water facilities that have always been used. There is no additional physical facilities that the city of Austin will be providing. They're using our facilities to provide water to us at two to 300% increase and asking us to pay -- which we will have to continue paying, the bond debt. Net bottom line is that does not make sense. It's double taxation from my viewpoint and I hope the city council will take this into consideration when you fully deliberate this. Thank you.

>> Mayor Adler: Thank you, sir. Those are all the speakers that we had. Mr. Zimmerman you'd like to make a motion.

>> Zimmerman: Yes, Mr. Mayor I'd like to make that motion and if there's no objection maybe that should go to public utilities, if I can make that motion.

>> Mayor Adler: Is there a second to move this item to committee? Ms. Trox. Discussion on sending this to a committee? Ms. Gallo 2001 5.

>> Gallo: I want to thank the speakers on this, own the neighborhood and planning, what y'all have spoken to and brought up are really valid issues that I look forward to discussing in these committees. The whole point and purpose of the council increasing their workload in establishing the committees is to give citizens a better communication and to allow the councilmembers to delve deeper into subjects like this that perhaps in the past have not had enough time spent on time.

[11:04:18 AM]

Thank you for being here and spending the time, bringing up these issues.

>> Mayor Adler: This is dove.

>> Troclair: I'd like to hear from legal staff either here in open session or closed session about what the impact would be of not having the appropriate level of representation as we're moving into potential litigation on this issue.

>> Mayor Adler: Ms. Morgan.

>> We would ask you not send this to committee because we're in the beginning of a lawsuit. The lawyers for the riverplace mud, the folks who have spoken here filed a lawsuit against the city and we have to defend it. We have already started that process. But we do need the outside counsel help at this time. The question today is only about going forward with retaining this outside council. The issue that the -- the substantive issue that I think you are hearing about and you want to have a discussion about is something we can certainly provide you with in executive session or memos or it's a conversation you can have on a different day. The only question before the council now is whether or not we should retain outside counsel. We would certainly ask that you do that and that you do it today rather than send it to a committee because that will cause us problems in the litigation.

>> Tovo: Thank you. Mayor if I may?

>> Mayor Adler: Yes.

>> Tovo: I would like to make a substitute motion to move staff recommendation. I am not interested in trying the case here in council chambers. If we want to talk about the merits of it we can do that based on memos we received this morning from our staff attorneys and we can certainly do that in executive session but I feel like our -- or I believe that our responsibility to protect the and I is -- extends to making sure that we're appropriately represented on issues regarding litigation. Certainly it's a possibility that I would anticipate in any kind of legal action that our -- either our staff attorneys or our outside counsel would work to bring this to some successful resolution, whether it be a settlement or in the courts.

[11:06:19 AM]

Again, I think -- I regard it as my responsibility to make sure that our city is well-represented in those cases. So that's my motion.

>> Mayor Adler: Okay. So in essence what you're saying --

>> Tovo: I make a motion to approve this item as presented to us by staff on our agenda.

>> Mayor Adler: There's been a substitute motion to send to -- adopt the and a second. Is there any discussion on the substitute motion?

>> I have a question, mayor.

>> Mayor Adler: Yes.

>> My understanding is we did not initiate this lawsuit. Did we initiate this lawsuit?

>> No. This lawsuit was filed by the petitioners, the folks in riverplace challenging the rates the council passed last year.

>> So this is -- we're just defending a lawsuit initiated. And the amount given on the -- the \$777,000 that negotiated settlement, it would not that be high, correct this.

>> Gentlemen thank you. The \$177,000 is a not to exceed. Our hope is we would be able to resolve this far sooner and far less money, not going through a full-blown hearing. We hope so.

>> Zimmerman: The point that I think councilmember Garza for bringing that up. The motion would be to reduce the amount of legal fees in anticipation there would be a negotiation that would be helpful but the very large amount of money really in terms of negotiation for the riverplace residents, that is a tremendous war chess and really doesn't give them any negotiate the authority because it's such a huge number.

[11:08:20 AM]

That's a staggering amount of money to fight the case. Let me back up too. This rate protest was filed in December of last year. So this council has had no opportunity to address this issue. So, in other words, the annexation actions and the water utility actions and the rates and protests were all done prior to us having a chance to be seated as a council. So my motion to refer this to committee is so that this city would have a chance to look at this issue with a set of fresh eyes and not be bound by what happened in the prior council. I thought that's part what have 10-1 was about, to have a fresh look at what's going on here. And I don't think that a one-month delay -- it would probably take bus a month to get it into the committee and get it deliberated. So I'm still -- I guess I'm opposed to your motion to approve for those reasons.

>> Mr. Mayor? Yes, Ms. Pool.

>> Pool: I would support the substitute motion. I'm real uncomfortable with what seems to me litigating the issue here on the dais and using the council meeting as a forum to debate the pros and cons of an issue where the city has been sued and I would be much more comfortable if this were either a discussion in executive session or it were -- or -- and I wish we would move forward on allowing this to go through the Normal procedures for defense of the city. I feel like there might be a little bit of conflict of interest happening on the dais.

>> Mayor Adler: Further discussion? Mayor.

>> Cesar: If I may ask a question of legal. If we were to approve this higher cap or this -- a cap of \$777,000, is the procedure when we're defending a case we would receive regular enough updates if we wanted to cap it later or terminate our contract with the outside counsel that we could do so as a body?

[11:10:28 AM]

>> We can always terminate a contract with our outside counsel if they're not performing or we're not satisfied with the work being done. The reason we ask for the full amount in the beginning is we try and ask for outside counsel to project what a budget would be in this ca type of case and we -- it's a -- hard to predict, hard to know what the other side is going to do, with the motions going back and forth, the complicated nature of a lawsuit. But we do try and get an upper end so we don't have to keep coming back and revisiting. We can certainly update the council as we go through.

>> Cesar: Absolutely. So the arbitration and negotiations that been suggested by some of the residents that came here today, that would be conducted by the outside counsel that we're approving with this item?

>> Sure. We typically have mediation in the very case that's going on with the same lawyers who represent these petitioners, we went through mediation process.

>> Cesar: Thank you. I'll be supporting that substitute motion.

>> Mayor Adler: Mr. Zimmerman, if this was something that was handled today so that the attorneys could get on board to advise even as to the initial steps, I still think it would be appropriate for the committee to look at annexations generally in terms of what it is that the city is doing that might very well be informed by what it is that's happening in this case.

>> Zimmerman: There are going to be some resolutions. You could predict it will go into our new committees. This one seems to be kind of timely. Would it be in order if I asked Mr. Crosby or somebody else from riverplace to give us an idea of what the budget is for this -- because they have legal representation, I understand, for the protest, for the rate protest. So -- and I think that would -- that probably should be public information in the same way that our budget, right, is public information? We're calling for \$777,000. I wonder if there's a way to know what the budget is for riverplace. The point being riverplace doesn't have the assets that the rest of the city has. It seems like an unfarrakhan test to have the entire assets of the city being placed against the limited assets of one neighborhood.

[11:12:31 AM]

Does that make sense.

>> Mayor Adler: It does. I understand the argument and I think that probably is apparent on its face. So I don't need -- I don't think we need to reopen public testimony in order to be able to do that. I think it's there.

>> Zimmerman: Okay.

>> Mayor Adler: Any further conversation on the motion to adopt staff recommendation to move forward with the contract? Ail in favor say aye. Those opposed say nay. Two nay votes, Ms. Troxclair along with Mr. Zimmerman. Move to the next item on the consent agenda, item number ten, which is the way issue. This was pulled by -- this is the west Austin youth association soaks field issue. Field issue. Ms. Gallo you pulled this?

>> Gallo: I did. We had a good discussion at our work session and staff answered a lot of the questions. As we are trying to develop the procedure to move as many of -- agenda items as possible to the council committee structure so that these items can be discussed more fully and citizens have the address to communicate within that structure better with us, this is one of the items that it appears is not time-sensitive at this point. We're also waiting for a master plan to come forward. So I think part of our discussion, it was pulled again so that we could have that same discussion again. And before I say anything else, I want to say I think that west Austin youth association provides an incredible service to the youth of this community, and I support fully what they do and encourage what they do, and I think they're a great partnership with the city to provide those services.

[11:14:33 AM]

So this perceived delay is certainly not an indication that I don't have support of them, but it is to encourage items to work through the committee process.

>> Mayor Adler: You're going to move to refer this to committee.

>> Gallo: Yes.

>> Mayor Adler: Second to this motion.

>> Mayor Adler: From Mr. Renteria. My stance was at the last council, at the work session, that there was the will to send this to a committee. We have three speakers that are identified to speak. Without prejudice on your right to speak later if this does not get referred to committee. Do any of the speakers want to speak to the issue of whether or not this should be referred to a committee? First Melissa morrow. Do you want to speak to the issue of whether it should be referred to a committee as opposed

to to the merits of it?

>> [Off mic]

>> Mayor Adler: Okay. Come on up.

>> Thank you all for your service to our community. My name is Melissa Morrow, and I'm the executive director of West Austin Youth Association known as Waya. We have been a collaborative partner with the city of Austin for 30 years. In August of 2013 we renewed that by and extended it for 25 years. The amendment we are requested is an extension of the time line of the original agreement as a result of the Pressler street project and align with the Lamar Beech master plan. We are not requesting any additional land or change of use. For over 50 years youth sports have been played at Lamar Beech and 30 of those years West Austin Youth Association has managed those facilities by investing time, talent and treasure. Waya spends \$200,000 a year maintaining the fields and programs. We service the community by observing centrally located youth programs open to all children, regardless of ability, disability or financial need.

[11:16:39 AM]

As a partner of the city, we serve over 5,000 youth from over 30 city of Austin zip codes annually. Waya is a great example of a public-private nonprofit partnership that provides services to the community at a fraction of the cost to the city. Saving taxpayers millions of dollars, baseball, softball, soccer, kick ball, flag football, cheerleading, running, lacrosse are a sample of the programs and leagues we provide through our field facility that are open to all youth. Waya is a strong supporter of the Lamar Beech master plan and played a role in initiating the resolution and plan in order to better serve the community. Why do we need this amendment? We are asking to mend the time line of the improvements from six years to ten years. The six year clock for completing the improvements to the fields started August of 2013. Shortly after the signing of these documents, we discovered that the proposed Pressler street would impact the alignment and traffic flow in the area. We are asking to extend the time line of completion in order to better align with the master plan and possible transportation construction. We are requesting to amend the time line from 25 years to 50 years. Waya has committed to raising approximately \$5 million to make these parkland improvements -- they would like to extend the life of the improvements from 25 to 50 years. In this case in particular, you can see on the time line with the possibility that the road improvements and master plan may take several years, if you take the start date of August 2013 and the time it may take to complete the master plan, a conservative estimate which would be two or three years, Peace Park and others, before we start the clock and project completion, which would put us already at year 15, leaving only ten years of constructed use.

[11:18:49 AM]

We are requesting also a mutual parking and controlled access agreement, lastly, as any business where parking is available for all park users and that we hope the facilitators of the Lamar Beech incorporate these into a thoughtful plan. We ask if you -- this does get referred to committee, that it come back to council in a short time, maybe two or three months from now. We look forward to continuing on a 30-year partnership with the city as we provide youth sports and educational opportunities to develop the potential of all of our youth for the next 50 years.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Are there any other speakers that want to speak about whether or not this should go to a committee and come back within that two or three-month period of time? Mr. Wayland, Mr. Joseph?

Okay, thank you. There's been a motion to send this to a committee. Is there any discussion? All in favor say aye. Those opposed nay. Ms. Gallo?

>> Gallo: I just wanted to say one of the things that we heard in our discussion was the critical aspect of this is moving from the city -- to the ten years because basically at this point the proposed road work on Presler is causing any planning, site planning, fund-raising basically to stop with aaya. In the same instance and discussion bed on the previous item we sent to committee, would I say that the discussion on that is really critical from the standpoint, you know, they're already talking about six years from the 13 and we dole don't really have a time line on the Presler addition extension. So I would hope the committee would at least take up that aspect of their request. Quickly. Thank you.

>> Mayor Adler: Okay. Thank you.

[11:20:52 AM]

Had we taken the vote? All in favor say aye, those opposed nay. Unanimous on the dais. We'll send that to committee. That pulls up the next item item, which is item number 12. Pulled by Ms. Gallo. This is the toeing related to item 17.

>> Gallo: Once again we pulled this for work session. We had good discussion from the parties involved about it, and I did not have any other questions but wanted to pull it just in case anyone else had questions on it at this point.

>> Mayor Adler: Anyone want to discuss item number 17? Would someone move passage of 12? Three people wanting to speak. John Pendleton.

>> Good morning, mayor and council. I'm hearing representing the auto return, the proposed vendor for the Austin police department for these items. I wanted to thank both the Austin police department and the city for the opportunity to provide these services. Other than that, I didn't have anything specific to say, other than to offer the opportunity for any questions that you might have. Otherwise, I don't have any comments for you.

>> Mayor Adler: Any questions of Mr. Pendleton?

>> Zimmerman: I do have questions, yeah.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: What would be the effect in your view of a -- kind of vet the proposals, is there a time emergency?

>> The police department might have a different perspective, but in my perspective it would be fine.

>> Zimmerman: Okay.

>> Mayor Adler: Further questions? Thank you, sir.

>> Thank you.

[11:22:52 AM]

>> Mayor Adler: Richard pope.

>> Good morning. I'm Richard pope. I've been part of the towing association for about five years and we've been working on this rfp closely with the three vendors as well as some additional vendors. My understanding from Tuesday's work session is this was pulled. Mr. Wicker, Coe of auto return and I had a meeting last night with the rotational toers and he and I both represented to youers towersthat this item was pulled so there's 45 companies that aren't here today because we authenticate it wasn't going to be on the agenda. I didn't find out until 9:35 that the item was still on the agenda today, and so on behalf of all the towers of Austin, they're not here. You know, we had a good meeting last night, but we have 45 companies that thought this was pulled from the agenda.

>> Mayor Adler: Okay. Thank you.

>> Zimmerman: Quick question. That sounds like that's a compelling request for us to go ahead and put it into a committee so all those people could come and be heard on the issue. Was that your expectation Tuesday, that it was going to go to committee and everyone will have a chance to come?

>> That was the expectation on Tuesday from all the parties that were inputting to auto return as well as myself. I was present for the meeting. I presented to the public safety commission in January. I represented that the towers, despite what Kay -- one of the news channels showed last night on their segment, I represented quite clearly that we move from vehemently opposed to this, to neutral to slightly positive, and we met with auto return last night to understand what their proposal really was to the city, and so we're in the process of trying to digest that, the towers are, what the impacts are to their companies and the community and so forth.

[11:25:12 AM]

And, you know, I'm finding myself in a position here where I attend the the meeting on Tuesday, I left auto return as well as others thought this was pulled. So, you know, a lot of companies and a lot of lives are impacted here based on that.

>> Houston: Mayor?

>> Mayor Adler: What's the -- there's a difference between item 12 and 17.

>> They're the same. They're tied "I know that . >> Mayor Adler: I know that they're related. So I guess 17 was the contract between approved and 12 is the authorization to be able to approve the contraccis that what that is?

>> Good morning, mayor, council, chief of staff at the Austin police department. Item 17 itself was the contract to award item 12 amends the ordinance and allows us to actually hire a third-party vendor to conduct the towing for us and addresses the issues related to that.

>> Mayor Adler: Ms. Houston.

>> Houston: I wanted to speak to the gentleman in the back. I saw you at the public safety meeting and Tuesday work session. When an item is pulled that's for discussion. It doesn't mean it's pulled off -- he's not listening. I was just saying for your information when an item is pulled, that means it's pulled off for further discussion. So that -- you had a different understanding of what pulled means. It's either withdrawn, that means we're not going to postpone, we won't take it up, but if it's pulled we pull it up so we can have the kind of discussion that you're asking for.

>> Okay. Thank you.

>> Mayor Adler: Okay. Thank you. Is there any further discussion on this item number 12?

[11:27:15 AM]

>> Zimmerman: One more question. Again, I was under the same impression at the meeting that these two were kind of together and there wasn't a pressing time issue, we did have time to refer it to committee. I thought we did have time to refer it to committee.

>> Mayor Adler: Do you want to address the timing question?

>> As we talked about on Tuesday, we're -- every month we delay this is a month our police officers are spending longer on the scenes of crashes, longer on the scenes of impounds. The current contract allows a 45 minute wait time for a wrecker to show up, we expect to see 20 minutes under this program. That's extra time our officers will have to actually be out there providing services to citizens. So we are under an extension with our current vendor, but, again, we see this as time sensitive from the perspective we intend to see tremendous performance improvements in the time our officers have.

>> Mayor Adler: Thank you. Further discussion, pat Johnson. Thank you. Those were all the speakers we had. Any further discussion on this? Item 12?

>> Zimmerman: Point of information, is there a motion on the floor?
>> Mayor Adler: Thank you.
>> Mayor Adler: Someone want to move? Ms. Pool. Is there a second?
>> Second for the point of discussion because I need to ask a question.
>> Mayor Adler: Let's get the motion out. Ms. Pool makes a motion. Is there a second to the motion?
>> Houston: Second.
>> Mayor Adler: Second, Ms. Houston. Okay. Now we'll discuss it.
>> Houston: Okay. So on 12 because we did receive information about 17 that says no impact on the delay. But there was nothing on 12. Is that the one that amends it so that the prices of the tows go up to \$25?

[11:29:20 AM]

>> Mayor Adler: Yes.
>> Houston: Okay.
>> Mayor Adler: There was that fee that was charged, as I recall.
>> Houston: The fee, okay.
>> Mayor Adler: Mr. Zimmerman.
>> Zimmerman: There seems to be a tradition that I can make a substitute motion for referring this to committee. I'd like to do that if there's a second.
>> Tovo: I'll second.
>> Mayor Adler: There's a motion and a second from Ms. Kitchen. Now we're discussing the -- referring this matter to committee. Any further discussion on the motion?
>> Kitchen: My question, so if I'm understanding correctly, item 17 was the contract itself. But the contract is not valid if we don't pass item 12. Or until we pass item 12 because item 12 is a change in the ordinance; is that correct?
>> Yes, you've already done the consent item on 17 but you have to change the ordinance in order for that to be effective.
>> Kitchen: So if we refer it to committee, then we'd consider the impacting committee and basically the contract would have to be on hold until we finish that? Okay.
>> Cesar: Mayor, I'm sorry we moved item 17 on consent did that happen?
>> Mayor Adler: We did. We can take a motion to LE consider item 17.
>> Cesar: I would because my feeling is that -- I understand that we want to be able to move forward with this kind of a system quickly. What I'm hearing from APD is that would be helpful so I would like to have the authority to have such a contract but for the contract itself to be considered in the public safety committee. Therefore we wouldn't utilize that authority until we thought it was prudent and my questions at work session remain that this particular vendor, I've had a communication and I want to verify this particular vendor in other situations may not have achieved that goal. I want to make sure we grant ourselves this authority so we can as quickly as possible can pick a vendor that will achieve the stated goal of APD. I would like to reconsider the vote on number 17 to refer 17 to committee for autochoosing the vendor of the committee but authorize -- give ourselves the authority to move that contract quickly.

[11:31:26 AM]

>> Mayor Adler: Makes sense to me and I'll entertain the motion to reconsider after we have moved on the pending matter that's before us now. Which is item 12. Item 12, there's a motion to refer to committee. Any further discussion on that? All in favor say aye. Those opposed nay. All right unanimous

on the dais .it passes. Mr. Cesar moves to reconsider the vote on 17. Is there a second? Mr. Zimmerman. Any objection to reconsidering 17? Hearing none, we're now reconsidering 17. There's a motion to refer 17 to committee from Mr. Zimmerman. Is there a second to that? Ms. Garza. Any discussion.

>> Zimmerman: I would like to --

>> Cesar: Since I spoke rapidly folks may not have been at work session. What we have done -- what will happen if we pass this motion is we will have grant -- we just granted ourselves the ability to manage or towing in a more tenth logically savvy way to get cars off the road and in committee we will consider which vendor to utilize to ensure that we are being successful with that.

>> Kitchen: I thought we voted to send it to the committee. We didn't vote to approve it.

>> Cesar: Sorry, exactly.

>> Kitchen: Okay.

>> Mayor Adler: Any further discussion on 17? The motion to send 17 to committee? Any further discussion? All in favor say aye. Those opposed nay. It's unanimous on the dais. That is also referred to committee. That gets us to the next item, which has been pulled, which is number 13. 13 was pulled by Ms. Gallo.

>> Gallo: Both of these were -- if we could talk about 13 and 14 at the same time, they were both pulled for the same reason, and the question that I had on both of those, they were both grant funding and the question was was there any city cost involved with that.

[11:33:35 AM]

The answer that we were told was no, but pulled it again just in case anyone else had other questions, but I had no other questions.

>> Mayor Adler: I'm sorry. Someone was speaking to me. What did you say? I'm sorry.

>> Gallo: Both 13 and 14 were pulled for the same reason, which was to ask if there was a city cost involved. They were pulled again just in case anyone else had questions.

>> Mayor Adler: Let's first go to item number 13. Is there anyone to speak on 13?

>> Chief financial officer. 13 and 14 are both the same grant. The state agency requires a resolution which is 13. 14 is the acceptance of the grant. On that recommendation for council action it indicates that no match is required. Which means that no city funds will be required to match the grant funding.

>> Mayor Adler: Thank you. Is there a motion to approve items 13 and 14? Ms. Gallo moves. Is there a discussion. Mr. Renteria. Any discussion on approving items 13 and 14. All in favor a, say. Those opposed no. It's unanimous on the dais, 13 and 14 both pass. That gets us to the next pulled item, which I see as number 16. This was pulled by Ms. Gallo.

>> Gallo: This is part of a whole group of purchasing items that were pulled to ask staff and have the discussion once again trying to get a lot of the agenda items headed towards committee so we can have better discussion and ask staff in work session was what impact there would be if there was a delay, and so these have been pulled again so we can ask those questions and have discussion on them.

[11:35:42 AM]

>> Mayor Adler: We also have two speakers that have signed up on this item number 16. Juan a.

>> Good morning, mayor and councilmembers. My name is Juan [indiscernible], I'm with the U.S. Hispanic contractors association. My colleagues Carol H. With the Austin area black contractors association and aletta banks with the Asian contractors association could not join us but together as a minority trade alliance we respectfully request that you -- for the [indiscernible] Evaluation and committee with the city of Houston and another with the city of San Antonio that we'd like to bring forward for you to consider. As far as local preference goes. And there

was also a related item that I brought up at work session, and that was the error which I pointed out, as far as no subcontracting opportunities with this particular item. And so we need to make some -- we'd like to bring forward some recommendations for that as well as if we have the opportunity to send that to a committee. That's all I have. If you have any questions, I'll be happy to answer them. If not, I can donate the rest of my time to the vendor, which is also here this morning if you need it.

>> Mayor Adler: Any questions?

>> Zimmerman: One quick question. Juan, four coming. I think you mentioned -- you had a different metro areas do these local qualifications differently, right? I think you -- was it Houston that includes, like, a really large eight-county area.

>> Yes, sir, it's an eight-county area and of course we are a five-county area so that's also another aspect that we want to talk about in committee.

[11:37:49 AM]

>> Zimmerman: And then even looking into Austin itself, Austin has a pretty substantial extra territorial jurisdiction, right? Etj. It's my understanding that the other contractor here that was a fraction of a percent higher, right? Less than 1% higher, that white house for that company is in the extra territorial jurisdiction, south of Decker Lake, it is in the Austin etj.

>> It is. Ten minutes from the airport as well.

>> Zimmerman: Okay.

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

>> Thank you.

>> Mayor Adler: The next speaker, Marcos Guterrez air.

>> Mr. Mayor custom councilmembers thank you for the opportunity to speak. My company is QA Systems, 25 local family owned Austin business providing it and at services, doing business with Austin ISD for over 20 years. I guarantee you one of your family members is using technology my company installed. We provide a lot of feedback back to the community. As its technology business in Austin we've had our ups and downs but managed to stay in business and thrive 25 years now, easy feat in the technology Mecca Austin has become. I stand before you today not so much to defend or represent my company but to represent all the local Austin businesses over the past years have seen tough times because larger out of state conglomerates in charge of our city. As a 35 year audits night I can say Austin is changing, I'm all for that change. I'm happy people are URL Austin is the most amazing city in the world. What is Austin? Small town, college town feel with local businesses you do not find anywhere around the world or nation. These local businesses are the core, the identity of what is Austin.

[11:39:50 AM]

They are the beating heart of Austin. We should be supporting these businesses and making sure this identity is not lost. These local businesses are Austin. As a local business owner I am Austin. These local businesses provide and contribute to the local economy and I would hope that the council will take this into consideration. Thank you so much.

>> Mayor Adler: Thank you. Those are all the speakers that we had. Further conversation on this item number 16.

>> Houston: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: I'd like staff to explain to me what the visual display systems are.

>> Mayor and council, Jim Smith at the airport. The airport uses a large number of video displays, the primary use is to -- when you walk into that, want to know what the arrivals and flight schedules are,

want to check on the arrival times, and you look up, those -- all those screens, those are a what we call fids, flight information display systems. We have another variety at -- when you get to your gate area and you want to identify what gate it is, what airline is flying out of that gate to what destination, we have screens in there. So there's, you know, a lot of screens in the airport. This is an initial installation and supply contract that would last us three years to replace those screens.

>> Houston: Replace them because they're not operationological there's new technology? Why are we replacing them?

>> Well, the initial replacement, we are moving to a different software system that we're going to use for that, and this would help us with that. In addition we're moving the screens a more several display. They're now horizontal. Most airports have moved a vertical display because customers find that easier to follow. And then it's just the replacement thing beyond that.

[11:41:54 AM]

>> Houston: Thank you.

>> Mayor Adler: Further conversation on this? Mr. Zimmerman.

>> Zimmerman: Mr. Smith, they are hdmi, commodity type monitors, right?

>> Yes.

>> Zimmerman: They are commodity type.

>> Mayor Adler: Any further conversation on item 16? Someone want to move passage of 16?

>> Zimmerman: I wanted to move we refer is it to chi.

>> Mayor Adler: Ms. Houston seconds, motion to take 16 to committee. Is there any discussion on that?

>> Cesar: Since it seems to me this issue is primarily having to do with contracting with local small businesses and mbes, wbes, my suggestion would be it go to economic opportunity for discussion, even though it's an airport-related item.

>> Mayor Adler: I understand. Any further discussion on this motion to send to committee in all in favor say aye. Those opposed nay. It's sent to committee. Gets us to item number 17, but before we go to 17, we passed item 38 on consent, which was initiating the ordinance to regulate adult businesses on converse avenue is that right? Number 38? Mr. Pena had signed up to speak and was not given the opportunity to do that. Mr. Pena, would you like to speak to this matter?

>> I do, Mr. Mayor. Thank you very much. Mayor before I start my time did you say this item was passed already?

>> Mayor Adler: Yes.

>> And why was the speaker not allowed to speak before you passed the item?

>> Mayor Adler: I made the mistake.

[11:43:55 AM]

>> Okay. But lastly -- the other meeting you made a mistake on item 20 and they passed the item on the agenda but didn't allow the public to comment, okay? Just wanted to bring --

>> Mayor Adler: We're getting closer now.

>> Beg pardon?

>> Mayor Adler: Getting closer now.

>> Get a little closer for this old man, okay?

>> Mayor Adler: Getting there.

>> I'm not that old. Good morning, Gus pena,inate I've east Austin, proud veteran. Mayor and councilmembers I'm here to speak about item 38. I'm going to be quite honest with you, basically keep Austin weird. I say keep Austin affordable but keep Austin clean. There are certain areas where we do

not want this type of business to come to and downtown -- we have a lot of kids not only during break, summer break, during the summer time traveling to and from the capitol, et cetera. I just -- I just don't think this is appropriate for congress avenue. I know this has been passed already but I wish you had allowed the speaker to speak before it passed. This is not something that should be allowed on congress avenue. It is a high-traffic area with children. That's not acceptable. I'll leave it at that. I'm very concerned that we be better astute, allow speakers to speak at an appropriate time, not afterwards, okay?

>> Mayor Adler: Yes, sir.

>> Thank you very much.

>> Mayor Adler: We're now up to item number 19 by the way the motion to send to committee, item 16, I'm going to take that vote again just for the record. The vote, all in favor aye. Those opposed nay. It's unanimous on the dais to send that to committee.

[11:45:56 AM]

Let's now move to item 19. Ms. Gallo you pulled this item.

>> Gallo: --

>> Mayor Adler: 17 with a sent to committee along with number 12. Number 19.

>> Gallo: This was pulled in the work session to also have the discussion of if it would be appropriate to send this item to committee. So that's why it was pulled again, so that someone -- if anyone had concerns or suggestions on that. Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: Councilmember Gallo, could we hear about the delay that they indicate.

>> Gallo: You should have received -- it --

>> Houston: It says 20% increase in costs.

>> Gallo: If staff is here, I did have one question about that --

>> Mayor Adler: Let's do this. Is there a motion to approve it and then we'll enter in discussion or debate on it.

>> Houston: So moved.

>> Mayor Adler: Is there a second to that? Ms. Dove. Now discussing item 19. You were asking a question of staff. Go ahead.

>> Gallo: So the question I had, the -- it says the delay would result in spot buys and a 20% increase in costs. What would you project the spot buys would be if this went to committee and was delayed for a month to two months?

>> Mayor, councilmembers, right now there's no current contract to purchase of these plates. These are Ada accessible plates used to inform citizens with visual impairments of an impediment or a sidewalk crossing or what have you. So the spot buys that we're referring to are individual purchases when they're required on the site.

[11:48:01 AM]

When we make spot buys we're not able to leverage volume discounts, price that's we were able to receive in this contract, if it were authorized to the spot buys that we have been making historically to purchase these items, the contract would be about 20% cheaper. So we're going to be spending more in the short term until the contract is authorized. About how much is going to depend on the amount of projects we're going to have in the near future.

>> Public works director. These plates are used by in-house crews as we do work around the city. We publish each year a annual service plan identifies where we'll do work. Having a reliable supply of

materials and commodities is essential for us to be efficient in delivering the service and mitigating the inconvenience that's caused in neighborhoods. In addition to the cost, reliability of supply could hinder us from achieving the goals that we set out for each year. The contract was competitively bidding according to state law, fairly straightforward commodity. I would recommend to the council that there's no benefit to bringing it to a committee discussion.

>> Zimmerman: Quick question. If I can ask what are the demands for these plates say in 2015 and what is the unit cost? I was trying to figure out -- how much per part, how many do we need this year?

>> The unit cost is \$69 each, decrease of about 22% from last year. Last year, we did 500 ramps, which are what is primarily used for the plates. Last year there was a change in the determination by both the federal department of justice and the federal highway administration what constitutes an enhancement verses maintenance. Much of the work we used to do that was maintenance are now considered enhancements which carries with it the requirement to put Ada ramps in.

[11:50:06 AM]

I anticipate as we go into the 2015 and 2067 5 six program that 500 per year we're doing is going to be greatly increased.

>> Mayor Adler: Further discussion, item number 19. All in favor of item 19 say aye. Those opposed nay. 19 passes.

>> Thank you.

>> Mayor Adler: That gets us then to item number 20, which was pulled by Ms. Gallo.

>> Gallo: This was pulled for the same reason. To not necessarily impart a negative attitude on my part toward any of these but just as we move to moving things to council committees to allow us to have that discussion. One of the things that was pointed identity was that the electric utility commission did not recommend approval of this, and so this was pulled again just so we could have additional council discussion on it.

>> And may I make a motion "Ms. Kitchen.

>> Kitchen: I would like to move we move this item to committee.

>> Mayor Adler: Moved by kitchen, seconded by Zimmerman. Any discussion on the motion to move this item to committee? Ms. Kitchen?

>> Kitchen: I agree also that this is an item that bears discussion. I think also, you know, as we're all concerned about affordability and impact on rates, I think that we need to be looking at these types of expenditures in the larger context. And so I think that that kind of discussion is appropriate at the committee level.

>> Mayor Adler: Is there someone that can speak to the urgency issue from staff? Thank you.

>> Good morning. I'm Debbie Kimberly, vice president of customer energy solutions at Austin energy. Since 2011, Austin energy has retained on call a pool of three consultants to be used only as necessary, up to a minimum expenditure per year.

[11:52:12 AM]

In the past that expenditure was actually \$850,000 a year. On average we've spent I would say no more than \$160,000 a year. For highly specialized studies. The contracts that we had with that pool of consultants used only as necessary to augment staff expertise expired on January 31. So we are outside of that contract capability right now. It was a five-month process to develop the rfp and secure bidders that was analyzed. Those bidders' contracts proposals expire on March 7. The first meeting of the council committee on Austin energy doesn't occur for about a month, and I know that staff has plans to really dive into the finances of Austin energy at that first meeting which will probably consume the

better part if not all of that agenda. So the alternatives are would be to do this on an as-needed basis when special consulting needs arise and typically those one time proposals can be more expensive than having the pool of consultants on staff.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Question. Thank you very much. I'm familiar with how this kind of purchasing works, having been in consulting myself. So my motion to move it to committee is not a statement on whether this type of -- whether this is appropriate. I just think that we're talking about a large amount of money, and we don't have any indication of what that will be used for. It would seem to me that the expiration on March 7 could be extended.

>> It could be extended. And it would just delay some potential opportunities to -- with respect to the comment that was made previously, contribute to some studies that would actually reduce costs for our customers. Customers.

>> Kitchen: What are those studies that need immediate attention.

>> One of the most immediate studies, councilmember kitchen, is the ability to implement a conservation voltage reduction program that would allow us to save energy and demand by reducing voltage on select distribution feeders.

[11:54:28 AM]

This would be an alternative, for example, to a rebate means by which to get to our level of energy savings that are our goal. So that is something that is probably the closest in the pipeline, and the other is the potential to use one of these consultants on a storage pilot that was part of the recommendation of the city council relative to our generation resource plan. %-@P>> Kitchen: Well, you know, like I said before, my motion doesn't speak to the appropriateness of those. I just think another month, you know, or two for the Austin -- for the committee to dive into these would be appropriate.

>> I understand.

>> Mayor Adler: Okay, thank you. We're on item number 20. The issue is referring it to a committee. Any further conversation?

>> Zimmerman: Call the question.

>> Mayor Adler: Call the question. Any further debate? None. Not needed. All in favor, aye. Those opposed nay. Unanimous on the dais to refer to committee. That gets us then to number 21. Ms. Gallo.

>> Gallo: This was once again pulled in work session to have a discussion of the appropriateness of sending it to council committee. It looks like there was a response back from staff that says that there's currently two contracts, one already expired, other one still in place. It could be delayed.

>> Mayor Adler: Is there staff that could speak to this 21, the delay issue?

[11:56:32 AM]

>> Mayor Adler: Is there a risk of not having a maintenance contract to support parking equipment.

>> Just briefly, before we hand it over to the -- convention center, the current -- the current solution used by the convention center is a combination of two contracts, one for the parking hardware, the maintenance and support on the hardware and one for the software, the software maintenance going forward. So while one contract has expired, we are able to continue purchasing off the other contract. We will be in a position of continuing to use unsupported equipment and risk if the equipment fails not being able to receive support and therefore having to use staff for those services. For more information on that I would turn it over to the convention center.

>> Mayor, counsel, director of Austin [indiscernible] If the system goes down we'll have to go manual, we have no ability to understand how many cars are in the parking lot, customer service will be

negatively affected and our ability to provide good service will be impaired. In addition, it's a big cash business. The technology going away, again, puts more money at risk going to a manual system.

>> Mayor Adler: Ongoing. Yes.

>> Zimmerman: Quick question. I'm kind of familiar with soul source contract owing to the proprietary nature of the system. If you have a three-year contract, typically if that three years expires don't a lot of those things automatically go month to month? Not the case with these contracts?

>> Mr. Zimmerman, if there were Jennifer green clause, what evergreen clause, that could be the case.

[11:58:32 AM]

Typically in contract, municipal contracting we would have clauses that would not allow for the contract to continue perpetuity so there would be a chance to return back to our elected officials so we can review the contract and determine if we want to go forward with it. So while that is often the case we try to avoid those types of clauses.

>> Mayor Adler: Okay.

>> Zimmerman: I guess you're not certain what the situation is here for this particular one, if it expired -- maybe somebody does know. If it would just renew on a monthly basis until it had a another long-term extension? Just asking. Just curious to learn how things work here.

>> Sure. The software maintenance has already concluded. The equipment maintenance is still in place. So that's the risk that we run with the software does not function, then the equipment may have limited functionality, therefore we'd have to use staff to perform the parking services.

>> Mayor Adler: Okay. Item number 20 is before us. It's been called up -- 21, rather. 21. Is there a motion on item 21? For further discussion? Someone want to move adoption of 21? Mr. Renteria. Is there a second. Ms. Dove. Any discussion on 21? All in favor of approving 21 say aye. Those opposed no. It --tex item is number 22. Tex item is number 22. 23, rather. Ms. Gallo?

>> Gallo: Once again, this one was pulled for discussion on the appropriateness of sending it to council committee, if there was any other discussion from council members on that.

[12:00:41 PM]

>> Mayor Adler: Anyone move passage of 23? Approval of 23? Ms. Tovo. Is there a second?

>> Tovo: I actually had a question, mayor, of staff, if that's all right. But I'm happy to move approval and then discuss it.

>> Mayor Adler: Approval then discuss it. We have approval and second from Mr. Renteria. Ms. Tovo.

>> Tovo: On our yellow sheet, this item, number 23, it's indicated by staff that the contract expires on the 11th of March and we can't delay. I wondered if you wanted to provide just a little bit of context on why that -- why we can't delay, what the urgency is, what would be the impact.

>> I'm Jerry Culp, the fleet officer for the city. This is a contract that we use to obtain parts and services on international navistar engines and -- that are in approximately 68 different classes of equipment, about 460 units, and it involves the use because longhorn international is the original equipment manufacturer representative in this area. It involves a use of proprietary software and warranty service on these type units, so without a contract, we would have to go to spot buy from the same vendor. The prices would probably be somewhat higher if we're doing it on a spot buy rather than having a locked-in contract. So there would be some cost impact, but we do have to have this service to support the fleet.

>> Mayor Adler: Okay. Any further discussions? Ms. Tovo?

>> Tovo: Do you have an estimate? I know you said the cost would be somewhat higher. Do you have an estimate of what that cost -- how much higher that cost would be and is it a certainty it would be a higher cost?

>> I don't have an estimate of that. You're buying things on an as-needed basis under the contract, or if you're doing spot buys, then without a contract, and the price differential might be nothing on one item and significant on others.

[12:02:42 PM]

So there's no way to estimate that in advance.

>> Tovo: Thank you.

>> Mayor Adler: Any further discussion on this item, 23? All in favor of 23, say aye. Those opposed, nay. Unanimous on the --

>> I'd like to abstain.

>> Mayor Adler: So Mr. Zimmerman as abstaining. Other than Mr. Zimmerman, it's unanimous on the dais. We now have -- thank you very much, sir. We're now going to pause at 23 and go to citizen communication. Citizen communication, first speaker is Jackie benastante.

>> Okay. Hi. My name is Jackie benastante and I'm the spouse of an Austin firefighter and the mother of a child with autism. We are on the city of Austin health benefit plan which opts out of covering the most effective treatment for autism, applied behavior analysis, also known as aba. For the last five years, we've appealed to human resources to cover this critical therapy for our son but our appeals have been denied. Today I'm here to inform council about the need -- sorry -- for aba and advocate for the families who work for the city. We are asking that the most effective and evidence based autism treatment, applied behavior analysis, be included in the city of Austin health plan beginning in 2016. I'd like to thank council member Garza for offering to take the lead on this issue and bring it to human resources committee and then to council for your consideration. Our son won't say diagnosed at age two and a half by a pediatric neurologist and he was given prescriptions for speech, occupational therapy and aba.

[12:04:45 PM]

Our son had intense noise sensitivity, sensory issues, severe melt downs, tantrums for seemingly no reason that included head banging, fear of being out of my sight, he banged his head till it almost bled, and bit me repeatedly. To say things were challenging would be a gross understatement. We started working with an aba therapist, never thinking that it would not be covered by our insurance. Aba therapy turned our lives around in a very short amount of time. We worked piece by piece to overcome his most D debilitating challenges and today he's successfully navigating life as a fourth grader with autism. He is in a public school and has friends. The skills and abilities he's been taught in aba are evident today. He's able to tell us how he feels, control his emotions, and advocate for himself. None of this would be possible without the aid of this critical therapy. We have made many sacrifices to afford his care, but when you have a care with autism, you want to best treatment as you would with any other illness. Aba therapy is now considered best practice. Numerous organizations conducted studies approving the effectiveness, such as the ever academy of nutritions, academy of health, and U.S. Surgeon general, just to name a few. The cost is Minnesota medical. Autism speaks has reported the actual costs over a three-year period have been shockingly lower than projected costs. Data from three state government health plans that added aba voluntarily, showed cost was up to 1,261% less than originally predicted. Data from six states over three years shows the average cost was 46 cents per member per month. Almost 40% of plans cover it voluntarily. Luckily this includes Austin ISD because as an organization that knows children they realize it's the right thing to do for their employees. I know the city of Austin strives to improve quality of life.

[12:06:48 PM]

As -- okay. Thank you. I'd like to ask that council consider adding the benefit for families like ours. It's long overdue, the cost is minimal and the gains are huge. Thank you.

>> Mayor Adler: Yes. Ms. Kitchen.

>> Kitchen: Thank you so much for bringing this to our attention. I will be working with council member Garza to see what we can do about this issue. I imagine that what you've been -- what you've been stuck with is either paying yourself or using less effective treatments.

>> Yes.

>> Kitchen: Which ends up just costing the health plan more.

>> Yes.

>> Kitchen: So thank you very much for bringing this to our attention.

>> Thank you very much. I appreciate it. Thank you.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I have a quick question for you. I apologize for bringing you back.

>> That's okay.

>> Tovo: Thank you very much. I think this is a really critical issue for the city to address. I think I heard you say that aid does cover aba.

>> They do.

>> Tovo: As part of their health insurance plan? Thank you.

>> Yes.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Not to get into too much detail, and we can talk about [inaudible] If you'd preservation I'm just curious what the city is telling you about -- is it that this isn't covered this particular treatment.

>> This treatment is not covered and years ago it was deemed kind of experimental, but kind of in the same way that climate change, you know, some people don't believe in climate change. It's like in this, 2015, it's proven beyond a doubt. I have a 12-page list of articles approving it, it's from the American academy of pediatricians and very legitimate organizations. This is not an experimental thing. Also the cost data that they've used in the past has been inaccurate. I mean, autism speaks is like the worldings largest non-profit dedicated to collecting data and we've got data upon data that shows it's just not ever as expensive as the projected costs. I think the costs are minimal. I think the costs have been grossly inflated when they've looked at it before.

>> Okay. Thank you.

>> Mayor Adler: Thank you very much.

[12:08:52 PM]

Next speaker is John goldstone.

>> Mayor and council members, my name is John goldstone. I'm a renter in the city of Austin. Welcome. You will hear from me when I hear a grossly hypocritical proposal from this council. I understand you would like to help affordability for on homeowners by reducing city taxes through the use of a homestead exemption. The truth is, if the city is collecting too much modern money, what is the smartest and fairest way to reduce all taxes? A homestead exemption only helps those who own and occupy their property. If the city needs to make up this tax reduction in other ways, like raising or not lowering property taxes in general, the city becomes less affordable for everyone else. About a month into office when most of the council and mayor loudly campaigned on affordability, this exemption only helps the relatively wealthier is this are property owners of the city, at the expense of 55% of citizens who rent and who we all know generally do not donate to campaigns or vote. From one of your campaigns materials, property taxes in Texas are not just excessive, they are also regressive. This means

that the tax burden nor R for low income families is disproportionate than for high income families. That will add to regressive nature of property and other taxes on the city's working classes and lower income people who are legislature majority of the 55% who rent. It will harm the very people who are being hurt by the drastically rising housing costs in the city. As a further limitation on homestead protections in general, several years ago the tax industry enacted regulation whereby you could no longer declare a future homestead. This used to declare a landlord as his or her future homestead. Now you must occupy the property on January 1 to declare it a homestead. So it will be impossible for renters to benefit from your proposed homestead exemption.

[12:10:57 PM]

I propose a solution that should satisfy all political spectrums, exclusion property owners. Do not enact an exemption that will not benefit those who occupy their homes and poor people of Austin who you state you're trying to help. Instead, reduce all city property taxes across the board or sales taxes, which would be a truly Progressive tax policy change. By the exact same amount this exemption would cost per capita. Account for increases in population contrary to what the legislature does. This will achieve the same level of tax reduction but will apply to property owners with renters. Please ask your staff to apply the dollars to your homestead proposal, as well as the incomes of who gets that tax break so we can make a truly informed and fair decision. As we move forward, do not lie by omission or statement by allowing the phrase or homeowner. It is an ache bill term that misleads. Use the truthful afraid, owner occupied residential property owner 120 who will benefit from this exemption. Let's have a policy that addresses the concerns of the whole community rather than a local few. Thank you, and renters, unite.

>> Mayor Adler: Infrastructure goldstone, if I could, just for a second, I think that you've raised issues that the committee needs to look at as we're working through the budget issue, and I think that there's been a proposal from Ms. Troxclair that Ms. Garza also worked on to get the city manager to come back with us looking at different kinds of alternatives and ways to address this. Because I think that addressing affordability in this city is something that is important to many of us up here. Many of us ran on a platform of trying to address that. There are things that the city can do that would help renters directly, making the utility payments fairer so that a renter in a small home isn't being charged the same amount for drainage or impervious cover that a homeowner occupier would be charged for a larger home.

[12:13:16 PM]

They might not have the same advantage for a homeowner/occupier, but they would be good for renters in that instance and that would be a good thing to do. When I was looking at this, and as we look at this, I was looking at it not as one solution helped everybody, but we need to do lots of different things to help lots of different people. In this case, a homeowner's exception, exemption, which is being done right now in Houston and Dallas and Fort Worth and Travis county, would help people that own homes. It would be better if we could cap it to hit just lower income people, but state law doesn't let us do that. But over -- over half of the homes, half of the homes, home occupiers, homeowner occupiers, have homes that are worth about \$200,000 or less. So about half the people are not very rich people. In fact, 70% of the people in the city that are home occupiers have homes that are worth \$4,044,000 and less. If we were to take an across the board property tax cut, then in addition to homeowners, homeowner occupiers, there would be a tax cut that would be received by commercial property owners or utility property owners. So my intent, and I think some of the other people addressing this, was to try to target the tax savings more to people who are in residences, both with the utility adjustment that we talked about a second ago, as well as the homeowners exemption, thinking that the balance between homeowners and utility property owners or commercial property owners may have become unbalanced

over time. So I think the points that you've raised are real good. I think that as we go through the discussion and debate, we'll be able to fine-tune these.

[12:15:18 PM]

But the intent of many of us, certainly me at least, and I think others as well, was to try and find those tax exemption solutions that really do get to the people that need them the most.

>> Mr. Mayor?

>> Mayor Adler: Yes.

>> Could I also say thank you for being another voice for renters, and at least from my perspective, when we're looking at [inaudible] Exemptions

[inaudible], but that doesn't mean that we take one tool and then we wait. From my perspective, that means we look at all these tools together and help people across the board with affordability at the same time. So I look forward to further discussion as we get into the budget process on both the homestead exemption and other thing that we can do to help with affordability in the city.

>> I'm happy to assist in any way I can. Thank you.

>> Mayor Adler: Thank you, sir. I'm sorry.

>> Mr. Goldstone, it's great to see you again. Thanks for stepping up here. I hope we violently agree, again, that the key to getting tax reductions for everyone is to cut spending, and so you said there's something you can help us with. It's to [inaudible] What spending cuts we can make so that we can get taxes and fees lowered. So that's how I'd ask for your help. What can we cut to get the taxes down.

>> I certainly agree rationally, I placed in there we're going to do per capita, based on versus the legislature. There are more people coming into the city. So, again, I'm happy to assist. It's just this targeted proposal raised my -- so thank you very much.

>> Mayor Adler: O. Alan rode.

[12:17:27 PM]

>> My family moved to Austin when I was six years old. I plan to live here the rest of my life. I worked at the ctm over 13 years. I understand how it works. My family has been at lake Austin since 1963. I understand the changes occurred over the decades. Recently I've had a boat run over a paddle boarder only 30 feet from the shoreline. A couple months ago I saw a boat pass so close to the canoe, they sank the canoe and people had to swim to shore. I see children playing in shallow water 20 feet from the shoreline where boat and jet skis speed by, 10-15 feet away from them. The waves from the boats are so large they knock the kids over. Lake Austin task force research and evaluated solutions for the lake Austin's problems for an entire year. On August 29th, 2013, the Austin city council passed a resolution 20130829-078 and directed the city manager to complete seven tasks. The first task which the city council deemed urgent to the potential public health and safety concerns directed the city manager to prepare an ordinance that establishes a no regular zone within 50 feet of the shoreline of lake Austin to present the ordinance for city council's consideration by November 7th, 2013. After waiting 17 months, I will present the lake Austin's ordinance to the city council. You can put the second sheet up. Whereas, because 15 months have passed since the November 7th, 2013, deadline for the Austin city manager to present an urgent ordinance concerning the public safety on lake Austin, I hereby present an ordinance for the city council's consideration. No person may operate a motorized water craft on lake Austin at a speed greater than the minimum speed necessary to maintain steerage way and headway within 50 feet of shoreline or restricted areas, or as a similar ordinance was written by the lower Colorado river authority, with the helps of the Texas parks and wildlife department in 2000, whereas this ordinance has been in force for the past 15 years on lake mcbuchanan, lake falls, and lake Travis, whereas this

ordinance does not require the city of Austin to place any bowies in lake Austin, be it resolved by the city council of Austin the city manager is directed to enter the above public safety ordinance in stowed 8-5-81, water craft and other motorized craft on lake Austin, no later than 5 P.M., February 27th, 2015.

[12:20:17 PM]

The city manager is directed to issue a [inaudible] No later than 5 P.M., February 27th, 2015, to have the signage at the four public boat ramps on lake Austin updated with the above ordinance. The signage for the four public boat ramps on lake Austin is to be updated no longer than April 30th, 2015. Mayor Adler, we have been waiting 15 months for this ordinance. The city legal staff continues to give bogus answers, bogus excuses to city council why they can't do it. We want to know why. The first excuse after they didn't make the November 2013 deadline, we received a letter that I placed in your packet there stating -- this is from April 19th, 2014, down at the bottom paragraph it states that the city can't do it because this is for environmental reasons. The ordinance clearly states it's for the public safety.

>> Mayor Adler: Okay.

>> A boat running over a paddle boarder is not an environmental reason.

>> Mayor Adler: What I'll go ahead and do is I'll make sure that this gets brought up with the committee that has this area, in our committee approach, so that four members of the council take an initial look at it to see whether it should be brought back to the whole council, and I'll let you know when I've done that so that you can see that that's happening.

>> Okay. Again, I don't think as a former city employee and citizen of Austin, it's been 15 months per y'all's deadline. I don't think any city employee should miss a deadline by 15 months. But for city legal staff to continue to provide you all with false information, that's a major problem. Are there.

>> Mayor Adler: Are there any questions if.

>> Tovo: You're probably aware, just to make miss colleagues aware, there have been a few other chapters since the dates that Mr. Rode mentioned, including last fall, my office and council member Riley's office sponsored a resolution directing the city manager to take action on implementing the slow no wake zone.

[12:22:32 PM]

We have had some subsequent conversations with Texas parks and wildlife about the signage, and I believe we have some staff memos, so when it is scheduled for -- I assume it would be scheduled for parks and open space, we'll ask staff to compile that -- that information. I appreciate your continued advocacy on this. I think it is important. We do. But there have been some further actions taken on that, and I think we can [lapse in audio].

>> Thanks, Maryland. Carlos Leon, Austin, Texas, February 26, 2015 to speak what's right. First and foremost, thank you for letting me live in Austin to fight evil. Document 1 on screen. Second, chem trails were sprayed on us this morning. Tell the FAA to keep Austin air space free and clear of chem trails. You've got supporting information in front of you there. Third, two pictures belie the Biden Obama fake presidency and their anti-american administration. Document 2 on screen. As last week's swearing in, vp Biden groped, smelled, and sweet talked Ashton Carter's wife. How can the new secretary of defense protect us when he failed to stop Biden of publicly pawing and possessing his own woman? Back in 2009, Barack hussein Obama, whose home country is Kenya, bowed down to the king. He bowed because he is a Muslim islamist.

[12:24:33 PM]

Biden paid and placed in the presidency to bring America down. He claims the marxist muslims making up Obama's administration take their orders from Iranian born, the constitutionally be ineligible Obama practices deception to move Islam forward, and that American author Tom Clancy was murdered for trying to expose this truth in a new novel with Obama in character form. Document 3 on screen. Clancy consistently panned historical events, like in his 1996 book, executive orders, Clancy wrote about America's enemies crashing a jumbo jet into the capitol to murder elected officials and cripple the government and using ebola to kill and quarantine Americans nationwide to justify the president suspending our constitution and ruling by executive orders, like a dictator. Years later, 9/11 happened. Our constitution was suspended. Continuity of government measures went into and are still in effect. Bush and Obama used executive orders and presidential memos to rule, and ebola has killed and quarantined Americans. Wake up, people. Break the evil spell over us by returning to god. Reinstating and following our constitution, and righteously rebuilding our republic. May god help us all. In Jesus' name I pray, amen. Thank you, lord.

[Applause]

>> Mayor Adler: Pat Johnson.

>> Good morning, council members, Mr. Mayor. Today I'm going to talk to you all something that's affecting our entire community across all the districts, which is predatory towing.

[12:26:33 PM]

The contract the police brought up here and wanted you all to approve is loaded with so many conflicts of interest, it's beyond reasoning. The revenue generator portion of the contract tilts it to the contractor and not the public. Our police department refuses to intervene during a commission of a felony when it involves someone's vehicle because they say the municipal court processor would take their cases. What are these prosecutors for? They work for us, the taxpayers. It's insane. Here this is what a legal sign is required by statute. J and J towing, right across the street from municipal court where people pay their fines, tow cars out of these parking lots daily and what does the police do? Nothing. We tell the public to call 311 to file a report for a wrecker ordinance violation. Out of a thousand reports filed, not one wrecker driver has been cited or arrested. I'm just speaking of the chief. He agrees it would be better to let code enforcement enforce the ordinance because we've got 20 to 30 version in code enforcements who are master peace officers that could do the same thing that the two detectives that work for days a week that's got 15 other duties that doesn't have the opportunity to address the issue. Predatory towing is a cancer that is spread throughout the state and is spread throughout the United States, in municipalities and states governments are taking actions to address it because what it's doing is sucking the money out of people's pockets. Your car gets towed for being parked on the line because the tow company went in there and striped the parking lot and made the a space smaller. They target the Spanish people. They target the African Americans. They target everyone. And what does our police department do?

[12:28:34 PM]

Nothing. So we're going to ask you, as this new council, to look at this new contract that they want to give and, say a 20-minute response time, dominoes tried that 20 years ago on our pizzas and they kept getting sued because their drivers were involved in collisions trying to make that 20-minute deadline. So just like the tow fees, the police want to set the tow fees, but it hasn't been done correctly. You cannot take one company's records and set a tow fee. They talk about the \$25 administrative fee. State law says the administrative fee collected Hassing to into the covers of the municipality not a private vendor. San Antonio just updated their contract, same thing like we're trying to do here. They set the tow fee for

collision at \$132, so why do we want to let them have \$175?

>> Mayor Adler: Thank you, sir.

>> Remember, we voted you all to represent us, the previous council didn't do that because they were bought off with campaign donations disguised as bribes. They did everything they could to get this ordinance before them, before the council left the last -- before you all come up here, because we know that you all are not going to let city staff and these vendors take advantage of us.

>> So we ask you, thank you for your service, and let's do what's right for the citizens and our economy.

>> Mayor Adler: And this matter has been sent to committee so it'll be studied. Thank you very much.

>> You know, Mr. Mayor, I'm hard of hearing like a lot of people are. We just cannot hear in the audience. The whole time you're up here talking, we can't hear you. So we ask that you up the volume.

>> Mayor Adler: All right. Good feedback. We'll all try to do that. Our next speaker -- our next speaker is Joe canterro.

[12:30:40 PM]

>> Good afternoon, mayor. My name is Joe can terra. I'm with the greater east Austin neighborhood association. The neglect of associations by the city government is still alive and well and we will not stop protesting, your gentrification policies regarding our properties. I am here to speak to you today about one of the most important affordability issues facing those of us, hispanic opportunity in district 2, 3, and 4. Each of you campaigned, made a promise to reduce our utility rates and fees, and we are going to hold you to the commitment. Several of you were endorsed by the Sierra club, and let's face it, their policies are not always in line with lower utility rates. The Austin generation resources planning task force has recommended a huge jump to more renewables and, conversely, Austin energy's management does not support it because of concerns of utility costs being raised. And we just can't take any more increases. Those in district 2, 3, and 4 will be the most affected by the cost increase, and we look to you to do something about it. We need you representing our families and not the Sierra club. What is your plan? Severe, Renteria, and Garza, none of you support the move to more renewable until you are sure Austin energy is reducing our costs. When these topics come up, make sure you allow an honest discussion between the two sides and allow an honest discussion between the two sides and a true debate. So take this positive reason format to -- reinforcement to tell us what are you going to do to lower our cost. Thank you, council members.

>> Mayor Adler: Thank you, sir.

[12:32:40 PM]

Sarah cook. Sarah cook? And then Dan keshet. Dan keshet. Michael Fossum.

>> I'm Dan.

>> Mayor Adler: Oh, Dan, I'm sorry.

>> Good afternoon. I'm a resident of the downtown neighborhood, and I'm delighted to be speaking with you because all of you know that for too long, the politics of this city have listened to the voices of some and ignored the voices of others. The majority of households in the city of Austin are renter households, as you heard from an earlier speaker, yet the voices of the renter majority have not only gone unheard, they've often been actively discouraged from participating in our democracy. Time only permits me to share a few examples, but believe me, there are many, many more.

First: When Kut ran a story on a new civic organization forming in Hyde park to encourage civic participation by all, one

commenter had this to say: The renters need to get a grip. They don't own a home in the neighborhood. In my mumble humble opinion, they don't deserve a voice. They don't deserve a voice. I wish I could say

this sentiment was rare and it never goes spoken without being challenged. But this attitude isn't confined just to the internet. It exists right here in city hall. The following tape is from the February meeting of the residential design and compatibility commission. An applicant brought petitions from 52 of his neighbors of the two commissioners proceeded to evaluate whether these petitions were from homeowners and, thus, deserved to be heard and valued.

[12:34:42 PM]

Roll tape.

[Video playing]

>> It's their neighborhood. They're not renters, they're owners.

>> You might have about 40 in favor and they all say Renteria, they don't say property owners so I don't know if some of them are likely to be -- I mean, whether it matters or not, some are likely to be residents but possibly not property renters.

>> If I were one of these neighbors who participated in the democratic process by sending letters of support to the design commission, I would be incensed to know that the commissioners questioned whether I deserved to participate because of my homeownership status. And I just may be discouraged enough not to bother attempting to participate in our city government again. This doesn't represent the values I believe the city of Austin holds, values like inclusiveness and democracy, not exclusion. A down payment should not be the price of participation in our democracy. As a council, you have been turning a page and making great strides in valuing the voices of all residents in our city. I urge you to not only continue down this path, but to stand up to those who throw away their neighbors' voices.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Michael Fossum. Michael? Jerome Evans? Jerome Evans? Those are all the speakers we have for citizens communication. Do we want to take a lunch break and then come back? I'm sorry?

>> [Inaudible]

>> Mayor Adler: It is now 12:30. How long a break do you want?

[12:36:42 PM]

Hour? 1:30? 1:30, we'll come back. We stand in recess.

[1:52:04 PM]

>> Mayor Adler: All right. We are now back in session following our recess. It is 1:50 here on February 26th. We're now back to the consent agenda. Without objection, what we're going to do is hit the consent agenda and then we'll stop close to 2 o'clock. We'll process the consent zoning items, and then we'll return back to this morning's consent agenda, and then pick up the contested zoning items. I think we were on number 26. 26 was pulled by council member Gallo. Assist and once again, we pulled 26 to have additional discussion. I pulled this again just to make sure that there wasn't any other discussion that needed to happen and also to consider whether or not this needed to go to a council committee or be approved today.

>> Mayor Adler: Okay. I think this one showed up on the list as being one that did have an urgency associated with it. Is that right, Ms. Gallo?

>> Gallo: Thank you. This one, the comment from purchasing was per fleet must stay on.

>> Mayor Adler: Does someone want to move acceptance of 26? Mr. Renteria seconded by Ms. Houston. Any discussion? Ms. Houston.

>> Houston: Good afternoon. Could you tell us why this must stay on [inaudible]?

>> Good afternoon. Jerry call, police officer. This involves the purchase of 78 different pieces of equipment for nine different departments, and failure to move forward with this could cause interruptions of service by those departments.

[1:54:11 PM]

This is primarily replacement equipment for existing fleet. In addition, my staff puts in a lot of administrative time getting the pricing on each of these different units, and when they get to say quotes, they're only good for a certain period of time. If we don't get these orders [inaudible], it may delay receipt of the equipment that we're purchasing for sometimes up to a year or more. So we need to make those manufacturers production cycles, and we've timed this in order to do that and to meet the department's needs. So there's nine different departments that would be affected by any delays in receiving this equipment. This --

>> Houston: Thank you. One more question. Can you explain to me what buy board is?

>> That would really be more of a purchasing question. I can try, but he's got a lot more expertise in explaining that than I do, I guarantee you.

>> Mayor and council member Houston, James Scarborough. Buy board is a component of the Texas association of school boards. It's established as an interlocal cooperative association. They create contracts that are used by school systems as well as local governments all across Texas. The city of Austin has a longstanding experience in using buy board contracts because they are contracts made for multiple governments, they -- the pricing under the contracts are tied to the market, and so this they are not fixed prices. They have an expiration on them. So when staff goes and gets a quote under these contracts, that quote will be good for a period of time until it expires. Then we have to go back and get a new quote.

[1:56:17 PM]

>> Mayor Adler: Ms. Gallo.

>> Gallo: I notice a lot of these are replacements, what happens to the items of equipment that are being replaced?

>> As we take a piece of equipment out of service, when we have bought a replacement or whether it becomes surplus to the city's needs, we list it on an online website auction service called golfdeals.com that we're contracted with. It's essentially an online auction. Anybody can bid on those items like they're bidding on Ebay or something and we sell all our surplus equipment through that thatvdeal.com.

>> Gallo: Then the income from that, does that go back into your budget?

>> It goes back into the general fund if it's a general funded piece of equipment. If it was an enterprise department's piece of equipment, that money goes back to that interface department's funding.

>> Gallo: Okay. Thank you.

>> Mayor Adler: Any further discussion on this item, number 26? Hearing none, let's take a vote. All in favor say aye. Those opposed, nay. The vote is 10 in favor, with councilmember Casar off the dais. That item is approved.

>> Thank you.

>> Mayor Adler: Thank you. That gets, then, to item number 29. Ms. Gallo.

>> Gallo: Once again, this was another item that we pulled for discussion at work session, and pulled again today just to see if there was any additional dialogue. We did ask staff to let us know if there was a time-critical nature for this, and the comment for this one was "No current contract for maintenance of current system per accd," needs to stay on.

[1:58:30 PM]

>> Mayor Adler: Okay. Is there a motion to approve item 29?

>> I'd like to know what accd is. Could somebody tell me what that is?

>> Austin convention center department.

>> Yes, ma'am. Usa convention center department, mark, Austin convention center department.

>> Thank you. It doesn't do them any good if you help them.

[Laughing]

>> Thank you, sir.

>> Mayor Adler: Is there a motion to approve item two? Ms. Tovo. Is there a second? Mr. Renteria. Is there any discussion on item 29? Seeing none, all in favor say aye.

>> Aye.

>> Mayor Adler: Those opposed, nay. It passes 10 in favor, with councilmember Casar you have a off the dais. That then gets us to item 34. Ms. Tovo, do you want to address this?

>> Tovo: Sure, do we have speakers?

>> Mayor Adler: This is the fee schedule for temporary food permits. Let me check.

>> Tovo: I'd be happy to hear the speakers if we have some.

>> Mayor Adler: Hold on just a moment. We have a speaker. Robert Lohman. Is Robert Lohman here? That was our only identified speaker, Ms. Tovo.

>> Tovo: Thank you. I do have some questions for our staff.

>> Good afternoon, Carlos Rivera, director of health and human services, chief sanitary, and David Lopez, chief administrative officer Kimberly Maddox.

[2:00:37 PM]

>> Tovo: So, we heard the -- could you give us just a couple-sentence context for this? As I recall, the fees were increased. We had a lengthy discussion about why at one of our December meetings. There were an increasing number of inspections, and the staff did a cost of service analysis looking at it. Probably all of us have heard concerns from some of our smaller nonprofit organizations that are putting on events that require these permits that the increase in fees was quite steep, and so to previous . . . What's the word I'm looking for? Councilmembers who previously served brought forward a resolution that is before us today to lower those fees and put them back where they were before. And I wonder if you could just make sure that my summary of the situation is correct.

>> Yeah. I believe this started about two years ago, or over two years ago, when we began a cost-of-service study. It had been quite a while since one had been conducted of the department. And as a result, a number of fees went up, one of them was for temporary events. It went from 35 to 98. And we also combined where there were three different fees, or three separate inspections, we combined them down to two. I'll have David explain. He's the expert in this area.

>> Tovo: Mhmm.

>> David Lopez, chief sanitary environmental health. What we did, councilmember, is we looked at the cost of service study and found that with the one and two day event, as well as the three to five, the bank the basiccost of the inspection came out to \$98.

[2:02:44 PM]

So, it was an cross the board increase for this service.

>> Tovo: And so, some of the concerns that we've heard, I know you're aware, there's some information

in the q&a about it, but, the increases were really the biggest percentage increases, hit our smallest . . . Our smallest number of events, the one to two day event realized 180% increase. The longer events had a smaller increase, but the impact, I think, has been felt most by some of our smaller groups. So, the resolution that we have before us today, if we pass it, would establish those fees at their 2014 level.

>> As I understand it. But that might be a question for somebody else to answer.

>> Tovo: Who might we ask that question of?

>> That is correct, the proposal would be to take the fee changes that were approved as part of the fiscal year 2015 budget, remove those, and revert back to the fee structure that was in place in fiscal year 2014, and those changes are part of the backup to this item.

>> Tovo: Either your staff or maybe health and human services did provide the council with some information, I think it's in our backup, that there will be a loss of anticipated revenue to the city as part of that, because we would be backing away from the fees that we established in the original fiscal year 2015 budget.

>> I think \$404,000 is the annual amount, eight sanitarians were added in the fiscal year 2015 budget proposal in order to do these additional inspections, and their costs were going to be offset by the fee increase, so, that loss of revenue would impact our budget.

[2:04:50 PM]

>> Tovo: This is a pretty complex issue, because I remember the need and that additional staff were added. We certainly want to set our fees high enough to cover the costs to our department. On the other hand, we also received some concerns from organizations that are feeling the impact of this, that they feel they weren't involved in the stakeholder meetings. We have gotten information from staff about the extent of the public involvement, but, I have concerns about it still. Where I am at this point is, inclined to pass this resolution, and revert back to the earlier fees, and then refer the matter to our citizen impact advisory committee to look at the cost of service analysis and see if there's a way of spreading out the impact a little better so that we're really assessing . . . Looking at the events that are longer, larger, and I would expect, take more staff time, and assessing slightly higher fees to them, and seeing whether that minimizes the impact on some of our smaller events, and whether that is justify. I know our fees need to be justified by a cost of services analysis, but, I think another look at that would be helpful. It's not dissimilar from the water rate issue, really, that happened in the last year where the council adopted the water rates, but with the expectation that our water task force would look at it, make different recommendations. They did, and we made an adjustment. Mr. Rivera.

>> The cost of service study did exactly what you just recommended it. It took into account -- and that's where the \$98 came from for the smaller events, because the larger events, I think the cost went up to 145, was it?

[2:06:50 PM]

\$145. So, we took into account that the smaller events cost less for us than the larger events.

>> Tovo: But they still realized an impact, the one- to two-day events went from a \$35 a booth to a \$98 a booth cost. You know, I guess, then, the other issue I would raise is whether -- we raised its cost for valley parkers, or valet parking permits, they did it in a phase capacity. \$35 to 98 is quite a hike. Anyway, again, my inclination at this point would be to consider leaving the fees where they are, adopting the resolution which reverts back, and see whether other tweaks are possible within the goal of recovering our costs. I understand that's very critical for health and human services. We certainly don't want you take that loss out of other areas of your budget.

>> Kimberly Maddox, chief administrative officer. If the council does vote to revert the fees back to 2014

state, we would need at least a 30-day lead time, because Amanda must be updated. Not only did the amount change, but the structure of the fees changed.

>> Mayor Adler: Ms. Houston.

>> Houston: A question, about the question about phasing in. Would that -- could that be implemented now in a phase-in way?

>> Any change to the 2015 fee schedule would require us to change Amanda, the software we use for the permitting.

>> Houston: I'm not going to ask you what that stands for.

>> If you asked, I couldn't tell you.

>> Houston: Somebody out there knows and will tell me.

[2:08:52 PM]

Rather than reverting all the way back, perhaps the phase-in, did they talk about that at all during the last . . . No?

>> No, ma'am, it was related to the cost of service study, so the discussion was all around the cost of service study results.

>> Houston: Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I want to continue the discussion, but, I want to make a motion that we refer this to a committee, and then continue the discussion.

>> Mayor Adler: There's a motion to refer this to a committee. Is there a second?

>> I guess I was unclear. Mayor pro tem, was that a motion to do what you asked?

>> Mayor Adler: Her motion was to approve this.

>> Zimmerman: Sorry. If I could amend the motion to send it to a committee.

>> I guess I'd like to hear discussion around this. My concern is in the interim, those fees will be set at their 2015 level, which is -- we're hearing a lot of feedback about. I think our council committee on health and human services should discuss it. I think it's an important issue for them. The impact advisory committee is accustomed to looking at some of these issues, and they've done great work, and should be involved in it, as well. It's not clear to me what to do in the interim, but, we are hearing from our smaller organizations the new fee schedule is impacting their ability to have the kind of events and raise the money for their causes, so. Referring it to a committee without doing anything about the rates doesn't really address that issue.

>> Mayor Adler: What is the cost to the city of changing the rate fee this year?

>> To change it back to '14 levels, approximately, about \$310,000 for fy 15, fy 16 would be over \$400,000 impact.

>> Mayor Adler: For the balance of this year, 310,000?

>> Yes, sir.

>> Mayor Adler: This was something that was originally approved by last council?

[2:10:55 PM]

>> Yes, sir, in the budget process.

>> Mayor Adler: Okay. There's a motion to refer this to committee.

>> I have a couple questions.

>> Mayor Adler: Okay.

>> Renteria: In east Austin, we have a lot of these nonprofits that have these fundraisers and invite vendors to come in, and their profit margin is very low. I was wondering, you know, if you get a group of

20 people that are applying for a permit, for a two-day event, you know, a lot of these churches and stuff, they have their fundraiser, and these are nonprofit groups. You know, they barely make any money out of these events, so how come the cost is so high when you have a group of people, and you have one or two inspectors over there? Is there a discount rate that you can apply that, when you have those kind of events?

>> It's understandable that this was an -- but I think councilmember tovo's question was, whether it's a two-day event or a four-day event, these vendors all pay the same amount of money. And so, for lack of a better word, it may be incumbent on them to know what the requirements are going to be going forward with such events.

>> Renteria: What I'm really afraid of is that a lot of these nonprofit groups that have these events might just decide the cost is so high they're not going to have it.

>> That might be something for additional discussion. Maybe the council might deem these nonprofits a separate category.

>> Renteria: Okay. Thank you.

[2:12:56 PM]

>> The issue is one of public health safety. So, when we send our employees out there, it's the cost of the employees that we were really focused on. But, we do understand -- nonprofit providers.

>> Renteria: Thank you.

>> Mayor Adler: Okay, at this point, we have a motion to approve the fee rollback. And we have a motion to send it to committee that is asking for a second. Is there a motion to send the approval -- a second to send it to committee? Okay, hearing none, that does not pass. Now, carrying the motion to roll back the fee. I think, tovo, you said you would like to have a committee consider this practice, I guess, going forward, in terms of the Billings?

>> Tovo: Yeah. And that committee I was suggesting was the impact fee advisory commission. Not the council committee. I'm suggesting that we ask our impact fee advisory board to take a look at this issue, and see if they can come up with some recommendations, along with working with our staff and looking at the cost of service analysis that might, for example, consider whether we can assess different fees for commercial events versus nonprofit events, for example. That might be one way to structure the fees a little bit differently. We may look to the parks and recreation department, because I think they have some slightly different ways of assessing fees for different users.

>> Mayor Adler: Okay. Okay. Is there a second to that motion? Ms. Garza. Any further debate on the motion to approve this item, 20 -- it is 6? 34, rather.

[2:14:57 PM]

Item 34. Impact fee commission to look at this area.

>> Point of inquiry. To be clear, if we vote in favor of this fee, fees for two to up to five calendar days are increasing six to 14, the fees are decreasing, is that right?

>> Mayor Adler: Say that again?

>> Zimmerman: I'm looking at attachment a, I'm sorry. And attachment a, we're talking about the terms. So, what we're voting on is if we vote in favor, if you are up to five calendar days, your cost goes from zero to \$70, or zero to 35.

>> Mayor Adler: I think there was a subsequent late posting on that.

>> Zimmerman: This is not current information?

>> Mayor Adler: The one I'm looking at --

>> Zimmerman: There's something --

>> Mayor Adler: Right. It looks like the '14 fees was \$35 a booth, it was 98?
>> Zimmerman: I don't have the new information. That's why I'm confused.
>> If I could provide some clarification. In '14, fy, the fees were in three categories. One to two, three to five, and have six to 14. 35, 70 and the 90 were the fees. In fy 15, just two categories, one to five day events \$98, and six to 14 events which went to the 145.
>> Mayor Adler: Yes.
>> So, if this is approved, it would move back to the three categories, with the three different fees, rather than two categories and two fees.
>> Mayor Adler: Got it. Ms. Tovo, do I understand that your motion provides for this to happen as soon as the staff can do it, logistically?
>> Tovo: I'm glad you asked me that question. I do think it's important we resolve it make sure they can come up with recommendations for a fee structure that mitigates the loss of revenue you were talking about, so, I would like to see this back to council within the next two months, if that's reasonable to get it to the impact fee advisory board, and then back to council.

[2:17:16 PM]

>> Houston: That's my concern. We've already developed a budget. And perhaps hired staff in order to fulfill the obligation based on the fee structure that was put in place. And so, we are already going to short the budget by whatever amount of dollars that is if we go back to the original fee. So, I think I'm going to abstain on this one.
>> Mayor Adler: Okay. Any further discussion on this item? All right, the motion on item number 34 -- level as soon as it can be logistically accommodated, that the impact fee commission, season impact fee commission is going to be asked to look at the fee structure with a proposal that hopefully will regain or reearn the lost revenue. That's happening because of the action being taken today. Is that it? All right, all in favor say aye.
>> Aye.
>> Mayor Adler: Those opposed, nay. Nay. All aye, except for Ms. Houston, who abstains. The next item we go to now is item 220. Greg Guernsey, why don't you take us through the consent calendar for zoning?
>> Thank you, council, Greg Guernsey. I'll go through our 2:00 P.M. Zoning ordinance and restrictive covenant. The hearings are closed, and also the 2:00 P.M. Plan amendment. These are where there's a possible action.

[2:19:18 PM]

And I'll start with the zoning consent agenda, being item number 45. C14, 2014, 0192, the property located at 8611 expressway, to zone it to community, commercial, or grco combined district zoning, ready for consent approval on second and third readings.
>>> Item number 46, kc14, 72, 204, rca3, a restricted covenant amendment for the property located at 1401 south pleasant valley road, recommendation was to grant the restricted covenant amendment, ready for consent approval.
>>> Item number 47, in this case, mpa 2014, 0015.01 for a property located in the east mlk neighborhood planning area. For a property located at 6005 willcap road. Staff is requesting a postponement of this item to your April 2nd agenda. That's a postponement to April 2nd. Item number 48, in this case, npa 20140016.01, for a property located in the Johnson terrace planning area, 2901 east third street. Staff is requesting a postponement of this item to your March 26th agenda. March 26th agenda. The related zoning case is item number 49. For the property located at 203 Broadway and 2901

east 3rd street. And staff is requesting a postponement of this zoning case item to your March 26th agenda, March 26th. Item number 50, and 51, the Garza ranch properties, those will be discussion.

[2:21:19 PM]

Item number 52, case c14.2014.0111, for the property located at 4500 speedway. The planning commission voted to postpone until March 10, staff is requesting a postponement of this case to March 26th agenda. Again, to March 26th. Item number 53, I know we have some speakers on this, and the applicant opposes, case c1420140175a for the property located at 2426 cardinal loop. I understand we have a councilmember that would like to postpone this item to March 26th. And also, the related zoning case item, item number 55. Case c1420140175 for the property of 2411, 2525, east highway 71 westbound, item 55, I understand the councilmember would also like to postpone this item to your 26th agenda.

>> Mayor Adler: Items 54 and 55?

>> That's correct.

>> Mayor Adler: Okay.

>> Continue, item 56. Case c1420140176 for the property located at 617 thrasher lane. Staff is requesting a postponement of this item to your March 26th agenda. Item number 57, case c1420140185, the property located at 12601 tech ridge boulevard to zone the property to commercial liquor sales or cs01 district zoning. The recommendation, to grant conditional liquor sales overlay for cs01 combined district zoning, ready for consent approval on all three readings.

[2:23:28 PM]

[Coughing] Excuse me. Item 58, c1420140195, 12425 mellow meadow drive, to zone the property to multifamily residence, medium density. The zoning and planning's recommendation was to grant the zoning, ready for consent approval on all three readings. Item number 59, case c1420140196, 8519 kayhill drive, to zone the property to multifamily residence zoning. Recommendation, to grant the district zoning. And this is ready for consent approval on all three readings.

>>> Item number 60, case c1420140197, 3329 east state highway 71 westbound, to zone the property to neighborhood commercial or lr director zoning. The zoning and planning commission's recommendation was to grant neighborhood commercial or lr district zoning. This is ready for consent approval on all three readings.

>>> Item number 61, c420140004 for the property located at 83 Mesa drive, to zone it to commercial liquor sales for cs1 district zoning, planning commission's recommendation was to grant the zoning and this is ready for consent approval on all three readings.

>> Mayor Adler: I understand that everything is on consent, except 50, 51, 52, and 53?

>> 50, 51, and 53.

>> Mayor Adler: Oh, consent. Yeah, 50, 51, and 53, is that right?

[2:25:32 PM]

>> Yes.

>> Mayor Adler: Ms. Gallo.

>> Gallo: Okay. So, I have a scheduling question, because some of these have been recommended by staff to a particular council agenda meeting date. And it seems like when we were talking about March, what we had talked about -- and I guess maybe this is the time to discuss is that we would have a council meeting on the 6th, a zoning meeting on the 13th. The next week is spring break, and we would have

our other council meeting on the 27th, which also would be our first Austin energy committee meeting. So it seems like postponing the ones that you wanted to postpone to March 26th, we perhaps need to either talk about the 12th, which would be our regular zoning meeting, or, or --

[laughing] Or into April.

>> I understand, at least it's my understanding, we're probably going to transition into April. If we were going to do it sooner, I need to go back and look at some of these dates. If we try to move them up ahead, then maybe before the commission has an opportunity to act, and the commission needs to act before you can take action.

>> Mayor Adler: You can look at moving them back one week.

>> Gallo: Yeah.

>> Mayor Adler: Do you want to take a look at that before we approve --

>> Yes.

>> Mayor Adler: We'll let Mr. Guernsey take a look at that, and we'll pick back up the agenda where we were.

>> Houston: Mayor. I understand that a vote was taken on item number 20, and I was off the dais.

Would the record please show me off the dais, whatever that vote was?

>> Mayor Adler: It did, I think. And if not, let's make sure that it does.

[2:27:36 PM]

Okay. We're continuing on now. We have a next item, is, I think, item --

>> 36.

>> Mayor Adler: Item number 36. We have two speakers to speak on item 36. Gus Pena is the first. Mr. Pena, are you still here? The second speaker is David King. Mr. King.

>> Thank you, councilmembers. Regarding this proposed resolution about looking into healthcare for part-time, temporary, and contract city workers, that's really good. That helps address the problem with affordability in our city and the fact that temporary part-time employees usually don't have healthcare coverage. If they're going to work for the city, they should be afforded healthcare. So, I'm glad you're bringing this proposal forward and I support it. What I would like to ask if you could consider doing is, can you expand the scope of this to include discussion or analysis of paying a living wage as a minimum starting salary for city employees? There are employees of this city who work full time who qualify for public assistance. They're paid so low, they qualify for public assistance. Why not do right by them, set a standard for businesses in this city, and pay our own employees a living wage? I hope you will expand the scope of this resolution to address that topic, as well. Thank you very much.

>> Mayor.

>> Mayor Adler: Thank you very much, David. Further conversation on this issue?

>> Oh, I'd like to lay it out.

>> Mayor Adler: Sure.

>> My comment was in response to his. Which is, that my understanding is that there is a living wage working group looking at the pegging our current minimum wage to some sort of standard so our employees can keep up with the cost of living.

[2:29:44 PM]

That was established by the last council, and I think there is interest on this council in making sure that keeps going. So, we won't be moving to include that in this, because it was passed last year, we need to make sure it goes hand in hand with this.

>> Mayor Adler: Do you want to lay this out?

>> Yes, very briefly, the purpose of this resolution is to start the ball rolling on access to health coverage by our -- all of our different types of city workers. And so, you know, because affordability is a huge issue, and access to healthcare is a huge cost for families. So, what we're doing with this resolution is we're simply starting the ball rolling. We're directing the city manager to come back with information about cost, as well as a definition of all these types of workers. And to bring that back to our audit and finance committees so that we can review this as part of the next budget cycle. And I'd also like to add that we have also talked to councilmember Casar has talked about also separately looking at access to health coverage for those businesses that contract with the city, so that will go hand in hand. It's not in this resolution, but, it will go hand in hand with this resolution. I guess I need to make a motion?

>> Mayor Adler: Motion to approve.

>> Motion to approve.

>> Mayor Adler: Number 36. Is there a second? Discussion on the dais? Mr. Zimmerman.

>> Zimmerman: So, I guess I have a question for this. It would be great, right, if we could do healthcare for everybody, not just city employees, but I guess the so-called affordable care act, the idea is to get healthcare for everybody. The problem has always been that the cost just keeps escalating. In conjunction with this, I guess, study or investigation about cost, would it be conceivable that -- the cost is going to be higher.

[2:31:50 PM]

To maintain revenue, would it be possible to identify some positions that could be eliminated so the remaining people could be paid the healthcare without additional burdens to taxpayers?

>> My comment would be, what this resolution does is it brings back to us information about cost. And not only about the cost of extending coverage to additional workers, but also about the cost to the city of not covering them, as well as some estimate of the extent of the need. Because, you know, some workers may have access to the affordable care act. The point you're raising is an important point for our overall budget discussion, and also, when this information comes back, it should be part of the after all budget discussion, because our decisions on how we spend, you know, taxpayer dollars is a policy decision. And I just wanted to get this on the table, because I think it's an important piece for affordability, but we'll have to weigh whether we extend the coverage -- the cost of it in light of the other priorities that we may have.

>> That was just my point, is to include that other discussion about, you know, if more money is spent for healthcare for these employees, someone else has to pay.

>> We'll have that discussion.

>> Zimmerman: If this can be included, that would help.

>> That's a larger question for the overall budgets process, so, I wouldn't want to include it in this particular resolution.

>> I think that information, may actually be available to us.

>> Yeah.

>> Mayor Adler: As opposed to the new information, but I think it needs to be part of that conversation. Ms. Troxclair.

>> Troxclair: I thought I would point out, this discussion is similar to the homestead exemption amendment we passed. My original intent was to request information, but we end up asking the city manager to then identify where the money would come from, so, I don't know.

[2:33:51 PM]

I just thought I would raise that issue, because it is similar. So, it might be helpful to know where we

could make up that lost revenue.

>> Well . . .

>> Casar: Mayor, my suggestion, if I may, is that this would, unlike the 20% homestead exemption, wouldn't have a fixed cost because, I think the information is, how many employees -- the homestead exemption, we have an idea it will be around \$36 million. We're still a few steps behind that on this issue, about what temporary employees are classified as, and, you know, are we trying to provide healthcare to the lifeguards that are just here over the summer, if they are excluded, what would the price be. We're so far behind we're not at the place where the homestead exemption item would be, because, we don't know how much money we would even be asking the city manager to find.

>> We also don't know, it could be zero. We don't have good information about what the scope of need would be. You know, so we don't even know that there's a cost that would have to be taken from anywhere else. I think that what you're raising is an important thing that we have to discuss, but it's not possible to be estimated as part of this resolution.

>> Mayor Adler: Okay. Is there an amendment? Questions, further discussion on this item 36? All in favor of this item 36, say aye.

>> Aye.

>> Mayor Adler: Those opposed, nay.

>> Casar: I'd like to abstain.

>> Mayor Adler: So, it would show the vote was 10 in favor, one abstaining, that being councilmember Zimmerman. All right. Before we move to item 40, let's call back the consent zoning calendar.

>> Can I just ask a quick question?

>> Mayor Adler: Yes, ma'am.

>> Are we planning on taking up the discussion zoning at this time, or are we going to finish the rest of the calendar?

[2:35:56 PM]

>> Mayor Adler: We're going to finish the rest of the calendar, but we're just letting the consent people leave if their consent items . . . We'll come back to item number 40 as soon as we're done with the consent agenda.

>> That is the typical process?

>> Mayor Adler: That's what I'm told it is. All right. Continuing with the consent agenda.

>> Thank you. I think we've kind of figured out for you, right now, if we were to postpone cases into April, there's not a meeting yet set for April 9th. And so, what we would suggest, that we would postpone the items that would've been postponed to March 26th to April 2nd. And then, between that time, now and the 2nd, you would have the opportunity to create a new council meeting for April 9th, which would be, it sounds like, the zoning day, the zoning agenda day, and then we could postpone the items on the 2nd to the 9th, and then that way, everyone would have the opportunity to know that the second Thursday of the month, which is April 9th, would be the day the zoning cases would appear, and we would tell them the 2nd is only a placeholder until such time as you create the meeting on the 9th. Because we cannot postpone items to a meeting that does not yet exist.

[Laughing]

>> Okay, I thought April 9th existed, you know.

>> Mayor Adler: Can we create that meeting?

>> Can we do it right now?

>> I'm not sure if you're posted to create a meeting on the 9th.

>> If I can clarify, I think the intent, if you choose the zoning at the second Thursday -- right now, we're choosing it as the second council meeting. That differs. The council calendar was adopted by the

previous council. It doesn't have a meeting on the 9th. If you want to have regular second Thursdays as always zoning, we need to come back with a new calendar for you to adopt. We will do that. Therefore, you'll have the second Thursday of the month will always be zoning.

[2:37:58 PM]

It won't be the second, or the third, it will be the second Thursday of the month. For regularity purposes, that might help staff, council, the public, know zoning is Thursday. Right now, the calendar doesn't permit that. With this, we'll come back, hopefully at your next council meeting with a new schedule for all your council meetings to be able to reflect that change.

>> And then we would adopt that at the next --

>> Yes, and then Austin energy would always be the fourth Thursday of the month.

>> Tovo: Mr. Mayor, do you need a motion to approve the consent agenda with -- zoning agenda with these changes to it?

>> Mayor Adler: I do.

>> Tovo: With the April 2nd that's a proxy holder for April 9th? I'd be happy to make that motion.

>> Mayor Adler: Okay, we have a motion to approve the consent, as identified with the schedule changes we just did. Is there a second? Ms. Houston. Discussion, Ms. Tovo.

>> Tovo: I have another idea. I think our rules still allow -- well, I guess this is a question. Do the rules still allow for two councilmembers to call a special called meeting? Could we solve this problem by two of us indicating our intent to call a special called meeting on April 9th, and then we'll vote on the consent agenda?

>> You could, except we're going to change more than one meeting.

>> Tovo: I understand, but for the sake of these meetings so they can be postponed? We can call the special called meeting, then vote on the consent agenda with the April 9th date just so Greg doesn't have to tell those folks, we're postponing until the 2nd, but it's really the 9th.

>> You're calling a special called meeting today for the 9th?

>> Tovo: Right.

>> Mayor Adler: Is that okay?

>> Yes, you can do that. We need to post it. We'll have to post it.

>> Mayor Adler: Sure.

>> Tovo: Sure, how about that?

>> Mayor Adler: Okay. If I can join you in calling for that meeting.

>> Tovo: How about you call it and I'll cosponsor.

[2:40:02 PM]

O

>> Mayor Adler: I call, she seconds, now, the consent can send these to the meeting on April 9th, is that correct?

>> Mayor, I just have one other question that I would so humbly ask.

[Laughing]

>> When we postpone zoning items, it's our practice to hold them at 2:00. If you would like to consider them earlier, then if we're postponing them to this new day, then I would suggest that you post them, perhaps, at 10:00, so then you would have the benefit of the entire day to be discussion of zoning, and not just appear at 10:00 and then wait until 2:00 to start the zoning, if that is your pleasure.

>> Mayor Adler: I think that's the pleasure of the dais.

>> Very good. So, those items I read in the record earlier for 3/26 for the most uponment would be to

4/9, and instead of being at 2:00, they would be at 10:00 in the morning.

>> Mayor.

>> You postponed 47 to April 2nd, would that now be the 9th?

>> That would also be the 9th, as well. Item 47. Thank you.

>> Do I need to do anything to my motion to accommodate all those changes?

>> Mayor Adler: No, I think your motion is fine. Seconded by mayor pro tem tovo, any discussion?

>> I'm sorry. One last piece. I think it makes sense, since we decided to start the meeting at 10:00, we need to continue to talk with the public about whether that time works. It's my understanding they were set at 2:00 and 4:00 to accommodate people who wanted to come down and talk to council about zoning items, so we'll just have to listen for that discussion in the community as we go forward.

>> Mayor Adler: Let's all listen for that conversation.

[2:42:04 PM]

People get to weigh in. I think that sounds --

>> Mayor.

>> Mayor Adler: Yes.

>> We have an interesting conflict. I think we have a policy forum scheduled on the 9th. If you want to be in two places at once, maybe that's the solution. Is you all need to clone yourself, but, at this point, it sounds like -- if we could move the policy forum to another day, know that that's a conflict we have to work through.

>> Mayor Adler: Let's move the policy forum.

>> Thanks.

>> Mayor Adler: Okay. Kind of bumpy, but it's okay. Does that work for everybody? All in favor say aye.

>> Aye.

>> Mayor Adler: Those opposed, nay. It's unanimous on the dais, all sitting here.

>> Thank you.

>> Mayor Adler: Okay. Thank you. That now gets us to item number 40. This is the staffing question. We have some speakers here. Bob Osher.

>> Hi, I'm a local attorney. I got interested in this staffing issue because I understood it as being tied to the apparatus you're trying to develop to formulate policy. And my concern in the context of 10-1 is I don't . . . I'd prefer to see policy not really driven by the mayor's office. I think that 10-1 was designed to disperse power, and my concern is not that the -- you're spending \$250,000 for staff. I think that's fine. But I want to make sure that there's adequate resources in the individual councilmembers' offices to formulate policy.

[2:44:12 PM]

So, I would support additional resources devoted there so that you have, instead of a policy agenda kind of driven from the top down, that you have a more neutral or kind of parity between the offices. And that way, the policies can percolate up, and then, mayor, you could kind of -- I suggested in the email that I sent to the council, \$80,000 for each individual office. But that's really just a number I threw out there. But I do think it's very important that the districts in this kind of reform that we've had be the tip of the spear in terms of formulating policy. I think it's important for the city. Thank you.

>> Mayor Adler: I appreciate your comments and concern, and I share all of them. It was the intent not to have the mayor's office delivering or doing policy, but facilitating the committees and the work that would be coming from the councilmembers. And I have no objection at all to increasing the resources in the councilmembers' offices. I think it's -- those offices. To that end, councilmembers, when we're done,

I'll be laying out an amendment to item number 40 that tries to respond to the voices that we have heard as we have been trying to do. And I think that you all have copies of this. It's also posted on the bulletin board. It adds three revolved clauses that they would be supported at the request of the committee chair in consultation with the mayor, that it would be further resolved that the budgetary authorization expires at the end of the 2015 fiscal year, and that the audit and finance committee is to develop options for staffing offices to be considered by the council for the 2016 budget cycle going forward.

[2:46:31 PM]

So, we're only asking for something here to make sure the committees get started well. And then the last one was for the city manager to return to the council with an appropriate action item by the March 12th issue. So, I appreciate your comments.

>> Okay.

>> Mayor Adler: Thank you, sir. The next speaker is Stuart Hersh.

>> Mayor, members of the city council, my name is Stuart Hersh, and like most in Austin I rent. And I'm here to support the idea of five employees being assigned to the mayor's office for at least the transition period, with the hope that each person will serve the mayor and at least two council offices, and two assigned council committees. I wouldn't call them shepherds, because people engaged many public policy in Austin generally do not behave like sheep, and therefore, the shepherd title really wouldn't be appropriate. Established by prior city councils, I would humbly suggest that their title might be closer to the football term, "Offensive coordinator." Because there are 11 people working together with their own unique skills, and working very hard to get to the goal line. And that's the whole purpose of having five more, is to achieve your new goals. Council priorities, would become the priority assignment for the five offensive coordinators as this council works to achieve goals that may be similar, or in some cases different, from the goals of prior councils. So my suggestion to you is that -- and it's the -- council has set priorities and dates for these items to come back, and many of us have made suggestions suggestions in that realm.

[2:48:42 PM]

We never get to public hearing at boards and commissions, or the city council, which means the council priorities are never discussed in a timely manner. And the last council experienced great frustration -- hearing. So, if this -- if shifting five employees from the manager to the council offices will enable you to get your priorities moved on sooner rather than later, it's an experiment worth taking for a six-month period, because the old system has not worked. The planning commission codes and ordinances committee has become a body where good ideas go to delay or die, and that shouldn't continue. You should be able to operate on a priority basis for the things that are a priority of the majority of us, and I think, having the council do that through the five new positions assigned to two committees with priority to two councilmembers of each is a worthwhile thing to explore and see how it works for the next six months. So, please approve item number 40. Thank you.

>> Mayor Adler: When I used the word shepherd, I noticed that there were lots in my office that were urging me not to use that word, and I should've listened. I'm not sure I would use offensive coordinator, maybe offensive guard because it's more of an assist role. David king.

>> Thank you, mayor, mayor pro tem, and councilmembers. I support the proposal, with tweaks. I understand the mayor, councilmembers, and committees need sufficient resources to represent constituents, hold the public meetings, and develop public policies. And I'm glad that this is all going to be funded with public money.

[2:50:45 PM]

I think that's really a big step in the right direction. What I would suggest is maybe a little different alternative. Maybe the mayor needs two more staff members to help out, and then each councilmember, maybe you need one more. I mean, that's certainly your decision, but I would expect that you do need more resources. So, I think it might work better to have that kind of an -- pay for that by taking these, implementing these strategies. If we implemented a new transportation impact fee, the money that we generate from that fee could be used for transportation infrastructure instead of using public money. And that would make more public general fund money available to fund these resources that you need. We could raise the parkland dedication fees, raise development fees for storm water quality and sidewalks, raise the fees for the use of parkland, stop waiving fees and expenses for-profit events. And stop giving taxpayer money to opportunity Austin and the chamber of commerce, and eliminate taxpayer incentives to large corporation. All those actions would generate, or allow millions of extra dollars to be available to reduce taxes or to pay for other services that we've talked about today, including the potential for healthcare. So, thank you for listening to my comments.

>> Mayor Adler: Thank you, sir. Marion Lota. Is Marion here? Bless you.

>> Hello, mayor, and mayor pro tem, city councilmembers, this is the first time I'm speaking before this particular city council, and it's a real pleasure. And I would like to say that I'm opposed to this measure, and I am requesting that you all vote against it.

[2:52:45 PM]

And the reason behind it is that I really, now that we have a 10 10-one council, I really don't want to see the powers of the councilmembers diluted in any way by giving the mayor more staff than he already has. He already has more staff than the rest of the councilmembers, and this proposal, it seems to me from just rough arithmetic, would add about an additional \$500 million to staff, and even though it's accounted for in the budget, I'd rather see, if we have this money spare in the budget, that it get used -- for drought tolerant landscaping, for instance, in our current drought. I really do not want to see our district councilmembers give up the power that they have. And to me, this is an example of one way to do that. And I'm not in favor of this proposal, and I would like you to consider my comments. Thank you.

>> Mayor Adler: Thank you, ma'am. The next speaker is Allen piease.

>> Good afternoon, mayor. Mayor pro tem, and members of the city council. My name is Alan, I live in district nine. Mayor pro tem tovo represents me. There are probably a lot of things I could add to what I have here, but I'll try and be brief. I keep hear and reading the word change coming from the mayor's office. Personally, I like the mayor. I really do.

[Chuckling]

>> But I thought we were really just voting for ten individual district representatives and a mayor.

[2:54:50 PM]

11 public voices instead of seven. That was the change I voted for. And it was huge. It added four councilmembers. With a staff of three people each. Which meant that there were 16 more sets of eyes, ears, and brains, presumably, working on things, giving it a chance to work. Give it a chance to work before you start changing it. Getting everyone up to speed is hard enough without adding even more people trying to learn a job. Especially people not permanently attached to individual councilmember staffs. With the councilmembers choosing that person and assigning their duties, as this is done. The mayor is asking for five additional staff positions in his office, but I have not seen where we've identified

the need for this staffing, except in long-term general issues, like transportation and affordability. And those are issues that aren't going to be solved quickly or easily. They're not new issues. They're chronic issues. There are other issues as well, of course. Issues where additional staff may well be valuable, but I'm not convinced that staff should belong to the mayor. Certainly an argument can be made for an additional staff person in each office. But all of you on the council ran for council knowing how many staff people you had. You were excited to get here. Well, now you're here. If you want an additional staff person, and I don't object to that, in each office, budget one for the next fiscal year. Meanwhile, you've got a job to do.

[2:56:50 PM]

Are there problems within specific areas? Certainly, especially permitting. And there is always the temptation to jump right in and start making changes. That's only natural. I mean, the last council got it wrong, and we were elected to fix it, is not a surprising attitude. To get it right.

[Beeping]

>> Can I continue? I have about a paragraph. Thank you. We have a weak mayor system on purpose, but it's not as weak as it would appear to be. The mayor has a lot of ability here to move things. Except for mayor pro tem tovo, all of you are new to the job. Perhaps that's why she's not so interested in rushing into a larger mayor staff. She probably knows it takes time to settle in. I don't know if that is her motivation or not, but she's got it right if it is. It's going to take time. So, I would ask you all, all of you, to take your time. Don't rush into adding staff to the mayor's office. Take your time, do your job. It's new, you're new, you're going to do fine. Thank you.

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

>> Zimmerman: Thank you for those very, very thoughtful comments. But, I want to relay something to you quickly that I think would benefit the whole discussion here. I realize you said, we're all pretty new to this. One of the first things I tried to do for my constituents in northwestern Austin, the most fiscally conservative district, is look at the arts spending and the fact we had a mandatory 2% spending in our ordinances. Whatever side you're on, if you want the spending or you don't, what I encountered immediately was a meeting with three staff members from the city manager's office to convince me that it was a good idea to keep the 2%, you know, art spending in place.

[2:59:04 PM]

And the prior councils, of course, vote that had in. The point of bring that up to you is, I don't think the public understands that there's a tremendous amount of incumbency power in the city manager's office. It's just the nature of our council. And so, I've gotten a lot of emails from people like yourself, there's a lot of concern about mayor concentrating power in his office. I don't see that. I see a tremendous imbalance of power between your elected council, all of us, and the incumbent city manager. So, that's my comment, response to your comments.

>> Okay. I don't have another comment, but I did want to say, to Ms. Troxclair over there that, thank you for responding when I sent my email yesterday. Ms. Troxclair was the only councilmember that actually responded to my email, and I know it's an auto-response, but it's important.

>> Mayor Adler: All right, sir, thank you.

>> Mr. Mayor. Just, I would make a very, very brief comment to follow up on councilmember Zimmerman's statement. The other aspect -- I've been thinking about this a lot. The other aspect of the balance of power issue is that to me, it's kind of an old paradigm, because it assumes that we're all pitted against each other, and that we have to weigh our power, my power versus someone else's power, versus the mayor's power. And I really would like the opportunity to try to see if we can be more

collaborative than that. That's just my thoughts on it.

>> Mayor Adler: Okay. The next speaker -- and the last speaker -- is Cynthia Willcox. Is she here?

[Off mic]

>> Mayor Adler: I'm sorry? Okay. Thank you. Those were all the public speakers that we had.

[3:01:05 PM]

Councilmembers, we have started off this year, I think, in grand fashion. In moving forward with significant changes, and trying to be responsive to the public and the community in new and magnified ways. And I'm proud to be a part of that. With respect to this particular proposal, I think that it follows the same kinds of things that we've been working on thus far. In trying to help facilitate these committees, so that they can get started quickly with big ideas. We have tried to be responsive to the comments we've gotten from other offices, as well as from the community, and we've made a lot of changes that I think have made this a better place for us to be. Including those is the move away from using charitable donations to using public funds, limiting the duration to only six months, giving greater description to the work and responsibility that would be done. And I . . . Work that we were doing on the ideas. I wonder, now, sitting where we are, if we were to propose at this point that the mayor's office would get to choose who was on every committee, and to appoint who was chair of all the committee, that we would hear lots of objections from some people claiming that that gave undue power to the mayor's office.

[3:03:07 PM]

I hope that you saw, by the way, that we handled that task. That we did it in a way that was collaborative, that did not seek power to this office, but tried to help us as a team and a body to work collectively and to work well. I believe that this is something that is supported by large members of the community. You know, I had heard from some councilmembers that they had gotten some emails from people that said that they opposed this. I apologize for filling the email boxes. I had no idea that we would get the response that we did.

[Chuckling]

>> Mayor Adler: But I think it does indicate pretty significant support of the public generally to use this as an interim tool for a short period of time to be able to help us jumpstart the process. You know, 85% of the emails that I've gotten in the last couple days have been supportive of this. It includes a pretty varied group of people that have watched what we're doing and what's happened in the past, including the network of Asian American organizations, naacp, Jeff jacks, Kathy vale, Gupta, Mike Sullivan, Sharon price, millie price, Sharon brown, bob batlan, Tom knuckles. This is -- and I could go on and on, but, this is an incredibly varied group of people that I think are pulling for us. I'm sorry that something that was intended to work us through the system might have at the end been as noticed as much as the fact that we made the appointments to committees and committee chairs.

[3:05:17 PM]

We would just move past it. But I really think, now, being part of this process, and seeing how pulled everyone is, that the most recent amendments and changes, trying to be responsive, yet again, to the comments made at the work session, will be something that we can move forward. Ultimately, I think this vote is about trust. We have trusted each other through some big changes that we have made thus far. I believe, and hope, that I have shown you that you can trust my intentions. And know that I follow through. I would urge us not to lose momentum. We started out of the gate strong with big change,

and quite frankly, with a stronger relationship and trust than many people expected. Further comment?

>> Can I raise a point of order?

>> Mayor Adler: Your point.

>> Do we have a motion yet on the floor either to recommend a committee or vote in favor?

>> Mayor Adler: I'll make one. I'll move to adopt agenda item 40 with the indulgence of the dais to include the three resolved clauses that have been handed out and posted, and appeared on the screen a moment ago. Is there a second to that motion? Ms. Kitchen, any discussion?

>> Now I have a point of inquiry.

>> Mayor Adler: Okay.

>> Way I read 40 and the amendments that were on is, this resolution is actually directing -- I'm going to read it, directing the city manager to identify funding options from the current budget, etc. But, it doesn't actually -- it's not actually a vote on the policy itself, right? It's not a vote on the positions. It's a resolution to identify funding options?

>> Mayor Adler: That is correct. It adds with the additional whereas clause, asking for an action item, but, it is also not today.

[3:07:20 PM]

It is an action item that is out front.

>> Zimmerman: Okay, thanks for that clarification. We're not voting on making this happen, we're asking for the item to come later.

>> Mayor Adler: Yes, to answer some of the questions people asked at the work session that we had. Further discussion on this item? Mayor pro tem.

>> Tovo: I have a few things, but, before we get beyond councilmember Zimmerman's question, I need to really clarify that the intent is that this comes back to council for further action, that there would be no positions allocated toward this effort, or any funds expended without further action from the council?

>> Mayor Adler: That's correct.

>> Tovo: Okay.

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

>> Houston: Thank you, mayor. As I said in the work session, I can understand the short-term nature of this resolution, and the intention behind it. Although some people feel that this is an attempt to make the mayor's office more influence, I don't think that's the issue for you. But, once again, it's not you, it's the people from now on. And what kind of precedents we set. And so, I guess I'd say, if we do this again, I would like to be included in who those people are. I felt very disincluded, or excluded in those choices, and not even able to give input. So, if this is something, after the six months, we decide we want to make a part of our way of doing business, I hope that the people understand that this may be a short-term work situation, and that you will be soliciting information from others who might be good policy people, as well.

[3:09:27 PM]

>> Mayor Adler: Absolutely. Is there further --

[chuckling] Whistled at you. Is there further discussion on this item? Mr. Zimmerman. I'm sorry, you've --

>> Zimmerman: I'm sorry, is there somebody else?

>> Mayor Adler: Ms. Garza.

>> Zimmerman: Sorry.

>> Garza: What we're approving today would be for the -- just so I understand, the city manager to find five positions to put in the mayor's office, is that correct? But that wouldn't happen until it comes back. But it would be looking for five positions.

>> Mayor Adler: That's correct.

>> Garza: Okay. Because of that, I do want to add some comments to the discussion. I understand greatly the need for more staff, and the need to be creative, and to do things differently than previous councils did, and I think we all agree we could use more help. And I was concerned Tuesday about how this could potentially, as many of us pointed out, be a power imbalance. Basically, extra staff and resources for one office could potentially push the agenda for that one office. But, since Tuesday, we've continually received assurances this staff would help all of council, but, that it would ultimately report to one office. And on Tuesday, some of us expressed concerns about how this extra staff could be used in future administrations, how we could possibly be setting precedent for future administrations, and how that could be abused. We don't know what's going to happen 20 years down the road, I understand the temporary nature that has been talked about. Again, we were assured, that wasn't going to happen, this wasn't a power grab of any sort. I received emails and calls throughout the week about voting against this, "Please vote no on this," we started to receive emails, you know, from citizens not liking this proposal, saying it puts -- they thought it put too much power in the mayor's office.

[3:11:44 PM]

And then around 5:00, we all got a huge influx of "Vote yes on item 40," and I mean, we have received, I'm estimating here, over 200 emails to vote yes on item 40. And then I check my personal account, and there, with all due respect to the mayor, there is an email from the mayor, Steve Adler, his campaign email, urging people to contact the council and to support this item. And it was a very vague email. It said, "We need change. We need extra -- our council needs extra staff, we need extra help." But it did not outline the specifics. It did not outline what the fiscal impact would be. It did not outline what those duties would do, who they would report to, what the position would be, how they would help council. It didn't give any of that information. It said, "Please support this measure." And after seeing that, I just feel that that is exhibit A to how one office could possibly influence and push an agenda item. Having access to this, with all due respect, mayor, a paid-for email distribution list pushing an agenda item, and creating this perceived support of an item that flooded our email inboxes with 300 emails saying, "Please support this item." And so, I feel like that is the example of a possible shift in power. And those of us who don't have access to expensive email lists, to send out emails to gain support for issues, and I don't think that that's the change that austinites asked for, I don't think they asked us to push our agendas through email lists that we paid for through our campaign.

[3:13:59 PM]

I can't support putting more power in one office. I'm very concerned and I ask we restructure it so we don't report -- these extra staff don't report to one office. I hope we can restructure this so they, indeed, are independent and report to all the council. Those were my comments.

>> Mayor Adler: Ms. Kitchen. I'm sorry, Mr. Zimmerman.

>> Kitchen: I would just simply state, with all due respect to everyone involved, that, you know, I think we all were in touch with folks in our district. We all have lists of people we worked with during our campaign. I think we're all using them now in various ways by putting information out in our districts. And so with all due respect to councilmember Garza, I don't see informing the public about an issue -- and I also don't see it as a paid list -- it's just a matter of letting the public know. I think that the public that responded to all of us, both those for and against, should all equally be respected for their

thoughts. And I'm certainly not in a position to say that some of those people that responded did or didn't know what they were talking about. So, I would just say that I think we need to respect that I think we need to respect all the voices that have come before us.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I do want to compliment that mayor for winning on a large margin so I don't see anything seemingly about his support for public comment. I think I hear what you're saying but I don't see a problem with that the inquiry I wanted to make 209 body, isn't it possible for the audit and finance committee, irrespective of the vote on this issue, the audit and finance committee could take up its own resolution and propose something that might be more agreeable to the council?

[3:16:06 PM]

They could propose something in parallel to the city manager looking at funding options. There's nothing to stop us from doing that; right? We could still have a concurrent resolution working in our own audit and finance committee, with an alternative idea, different idea? Isn't that possible?

>> Mayor Adler: I think it is possible and part of this resolution before the council is to ask the audit and finance committee to take a look at this, and I would hope that the manager's office and/or the audit office takes a look at best practices in what other cities are doing, as well as the workload that we all have, and maybe give us recommendations or suggestions on the best way to move forward long-term as we move into the next fiscal year.

>> Because there seems to be two questions. One is exactly how any staff increases might happen, how they're allocated, right, among the mayor's office and council, that's one question. The second one we're voting on right now is how do we pay for it? Where would the funds come from?

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I just wanted to make a quick comment on the e-mail that council member Garza was speaking about. I certainly understand all of our interests in informing our constituents and other austinites about what's going on on the council and things that we're proposing, but I do hope that maybe we can have a conversation as a council going forward about whether or not soliciting mass e-mails from all of our lists is the best way to approach it. Because I got over 400 e-mails, and so if there's eleven of us doing that on a consistent basis, asking all of our lists to support the things that we're supporting, our e-mail inboxes are going to be truly inmanageable and it's going to make it difficult for us to be responsive for the constituents who are e-mailing us about potholes and stoplights and other things that we have going on. That's just a general comment going forward.

[3:18:10 PM]

>> Mayor Adler: Are there further comments? Ms. Gallo.

>> Gallo: I've got a couple of comments. The first is about the e-mails, and I think we are all guilty of this. We all have a tendency to contact and send e-mails when we are opposed to something, but quite often we forget to send e-mails and make comments and phone calls when we're supporting something. So I really appreciate the e-mails and phone calls that come in in opposition because that helps me understand the different areas of concern that we need to address. But I also appreciate when the public also sends us correspondence that says they're in support of something because I think we need to hear that voice, too, and know that that voice is out there. So regardless of how that request was made, I just want to say to the public, please, when you do support something, let us know that because it's quite often that's the voice that we don't hear very often. As far as this particular proposal, I think most of us up here were elected by constituents who very clearly said they wanted to see a change in how city hall was operating and they wanted to see more oversight from their representatives and how

their tax dollars were being spent, and they wanted to change business as usual at city hall, particularly with more emphasis and discussion in policy areas. They wanted us to become better policy experts. That's our job, in a variety of areas. And I think we are doing that with moving to the council committee structure. It's going to give each of us an ability to become better experts in the policy areas on the committees that we're serving on. I'm chairing Austin energy. I'm vice chair on mobility. I'm on neighborhoods and planning and housing, and I really plan on becoming a better expert in all of those areas.

[3:20:11 PM]

But I have the budget and the staff that the previous council voted on and gave us. That was what we acquired. And I can tell you already with the staff I have, we can do and keep up with the way things were done before, but I am really concerned about our ability to run these committees effectively and have the ability to reach out with staff time to decrease new policy areas and new ideas. And one of the concerns that I have, as we've heard and talked about this, was that there was a concern that these new staff people would be under the mayor's direction. We had a discussion about that, and my concern was that I wanted to make sure that these new staff members were hired and spent their time helping the council members on their different committees. And I think with the proposal, the new proposal, it does address that specifically. So then I thought, well, how do you -- how do you handle that? How do you allocate certain people to certain committees? We could do that by each having a person in our office. I could have a person in my office that was budgeted for that I hired to help with Austin energy, and perhaps Ms. Pool

[inaudible]. It doesn't make sense and doesn't seem very cost effective, because I think in reality we're going to be sharing these people between different committees. And that seems to be a much more cost than hiring a particular person to help us with the council committees that we're overseeing. So I don't know that there's a perfect [inaudible], that we need some more staff help if we're going to make these council committees effective, and if you want to give the council members more time and more effort and more assistance in making good policy decisions and becoming better experts in all of these areas. So thank you.

>> Mayor Adler: Any further discussion of item 40?

[3:22:14 PM]

Mr. Renteria.

>> Renteria: I just have a question. Are these new added employees, are they going to be subject to the open meeting?

>> Mayor Adler: Absolutely.

>> Renteria: So they're just going to be able to just talk to just five different committees at a time, or ...

>> Mayor Adler: On issues, they would be subject to the same rules that we're all subject to, and our staffs are all subject to. Yes, sir. Ms. Troxclair.

>> Troxclair: So someone who is on any -- someone who's within your office, I guess, if we move forward with the current proposal, at any time they could only talk to four other council members.

>> Mayor Adler: On any issue, they would be bound by the same rules we are all bound by.

>> Troxclair: Okay.

>> Mayor Adler: As would anyone in your office.

>> Troxclair: Absolutely. Yeah. It seems like when we're talking about trying to solve or trying to address big citywide issues, and the idea of these people really being best utilized if they're able to work with all of us on those things, I know that there has been some discussion, and I'm passing out an amendment

right now that might address both of our concerns, you wanting help with citywide issues, but address my concern of making sure that these people are available to help all of us, and so one idea that I came up with is to house these new employees under either the office of the city clerk or the auditor, bodies that -- departments that report directly to city council, but who would -- this would mean that those staffers would be able to talk to all council members at all times about all issues, and because they're expected to be working with committees that will have at least council members on them, if they're within the mayor's office, it would mean that at no time could those staff members assigned to those committees discuss anything that was happening in those committees with any member of city council who did not sit on that committee.

[3:24:34 PM]

>> Mayor Adler: A concern I would have with that is that we can't, even through a third party, create a walk-in quorum. So even that person, regardless of where they are, would have no greater ability than would anyone else. Now, if we wanted to create a different function where this became the policy office, and we were only advising that person, and they were doing all the work, kind of outside of our system, I would have to think about whether or not -- but, regardless, even if that would work, it wouldn't be something that I think we would want. These people will be helping the committees. They'll be talking to the committee chair and the committee -- the debate on those issues will take place at the committee, with the committee chair, with the other council members that want to join in on that conversation at the committee or at the council dais. These people with regard to facilitating the committee work would be facilitating that committee's work, helping them within that structure. So, to me -- and I think that the consideration of [inaudible] Office was something that was discussed, a lot of the other things including the ones that we incorporated into this evolving plan, but sending it to an auditor's office is sending it to an entity that's outside of us, that's going to have to be making decisions about prioritizing people's time, and I don't know that we want the auditor choosing that among their offices. I want the auditor to potentially be able to look at how it's working, whatever it is that we decide, so that it wouldn't be evaluating themselves or looking at other systems. So I appreciate the thought and suggestion, and obviously it could be considered on the dais.

[3:26:37 PM]

It was something that we had thought about and said, you know, if there's something like this that works, maybe it's something that should be considered by the audit and finance committee over the next several months while it's looking at what the ongoing process should be. But in the meantime, in this interim period of time, what we're asking for is five people for six months.

>> So are the city staff that is -- that works for the city clerk or the city auditor, are they subject to open meetings requirements?

>> Mayor Adler: You are open to open meeting requirements, so they can't talk to you about what all the other offices are thinking.

>> They could -- so are they subject to open meetings requirements?

>> So the council members are subject to the open meetings act, and city staff certainly cannot be the cog between you all, so we can't go from office to office and tell you what each other thinks. That's our caution. We are not subject to the open meetings act because we're not the elected body, but we cannot help you violate the act.

>> But I can, as a council member, speak to any member of the city staff with my ideas, with my suggestions, with my proposals, with my questions, and unless -- as long as I am not asking them to tell me what more than -- to go talk to four other -- more than four other council members and report back

to me how those council members feel, all of us could go and talk to a single city staff person with our ideas and suggestions, and as long as that person is not continually relaying that information between us, that would be appropriate.

>> That's correct.

>> Mr. Mayor, can --

>> Ms. Kitchen and then Ms. Coffee.

>> Are you finished?

[3:28:39 PM]

>> Kitchen: Well, I guess I would like to go ahead and lay out the rest of this amendment council member Renteria brought up the open meetings issue, which was an issue that was particularly -- you know, that I had been thinking about for the past few days as well, and was kind of the center piece of how I came up with this amendment, so I guess I will go ahead and lay it out. So I'm offering an amendment that I'm hoping that would work for all of us. It would allow us to have the additional staff. It would allow us to have staff that can work with all of us, instead of just with a maximum of four of us at one time on these big citywide issues that we're talking about addressing. It includes a similar proposal as the mayor's amendment to have this be temporary and have these positions only be until the end of this fiscal year, so that we have a chance to reevaluate and then take this discussion up again during the next budget cycle. The second part of it is to -- if they're going to be a part of the auditors or city clerk's office, that they go through the regular application and hiring process that those departments currently go through in order to hire their staff. And because we have not had a discussion yet about the -- really the fiscal impact of these five new staff members, number 3 says that no new staff member that we're hiring under this resolution should earn a higher salary than the highest paid member of the current city council. Number 5 is to -- along the same lines as the mayor's amendment, to assign each new employee to handle -- to work as more or less of a committee coordinator and to handle two committees, handle research and special projects and other things at the direction of the council.

[3:30:41 PM]

And then last, which I think would kind of be apparent, is that their offices, if they were within the city clerk or city auditor, that the offices would be accessible and available to all city council members. So my hope is that with this resolution, we're adding a little bit more structure, we're answering some of the questions that have been unanswered so far, as far as what these employees will be doing, how much they'll be paid, and how they're being hired and if -- whether or not they're subject to open meetings act, et cetera, while still allowing us to have additional staff power that is accountable to all the city council members. And I think it addresses the question of a balance of power. That's not a discussion that we would need to have under this system because all these people would be under a department that reports directly to city council, to all of us.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Well, I was just going to say that I really appreciate the thought that went into this, and I think it's an idea worth exploring, but I'd like to see it vetted more fully in a committee. So that was my thought, that these kind of ideas could be vetted in the audit and finance committee for the next -- for the next budget year, so --

>> So are you suggesting that the current proposal that's before us be referred to a committee before we take a vote on it today?

>> Kitchen: No. I'm personally okay with that. Because it's an interim step. I'd rather see this vetted

because I have a lot of questions about whether the city auditor office is set up to do that, or the city clerks. Anyway, I just see it taking a lot of time. I think it's an idea certainly worth discussion, but I would rather do it for the next -- next time.

>> Mayor Adler: Any further discussion of item 40?

[3:32:43 PM]

Mayor pro tem.

>> Tovo: Yeah, you know, as I said on Tuesday, I appreciate the rethinking of this proposal. I certainly -- I will say, I am not without concerns about fiscal impact. Ideally, I would have liked to have had more discussion about what the actual areas of focus will be before, as a council, I think that's the appropriate way to do it. I think it's appropriate to consider it alongside the other many pressing financial needs and really do that more thoughtfully. Having -- having experienced the discussion of Tuesday, it's clear there's a lot of support on the dais for increasing staffing levels immediately without identifying -- without spending more time identifying needs or areas of focus. So with that in mind, I am left with what I identified on Tuesday as my biggest concern, which is very similar to the one I think that council member troxclair outlined. We have, I think, done a very admirable job of moving forward together and finding consensus in the midst of, you know, some very differing perspectives, and I believe it's possible to do that on this issue if we take some time and think about it a little -- and think about a way to achieve it. Makers -- mayor, you said you have spent sometime thinking about how the structure this differently. Many of us weren't in on that conversation. What you see here, I've also distributed an amendment on the dais and it's similar in some ways to council member troxclair. I'll ask our city -- I'm not sure if our city clerk has received a copy of it, but it, too, would place any additional staff members within the auditors office. And I'm certainly open to thinking about it within the city clerk's office. I think that's another fine suggestion.

[3:34:44 PM]

I think, mayor and sponsors, what you're seeing here is an interest in exploring how we might -- how we might achieve this objective of increasing the staff capacities on an interim basis, but doing so in a way that doesn't -- that acknowledges the very real concern that several of us have raised, and we raised it on behalf of our constituents. And you're absolutely right, we have taken several steps as a council that have increased the authority for the mayor position, allowing the mayor to set the committees, allowing the mayor to place items on the committee agendas. Those are -- those are increasing levels of authority for the mayor, and we -- and we had very little discussion about them, and I think that's a reflection of the respect and the confidence that we all have new. What we're contemplating today is a very big structural change with real fiscal implications. It is not easily undone. It is not, in my opinion, something that we can take a vote on and reverse back to the prior practice of deciding as a council what those committee assignments are going to be. This is -- this is increasing, by my count, the staffing in the mayoral office to 12, with one being a loan from another department and one being a grant, but in essence, the mayoral office, if this passes, will have a staff four times the size of council offices. And I think that is presidential. I think that sets a very different expectation going forward, and while we may all feel that that works very well for our current membership, it's it certainly is very different, I believe, from what the charter expects us to do in terms of balancing power. So I would ask, again, mayor, clear, we're creative, smart people.

[3:36:45 PM]

Can we look at the proposal that council member troxclair talks about, about how to organize those five employees, can we look at mine, and figure out a way to make this work for everybody on this dais? And so I believe we already have a motion or an amendment on the table, so it's probably not appropriate for me to make mine, but I think you see one commonality in both of these, and that is that we would like to see those five positions -- I appreciate that they'll be accessible to the whole council. I think that's appropriate and important. Let's figure out a structure that makes that possible.

>> Mayor Adler: Well, under Robert's, you can't debate and then make an amendment. You have to make your amendment, get a second, and then debate. I'm comfortable relaxing those rules in this case. Ms. Troxclair has made an amendment. Is there a second to her amendment? Ms. Garza. You know, again, I would urge no. And I think the conversation we've had has been a community conversation over the last four weeks at this point if the best way to do this. The conversation first appeared in the newspaper four weeks ago in terms of how to move forward. I think that there is an opportunity for us not to lose the momentum that we have. I think that I've earned, I hope, some measure of trust for an interim period of time, which we'll never have again, because we have a system that's set up, and we're going to have a new budget moving forward. So I don't think that it sets a precedent. And I think that because this is a unique one-time situation, you can look at how I handled unique one-time situations, including the appointment of committees. I would point out that I have no greater power to put something on a committee agenda than you do or anyone on the dais does because any one of us can put something on a committee agenda by our rules, because we're sharing that kind of power.

[3:38:57 PM]

The way we have drafted the amendment has the committee assistance coming only at the request of the committee.

[Inaudible] That Ms. Troxclair puts forward raises a lot of questions for me in terms of the proper role of the auditor's office. Also in terms of the delays over a six-month period of time of setting that up. I think it would be an important thing for the audit and finance committee to -- to consider, and I would hope that it -- that it would, among lots of different ways of -- of doing this. But we have people that are already calling for the committees to start. And we're going to get caught, again, being reactive, and unless we figure out a way, collectively, for us to be able to, at the same time, push the big challenges and issues that people have asked us to mostly deal with now that haven't really been dealt with before under the old system, and I think that what is proposed in 40 would help facilitate that. Is there further conversation on the amendment for Ms. Troxclair? Mr. Casar.

>> Casar: Mayor, I during work session expressed my interest in certain questions, and I appreciate you and the co-sponsors' work to try to address some of those. And I was particularly interested when the mayor pro tem brought up the idea of having some of the -- these new employees accountable to someone that was independent, like the clerk or the auditor's office. And I've been thinking about it a thousand miles an hour during this conversation, about what that would look like. And although I'm supportive of the idea of it, I do think that it does need further conversation and further vetting, if they were to be in the auditor or clerk's office.

[3:41:03 PM]

So I wanted to get a sense from the council and dais before moving on this amendment, if there was what people sense would be considering moving this entire discussion to audit and finance, because I -- while I'm very interested in the idea of having this live in the clerk or auditor's office, that seems like a big [inaudible] In the mayor's office with checks and balancings with the rest of the council. But then the idea that we might pass something this new makes me uncomfortable. So I wanted just to see how

people felt about this all moving to audit and finance.

>> Mayor Adler: Point?

>> I have a point of inquiry, which is, are there any time limits? Item number 40, as I read it, I don't see a time expectation for if we direct the city manager to identify the funding options, when would he report back? That's a timing question here.

>> Those are amendments, too, and I think that it has no later than action item on March 12th.

>> March 12th? Okay. Because I'm sorry, I lost that yellow paper. Could we maybe get that on the overhead? Because that's actually -- okay. So then the question is for committee -- for council member Casar. I like the committee idea, too, but if we put it into the committee, how quickly, you know, could it come back? Because I agree that it's an urgent item to get spun up and do more work. When would come back, do you think?

>> Casar: Mayor, if we could hear from the chair of that committee.

>> Tovo: I would certainly say we can certainly make it a priority to schedule an audit and finance meeting as soon as possible in March. I would say this week we had three full day meetings, more or less, scheduled between the work session and policy session and today. But I will make it a priority in my office to pull together our -- the folks who do our scheduling and see how quickly we can identify a time where we're all free.

[3:43:13 PM]

And I will say I like the suggestion. Things -- if we can find a way to make this work, I think that's of real benefit.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I have a question for council member Casar. I wasn't sure what you were referring to. Are you talking about everything on the table going to audit and finance? Okay. Not just the amendments from council member troxclair and council member tovo. So you're talking about no interim --

>> Correct, just having this full discussion at audit and finance since it seems there are so many answers that are starting to come together but don't seem vetted enough for me to feel comfortable taking a vote on this amendment.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I don't know where we are with Robert's rules, but I would --

>> Mayor Adler: We're discussion a motion to refer to committee.

>> Troxclair: Okay. I would then second council member Casar's suggestion to move this to audit and finance for further discussion.

>> Mayor Adler: Ms. Garza.

>> Garza: I fully support moving this to a committee. This council has scrutinized so many items for the cost involved. We've pulled stuff from the agenda to talk about stuff in work session about -- about cost involved, and I don't see how this one is any different. There's -- we're still not sure of the budget impact. We still don't know -- the committees haven't even started yet. We don't know what the need of those committees are. We've seen the committee framework, and they -- it appears each committee has about three staff assigned to it. So not knowing what the staff will be doing, what the final fiscal impact is, where we're taking this step from, considering that we're scrutinized so many other -- so many other budget items that have actually been budgeted for, now we're taking full-time employees from another department and moving it over here, and, I mean, the impact of that department that we're taking those employees from, I strongly support moving this to discuss this at the committee level.

[3:45:36 PM]

>> Mayor Adler: Ms. Will pool.

>> Pool: Thank you, mayor. I'm looking at the original motion that you brought to us. I just want to take us back to the original motion and get a little bit of clarity because I think things are getting a little fuzzy. Here's what the original resolution asks, that the city manager identify funding options from the operating budget for five full-time equivalent employees for the mayor's office and 25000 for each council office for the purpose of enhancing constituents' for the resolve the new staff motions would support the committees and major committee initiatives at the request of the committee chair in consultation with the mayor, that the budgetary authorization of the resolution expires the end of 2015 fiscal year, and that the audit and finance committee develop options for staffing the mayor and council members to be considered by council for the 2016 budget cycle. And then the last, further resolve that the city manager return to council with an appropriate item for action no later than March 12, 2015. So I think the things that we are asking in this original item are still important to move forward with. They're very color. There is no specific action being taken, as far as hiring people. We are looking for the budget impact and the location of where these positions would come from. Audit and finance could then take the information that is developed by March 12 and take that under deliberation. I'm on the audit and finance committee. I look forward to a robust conversation about it. But I think this moves us forward at a pace that is in concert with the pace that we've set. We're not being impetuous, but we're also not lagging. And it sets the necessary mechanics in place to start gathering the information now, rather than delaying it for a meeting whenever it can be.

[3:47:38 PM]

And I was just looking at my schedule, and I don't actually have daylight in my schedule for another meeting. I'll have to move things around to do that. The mechanism to gather the information that we're going to need, if it will be discussed in great detail, with audit and finance. Thank you.

>> Mayor Adler: Any further discussion on the motion to send this to committee? Those in favor of sending it to committee --

>> Can we be clear on what we're voting on?

>> Mayor Adler: We're voting to take -- to not move forward with number 40 and, instead, send number 40 in its entirety to a committee.

>> Okay. So we're voting on council member Casar's motion, no the on any of these amendments.

>> Mayor Adler: That's correct.

>> And I just wanted to be clear that my statement is in opposition to council member Casar's request that all of these items be sent to committee. I would like to see two of the amendments sent to committee, the two that we received in yellow this afternoon on the dais because I haven't had time to look at them, and to move forward with the item that we had been presented with timely and previously on the amendment, so -- which is item 40. I could make that as a friendly amendment.

>> Mayor Adler: So there's an amendment to the motion -- there's a motion to approve item --

[inaudible] The motion for committee, so as to approve item 40, but still send the amendments as they have come

[inaudible]

>> Would you accept that friendly amendment, council member be Casar? All right.

>> [Inaudible]

[Laughter].

>> Is there such a thing as a friendly amendment? You know, it depends on the perspective.

>> Mayor Adler: Your answer to that was ...

>> [Inaudible].

>> Mayor Adler: I'm sorry?

>> [Inaudible].

[3:49:39 PM]

I'd like to still vote on the motion to move to committee.

>> Just a question. Does your motion have a timeline attached to it?

>> I could amend that motion to say as quickly as the audit and finance committee chair can get it, to make it happen.

>> Mayor Adler: For what it's worth, I would oppose the motion to send this to committee. I think that the items to be considered by audit and finance should be consider. I think it's a much larger conversation, and I wouldn't want the audit and finance committee to try to answer that question in a short period of time. I think it would be able to do a much better job with a more protected -- projected -- a longer debate on that issue and investigation. Ms. Houston.

>> Houston: Mayor, would you ask council member pool if there's timelines in the motion that you referenced? And could you speak to those, please?

>> Pool: Definitely a timeline, and it is March 12, and that is the date that the mayor has in his resolution requested that the city manager come back to us with firm answers on these items that were in the original proposal, the original proposed resolution. March 12th.

>> Could I make an amendment for council member Casar's motion to send to committee, that the committee have an answer by March 12th? Over that as an amendment, a time constraint, March 12th.

>> Mayor Adler: Go pack in time for action to be taken on

[inaudible] Posting the prior Friday.

>> Yeah. It would have to be -- I guess there would have to be a special meeting to determine this to accelerate the schedule. So they would have to decide by March the ninth?

>> Mayor Adler: They would have to post something on Friday, March 6th, I think, to be part of the work session and on the agenda.

[3:51:48 PM]

Is that the sixth?

>> Since becoming a council member, I've lost track of what day of the week it is.

[Laughter]. So, council member, you're suggesting that there be a meeting of audit and finance in the next seven days to produce a recommendation so that it would be on our agenda on the 12th?

>> That's correct. Special meeting just for that one issue, special meeting for that one issue.

>> I guess I would want to hear from the mayor pro tem since she chairs that committee, what -- if that is possible.

>> Tovo: Let me say I can't answer that question, too, right now. I have no idea what my colleagues' schedules are like, I know what mine is like, and that is, on Monday we have two policy work sessions, which tends to be right the whole day. On Tuesday we have a work session which is scheduled to end at noon. They've gone till 3:00 and 4:00 on the two that we've had, so that's pretty much an all-day.

Thursday, we have a council meeting. So, as I said, I mean, I will make it a priority to try to -- to try to meet, but it's -- we are -- we have some time constraints that -- with our existing schedule. Does that mean I think we should not try to do it and work through some of these issues? Absolutely not. I mean, I think what you're -- what we're hearing today is some interest in figuring out another structure so we can get the audit and finance committee to meet and hammer some of that out --

>> So if it's possible for me to amend that date, I would like to hear, but I would like to hear now if I could from the committee what date they would propose. That's very important for me to have a date, for when the committee would have an answer. That's kind of important to my vote.

>> Mayor Adler: And I think at this point we don't have that answer.
>> Yeah. Well, I'm still -- I mean, are you looking at your schedule still? Like when you can --
>> Tovo: I am. I see that we have a council -- we have a council meeting on the 26th.

[3:53:50 PM]

I believe that we could meet between now and then. I think that is -- I think that's certainly doable.

>> Okay. Then let me please change that from the 12th to the 26th, March 26th.

>> Tovo: Thank you.

>> So, council members, your suggestion that we have this on the agenda for the council meeting on the 26th regardless of the -- regardless of the recommendations, whether there is a positive recommendation or not or finding or not from audit and finance, but that there be a one-month discussion period, and we will be seeing this on the 26th.

>> And that's a good point because there's no guarantee that the audit and finance committee could come to a consensus, but given the chance, yeah. So they'll have to come back and say either we agree with this, we can't agree, whatever it is, so we can decide.

>> So what might be a more clean motion might be just to postpone this to the meeting of the 26th and considering that the mayor pro tem has already indicated interest in putting this on an audit and finance agenda, I imagine it will be discussed there.

>> Mayor Adler: I'd also point out that, I mean, at some point, you know, we only have six months left in this fiscal year, and the goal here is to try to get us to actually be able to start right away. So now, we're talking about a month and a half from where we are, probably. We're talking about entering into a hiring practice. I mean, we're talking about something that's going to help us here maybe the last, what, last couple months of the fiscal year? I mean, that's why where we are where we were on this, and this is why this was suggested as an interim measure so that we could start taking advantage of the opportunities that present themselves now. I understand the need, the request, and the desire to have a better conversation about auditor's office versus clerk's office versus new people for each office versus committee clerks that would be assigned to the committees.

[3:55:52 PM]

All of those things we could do. All of those things we could do. My suggestion is, we do those next fiscal year. You're about to push this back where at some point we say, you know something, let's just barrel through with what we have. It's what the last council had. They couldn't achieve, the last council, what it was we wanted done. We have different responsibilities now. We have different tasks. We've set up a new system, but let's just barrel through with what we have and pick it up next fiscal year. We have an opportunity to take advantage of the time we have left, I think, if we move quickly, and I just don't think that picking an interim step for the next six months is going to make the house fall down. I think it will help us. Mr. Renteria.

>> Renteria: Mayor, you know, I agree with you because, you know, there's a -- you know, when I saw that report in the American statesman about Austin being the most economic segregated city, you know, in the country, also, you know, there's a great need for affordable housing in Austin that -- I'm willing to take that risk of, you know, the cost of whatever that amounts to, 250 or 254000, you know, so that we could have some personnel that could help us along. You know, I really -- I really do believe in your sincerity, and when I went to the luncheon the other day with you, and you were honored out there at that luncheon, I really realized that, you know, in your heart, you really want to do something great for Austin. So, you know, I'm willing to take that chance, and we will be having the ability to -- to evaluate this program at the end of the fiscal period, and then, you know, we are, you know, eleven

votes, and we can always have a majority to say this is enough, it didn't go right.

[3:58:02 PM]

Just like the committee structure we have. If it doesn't work right, we agree and evaluate it in six months, then if it doesn't work right, we'll just go back to the old system. But I think that, you know, we really need to really do something big, because we're falling behind. We lost the transportation urban rail bonds, and, you know, and we're facing this crisis right now of not only the transportation but also affordable housing and the whole affordability did you understand, we're hearing all these complaints from all the constituents that our utility is so high. You know, we can't survive in this town. So I don't think that we, as individual council members, will be able to address all that need. I think that all we're going to be able to do is do a little patchwork here and there. And, you know, I grew up here in Austin, you know. I'm 64 years old. We're still struggling. My campaign issues and what I ran on were the same thing that I was running in 1990, you know, on affordable housing, high utilities. So, I mean, it's the same thing. The only different issues that I ran -- that I didn't have to do at this time was for a single-member district, you know, because the people gave us that ability, the right to run in district. So that's my biggest concern.

>> Mayor Adler: Mr. Casar.

>> Casar: Mayor, after this discussion, I feel that I don't have the will or have the will on the dais to postpone this issue, so I'd like to amend my motion one last time, if you'll allow it. If my staff will hand out this amendment, I hope that it will bring us closer to a vote that more people can accept.

[4:00:10 PM]

It's very similar to what builds off both amendments that the co-sponsors put together, along with council member troxclair in the whereas portions. It does identify the additional staff in the mayor's office as committee coordinators. It does outline in the whereas portions what's contemplated in council member troxclair's amendment that the salaries shall not be higher than the highest earnings of the council. In the whereas portions it designates that each of the five new hires in the mayor's office will be assigned to cover the committees. Excuse me?

>> [Inaudible]

>> Casar: Are you missing one? Or two?

>> How many are you missing.

>> Casar: So it does -- each of those five employees willing to -- each will go to two committees to cover all the committees. And then finally it outlines in the final -- in the whereas section that each coordinator will work with projects approved by a majority vote of the committees to which they're assigned in consultation with their assigned committee chair and vice chair and approval with the mayor. I understand that the mayor would hire these five -- these five additional employees, but their projects and tasks, I think the way that you outlined it before in your previous amendments was that these staff persons would work on major committee initiatives. I believe a question that was brought up by council member Zimmerman is what would these committee initiatives -- how would they be determined. Well, I think the best way that the will of those committees would be reflected would be by a vote of that committee to determine the will of the committee. So it's a minor -- I would see it really as a minor amendment to the original proposal amended by the co-sponsors, essentially capping the salaries, clarifying each committee -- each coordinator will be assigned to two committees, and ensuring that those coordinators work along with the mayor a initiatives.

[4:02:28 PM]

>> Mr. Mayor? I'm sorry.

>> Mayor Adler: There's a lot here. Right? There's a lot here. I'm going to take it to your word that it's a minor amendment and I'm going to talk to the two things that you said were the amendment pieces of this. And that's that no one gets paid any more than anybody's being paid right now on a council or mayor's staff. I don't have a problem with that. Item number 40 that's on the table, new staff positions and major committee initiatives, at the request of the committees in consultation with the mayor. So I would strike the word "Chair so that it is at the request of the committees in consultation with the mayor. Do those two changes get you the changes that you made in your deal?

>> Casar: Yes, except the important piece also being when you say with the committees, that the will of the committee be determined by a majority vote of the committee.

>> Mayor Adler: Okay. At the request of a majority of the committee in consultation with the mayor.

>> Casar: Correct.

>> Mayor Adler: Is that okay?

>> Casar: In that way these new coordinator positions would indeed be tasked with working on initiatives pushed for by the council.

>> Mayor Adler: Okay. So item number 40, I'm now looking at the white page. The new staff positions would support council committees and major committee initiatives at the request of a majority of the committee in consultation with the mayor and adding another, be it further resolved, clause that says that none of these individuals will be paid more than is currently being paid a current member of a council or a staff. Anybody have any objection to Mr. Casar substituting out his amendment?

>> I just have one comment.

[4:04:30 PM]

It would have been really helpful if the change to language had been underlined, so that we could have gone immediately to where your changes were. I'm doing a side-by-side right now, and it's not what you want to do on the fly. So just for further -- future reference. Thanks had.

>> Mayor Adler: Okay.

>> Casar: Understood. My motion was to postpone this and bring some of this up in committee but since it's not going to postpone --

>> Mayor Adler: I understand. So the amendment on the floor is to take the first page, add -- at the request of adding the words "A majority of" before the committee, striking the word "Chair," and add another be it further resolved clause that says none of the new staff will be paid more than is currently being paid a staff member in a council or mayor office. Is there a second to that?

>> Second.

>> Mayor Adler: Second from Mr. Renteria. Is there any discussion or debate on that amendment?

>> Are you amending your own amendment?

>> Mayor Adler: I'm going to accept that as a friendly amendment. Okay. Any further debate on item 40? All --

>> I have a question.

>> Mayor Adler: All right. So item number 40, there's -- okay. I accepted that, so is it okay, Ms. Troxclair, if we take a vote on that item as amended?

>> Troxclair: Sure.

>> Mayor Adler: Okay. Because I don't think it quite would have fit that way, but I appreciate your indulgence. We are now voting on item number 40.

>> No, I'm sorry.

>> Mayor Adler: In that respect, item number 40 is what was posted with the changes that I came with

this morning that were handed out on the white piece of paper that has three be it further resolved clauses, the first thing that was handed out. If you could post that on the board, that would be helpful. It's what's posted on the bulletin board. Can you post that on the screen?

[4:06:34 PM]

It's back to this. With the exception that in the first be it resolved, further resolved, the language will read: The new step positions will support you know co-council members at the request of or inserting the words "A majority of." It continues, the committee, we're striking the word "Chair," in consultation with the mayor. The second and third be it resolved clauses remain the same. The fourth resolved clause now

added says: Be it further resolved that none of the new staff positions will be paid more than is currently being paid any --

>> So any of the city council staff.

>> Mayor Adler: To any of the city council or mayor staff.

>> Casar: I believe my wording was the city council staff.

>> Mayor Adler: Do you have any problem including my staff?

>> I'm not sure how much your staff is paid. I just want to be able to have some predictability about what the budget outcome would be, and I know that traditionally council -- I know how much council staff is paid because I am a council member and have my own budget. So my prediction was in the 40000 to --

>> Mayor Adler: Since he's coming back with budget Numbers for us to look at next time, do you have a problem with him --

>> I'm happy to talk about it on the 12th.

>> Mayor Adler: More than is currently paid to any city council or mayor staff.

>> That's fine.

>> Tovo: Makers you know, we've had some discussion back and forth about what this action, if it passes as is, would or would not do. We started off with that question, and I think we were assured that it would come back for any kind of action that would trigger financial expenditure. On the other hand, I heard at least one of my colleagues saying something about the decision we're making today being one of funding. And I'm looking at the language that talks about that the budget -- that the budgetary authority by this resolution expires.

[4:08:43 PM]

If we're not actually contemplating a budget take her authorization in this resolution, then I would encourage --

>> Mayor Adler: We can add the words --

>> Tovo: -- You to change the language to that any budgetary authorization related to this matter would expire.

>> Mayor Adler: I don't have a problem with that, and I accept that as a friendly amendment.

>> Tovo: And as has been our prior practice, I'll say I offer that as a friendly amendment. Unfortunately, we're still not at the point where I can support the overall motion. I'm just as a point of information, I'm telling you I'm offering that as a friendly amendment but I want to be honest about my overall support at this point, but thank you for accepting that.

>> Mayor Adler: I appreciate the honesty and I still accept the friendly amendment.

>> Tovo: Thank you. So I have -- I would like to then propose some additional amendments that would piecemeal the sections in mine if we're at that stage, unless -- I notice council member troxclair has also

been trying to get the floor. So I'll make that comment, and then yield and then ask for the floor back again.

>> Mayor Adler: Most troxclair, do you want to vote on your amendment to change this to be the auditor or clerk's office?

>> Troxclair: Well, throughout the, you know, past few minutes of our conversation, there was -- I feel like the discussion that we've had so far kind of underscores the benefit that a little bit further conversation by having -- by sending this to committee would provide. So I guess I got off track somewhere because I heard that mayor pro tem tovo agreed that audit and finance could meet as soon as possible and that this item could come back to council no later than one month from today. We've postponed a lot of things from our agenda already today that are -- that are much smaller items than this because we want to have further discussion in committee, so I guess I first would want to take a vote on sending this to committee so that we have that answer before we discuss making amendments to the proposal.

[4:10:53 PM]

>> Mayor Adler: I think that's a reasonable request. There's a motion to send this entire matter to the committee, the one as amended to the committee, asking it to come back by March 26th.

>> I'm sorry. I want to make sure I know what we're voting on because I thought I did until council member Zimmerman said that. So we don't have a motion on the floor because council member Casar pulled his motion down, so is this a new motion to
[inaudible]

>> Mayor Adler: Item number 40, with the changes that were made.

>> Okay.

>> Mayor Adler: And with the friendly amendment.

>> Okay.

>> Mayor Adler: Now there is a motion to refer it all to the finance -- audit and finance committee, asking them to come back in a month.

>> And that was seconded?

>> Mayor Adler: Is there a second to that motion? Ms. Garza.

>> Okay.

>> Mayor Adler: Ms. Garza. Made by troxclair, seconded by Garza.

>> Got you.

>> Mayor Adler: Is there any debate on the motion to send this to a committee for a month?

>> I just have a quick question, mayor, and it's a sincere question. I guess I don't understand the urgency of not doing this. These are such big issues, you're right, that need to be tackled. But if we're saying that five new people who are already a little bit behind the learning curve, this big learning curve for city -- for the issues before us, are going to solve these huge issues in the next five months, I guess I just -- I really want to know what the urgency is and why we can't wait to send it through the committee process. And it's a really quick one. It's a month.

>> Mayor Adler: I'd answer that question, Ms. Garza, by saying that there's not an expectation that anyone we could hire or even we could solve the big issues in the next five months. My hope is that, as a group, our committees start putting us on a track to being able to solve those questions by having us engage in figuring out the paths forward for larger policy questions so can council is actively engaged in things like how you bridge a 48,000 unit gap, how do you actually make homestead preservation districts happen, after talking about it for years, so we're actually on track to fixing a permitting process that we talk about a lot.

[4:13:26 PM]

The big issues that we're facing with respect to affordability for transportation that, now that we have a bond election that failed, even though it was unanimously approved by council, was soundly defeated, so that we get back on track on those issues. The difference between starting now is that if we pass item 40 and if the money comes back in, the committees will have the advantage of that help and that work almost immediately, and we can start. My concern is, is that if we send it to a committee, start going through a much longer process, ultimately, I'm not sure there's enough time left to make it worth the while to just say, well, let's just pick it up in the next structure. And we have momentum going forward, and we have an excitement in the community and a willingness to engage, and I want us to try to maximize and ride that wave while it -- while it exists. Again, it's five people, six months, and all we're voting on today is for the manager to come back and tell us if that's something that you wanted to do, this is how you could do it. The motion that's on the floor is to send this item 40 to the finance committee for a month. All in favor say eye.

>> Tovo: Mayor, I had a comment.

>> Mayor Adler: Yes.

>> Tovo: You know, I have to say I think that it would be really beneficial, for one thing, we have, as I said early yes, we

-- as said earlier, we have an opportunity to make sure this is a proposal everyone on this dais feels comfortable with, and if waiting a month to make this decision does that, I think that's a real benefit. I don't think we lose any momentum. Most of our committees, I don't believe, are going to start meeting within this next couple weeks. So, you know, we have -- we have a little bit of time before those committees start meeting in earnest, and I think if we can get some -- some thought on this issue, and again, allow us to move forward, I don't -- I don't see us as losing any momentum.

[4:15:34 PM]

I don't think we gain momentum. I believe that we gain resources and we certainly will gain expertise and additional capacity, but the momentum comes from the energy that we all bring and the policy ideas we all bring, and it's enhanced, perhaps, by additional staff resources, but doesn't it depend on that.

>> Mayor Adler: Okay.

>> Mr. Mayor, I'd like to call the question if I could. Could we take a vote on ending debate, maybe?

>> Mayor Adler: Let's see. Is there any further debate on the motion to postpone for a month? Let's take the vote. We're now voting on postpones for a month. All in favor -- all in favor of postponing, sending this item to committee for a month, please raise your hand. That's six. Those opposed, raise your hand. Two, five. The matter is referred to committee. So the five -- six people voting in favor, please raise your hand for the clerk. Troxclair, Casar, Houston, Zimmerman, Garza, and tovo.

>> Could I have a clarification vote? So a month, what does that mean? Does that mean the committee finishes their work in a month? So it comes back to the council in six weeks? Is that what we're talking about?

>> Mayor Adler: I would guess that would probably be about right.

>> The 26th.

>> Mayor Adler: But for the committee to do its work by the 26th.

>> Yes. That's right.

>> I'd like to make another motion.

>> Mayor Adler: Yes.

>> I'd like to move that the city -- well, let me ask the question first.

-- Part of my concern about losing time is that what we were simply doing was asking the city manager to come back with some ideas around dollars. If we wait six weeks and then ask the city manager to come back with information around dollars, that's going to be another, I don't know, two weeks to a month. So clarification, do we need another motion right now to ask the city manager as to come back with information?

[4:17:41 PM]

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Yeah. I was thinking the same thing as you. So if we find out where we were about directing -- making another option to direct the city manager to do something, independently of what the committee does? Is that what I'm hearing?

>> Yes.

>> Zimmerman: Yeah, I'm interested in seconding a motion if you make it here, direct the city manager to identify funding options from the current budget and what else? What would you like to move?

>> Well, I'd like to move --

>> Mayor Adler: That was 40. That was the resolution.

>> Yeah. I'd like to move that we move forward with the items in number 40 because the only thing we're doing in that number 40 with the be it resolved is directing the city manager to come back with that information. So -- pardon? By March 12th. So that would then provide that information to the committee. We just sent the whole issue to the committee for the committee to consider, so I think it would help the committee to have the information on cost for consideration purposes, so I guess I'd like to go back to -- and, you know, I'm open to --

>> Is there a parliamentary question? I think there's a parliamentary question maybe for the attorney, for you to answer, could we not consider another item that's related to 40? I mean, if we deliberate on 40 and we vote and we're done, are we obligated to move on?

>> Mayor Adler: I think one way, and the cleanest way to do that perhaps would be for you to make a motion to reconsider the vote we just took.

>> I don't want any part of that motion.

>> Mayor Adler: The city manager said he would give us that information by the 12th.

>> Okay. Thank you.

>> Mayor?

>> Mayor Adler: Yes.

>> Tovo: I'd like to ask the city manager to also provide us with some ideas and some -- about how we might -- what other structures we might consider to affect some of what's been discussed here on the dais.

[4:19:50 PM]

>> Happy to do that.

>> Tovo: Certainly I don't think think -- in that approach, I'd like to consider structural options.

>> Happy to do that. I already started that research.

>> Tovo: Thank you.

>> Mayor Adler: Okay. I think the next item is item 64. This was an item, Ms. Houston, that you pulled that I'm not sure you wanted to keep pulled.

>> Houston: No.

>> Mayor Adler: Okay. Have Ms. Houston had pulled this item. Is there a motion to approve item 64? It was on the addendum.

>> [Inaudible]

>> Mayor Adler: We didn't because it was pulled. 56 was the one where we pulled the --

>> Houston: I'm sorry, 64 district 2 I've got too many papers up here. 64 was about the [inaudible], and I'd like to remove that from the pulled and move that we adopt it.

>> Mayor Adler: It's been moved that we adopt number 65, Ms. Houston. Is there a second? Second by Mr. Renteria. Any discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I think there are federal funds involved in americorps; is that correct? It's federally funded. It's a weird thing. It says volunteer but there are some actually paid staff and quite a bit of federal money involved. Okay. So I'd be inclined to vote against it because I'm deeply concerned with our federal -- 18 trillion federal deficit.

[4:22:00 PM]

It's kind of consistent with the other objections I've made to federal subsidized housing so I'd be inclined to vote against. Thank you.

>> Mayor Adler: Any further discussion?

>> I'd like to call the question.

>> Mayor Adler: Okay. Is there any further discussion? We don't need to call the question. All in favor, please say aye. Opposed, say no. So everyone on the dais voting yes except for Mr. Zimmerman voting no. How long a discussion do we anticipate on item 63?

>> I have a question. I'm sorry.

>> Mayor Adler: I'm sorry, what --

>> Are we moving off of non-consent back? Because we haven't done 42. Are we coming back to that later?

>> Mayor Adler: If we have it, I missed it.

>> Houston: And, mayor, we haven't done 43, either.

>> Mayor Adler: Okay. Then those would be the ones to pick up.

>> And 41 was pulled, right?

>> 41 was withdrawn.

>> Mayor, can we ask Mr. Guernsey the status of 41, please? I understood that it had been pulled.

>> Mayor Adler: Item 41?

>> 41 is -- the sponsoring department is the parks department.

>> Mayor Adler: Is there a request --

>> As director of parks and Rex we ask for postponement to March the fifth.

[4:24:01 PM]

>> Mayor Adler: Okay. Is there any objection to postponing this till March the fifth? Hearing no objection, it's postponed, council member pool, off the dais. That gets us to item 42.

>> Mayor and council, item number 42 was an item that was discussed at the work session, and I understand that some of our council members want to take this item which deals with an amendment to our land development code regarding the meter parking spaces counting towards a minimum requirement for non-residential uses. I understood there was a direction to go to mobility committee?

>> Mayor Adler: Okay. Is there a motion to refer item 42 to a committee?

>> I so move.

>> Mayor Adler: Ms. Kitchen. Ms. Houston seconds. Any discussion? All in favor of moving 42 to a committee, say aye.

>> Aye.

>> Mayor Adler: Those opposed, nay? All ayes with council member pool off the dais. That then gets us to item number 43.

>> Number 43 is to consider an appeal by Mr. Dee Wayne Lofton to approve a conditional use permit for property located 5605 Springdale road for a project called Springdale multifamily. It's spc-2014-86c. A public hearing was conducted. The public hearing has been closed. We're kind of waiting for your decision.

>> Mayor Adler: Okay. So let's have discussion -- let's have discussion.

>> There's some additional information, I think, that was requested for backup, and it's been in your backup materials, and there may be an additional letter that you have received today from the San Jose catholic church in Austin interfaith in the unitarian universalist church.

[4:26:11 PM]

I think that's also in your backup. I think that came in today, to your office.

>> Houston: Thank you, Mr. Guernsey. Mayor, may I speak on this, please?

>> Mayor Adler: Ms. Houston.

>> Houston: As many of you remember, this was an appeal by Mr. Dewayne Lofton who is president of the Springdale hills neighborhood association because of the lateness of the night that the planning commission made their vote and the fact that the neighbors felt that they had not been heard in that short time frame that they were given to talk about their concerns and their issues. As you remember, on our February the -- January 29th -- was it February -- January 29th meeting, this was postponed till today to give the applicants in the neighborhood an opportunity to try to come to some agreement regarding this property. In addition, mayor pro tem tovo talked about an educational impact study, which we did receive, and although the superintendent had already written a letter of support back in 2014, one of the things on the impact study states, and I'm sure this is in your backup, that there needs to be construction of a sidewalk and safe pedestrian crossing at Springdale and rocky lane to accommodate students who would go from the proposed development to pecan springs elementary school. So that was one of those issues. And then under smart housing, neighborhood housing and planning development, they talked about the project would be subject to five years of affordability after issuance of a certificate of occupancy. And so, Mr. Guernsey, can you tell me why five years and not more? Is that because of the different percentage of tax incentives the developer is looking for?

[4:28:14 PM]

>> As I was walking up, the applicant agent, Mr. Suttles, he'll do 30 years, instead of 5 years -- in the ordinance, I think five years is a minimum to qualify.

>> Houston: Okay. Thank you so much.

>> And I'll let Mr. Suttle speak for himself.

>> Houston: As long as you got that information, that's fine. So because of working with council member Gallo and the developer and the applicant, I think we've come up with an agreement. I don't know whether we have enough to pass out to council, so if -- if I may, I will tell you what has been suggested. And the neighborhood did not mind the 294 -- 292 units, but they also asked for retail because this neighborhood is in an area where the majority of the people who live to the -- directly west of where this property will be located are high resourced individuals, and there are no amenities in that area except for the dollar general store on 51st street. And the closest grocery store is not walkable. And so as we talk in this chamber about walkable and connected and compact communities, we have to start thinking about that differently because some areas are very isolated and have -- do not have the resources that other parts of our community take for granted. I'm going to kind of just lay that out for

you. There will be a Springdale cafe attached to this development, over 600 square feet, and they will have extended hours, because before, it was attached to the leasing office, which meant that the coffee shop or the cafe would be closed after the leasing office closed and not open until the leasing office opened.

[4:30:22 PM]

And so that was a compromise with extended hours. The community room where the neighborhood could use for the neighborhood meetings or other kinds of events would be increased in size and they would have after-hour access without someone being on premises. Because of the site there was a lot of discussion about the appropriateness of retail. Of course, those of us who are not in development or not in retail thought that that was a good place for it because people can walk or bike. It's close enough. But again, in an effort to get some compromise the developer is going to put live-work units on the front part of the property, on the facing property so that there could be small businesses. People could be an accountant or do some tax preparing or could have a clock repair shop in that spot. And then people could actually walk there. There would not be that much of an impact. That and be along the Springdale road siting. In addition to that, we know as we will talk more about district 1, that the city has not done a very good job in looking for retail or any kind of economic drivers in that part of the city. So the developer is willing to support a retail recruitment strategy, an implementation plan to look at appropriate placements of retail stores and businesses and amenities on the springdale-51st corridor and they will work with a community entity. At this point that's the urban league of Austin, to talk about how to get that started. I've also suggested that they work with the economic development folks here at city hall to see if they have any ideas. And then that kind of coordinated effort would begin to identify options for people where retail is needed.

[4:32:25 PM]

And it is needed. And then be able to implement some kind of plan. And the company is willing to provide \$70,000 toward this effort of looking for, developing a plan and then implementation of a plan. The Springdale development will have representation from the neighborhood association on the tenant council and they will complete a traffic study. The traffic study may have come in late, I can't remember, but we do have the educational impact study. So because this is closed for discussion, if my fellow councilmembers have any comments that they would like to make, I would be happy to entertain those at this point.

>> Mayor Adler: Staff, do you understand what the details are of the agreement.

>> Mayor and council, Greg Guernsey again. I think we understand certainly what was read into the record. We're not exactly clear, though, maybe on the extended hours. If you have them more specific than just the hours of the opening of the leasing office, is that for five hours after they close or -- there might be some things that are helpful that you may have in more detail beyond what you've shared with us from the dais. In large, the community room, this question might come up about how big? Is that doubling in size or adding another 100 square feet or something along that line? We understand that all the buildings that would face Springdale would be live-work units. I think that's clear enough that we can certainly take that. The \$70,000 to the urban league would not really involve the city. That would be a private agreement between the parties and the tenant council, that would probably be also a private agreement.

[4:34:32 PM]

So those things that might be the -- the city might be the hours, enlarging the community room and the live-work units. And then I guess the property owners agreed to offer a traffic study when they -- I guess they perhaps could offer that when we do the building review or whenever that would come --

>> Mayor Adler: Here's my question. Is it sufficient detail for us to be able to approve something or do we need to send this somewhere to get into a form that we can --

>> I think for those things that we can -- certainly the first three things, if they were to increase and there's some agreement between the parties, we could find that out. And it's probably enough for me to take away and on work with doing the site plan.

>> Houston: So Mr. Guernsey, I was not aware we needed to have hours of operation in the agreement. I've never heard that, but we could huddle in the back and try to figure out what those hours may be. And again, the size of the community space, I think somebody in this room has that, but do you all need that for the site plan?

>> If you would like to take action right now, I think it would be sufficient for me simply that there are live-work units that are facing Springdale, you could approve it. You could approve the conditional use permit and move it off the dais. And if the private parties have all agreed to a size of the rooms, as long as they go forward with those hours they could take care of that privately.

>> Houston: Okay. I just need a head shake because -- can we do this?

[Laughter].

>> Mayor Adler: If we approve the conditional overlay, which is just the recommendation, how are these other things incorporated in to just the adoption of the conditional use permit?

[4:36:34 PM]

The rejection of the appeal?

>> With the conditional use permit the planning commission or I guess I should say the council in this case can subsume issues of the commission. And you can attach conditions to the approval. So in addition what was approved by the commission you could add that those live-work -- there will only be live-work units that would align Springdale road for the buildings that face Springdale.

>> Mayor Adler: So we would attach a list of additional conditions. And my question is are the additional conditions in a form that they are attachable at this point into an attachable condition form?

>> If you limit it only to the live-work units I think yes, you could move forward right now. If you want to be more specific, then I don't know if staff has enough information to do that right now, but if the private parties have agreed, we could work with that with the understanding that the community room is going to get larger. And that would be enough direction that we could finish the work and then move on.

>> Houston: Okay. So Mr. Guernsey, could we move that we lay this on the table for 15 minutes until we come back with the specifics?

>> Yes, you could certainly table this.

>> Mayor Adler: Okay, would you like to move to table.

>> Houston: I would like to table for about 15 minutes and Mr. Lofton and everybody go back and figure that out and come back and give us some specifics so that we can get this moving. Thank you.

>> Zimmerman: Point of privilege. Could we have a 10-minute recess? We've been here awhile.

>> Mayor Adler: Sure. There's been a motion to table. Rather than saying 10 minutes, can we say until -- table it for no sooner than 10 minutes, but when appropriate to pull it back up?

>> Houston: Correct.

>> Mayor Adler: Is there a second to that motion to table?

>> Houston: Today, today. Absolutely today.

>> Mayor Adler: Ms. Pool seconds that motion. All in favor say aye? Those opposed, no? It's unanimous

on the dais.

[4:38:35 PM]

Any objection to taking a 10-minute break? Mrs. Troxclair?

>> Troxclair: I would ask if we could keep it to 10 minutes I would appreciate it. I have a lot of constituents here waiting all day to talk about the next case. I want to be respectful of their time.

>> Mayor Adler: 10 minutes.

[4:50:40 PM]

>>> >> >>>

[4:56:56 PM]

>> Mayor Adler: All right. We're back from recess. Ora, should we keep 43 tabled that the point? Should we still keep this tabled at this point. Should we go on to Garza or are you ready to move?

>> Houston: Mr. Guernsey, are we ready on 43?

>> Mayor and council, yes, I believe so. I was in the council chambers and the parties in that they would agree to three items. First, there's no objection for the coffee cafe that it would be open 12 hours a day daily. Second, that all the ground floor apartment units that would face Springdale would be live-work and that's only on the ground floor units that face Springdale. Those would be live-work units. And finally, that the community room, which is already specified in some of their plans, would have a minimum area of 500 square feet. And those are the three things that they offer. I know that the owners also agreed to do some other things. Those would be private agreements and if you would like to hear from the owner, the owner is present and you can speak to them.

>> Houston: Would you come to the microphone, please?

>> Mayor Adler: Go ahead and make a record of the additional things that you want made record of.

>> Houston: Right. That's what it is. We've got the hours of operation, the live-work units. And what Mr. Guernsey said.

>> Mayor Adler: That's fine. Why don't you tell us what the other things are you're offering to do.

>> I'm hunter barrier, I'm president of Ryan companies, south central region. And just as we outlined in the letter, we're prepared to commit those things. I think the three that Mr. Guernsey read will go in the city strategy for the Springdale area and a commitment to fund that to \$70,000, we're prepared to commit to that as well.

[4:59:03 PM]

>> Houston: And I think the other thing was the term of affordability.

>> The term of affordability

>> The term of affordability will be 30 years as required by federal law.

>> Houston: Thank you, sir. Are there any questions for my councilmembers?

>> Mayor Adler: I tell you what, let me go ahead and take back the chair.

>> Houston: Oh, I'm sorry.

[Laughter].

>> Mayor Adler: You haven't gotten rid of me yet, ora.

[Laughter]. So what would be the process here? So we have an appeal from -- that's lodged. So -- but we're changing it now. Are we adding the appeal and making conditions?

>> Houston: When you tell me it's time to speak, I'll do that.

>> Mayor Adler: Okay. Ms. Houston, tell us what we're supposed to do.

>> Houston: It's my understanding that as the council sits as planning commission today that we can up hold or deny the appeal. Before I get to that motion when it's my time to make that motion, I want to say for the record that Mr. Dewayne Lofton, who is president of the Springdale hills neighborhood association is here and although he has agreed in principle to the issues that have been outlined, he wants it on the record that the pecan springs neighborhood association does not agree. So I'll be ready to make a motion when you tell me that I can.

>> One question.

>> Mayor Adler: So help me understand. So we're sitting as the planning commission. We're not -- are we sitting as the planning commission considering an appeal or are we sitting as the planning commission considering this application?

>> You are sitting I guess in the shoes of the -- in the land use commission and making a decision to approve the appeal, deny the appeal or you can also -- I guess in this case you could deny the appeal and by doing so you're actually approving that conditional use permit and you can modify that with the three conditions that I have read in.

[5:01:16 PM]

So in essence you're approving the site plan, denying the appeal, and you have the ability to modify that motion if you would like to add some additional conditions.

>> Mayor Adler: That's my question. If we deny the appeal, then we are -- I would imagine at that moment we are allowing the old action to stand forward. Is what we should be doing granting the appeal so that it's open and then doing that?

>> I think brentwood, assistant city attorney, would like to say a couple of words.

>> Brent Lloyd, assistant city attorney. And I think the three options before you in this case are to approve the decision that's before you, which is the conditional use permit, reverse it or modify it. So I think the cleanest way to do it -- and there's not magic words that you have to use. It's just be clear on the record what your intent is and I think the cleanest, most efficient way to do that would be to -- for assuming that councilmember Houston makes her motion to modify the conditional use permits that's before you to reflect the conditions that have been discussed.

>> Mayor Adler: Okay. Ms. Houston, do you want to make that motion?

>> Houston: I so move.

>> Mayor Adler: Motion to modify the approval as stated on the record. Ms. Pool seconds -- I'm sorry, Ms. Gallo seconds. Is there any debate on this item? Mr. Zimmerman?

>> Zimmerman: I have a question. Maybe you could tell me if it's not the right time to ask it. It could be to Mr. Guernsey or to Mr. Suttle. It regards the ownership. This question is about the ownership going forward and what the property tax situation is on the building. So if we approve this and it gets constructed, there's a partnership in place for the tax credits, what have you, right?

>> Correct.

>> Zimmerman: And then after it would be 30 years, after that 30 year period does the property transfer to the housing association of the city of Austin?

[5:03:24 PM]

>> It's a partnership that the housing authority of the city of Austin is a part of. And as a result of that it's essentially a unit of government. So when we buy the land and move forward it will come off the tax rolls, the land would come off the tax rolls.

>> Zimmerman: It will be off the tax rolls from the first day the first tenants move in?

>> Yes.

>> Zimmerman: It's off the tax rolls. And the ownership, the company, the private company -- there's a private investment in it as well, right?

>> That's correct.

>> Zimmerman: Okay. And that private ownership ceases after a certain term and it all goes to the housing authority?

>> That's right. After 15 years the tax credits will burn off. We have to keep it affordable for 30 years. At that point the housing authority of the city of Austin would own it.

>> Zimmerman: Okay. So in other words, there is going to be some more traffic, but if we have road improvements, there won't be property taxes from that development that contribute to infrastructure improvements because it's off the tax rolls.

>> Correct.

>> Zimmerman: Thank you.

>> Casar: Mayor? So to clarify, even after the 30 years of affordability expire, it would still be owned by the housing authority, we could continue having affordable units there or the housing authority, which tends to work on affordable housing issues, the idea is it's not going to become an expensive housing project after 30 years.

>> That's correct. I guess technically they can, but their mission is affordable housing and I don't think they've sold anything yet. So I think it will be affordable workforce housing in perpetuity.

>> Casar: Thank you.

>> Mayor Adler: Okay. Ms. Houston?

>> Houston: I'd like to close discussion and call the question.

>> Mayor Adler: Any further debate? Hearing none, all in favor say aye? Opposed opposed nay. It's 10-0-1 with Mr. Zimmerman abstaining.

>> Houston: Thank you all.

>> Mayor Adler: Thank you. This gets us to the next item on our agenda, which are item 50 and 51, both Garza ranch.

[5:05:35 PM]

Is there an objection to considering 50 and 51 at the same time? Calling to debate that way. We're going to do that. Why don't you speak to us about 50 and 51.

>> I'mger rusthoven with the planning and review department. Item 50 is the property located at 3800 Ben Garza lane. Item 51 is case c-14-2014011-b for the property located at 3510 and 403 Ben Garza lane. Both of these properties cover what's known as the Garza ranch property. The reason that we have two zoning cases before you today is because the property is separated by a right-of-way and zoning cannot cross right-of-way lines. The request is from gr-go-mu zoning to the same zoning to change a condition of zoning, specifically the amount of trips allowed on the property. A quick history lesson, the Garza ranch property, I believe the applicant good L go into a history about the Garza family greater than I will, however with the city in mid 19 '90's, 1994, the city was subject to' lawsuit about the applicability of the S.O.S. Ordinance of this property. The city lost that lawsuit. We also lost an appeal of that lawsuit. The end result is that portions of this property were subject to the S.O.S. Ordinance and portions were not. It was a rather checkerboard pattern as to where S.O.S. Applied and where it did not. Moving forward to 2007, there were three zoning cases filed on this property because at that time there were two roads on the property, so just like today we have two cases. At that time we had three cases. However, they were all still affecting the same property we're talking about today. At that time the gr-mu-co-np zoning was approved by the city council. Included in that zoning was a cap of no more than

450 apartments, some prohibited use cases. At that time a traffic impact analysis or tia was not done. For that reason each [lapse in audio] There were 6,000 trips, however they were just similar to the university AI rules on the property, it was a checkerboard property, it wasn't 6,000 across the all property, it was 2,000 in three different pieces.

[5:07:52 PM]

Moving forward in 2012, there was a proposed P.U.D. On the property to address the environmental issue of the checkerboard pattern of the applicability of S.O.S. That pud was not pursued. It was determined it was too difficult to move forward with the P.U.D. Moving forward to 13, the city entered into negotiations with the city on environmental matters. It was the city's desire to settle once and for all the environmental issues on the Garza tract. There was some interest expressed by this process at the capitol. The legislature was in session. Perhaps that provided some incentive with the city to move forward with those discussions. Regardless in 2013 the city council approved a settlement on the -- addressing the environmental issues of the Garza tract. Specifically we got rid of the checkerboard pattern. The city council approved a flat impervious cover limit for the property that applies to the entire property. What the city received was greater environmental protection in the forms of much better pond and environmental controls than we had with the previous -- that were a result of the lawsuit. We received the property for the violet crown trail, property for a trail head for that trail as well as money to build the trail head facility. So anyway, the result was on a super majority vote of 6 city councilmembers, a previous council, that agreement was reached and it was an amendment to S.O.S. However, that agreement did not address the trip issue. It only addressed the environmental issue. So it was acknowledged at the time -- I remember because I did the case myself, that we would be back later to address the trip issue because if we had already solved the environmental issue, the amount of development that was allowed under the settlement could not be accommodated with the 6,000 trip cap limit. 6,000 trip cap. So the applicant last year filed what's called a traffic impact analysis or a tia.

[5:09:54 PM]

The city staff, the planning department, transportation department, as well as the Texas department of transportation because mopac is a state of Texas roadway, have reviewed that tia and have approved it. The tia accounts for 16,000 -- about 16,002 huh-uh adjusted trips that translate to about 13,900 trips when you allow for internal capture and pass-by. As I said, we have reviewed all the intersections that were analyzed in the tia and there is about \$44,000 of improvements that the developer is responsible for to accommodate the increased traffic from the tract. So the purpose of these two cases today is to amend the Co on the existing zoning on the Garza tract, to allow for the 16,200 adjusted trips or 13,900 adjusted trips, as well as add the following prohibited uses. These are using some prohibited uses that were done in 2007 and adding some that were also added in 2013. So the prohibited uses would be auto repair services, auto rental, auto sales, auto washing, exterminating services, funeral services, pawn shop services, service station, custom manufacturing, dropoff cycling, plants and recreation and nursery. Since this case was first brought forward it's been postponed several times. However since it's been brought forward there were several conversations with the nearby neighborhoods. One of the things that the neighborhoods -- one of the neighborhoods was seeking was a limitation on the traffic that is exiting the property in the A.M. Peak because that -- from what's called driveway a there are two accesses on to mopac, again Garza lane, as well as driveway a. What the tia has been amended since it was approved by the staff to take all the traffic from driveway a in the A.M. Peak and zero it out, I presume it would be done by a gate across the property, so that there would be no exiting it traffic from driveway a in the A.M. Peak. All the A.M. Traffic on to mopac would come off of Ben Garza lane. The tia

was reanalyzed to show that could still work safely and the city staff as well as txdot has no opposition to that amount to the tia.

[5:12:01 PM]

So with that I'm available for any questions.

>> Mayor Adler: Any questions from the dais? Thank you, sir. We have some speakers. We have about 24 speakers. Fairly evenly split between those for and against. We'll hear from the applicant. So we'll do that and nobody else gets to hear their argument before they make theirs. Mr. Wheelless.

>> Mayor, mayor pro tem and council, my name is Dan Wheelless and I'm here representing the Garza family. So we have neighbors here who are speaking in support and some neighbors speaking in opposition. We have worked closely with them and continue to do so. Darryl Pruett, who is one of the speakers and one of the neighbors is -- has a scheduling conflict and so with your good graces I would defer a little bit of my time to allow him to speak.

>> Mayor Adler: That's fine. He's also on the list so he can take his full three minutes and we'll call Mr. Pruett up.

>> Thank you. My name is Darryl Pruett. I wanted to thank Dan for accommodating my schedule and council. I am the president of the oak hill association of neighborhoods, Ohan. I'm speaking here today, though, on my own behalf, not on behalf of Ohan. You have before you a packet of materials, including some letters that I have sent on behalf of Ohan and my personal email in support of this change in the condition for zoning.

[5:14:03 PM]

I think that the council should vote to approve this because this multi-use property, this development, will be consistent with the oak hill neighborhood plan. I think this is an opportunity for new council to show oak hill that we're not just out on an island, that the council does listen to southwest Austin and that we're entitled to the same infrastructure, buildings and roads and those in Austin are entitled to and receive. I support the project for a variety of reasons. Number one, the project will be high class and well run. The proposed purchaser is well-known, very well respected national realty trust. This area of town needs more office space. The traffic impact and the tia is spread out over a 24 hour period. The real concern has been the peak hour issues. And those can be mitigated as has been shown by western oaks property owners association changing from saying we're not sure we support this to now being in support of it because of the mitigation measure, the gate that Mr. Guernsey spoke of. There will be no further environmental impact on this because of the additional traffic, because the water quality infrastructure that's been built at a cost of \$2 million has been built in order to handle this increase in traffic. If this turns into an employment center as we're hoping it would probably reduce traffic on mopac because people would probably stop there and have their job rather than taking William cannon to get on to mopac to come downtown or further north of downtown to go to a job somewhere else.

[5:16:13 PM]

The fact that Mr. Guernsey told council that this 6,000 trip per day was something that everybody knew at the time was going to be reconsidered, the fact that technically the zoning condition, the zoning ordinance needs to be change to change a condition of zoning, I don't think should be allowed to be used by various interest groups to reopen the issue of the development of these tracts. I've heard some people say that they are opposed. They like the plan, but they don't like the traffic and that the city needs to fix its roads and get its act together first before we approve anything more. The development

itself shouldn't be denied simply because the city of Austin hasn't done what it's supposed to do over the last 30 years with roads for a reasonable development impact.

[Buzzer sounds] Thank you.

>> Mayor Adler: Thank you very much. Question. Ms. Troxclair?

>> Troxclair: I know you're not here representing Ohan, but how many neighborhood associations are members of Ohan.

>> There are 30 member associations.

>> Troxclair: And how many of those members are you aware of that oppose the project?

>> I believe three of them have submitted letters in opposition.

>> Troxclair: And I guess then my last question because it's specific to southwest Austin, this question of office space, can you just elaborate or tell me your personal opinion of the quantity of office space that's currently in southwest Austin and how this would impact?

>> I can tell you from my personal experience I was representing a company that was trying to find an office condominium actually off of William cannon because that's the area they wanted to be in.

[5:18:16 PM]

And with the pricing for new condominiums and the lack of any additional alternative, they weren't able to do it. There wasn't office space available in that area of town for them to find some. That was a year and a half ago.

>> Troxclair: So you think this project would help to address that issue?

>> I think it definitely will. Yes.

>> Troxclair: Thank you.

>> Ms. Kitchen?

>> Kitchen: I had a quick question. Did I hear you right about the neighborhoods in the Ohan?

>> There are a 37 member organizations in Ohan and there are three that I recall have submitted letters in opposition.

>> What about the other 34? Have they taken positions?

>> They have not. In fact, a resolution was brought forward at the February meeting to oppose lifting the -- changing the trip counts, and after further discussion that resolution was withdrawn by the member that had proposed it.

>> Kitchen: So there's no action by 34 of them and three of them have said they're opposed?

>> Actually, I have included in the packet, there's one letter from a member organization that I'm actually the Ohan representative for, the legend oaks II homeowners association is in favor of this and they've submitted a letter in favor.

>> Kitchen: Okay. Thank you.

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

>> Thank you.

--

>> Waiting for a map.

>> Mayor Adler: That's okay. As the applicant you have five minutes.

[5:20:18 PM]

Plus you also had some loaned time. Is Dominique sortelli here? Is gale here, Whitfield? So you have nine minutes.

>> Okay. Here we go. This is a picture, the outline in blue dots is the original Garza ranch. Eli's father Ben bought the ranch in the 20's and it was maintained primarily as a dairy. The importance of this map is to

show what has happened down through the history of Garza. And my main message to the community and to the council is that Eli Garza has shaken hands with this community a number of times. And the community has shaken hands with Eli a number of times. The first important handshake that they made with Eli is in the area in gray, which is the right-of-way for mopac and the right-of-way for William cannon. Eli was approached by both the city of Austin and txdot, and their message to Eli is if you will give us this land, 21, 22 acres out of 130, if you will give us this land the remainder of your farm will be worth a lot of money because this will create a development nexus in southwest Austin.

[5:22:25 PM]

And Eli obviously motivated both by public interest and self interest, accepted that proposal and donated 21 acres to the community. At this point I would say that we often hear that development is subsidized by the public in Austin, and I think it is very clear that in this case Eli subsidized the public in Austin. This -- going back to the map again. The area in Orange were two strips that Eli was paid for and so the deal he struck is that he got paid for a little bit and gave the majority. The properties at the intersection of William cannon and mopac have all been sold. There's a randalls, a part of the Costco, a CVS and then a strip center on the northeast corner. The dark green areas are additional parks and parkland that Eli gave, and that's another seven acres. Of donated land. So altogether Eli donated over 20% of the original farm to the public. The area in white to the east is the existing Lowe's and the area in light green is the property that we're talking about today. It's approximately 35 acres. It is under contract with brandywine realty, who was revealed in the paper today. And brandywine is a company that the family actually interviewed. It was offered more money by other buyers.

[5:24:27 PM]

Brandywine was so exceptional in their business model and in the product that they build, the family opted to do business with brandywine. Their business model is to build beautiful buildings which keeps them leased up, and they own them essentially forever. So when the office park is constructed on this 35 acres, they are the owner, not really the developer of other interests. They're going to build this park and own it and keep it and take care of it. We did have a little difficulty with Austin, and I don't want to exaggerate that, but the family has had its share of struggles with the city. The S.O.S. Organization after Eli platted his land wanted to challenge his plat, and that is -- that was the litigation that jerry rusthoven was referring to. And that effort was not successful.

[Buzzer sounds] Is that my five?

>> Mayor Adler: It is. Actually, it's your nine, I think. Why don't you take another minute and close.

>> So I will sum up by saying that the resolution of that controversy is why we're here today because the city encouraged Eli to propose a MIX of platted and unplatted land to come up with a very fancy water quality system. It's a full ss water quality system, and that has led us by virtue of the zoning in 2007 and the density established in 2013 that leads us directly to these trips.

[5:26:34 PM]

It is [lapse in audio] Any questions?

>> Mayor Adler: Any questions? Ms. Troxclair?

>> Troxclair: Okay. And some members of neighborhood associations may be here today or presidents of neighborhood associations who may be able to speak to this too, but since I don't know everybody who is here yet, can you tell us a little bit about how your discussions with those neighborhoods that are surrounding -- well, actually, they're not surrounding, but nearest to this development have gone?

>> I will. We have had extensive discussions with a number of neighborhoods. And I think that they will report, even those who still have traffic anxieties, will report a transparency from the Garza family. And a transparency regarding this process. When they learn of the opportunity to live and work in close proximity that in a place that -- that provides thousands of jobs, it causes neighbors to really think. And at the Ohan meeting that you attended a woman on the front row said what I'm thinking about is the fact that instead of us having to hoof it up and down mopac everyday, we're going to be able to drive into this center and work. This is isn't with what we call smart growth. Southwest Austin has not had class a office space. And so with this project it is participating in a smart growth program.

[5:28:37 PM]

>> Troxclair: And I guess since we have this map up, okay, so we can see where the Lowe's is. Are there any -- what surrounds this development? This particular lot.

>> Well -- yeah. Yeah, this is an area map that shows -- well, this is not one -- anyway, it's showing the intersection of mopac and William cannon. And y'all are all familiar with that intersection. Costco, the strip center, vcs, the Randall's, then to the east is the Lowe's project. To the south that open area is the green space provided by the H.E.B. The H.E.B. That is at the intersection of Brodie and William cannon. It's actually 65 acres in size and extends all the way over to the edge of the Garza property. North -- due north is city of Austin property and northeast is country white lane, which is a large lot residential development that has a single road that goes out to Brodie lane. Garza in all of its years of going through these processes, has had the good fortune to sell to end users in almost every circumstance. So rather than dealing with developers, the family has been able to sell directly to Lowe's, directly to Randall's, directly to CVS. And so as a result we have had great relationships with our buyers and we have never had neighborhood opposition in all of its history.

[5:30:44 PM]

Because there are no neighborhoods immediately adjoining Garza.

>> Troxclair: Thank you.

>> Mayor Adler: Okay. Any other questions of the applicant? Yes.

>> One real quick question. On the slide where you had the Orange on either side of mopac that you said the family was paid for.

>> Yes.

>> You said the rest of the land donated was. Can you give us a quick idea about how much money -- what that transaction was?

>> I can.

>> You can or cannot.

>> I can.

>> Great it thank you so much.

>> Eli was paid approximately \$700,000 for the strips. Which indicates that the land given was worth in the many millions.

>> What was the year again? What year was that?

>> 1987.

>> 1987, all right.

>> 1987. Which you may not remember, but I remember, was a low point in the real estate -- I do remember the reits, if I recall.

>> So it was a deep, deep recession, most say a depression. The land conservatively valued today is close to \$12 million. If you were to put a value on what Eli gave today. It's over about \$10 million worth of real

estate.

>> Thank you.

>> Mayor Adler: Any further questions? It is now 5:30. 5:30 we have some live music and proclamations. We'll go ahead and recess the meeting until we're through with that. We have the school set up and the proclamations to make. We'll take a recess.

[5:32:47 PM]

[🎵 Music 🎵] .

[5:35:22 PM]

[Music]

[Music]

[Music]

[Music]

[Music]

[Music]

[Music] .

[5:40:56 PM]

Awe awe, habitat challenge

[music][music]

[Music]

[Music]

[Music]

[Music]

>> Mayor Adler: In 2013 eastside memorial high school panther band, the pride of east side, was the special guest of television personality Rachael ray at her annual south by southwest party at stubs barbecue. Under the direction of bands and orchestra, the director Alan G., students of the panther band program learned to initialize what unfolds when you merely play a song and discover what changes when you perform one. The eastside memorial high school jazz band consists of students, Matthew G. On guitar, Adam Perez on guitar, Daniel S. Ondrawls, Chris on guitar, Paul on base and director of bands and orchestra, Alan G. On vocals.

[5:42:58 PM]

Please join me in welcoming the eastside memorial high school jazz band.

[Applause]

[🎵 Music 🎵] .

[5:46:57 PM]

[Applause]

>> It very much. Again, Adam Perez on the guitar, Matthew Gonzales over here on the guitar as well as as well, you've got Daniel S. Right behind you on the bass.

>> Mayor Adler: You guys are great. Do you have a website if people want to log in to you? No?

>> We don't have one for this -- the particular program, but we definitely have one for the school, Mr. Miller, you have the digits on that one?

>> East high memorial hs.org.

>> Mayor Adler: Do you guys play? Like if somebody just saw you on TV and they said I've got to hear those guys again, how would they do that?

>> Book us.

[Laughter]

>> Call the band hall, find me, I'm on Twitter, whatever that is, whatever it is, find me on there, I'm on the aisd deal as well, you have find principal Miller on Twitter as well. He can hook you up with anything you immediate to know and you can call the school and reach any one of us, weddings.

>> Mayor Adler: We have a proclamation. Be it known that whereas the city city of Austin is blessed with creative musicians whose talents extend to every musical genre and whereas our music theme thrives bassoons audiences support new music by legends, new comers and we are support our local artists now there for I Steve Adler mayor do here by proclaim February 26 of the year 2015 as eastside memorial high school jazz band day. Congratulations, guys.

[5:49:06 PM]

[Applause]

>> Do you want to come in together and we'll get your picture. .

[♪ Music ♪] .

>> Mayor Adler: Ladies and gentlemen, the economic development department creative ambassador program is designed to promote Austin's reputation as a creative capital destination. The goals of the program are to increase tourism, enhance Austin's profile worldwide, support the local creative community, and facilitate dialogue between regional, national, and international governments.

[5:51:20 PM]

The diverse and talented artists designated as creative ambassadors have volunteered to represent the city while traveling abroad in promotion of their own work. The acpastors are forging connections with new markets and creative communities around the world. And now I'd like to present proclamations to the ambassadors named in the third and quart quarters of 2014. First Judy Jensen have a visual artist known for the technique of reverse painting on glass. She has been working on a project in Thailand to restore art works in a temple damaged by an earthquake and she traveled there last fall to visit the cities of Bangkok, mahongsong. Judy we present this proclamation to you for your high level of expertise and leadership, in your creative discipline and for enhancing Austin's profile abroad through cross-cultural collaborations. Congratulations.

[Applause]

>> Thank you.

>> Do you want to say a word?

>> I'd like to thank the mayor and I'd like to tank the city council and whoever thought up this brilliant program of the creative ambassadorship. It's been my honor and privilege to be a part of this restoration project at the temple called watchongclong in Thailand ands did a great honor to stand in front ever you today. Thank you so much.

[Applause]

[5:53:22 PM]

>> Mayor Adler: Also, Usha akella -- I pronounce that correctly?

-- Is an award winning poet who recently presented her work at a poetry festival in India. Usha we present this proclamation to you today to recognize your reputation for excellence in your art form and your efforts to enrich the community through creative learning and access to the arts. Congratulations.

[Applause]

>> Good evening, everyone. I'd like to begin by thank the city of Austin, the mayor and the council for its continued support of my work and offer my congratulations to my two colleagues here, Judy and anu, I and does privileged before you. I'd like to talk about one brief project I'm hoping to initiate in India. It's called the poetry care have a van. I started it about 12 years ago in the New York area, and the motive was to take poetry to disadvantaged audiences, hence the name the poetry caravan and we started talking did to women's shelters, hospitals and senior homes. The first thing I did this year was to launch the Austin chapter, the New York chapter has done more than 900 free readings at places like this. I attended a festival in January and the hopesy met with the government there and the hope is to launch a poetry caravan chapter India and initiate a couple of programs for Austin poets and writers to go to the festival next year. I do hope they pan out. Meanwhile, thank you very much.

[5:55:28 PM]

[Applause]

>> Mayor Adler: And also anuradha naimpally, dancer, corographer and director of Austin dance India which recently refunder a dance tour in India. We honor you today for your excellence and leadership as an artist as well as for establishing Austin dance India as a premiere organization for Indian classical dance and contributing to our city's cultural vitality. Congratulations.

[Applause]

>> Thank you. I'm anuradha naimpally, artistic director of Austin dance India and we're very proud of this name. Although we are the music capital of the world, we also have a thriving dance scene here, and dance in the middle of our name links Austin with India in our case. We bring a little bit of India to Austin, and this past December for two weeks I took 36 people from Austin and we toured six ancient heritage temples in the south of India, some of which are over 1,000 years old. We wore t-shirts with the map of Texas on it, and we were encouraged and supported everywhere we went, and we talked about the name of our organization and where we came from, and the thing that people said was, wow, it's really amazing you can carry on this ancient tradition in Austin, Texas. I wake up everyday grateful we have the support of this vibrant community here and also the city council that puts so much of its dollars towards the arts in Austin.

[5:57:29 PM]

I've been a cultural contractor for over 20 years and I really appreciate that funding that we have so that we can do what we do. So thank you so much, and we are very proud to call ourselves Austin dance India. Thank you.

[Applause]

[Applause]

>> Hi, everybody. I'm Meredith gray, I work with the parks and recreation department with the wildlife Austin program, along walnut creek my partner, also within parks and recreation.

[5:59:31 PM]

I'll tell you about the habitat challenge we just concluded. It's an annual competition hosted by city of

Austin parks and recreation department wildlife Austin program. To compete participants create backyard habitats in their neighborhoods based on criteria developed by the national wildlife federation, which include providing food sources, water sources and cover. Any Austin neighborhood can participate in the challenge. And the neighborhood [lapse in audio] Added challenge of supporting our pollinators with specific plants. This year's challenge was another great success as you can tell from the map above that shows all the certified wildlife habitat to date throughout the city of Austin area. I'd like to bring up our honorees, Jannette southwesternson, thank you for your help. So Jannette is the representative for Windsor park which certified 12 habitats, we have Joan Hughes from zilker neighborhood which one second place. We at parks and recreations wildlife awn program are so honored to have worked with you all with these dedicated neighborhood representatives. They're extraordinary people worked very hard this year to make Austin a better place for wildlife, both habitat stewards certified through the habitat steward program here in Austin. We have over 106 newly certified habitats in 2014 so Austin's total tally is 2154 certified wildlife habitats. Those Numbers helped to us recertify Austin as a community wildlife habitat. Did you to everybody certified for backyard wildlife habitat and for all of your work to keep Austin wild. I'd like to say congrats greatulations to all the participating needs.

[6:01:31 PM]

The city of Austin and our wildlife thank you guys very much. Thank you very much.

[Applause]

>> Mayor Adler: Not only do we thank you but we have a proclamation. Be it known that whereas the city of Austin strives to create habitats suitable for wildlife in public areas, in backyards, school yards, and places of business and worship and whereas the city of Austin has been recertified for 2014 as a community wildlife habitat through the national wildlife federation, and whereas the parks and recreation department wildlife Austin program recently concluded its neighborhood habitat challenge, winners originalled wildlife habitat enhancement projects at local parks, schools, green belts and certified the most individual residence as habitats with the national wildlife federation providing butterflies, song birds, hummingbirds, flogs, lizards and other species with food, water, cover, places to raise their young and whereas the Windsor parked into placed first with 12 certified new habitats and the zilker neighborhood placed second with six new habitats, now there for I, Steve Adler, mayor of the city of Austin Texas, do hereby proclaim Windsor park neighborhood and zilker neighborhood as winners of the 2014 neighborhood habitat challenge.

[Applause]

[6:04:17 PM]

>> Mayor Adler: Our next proclamation that whereas national women and girls, HIV, AIDS awareness day served as an opportunity for females and their supporters in the Travis county area to come together to offer encourage amment, discussion, education about the prevention of HIV transmission among women and girls, the importance of testing, and thousand live with and manage HIV. And whereas the Travis county women represent 15 or 13% of people living with HIV, with African-American hispanic females disproportionately affected and whereas through programming on this special day, the city of Austin health and human services department will work with local partners and organizations to empower and to encourage women of the community to shed light on the diseases often overlooked, impact on women and girls. Now, therefor, I, Steve Adler, mayor of the city of Austin do hereby proclaim March 10, 2015 as national women and girls HIV AIDS awareness day.

[Applause]

>> Thank you.

>> Women and girls, HIV AIDS awareness day is an annual national observation answer that sheds light on the basket of HIV and AIDS on women and girls. Every year on March 10, organizations come together to offer support and hope, reduce stigma, share information, and empower women and girls to learn the importance of HIV AIDS prevention, care, and treatment. Today about one in four people living with HIV AIDS in the United States are women 13 years and older.

[6:06:23 PM]

Austin -- the Austin Travis county health department, Texas black women's initiative, cardia services, AIDS services of Austin, HIV connection, and care services have collaborated to address the HIV AIDS needs of women in Austin, Travis county. Our awareness events will be held March 10 at mid town, live March 10 at the come trollers employee association, you can support us online using hashtag rock the red pump, in your score Austin, Texas. You can post a picture of yourself supporting women and girls on March 10. Thank you very much for your support in addressing women and HIV AIDS issues which remain a critical part of achieving an HIV aids-free generation. Thank you.

[Applause]

>> Zimmerman: We appreciate you guys. By the way this is the first one of the proclamations I've been able to do for district 6 so congratulations. We hope that's a good thing. Let me read this. The city of Austin, this is a community service award. And it's -- we're pleased to recognize the boy scouts of America troop 234 for community service to the city of Austin.

[6:08:25 PM]

The troop has displayed its respect for the flag and country through its color guard at public events, completed eight eagle scout projects in the last 18 months, contributing hundreds of hours of community service to the Austin area, and completed a troop service project during the weekend of each camp out, re resulting in thousands of hours of service to others over the past five years. The certificate is issued in appreciation thereof this 26th day of February in the year 20 2015. City of Austin signed by mayor Steve Adler. Congratulations, guys. Thank you for coming.

[Applause]

>> On behalf of our troop, troop 234 and our sponsor organization hill country bible church Austin, we would like to thank councilmember Zimmerman and the entire city council for such a special award. We as a troop are thrilled to receive it, and are humbled by this special recognition, and we are always glad to serve the community in any way we can. I want to encourage everyone to seek out your local scouting organization if you have a need. I think you will find them willing and eager to help in any way they can.

[6:10:27 PM]

Thanks very much.

>> Zimmerman: Thank you.

[Applause] Flush.

[🎵 Music 🎵]

>> Good evening. I'm councilmember Kathie tovo and it is my real pleasure to present this next proclamation. In September 2012, the city council unanimously [lapse in audio] Recognizing the heroic efforts of 16 Austin's equal rights champion and I'm joined in this by the mayor and several of my colleagues. And those seven individuals are sanmalip., Stella B., Susan Bryant, Sarah Goodfriend, chuck

H. And Katherine M. They proved that love always triumphs. On February 17 they were lawfully mayor and I had granted the very first marriage license to a same H sex couple in Austin, Texas.

[Applause] Reach.

>> Reaching this milestone has not been easy. Thousands of lbgtv contributed through braille coming out ask standing up for constitutional rights. We get to say thank you to three attorneys whose skillful advocacy brought us to the top of the mountain. I wanted to thank

[indiscernible] Who refused to let the state ignore her union to her wife.

[6:12:31 PM]

It is her bravery and the powerful advocacy of her attorney that made last week's wedding possible.

[Applause]

>> Tovo: Though Stella is no longer with us, last week's victories will insure her legacy lives on through the happily ever after through all legally we had lbgt weddings to come. Be it known, that whereas on February 17, judge guy Herman declared the Texas constitution's ban on gay marriage unconstitutional when austinite sought to have the state to recognize her union with her departed wife. Whereas following this decision Susan Bryant and Sarah Goodfriend petitioned to obtain a marriage license from the city clerk. Whereas denying the harm of denying the couple, judge David wall berg granted an order compelling the county clerk to issue a marriage license to the couple. On February 19 they received the first one granted to a sax-sex couple in the state. Whereas we recognize the judges, Austin attorneys Brian Thompson chuck herring and the couple's for taking the first steps toward marriage equality in nine state of Texas, I Kathie tovo on be half of Steve Adler, mayor of the city of Austin, do here by proclaim the week of February 26, 2015, as marriage equality week in Austin, Texas. Now mayor Adler.

>> Mayor Adler: I want to say there are a lot of reasons why I'm proud to live in Austin, and this is one of them. You know, next -- last week -- last week was -- it was just a wonderful day.

[6:14:31 PM]

It was like the dark clouds parted for that moment. And the sun shone through. Thank you so much for doing what you've done for the city. Thank you.

[Applause]

>> Mayor Adler: Now, Brian Thompson. Brian Thompson.

>> Mayor Adler, mayor pro tem tovo and councilmembers, I humbly thank you for this recognition on behalf of my cocounsel, chuck herring and Katherine m.134689 for amazing one Katherine M. Aswell as four amazing women. This year marks the passage of Texas' ordinance prohibiting discrimination against gays and lease beans. It's been 40 years since that law was passed. When you compare Austin's history with what we're seeing in cities like Plano, Houston, where there are nasty, litig us battles being fought over identical ordinances 40 years later, you realize how far ahead Austin and this body has long been on issues of equality. Shortly after the enactment of that ordinance back this 1975 a group of to end its discriminatory policy that prohibited the publication of classified ads that announced any meetings of gay and lesbian organizations and also included any announcement of gay and lesbian unions, such as marriages or commitment ceremonies. We've come a long way in 40 years because it was here in Austin last week that judge guy Herman struck down Texas' ban on same sex marriage as unconstitutional under the equal protection clause and due process clause of the 14th amendment of the United States constitution.

[6:16:40 PM]

It was here in Austin that two days later judge David wall berg ordered the Travis county clerk to issue a marriage license for the first time to a same-sex couple, to Susan Bryant and Sarah Goodfriend if was here in Austin that they committed themselves to each other in marriage in front of the Travis county clerk's office on Thursday. There's no question that it's the courage of miss Bryant and Ms. Goodfriend, and Ms. P. 5 3689 and Ms. P. That resulted in last week's historic developments.

[Applause]

>> But it can also not be questioned that what happened happened in this city for a reason. It happened because in Austin our community has long been willing to stand for equality. And to combat discrimination, decades even before the rest of Texas. It happened in Austin because we elect leaders including those in this room who are bold enough to enact laws that protect our most vulnerable citizens, not because it's the prickly expedient thing to do but because it's the right thing to do. It happened in Austin because we have a city council both now and in the past that has been unflinching in its commitment to the promise that if you work hard and you contribute to this community, you will not be judged based on the color of your skin, you will not be judged based on whom you love, you will not be judged on what god you worship or whether you worship any god. You will be judged on the contributions you make to this wonderful city. So I humbly accept this recognition today but in doing so I want to express our continued appreciation for this council's commitment both historically and today to the promise of equality that Austin has long stood for. On behalf of chuck, Katherine, Susan, Sarah, Stella, I thank you.

[6:18:55 PM]

[Applause]

[Applause]

[6:21:17 PM]

[🎵 Music 🎵]

[Re.

[6:23:51 PM]

[Recess]

[Recess.

[Recess]

[Recess]

[6:28:04 PM]

[Recess]

[Recess]

[Recess]

[Recess]

[6:47:11 PM]

>> Mayor Adler: Hang on a second, David. Do we have more questions on the dais for the speaker that was speak, the applicant? Any more questions? All right, thank you. Did you have another question, Mrs.

Troxclair?

>> My apologies. So I guess my question is if you could -- and I know you kind of ran out of time, but if you could explain to us why you were -- you're back here. You started with kind of the connection and the history, but I think we -- you perhaps ended before you answered that question.

>> Why is the new council -- does the new council have this?

>> Yes. Thank you.

>> Real quick, because of the old controversy and the resolution of that, the city asked Eli to propose a comprehensive plan, and so this is that comprehensive plan, which led to the 2013 ordinance that the previous council passed based on a comprehensive plan that established density for Garza and also established a very fancy water quality system for Garza. That was the essential nature of it. It also included a reference to the violent crown trail and extension of B.C. Lane through to mopac which most of the neighborhood has asked for. Once all of the zoning and density was established, then as Jerry Rusthoven I think explained, the trip thing is an automatic follow-up event. And it is generated by virtue of the concept plan by means of software. So the density of Garza approved by the prior council dictates this outcome, this trip matter, which is a separate zoning case, and so that is why we're here tonight.

[6:49:21 PM]

>> Thank you.

>> Mayor Adler: Further questions for the applicant? Mayor pro tem -- I'm sorry, Mr. Renteria and mayor pro tem.

>> Renteria: My understanding is that you're also going to have a trail through that. Can you give us a little explanation of how that trail is going to hook up -- connect to . . .

>> Yeah. The family has been working closely with George Coffey and Hill Country Conversions to provide a location for a good section of the violet crown trail that come out of the city of Austin property to the north and cross sort of the eastern edge of the Garza property in a beautiful stand of live oaks and extend down into the 65-acre site, I think I pointed it out on a map. So if you look on this map, you can see on the east side kind of a dark squiggly line and that is the trail. Yeah. And on that map it's the yellow -- that yellow stripe down the eastern side of the 35 acres is violet crown. And so the family is providing that right-of-way free of charge, and they're providing money to build a trail head, and that was part of the 2013 ordinance. There was money provided for a trail head for the violet crown trail.

>> Tovo: Thanks very much. Mr. Willis, you know, in looking at some of the other properties in this area, some of the settlements and agreements that have been made, many of them offered mitigation money, and I'm wondering if -- are you -- what are you proposing to offset the 16,000 trip increase or the increase to 16,000?

[6:51:30 PM]

Are there any offsets?

>> Well, I think this is one of those -- and I don't mean to be glib, but this is one of those circumstances where you say, well, we gave at the office. Eli donated an enormous amount of land worth many, many millions of dollars to the public that they rely on every day to get to and from downtown on mopac. And so there's a little -- there is some traffic mitigation money in this. There is trail head money for the violet crown trail. But, frankly, the community and the city staff has not asked more of Garza because of his role as a benefactor his historic 5091. Doric historically.

>> Tovo: Thank you.

>> Mr. Willis, are you saying the city should approve the zoning as a quid pro quo for the money that Eli as benefactor has provided to the community? Is that the construct of your --

>> I think --

>> -- Request.

>> I think that councilmember, I do think that the history of Eli has been as a benefactor. And each and every time that Austin has asked things of him, he has come through. He has said yes. Whether it was land -- you know, 20% of his entire holdings. You know, I said, Eli, I realize you could have gotten paid for that land and also had the benefit of the roads. He said yeah, but they told me these roads would cost millions of dollars to build so I thought it was fair to provide the right-of-way. The city asked Eli to do this concept plan and to provide fancy water quality because the courts confirmed the comprehensive watershed applied to the majority of his site which is not as fine of treatment for social security sos.

[6:53:41 PM]

The city asked for enhancement. He went all the way to a full sos water system which cost 2 million plus million dollars to build. That is being provided to the community. When the Lowe's transaction happened he contributed to the Lowe's itself, which in -- and that money was used to buy mitigation land. So he has had a history of being a benefactor at every step in the history of Garza ranch, and so I think this really just simply honors the previous agreements of the city council, the previous approvals. These trips are simply a software-derived number. And I think it is appropriate to honor his legacy with this last approval. This is the last approval the Garza family will ever ask for, and from this point forward brandy wine takes over, all the rest of the permits are being handled by brandy wine.

>> It sounds like you're saying to honor Eli's Ben fishance to the community we should approve 17,000 trips a day.

>> I think it's 16.

>> Okay. I have another question on the violet crown trail. Are you also indicating that the placement of this trail across the tract is contingent on our increasing the number of trips per day at this site?

>> The --

>> How does the violet crown trail play into the question in front of us tonight, which is whether to increase the number of trips over the aquifer at the Garza ranch site?

>> It's all tied together. The 2013 ordinance, which established density, which brings us to this trip number, the super majority act of the prior city council also vit included the violet crown trail.

[6:55:47 PM]

To some degree, you're honoring the prior city council's work product, resolves all the issues, resolves the trips, resolves the trail.

>> If I may, I think that the prior council had deliberately decided not to vote on this very question purposefully, and they asked it to come to this council because they didn't want to take up the issue. And I would challenge your tying the placement of the violet crown trail to this body approving a high number of car trips at this site. I just challenge that. I don't think that that should be the basis for us to make our determination here. I think what we are really talking about is how that section of the city will respond if that many trips per day is permitted or is it better to have a lower number? I think 6,000 was the number in the documents that I was looking at, and there was a proxy number of 2,000 back a few iterations previously that for a time it sounded like the family had agreed to that. But I understand from additional research that that was indeed intended to be a proxy number, to be held for a later time. But we're looking at trips. We're not looking at completion of the violet crown trail; is that correct?

>> We're looking at trips.

>> All right. Thank you.

>> The -- what this really boils down to is supporting an office park and -- in southwest Austin or want to

go kill did. It really boils down to that.

>> Thank you.

>> Mayor Adler: Thank you.

>> May I ask a question?

>> Mayor Adler: Yes.

>> My question relates to the trips. And so if I'm understanding correctly, the request is for 16,000 or so. If I'm understanding correctly.

[6:57:48 PM]

But I'm understanding that the tia actually came back with a lower number of trips. Is that correct? So you're -- what you're -- the request before us is to ask for a higher number of trips that came back with the tia?

>> Kathie Smith, the traffic engineer, is here to explain that. There's something called unadjusted and adjusted. And I didn't even understand it when we started out. But there is a distinction between the adjusted trip number and the unadjusted trip number, and Kathy is much better equipped to answer the question.

>> At the appropriate time. We can continue, but at the appropriate time I'd like to ask some more questions about that.

>> Mayor Adler: I think that's fine. Any further questions for the applicant? Thank you, Mr. Willis. Thank you. David king?

>> Thank you, mayor, mayor pro tem, councilmembers. I'm concerned about increasing the trips per day from 2,000 to 16,000 without additional traffic impact analysis. I think that's -- that would be irresponsible to do that. And it would potentially lead to overdevelopment in an area that has insufficient train traps infrastructure for that increase in the number of trips. We've seen the results of overdevelopment in the south Lamar neighborhood, flooding, erose, traffic congestion became so bad that the city council had to implement the south Lamar mitigation plan to address these problems. We must change the way we plan and approve development to avoid these problems in the first place and to avoid the expensive cost to mitigate them after the fact. It's much more expensive to go back and fix those problems after the fact. And that burden falls on T the threshold for the traffic impact analysis is too low, particularly when you consider the aggregate impact of multiple projects that are each below the 2,000 trip per day limit and you aggregate them together.

[6:59:57 PM]

The threshold for impact analysis should be lowered and the aggregate impact of multiple projects in a given area should be included in the analysis. You should look back six months prior in each project and say how much development, how many trips have the projects that we've approved generated over the past six months and factor that in to the analysis of the current project. That way we can have a better look, a more comprehensive understanding of the impact that this one will have when you add it to the impact of the other ones that have just been approved recently. And the decision on raising the cap on the trips per day should be based on the financial viability of the project for the developer. Thank you.

>> Mayor Adler: Thank you. Robert Allen? Is jana race here. Mr. Allen, you have nine minutes.

>> Mayor, mayor pro tem, members of city council, my name is bob Allen. I'm president of Cunningham Allen, we're the engineers on this project. I'm here tonight to speak to the conceptual master plan, the water treatment system and the constraints that we have on this property that creates the development that we're showing. First on the conceptual master plan, the conceptual master plan complies with the gr-mu corner ho, np zoning, so we have show 566,000 square feet. Retail shopping of 87,000 square

feet. Restaurant, a sit-down high turnover restaurant of nearly 28,000.

[7:01:58 PM]

28,000 square feet. This MIX complies with the special ordinance that was passed in 2013 with its restriction of 43 and a half percent impervious cover. And to have an S.O.S. Water quality treatment system. It also complies with the height limitation of 60 feet and it achieves this level of development by implementing parking garages and very, very little surface parking. And it also includes the utilization of the commercial design standards. We are including the S.O.S. Water quality treatment system. Our firm designed the very first one of these systems and it was before there was ever an S.O.S. Ordinance. We've designed the system for the Lowe's and we have designed the system for this project. We're very familiar with that. In this particular case there are two separate systems. There's a private system that will serve the private site improvements and those will be maintained under an operating permit by the owner. There's a second system that is a public system. It serves Ben Garza, and that system will be located on the Lowe's property. The private system consists of two detention ponds and two water quality ponds. Please note that there's no cef's on the property as determined by the city environmental staff, who did their own field study and came to the conclusion that there were no cef's. And since then there have been numerous field visits and surveys of the property and it still remains no cef's on the property. Thus there's no limitation on the location of the ponds and the irrigation, so as this develops with the proper's plan, the ponds that you see can be moved around, but the general amount of land area for the ponds and the irrigation fields is very representative of what we expect to see in the final development.

[7:04:22 PM]

There is a limitation, though, up in the northeast corner where there is a critical environmental feature set back from a sink, sinkhole that is on the country white property. So we have honored that set back and pulled our ponds and so on out of that area. The public system consists of one detention pond. Like I said, it's located on the Lowe's property. One water quality pond which is on the Lowe's property. And an irrigation field which is also located on the Lowe's property. All of this has been reviewed by the city environmental staff and certainly it's not an approved plan at this point, but they agree with our calculations and the details and so on that we show for the plan. On the constraint map I want to point out the fact that we have worked with in this conceptual master plan, we've worked with fact that there's the partial critical environmental set back in the northeast corner. There is a critical -- a portion of the critical water quality zone in the northwest corner, which we only have located a corner of our irrigation field. We have a portion of the water quality transition zone that is south of Ben Garza lane and in that particular portion of the water quality transition zone there are only sidewalks, driveways in Ben Garza and the sidewalks and driveways are to connect pedestrian and vehicular traffic to Ben Garza lane. There will be no buildings. Ben Garza line, the alignment of that was set by the settlement agreement back in the early 2000's. Detention ponds a and B and water quality ponds a and B are shown on the map and you can see those in the far north area next to the critical environmental feature set back and also on the eastern side, kind of the southeast corner of the property.

[7:06:40 PM]

That's pond B on that side. Irrigation fields a and B, a is in the fairly northern portion. It's the blue outlined area. I mean, green outlined area, pardon me. And the irrigation field in the south portion is right there in the middle that is that kind of boat-shaped area. And then also the violet crown trail, as

the previous speaker noted, is shown going down the eastern part of the property and the plan accommodates that.

>> Mr. Mayor, would it be appropriate to ask questions before you move on from this page?

>> Mayor Adler: That would be fine. Why don't you go ahead and do that.

>> Kitchen: I just need more information about the critical environmental feature, can you describe is for me in what variances?

>> There's no variances, no. We have set back from it. They allow irrigation in it as long as it's not draining in to the feature.

>> Kitchen: And what is the feature?

>> The feature is a sinkhole. And it was determined that it's not draining to that. It's draining away.

>> Kitchen: Okay. Thank you.

>> Mayor Adler: Okay. Continue.

>> That concludes my presentation.

>> Mayor Adler: Okay. Any further questions for Mr. Allen? Ms. Pool?

>> Pool: Do you have any information on how the runoff from the roads would be dealt with with the additional trips that are around the site? We've got the detention ponds and the protections on the site for the critical environmental features, but what about the additional trips that are on the roads leading into the site?

>> That is all handled by txdot. That's the responsibility of txdot and their drainage system.

>> Pool: I'd like to get some information about that. I would really like to see the state-of-the-art, the status of the kind of pollution controls that are on those roads when they were built and what costs would be involved or necessary for retrofitting so that the additional impact of the additional cars coming to this site could also be addressed because you are treating the impact on this site and neglecting -- not that you are neglecting, but we also need to look more comprehensively on the attraction of the vehicles on to the site and the impact they would have in that area.

[7:09:16 PM]

So that would be something I would ask. I don't know how to go about asking it of txdot, but staff could possibly give us a hand in providing some information on the water quality controls that are in existence on these roads. And how effective are they if they were to be subject to an increase of car trips of about 16,000 plus per day. Is that possible from staff? You don't have to give us the answer now, just a yes or no if you are able to get that? Thank you, Mr. Lezniak.

>> Mayor Adler: Further questions?

>> Does staff have more information about that now?

>> Chuck lezniak, the controls on mopac in this area are -- were put in -- when mopac was built, and were a result of the settlement with the Barton springs/edward's aquifer conservation district. They're not of a standard that would meet any city standards. But there are water quality controls on those. We actually for some other purposes inspected those controls recently. They are functioning as intended and are in pretty decent shape. But we don't, and neither does txdot, design water quality controls or size water quality controls based on vehicle trips. It's based on the amount of drainage area, impervious cover draining to those controls. And so the analysis of pollutant loading and all that is really independent of vehicle trips. So we wouldn't be able to provide an analysis of what additional impact in terms of pollutants the additional vehicles would cause because that's just not how we have developed our water quality models.

[7:11:22 PM]

>> So the fact that you can't provide the information doesn't mean that the runoff and the pollutants don't exist?

>> No. Yeah, that's correct.

>> And would you agree that an increase in car trips would tend to increase the amount of pollutants and runoff that might happen at that site?

>> It wouldn't necessarily increase the amount of pollutants running out of the control. We could maybe look at that, but I'm not sure that we have the models that could predict that.

>> The fact that we're missing the models tells me that perhaps the models need to be reviewed and possibly updated, but I would like to have some additional information specifically to that question.

Okay. Thank you.

>> Mayor Adler: Anything else of Mr. Allen? Mr. Zimmerman?

>> Zimmerman: I just have a quick question about the two-million-dollar price tag on that water quality infrastructure. Can you tell me a little bit about why -- that seems kind of expensive. Was it built with a higher upfront cost to make it easier to maintain?

>> Well, it is built to be maintained and it's built to have safety factors. So there's a lot of-- there's been a lot of improvements made in this system since we designed the first one in 1982, and those improvements all cost money and they're more expensive. And so it's very redundant system so that there always is a way to take care of the water without the water escaping.

>> Mayor Adler: Anything else? Thank you, Mr. Allen. Marion metlodac.

[7:13:26 PM]

>> I believe I had some time donated.

>> Mayor Adler: Yes. Is Lee Ziegler here? Yes. You have six minutes.

>> Okay. Good evening. I'd just like to start off by saying I am against approval of this as it stands right now. The agreement that was made as a result of the ordinance in 2013 and before that was the agreement that was made by the people from the Garza side was about 6,000 vehicle trips total. And they already were given 43% impervious cover, which is completely outrageous over the Edward's aquifer. And to now be asking for more when they were given so much already I find an impossible idea really. They're asking to up the trips after they already had a deal. So that doesn't seem to me like acting in good faith. The reasons I'm against it regardless of whether it's acting in good faith or not is because this is over the Edward's aquifer, which it's very important to protect partly because it's so beautiful and partly it's our drinking water and even more of our drinking water and we're in a serious drought now. So that's one. The other is everybody in that area is semi hysterical about traffic and this is going to add traffic. I heard somebody say that this was going to decrease traffic, so I find that really magical thinking that we're going to create development and then we're going to have less traffic.

[7:15:32 PM]

So that doesn't sound right to me. So. The third reason is about runoff into the aquifer. So I really don't want to see runoff into the aquifer for any reason really. And when you build safety controls eventually they did degrade and so much as this might be state-of-the-art, it's bound to degrade over time. And also I'm going to request that whatever you do tonight you do it on first reading alone. And now the other part of this that I wanted to address is the president of Ohan oak hill association of neighborhoods spoke earlier and he said this project will be high class and well run. So that may be, but I'd like to see that he runs his organization Ohan in a high class and well runway. There has been -- I happen to be the Austin neighborhoods council representative for southwest Austin. And as that person, a number of people who represent neighborhoods in southwest Austin have come to me completely upset that

Ohan's previous president, Jim Shissler, for 2014, sent y'all a letter saying that Ohan approved of this. Now, he wrote that letter on Ohan stationery as the president saying Ohan approves it, but that was never brought before the membership of Ohan at the time.

[7:17:32 PM]

Darryl Pruett wrote you a letter in February that also said that Ohan approves it, and also, again, it was never brought before the membership. The membership, people have come to me very upset. They didn't really want their names involved because they're still trying to work within Ohan and they don't want to offend everybody in Ohan but there is completely rogue. The leadership of Ohan is acting in a completely rogue manner at this point. The two presidents having written y'all letters saying that Ohan approves of the Garza tract before you now, neighborhoods brought a resolution to Ohan at their February 11th meeting and said we would like an opportunity for the membership to discuss this. What the president provided instead was Allen Troxclair -- Ellen Troxclair speaking that night, not about this, Mr. Willis speaking and the engineer speaking. For Garza. And by that time it was late at night after all these people had spoken and neighborhoods were still trying to bring forth this resolution. Darryl Pruett the president did all sorts of flip-flop gymnastics, whatever he did, and presto, there's no time to talk about it, but the engineer got to talk another half hour anyway. So the neighborhood has -- Ohan has never allowed the neighborhoods to have a discussion about this. They've never brought it to a vote. So the presidents are acting rogue basically in this situation. The other part of this is the veracity of how many neighborhoods are for this and how many neighborhoods are against this.

[7:19:38 PM]

[Buzzer sounds] There are at least nine neighborhoods against this out of the 37 and it's never been brought to a discussion or a vote of Ohan. Thank you.

>> Mayor Adler: Thank you.

>> Kitchen: Could I ask a question? Could you clarify -- or not clarify. You mentioned there were nine neighborhoods that were against this. Have they just not begun in a position to vote? Tell us more about --

>> They haven't been allowed to vote.

>> Kitchen: But can you tell us a little bit more about how you learned or how thank you know that they're against this?

>> They've signed a letter or petition to say that. And Claudia will be -- Claudia [indiscernible], who will be speaking, will talk more about that.

>> Kitchen: Okay. Thank you.

>> Troxclair: So I just want to clarify that I have never received a letter of support from Ohan since Darryl Pruett has been president. I understand that there was some miscommunication within Ohan with the last president and the letter that we received in December, but received in December, but council -- that I'm aware of, the council did receive a letter in February from Darryl clarifying that Ohan did not take a position on the Garza case. And indicated that different neighborhood associations were meeting to understand the question. So I just wanted to let you know that I have never seen -- since that December letter I have never seen a letter of support from Ohan. I have certainly talked to different members, I've certainly been in contact with the president, but he hadn't not submitted a letter of support. He has submitted a letter stating that Ohan has not taken a position and that they were going to continue to facilitate discussions.

[7:21:46 PM]

And I just want to make sure that you -- that you knew that in case that had gotten lost in translation somewhere. And the amendment that was presented at that Ohan meeting that you mentioned was an amendment asking for a two-week postponement of this issue. And I did -- I mean, Ohan didn't end up taking a vote on that, but I did go ahead and grant the request of the people who had that concern so that there was extra time to answer any unanswered questions. So I just want to make sure that I know - I know that this case has a long and -- a long history. I know it's really important to the neighborhoods, it's really important to me as a resident of this area, so I just wanted to clarify those couple of things because it was different from my recollection.

>> Mayor Adler: Further comments? Thank you. Kathie Smith? Is Amelia Lopez here? You have six minutes, Ms. Smith.

>> Hi. I'm Kathie Smith, I'm a registered professional engineer with the state of Texas. I've been so since 1998. I am a resident of Austin for 30 years. And I have been doing traffic impact analysis for quite a long time.

[7:23:51 PM]

I'm sorry. I'm a registered professional engineer with the state of Texas. I've been doing traffic impact studies since 1992. And I have a lot of experience doing many studies throughout the city. So mayor, mayor pro tem and councilmembers, it's good to meet you, it's good to be here. I hope that I can answer your questions regarding tia's in general and then the tia I conducted for this project. One of the things I want to address is just what the land use assumptions were that I was provided with. That came from the civil who designs the project based on what they know they can build given their impervious cover. A lot of times these Numbers do include a cushion so that we can analyze, you know, the maximum number of trips we think might happen. And then that would be the cap. And when they came in for any adjustment after that, they would need to stay under that number and not have to update the tia. They don't want to hire me twice to do a tia or twice or however many times. And they know that there are going to be several revisions to site plans as they go along. So these are the sizes that I looked at, which resulted in the 16,000 trip per day number. Someone mentioned a question about adjusted. I think Ms. Kitchen asked a question about adjusted trips. So our industry, institute of traffic engineers, has developed a set of data that's been compiled nation for every type of land use that we think may be built on a project. One example is general office. So folks within our industry have gone to isolated general office buildings with their own driveways and actually counted the number of trips in and out of a building like that.

[7:26:00 PM]

And then tied that back to the square footage of the building. From that and in compiling all of the data we can come up with the weight of the trip, either a 24 trip, an A.M. Peak trip or a P.M. Peak trip. When we combine uses together we can -- we understand that there will be a MIX of trips that go between the different uses that don't generate entirely new trips on the roadway network. So an officer user might step into a restaurant on the same facility without generating a new trip on the roadway. That's called internal capture. So we made an assumption for how much we think that might occur. For retail use such as shopping center, restaurants, that kind of thing, there is documented evidence that a large percentage -- if you put yourself on a busy roadway you're going to be capturing a lot of the trips that already exist on the road. So the unadjusted trip is further adjusted to account for that number and that's what the unadjusted number is, which came out to about 13,000. One of the things -- so as we go through this tia process, the first step is to meet with the city to develop a scope, and they identify the

intersections that they require me to include in the study. I go out and count every person driving through that intersection. For a two-hour period in the morning, which we call the A.M. Peak, and then two-hour period in the afternoon, which is the P.M. Peak. We analyze the existing conditions and we look at the buildout year of the project and we grow that traffic up to that year.

[7:28:01 PM]

We do account for either projects, as someone mentioned earlier, there are being built in the earlier. In fact, the city provides us a list of the projects that are in the process at the time. And we account for those trips. We also apply a growth rate that accounts for either the projects that didn't require tias or projects that we just don't know about that are still generating trips through the network. So at the buildout year I look at everything that we know for sure is going to happen and everything that we know for sure is going to happen, plus site traffic for this project. And it's that delta, that change in number of trips between this version and this version that we need to mitigate. So --

>> Mayor Adler: You have one minute, just so you know.

>> I identified several improvements that are listed on the screen as mitigation measures and this project is contributing \$44,000 to implement those recommendations. I think one of the things that I want to make clear is that this is part of the deal that was made earlier. I think it was well understood that they were getting through the zoning process and they were identifying all of the other components and that they would be coming back with a tia. And the cap was placed at 6,000 trips per day. And that's very common. It's usually --

[buzzer sounds]

>> Mayor Adler: Go ahead and finish your sentence.

>> It's usually considered a place holder until you bring a tia forward.

>> Mayor Adler: Okay. Any questions? Ms. Kitchen and then Ms. Tovo and then Ms. Troxclair.

>> Kitchen: Okay. So maybe you could go back to the previous slide. Would that be possible?

[7:30:04 PM]

So my first question is so highway do you determine what the existing roadway will handle? I mean, are you saying with these type of recommended improvements that the existing roadway can handle the estimated number of trips that will be brought by this development?

>> What we're saying is that with these improvements we are not negatively impacting the current conditions on the roadway, which is what is stated as what is required by city code.

>> Kitchen: So if there's existing problems with congestion or whatever, this doesn't fix that, just doesn't make it worse according to what your estimates are.

>> Correct.

>> Kitchen: Okay. I haven't had time to really look at these. Are these things within -- these recommended improvements can they be done within the 44,000.

>> The 44,000 is their pro rata share, so that is calculate odd on the percent site traffic that will be present at the intersection.

>> Kitchen: And the other part of the share prongs to whom?

>> That belongs to any other developers in the area. They will be required to assume these improvements as part of their analysis and also contribute. And/or city projects. The city uses our tia to sort of create lists of needs throughout town and then they develop -- ways to come up with the cost to implement some of those needs and the developer has put up their proportionate share to assist with that.

>> Kitchen: I don't want to take too much time, but one more question. Obviously I have a lot to learn

about tia's. The 44,000 was their pro rata share.

[7:32:04 PM]

But I thought the estimate was what the impact of their development. So they're actually -- you're not getting the whole cost to pay for these improvements so these improvements may never happen. Or they certainly may not happen before the development occurs?

>> Right. So hopefully -- I guess I didn't do a good enough job of explaining, but what we look at is the buildout year for this process which we estimated would be about 2017, the conditions that would be in place without the site is our baseline. Starting point. So if annual R. An intersection is operating within an acceptable range, we must maintain an acceptable range as well. If we can do that without any improvements then we move on to the next intersection. If an intersection is already not operating within acceptable levels then we're required not to increase that level any higher through implementing recommendations and then posting their share for that improvement. So there's already a problem and then we need to identify what contribution we're making to increase the problem and then bring it back down to the existing scenario.

>> Kitchen: So the existing problem.

>> The existing problem, right.

>> Kitchen: Let me see if anyone else has any questions before I ask anything else.

>> Mayor Adler: Any questions? Ms. Tovo?

>> Tovo: I have a few specific ones and then I can have some more -- some of the public testimony. I want to get back to something that you said. I think you said that it was well-known in 2013 that the applicant would be back to council to have this discussion.

[7:34:05 PM]

And as somebody who was there and somebody who also I went back and watched that testimony, I want to affirm that there was not any discussion of either from the staff or on the dais about this discussion happening later to the contrary and I'll talk about this in a little bit. There were several assertions by staff and others that this was going to put to rest a long case. So I just offer that.

>> That's not my understanding, but I'd love staff to answer that question for you.

>> Tovo: Fine. That's a good suggestion. Can I ask you a couple of questions more specifically about the tia? So can you talk a little bit about the planned traffic improvements? I think there were some suggestions -- there were some off site improvements proposed in the tia to deal with increasing traffic? For example, optimizing signal timing at the intersections of Brodie lane and William cannon, Brodie at Ben Garza.

>> And then there were three right-turn lanes planned for the intersection of William cannon and Brodie.

>> Tovo: And what is the timetable for these improvements?

>> There is no specific timetable. The city code requires that the developer post their pro rata share for those improvements. And because it's not entirely due to their site traffic, there's already a problem in the area. They're only required to contribute to the extent that they've increased that problem. And can bring it back down.

>> Tovo: Can you talk a little bit about the problem in the area?

>> The level of service is not within acceptable ranges currently today.

>> And how far out of acceptable ranges is it? I assume that that's the percentage that we have up there, the William cannon and -- is it fair to say that it ranges from about -- I'm sorry, why don't you answer the question.

[7:36:18 PM]

I may not be reading my graph correctly?

>> So we give each intersection a grade from a to F. And the intersections are currently operating at the F range now. And then we look at the actual delay value that's associated with that F and we make sure that we haven't decreased delay value through the addition of the site traffic for the project.

>> So the intersections most closely located to this tract are already operating at an F level?

>> And that's the case at a lot of places around town.

>> Tovo: I see. So it's hard to go -- you don't have a long way to go beyond F because that's the bottom of the barrel. Did you look at the intersection of mopac, U.S. 290?

>> No, ma'am.

>> Tovo: How about Brodie and 290?

>> No, ma'am.

>> Tovo: And how about the mopac frontage road and southwest parkway?

>> No, we did not.

>> Tovo: So I wonder if you could talk a little bit -- that was one concern that was raised that those are nearby intersections and they're relevant to this project. I wonder if you could explain why those were not -- why those were not considered within the analysis that you did.

>> Yeah. We worked with city staff on developing that scope and that's really there discretion.

>> Tovo: Okay. Thank you. I'll ask that question of staff, why those intersections weren't included. Thank you.

>> Absolutely.

>> Tovo: And I appreciate your explanation early on. That was a very clear explanation of the tia.

>> Mayor Adler: Ms. Troxclair, you raised your hand before. Are you in the queue? Then Ms. Garza and pool.

>> Garza: I just want to make sure I'm understanding. So the 44,000 and the recommendations for the traffic improvements, they could theoretically never get done, is that right?

>> Theoretically.

>> So the 44,000 goes into like a bank account and it could just sit there and these would never be implemented?

[7:38:27 PM]

>> It could quite possibly be the case. I've had many projects where enough money was gathered so that they could implement it, but it really is -- the requirement of the tia is to mitigate your individual impact and equate that to a value, which in this case is \$44,000. And there is not the requirement that the recommendation actually be implemented in the field.

>> Garza: Thank you.

>> Mayor Adler: Ms. Pool?

>> [Inaudible].

>> Pool: My question went to the \$44,000 too because I was catching the drift that it's possible that the improvements to the traffic issues that maybe are like negatively affected and you want to get them back to no worse than they were, but -- so you pay into a fund, but in fact that fund may never be tapped and the improvements may never be made. So I got that. The other thing I was curious about, the 44,000, what percentage of the cost is that of the whole and how was that determined?

>> That is determined based on for each intersection it is going to be based on the percent site traffic that is going to be added or that is an intersection of mopac and William cannon. That percentage is

nine percent. So of the entire total number of trips at the intersection of William cannon, nine percent of that will be from the site. And that's the equivalent amount that is paid for the improvement.

>> Pool: Just give us a little primer on how you get \$44,000 from a nine percent of what universe?

[7:40:28 PM]

And how those calculations --

>> So we go through and work with the civil engineer to develop a cost estimate for the improvements, which in this case were three separate right-turn only lanes. We have one each in the northbound and southbound direction of loop 1, which on -- hopefully you can see on the figure it's bounded by the red. So we've got northbound, southbound right-turn only lanes. And then we have an eastbound right-turn only lane on William cannon. And what that does and what that assists with is so that we can more efficiently operate the intersection's signal timing so that if we get folks out who want to turn right out from behind a through vehicle, we only have to really allow for green time for the through vehicle because the right turns can move as right on reds many times and through many parts of the cycle. So for instance, they're posting fiscal for eastbound right turn lane on William cannon where they have no traffic that they'll be adding to in that approval. So we looked at the overall intersection to be able to figure out what their pro rata share could be.

>> Well, that's terrific and I really appreciate the thoughtfulness, except for the improvements are never made, it's -- right.

>> It is common to every project.

>> Pool: I understand.

>> I just want you to understand that this is not unusual.

>> And I understand that too, but it doesn't make it at all helpful for the people who have to deal with the traffic there and they are having some promise, however ephemeral, that improvements to the traffic would be made. And then the last thing I would say, nine percent, which is 44,000, would you say we're looking at about a half million dollars' worth of total traffic improvements that are needed at this site in order to handle 16 to 17,000 additional trips per day, is that correct?

[7:42:37 PM]

>>

>> The analysis process that I usually focus is on the peak hours. I know that folks like to talk about 24 volumes. That's not really a number we ever analyze. We look at A.M. And peak periods because those are the times of day that are most significant. So not to not answer your question, but yes, is going to handle the 16,000 trips per day, but the focus for me was on the peak hours as it always is.

>> Pool: So the accumulated traffic could in fact be more than 16 to 17,000 trips per day?

>> No. The total number of trips per day is 16,000.

>> Pool: All right, all right. Just based on the -- okay. I don't mean to belabor it.

>> Okay. One thing I wanted to mention is that a lot of these improvement -- a lot of the traffic issues in this area are regional and tonight ctрма had their first public hearing to talk about their plans to construct express lanes on mopac similar to the project that's going on north of the river. In the case of south of the river their plan is to construct two lanes in each direction.

[Lapse in audio]. If you don't mind if I clarify one other thing, when I do the adjusted analysis or calculation, I didn't talk about or account for the fact that we're providing bicycle facilities on the project.

[7:44:38 PM]

And that is very much a part of what folks are moving towards today with the whole multimodal need really to get out of your car and to get into other modes of transportation. There are several bus routes in this area. And with the extension of Ben Garza to connect now Brodie to mopac, we could very well extend the bus service in this area. None of those were taken into account when I made my adjustments, but there are very much part of this plan to do the bike and ped facilities and we could also talk to capital metro about providing bus service through here as well.

>> Mayor Adler: This is a tough case and I'll probably have questions and talk later, but just because it's timely at the moment to ask legal, can we use a case like this as an opportunity to fix an intersection that has problems? So the question that councilmember pool was asking was nine percent of the bad traffic out there, we're asking them to pay for, can we use this opportunity to ask them to pay the other 94% or some part of that 91%? Can we do that?

>> Mayor, not only does our -- is our -- are our code processes set up not to allow that, but there are code processes are based on law that says that each development is responsible for handling its impact on our infrastructure. So we are limited to requiring each development to pay in to -- to handle their own impact. And what that does mean, as councilmember pool and others have said, is we often have to wait until we have a sufficient amount of money to address any particular problem.

[7:46:50 PM]

And that is perhaps for every development -- that is what happens for every development.

>> Mayor Adler: Thank you. Ms. Kitchen?

>> Kitchen: Just a few short questions. So then -- so just the additional cost to address this intersection -- so basically what we're talking about is pearly adding more trips. And it's how many more and what impact it will be to make an F situation worse and without a way to actually fix it. So then where would the money have to come from to -- to actually fix this intersection. I'm not suggesting that the development pay for it. I'm just trying to understand the context. So is this city money?

>> This could be txdot money, it could be cip projects, those types of things.

>> Kitchen: Is txdot or the city responsible for making the improvements that you have recommended?

>> They would be responsible for actually constructing.

>> Kitchen: Txdot.

>> Txdot. On txdot roadways.

>> Kitchen: Okay. I wanted to clarify that. Thank you.

>> Zimmerman: So that was kind of my question is who has the legal authority for the responsibility to make these improvements happen? So I guess it's the legal authority. I guess my question for the council is what role do we play or aren't we the ones to prioritize and get these congestion points fixed? Is that our job? Just asking. Isn't that our job to do that? There's a lot of questions being asked of the development and the developer, but I thought we had a role in Al kaying the money and getting the projects started for congestion relief.

>> Mayor Adler: I'll point out to you we have 10 more speakers still to go. Ms. Tovo?

>> Councilmember Zimmerman, you raise a good point, but I also would say that it needs to be part of the conversation here about whether the action we're contemplating will make a bad situation worse.

[7:48:55 PM]

But I agree with you that it is certainly within the policy realm of the council to determine where we -- where our transportation dollars should be spent. I do have a question I think for you and then another - and perhaps one for our staff. In looking at some of the analysis of the tia, I think the tia talks about the

intersection, that the intersection at Brodie and William cannon are -- I think you had said they -- are those also at an F? And it could operate, if I'm interpreting this right, at a D or an E, assuming the following improvements are made and those are the signal optimization that we discussed and the construction of an additional left-hand turn lane on the northbound approach of Brodie lane that would produce a slight improvement. But the tia also notes that there's no existing right-of-way that could be purchased to create that left-hand turn lane. So some of the options that are being pointed to seem -- would seem not to be feasible. Even if the money were there.

>> In that case, that is correct. I have been analyzing that intersection for at least 15 years, and we've run into this issue all the time with that intersection. We are out of space. Everyone has built up right up to the right-of-way. And what the city of Austin asked me to do when I prepare a tia is to try to model improvements to bring the level of service to an acceptable range, but if it can't reasonably be implemented, then we don't recommend them.

[7:50:55 PM]

And that's the process.

>> Tovo: So your tia can point to a solution, but then may conclude that the solution is not feasible or practical or something that could ever be achieved.

>> Right.

>> Tovo: I see.

>> [Indiscernible]. At that intersection. But that's not within a reasonable range of improvements.

>> Tovo: Thank you for that explanation. One community member who wrote -- this is really a question maybe for our staff or our legal staff. One individual who wrote said that the city of Fort Worth has required developers to cover the costs of making road improvements. And that that is a slightly different model that would enable -- would enable -- I would be very interested in suggesting to the mobility committee that they look at whatever Fort Worth is doing that Austin is currently not doing. If we have the ability to do -- if this is accurate and Fort Worth is actually able to collect the money necessary to make these road improvements, I would strongly suggest that that might be a path forward we want to consider.

>> Mayor Adler: Further comments? Ms. Troxclair?

>> Troxclair: Can I say one more thing about the fiscal? So by analyzing --

>> Can I say one more thing about the fiscal? By analyzing the Numbers that we gave that have a cushion, I wanted to point out that the city is actually getting morpheus Dell from this property than they may have had to post had they fine tuned their land use assumptions a little further down and generated less trips. And that's something that developers do quite often because they want to minimize the process through the city.

[7:52:56 PM]

They're willing to compromise on paying maybe a few extra dollars with the fact that they have a cushion in the trip number. And then come back and maybe do something that generates less, but they've actually contributed more than their fair share in that case.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: So you're saying that under the current city codes and laws, the applicant has done the tia, identified possible improvements, paid for those improvements. Whether or not those improvements are implemented are not up to the landowner. It's up to the city and/or the state to make sure that-- that that money is then used for those projects that are identified.

>> Yes. And they take the tia's that are developed throughout the years and compile the list of

recommendations. The city doesn't have the manpower to go out and analyze every intersection that they have to maintain. So that's one of the tools that we provide with our tia's is we give them a very up to date and accurate count of current conditions and levels of service. And if there are improvements identified, they keep track of the improvements and the money that was posted. So they can hopefully implement them.

>> Troxclair: Okay. So you've mentioned one improvement that is not possible with the current right-of-way, but there are other improvements that you have identified that would be feasible to improve traffic in the area.

>> Yes. And those were listed on the screen earlier and that relates to the fiscal that was posted.

>> Troxclair: Okay. I guess I just want to say to whoever out there I can work with on these projects, I am committed to -- regardless of how this case moves forward -- doing everything I can to make sure that those traffic improvements move forward and are implemented and that we do get some traffic relief for the area, again, regardless of this particular project.

[7:55:15 PM]

So can you -- so the unadjusted versus adjusted trips, the tia is 16,000 unadjusted trips a day. But because you're taking -- that number does not take into account cars that are already on the roadway and who would maybe stop in on their way to work. They're already driving to work. They're going to stop in at a Starbucks on their way.

>> Right. That's a pass-by.

>> Troxclair: Or somebody that works at a business on site and who walks downstairs to get a Starbucks.

>> And that's internal capture.

>> Troxclair: That's internal capture. So the number -- as far as the new trips, the new cars that are potentially being added to the road, the number is really closer to 13,000, which is the adjusted trips.

>> That is a conservative Tim of what we think the new number will be, yes.

>> Troxclair: I know this is the first time we're really taking an in-depth look at tia's, so thank you for helping us clarify.

>> It's so exciting, isn't it? Any time I can entertain.

>> Troxclair: And I know that there is maybe some discussion about what was -- whether or not the traffic was taken into account in the 2013 agreement. In your professional opinion as a traffic engineer -- do we have the site plan? I think I saw the proposed site plan in the slide show.

>> I believe we have a concept tall actual, yes, site plan.

>> Troxclair: So what you are saying or what I understand you to say and tell me if I'm right or not, is this was the site plan that was -- that you -- that everybody at the time was looking at as far as a potential future development. And this was what was used regarding impervious cover and all those things.

[7:57:18 PM]

So even if traffic was not specifically discussed on the dais and obviously we're doing that now, your opinion as a professional transportation engineer is that this tia is consistent with the site plan that was presented in 2013.

>> Yes. And there would have been absolutely no way that this site could have been limited to 6,000 trips per day if this was the assumption for what a good plan would be for the project. Given everything else that was given with water quality and things outside my attention, yes.

>> Troxclair: To put it into context for us, I mean, what 13,000 trips looks like. I know the Wal-Mart on the corner of 290 and mopac would be a good example. Do you know -- because you've analyzed a lot of these intersections.

>> Yes. Something that would be I think -- [lapse in audio]. And there are just some things that I would love to -- to put this up on the screen. And while that's going -- one of the things I really -- I don't like to talk about 24-hour trips because that's not where the traffic conflicts occur.

[7:59:22 PM]

They occur at intersections during peak hours. Because that's the best way to go back and compare any changes to your site plan. It's just easier. Let's just look at how the 24-hour volume changed. But I want to show you something. General office at 566,000 trips per day generates just slightly fewer trips comparatively speaking compared to a shopping center that's only 87,000 trips -- square feet..

>> Hi turnover restaurants, I think we modeled somewhere in the neighborhood of 1,000 [lapse in audio] You can see the apartment Numbers. You know, the difference between the office trip verses the apartment typical is you're going to have folks inbound into the site for the office use. Apartments will be leaving this area, and you can see in the A.M. Peek with the number I used for this estimate, it's 85 trips are exiting during the ampeek. A.m. Peek? Everyone see that number? If you look at the office, the office is more heavily weighted toward peak hours, people are coming to and from work during peak hours but their trips are inbound to the area to this area and outbound in the evening. So you can look at 24-hour -- it's an easy discussion to have and it's even easier if we just talk about unadjusted because we take out shopping center and I can't account for internal capture as much.

[8:01:26 PM]

If they came in with a slightly different site plan with slightly different Numbers, city staff would look at the unadjusted 24-hour trips to make sure they're staying under that number. But that hopefully answers your question that 24-hour volume varies significantly per use. And a 24-hour volume doesn't mean that it even occurs over a 24-hour period it it can occur over a 12-hour period but that's the total number of floodplains a land use generated over that 24 hour period. Do you understand?

>> Right.

>> So that's why I don't like to talk about 24 hour volumes 37 it's an easy number to compare and it's useful in this scenario when we're trying to make sure that whatever plan they bring forward is complying with this total.

>> Troxclair: Okay. One more question. Does the tia take into account -- is there any way for you to measure or does it, yeah, take into account the over 80% of this square footage is office space.

>> Mm-hmm.

>> Troxclair: There's going to be a lot of people working on this site. Is there any way for you to measure the people who would otherwise be communicating on mopac downtown or using the roadway, trafficking further on the roadway that live in southwest Austin but because of the ample office space in this development would be only commuting to this site?

>> I would just be speculating.

>> Troxclair: Okay.

>> Yeah. I mean, it depends on who is officing in the building, where their employees live. You know, I currently work downtown. If my, you know, folks relocated out somewhere else, you know, we'd all shift over to that. It's really going to depend on who lands here as an office user.

[8:03:29 PM]

>> Troxclair: It's not just that you didn't do the -- in this tia, that's just not something that can be measured?

>> Correct.

>> Troxclair: But it would be within -- it would be reasonable to assume that because of the significant amount of office space on this site, that there would be a lot of people coming to work here and that some of them would be from southwest Austin?

>> I think, yeah, if I was at a happy hour and I was talking about something like this, you know, this is very reasonable. As an engineer, I'm -- you know, I'm not going to make that assumption.

>> Troxclair: Right.

>> It's also really reasonable that somebody could live in the apartments and work in the building next door. I know a lot of millennials are totally into that thing, where they just, you know, want to be on their phone, don't even want to be in a car. And but I have not made that assumption here to any extent.

>> Troxclair: Okay. Thank you so much.

>> Mayor Adler: Any other further questions before we go to speakers? Ms. Tovo.

>> Tovo: This is actually a response to the discussion about Wal-Mart, I think councilmember troxclair asked a question. We have speakers coming forward later and I need to figure out where this information came from, but I'm assuming that it came from the applications or the developments as they came forward. The number I have for Wal-Mart was 9,381 trips. Then we have some other comparative Numbers for projects in the area and maybe our staff can help us just verify the accuracy of those Numbers generally as time goes on in this -- the course of this meeting.

>> Mayor Adler: Further questions for this speaker? Thank you very much.

[8:05:31 PM]

Bobby L.

>> Hello, mayor and council. My name is bobby.

>> Troxclair: 1l. With the

[indiscernible] Spring aligns we're opposed to this rezoning request and we ask that you stick to the agreement made back in 2013. I had the privilege of working for councilmember Laura Morrison for four years. I wasn't with her when she was the critical vote on this settlement agreement, but I can tell you that she scrutinized all variances very closely

[lapse in audio] And I believe her that there was no implied agreement for any trip increase later coming on. This is something that is new. This is a new zoning case, and this is why it's back to you. If it weren't a zoning condition, you wouldn't be talking about it. It would be talked about at site plan. It's part of the zoning for the site and that's why we're here today. So what we're asking that you take a look at the site, take a look at the area around it, and make a judgment based off of what the water quality restrictions should be for this area, that we unfortunately have an agreement that we no longer have our super image export they can come back and ask for more and more and more with each rezoning case. Where does it stop? Where do we hold the line for the threats of the legislature? We need to uphold our ordinances. This is the time to do it. All we're asking is for you to take another week and look at the traffic impact analysis that was submitted actually with the pud before the impervious cover was reduced. And give us some time to just take a look at the area around it and the water quality restrictions and come back with something that's better for this site. 6,000 is appropriate. It's within the scale of the area around it. That's what we're asking for.

[8:07:33 PM]

I'll leave it at that. Thank you.

>> Mayor Adler: Thank you.

>> Mayor?

>> Mayor Adler: Yes.

>> I have a question for Mr. 1.5. Actually, the number I was citing a little earlier came from the document that sos sent to all the council and it lists different projects in the surrounding area like lifetime finance which has traffic trips per day, 4932heb, thine 972 Wal-Mart I mentioned, and then Garza as proposed would be 16,000. Can you tell me where you compiled this information from?

>> Mayor Adler: I believe Steve beers who is going to be speaking later that is information. I agree, I've seen those Numbers and it seems to average somewhere around the 6,000 range and that's -- talking about Wal-Mart that pulls in customers from a very large radius. If we want localized trips to actually reduce the traffic impact we need smaller use that's generate less trips. That's within their entitlements.

>> Mayor Adler: Entitlements.

>> Tovo: Thanks very much.

>> Mayor Adler: Next speaker is James S.

>> Good evening, mayor, councilmembers. My name is Jim S. And I'm here to voice my support for the zoning amendment to increase the trip generation. As a resident of southwest Austin for the past 17 years and as a leader and volunteer for several organizations and community groups, I'm excited for the opportunity that this mixed-use project will bring to southwest Austin by creating jobs for residents of southwest and not just retail but in office employment it will shorten many commuter trips, have positive effect on the remaining commuters that have to sit on mopac to get downtown.

[8:09:39 PM]

When you think of a couple hundred more cars getting off the William cannon intersection but not driving downtown the overall impact to the city roadway network will be positive. As was previously stated, ctr is already looking at improving south mopac with their expansion project so there are other projects on the drawing board. I'd also like to state that this is a democracy and there are people here that have expressed their opinions on my positions and I've -- if Ohan is passed resolution, when we pass a resolution we state it's a resolution that was approved by the members and then we also provide letters of support when requested, and this is a letter of support that I wrote, and we have done that in the past. So this is democracy. I was elected to be the president of Ohan. There was no opposition to this project even though there was no dissent out, and so since there was no opposition, I felt that it was a good thing to happen for southwest Austin and that's why I issued a letter of support. Thank you for your time, and I can answer any questions.

>> Mayor Adler: Any questions? Ms. Troxclair.

>> Troxclair: Did you say -- are you an engineer?

>> I'm a civil engineer for 30 years, correct.

>> Troxclair: And you also sit on one of the city boards?

>> I'm a member on the environmental board also. Tonight y'all approved a zoning case of mine. It was for 2,000 trips and it was for a little Woodrow's bar that might generate 300 trips but, again, it's city standard language is 2,000 trips and you don't have to do a tia.

[8:11:47 PM]

So that's what you approved earlier tonight.

>> Troxclair: Thank you.

>> Mayor Adler: Okay. Thank you.

>> Thank you.

>> Mayor Adler: Claudia C.

>> Hi, I'm Claudia C. And I'm a southwest Austin oak hill resident. I didn't want to spend too much of my time, if any, on Ohan. But a group of us that felt we were unfairly represented by the letters that had been sent from Ohan got together two weeks ago at their meeting and Ms. Troxclair was there. What was presented was not an amendment. It was a resolution. We had a neighborhood sponsoring it. And it was simply to give the Ohan members time to look at this. The resolution was not calling for a position on trips. The resolution was simply calling to have the -- asking y'all to postpone this for two weeks, which Mrs. Troxclair did, so everything came out O fine. It was misrepresented that it was withdrawn. It wasn't. I think the letter Mrs. Troxclair brought up from president ply it was on January 29th he sent a letter on behalf of another neighborhood I have where he said Ohan continues to support the Garza -- increase in Numbers. It was sent to Greg Guernsey and copies of it I believe are on the backup so that's where that came from. But the line was -- the subject was not specifically that. So it might have been easy to miss. So I was going to talk about the tia. What happened after that meeting is a group of us, and I'd say we're eight to ten, from different neighborhoods got together and started meeting.

[8:13:50 PM]

We've met almost every night for two weeks, and people are busy
[lapse in audio] With Mr. Pruitt again, we met with different people who had more with&more and more questions. All of you received a letter us from two days ago. I believe it's part of the backup now. It was signed by people from nine different neighborhoods. Six of those neighborhoods are Ohan representatives. Some of the neighborhoods, because this has only been two weeks, have had time to go to their hoas and those three neighborhood hoas voted against supporting an increase in trips. Those three neighborhoods are west creek, maple run and Travis country. They have all sent you a letter on their behalf. My neighborhood circle C we don't meet until next week so we have not had time that to do that. Two weeks is a short period of time. There's not much support for this from the neighborhoods but there are a lot of questions. Like Ms. Troxclair I feel like I've gone through tia for dumbies over the last couple of questions I have two things I'd like to point out, different ones different people have had. The first one is at the meeting at Ohan when Ms. Smith was asked why it appeared that the 2012 tia was exactly the same as the 2000 -- O'.

>> Mayor Adler: Go ahead and finish.

>> All that on Ohan?

[Laughter]

>> Can I have another minute or so?

>> Mayor Adler: Okay.

>> Thank you. The tia wasn't -- she informed us that they assumed a 1% increase, and I don't know how many of you travel in southwest Austin, but we can have a 1% increase going home on mopac in the afternoon in our growth Numbers.

[8:15:52 PM]

Finally, the final point is on the tia, there is a major problem with the whole way this development is set up, and that is that most of this development will be served, the people of southwest Austin south. The only exit from this thing is to go north on the frontage road. Whether I want to go south, I am going to have to go north to that. I have to go 1.3 miles north before I can deal with that intersection and then I go 1.3 miles south and then I come upon a failed intersection. That's what I have to do to get out of that development. So that is something I want people to think about. Furthermore, that intersection, which is the intersection of -- that intersection with 290 and southwest parkway has not -- is not part of the tia.
[Buzzer]

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

>> Thank you. Any questions?

>> Mayor Adler: Questions?

[Applause]

>> Pool: You had mentioned there were nine neighborhoods.

>> Yes.

>> Pool: Were not supportive of this or had not taken a position. Can you clarify that and enumerate the neighborhoods?

>> I can. The neighborhood of west creek, most clearly adjacent, none of these are within the 500 feet directly adjacent because mopac is in there. But they are the most directly affected, is west creek and their homeowners association has sent you a letter. The other one is maple run. Their homeowners association has sent you a letter. The other one, Travis country deals with that intersection at do 90 and they're homeowners association has sent you a letter. The other neighborhoods were meeting with us at different times were twin creeks, circle C, scenic brook, wood stone village and willow creek. Nine neighborhoods, some consumed with other Ohan neighborhoods so six of those belong to Ohan. Nine of them are are signing this letter, which you have.

[8:17:56 PM]

So I felt there was, you know -- number of neighborhoods. Okay? Any other questions? Okay. Thank you very much for the extra time.

>> Mayor Adler: Thank you. Sure. Mary C.

>> Good evening. I've been here since 2:00 this afternoon so I appreciate your patience. I want to talk to you. I'm here representing the western oaks neighborhood I want to read their official statement and then if you have any questions I can answer them personally or something. Usually I like to talk more casually but since it's an official statement from our homeowners association I do want to read that. I am here representing the western oaks property owners association. One of the oldest neighborhoods southwest Austin. Our subdivision is located at William cannon and mopac beside the shopping center. Oar homeowners association is supporting the Garza project. In the last few weeks we have met with the property owner reviews to discuss our concerns regarding traffic, safety and the development content. The current site plan indicated that the Garza family had already complied with requests made by other parties for increased water quality infrastructure. We thank them for adding that to the plan. We are very concerned about the impact that this development will have on increased traffic on mopac, the frontage road, and the existing intersections. Which already have failing ratings. After much research and discussion, we felt that it would be best to meet and work with the Garza representatives regarding our concerns. We had not approached them before this project because of -- this project the neighborhoods really haven't had that much input into this project because it has been a litigious project for the city. Noted just our neighborhood but all of the neighborhoods of southwest Austin have really never had an opportunity to have that kind of input.

[8:20:00 PM]

Discussions were held between mopoa and Garza representatives including these elements. The plan would have a high quality multiuse element which could minimize the traffic, instead of dense use. During the discussions we decided to accept the plan with a cap of 13,900 trips in perpetuity they're not going to come back and ask for 20,000 down the road, 25,000 down the road and so forth. As long as we can find a solution to the high risk safety issue at the south exit on the frontage road. We networked a gate at the south exit as the solution that would prevent traffic from accessing the mopac on ramp

during peak hours. Since traffic is already coming from four different points the on ramp is our primary safety issue and we thank the Garza representatives for revising the tia to include our gate. The future owner will be responsible for gate maintenance and enforcement. Regarding the development mixed use, we ask that the buildings be no more than four floors tall to align with the surrounding developments and that the mixed use not include a hotel and have very limited number of multifamily units. As you saw by the tia, the multifamily really generates more trips per day than the office. We realize that the Garza representatives and the future developer will need to follow through on these requests. The site will offer employment in southwest Austin, which we hope might take trips off of mopac. I have 15 seconds. After the project is completed we look forward to future solutions that you the council will provide in a master plan to address the traffic, safety, development, not just for southwest Austin, but for the entire city. Although the Garza project is not perfect, and the increased traffic will affect our homeowners [lapse in audio] I will say that our neighborhood has worked on the ash Arbor trails project where the Costco is for over 15 years with developers.

[8:22:07 PM]

I understand tias inside and out even though I'm a commoner. It's not like we took this decision lightly and we came to this discussion. We've worked with developers 20 and 30 years and the ladies I work with here tonight have worked on land development in southwest Austin for 40 years. And we lived out there when, you know, mopac ended at Cesar Chavez and didn't even go to Barton creek mall. You couldn't get out of our neighborhood without going over two low water crossing. We've lived the development in southwest Austin so we're always available if you have any questions.

>> Mayor Adler: Ms. C., thank you. Questions?

>> Thank you.

>> Troxclair: Because of your experience working in these kind of situations before and negotiating with the developers, how has your -- and I asked the applicant this earlier, but how has your experience with them been? Do you feel like they throned your needs? That they agreed to some of the things you were asking for?

>> Definitely. Our concern was not just traffic. There was a huge safety issue. There's going to be three driveways within a quart mile of each other if you look at that site plan. We were concerned about traffic darting across that, particularly if you have a multifamily component to it. So they were very, very much interactive with us, I guess. I think the unfortunate thing is that we haven't had an opportunity to have long-term dialogue because, as I said, the project has always been caught up in litigation. So the neighborhoods have never really had an opportunity to have a long-term discussion. I mean, this discussion we've had with them for the last 30 to 60 days we're used to having discussion with developers for years or months. So -- and I don't know that there really is a solution. Any kind of development on that piece of property is going to generate trips. And it's got zoning to allow for development.

[8:24:07 PM]

So I don't know that there is a great compromise one way or the other other than what's been presented.

>> Troxclair: So and then but going forward, so this is -- this we're dealing with the land owner, not necessarily the developer yet. So going forward there will have to be a site plan developed and I know that --

>> We would love to work on that.

>> Troxclair: I would love for you to continue and all of the other neighborhoods involved to continue

working with the developer moving forward because they will have to come up with a site plan that they will -- they will have to come back to the city once they have a site plan and we can talk in more detail about --

>> But that's not an unusual relationship. We work with the brownly family was like the Garza family. Mr. Brownly owned his land since 1930 something, bought it for pennies on the achier and the brownly family we worked with over 15, 20 years. We worked with four different developers until they found one that had the financing that could complete the project as well. So it is not unusual to work with a landowner, a developer, and the neighbors or the neighborhoods around there. That's not an unusual --

>> Troxclair: No, yeah.

>> -- Relationship to have.

>> Troxclair: I appreciate the discussions that all of the neighborhoods [lapse in audio] And I hope you will continue those discussions going forward.

>> We are looking forward to a quality development. We feel as though we have some quality development because of the impact and interactions we've had. That Costco that's on that property there is one of the premiere Costcos in the nation. They did things on that site that they've never done. We did mitigating land policy. Mitigating land policy when we were talking about doing that in the 'compensation 90s was revolutionary across the communication. The were doing it in Seattle and we were doing it in Austin. It is not [lapse in audio] To preserve 500 acres within sos standards on that piece of property.

[8:26:11 PM]

>> Troxclair: Thank you for --

>> Thank you.

>> Troxclair: I hope whatever happens is high end and office-focused.

>> Mayor Adler: Thank you. Mayor?

>> Cesar: Something she mentioned spurred a question in my mind for a traffic engineer, applicant's traffic engineer I didn't get a chance to ask. We had her up her so long I felt tortured asking her the question. Now that it's brought up I felt like I had to call her back up.

>> Mayor Adler: She's back up.

>> I had a snack then I sat down.

>> Cesar: Same sorts of problems I have, obviously.

>> I had a snack and got my energy.

>> Cesar: Something mentioned was how apartments generate many trips and my understanding is generally that residential generates fewer trips. Doing simple math, looking at your tia, it's pretty simple, 500,000 square feet or so of office generates about 500 or 5,000 trips, so that's about 100 trips -- 100 square feet is about a trip in that development case, same thing with the shopping, you've got more trips [lapse in audio] 200 or so trips a day. So my question then comes back to apartment space. There it's written as units. Is that number 208 units?

>> That is the variable we used.

>> Cesar: Maybe this is actually a question for the applicant rather than you. Is there a way to take a stab at how many square feet of apartments that ultimately is? The reason that would be helpful is to understand if we are granting a trip count that is -- that allows the zoning case that was passed by the last council to ultimately function.

[8:28:12 PM]

And so understanding sort of the -- how much of the building envelope that apartment use uses,

essentially.

>> So I don't have a direct answer, and that might be best for the applicant to address, but when we collected data to develop a rate for apartments, we look at apartments of all sizes across the whole country. And then we aggregated that data into a rate that we could apply to the number of dwelling units. And, you know, traffic engineers, we're not super complicated.

[Lapse in audio] It's not broken down by number of bedrooms, by the square footage because that's an easy number that we can get to. So I don't -- the range probably varies pretty significantly in terms of the size of a dwelling unit.

>> Cesar: I guess what I'm interested in, whether it's from you or the applicant, might be what the ultimate square footage of that apartments are or just the general feel for whether apartment use might -- my guess is generates more traffic, slightly more traffic than office use but certainly less than high turn-over restaurants or shopping? Is that an okay guess?

>> I don't have that. I know an apartment generates about seven trips per unit, but I don't know the number of per square feet.

>> Cesar: That's okay.

>> Yea. So the total number of square feet for apartments looks to be about 255,000.

>> Cesar: Okay. Helpful, thank you.

>> Mayor Adler: While you're there, related to that question --

>> Me?

>> Mayor Adler: You, if you would. You made the mistake of coming back up when he called for you.

>> Cesar: We like having you here.

[Laughter]

>> Mayor Adler: Do you see a relationship between impervious cover and trips? We have a zoning case that took place a couple years ago that was a grant of a certain amount of impervious cover.

[8:30:19 PM]

I wasn't there so I don't know what the people who approved that or were asking for that at the time. But is there a relationship between impervious cover and the number of trips that will follow from that impervious cover?

>> There is. And it's going to depend on the land use. It's going to depend on how you design your internal roadways and parking. So once you take out the impervious cover that's needed for those two components, you are left with a buildable area for buildings.

>> Mayor Adler: So --

>> So yes. If you're granted a certain impervious cover, the civil engineers do their calculations to come up with building size based on it.

>> Mayor Adler: What's been approved in this case thus far is a certain amount of impervious cover and a certain collection of uses.

>> Mm-hmm, right, based on the zoning.

>> Mayor Adler: Based on the zoning. Is it reasonable -- is it predictive that there would be 6,000 trips associated with that level of impervious cover and those uses?

>> No, I don't believe so.

>> Mayor Adler: Why?

>> As I said before, I think that 6,000 was really just a placeholder. As Jim mentioned earlier, if you choose to defer doing a tie for a project, you're automatically limited to 2,000 trips per day.

>> Mayor Adler: No. I understand that.

>> So that 6,000 was never contemplated or buildings were never designed around that number.

>> Mayor Adler: And I understand that argument.

>> Okay.

>> Mayor Adler: I'm asking kind of a different question though.

>> I apologize.

>> Mayor Adler: That's okay. What if that -- I mean, but there are some people in this debate that are saying the 6,000 placeholder or the other people that are saying the 6,000 was deliberate. And I wasn't there, and I don't know what they were thinking or knowing on any side of this. My question is different. If you have those collection of uses and that level of impervious cover that was granted, is it reasonable that -- or consistent with the market or what's built that that would translate to 6,000 trips?

[8:32:34 PM]

That impervious cover and those uses.

>> Not that combination of uses. I don't believe that would be reasonable to assume.

>> Mayor Adler: Why is that?

>> Because as we've shown, with that impervious cover as assumption, they're able to construct as much as 560,000 square feet of office and that alone generates 5,000 trips per day plus the shopping center and the apartments they're contemplating that were also designed within the parameters of that limitation on impervious cover.

>> Mayor Adler: If someone were to max out the site based on the impervious cover and the uses that were given, [lapse in audio] But if they weren't limited by the traffic impact analysis, given that impervious cover and the allowed uses, what could the number of trips be?

>> I ran a couple of different scenarios, and I -- I'm sorry, I don't have a copy of that. But I think if you -- could you very easily reduce the office and increase the retail, stay within the same number of impervious cover. And the trips would be more like 20,000, 22,000, especially if some of your retail was restaurant use. So I have run that exercise, and I can confidently say that there is a way to present a plan that meets the impervious cover limitations and that generates more trips than 16,000.

>> Mayor Adler: Is that 22,000 net trips or 22,000 total trips?

[8:34:37 PM]

>> An unadjusted total trips.

>> Mayor Adler: Unadjusted total trips, thank you.

>> Compared to the 16,000.

>> Mayor Adler: Thank you. Further questions for the town person? Mr. Zimmerman.

>> Zimmerman: I have a question, yeah. It's only 8:30 at night, maybe I'm missing something here. When you asked the question about impervious cover, the common sense question that just jumped out and punched me in the nose, you could have a single 1-story set of retail, restaurants, whatever it is, office buildings, if you had one story and then just a parking lot next to it, that would represent a certain impervious cover. Now if you add a parking garage and multiple layers of exactly the same thing, you have the same impervious cover, but you've multiplied your trips two, three, four, five times. Am I missing something of a common sense argument? You can have the same impervious cover and as you stack layers of a parking garage or commercial offices, right, then your trips --

>> I don't think you're missing anything.

>> Zimmerman: Thank you. Okay.

>> That's correct.

>> Zimmerman: Okay, thank you.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I want to ask a variation on the question asked

before: Is there a plan using -- is there a plan for this site that could be accomplished for 6,000 trips? That would only generate 6,000 trips?

>> I have not seen a plan that accomplishes that.

>> Tovo: But would it be within the realm of possibility?

>> I don't -- so I'm not a land planner so I don't know the answer to that. I think --

>> Tovo: Okay.

>> That would be best answered by.

>> Tovo: Sure. Thank you.

>> Mayor Adler: Okay. Thank you very much. All right. Next speaker we have is Cynthia Wilcox. Is Jerry Spore here?

>> Yes.

>> Mayor Adler: Ms. Wilcox, you have six minutes.

[8:36:40 PM]

Those are -- I'm only showing Jerry Spore on the board.

>> Mayor Adler: Is there someone else other than Jerry Spore that loaned you time?

>> Lee Zigler.

>> Mayor Adler: I'm sorry?

>> Lee Zigler.

>> Mayor Adler: Lee? I'm sorry? You can only give once. Only once. Just recognize all speakers one time on 51, 52. You have six minutes.

>> Okay, thank you. Regardless of whether the 6,000 trips was meant to stay or not, 6,000 trips is the appropriate number for this site. The surrounding communities, current infrastructure and f-rated intersections all over the area. The Garza tract is in between two major intersections, Mopac and highway 29290, and Brodie Lane and William Cannon, which is the same. Developments at these two major intersections which have much better ingress and egress in the Garza tract have fewer trips per day than the applicant is requesting. So this is just a disproportionate request and capping the trips for this kind of a property with this amount of ingress and egress. The request to re-- is to remove all limitations is my understanding, and as the mayor and other councilmembers pointed out, the 16,000 or 13,000 or 20,000 or 22,000 or whatever would allow a very adequate office building that would be a big asset to the community.

[8:39:02 PM]

At the February 11 Ohan meeting the traffic engineer as you heard said there's little or nothing that can be done to improve or mitigate the f-rated intersections no matter what, even with the \$44,000, or maybe 1,000,002, who knows. So it's important not to be cramming these trips into a place where they cannot be mitigated. Oversizing the project will force Austin taxpayers all over the and I to pay for new roads and infrastructure in order to provide a bigger windfall for an out of state bidder. To minimize the carnage on Mopac, the applicant has proposed the closure of the driveway with access to the Mopac on ramp and this is something that the Western Oaks neighborhood was very concerned about because that's an extremely dangerous place as it is, and to add a bunch of cross-over traffic trying to zip over to the on-ramp is going to injure and kill our friends and neighbors in that area. So if this proposed south exit is dangerously close to the on-ramp there shouldn't be a south exit. Putting a gate on an exit that's supposed to be closed during the busiest part of the day seems preposterous and I believe there is a development on North Lamar where this same sort of thing was proposed, and now they're in the process of trying to get the gate removed and no longer enforced. By capping the trips at 6,000 per day

removes the need for cookie kind of ideas that aren't going to work later. Then we need to learn from the October 2013 floods. We're also buying out homes downstream on Williamson creek and onion creek and Williamson creek froze into onion creek and was a big factor in the deadly floods of 2013. This case has not been removed since the floods and it's not taking into consideration the tremendous additional densities that been added in the area.

[8:41:09 PM]

That area has been being upzoned and densified dramatically over the last couple of years. Who is held accountable for the development and density-related flooding? When you add this kind of density, what happens is it creates more impervious cover. So, yes, on the site they are going to treat for the flood -- for the flood control, but if there have to be a bunch of other lanes or decks as the traffic engineer or other impervious cover added in the area, there isn't room to add additional flood controls, and this flood water goes right into Williamson creek. And on its way to onion creek, this William flood water floods homes in districts eight, 5, 3, 2. All along here you can see all of the houses in the floodplain and they're ones flooded that aren't pictured in the floodplain. I drew red circles so you can kind of see where there are a lot of houses clustered that are already getting [indiscernible] Development, being crammed in where it's already too dense is exacerbating flooding and people lose their lives in floods. It's -- this I took from the city of Austin website. It was 7,000 buildings and 400 roads subject to creek flooding a significant portion of our budget is already dedicated to these problems. In the rains like the October 2013 rains are not unusual at all. This is a graph that starts in 1956 5 56 and goes to today and all of the yellow highlights are rain events like the October 2013 floods. They are not -- it was not an unusual rain event. Here are the homes that are being bought out. You can see up at the top that's the Williamson creek homes are blue, that are subject to a flood buyout courtesy of the taxpayers.

[8:43:14 PM]

And then down below where Williamson creek comes into onion creek, those are the homes that flooded and are being bought out. Here's another slightly better picture, closer up. Here we go. Here are the Williamson creek buyout homes. These people don't want their homes bought out. They don't want more flooding from impervious cover and density being added upream 37 upstream. there's the projected cost for all of these things. Do y'all have any questions?

>> Mayor Adler: Any questions? Thank you very much.

>> Okay. Thank you.

>> Mayor Adler: I show Marcus wit field W. Already dedicated his time. Roy R.

>> Troxclair: While swashing he's he'swalking down, thank you to all the constituents and affected neighbors who have been here I think almost seven hours today to speak about this issue. I really appreciate you being here.

>> How'dy y'all, my name is Roy W., I'm the conversation chair for the Austin regional group for the Sierra club. As I was listening to the revision of the -- retelling of the history of that tract, I kept thinking about these two Numbers that has gone gray during this period. Either turned gray or fallen out. We've been doing this forever ph. Ph. In fact from August 21, 2013, screen grab when we're dealing with that. Staff recommendation said that if we give these variances and when they say they're not asking for variances, why should they? They've been granted everything already. But it says this puts to rest a long running dispute.

[8:45:14 PM]

Don't we wish that was true. When we talk about the largess of Mr. Eli Garza we have to think of the term of kicking and screaming because this was not done out of some generosity. What happened was lawsuits were filed, counter suits were filed, legislative action threatened, and we all had to come back to the table. And so all of these concessions were not made out of some generosity. It was made out of negotiations like we're going through this evening. When we talk about the critical environmental features not being on-site, no, they're just on the other side of the property line and they have been granted variances shortening the critical environmental features zone. So if there is failure, it's going to run out. We know this. Car trips and impervious cover are two different things. And it's always been separated in the argument over sos because you have a small site does not mean that you don't have heightth because heightth was never limited from the equation. These car trips are going to cause increased damage. And increased trips are going to increase the runoff into the aquifer. We've been told that the water of [lapse in audio] Because they're designed to handle the water. Well, we thought we were pretty well set do design ourselves to handle the water and look how that worked out. We also hear the idea that this will reduce trips downtown if we have this here. That assumes that downtown office space will empty out and there will be no one there because they're all going here.

[8:47:16 PM]

No. We're going to have the same same amount of traffic going downtown. And increased traffic to this site.

[Buzzer]

>> I want to conclude by saying that I think it's interesting that tonight the ctma, that's the central Texas regional mobile authority, is meeting at this same time and a presentation that they gave to -- this is their first open house, but they did do a presentation to save Barton creek association, sos and Sierra club, as they said the first time lines on paper, but when I talked to them about the potential traffic impact that this would be would have, they indicated that they had not calculated that, and I answered I would hope for more of a delay than bobby asked for. But if you do take action tonight please limit it to first reading only. So that more information [lapse in audio] And we can get more information I would encourage you to ask as many questions of the citizens as you do staff and the applicant. And I'm open for questions should you have any.

>> Mayor Adler: Any questions for Mr. Whaley?

>> Thank you ask them of Mr. Beers. He's got his own traffic analysis and I think it will be very illuminating. Thank you.

>> Mayor Adler: Thank you.

>> Mayor Adler: Not here. Then let me go to Marcie white. Is Marcie white here?

[8:49:20 PM]

>> Good evening, mayor, pro tem, and council. I stand before you tonight because my uncle and my grandfather had a legacy for their entire family for the rest of their life. This was because they had a vision and they were all raised there. And they all had a place, 5 acres, that they gave to my family to live there. I come before you tonight because I understand y'all have heard all of what this is. Everywhere. And I've heard it too. And I have been here since 1997 with my uncle, talking about this, that has actually started about 25 years ago. But beyond that, what he had envisioned and my grandfather inside -- when -- died when I was seven years old. He was the loan person of our family to take care of this property of 130 plus acres or you lose it. And he came and he did exactly what was left for him to do. And by paying taxes, by building houses out there, by taking care of what he had to do, as my grandmother was a widow, but he did it. And he did it with great pride. They left us when -- when my

parents passed away, the only person that was left was my uncle, for us.

[8:51:26 PM]

There were other relatives still alive, siblings, but they too passed away. And my uncle is a beholder of every sibling's children. He never married. We were all his children. And I stand here because what he wanted, he fought for. He gave and donated property because he felt it was the right thing to do for Austin. Now, if y'all haven't done your homework, Eli Garza owned Eli's, which was hud's hamburger joint that was Eli's lounge before that. That is how he also paid the taxes.

[Buzzer]

>> And I am asking you to please forgo this. This will not take long. I am asking you to listen to me. This is personal. This is family land. This is our legacy that was left because he could not get it finished while he was alive. He left us with this journey to fulfill his parents' and his legacy to us to be left to his family. And we promised that we would do what we needed to do. He has now been dead nine and a half years. And we have taken this fight up before he died. We were along for the ride with Lowe's, along with the discussion long before. This is not the first time I have been present. You have questions about things that have happened. We were there too.

[8:53:27 PM]

Mr. L. Was there. Mr. Rusthoven was there, and all I'm telling you is that I said then and I will ask you now, we stand here because, yes, things may be different, and there may be more problems, but y'all asked us to do these things for this property in order for us to be able to get to the point to develop it. You gave us the ability to keep going forward. You never stopped us. You never said you can't do this. I'm sorry, the roads are too messed up. Whatever it is, you told us that.

>> Mayor Adler: Thank you.

>> And we sat there and believed in what you told us, which gave us faith not to mention the money we have spent. We are entrusted to take care of this property until it is sold. We pay taxes. So therefore while we are doing that, we have ventured with y'all to come and be together and decide what we need to do. And we have asked you to tell us, and we have delivered.

>> Mayor Adler: Ms. White, thank you very much.

>> And I feel like -- and I thank you for at least allowing us to come to this place.

>> Mayor Adler: Okay.

>> But I ask you, and I asked when we were meeting upstairs about two years ago, year and a half ago, whatever it was, that what do we need to do to get this done. And I asked you, because everything you have asked I feel like we have done. And I feel like we have gone over and above what we have been asked. And I feel like we have also given up. Just as you have given up. We've had to compromise. I feel like that's part much what this is about. But I also asked you to please understand that we know this is not easy.

[8:55:32 PM]

But this isn't easy for anybody. And we cannot change the city of Austin, the road system and everything because we have a property that happens to exist in a place that maybe is not very favorable now.

>> Mayor Adler: Ms. White, I think that you made your points very strong. Thank you. And I thank you --

>> Okay.

>> Thanks. It's been a long deliberation. I don't know when Dan was taking I thought a lived in a parallel confuse then I decided we're looking at different movies. It's the same facts but with really different

interpretations, you know, one maybe John Wayne kills savages and settlers live happily ever after but somebody else looks at the same facts it's dances with wolves. I think Mr. Garza, you know, did try to provide for his family. He did it by donating land for the freeway that made his land more valuable and made them condemn the last two pieces so he got compensated for that. He donated land for the park but that's what locked in his grandfathering, the plat that the and I accepted when it was litigated, the court said you took the parkland so therefore you're stuck with the plat under old rule. One problem with the movie is that some people are coming in in the middle of it, you know, not knowing what the heck is going on. We talk about a placeholder of 2,000 trips a day. Well, the national institute of transportation engineers, same ones that Ms. Smith follows, they say their standard to trigger a tia is 750 trips a day.

[8:57:42 PM]

So we're out of step. We're actually more liberal than the rest of the country as far as what we allow. This -- if you could cue that thing, please. Oh, that's not it. It's the other side. Okay. Very good. I think what you see there is I've arranged this in terms of the land uses that are in their tia and you see the shopping center and the restaurant give you this disproportionate trips per day. And if you just omit the shopping center and the restaurant in the second one, strike through them, puts it down around 6400 trips a day. In other words they're getting 88% of the square feet but far less trips. And in about 85, 90% of the value. If they make this kind of change that's, I think, more reasonable. Well, we've talked a lot about trips. I think it's kind of a misnomer because it's not just about trips and traffic. It's about a deal, a deal that hopefully will last. And the trips are just a way to indirectly regulate those square feet. You could just as easily write an ordinance that had those square feet in it, okay? So we're trying to go at this backwards, in a way. Well, they're going to contribute \$44,000 towards the solution of it. That's good. But --

[buzzer]

>> Well, I'd like to conclude that thought. If this was built in Fort Worth, they have had impact fees since 2008, look at Fort Worth Texas dot Goff slash impact fees, they would be paying 6.8 million and that would still only be 1% of the project value.

[8:59:44 PM]

So I think there's room to come up with something that's a little less impact -- a whole lot less impact on the neighborhood and still gives good value and a good legacy to the community. So I would ask you in conclusion to this movie, let's avoid further bad sequels. If we're going to pass it tonight, pass it on one reading only and keep working on it. And then come up with something binding like the Lowe's agreement was binding indeed records along with an ordinance because they've threatened to go the capital building and and change the law. So we need something to run with the land and can be enforced.

>> Mr. Beers, before you leave -- I just campaigned for a year talking about the Fort Worth transportation impact fee, which was mentioned earlier tonight. And I also hope that our mobility committee takes a look at that. And maybe I'll be commission for the blind when we get to the -- I'll be inclined when we get to the vote later to vote first reading on that, but I have a question on impervious cover. If you were to take out those two elements that you've taken out on that chart that had you crossed through, do you know what the impervious cover could be on the tract?

>> Actually, I did some Numbers on it, and it's what I look -- I figured five stories on the apartments, three stories on the office building, and then I figured the square feet of the roads. And this will generate a million square feet of parking that will somehow have to be shoe horned into the 43%

impervious cover.

[9:01:49 PM]

So the only way to maximize it is with parking garages, which they indicated seven-story parking garages. And that's why I think it is important -- to nail this down. And you could inadvertently create an entitlement where they could come back and say we can't build except at enormous expense this plan so give us more impervious cover or give us more height. So if you approve this we'll have some sequels is my belief, unless we tie it down.

>> Mayor Adler: And I'll support tying anything down too. Do you know how much impervious cover -- if this plan, as you showed, is

[lapse in audio]. If you took out 5,000 square feet of office building and 87,000 square feet of retail shopping center, do you know what the impervious -- and the parking associated with that, do you know what the impervious cover is? It would be something less than 43% because you've just lost 640,000 square feet of building. So I guess there would be the floors on it. But there's a certain amount of footprint you would be losing both for the office and the shopping center and the parking. Do you know what that number is?

>> Well, I think they would lose about a thousand parking spaces. If that's 350 square feet of parking space that's 350,000 square feet. If you add in 100,000 of the uses themselves, then that's -- that's something like 400,000 square feet and then you omit maybe a short run of road. Maybe you're looking at the removing 500,000 square feet. See, that was premised on, you know -- that was premised on just floor square feet.

[9:03:52 PM]

If they're building the parking it's probably going to go up so while I think it could free up some area and shrink some impervious cover, if I were them skip the parking garage on that park. They could chew up a lot of area just on parking lot on one level. And the reason why they would do that is because that structured parking is very expensive. It's \$15,000 a space. Whereas just a simple paved asphalt lot is one-tenth the cost, 1500 a space. So that's why it becomes a very expensive project to eek out last little bit of value. It's putting Caldwell county cost to brandywine, the developer. If something was 90% the size it would make such a difference and then maybe we could end all the fighting.

>> Mayor Adler: Thank you. Further questions? Mr. Casar?

>> Casar: This is for both you and Mr. Beers. Maybe I lost you for a second, but you asked what the impervious cover would be if we removed the office, which is a massive portion of the proposed project. Did you just mean the shop and the restaurant?

>> Mayor Adler: In the graph that Mr. Beers had showed us he struck the first two. He struck the general office in the shopping center and left the lower two, which was the sit-down restaurant and the apartments. The 566,000 square feet, which was the general office building, is not that much impervious cover because it's in floors. What I didn't know is what the footprint was of that building. I assume the 87,000 square feet of shopping center is 87,000 square feet of footprint you unless it's two-story retail. And I'm trying to figure out what the footprint was for the building, for the retail and for the parking that was associated with that to see how much impervious cover was associated with the 6,000 square foot -- the 6,000 trip plan.

[9:05:55 PM]

>> I'm not a land planner either, but it's a 60-foot height limit and I'm figuring 20-foot clearance on a big

building. You know, on an office -- I mean, by 20, that's three stories on an office building. And with an apartment you can add four or five. And I just don't see how they can cram all the parking in there unless it's eight-feet clearance and that's super tight. So that's where I'm thinking we didn't understand in 2007 that it was really 6,000 trips instead of 2,000. We didn't understand in 2013 that we were buying into this tie at the same time. Actually, this tie was submitted for that P.U.D. That was withdrawn. So in 2013 when they were debating on the water quality ordinance this thing was not effective. But you've seen it. You were supposed to remember while debating that that they were going to come back. So I just think with all the misunderstandings if we take time to get precise language, then everybody will know what they're dealing with and we really can put it to bed.

>> Mayor Adler: Further questions for Mr. Beers? Ms. Tovo?

>> Tovo: Mr. Beers, when you had that chart up before when you struck out the top two use case, did I - - uses, did I hear you say they could get to 88% of the impervious cover -- of their projected impervious cover with the bottom two uses?

>> No. What I actually said was, okay, the chart says 566,000 building square feet of office. It says 87,000 building square feet of restaurant. No, excuse me, wrong. Of shopping center.

[9:08:02 PM]

It says 27 -- the apartments are 208 units so they don't have a square foot figure. Initially I thought it would be like 850 because I looked up and it's like, well, average of projects being built today is about 850 square feet a unit. They gave a number earlier that was more after thousand square feet per apartment, so these are big apartments. So you can -- if you call the apartments 2,000 square feet, you add it up, that's # hundred thousand building square feet or almost 900 trillion square feet. And so what I was saying is you take out the 100 out of the almost 900,000 and you have something over 85% of the building square foot leftover. Now, it's speculative how much the value is, but I'm figuring they're all about -- there's a range, but I think you can -- there's a range, but you can figure that new buildings finished are about a 2,000 square foot value. It's really rough, but I'm saying the square foot of all this stuff is about the same. So if you have 85% of the building square feet left after omitting those two, then you also have about 85% of the value left.

>> Tovo: I see.

>> But if I'm them I don't want to give up any money and I'm going to fight. We heard, they're a fighting family.

>> Tovo: So I think I understand your point clearly now that it possible to remove those uses which are generating the most number of trips. And bumping that number -- bumping that trip number from 66 on up to a projected 16,000. And still retain the project.

>> It takes 10,000 off the top and leaves you 6400 trips left. I don't know what the right number of trips, but it just seems like that's an awful lot of [lapse in audio].

[9:10:08 PM]

I would say okay, one advantage of tying the developer -- let's say they say we want to add back in a restaurant. So I would say, you know -- and this interpretation about, well, was it 2,000 on all three in 2007, that first zoning case? Or is it 2,000 on each of three that adds up to 6,000? Mr. Rusthoven, I guess, said it was 6,000, but it's like, well, you don't have flexibility to either spread it out because they're all different sizes, or to group it together, which is my pref sense because grouping it together would mean be put the buildings on that big empty pasture, but leave all the trees, give a buffer from that sinkhole, give a buffer from the Williamson creek and a buffer from violet crown trail and have a really great parkland that could be named the Garza park and could, you know, be something everyone

would be proud of.

>> Tovo: So I think -- I appreciate the point you made about the uses because when the zoning passed through council, there was not -- agreement has no MIX of uses specified. It was the zoning and so there are -- there is a lot of flexibility built in to the existing zoning to select, to identify uses that either have a higher number of trips or a lower number of trips. And I think you've suggested some ways in which those trips could come down.

>> There may be a vision with this associated, but before 2007 the zoning was split, but between rural residential on the part that was S.O.S. And then multi-family on the remaining part, and they were deed restricted to 450 units.

[9:12:14 PM]

So my thought is in any of that time between now and then they could have built this by now. So perhaps it's an evolving vision, but I can understand it's -- you left a lot of your life there. And you don't give that up easily. You want the most you can get for it. But you have to understand we have problems here too. Just that ramp thing, that's a big deal, just that tiny thing. That's why I think we need more time. It's not just the amount of trips. The way people get in and out, this isn't an environmental issue, but that whole thing about cutting across three frontage lanes to get on the ramp, that just scares me. I drive that everyday. I live in district five very close to this and I go through those intersections so it's become personal for me. I jousted with them 10 years ago over Lowe's and then I lived in Hyde park, but now I live kind of close to area, so it's even gone behind environment to physical.

>> Mayor Adler: Thank you.

>> Zimmerman: Thank you, Mr. Beers. If you could stay put for a second. Perseverance not just to stay around, tonight, but to work on this. Ms. White gave a pretty passionate and it was very personal and it's their property. And it's a legacy for them. It goes back a long way. I'm impressed with your passion for it and I've been listening to you carefully and you speak as if really you are an expert architect, you're a builder, you're a civil engineer, you're a designer. You're amazing. So I wonder what is your actual background?

>> I'm a writer, editor and researcher.

>> Terrific: I want to submit to go to you.

[9:14:17 PM]

You have really driven me in the direction of Ms. White and here's the reason why.

>> Uh-oh.

>> Zimmerman: Maybe I don't need to say why. I appreciate your testimony, but I've gone in the complete opposite direction. I have a lot of --

>> Did that mean you were going to vote against it.

>> Zimmerman: I have a lot of technical expertise myself, but I would not sit up here and presume to tell the property owner and in great detail what they should be doing with their property. I'm just struggling to understand this.

>> I'm trying to offer an alternative so that we're not just like yes or no because it's too complicated to just go yes or no. I'm not saying to do that at all.

>> Zimmerman: I think the issue of property rights and the benefit of the doubt to the property owner and the plans and the infrastructure they've already paid for, there's two million dollars of water treatment in place, but I appreciate your time. Thank you for your testimony.

>> Mayor Adler: Mr. Beers, thank you very much.

>> The two million hasn't been spent yet. It hasn't been installed. That's what they're saying, but it's not

so.

>> Mayor Adler: Thank you, Mr. Beers. Next speaker is Johnnie wells.

>> [Inaudible - no mic].

>> Mayor Adler: And that was our last speaker. Thank you very much for participation. Discussion now from the dais? Does the applicant want to close? I'm sorry. You have three minutes.

>> I want to underscore the fact that the Garza family was charged with coming up with a concept plan that indeed was a mixed use plan and indeed the city staff said we want you to put all of the uses on your concept plan.

[9:16:33 PM]

We all know now that brandywine is on the scene with their actual plan and what I -- what I am told and what I want all of you to understand is that the city already has a safety net in place for brandywine. And the fact that we have -- that we will move from a conceptual plan to an actual plan. And that is my understanding that when brandywine does its actual plan and presents the site plan to the city, they're going to be required to do a new tia that will be germane to their specific plan. They have already committed to the neighborhoods that they are operating within this cap tonight. They have already committed that they will not seek to increase this cap. So when their plan is presented and their new tia is done, director of planning is authorized to impose a new trip limit that is germane to their specific project. So there is a safety system here that protects the neighborhoods protects the city that this plan will ultimately be and the traffic will be appropriately sized for what they're actually building. And in all other respects I want to say that the family has selected a moderate plan, relying on structured parking. So this is being treated as an urban site with all structured parking which is the reason that this number of square feet has been generated. You can't pay for structured parking unless you have the yield of square footage.

[9:18:35 PM]

These are all connected together. It's a trig jaw puzzle. All are all going through this. I'm going through this, but all these pieces fit and this yield is necessary in order to pay for this two-million-dollar water quality system that is to be generated. I believe the only person who said it was already there was Darryl Pruett who misspoke in his statement. That water quality system is being built when the site is developed. It's part of the obligation of the ultimate builder. So I want to make sure we clear up any confusion there.

>> Mayor Adler: Okay. Thank you. Any questions? Ms. Troxclair?

>> Troxclair: So this tia was necessary -- well, okay. The question that I'm asking is you are not the final developer. You are representing the Garza family.

>> Correct.

>> Troxclair: Who is attempting to sell the land to the end developer. That end developer will have to come back to the city to approve their final site plan and the tia associated with that site plan. So there will be a chance -- what we're operating under right now is projected use based on your best estimate as well as I'm assume nothing your conversations now that you've found a buyer.

>> Correct.

>> Troxclair:, but there will be a chance for everyone who wants to be involved to be involved in the ultimate creation of site plan tia that will come back -- that both will come back to the city.

>> Correct. So this is a step, which is, I repeat, the last permit the Garza family has to request from the city of Austin. It is the end of an era, a 25-30-year old history. This is the last permit.

[9:20:38 PM]

Brandywine takes over from this point forward. Thank goodness. And the community will have plenty of opportunity for input, but this is required to keep Brandywine in the game, to keep them. And as we learn more about them and the quality of the product that they build, I think you will find that they are to be cherished by this community.

>> Mayor Adler: Thank you. Any other questions for the applicant? Thank you, sir. We're now to the dais. Do we have a motion to approve 51 or a motion on 50-51?

>> Troxclair: I guess because it is in my district and I have been listening carefully over the past several weeks and months that the new council has been dealing with this project, and although we're all new to this, I -- here's what I have concluded. As a resident of that area and as someone who drives through this intersection on a daily basis, I understand the concern about the traffic. But I also see the value in the quality of this developer. And I see its absolute

[indiscernible] space in southwest Austin. Which I don't think that is a disputed fact at all. I think everyone agrees that we could use more office space in southwest Austin. That's just how it's implemented. This is an opportunity -- this development from everything that I've heard is the live, work, play kind of community that we are trying to develop in a compact and connected imagine Austin city.

[9:22:47 PM]

I mean, this -- so I guess with all of that said, and I know I'm going to try to keep this short because I know -- I think we have another case to go. But it's consistent with the Oak Hill neighborhood plan, the developer is going to have to return to the city to further discuss the details of the -- and get approval of the site plan and the TIA. This particular location is completely surrounded by either a highway or other commercial development, so although there is an impact of traffic on the neighborhoods, we're not dealing with a downtown development that is backing up on a neighborhood and the light pollution and everything else that comes from that. And I just -- I guess I want to underscore again that -- and I hope -- the ultimate developer has told me over the phone and in writing that they welcome the input from the stakeholders. They have committed to me that they will continue to work with the neighborhoods moving forward to make sure that we can come up with a plan that is beneficial to the entire community. And I think that the fact that this proposed development is over 80% office space is a huge benefit to southwest Austin.

[Lapse in audio].

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

>> That was a motion?

>> Mayor Adler: Are you moving this amendment that's been handed out?

>> Troxclair: Yeah. I mean, I think so, yeah. So this amendment -- this is what we got back from legal. It's a bunch of stuff. But the basic -- the bottom line of the amendment is in response to the request -- the concerns about the traffic, this amendment reduces the end caps, the number of trips, reduces it by a thousand.

[9:25:02 PM]

So reduces the unadjusted trip limit not to exceed 15,200. This will give everyone involved some certainty going forward as well as, in my opinion, try to mitigate some of the traffic impact while still ensuring that we are able to maintain and continue the contract with this particular buyer that I think would be a good asset to this piece of land. So I would move adoption of this amendment and passage.

>> Mayor Adler: There's a movement of an amendment to drop the traffic count from 16-2 to the 15-2. Is there a second to that motion?

>> Renteria: I'll second that. I would second that, but I would also like to close the public hearing.

>> Mayor Adler: Okay.

>> I'll second that.

>> Mayor Adler: Any objection to closing the public hearing? Hearing none, the public hearing is closed. Okay. We now have a motion, an amendment to 15-2 as well as a second. Ms. Pool?

>> Pool: Is this on -- is this on first reading?

>> Troxclair: Because -- again, this conversation will continue with the ultimate site plan and approval of tia and because this project has been going on for literally decades and it has already been postponed multiple, multiple times, I would move passage on all three readings.

>> Pool: So I just would like to make a comment, in addition to councilmember troxclair's recitation of all the pluses of this development, the one key item that she did not speak to was the fact that this property is in fact in the watershed protection zone.

[9:27:06 PM]

It is protected land for some very key reasons and that can be seen as possibly a detriment in some people's minds or eyes. To many of the rest of us that is a tremendous asset to this community, the aquifer, and the springs are key to the health and the vitality and the economic prosperity of Austin. This is Austin's soul. So I would like to say that in addition to all the fine fancy things that the development would bring, the one key aspect that has not been discussed in the motion to approve on all three readings, which I do not support, is the fact that this is in fact on some very treasured land in a very special zone that this community has fought for decades to protect. To recognize and to protect. I would actually argue that this item could go to a committee, but at the very most I would say I would support this only on first reading. Thank you.

>> Kitchen: I have a question. My question is I want to make sure that we understand what we're doing because -- or that I understand what we're doing. Because you talk in terms of this coming back with the site plan and the tia, but if we put the 15,200 in here right now, that's what the developer can develop his site plan to, is that not correct?

>> Approximate councilmember, jerry rusthoven,. The site plan would be reviewed and with the zoning ordinance and if it met all the conditions in those it would be approved by the staff and not come before the city council again.

[9:29:09 PM]

With regard to the tia, a second tia at the time of site plan, I don't know if I would exactly call it a tia, but we would normally expect to receive would be a letter probably from Ms. Smith, the traffic engineer, stating that these are the uses that are proposed with this site plan and as you can see from this data that they provide, the trip analysis, basically new trip generation table, the trip generation around the site plan is at or below that that was approved theoretically tonight with this zoning case. If it's at or below that number, then the site plan would remain administrative and there would be no coming back to the city council.

>> Kitchen: Okay. So my concern is it does matter what number we put in here in terms of what a developer can develop. So my concern has to do with, you know, we've got -- we had some very serious concerns raised about the amount of traffic we're talking about dumping on already failed intersections. So that's what concerns me here. And so I'm only going to support this on first reading, but I'm uncomfortable with 15-2 that we were talking about before. So I would like to make a friendly

amendment that we lower that amount for first reading purposes. And again, I'm uncomfortable because we don't really know what's an appropriate level. We do know that whatever we're doing is going to make the problem worse and we don't have any mechanism to be assured that we're going to fix it. So I would throw out for first reading a number of 10,000.

>> Mayor Adler: It's been moved to amend

[indiscernible] For that motion? Is it accepted as friendly? No. Is there a second to that motion? Ms. Pool. Now discussion on the amendment.

[9:31:13 PM]

Ms. Gallo?

>> Gallo: You know, this has been a really interesting discussion and I appreciate everyone staying so late to participate with us, but a couple of comments. One is someone made the comment that [lapse in audio] From the sky. These are trips made by people who more than likely are already in the area and traveling somewhere in the area, my guess would be. So it's not really new trips, it's just redesignated trips and people moving in this direction where they're moving somewhere else in the area right now. So I think as we talk about all this additional traffic, we have to remember that really that traffic is already there, it's just traveling somewhere else in that general area. So that was one comment. And the other comment is as much as we have talked about this and discussed and heard really great comments from both sides, I would imagine that the council before us spent a lot of time and a lot of conversation on this a year and a half ago when the so zoning was determined, when the density was determined, when the water quality plan was determined, and at that point in time what I heard is it was zoned for commercial and mixed use. The density was determined and what we have also heard kind of over and over again with different cases is that staff puts a place holder of 2,000 trips per tract and that is understood to be a place holder. And I just can't imagine that in what I'm sure was lengthy discussion about all these areas of zoning and density and the water quality plan that there was not a perception or understanding for what was being agreed to. I just -- it just seems like that that's not -- as the young lady that came up over and over again and answered all of our questions, it just seemed like for what was proposed and what was talked about, that everyone would have understood that the traffic count would have been higher.

[9:33:29 PM]

So I think this family and this tract has been through lots of conversations and I think it's important at this point for it to move forward. So I will support this based on the fact that I think a lot of the major decisions on this tract have already been made and what we're doing is just confirming a traffic count that should have been perceived as what would happen with all the decisions that were made a year and a half ago.

>> Zimmerman: I want to concur with councilmember Gallo and I would like to speak against this amendment to reduce the trips. I think we had a pretty detailed presentation by a professional engineer who obviously has a lot of expertise in the area. And so I would speak against lowering the trip count and I would support the 15,200 that's in the ordinance before us.

>> Mayor Adler: I want to speak. This is a hard case. I was involved in litigation on behalf of the Garza folks in the early 2000's, as I said earlier. In the mid 2000's I worked representing Lowe's on an adjacent tract. I haven't had any contact with the family in the mid 2000's. I have no interest in this case and the issues rising in this case are not common to the issues that arose in the cases that I handled. I'm going to speak on it and vote on it because I think the policy issues for the city are real important. This is a hard case. It's a hard case because

[lapse in audio]. With the environmental issues in this case. The environmental issues in this case I believe to be mostly decided earlier, in the earlier time.

[9:35:35 PM]

There was a council that had in front of it a tract that was grandfathered from the S.O.S. Ordinance and a tract that was not. They sat down -- I have to believe, that council, and negotiated the best deal they could negotiate for the city with those right that the property had. It was contentious then. I assume there were lots of things that took place. There were executive session hearings that were held. They cut a deal on the environmental issues. And I'm uncomfortable us rethinking or retrading those deals. I'm going to support a first reading. I'm going to ask for us to have opportunity to discuss this case in executive session to further discuss that issue because I think it's something that this council needs to discuss as well. And with respect to the new trips what we're told is that the increased trips don't materially impact the environmental issues, which are significant, but already set by the impervious cover dictates on the tract. That gets us to the second issue, which is the traffic issue. I'll say the same thing I said in two working sessions and the same thing I said when we were dealing with the affordable housing project at four points on what was represented to us to be the worst intersection in the entire state of Texas.

[Lapse in audio]. We approved an affordable housing housing component and that explained why that would happen. It was because-- we recognize that there were traffic problems all over this city, which is why not a single day should be passing without us focused on mobility and figuring out what we do with traffic because this city is crying for that.

[9:37:46 PM]

But we can't set a moratorium on this city or if we're going to set a moratorium in the city, let's set it and let's be consistent about it. But I don't know how we approve that project at four point and not approve this project? I go back to the debate and discussion we had as a council on four point, and at that point we discussed the fact that if you build some mass of office or use, you then have people who are driving to that location or living near that location or driving contra flow to that location and improving traffic and transportation in this city. That's what we said from this dais as the basis for approving that tract. It's consistent with the comprehensive plan, which has identified this location in this city given the major roads we have coming to this tract as a desirable place to build. This city, if it solves its transportation issue will do it because it does lots of different things. And developing activity centers in different parts of our city or a second downtown urban area is going to be I think part of that. And I don't know how we do that if we're going to say you can't build there because the traffic is bad. The traffic is bad everywhere. I can't say I'm going to say no to this because there's too much traffic around it. Then how do you decide then how much traffic you can have? We have a tract and said you have a certain amount of impervious cover and you have certain uses.

[9:39:46 PM]

That's what's given to this property. And the only thing that that's subject to is the traffic. Which are measured in this city by its rules, by a traffic impact analysis. That's how we do that. If we don't want do that, then let's send that to a committee and let's talk about how it is we're going to do traffic, but at this point that's how we do that around this tract. Good thing because absent a traffic impact analysis to be done on this tract, this applicant could come in and ask for 20,000 or 2,000 square feet on this property, but there was a limiting factor that the prior council put on this property and it was the tia. So

when they do the traffic analysis, they come back at the 16-2, I see us now cutting it to 15-2 and to me that seems arbitrary. I don't know where that comes from. And then have it cut to 10,000 trips seems arbitrary to me. I don't know where that comes from. I don't know how to apply that rule consistently to the development that we're going to get next week or the week after that. But what I do believe is first reading is right on this tract. We need to keep talking about this tract. I want us to have an executive session on this tract. And recognizing that I have concern with the 10,000 trips, I'm going to support the amendment to set it at 10,000 trips and to put it to first reading because that moves it along, but I will say that I'm not convinced that 10,000 trips is the right number. And I think we need to discuss that. But I'm not tied to that number at 10,000 or 15-2 or whatever. I want to have the continued conversation on this tract. But I will conclude with whatever we do I want us to be able to articulate a policy basis for what we've done so that what we do isn't dependent on whether we like the use.

[9:42:00 PM]

So we'll continue on. Ms. Kitchen and then Ms. Tovo.

>> Kitchen: It strikes me that we're in a situation right now where we have not yet done the work that we need to do on mobility. And we're faced with a long-standing situation. I don't think any of us are -- I'm not talking about not doing this, but I do think that it is incumbent upon us to consider the impact on traffic. I think that's important because we do have to consider what we're building. The previous council approved uses, not density. So I do think it is appropriate for us to be having the discussion about what level of traffic is appropriate. The problem we have is that we haven't done the work to understand what the measure is. I couldn't agree with that more. So we've got a timing issue. So at this point I'm going to support this on first reading at the 10,000, understanding that we need to have further discussion about what level is appropriate, but I also think it is appropriate for this council to understand the impact on our infrastructure, our traffic infrastructure, when we are approving development. And it's just [lapse in audio]. It's like there was impact on traffic there, but we were also talking about affordable housing. We're not talking about affordable housing here. We are talking about office space, which is important. And the housing is important. So we have a number of different things to balance here, but I think that the impact on infrastructure or traffic, particularly along mopac, is a huge issue, particularly considering what we've heard from the neighborhoods. So I'm just going to say that I'm going to support this on first reading at 10,000. I'm not -- I think we need to have further discussion about what the appropriate number is because I'm not comfortable with an arbitrary number either, but I also am not comfortable with the 15,200.

[9:44:08 PM]

So that explains where I'm coming from.

>> Mayor Adler: Ms. Tovo and then Ms. Pool.

>> Tovo: Thank you. To me this case is really fundamentally different from the four points one, which was not a zoning case. I'll remind my colleagues they have had the zoning to built multi-family. They were seeking the city's support of their application to go forward and get tax credits of their application. So they already had the zoning to do what they wanted to build. So this is really for me a fundamentally different case. I do have some questions for staff that I would like to pose. We have gotten some some feedback about the restrictive covenant and I wonder if you could address a few of the issues that have been raised. The first is that -- I just it up here. The language of the restrictive covenant that's in our backup would seem to give this staff the ability to make amendments. And the language that seems to be providing that hays county is this, all development on the property is subject to the plan plan transportation review section, staff memorandum and any amendments to the memorandum that

address subsequent tia updates for the property. The tia [lapse in audio]. So can you -- I'm sorry, actually the line I suppose that does that is really a site plan or building permit may not be approved, released or issued if the -- blah, blah, blah. As specify, generate traffic that exceeds the total traffic generation for the property as specified in that certain traffic impact analysis prepared by HDR engineering or as amended and approved by the director of the planning, development and review department.

[9:46:08 PM]

Sorry to jump around there. That language would seem to me to give the staff the ability to allow for an amendment to the trip generation that is different from the city city that we have before us. What -- is that accurate?

>> This is the same language we use for every restrictive covenant, with every tia and we have for years. The amendments that it speaks of, what we could never do is exceed the trip cap. The trip cap would say the same. The 15,200. What could change used site plan came in and they submit a letter with thite plan and they had a different MIX of uses, we would analyze the uses to make sure they were at or below the trip cap that they have. So because the tia memo that's in front of you attached to the restrictive covenant has a presumed set of uses today, the ones that get to us the 17,200, when they come to the site plan they may have a different set of uses. We would analyze that to make sure it stayed below the trip cap, but if it was below that, chances are we would approve it. So we would consider that to be an amendment because it doesn't match the original tia memo. So we don't actually allow them to submit a new tia and exceed the trips that were approved with the zoning case. Rather they may MIX the uses up as long as they stay at or below the trip count.

>> Tovo: What does the restrictive covenant have in there a cap?

>> Because what the restrictive covenant does is say you're subject to this memo and that memo talks about the trip generation, it talks about the analysis and it talks about the improvements that they're required to make. So we actually attach the memo as an exhibit to the restrictive covenant. The restrictive covenant is just the document that the memo rides with, if you will.

>> Tovo: And several commentators, maybe not here tonight, but in emails we've received, have noted that some restrictive covenants on other cases in this area have some other legal provisions that really tighten up the agreement and I would suggest strongly that this only be considered on first reading and that there be a very deliberate effort to look at those other restrictive covenants and see how to tighten this one up.

[9:48:26 PM]

And I hear what you're saying that this is standard language and we may have other restrictive covenants that have language like this that -- where the actual Numbers exist in another document, but given that this particular property has been the subject of litigation against the city multiple times in last 20 years, I would say we need very tight legal documents with as many restrictions and requirements spelled out as possible.

>> If I could add, the restrictive covenant could not be terminated without the actions of the city council. We'll do a restrictive covenant such as this and you cannot just -- the staff or the applicant cannot just make it go away. It would be required action of the city council.

>> Tovo: There's not an actual number or limit specified in it. We can have more discussions about that, but I would feel more comfortable with that -- with whatever cap is determined, have that be in the documents themselves. And I'm pleased to hear the discussion about lowering the trip limit. I think that's appropriate. I would say one way to begin to look at what might be reasonable on this site would be to look at the tracts around it, which some of our -- some of the individuals who have been providing

us with information have done. I cited them before, lifetime fitness, Lowe's, H.E.B. And Wal-Mart. And the average of those seems to be slightly under 7,000. So I would say that I believe it's -- I would strongly urge that we consider lowering that limit 10,000 on first reading may be a start, but looking to the tracts around it for what the traffic limits have been certainly might be appropriate. And I'm really struck just by the testimony that we had here tonight about the fact that probably we were all struck by it, the fact that the intersections in this area are already at F and we're looking at adding tens of thousands of trips on the roads. With this change. And I will begin by saying -- I was the one councilmember who didn't support the S.O.S. Variance.

[9:50:30 PM]

That may be something we've talked about before. So you -- I believe I am giving my best recollection of that evening, but -- and the various discussions, and we had several extremely lengthy discussions, at least one in executive session and one in June 2013, knowing that I didn't support the project in the end, you may want to reach out to some of my colleagues to confirm this, but I can tell you from having watched the -- from having watched the hearing again, there was no discussion that I can recall or that I saw when I went back a month ago and watched that hearing, about the tia or any anticipated coming back. And in fact, I gave a handout a little earlier to our audio visual staff. I wonder if you might, si, put that up on our screen. I'll just provide a little bit of context. It was very -- it was a very well attended, as I recall, hearing. We had a lot of different perspectives on this case and at least one individual who stood up and spoke indicated how many times are we going to redo this deal? Is this the last time that we will see another request on this property? And you see the staff -- this is from I believe our environmental officer, Mr. Leznia's presentation. These were the reasons, the bulleted reasons why the staff were recommending approval of an S.O.S. Variance, not something that comes before the council very often. It's the one kind of case that I know of where it is specified in the chart that are it has to be a super majority, so there's a high level of scrutiny, a high level of deliberation. I know my colleagues spent lot of time and thought about this decision, as did I.

[9:52:32 PM]

But you see the fourth bulleted reason here, a long running dispute. And the language that Mr. Lezniak, in doing his presentation used, was this puts to rest a long running legal dispute that we've been arguing over this property, the city and the Garza family, for over 20 years, and we can put this to rest. The case I believe was postponed or passed on first reading. It came back in August. Councilmember Morrison spent a lot of time with the developers. She was the deciding vote on it and she presented at that hearing a list of conditions that the developer had agreed to. And she in her comment talked about the fact that there had been discussion in the course of this conversation about that there were other avenues open to the applicant, including going to the legislature, but she believed that there was value, and this is a quote "If we could come to an agreement, this would not come back again. This issue is not at rest. We are back here again and the applicant is requesting what I would regard as another change to an existing agreement. ". So that is concerning to me and I guess my question to staff, when they were here in 2013 asking for an S.O.S. Variance [lapse in audio]. To increase the impervious cover, did they

[indiscernible] To the trip limit?

>> Councilmember, I would say the short answer is yes. We were doing a settlement, and I think anything that she wanted to be put in there that the city council agreed to was legal could have been put in there. There was my recollection -- and I was very involved in those negotiations, was that there was a desire by the Garza family to include upping the trips as a part of that agreement. Staff had a

concern about that because at that time, one, we were focused on the environmental issue.

[9:54:39 PM]

Two, we hadn't reviewed the tia. Although they submitted one with the P.U.D. Assessment, which didn't go any further, we had not actually reviewed it. And frankly, as you said, there were six votes necessary for that. I do believe the person who was the swing vote was wanting to focus on solely environmental issue and not to address the trip inner. So we did not include the trips at that time because we were focusing just on the environmental. I think it would have been possible to do that, but there were not the votes to do that, nor was the analysis complete at that time. So we did not. If I could say too in hindsight, I think with regard to the 6,000 trips, the reason there were three zoning cases last time, just like there were two zoning cases today, is because there was right-of-way splitting the property. I think in hindsight and when I worked on thing case in 2007, it would have been better to on do a restrictive covenant to tie all three tracts together with the single 6,000 trip count. The reason we were doing 2,000 at all is because of the tia. Instead what we did is we left 2,000 apply to each tract. The tracts are not split a third, a third, a third.

[Lapse in audio]. Phrasers it was 2,000 on a small piece, two thousand on a larger piece and two thousand on a larger piece. The sixth is because there were three cases because of the right-of-way. It probably would have been better to say 2,000 like all others, but two became six because we have three cases.

>> Tovo: Some people have argued is that it's 2000, not six. You.

>> I have heard that.

>> Tovo: But I think -- this underscores the point that they have the ability to address the trip limit back in 2013 when they came before this council and asked for an S.O.S. Variance. And in the end they elected not to, either because they thought that that would not get them the approval they needed for the S.O.S. Variance or for some other reason. I would encourage you again to go back between now and second reading and watch the discussion in June because it was rather a heated issue.

[9:56:52 PM]

And again, I thought the commitment was this was putting a settled issue, a long time [lapse in audio].

>> Houston: Thank you, mayor. I'm getting uncomfortable because I think some of this maybe has something to do with the legal issues that we can't talk about here. And that I don't know about. So I'm not sure what that means as far as the motion that's on the floor or the amendments thereto, but there are some things in -- Mr. Lloyd is standing there patiently waiting. If he can shed some light, then that might be helpful, but if not I'm going to be uncomfortable voting on either of these things at this point or will vote no.

>> Mayor Adler: Okay. Mr. Lloyd, do you want to address these issues?

>> Brent Lloyd, assistant city attorney. I just want to clarify and correct one issue that's been discussed, and that is that at the time of the 2013 site specific S.O.S. Amendment it would not have been legally permissible to adjust the trip limits. That was a part of the 2007 zoning ordinance and it's a condition of zoning and we have to go through a specific process to amend a zoning ordinance. So that would have not been within the purview of the 2013 enactment that was before council.

>> Mayor Adler: Because was it was not a zoning issue, it was an S.O.S. Issue.

>> Correct.

>> Mayor?

>> Mayor Adler: I'm --

>> Zimmerman: I wanted him to say that again because I don't think I got that. Could you please, sir say

that again? It's a very, very important point that you just made. I'd like you to make that again because I don't think that was completely understood here.

>> So the 2,000 trip limitation was imposed as a condition of the 2007 zoning ordinance. And we have to go through a specific state-mandated, city code-mandated process to amend a zoning ordinance.

[9:59:00 PM]

And in 2013 all that was put before council was an ordinance related to the S.O.S. Environmental regulatory issues. And it did not -- it was not posted or processed as an amendment to any of the zoning. So it would not have been within the permissible scope of that ordinance to adjust the trip limitation that was part of the 2007 zoning ordinance.

>> Zimmerman: In other words, it wasn't legally permissible for it to come up. What I keep hearing over and over again is oh, they should have brought that up, they should have brought that up. You're point is it couldn't have been brought up legally.

>> Mayor Adler: Yes. Ms. Pool?

>> Pool: I'll defer to -- I'll defer to councilmember tovo. I think she wanted to respond to that.

>> Tovo: Okay. If that's okay, I'd like to ask Mr. Lloyd a question. While the trip limit couldn't have been contained within the S.O.S. Variance that and on the agenda, we very often have cases on our agenda that might be a zoning change and then another item on the agenda would be the termination of a restrictive covenant. They can't both be on the same agenda item. They certainly can happen at the same time on the same council agenda. This was in -- I would have to go back and really recount the timeline, but it seems to me that the Garza S.O.S. Amendment was on our council agenda, it got postponed. It was -- my point in this is that it was in progress a long time. And so as I understood it, the owners were trying to settle some issues so they could develop the tract or sell it or do whatever they wanted to do with it. They certainly had an opportunity at that time to proceed with a trip limit if they felt like the one that was in place was not going to be adequate to support the development they were moving forward in requesting an increase in impervious cover for.

>> There could have been a paralleled zoning case run concurrently with the S.O.S. Amendment, yeah, that would have been possible.

[10:01:03 PM]

>> Mayor Adler: Any further debate on this question we have an amendment to pass on first reading at 10,000 trips. Do you want to respond? Do you want to respond to the first reading question as well as the 10,000 trips is.

>> You notice brandywine is not here tonight. And they have asked for me of all things [lapse in audio] We will lose them. Even though you may be establishing something symbolic. There has been steady communication, I believe, between brandywine and Ms. Troxclair's office, and I believe that the proper move is a first reading at a number that keeps brandywine in the contract. I would encourage all of you to do that rather than to seek through your vote the termination of the brandywine contract.

>> Mayor Adler: If we were going to executive session next Tuesday, which we could post to discuss this, because I think we're meeting on March 3 and then we brought this back up on second reading as quickly as we could, brandywine wouldn't indulge us that little bit of time to have this conversation?

>> I think they will indulge the conversation for sure. The issue is passing a 10,000 -- a very arbitrary 10,000 trip limit tonight.

>> Mayor Adler: I understand the issue. It's going to be arbitrary whatever we do tonight. My question is whatever we do tonight, will brandywine indulge us the opportunity to have the meeting in executive session and talk amongst ourselves to the degree that the law allows us to do that?

[10:03:09 PM]

>> Okay. Well, then, I would argue, since we're doing first reading and it is subject to change and it is subject to your executive session, that we establish this trip limit at not less than 14,000 for the purposes of keeping everyone connected and involved. Which I believe is an important feature for the majority of this council, to keep brandywine on the scene and participating. And I think a 10,000 trip limit will seriously disturb their plan.

>> Mayor Adler: Okay, thank you.

>> And seriously will undermine their plan.

>> Mayor Adler: Question.

>> I had been in line.

>> Sorry.

>> -- To speak, and then --

>> Mayor Adler: I'm sorry I thought you kind of gave up your place in line.

>> I did not. What I would like to do is defer to councilmember kitchen and then I would like to speak. Thank you.

>> Mayor Adler: I will let you do that but generally speaking --

>> I didn't ever --

>> Mayor Adler: If you're called on, get a chance to talk and you pass you pass.

>> Kitchen: I had a quick question for you. So I understand that you're giving us the sense of what brandywine would prefer to do. I'm assuming that there's -- that -- do you have a contract with them right now?

>> We do, mm-hmm.

>> Kitchen: Does your contract say that they can terminate it?

>> Yes.

>> Kitchen: At any time?

>> Yes.

>> Kitchen: At any time for no reason?

>> Yes.

>> Kitchen: Okay. All right. Well, I understand that. So I would just like to suggest that we're talking about a week and for something that's major and a good deal for a company, it -- I would be surprised if they would not indulge the council a week.

[10:05:10 PM]

>> Mayor Adler: It is now after 10:00. I need a motion to extend our motion to extend our meeting past noon.

>> Zimmerman: So moved.

>> Mayor Adler: Second, Ms. Garza. Any objection? All in favor say aye. Portfolio portfolio. Slot it's unanimous on the dais. We'll continue in our conversation. Ms. Pool.

>> Pool: Thanks. I am uncomfortable feeling that our vote is being tied to a contract between private parties and this isn't directed at you personally, obviously, but I've been hearing this theme has returned in each of our three council meetings that we've had that -- and I guess it's because of the time and age of our population legacy, legacy sales are all coming in front of us, and we are all being asked to think in terms of a legacy and allowing development to happen despite previous commitments by the city and the city council to protect things like neighborhoods, especially the aquifer. I'd like to point to imagine Austin. And I'm looking here at imagine Austin where it talks about activity centers for redevelopment

that are located in an environmentally sensitive area and I want to really pinpoint this, this land is on environmentally sensitive land. In the imagine Austin growth concept map, area where runoff and precipitation flows to the recharged zone of an aquifer and we're talking about runoff into the aquifer from impervious cover that would come from both the 43% impervious and the you number of trips generated by the cars and activity, whether new people or old people or recycled people, we have trips coming in here.

[10:07:25 PM]

The imagine Austin comprehensive plan says ensure that redevelopment in the Edwards aquifer recharge and contributing Zones maintains the quantity and quality of recharge of the aquifer. I would like to say that I hope that whatever we agree to in this situation supports this value statement. Luta22 says protect Austin's natural resources and environmental systems by limiting land use and transportation development in sensitive environmental areas and preserving areas of open space. I would like to say that I hope that whatever agreement we come to here supports these value statements that our community codified in imagine Austin as a protection for lands that happen to be proven deny or unfortunately in the Edwards aquifer recharge and contributing Zones. Thank you.

>> Mayor Adler: Okay. There's a -- just so we've had what is on the floor right now is the amendment to change it to 10,000 trips and approve it on first reading. Mr. Zimmerman.

>> Zimmerman: Thank you for that clarification, Mr. Mayor. I wanted to go back to the excellent presentation we got from the professional engineer, Kathy Smith, and I think that was backed up by a proposed \$2 million facility that would treat this new runoff that would come from the impervious cover and additional vehicle trips. So I guess I'm confused as to why there's a question because we've had some data presented from some very competent professionals that the 16,200 trips that we could apply as a limit, that there's some design work that goes with that and that that's not arbitrary.

[10:09:29 PM]

The 16,000 trips is not an arbitrary number. There's some design work behind this and there's a \$2 million proposed water treatment structure to take care of the issues of runoff from the impervious cover. So I don't see the arbitrary part of this. Sure, mathematical models that the engineer will use, someone could challenge that, but nobody did. Nobody challenged the model that was used to compute the 16,000 trips. But I guess I still want to urge my colleagues to go back and support what was originally proposed with a pretty good engineering study.

>> Mayor Adler: Is there -- Ms. Kitchen.

>> Kitchen: Just a point of clarification, the 16,000 trips is just telling us what we'd get with this development. It doesn't relate to [lapse in audio]

>> Zimmerman: So we bring somebody back to clarify that fact? That's an important point of information, I think.

>> Kitchen: My understanding is simply that the calculation is, you know, what kind of trips would be generated by this level of development. You know, not what the current infrastructure could hold. The current infrastructure can't hold anything because it's failing and we have a situation where we don't know when we'll get that part addressed. So . . .

>> Mayor Adler: Any further discussion? Ms. Troxclair.

>> Troxclair: I -- the question was asked earlier, because I think that this developer would be a good fit for this site because I'm familiar with their work, I would like to keep them involved in our negotiations. I understand that the -- well, the council is to have further discussion about this and to have an executive session and talk about the trip count, I did want to, you know, make a -- recognize the traffic issue and

so 1,000 trips a day was my attempt at recognizing that issue, putting a cap on that issue, reducing the unadjusted trips a -- per day, which is really closer to 13,000 adjusted trips per day, I think.

[10:12:04 PM]

So that's the number that I came up with, if I heard you say that you think brandywine would still be interested if we made that number 14,000, I would be open to amending my amendment. I know we're talking about councilmember kitchen's amendment but I would like to urge the rest of the council to make sure that we're not making any decisions that are going to impact -- if this is just really to give us another week to discuss this, then I don't know -- I think 14,000 --

>> There's another week.

>> Troxclair: Would be an appropriate number.

>> Mayor Adler: I'm told we can post this and discuss it in executive session next Tuesday and put it on the agenda for a week from today.

>> Renteria: I second it. I don't have any problem with the 14,000. I prefer that we left it the way it is and that -- approve it all on three readings so we can get over this process that we're going through. It's been so long. I had filed this case, you know, for years -- followed this case for years and, you know, we have discussed it. Even though it's not impacting me directly, I just -- you know, it just -- I think it's time to move on. And just go ahead and vote it. You know, all three. But, you know, I'm willing to go ahead and second that and -- at 14,000. I have no problem with that.

>> Kitchen: We've got an amendment on the floor. Are we replacing that amendment?

>> Mayor Adler: Let's go ahead and do that. There's been a motion to amend it [lapse in audio] We're going to take a vote on 14. If that's defeated we'll take a vote on ten.

>> Kitchen: That's not a friendly amendment. I don't accept that as an amendment.

>> Mayor Adler: Okay.

>> Kitchen: 14.

>> Mayor Adler: So it's made as an unfriendly amendment.

[10:14:04 PM]

[Laughter]

>> Mayor Adler: Right. I understand. We're talking about a number. I think we're going to discuss this Tuesday and Thursday.

>> Kitchen: Okay.

>> Mayor Adler: We can vote on 10,000, 14,000, 14,000, 10,000. I'm going to call it we're going to vote on 14,001st.

>> Can I make a statement first.

>> Mayor Adler: I'm sorry.

>> Can I just recount. I thought councilmember troxclair had a motion on the table that had been seconded.

>> Mayor Adler: Yes.

>> Tovo: Then I thought I heard an amendment made by councilmember kitchen and seconded by councilmember pool. They did not accept it as friendly.

>> Mayor Adler: So we have an amendment to the amendment.

>> Tovo: Which was not --

>> Mayor Adler: Which was secretaried?

>> Tovo: Can we have --

>> Mayor Adler: Amendment to the amendment? Yes.

>> Tovo: So the amendment to the 10,000 amendment was simply to return us back to what was in the original motion, right?

>> Mayor Adler: No. It was 15,000, got changed to 10,000 on first reading. Those were the two elements of change. And now she's going back and saying I'll accept -- I'm not going to change my amendment to the amendment the one -- we're now at 14. So it started 15, went to ten, and now we have an amendment to the amendment on the floor. And it's been seconded. Any discussion on the amendment to the amendment, which is to change the first reading amendment to 14,000 trips.

>> Kitchen: I have one suggestion. And I know we're all grappling with this and no one feels comfortable pulling Numbers out of a hat. So my thought is, okay, why don't we look at the adjusted trip number, which is the 13,000 or so. That at least is pegged to something. It's not totally out of the sky. But it is pegged to something. And it also, with all due respect, I feel comfortable that brandywine will stick with us for a week [lapse in audio]

[10:16:12 PM]

>> Mayor Adler: 16,200 trips, correct, 14,000 trips gross, what is the adjusted at that point? It's been suggested that the adjusted at 14,000 gross would be 13 adjusted.

>> Troxclair: I don't think that's the question she's asking.

>> She wanted to go back to the 13 adjusted number from the tia.

>> Kitchen: I'm talking about what he's talking about. No.

>> Mayor Adler: My understanding is we've been talking about gross total trips started at 16,002, I feel like an auk near. Auctioneer. Went down to ten. My understanding is you said 14. The 14 I took you to say was unadjusted gross trips.

>> 14 unadjusted, which is --

>> Mayor Adler: About 13,000 adjusted.

>> -- Fewer than your adjusted number.

>> Kitchen: No. I'm inarticulately trying to say what the mayor is saying.

>> Mayor Adler: Are you okay with 13,000 adjusted trips?

>> 13 nine is --

>> Mayor Adler: Equivalent of 16 two.

>> The reason I need to work with the unadjusted number is that I am aware that it's likely that brandywine will have less retail and less restaurant, somewhat less, and that will narrow the gap between adjusted and unadjusted. When they ultimately do their tia, correct?

>> Mayor Adler: It's going to have an adjustment but I want you to think for a second. You have 13.9 associated with a 16.2 plan, we're talking about a one-week delay. The Numbers on the table are 10,000 unadjusted and 14,000. It might be a good thing for your client to take 13,000 adjusted trips associated with this one-week delay and then work off that number.

[10:18:14 PM]

>> 13,000 adjusted, 14,000 unadjusted, I can live with either number.

>> Mayor Adler: Okay. So Ms. Kitchen recommends 13,000 adjusted. Are you okay with that number? He's okay with that number.

>> Kitchen: One other comment and then I'm fine with the number but I would just really would like to say what makes me uncomfortable about this process is with all due respect to yourself and your client, it's hard for me to understand why if this was a good deal for your client that he -- that, you know, a week would be a problem and I just -- I feel like I'm being pushed to the wall to negotiate with your client over something he wants and I'm being told to take it or leave it. And I'm not comfortable with

that.

[Applause]

>> I understand.

>> Mayor Adler: For what it's worth, I think what's on the table right now is 13,000 unadjusted trips.

>> Mayor.

>> Mayor Adler: Compromise on first reading, executive session on Tuesday, brought back up on Thursday. 13,000 adjusted trips. It's been seconded. Mr. Casar.

>> Cesar: I've kept pretty quiet during the discussion and I have to admit that if the first motion had been for 13,000 on first reading that I would have supported it but this council is going to negotiate and deal with cases like this, I'm not going to be able to support 13,000 on first reading given what -- the way this has been debated because my understanding of the history of this is that the will of the voters hopefully was for this to be preserved as S.O.S. Land. We've been through lawsuits. The will of this council is that I believe the sense of the will of the council was to set this at 10,000 trips as a preliminary aspect that I'm sure anybody watching this could see was a preliminary vote, and that we would discuss it in executive session and then we're being told to negotiate with our backs on the wall like they're going to walk away from a deals that been argued for 25 years.

[10:20:26 PM]

So for me now it has less to do with the trips, but to negotiate with or deal on these issues and whether it's the environment or affordability or, you know, fees or what's fair for the public, I believe that this council needs to be able to stand up on its own 2 feet and not be threatened. So I will not be supporting 13,000. I'll support 10,000.

[Applause]

>> Mayor Adler: The amendment on the floor is one -- Tuesday executive session, Thursday brought back, 13,000 unadjusted trips. Any further debate on that.

>> Zimmerman: Can I call the question.

>> Mayor Adler: Ms. Pool.

>> Pool: I hardly agree with councilmember Casar on that and I was not nearly as articulate as he was, but, yes, I do not like being pushed to the wall and feeling that my back is up against a wall and feeling that I am required to approve something without allowing to have sufficient time to consider it and to also take into consideration the very real additional issues that are in front of our community, and that's the aquifer and that matters to me. Thank you.

>> Mayor Adler: Question has been called. All in favor of ending debate say aye, those opposed say nay. Debate is ended 11-zero. We'll now vote on the amendment to the amendment, which says 13,000, it's the proposal 13,000 unadjusted trips. Want to go to executive session?

>> Mr. Mayor I'd like to withdraw my amendment and go back to my 10,000.

>> Mayor Adler: You can't.

>> Can't?

>> Mayor Adler: There's an amendment to the amendment on the floor it was not friendly.

>> Okay.

>> Mayor Adler: It doesn't belong to you anymore, it now belongs to the table. There's an amendment to the amendment to change it to 13,000 unadjusted trips.

[10:22:29 PM]

>> Zimmerman: 13,000 adjusted.

>> Mayor Adler: 13,000 adjusted trips. All in favor raise your hand, please. Six. Those opposed say nay

raise your hand. 6-5 the amendment to the amendment is adopted. We now have the motion as amended which is to adopt this matter on first reading only, 13,000 adjusted trips. We're going to take it to executive session next Tuesday and consider this again next Thursday. Any further debate?

>> Mayor.

>> Mayor Adler: Yes if I maybe seek clarification, this is on both Garza items, correct?

>> Mayor Adler: Both Garza items, that's correct. 50 and 51?

>> Yes.

>> Mayor Adler: No further debate, all in favor of passing this on first reading please raise your hand. Those opposed? It is 9-2 with mayor pro tem and Mr. Casar voting no. Next item is item -- what number? 62 -- 53.

>> Good evening, mayor, your last zoning case is item 53, c15-2014-0114, property located 1171 north Lamar boulevard, rezoning case to zone the property to general commercial services. The property is approximately 3 acres in size. The planning commission did not recommend what the applicant has requested and the applicant objects to the planning commission's recommendation.

[10:24:32 PM]

The planning commission did move to approve the staff recommendation. Excuse me -- for the gr-co zoning on this property for tract one and loco zoning for tract two. And that would be the community commercial conditional overlay zoning or the gc-co zoning for the eastern 450 feet. This would go back approximately to the back end of some existing warehouses on the property and the remainder known as tract two would be zoned lo-co district zoning. There's also -- [lapse in audio] Would be included a trip limitation, the planning commission also included the requirement for the right-of-way dedication, and did add back one use that the staff did not recommend. Excuse me, the zoning and planning commission added back general retail sales general. In addition, the -- there would be a limitation to prohibit with either a general restaurant or limited restaurant, basically all types of restaurants, the ability to have a drive-in service through a drive-through window. The property itself is currently developed with convenient storage which is kind of like a mini warehouse structure, office use, billboard also existing on the property. The surrounding properties to the north are zoned gr-co and lo-co and developed with a restaurant and personal services to the -- excuse me, the south. Our community repair services -- or excuse me consumer repair services. To the east across north Lamar boulevard is automotive repair, construction sales and service, commercial painting business.

[10:26:38 PM]

To the west on the other side of a creek is a single family residential homes. We did have a vote of the Williamson creek neighborhood association, six out of ten to support this app compensation the applicant is going to come to you in a moment and offer a counter proposal to the commissions recommendation with, I know, some changes that you may not necessarily have heard of before this evening and I'll pause if you have any questions at this time.

>> Mayor Adler: Ms. Tovo.

>> Troxclair: Mr. Guernsey, I want to just clarify the staff's recommendation and how it differs from the applicant's request. So right now there are storage units, storage operation, I've forgotten the term, but I've been by to see the tract a few times. There are storage -- it's a storage facility on the tract itself and they have the ability to continue that use.

>> They would.

>> Tovo: And so while [lapse in audio] In part -- we'll hear from the applicant about why, but I want to clarify that they have the ability to continue the use that's currently on that site. Can you help us

understand the staff's recommendation for not going forward with commercial services but going forward about a different commercial zoning category.

>> Yes. Mayor pro tem, a portion of this -- well, let me say this area was generally annexed in the admitted '80s and at the time we used to do zoning studies long before we have a neighborhood planning process so there was a north Lamar study was that done, I believe at that time it actually identified most of this area would be zoned for office along this stress of north Lamar boulevard.

[10:28:45 PM]

To give you context we're north of Braker lane so just to give you a general location. But through the years we've had zoning cases that have come back in the thousands where staff, the commission and eventually council actually took action and granted a combination of the gr zoning that staff and commissioner were recommending to you with the lo in the rear. So you would have the more intensive uses along Lamar boulevard and be stepping down to office going towards the creek and then back to the single family. That was done to the north and to the south. So if you take a look at the zoning maps that you have in your backup material you'll see the gr zoning to the north and south and the lo zoning or lo-co zoning to the north and south directly adjacent to this property. We did adjust the boundary to make it a little deeper so the gr-co zoning went all the way back to the rear of the existing convenience storage structure, mini storage structure so there would be more flexibility for the owner to utilize that property with changes in uses. The commission agreed on a five to zero vote which brings us here today. The applicant does disagree with the staff and commission's recommendation.

>> Tovo: I have a few follow-up questions. As I understand the purpose of the gr-co zoning which is community commercial it's a designation for an office or another commercial use that serves the neighborhood and community needs and is generally accessible for major trafficways that was why I thought the staff assumed gr zoning was property because that's along Lamar, fairly busy. The back portion of the lot that abuts the creek as well and across the creek are residential dwellings so that is also going to get commercial zoning but limited office, it's a lighter commercial use.

[10:30:50 PM]

>> Right. It allows less impervious cover and some other more severe restrictions as you're going back toward the single family homes to the rear.

>> Tovo: What is in dispute with the developer -- with the owner is the front portion, commercial services versus gr?

>> I think the owner -- the application as filed is actually over the entire property. I think the owner -- I'll let the applicant's agents come up and speak -- is willing to leave a smaller buffer portion towards the very back of the property, but would certainly want more than 450 feet to be zoned cs. They want it probably closer to to -- 600 and I think he can go through the detail and the uses that he's further in agreement to prohibit.

>> Tovo: Again the commercial -- but the gr -- staff's recommendation for gr was to be consistent with the north Lamar study plan that exists for that area that designated this as appropriate for office and also to be consistent with the zoning, with the rezonings that had happened in the immediate vicinity.

>> That's correct.

>> Tovo: Okay, thank you.

>> And this is only ready for first reading this evening.

>> Mayor Adler: Any further questions? Then the applicant. Mr. Thrower.

>> Mayor, mayor pro tem, councilmembers, Ron thrower representing the land owner. This case is a little unique because the property was developed prior to annexation with specific uses, then upon

annexation as you know given lo zoning. The owner of the property today has owned it for about 20 years and, yes, the uses there are legal nonconforming but we cannot redevelop these uses on the property. And currently there's a buyer that's in play for this property and this is the types of properties that he buys, he wants to redevelop the property with these uses that are on there today.

[10:32:55 PM]

And so we are totally in agreement with staff's list of about 30 prohibited uses for the gr community commercial district, which is equal to what's on the north and the south. We're also adding to that a couple of more gr community commercial uses that the neighborhood has requested to be put on there. We're also adding on prohibited uses for cs general commercial services that the neighborhood has asked to be put on there and we're piling on an additional, I don't know, ten or 12 more uses prohibited uses of general commercial services. So basically we're done a piece of property that's equal to the north and the south but we're asking for cs zoning for five uses and that's for convenience storage, limited warehousing distribution, contractor sales and services, building maintenance services, and vehicular storage because vehicular storage is at the very low end of the property down there and we're asking for cs zoning, general commercial services to a depth of 630 feet to capture the dedepth of the existing development that's on the property today and then beyond that it's going to remain the lo zoning on the property today. Now that lo zoning that is going to be down on the lower end is also a critical water quality zone attributed to the waterway that is part of the new watershed protection ordinance put on -- or all around expanse so that area back in there is never going to be developed, it's green today, it's tree covered, it's a natural buffer protection to the residents that's on the other side of the creek. And so with that, you know, I want to remind that we have got a letter of support from the neighborhood. They've been -- they worked with us from October to December until it finally got written up so with that, you know, I'm certainly available if you have any questions and would appreciate your support for our request for cs zoning to a depth of 630 feet.

[10:34:55 PM]

Thank you.

>> Mayor Adler: Thank you. That's the only public speaker we have. Let's continue with the discussion. Ms. Tovo.

>> Tovo: Mr. Thrower, as you said, the owner has the ability to continue those uses that are currently on the tract so the next owner could continue those uses currently on the tract.

>> That would be a correct statement. The buyer in this particular situation has a situation of a lender and a lender is not willing to lend money on a property where the uses don't match the zoning. And so what we're trying to do is obviously get the zoning so the uses can match so he can come in and redevelop for those uses. I want to remind everybody these uses are very quiet uses and they're very low-traffic generating uses and I think that continuation of those on the crowded north Lamar is important.

>> Tovo: So the -- currently there are storage units on the site.

>> Correct.

>> Tovo: The next owner wants to come in and redevelop them as storage units.

>> He would like to put storage units on it. He would be first probably looking to expand the storage building on the pad already existing in the back area of the property. But eventually coming in and putting in additional storage units and obviously continuing the general retail building at the very front.

>> Tovo: As I understand it, there's also vehicle storage on the site?

>> On the very low end of the property there's vehicular storage there that's been there many, many

years, yes.

>> Tovo: Okay. Thanks.

>> Mayor Adler: In the context of the comprehensive plan, is this the kind of use that -- long-term is envisioned through this tract in this location?

>> I would say no to that, and first of all I'll go back a little bit and say, you know, compact and connected talks about how we need to provide services to the residents in close proximity.

[10:37:01 PM]

I do think that storage is a use that is used by residents in proximity as well as vehicular storage. You have people with R vs that need a place to put it rather than on their property, you have people that need an extra garage and that provides that particular use. But I also say long-term that convenience storage in particular is more of a land banking of property and so it's more of a temporary use of property and albeit it could be 20 years down the line, but it's something that's going to transition over time and it's going to transition to a point where the likely uses are going to be the gr uses that are going to be allowed on the property, which are equal to the north and the south. The area is just not ready for gr uses. The property to the north was rezoned in 2004, I believe. The property to the south was rezoned in 2005. And that property to the south hasn't redeveloped yet for gr-related uses. So we're land banking right now but eventually, yes, it's going to be highly appropriate and in line with the imagine Austin.

>> Mayor Adler: So, you know, it's hard because the market is not there now to put it to the use that is consistent with the long-term plan. The existing use can continue as a land banking use or we can zone it [lapse in audio] Use which is kind of the interim use. And what makes it difficult for me is if you rezone it to let that happen, then you set the land bank for an even longer time out because you have to then amortize those kinds of improvements. That a concern? In other words, if we just keep it so that the additional -- the existing uses, recognizing they're reaching toward the end of their life, they hang on, there's a better chance that earlier, if the market changes, they could -- it could get redeveloped to the comprehensive plan use than if now there's capital infusion, then that use, not the long-term comprehensive plan use, will stay there longer because it's been -- it's newer.

[10:39:23 PM]

Is that -- that's what I'm where elsing with.

>> I understand what you're saying and I believe that if you're looking at absorption rates of gr properties along north Lamar, along where they need gr zoning and they want to put in that particular use for gr, that they're going to go to the property next door first, to the south, because it's vacant today. It has a small building along the front but it's ready to go, verses a piece of property that is banking today and will be banking for a while. I think it's going to be a long period of time before this stretch of Lamar is going to be fully absorbed for gr uses.

>> Mayor Adler: Okay.

>> Mr. Mayor?

>> Mayor Adler: Yes.

>> This is in district 7 and what I would like to do is move that we approve the request of the parties and -- representatives by Mr. Thrower on first reading and allow the parties to continue to work with staff to work through the thorny issues between gr and cs-lo presented to us tonight.

>> Zimmerman: I'll second the motion.

>> Mayor Adler: How do we -- do we know what that arrangement is well enough written down so that staff can understand what the first reading approval would be?

>> Mayor, council, actually the applicant and staff have a -- we actually shared the same piece of paper. We can give direction to approve on first reading the applicant's request as he's modified and stated to you this evening, that would be sufficient direction that we can get back with the applicant and understand -- if you do so approve on first reading only tonight.

>> Pool: Thank you, Mr. Guernsey.

>> Mayor Adler: Motion to approve on first reading and that's sec L seconded by Mr. Zimmerman.

[10:41:25 PM]

I'm going to vote for that but, again, I'm struggling what the long-term policy is I can apply in the future because I'm now approving something on first reading that's inconsistent with the comprehensive plan. It makes me uncomfortable to do that so I'm going to need help figuring out how I reconcile this and articulate a policy that I can apply in future cases so app candidates come into the room don't feel like they're engaging in a crap shot.

>> Pool: If I can just mention, Mr. Mayor, I agree with the visions and I would ask for the additional time to allow that to try to occur.

>> Mayor Adler: Thank you. Any further debate on this motion?

>> Does that include closing the public hearing?

>> Pool: I would move to close the public hearing.

>> Mayor Adler: It's all part of the motion. Ms. Tovo.

>> Tovo: I'd like to clarify with Mr. Guernsey, it's my understanding that the applicants agreed to prohibit all the use that's staff would like prohibit so basically all of the cs uses on this tract are going to be prohibited against -- except convenience storage, limited warehousing and distribution, vehicle storage, building maintenance, construction sales, and services.

>> They're now prohibited, that might include all the medical offices, personal improvement services, personal services, restaurant. If you take the planning commission's recommendation, which is also withdrawing general retail sales, that could be part of that as well. But there are other uses that staff did not prohibit that the applicant would have in addition to some of those cs uses.

>> Pool: The applicant provided a fairly comprehensive list of agreed-upon exclusion of uses for the site.

>> It also allows some civic uses, religious, public, primary, secondary schools, I also believe day care would be prohibited -- would be permitted.

[10:43:35 PM]

>> -- Would be to allow the property to be sold to someone who would continue this existing activity is that correct, Mr. Thrower?

>> All right, thank you.

>> Ms. Tovo.

>> Tovo: I'll say I can't support this. I would certainly support a substitute motion for the staff recommendation, which was unanimously supported by our land use commission. You know, as I look at the city of Austin's zoning principles, the rezoning should be consistent with the policies and principles adopted by the council or the land use commission. I think we look to adjacent tracts for that and that's general retail in this area. The proposed zoning should be consistent with the statement the district sought. Our staff have indicate why they feel general retail, excuse me, gr community commercial is more appropriate, granting should be -- should result in equal treatment of similarly situated properties. I think if we look to the north Lamar study plan for guidance it says office is the future for this area and tract. Our zoning principles would suggest that the zoning be consistent with the adjacent tracts, and it's -- and the owner or future owners have the ability to continue the particular use that's on there. So it's

not a hardship. We're not rezoning it in a way that will prohibit them from doing what they're currently doing on that tract. So, again, I can't support the C cs zoning. I certainly would support a substitute motion and I would say as we -- if this motion passes, I hope on second reading there's a very careful review of the prohibited uses because there -- I've seen a variety of different lists today. And I would also suggest that there's also a pretty big differential, I believe, in what the -- in the extent of the cs zoning that the applicant is asking for, and it's a very unusual tract. I mean, it's a pretty incidence intense use on Lamar and residential use butting up against it across the creek.

[10:45:43 PM]

>> Pool: What I would add to that is that I think that the applicant and his agent are very anxious to continue to work with staff in order to work through the issues that councilmember tovo has raised. We recognize that there is residential on the other side of the creek and we have looked at extensive setbacks. I am clearly very concerned and have expressed this to Mr. Thrower that we don't do something -- and also to -- mayor to testimony tovo that we don't allow something at the back end of this site that later when we're able to do a more comprehensive look at our creeks and in recognition of the critical watershed quality zoning that we're dealing with, that doesn't inhibit or adversely affect the work that we're trying to do with our creeks. And the applicant and his agent are well aware of that and willing to -- and acknowledge acknowledge it and they agree to that in the level of the set back that they have agreed. I think the staff has looked at, what was the number, Mr. Guernsey for the set back from the creek? It was greater than 100 feet, it's 1515 from the midline and the staff said back was --

>> The staff distance in our recommendation was about 300. Approximately. Little more, little less than that. And I think what's suggested is about 150 by Mr. Thrower.

>> I just want to clarify that the critical water quality zone set back there is 100 feet. The 300 feet he's referring to is the lo zoning limit and that's two different things completely.

>> Pool: The lo zoning is at the back of the site; is that correct?

>> That is correct, yes.

>> Pool: So as far as my understanding is, those thins are -- they work together; is that correct?

>> Well, if it's not being rezoned it would remain lo. If the property is redeveloped he would be subject to the critical water quality zone set back requirements that he just consolidated.

[10:47:43 PM]

>> Pool: And I do want to say that I recognize that it's gr to the north and south on Lamar and I also recognize the comprehensive nature of the code that we have in place and the north Lamar planning that was put in place and I respect that. And so -- Mr. Thrower recognizes that as well so what I'm asking for is approval on first reading of the applicant's proposal so they can continue to work with staff in order to achieve some greater alignment and also to address some of the mayor pro tem's very key issues.

>> Mayor Adler: Thank you. Did I hear someone call the question? Ms. Houston moves to end debate. Any objection to ending debate? Debate is ended. We'll now vote on the motion, which is to approve on first reading only the agreement reached by the applicant and the neighborhood as you have that. All in favor say aye. Those opposed say nay, two no votes, 9-2, Mr. Renteria and the mayor pro tem. Mr. Thrower tenuous first reading approval. Please work hard, okay? That gets us then, two items left, items 62, there are no citizens signed up to discuss this. This is the 4:00 -- I'm sorry.

>> My understanding was 62 was withdrawn.

>> Mayor Adler: Was that pulled? Okay. Withdrawn. So it's now after 4:00, which is the only time now we can withdraw that. So now that it's after 4:00, since it was set for that time.

>> Oh, okay.

>> Mayor Adler: It is now withdrawn. That now gets us to the last item we have, which is item 63.

>> Thank you, Mr. Mayor, mayor pro tem and councilmembers.

[10:49:44 PM]

My name is Kevin S. And I am the city's floodplain administer and I work in the watershed protection department. One of the things that my group does is review development applications for development in floodplain, and if a project cannot or the applicant chooses not to satisfy all the floodplain regulations then chances are they're going to be requesting a floodplain variance and the item before you tonight is a request for a floodplain variance at the address of 5613 Joe Sayers Avenue, the Hancock branch of the Shoal Creek and you'll see maps so you'll know where that is. I'll come to you historically about seven times a year for these floodplain variances so it's not too often I come to you to talk about these but none the less that's what we've tonight. The information you have in your backup is details about the case, there's maps that show the floodplain maps and how the property sits in a floodplain. There's a draft ordinance in your backup pack expert I'll talk about that in a little bit. In addition to that we sent out a floodplain variance process memo that I hope that you received yesterday, possibly the day before. I'm not going to touch on the details of the process, but I certainly will incorporate some of that into this discussion. I'll talk about some of the details of the actual development case itself. So the applicant and their engineer are here as well to speak later on. So this is a overall map view of the area. This property 5613 Joe Sayers is outlined there in red. In general top of the screen is 22nd Lane, here on the east side Lamar is over there on the east side of the page, North Loop is down to the south, the large building that [lapse in audio] This is the Hancock branch of Shoal Creek runs down from north to south, top of the page to the bottom of the page, and then little bit further combines in with Shoal Creek.

[10:52:02 PM]

Just north of the property you can see another blue line, what we call the Glover tributary, another tributary in Shoal Creek as well. So you can see that the property itself sits within floodplain. Now, the darker blue color on this map is the 25-year floodplain. The lighter blue color on the outside of that is the 100-year floodplain. You can see the property sits completely within the 25-year floodplain and the 100 year floodplain. Little zoomed in version of the property itself, you can see how it sits there in the floodplain area, again, Hancock branch sits not only across the street but to the back of the lots across the street. Little history on the lot itself, there's a single family home built on this house in 1950. In 1973 the owner built an addition to the house to make it a duplex so in 1973 it became a duplex. The Memorial Day flood in 1981 actually one side of the duplex had flood damage in addition to properties across the street closer to Hancock branch. The owner of the duplex in and around 2005 or so demolished the duplex in anticipation they were going to redevelop the property. And in 2007, city council passed a floodplain variance, very similar to the ones you're hearing tonight for a new duplex on the property. That project was never built. So the property currently sits vacant today and that ordinance passed in 2007 expired. So the property was sold. They have a new owner of the property now and that new owner is proposing to build a duplex on the property. There's a picture of the property as it exists today. No development on it at this time. So the applicant -- the residential building permanent application in our therefore office reviews the application to determine whether the application of the development satisfy the floodplain regulations.

[10:54:14 PM]

And I'll go into some of those a little specifically here in just a minute. 2-story duplex. There's an accessory building you can see here on the right side, this includes a 356 square foot workshop and a 623 square foot carport. The blue line that you see kind of in the middle there is the elevation of the 100-year floodplain. There's a picture of how the duplex building itself sits and then the accessory building sits on the lot itself. They both -- the duplex fronts on to Joe sayers and the driveway actually will front on Joe sayers as well. So when we review these applications, I want to run through just some of the major pieces of what the floodplain regulations are. And that's what we review these applications for. First and foremost these floodplain regulations the point and the goal of them is for protection of the public, life of the public, and for their property. That is the main point of our floodplain regulations, and that is the goal that we try to achieve that development doesn't cause other flooding on other property, but also protects the properties that being developed itself. So one of the -- I would say the most important aspect of our floodplain regulations is what we call the no adverse impact rule, basically in a nutshell says that a development can not cause more flooding [lapse in audio] Management right there. This development being proposed does not cause additional flooding on other property. Another aspect of our floodplain rules is what we call free board, and that means elevating the structure such that it's a certain height above the 100-year flange floodplain. In the city of Austin our rule says that the finished floor elevation or the lowest floor of the building has to be a minimum of 1 foot above the 100 year-floodplain.

[10:56:24 PM]

Obviously the intention of that is to minimize flood risk to the building itself, the contents of the building. The proposed duplex in this application exceeds the minimum requirements, and there are actually one and a half feet above the 100-year Mr.. Another important aspect of our floodplain regulation is what we call the safe access rule, and the safe access rule's intent is for protection of the occupants as well as first responders and it in a way is trying to prevent building islands, if you will. So you could build a building in the therefore and elevate it well above but if everything around you is floodplain then it is not safe to exit that building or for first responders to get to the building at a time of therefore flood. So the safe access states that you have to be able to walk from the building to the right of away, all at an elevation that's 1 foot above the floodplain. So if you remember the picture of how this property sits, if the entire lot is in the floodplain, and all the right-of-way in front of it is in the floodplain, it is impossible for that development to satisfy the safe access rule. I'll get to that a little more in a moment. Another aspect of the floodplain regulations is the requirement to dedicate a drainage easement to the city, to the limits of the 100-year floodplain. Whatever portion of the property is in the floodplain, it has to be dedicated drainage easement to the limits of the floodplain. This development is proposing a drainage easement, in fact it has a drainage easement on it primarily from the last application. There is a request for a variance, slight variance of that and I'll explain that in just a moment, what that means. And the last one I wanted to touch on is what we call structural certification and that basically says any time somebody wants to develop, put a structure, a building, put dirt in the floodplain, whatever they're going to be putting in the floodplain, they have to have a structural engineer certify that whatever they're putting there can withstand the forces of the flood waters.

[10:58:33 PM]

We don't want things to wash away in other words. This development satisfies that rule. So the variance requests are three, and they're listed in your packet. I would say the key variance request for this application is the safe access rule, like I said, they're requesting to allow the 2-story duplex and accessory structure without safe access. The second variance request is a slight variance on the drainage

easement requirement.

[Lapse in audio] Really want the building and the drainage easement and if the owner has a lender, I can guarantee you they don't want the building in a drainage easement. So what the variance good is, is to dedicate the drainage easement, but leave holes in the drainage easement for where the building is. I'll say this variance is very common. And just about -- just about all the variances -- the council variances that we bring are going to have that variance involved because we don't want it in the drainage easement, the building itself, and they don't want the building. But the land that's not developed on the property still will be in a drainage easement. The third variance request that's in the packet is really just the basic floodplain management rule which says you can't encroach with the building or parking in the 25 and 100 year floodplain. Like I said, the safe access rule is all about getting from the building to the right-of-way. The video that you're seeing is actually from the Halloween flood of 2013 and this is a building along onion creek and it is onion creek. And this is the best example I've seen of why access is important. The video of the person taken from their first step the building was elevated well beyond the floodplain and the building had not yet flooded, but you're seeing the street in front of the house.

[11:00:39 PM]

So the goal of the safe access rule is trying to prevent this. And we don't want for people to then try to get out of the house at the time when it's flooding, and we want it to be as safe as we can for first responders that are trying to get to the building. Now, we look at the application that we're looking at on Joe sayers, the depth of water in the street is about three and a half feet deep for the 100 year flood. The depth of water at the duplex is just under two feet deep. Now, you would say what's a safe depth? The rule says it has to be one foot above the floodplain, which would be dry. So in the case of Joe sayers being three and a half feet deep doesn't meet the regulations and with the velocities that we're seeing with the hydraulic model on Joe sayers at the water flow -- as the water flows down the street [lapse in audio], we consider it to be not a safe situation. Now, we want it to be as safe as possible for the firefighters who are doing the first responders who are responding to floods. And they are a fantastic group and trust me, they will do whatever they can to get to residents so I'm not suggesting they can't get through three and a half feet of water. All I'm saying is the rules are trying to make it as safe as possible so that they don't have to be in that situation. Floodplain variances. Does it matter if down grants floodplain variances and who is watching over the floodplain variances. So really basically stint participates in FEMA's national flood insurance program and we have done that since 1981. And basically what participating in the national flood insurance program does is allow anybody in the city of Austin to buy flood insurance from the federal government at rates that are much less than what they would be on the private market.

[11:02:53 PM]

That's the way the national flood insurance program started and they still operate and sell flood insurance. But since that time FEMA as well as communities have used floodplain maps and floodplain models to try to make their communities safer. And we do that as well. FEMA has a certain minimum set of rules and they call them the minimum standards. And in order to participate in the flood insurance program you have to adopt and enforce the minimum standards. If a community starts to give variances to the minimum standards, then on a periodic basis when FEMA comes and audits our program we have to explain all the variances that the community has granted since the last time they were there. And we have to have justification for why we granted those variances. So if during one of those audits FEMA determined that a city or a community is giving unjustified variances to the minimum standards they certainly have the right to put the community on probation. Now, probation would mean a surcharge on

flood insurance policies citywide and then they would look to community to correct the problem in however manner they deem they needed to be. If that didn't occur, then there's always the chance of being suspended from the program. We have about 5700 flood insurance policies in the city of Austin. So that's the national flood insurance program and the minimum standards. There's another program that we participate in that also comes from FEMA called the community rating system. And the community rating system is a program FEMA started in 1990 and it rewards communities that recognize that the minimum standards are just that, they're only minimum. And what communities more likely should do to protect their community from flooding is to have higher standards.

[11:04:53 PM]

And thousands of communities across the country have standards that exceed the minimum requirements. So when we go through our community rating system audits, they look and see what our rules are, they look and see some of the other aspects of our floodplain program. [Lapse in audio]. Getting crs points basically means that flood insurance policyholders get discounts on their premiums. And currently being a class 6 community our citizens are getting about a 740,000-dollar reduction in flood insurance premiums because of the activities that we do in our floodplain management program. So again, if consideration comes and audits our program and they see that we are not enforcing some of these other standards that we get credit for in the program, they'll start taking some of that credit away and we'll lose points and drop classes and people could be paying more for flood insurance. So the implications of variance approval, not to mention the life safety aspect of exactly what we're approving, the implications on the program side for the national flood insurance program and the community rating system are certainly something to consider. I put back this map of just the general floodplain because I want to talk about another aspect that I've talked to several offices about and I've been hearing a lot about is why would we approve a floodplain variance here when we're buying out hundreds of homes elsewhere. And the first to that I would say that this flooding situation is not onion creek. It is very different. However, there are significant flood risks in this neighborhood. And the watershed protection department, one of our missions is helping the citizens to the effects of flooding.

[11:06:57 PM]

And so we analyze through our engineering models and through information that we have about the location of houses in and the height of the houses, we analyze which areas of town are the highest priority, and that's where we focus our attention to do projects to minimize flooding. This area of town is -- ranks at about the number six ranking for us in the entire city with obviously lower onion creek being number one. So what I'm saying is there is a significant flood risk in this neighborhood and it is getting our attention. Now, it doesn't mean that we have a project in the works, but we actually are -- will be working on a preliminary engineering design to try to determine what could be done for this community. Back in the early '90 the corps of engineers did some engineering studies and we've looked at some of those studies, but we would probably more than likely expand on them. What I would say a flood solution for this area wouldn't just be one thing. It's not just going to be a channel, a bigger channel. It's not just going to be buyouts. It would more than likely be a combination of channel improvements and possibly some buyouts. As you can see the lot across the street and across the way from the entire channel its getting its flood water from. We don't know what the solution is here, but I could say that this lot itself, it probably wouldn't be part of the buyout problem. It's just too far away from the channel. That doesn't mean that we may not do buyouts in this area, but the chances of this particular lot I would put it unlikely as being a buyout? So when you're looking think how does this

compare with some other flood projects that we're doing, hopefully that can help out.

[11:09:01 PM]

One of the items in the backup that you have is I call the findings of the case itself. It's just basically the facts that staff has reviewed and just to kind of boil it down into these three findings. As we discussed, the project itself meets a lot of the floodplain regulations and actually exceeds some of them. But it doesn't meet the safe access rule. The finished floor elevation is above the floodplain. It's actually above the minimum. It's supposed to be one foot above and it's one and a half feet above. So they're doing things on their property to minimize flood risk. There's nothing they can do to actually remove the risk from the safe access because the entire right-of-way is in the floodplain as well. Now hardships are an interesting discussion points when it comes to floodplain variances and it is one thing that in the consideration of variances FEMA allows a hardship condition to be considered. And essentially it would say that if a property can't comply with a rule and if the community doesn't give a variance to it and that means the property is undevelopable, then that means that there is a hardship for that property. And that condition exists here because there's nothing on this property today. And it can't meet the safe access variance. So a denial of the that would essentially mean that this piece of property in the development that they're proposing can't be developed. Now, what I will say to that, and this is what staff considers when we start to think about a recommendation that we give to you, is what is the minimum necessary variance that makes sense for this property? What if they were building a 10,000-foot duplex? What if it was a four-plex so you could have four families? Well, the more space in the buildings, obviously the more people that there would be and the more people that you would have to rescue, the more people that have risk issues.

[11:11:09 PM]

So we start to look at the size of the building. And so I understand that in the imagine Austin plan there's lots of things that we are doing to promote density, but what I would ask you to consider is does density make sense in the floodplain. When staff gives a recommendation we're considering those factors, but our consideration is based upon flood risk. And the risk to people who would live in these duplexes exist because there's no safe access. Three and a half feet deep water flowing three and a half feet per second is dangerous. And that is the basic reason why we are recommending denial of the variance. In each variance that we bring to you, whether we're recommending denial or not, there will be a draft ordinance in your backup packet. And so that is a tool for to you use if you wanted to proceed with approving the variance. And I always like to bring up what the conditions are of that ordinance so that you understand if you were to approve in the way it is written what's being asked of the applicant. And in this case there's two conditions that we've put on the ordinance. Prior to issuing a certificate of occupancy for the building we would want the drainage easement to be complete that includes the holes for the building and what we also ask for is what's called an elevation certificate. And that's a standard FEMA document. It basically is FEMA's way of ensuring that the elevation of the building was built to the elevation that was on the plans. So a surveyor goes out, surveys the building, fills out the elevation of certificate form. We approve it and that's our documentation that we have to prove to FEMA to say this building was built in compliance with the rules.

[11:13:12 PM]

Both of these are very standard conditions. I know you've had a long night and I know I just gave you a lot of information. I'm happy to answer any questions that you might have either now or after you hear

the applicant. And I know that the applicant and their engineer is here to speak as well. Thank you.

>> Zimmerman: Yes, thank you. I appreciate all that background information, even at this late hour. Because it's so interesting.

[Lapse in audio]. And your concern about the safety. Do you know what this property is valued at on the tax roll? It's a piece of dirt right now that's undevelopable. Do you know what this guy's property tax burden is on this piece of dirt?

>> Off the top mf-head I do not.

>> Zimmerman: I just looked it up and it is on the tax rolls at \$187,000. For the dirt that's in the 100 year floodplain. This is the first thing that kind of shocks me is \$187,000 for this piece of dirt that's a foot under the floodplain. So what I'm just struggling with here and you mention something that's interesting. There's a collective concern, right, about approving variances that could affect everybody else in the city, right? Our FEMA rating and other people's insurance rates could go up, but I'm thinking of what of this poor guy who has a piece of dirt valued at 187,000. I'm trying to wrap my head around that. Sorry.

>> Mr. Mayor?

[Inaudible].

>> Houston: I'm interested in whether or not there are any rules or regulations for [indiscernible] To put something on a piece of property that says it's on the 100 or 25 year floodplain?

>> I'm not a real estate agent, but in the disclosure laws if it is known that it's in a floodplain, this property is not just in the city of Austin's floodplain, but it's in the FEMA floodplain.

[11:15:27 PM]

It's been in the FEMA floodplain since 1981. Since we had the first map. They would have to disclose that it's in the floodplain. And through the purchase process often times through title searches, that's sometimes when the floodplain designation will come up and then it's brought to the seller to make them aware.

>> Houston: Thank you.

>> [Inaudible].

>> They are here tonight to make sure that --

>> [Inaudible].

>> 2010.

>> Mayor Adler: Are there also rules about building in the floodplain even if you build up in terms of displacement of flood waters and things that might be in the channel that are coming down?

>> Sure. That's all part of the no adverse impact rules. You can put the building that has a slab on grade foundation, water is going to hit the building and not go anywhere. Or you could build it up on pier and beam and the water flows underneath it. Either way the applicant has to prove through engineering analysis that it's not going to increase water surface elevations and they can't displace volume either. So if they fill a little bit in the floodplain, either through a house or dirt, they have to cut somewhere else. This particular building is on pier and beam, so it's clear underneath so it essentially the displacement is very little.

>> Mayor Adler: And it wouldn't catch cars or trees or other things?

>> There could be some debris that may be caught underneath it. The height of the -- from the ground to the lowest horizontal member I imagine would be maybe a couple of feet.

>> Mayor Adler: But that's not part of your equation in evaluating?

>> It comes into play with the structural certification. So again when their engineer has to certify that it can withstand the forces that comes into play. Mature.

>> Mayor Adler: Thank you. Ms. Pool?

[11:17:28 PM]

>> Pool: I am very persuaded by the presentation by our watershed and the flooding situation, and it deeply concerns me about it being in floodplain, 25 and 100 year. I also recognize that the applicant is taking on the entire liability of that as far as his structure is concerned. He's not going to be covered by FEMA, is that right?

>> Say that again?

>> Pool: Would he be able to get flood insurance from FEMA?

>> Absolutely.

>> Pool: So he would be able to secure that and I guess that would be required?

>> Flood insurance is required if the loan is a federally backed loan.

>> Pool: Okay. And so it probably would be a good idea. I've been in town long enough to remember the very disastrous [lapse in audio]. May of '81. Hadn't even been here a year, but I remember that. And there were a number of homes that were -- they're no longer in existence. They were obliterated by that flood. Do you feel like applicant is fairly clear on the potential dangers that exist on this site?

>> I believe so. I mean, we certainly talked to the applicant a lot about the floodplain rules. They have hired a civil engineer to do some floodplain analysis. And I'm sure there's discussion through that analysis to their client as well as the structural engineer talking about structural certification. So certainly he's been made aware and I believed in the risks that are there.

>> Mayor Adler: Do we want to hear from the applicant.

>> Please.

>> My name is cater Joseph and I'm the applicant for the 5613 Joe sayers floodplain variance. So we started work on this -- mayor, I told you it was 2010, but I believe it was 2011.

[11:19:31 PM]

And we started working on it at that time and then picked it back with this application in early 2013. And since then we've been working with Mr. Shunk and the floodplain department in the city of Austin. According to the 2014 floodplain regulation guidebook, floodplain variances shall be granted by council if five criteria items are met. All of which this particular case meets. The first criteria is a technical showing of good and sufficient cause based on the unique characteristics of the size, configuration or topography of the site. In this particular site it's 8,343 square feet, which is a small inner city lot. It's in a sump area and there's no building pad outside of the floodplain. It is completely engulfed in the 25 and 100 year floodplains. Second criteria, a determination of failure to grant the variance will result in exceptional hardship by rendering the lot as undevelopable. If a variance is not granted for this lot, it will be undevelopable. Furthermore, the lot is located in the fully developed Hancock branch of shoal creek. Hundreds of thousands are affected by the floodplain in this area and failure to allow the structures to be rebuilt, added on to, and brought out of the floodplain will ultimately result in an inner city blighted area. The third criteria, a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary expense, nor create nuisances, cause fraud or victimizations or conflict with existing laws or ordinances. Our floodplain analysis study has proven no adverse impact, and that is been agreed upon with the city floodplain staff. And the proposed building is designed and will be built -- will be constructed to withstand a flood event.

[11:21:32 PM]

The fourth criteria, a determination that the variance is the minimum necessary, which will be regulated

by the city council approved mcmansion ordinance. And the fifth criteria, [indiscernible] Below the base flood level which this particular building is not, so it does not apply. As Mr. Shunk was saying, describing houses that are built to withstand the floods, this is a good example of one. This is built right down the street from this site. This one on Jim hogg and it's in the 25 year floodplain. You will see it's pier and beam and there's no skirt. The water is able to go right underneath it. You can see in the corner even the air conditioning condenser is elevated. Here are a couple of additional pictures. So we are located right between Koenig lane and Houston street. That's where the floodplain widens up quite a bit and that is due to water not being able to get under the bridges. So it's going to be a group effort between the city of Austin and residents in the area to make this a safe area. It's a core neighborhood, it's an old neighborhood and it is a neighborhood that's greatly affected by the floodplain. Here are a couple of slides of the -- this is the Houston street crossing and the Koenig lane crossing. It's inadequate for how much water is passing through there. And that is all I have for you. If you have any questions, I'll be happy to answer them.

[11:23:39 PM]

>> Kitchen: Could you remind us of the history here?

>> In 2007 the previous applicant applied for a floodplain variance and it was granted. And then there's a 12-month window to exercise a variance [lapse in audio]. ... Owner and applicant. And in 2011 we purchased the property and we purchased the structures next door, but the city would allow us to do -- we fully remodeled the structures next door and they're very nice, but since there was a structure there we had something we could work with. On this lot we had nothing that we could work with, but they knew that this lot was -- would require an additional variance so they made it conditional to buying the other properties that we buy this property as well.

>> Zimmerman: Could you say that again? I didn't understand what you just said.

>> There were three adjacent tracts here and they all threw had duplexes on them until in 2007 they tore down the duplex on the subject lot. So when we were in -- 2011 when they were telling selling the properties they would only sell them together. So we rehabbed the existing duplexes and this we've been working on since.

>> Zimmerman: What is your property tax burden for that piece of bare dirt? Do you know?

>> If it's at 187 right now, that's close -- [lapse in audio]. 2400, \$5,000 to have a park?

>> Mr. Mayor? I'm not sure the property tax burden on the property has any bearing on the zoning. Zoning approvals here.

>> Zimmerman: I'm sorry, I think it has a tremendous bearing if people are burdened paying taxes on a piece of dirt --

[11:25:40 PM]

>> So the reason why I say that is because if indeed we allow -- and I don't know yet my vote on this, but what I see is this crystallizing to allowing Mr. Cater to develop a single-family home here within some restrictions that the city in this ordinance might allow balanced off against the possibility that if there is a major flooding event both the people in that home, which I don't believe -- I'm sorry, Mr. Joseph. I called you Mr. Cater. Mr. Joseph. That's not you, right? You are not living in the home to be built. This would be a rental? Is it a lease property?

>> Yes, ma'am.

>> Pool: It's a lease property. So whoever lives there might be subject to an inability to exit in a flood event. And then there's the issue of how this property impedes water flow. I know it's raised up, but in a severe water event the water is not going to go under one foot. It's going to come up and butt against a

house. And how that affects the property surrounding it. I don't know if our staff could maybe speak to the issue of if there were a major flood event here what other properties might be affected. And again, I don't know my -- I don't know how I'm going on this one yet, but it does concern me that if we allow a new home to be built here that there are possibly unintended consequences, especially for to the people who might live there, to your property yourself that you would own, and then to people who may be affected downstream.

>> To answer that, we've done a floodplain analysis and the engineer will be presenting after I do. And there has shown to be no adverse impact whatsoever for the structure that's being built and the city of Austin floodplain steams that agreed to that analysis.

[11:27:43 PM]

We've used the city of Austin models to simulate it and it has passed.

>> Pool: All right. Thank you.

>> Mayor Adler: We have another speaker. Do we want to hear the other speak in.

>> Pool: If I could have staff respond to that.

>> I just want to respond to your question about how many other buildings would be impacted. So within this area there would be about 69 houses that would be flooded by the 100 year flood and about 120 lots that would be flooded. So the lot would be flood flooded, but the house wouldn't. Based upon the information we have 69 houses in this area would actually be inundated by flood water for a 100 year flood.

>> Pool: Thank you.

>> And with the 1981 flood, half of the previous duplex was flooded. And the finished floor elevation on that was nearly three feet lower than what is being proposed. And that was the most significant flood that shoal creek has seen to date and only half of the structure had water in it. It was not -- don't get me wrong. I know it was a very significant flood, but for this particular property it was not too significant if the water wasn't coming in like it is in onion creek

[lapse in audio] To half of the property. So if we're three feet above that and that's the most extreme case to date, I feel that so long as the -- there's no adverse impact and the property is engineered appropriately for the floods, it will be a safe place, however our hands are tied with the safe access.

>> Mayor Adler: Ms. Houston?

>> Houston: I would you like to ask -- this may be a personal question. Was it disclosed to you that all of those properties were in the 100 year and the 25 year floodplain?

>> Yes, ma'am. And when you -- when properties are sold -- when properties are sold in the open market on mls --

>> Houston: I don't know what mls is.

[11:29:45 PM]

>> Multiple listings.

>> Houston: Don, stop it.

>> It is disclosed. However, on a off market transaction it might be up to the buyers to determine that.

>> Mayor Adler: But you knew? You knew? That it was in the floodplain when you purchased it.

>> Yes, sir.

>> Houston: Thank you.

>> Mayor Adler: Ms. Tovo?

>> Mr. Joseph, I had a couple of questions for you too. As I understand it, are you the cater Joseph associated with the Joseph companies?

>> Yes, ma'am.
>> Tovo: So you own 123 properties throughout Austin?
>> Somewhere in there.
>> Tovo: I'm just reading this from your website. I didn't know if that was still accurate.
>> Yes, somewhere in there.
>> Tovo: So you've bought and developed single-family homes, rental homes throughout Austin?
>> Yes.
>> Tovo: And just to reiterate the point that councilmember Houston just made, when you purchased this you understood it was in the floodplain and you purchased this tract in essence because it was attached to the other two tracts. They sold it all as one sale.
>> Correct. They would sell it as one package.
>> Tovo: And you were able to continue renting the duplexes.
>> We sold the duplexes.
>> There's a man that lives down the street that bought them both, he and his brother.
>> Tovo: And I heard something in the plan earlier. It's not just a duplex you're proposing to build, but also an accessory building?
>> There's a three-car carport with an accessory building. In our experience with rentals we found a lot of people like extra space, storage space. We've got one resident that brews his own beer. We have lots of residents that have bicycles. Lots of residents that have extracurricular activities to enjoy Austin. Because it's an open carport it wouldn't be safe to store bikes and that kind of thing without having them locked up.

[11:31:48 PM]

So there's storage space next to it.

>> Tovo: Okay.
>> Mayor Adler: Further discussion before we ask the next speaker? Okay.
>> Kitchen: I don't know whether this is for you or staff, but it sounded like you remodeled the other two duplexes. Did you have to get a permit to do that?
>> Yes. So you're allowed to model the other two duplexes were well below the flood elevation, but since you're not adding anything on, you're allowed to get a permit to remodel them. And this was in 2011, so you could walk into the city and then walk out with a building permit very quickly. Not like today. And so yes, we did remodel them with a permit.
>> Gallo: So what I'm hearing is the city did grant a permit for remodeling even though the house was in a floodplain.
>> Yes, ma'am.
>> Gallo: Thank you.
>> But not this property, right?
>> The two properties next door. At one point these were three duplexes in a row, and then in 2007 they tore down this duplex.
>> But the other two properties are also in the floodplain.
>> Yes, ma'am. There's a lot of -- there are a lot of properties in Austin that are affected by the floodplain because it's -- there's so much water in the city. And downtown especially a lot of -- like the monarch and Austin city lofts and the shoal creek walk building, bowie, gsd and M. Those are all in the 25 year with no safe access.
>> Mayor Adler: I have a question for staff and you can bring don over to talk. Those other buildings that he mentioned, the ones that are downtown, how would they have fared -- would those be buildings that you would recommend be built now?

[11:33:52 PM]

>> The buildings that he mentioned, the monarch, a lot of model, if not all the ones he mentioned, received floodplain variances. Some of them, bowie, for example, was an administrative floodplain variance because while they were encroaching in the floodplain they met all the floodplain rules. Others did get variances from city council.

>> Mayor Adler: And were the variances they got from city council be inconsistent with -- would they be the same variances that we're being asked to give here?

>> They may have been: They probably included the safe access rule. Maybe there were other components to it, but certainly safe access.

>> Mayor Adler: Do you know if staff recommended those variances?

>> Off the top of my head I don't recall. I don't know.

>> Mayor Adler: Again, I'm struggling to figure out what the rule is that we apply long -- assuming that we see more than one of these, I thought there was a rule other than learn being these. I'm not sure my rule fits anymore. Mr. Wolford, do you want to talk to us? You have three minutes. Thank you.

>> Hi. My name is don Wolford. I am a licensed engineer in the state of Texas since the year 2000. I specialize in hydro geologic studies, floodplain studies and environmental permitting. And on this project here I was primarily employed to put together the floodplain impact analysis. I went out and conducted the study by first taking cross-sections to replace those in the city floodplain model that's in the same area in an effort to get a more detailed, focused study for this area. Whereas first when you do a very large floodplain study you can't focus on a small area as is effectively someone who is just doing a small lot like this. So that's the reason why additional cross-sections were taken by survey and plugged into the city model in order to create two conditions, one that represented that that of exists today and then a model that represents the proposed conditions.

[11:36:08 PM]

And the results of the analysis were that there were no floodplain impacts as a result of this -- these two proposed structures. I can't expand on any more that's been said because the key points have been hit on. Mainly that there's no impact and that the drainage easement would need to exclude the two buildings in order to be satisfactory. And the one issue that can't be resolved on this site is the safe access requirement. And that's something that is a fact and it's not something that anything on the site that do you will make that go away. But the one I guess argument that I have that's not already been talked about is a variance was granted in 2007 after the existing structures were knoll liquored. And -- demolished. And the hand cock creek or the shoal creek watershed site has been fully developed since that time. The point of that is that from now to the far reaching future there won't be any changes in the expected amount of flows coming to the site so the floodplain won't decrease. In fact, compared to the 1985 flood insurance study it's actually decreased from that time, which is kind of unusual. Normally the floodplains just increase over time. It may be an can occasion that they found -- an indication that they found errors in their model that caused them to make reductions that resulted in smaller floodplains.

[Buzzer sounds] But that's basically my point is that the variance was granted in the year 2000 and the conditions that create flood waters in the area haven't changed area haven't changed in that time and they shouldn't change in the future because the watershed is fully built -- [lapse in audio].

[11:38:25 PM]

As it is today.

>> Mayor Adler: Questions for Mr. Wolford? I think Mr. Zimmerman does.

>> Zimmerman: It's kind of late at night. Maybe it's a dumb idea. But if you could take a look at what we put up there maybe as an idea to put out, it looked to me like if I look at this area there's another adjacent property -- it looks to me like there could be a ramp or some sidewalk, elevated sidewalk that could actually get you through the back towards is it wood -- what is the name of that street?

>> Toward the east there?

>> Zimmerman: Yeah, toward the east. If there were a way to get an emergency ramp or some access, that might satisfy one of the objections which there was no way to get away from the running water.

>> You could walk to a place where you could be picked up by emergency vehicle, sure.

>> Zimmerman: Right. So there could be a technical solution there. You don't have to go out towards the west towards the water. You could go towards the east.

>> I think you could do that, but it does violate the requirement that the adjacent street not be inaccessible.

>> Zimmerman: Yeah. So Joe sayers street is inaccessible, but Woodward is not. That would be accessible, the street to the east could be accessible.

>> Yes, it sure.

>> Zimmerman: I just want to make that point as a possible solution for getting away from the objection from the city that there was no safe access.

>> Mayor Adler: Was your objection to the -- I'm asking staff.

[11:40:26 PM]

Would your objection to the variance go away if they got access out the back to the -- that street? Would they be able to walk back there?

>> We often see applications, whether residential or commercial, that come up with some creative solutions to save access. And when we talk to those folks, what we stress to them is, take this case in particular, if we're going to walk on the back of some private lots to get to a right-of-way that's out of the floodplain, then in perpetuity you have to have right to have access there. So [lapse in audio]. You would have to have -- it has to be a safe path. You can't be walking in mud. It has to be concrete, it has to be crushed granite, something hard surface. That is something that we talk about with applicants is there any way you can figure out a safe access here and trying to be creative. And if they did have that access easement and it all was at elevation one foot above the floodplain then they would not be requesting a safe access rule. And if that were the case, in this application staff, our director could actually do this variance administratively. Because we have the ability through the code if you're meeting all the rules we can do the drainage easement variance administratively and the encroachment administratively. So the safe access variance goes away this is an administrative floodplain variance.

>> Mayor Adler: Is that doable on this tract? Could you go to the neighbors and try to get that?

>> I think so, yeah. It's certainly worth pursuing.

>> Mayor Adler: As I try to come up with what my rule is here, trying to come up with a policy rule, I know I wouldn't be able to always do this, but it seems to me we're about to spend millions of dollars to buy properties that are in a floodplain. At some point somebody let those properties build there.

[11:42:29 PM]

And sometimes it was consistent with what the floodplains were at the time, but over time something else happens and the floodplains increase. I know you say that. In this case it's more unlikely. But still possible. I think I would probably treat definitely a tract that was -- treat differently a tract that was

already improved or a tract that was purchased where there was an investment-backed expectation of being able to build because it wasn't in a floodplain. But in this case it was a piece of property that was purchased that could have been additional yard for either the duplexes on either side, if that might have been able to increase the value of those as extra yardage area, a piece of property that was purchased knowing that the floodplain was there and the potential to maybe able to work out an easement with the folks next door or behind in an emergency situation. And only to be used in an emergency situation. If too long viable all those things to me mitigate saying no to the variance request here. Further discussion from the dais?

>> Renteria: Mayor, I'm really -- I'm not going to be able to support this because I -- like he said, we've -- we're having -- there's going to be a lot of problems, especially with Austin and the density that's happening and a flooding like that, the 100 year flood is three and a half feet high. And you know, having a rental house with a duplex with that kind of density in there, I'm just afraid that there might be some kids and children in those houses, and, you know, you're exposing a family that might not even know that there's a flooding problem going on in that neighborhood.

[11:44:29 PM]

So I'm really concerned about that, and especially about our safety, especially our firefighters and making them, you know, where -- I know that they would go right in there and try to save as many people as they can, but we're putting them at risk when we approve these kinds of projects. I'm going to have to vote no against this project.

>> Mayor Adler: Further discussion from the dais?

>> Pool: Mr. Mayor, I would recommend denying the request for the same reason that councilmember Renteria has just iterated.

>> Mayor Adler: Let's give the applicant a chance to close.

>> As far as obtaining the access easements, it is -- it's within the realm of possibilities, but very unlikely. There's one, two, three duplex properties and then an apartment complex that are between us and wood woodrow. as you know, access easements are very difficult to obtain, especially if you're not paying a considerable amount for them. And I think it's highly unlikely that we would be able to get those. But as far as -- as far as just like when purchasing through mls, all residents, or leasing through mls, are made aware that the property is in the floodplain. And the city -- if the city of Austin didn't have so many water issues we wouldn't be here tonight, but so much of Austin is affected by the floodplain and denying us to be able to build in the floodplain and denying everyone else to be able to build in the floodplain is going to result in a bunch of very run-down areas. Action has to be taken, whether it's been individual property owner by individual property owner, which is what we're doing here, we're showing no adverse impact. We're building a flood resistant structure, or it has to be taken by the city of Austin to minimize these floodplains.

[11:46:34 PM]

We are 100 yards from shoal creek and we're affected by this. There's no reason why the water shouldn't be passing under Houston street much more efficiently than it is and not fooling up and going across the street and then four properties down to get to us. So something needs to be done in regards to the flooding issues in town. And I feel like we've done everything possible and I feel like the city staff has commended us on that that we've done everything we can possibly do with the hardships that we have.

>> Mayor Adler: I understand. Further debate? Ms. Houston, Mr. Zimmerman and then Ms. Tovo.

>> Houston: Yes, sir. I understand your situation and I empathize with you, but you walked into this

knowing that you were in the floodplain. And I'm not -- I have a personal kind of moral kind of compass. I'm not going to put anybody at risk. I don't know what you know. I don't have a crystal ball to say that that will never happen. When we put people out at onion creek we didn't think it would happen. So I'm going to be voting no on the variance, and I appreciate your efforts and your willingness to tackle the blight, as you call it, in central Austin, but I'm not going to be able to support your request.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I'm noting, going back to the map I'm looking here in front of me, there are three adjacent properties, two of them on Joe sayers, the adjacent properties to the south, they're in the 100 year floodplain. And there's another one on feckla terrace, there's another residence there underneath -- at least their driveway is underneath the 100 year floodplain. So I would vote in favor of your variance. I think when it comes to the matter of risk, every one of us if we eventually get out of here at midnight or whatever it is, we'll face a risk when we drive on mopac that we could be killed in a arrest wreck.

[11:48:38 PM]

So it's -- in a car wreck. So it's impossible to avoid risk. So I will be voting for your variance.

>> Thank you.

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

>> Tovo: I will support the motion on the floor and I will second it if it hasn't been seconded. I find these cases always challenging, but I think it would be helpful to see from the staff which ones have been approved over the last couple of years and which ones haven't because some have been approve as I call, some haven't been. Some I felt compelled to support, some I had concerns about. And to me it's a different situation [lapse in audio]. If there's a structure on that site that's allowable, I think it's 10% that's allowable without seeking a variance. In this case there are -- it's not like the houses on either side that already have structures there. We would be enabling a structure to be placed there that would, as councilmember Houston would say, put people at risk. I think to me that's a different -- that is a different kind of set of considerations than it would be if we had an applicant here who was seeking to make some changes that were in excess of the allowable amount. So as I said I'll either support the motion or second it, if you need a second, councilmember Renteria.

>> Ms. Pool makes a motion to deny the variance that's been seconded by councilmember tovo --

>> [Inaudible].

>> Mayor Adler: Did you second that? Ms. Pool made the motion.

>> [Inaudible].

>> Mayor Adler: Ms. Pool made the motion. Ms. Tovo seconds the motion. Would you like to discuss it?

>> Renteria: [Inaudible].

>> Mayor Adler: Ms. Pool made a motion to deny the variance. Ms. Tovo seconded that motion and we are now discussing that. Is there further discussion on that motion?

[11:50:41 PM]

All in favor, seeing no further debate, all in favor say aye? All in favor raise your hand. To deny. This is the motion to deny the variance. Those in favor of granting... Nay to the motion to deny. The on vote is 8-3. The three no votes are simmer, and [indiscernible].

>> I can see how complex this is and thank you for walking us through that so carefully and clearly. Thank you.

>> Mayor Adler: Thank you.

>> And thanks to the applicant and his engineer for sticking around with us so late at night. I appreciate

your time. Thank you.

>> Mayor Adler: So with no further business, we're going to call this meeting adjourned. Thankfully we did it before midnight. And this is the last month when we don't have a dedicated meeting to zoning