

City Council Work Session Transcript – 05/12/2015

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[9:09:10 AM]

>> Mayor Adler: Good morning. We have a quorum, so we will start this. Calling to order the Austin city work session. We're in the board commission room in Austin city hall. The time is 9:10. Our legislative folks are going to give us an update, but they need to get back up to the legislature for some legislation that is pending. So we're going to call them up first.

>> Mayor, mayor pro tem, council, good morning, my name is Karen Kennard, I'm with the governmental office. I'm here with Carrie grace also with the governmental office. Today, I'd like to give you an update on the progress of the legislative session, specifically I'd like to discuss with you the progress on significant issues of the entire session, and talk to you a little bit about some of the significant issues that Austin has been focused on. Finally, I'll give you an updated time line of where we are in the process, and of course, I'm here to answer any questions you may have about the process and the bills. As I mentioned back in March when I was here talking to you, the big issues of this current session continue to be the state budget, tax cuts, tax reform, public education and higher education issues. Initiatives related to immigration and board security. Transportation -- and border security, transportation and guns. Briefly a status report. The budget has been passed by house and senate. They're in conference committee trying to reconcile the differences between the two bodies on the budget.

[9:11:15 AM]

The state constitution requires that the state have a balanced budget. Both of those bills do that. There are differences related to some of the issues right below the budget. I will give you a brief update on the tax cuts and tax reforms. The house and senate have taken a different approach to how they want to do tax cuts and tax reform. The house version of those issues generally focuses on cuts to the sales and franchise tax. And there are two specific bills that do that, house bill 31 relates to lowering the state sales tax from 6.25 to --

>> And the senate wants to make the tax more uniform with all businesses in the state. And the senate version of tax reform has taken a different approach. The senate has decided to focus on property tax reform and franchise tax reform. So specifically, in the property tax reform area, there are a couple of items. Senate bill 1 would increase the school property tax homestead exemption from the currently it is \$15,000, understand in bill one, it would be a call calculation of 25% of the statewide medium home price. So that value has been calculated to be about \$33,000. So there would be a school homestead exemption of about \$33,000. Senate bill 1 also has a provision that says that any governmental entity

that adopts a homestead exemption, they're trying to make sure they have some lasting property tax relief. Those homestead exemptions could not be lowered for 10 years. The provision says they would be in place until 2024.

[9:13:16 AM]

They make 2014 the base year. So 10 years from this year. The senate is also moving forward on senate bill 279, which is by our own senator Kirk Watson. Under that bill, it is an initiative of this council, it would allow a flat dollar amount homestead exemption. There has been some concern raised about that kind of flat dollar homestead exemption over this last week. Our budget folks ed venino is working with senator Watson and all trying to answer some of the questions that have been raised by big business folks, specifically businesses like heavy manufacturing and some of the oil and gas industry, in areas where those industries are really large presences, they're concerned that those local governments could adopt a flat tax rate that would, in practice, wipe out property tax for residences and then the property tax burden would fall on those businesses. So senator Watson is looking at maybe having a ceiling on what the flat tax amount could be, so that that concern can be addressed. But they're still trying to work through that, on that particular bill.

>> Mayor Adler: Hold on one second, please. Ms. Tovo.

>> Tovo: You probably want to get through the whole presentation. I have so many questions about this particular bill.

>> Sure.

>> Tovo: I don't have the text of the bill with me. But I understand that homestead -- once the -- if the flat tax bill that senator Watson has introduced goes through and gets adopted in the fall by the voters, it limits our ability to change -- can you talk about the relationship with municipalities that already have a homestead exemption in place and what their requirements would be.

[9:15:17 AM]

>> That's the same requirement in senate bill 1. Yes, it sets 2014 as the base year and it prevents you, also in 276 from lowering that exemption for 10 years. Until 2024. So you can raise it. It will depend on where you are, but it prevents you from lowering it.

>> Tovo: For 10 years?

>> For 10 years.

>> Tovo: So the previous council adopted the amount that amounted to the \$5,000 homestead exemption. If this council decided to raise it, whatever we raised it to would be the floor for the next 10 years under this bill?

>> Like I said, they're working on trying to set a tack -- particular ceiling. What I saw two days ago was trying to maybe tie the current 20% number to a flat dollar amount. So that would be a cap. So let's say it was \$70,000. So that would be the highest you could set it at. So if you went to that \$70,000, you couldn't lower it, but you could raise it during that 10-year period.

>> Tovo: Unless you had a homestead exemption locked in before 2014, anything you do after that, under this bill, would be the minimum homestead exemption those municipality could offer?

>> I think if this stays like that, I think that's correct. But I think this bill is going to change in the next few days.

>> Tovo: Sure. Now, would entities -- would municipalities have the option of not offering a homestead exemption at all. If there were a city that got into a bind in three or four years and couldn't continue to offer the homestead exemption, because they don't have the ability to lower it anymore, it's been locked in by the senate bill, would they have the option of not offering the exception at all?

[9:17:35 AM]

If you lock it in, you have to stick with it until 2024.

>> Does this bill impact the homestead exemption provided to seniors and individuals with disabilities?

>> Those are different statutory provisions.

>> So if this council or council in another city decided to raise that exemption, it wouldn't be at all impacted? That would not be impacted by this?

>> That's correct.

>> Say we decided to raise it to 80,000.

>> That is my understanding. I will check on that. Those are under separate statutory provisions.

>> Tovo: Thank you.

>> Mayor Adler: There are different grandfathering provisions associated with it. One is if you adopt the flat tax as envisioned by the statute senator Watson has, once you adopt that, it is then you can't go below that.

>> Uh-huh.

>> Mayor Adler: If we were to adopt a homestead exemption that was not a flat tax under that statute, we would not fall under that portion of the grandfather.

>> I think that that is the way that it is intended. I'm just not sure. I need to check on that.

>> Mayor Adler: But at the same time, the second grand fathering said under this bill, if you use this bill to adopt the flat tax, if someone already has a percentage or other homestead exemption, then you can't -- then that person is entitled to the higher of the preexisting percentage or the new flat tax, which itself can't be lowered, under that bill, the property owner would be entitled to the higher of the two, whatever the two were?

>> Correct.

>> Mayor Adler: Two different grandfather provision.

>> Correct.

>> Tovo: I don't understand the first one.

>> Mayor Adler: The first one says as we have right now, if we wanted to index or freeze a senior's homestead, once you do that, you can't undo that.

[9:19:37 AM]

So my understanding is what is being discussed for senator Watson's bill is if you adopt the flat tax, you can't undo it. Similar to the freeze on seniors. Written into the law. That is one thing.

>> Tovo: You can increase it, but can't decrease it.

>> You can increase it, but can't decrease.

>> Tovo: And you can't switch from a percent annual from a flat.

>> Mayor Adler: The second aspect of the bill, my understanding, if you adopt a flat tax, recognizing you can't lower it. If you adopt that, and you also had a percentage exemption in place --

>> Tovo: You get the higher.

>> Mayor Adler: The property owner gets the higher of the two.

>> Tovo: All righty. Thanks.

>> So that's kind of, you know, where the differences are between the house and the senate. So they're going to have to work through those on the tax cuts and tax reform issues. House focus on sales tax, franchise tax. Senate is focused on property tax.

>> Mayor Adler: Real quick, the school property tax.

>> The current --

>> Mayor Adler: Does that hold school districts harmless?
>> Yes, both have money that intend to hold school districts harmless. But there is a difference in how much money in both the house version and the senate version.
>> Tovo: Can you explain what the term "Hold harmless" means?
>> They have set aside money to give to school districts so the homestead exemption will be neutral to their budgets.
>> Tovo: Thank you. I have one more question before we move off of the homestead exemption. Do you know of any municipalities that have adopted a homestead --

[9:21:37 AM]

>> Troxclair: If they have lowered it.
>> I'm not aware of any. I can work with tml to figure that out, but I'm not aware of any.
>> Troxclair: Thank you.
>> Public education, higher education, both budgets have money in there to hold school districts, public school districts harmless. One of the governor's initiatives has passed both the house and senate. That is house bill 4. Which is the pre-k initiative. That seems to be moving forward. As far as higher education is concerned, I think most of you know that house and senate have done away with the technology fund and with the higher education perspective, looking at this initiative to help fund higher education initiatives. The next issue related to immigration and border security. Senate bill 3 is the omnibus security bill. This is to increase safety on the Texas border. That bill seems to be moving through the process, different versions of it. But it seems to be moving forward through the process.
>> I have a question.
>> Mayor Adler: Go ahead.
>> Thanks. Does the city have a position on this particular bill that staff is pursuing.
>> The border security bill. With the increased dps funding. We haven't take known positions on that.
>> Thank you.
>> The next issue reels to transportation funding. Probably the most -- well, there are a couple of significant things in the budget related to transportation funding. Hjr 5 in the conference committee would show a portion of the estate sales tax funding.

[9:23:37 AM]

So that initiative, if it were adopted would then go before the voters for a vote on providing some additional transportation funding.
>> Question?
>> Mayor Adler: Go ahead.
>> Whose portion? The state or --
>> The state's portion.
>> Do we have a percentage on the portion?
>> As I mentioned earlier, you may not have been here, in the house version of their tax cut and property tax reform, they're going to reduce the state's -- they're proposing to reduce the state sales tax from 6.25% to 5.25%. And that 1% then maybe being dedicated on a temporary basis to state highway funding.
>> Have they put a time frame on temporary.
>> That is in conference right now.
>> Would that provision expire when the -- over -- would it have to be reauthorized every session, do we know.

>> I have to look at that.

>> Pool: That's fine, you don't have to do it right now. I'd be interested in knowing that.

>> Yeah. The last big issue, facing this legislature, as most of you know, has been related to guns, senate bill 17, which is the open carry has passed the senate. It is still pending in the house homeland security and public safety committee. And then senate bill 11, which is the campus carry legislation passed the senate. It is waiting, I guess, in the house as well. So those are kind of the big issues from a large kind of perspective of what has been going on in the legislature and kind of an update on some of the big pieces of legislation that are moving, pursuant to the big initiatives.

>> Mayor Adler: Karen, does the open carry require that we allow guns be carried into chamber?

>> There are some provisions in the bill that would still protect meetings, I believe, of governmental entities. I think in the house version but not in the senate version.

[9:25:40 AM]

>> Mayor Adler: Ok. Thank you.

>> But I will clarify that. I know the senate version, there was an amendment that was attempted to be put on, on the senate floor, by senator west of Dallas that did not pass that would prohibit open carry at governmental meetings, and that didn't pass. But I think the house version, that particular exemption is still in, but the bill is still pending in the house.

>> Question? Are courthouses still exempt from open carry?

>> Yes.

>> Thank you.

>> The next series of bills are bills that we discussed briefly when we were here back in March. These are issues that are significant, specifically to the city of Austin. I will say the first two bills listed are senate bill 1945 and 1358 related to Austin energy are initiatives of mayor Adler, councilmembers have spent time working with senator Frasier and representative Watson on. The actions they will take related to Austin energy has been helpful in keeping those bills pending at the legislature right now. The next initiative, you will see there maybe a red dot, if you have color. It is a bill that has been moving quickly here. To the surprise of many people. House bill 2221 is a bill that will totally change the way that cities do annexation. The city of Austin has testified against that bill and its senate companion. Senate bill 1639. It is set for house floor vote. It was on the calendar for yesterday, but right now, the calendar is a little backed up, so it is also on the calendar for today. Just briefly, as most of you know, back in the mid to late '90s, the annexation laws were totally rewritten after about 60 years of having a process that some people found to be a little unfair.

[9:27:49 AM]

Under that current process, from the '90s, currently, what happens when you have a large annexation, as you guys may know, if you have done some of those, is that you go on a three-year rolling annexation plan. So areas outside the city that have more than 100 rooftops go on a three-year plan. And over that three years, those people get notice that they will eventually be brought into the city. It gives the city an opportunity to work with those areas, to develop those service plans and work through the issues that may arise, related to concerns that residents may have about being brought into the city. Those battles from the '90s were hard-fought and took a lot -- a lot of -- I guess of political capital to bring those bills to fruition. This particular bill, however would change that. Under the provisions of this particular bill, any area outside the city that we would look to annex that had more than 200 people, it would require a vote of the people in the area to be annexed. So before we can move forward with any process to bring them into the city, we have to put that issue to a vote of those folks. It also has a provision if there is an

area outside of our city limits where there are less than 200 people, if we received a petition from those people, then we would have to put that area to a vote as well. So as I said, it totally changes the current procedure of how annexations are done. And has come has a surprise to a lot of cities. A house sponsor in the Houston area, he talked about the annexations of the '90s. Specifically in the Kingwood area and the lingering hangover from that and how the Kingwood people are still upset about that. We thought it was a bill related to Houston.

[9:29:51 AM]

But we did testify against it, along with tml, city of fort Worth and maybe the city of San Antonio. The bill went over to the senate about two weeks ago. Senator Campbell had the bill, we also testified against it. We thought at that time the bill was related to San Antonio. But in the senate, there was a gentleman from, I think the wells branch municipal district, Mr. Joe petronas. He testified in favor of the bill. He testified wells branch is not interested in becoming a part of the city. So there are people in our E T.J. That don't want to be part of the city. So we have vigorously opposed it.

>> I'm sorry, you left me out. I signed up to testify, I had to catch a plane. I wasn't there to testify in favor of 1631.

>> Joe works in my office.

>> When you are testifying in favor of bills at the city of Austin is officially opposed to, are you doing so as an individual and making that clear -- I'm still asking my question. Or are you identifying yourself as a council member.

>> I'm a council member from district 6. I'm representing district 6. District 6 is strongly in favor of this bill.

>> Well, I don't know if now is the appropriate time but I have grave concerns about individual council members testifying down at the capitol and representing positions that are contrary to the city of Austin positions and doing so in the.

>> Do you have grave concerns about the police chief testifying about certain open carry laws that are put in when we never saw those on the list. He's just an employee.

>> He's a legislative agenda.

>> Those were not in the agenda.

[9:31:51 AM]

>> We have a council resolution from 2014 that would provide the policy position that backs his --

>> Zimmerman: That is not from this city council and we didn't get a chance to vote on that.

>> Tovo: Those are adopted policies until they're changed. If you would like to change those, you are able to introduce a resolution that would be contrary. If those policy positions aren't overturned those are the ones that stand.

>> Zimmerman: I hope you're not suggesting that all the city council members can take a vote and no other council member can represent their district.

>> Mayor Adler: Let's do this. I think this is a worthwhile conversation for us to have. Because I think it is real important for us to have those rules. Let me tee that up for a different work session so we can maybe handle it in a real constructive way. I will bring that issue back. I think it is an important issue for us to talk about on the dais.

>> My point is when we started opposing the bill, we didn't believe that Austin was a target of the bill. In the senate, we learned that there was folks in Oury E.T.J. That were opposed. We, and other cities, the last four or five days, that is all we are focused on is this bill and trying to kill it in the house and the

senate. So that was just the point of it's a -- it's a serious erosion of the city's ability to protect itself and provide through an annexation.

>> Mayor Adler: I missed where it is? It went to Campbell's committee.

>> Correct.

>> Mayor Adler: And hearings held.

>> One hearing.

>> Mayor Adler: Is it left pending?

>> It was voted out of committee last Friday and is now headed to senate intent. It is not on senate intent as of yet, but it is on the house calendar again today.

[9:33:54 AM]

And so we worked it all yesterday. We will work it all today and we have -- I met with senator Watson on Friday afternoon about it. He's working as well, in the senate on it.

>> Mayor Adler: Ok. Mr. Zimmerman.

>> Zimmerman: One other point, I need to communicate to you, really the justifiable anger of a lot of the suburbs in northwest Austin that are still, very, very angry about being annexed against their will. I think it is the river place mud probably leads that list. I don't think that message has been communicated to city staff, city leaders, people as yourself. I think what is particularly galling about this issue is the city boasts and prides itself about democracy. Democracy. Where is the democracy in a community being annexed against their will and having no vote. There is no democracy there. They have no voice. You know, the river place never wanted to be annexed. They still don't want to be annexed. They're still looking for ways to get out of the annexation. I need to communicate that to you. I don't think that message is getting through to city staff.

>> Mayor Adler: Ms. Gallo?

>> Gallo: You know, I think that given this discussion, that a briefing on annexation would be really appropriate to the council. I suggest we normally start those in our council committees, I think this would be important enough to all the council members that perhaps the briefing should be in one of our work sessions. But I think helping to understand annexation and what the city has to provide to areas prior to annexation and what changes with annexation. I mean, I certainly would love to become more knowledgeable on that. It seems like that would be something that would be really important for all of us.

>> Mayor Adler: Thank you. Karen, if you would continue.

>> The next bill that we have been spending a lot of time on, senate bill 267, house bill 299, are the bills to preexempt the source of next ordinance.

[9:36:03 AM]

That bill is scheduled to be on the house floor today as well. We have worked very closely with tml on this and the city of Houston has helped a little bit on this. It is aimed directly at Austin. Senator Watson was able to put a provision in the bill that would prevent the bill from being retroactive. Our concern continues to be that that provision would be stripped out on either the house floor or if it went into a conference committee. We are working that diligently to keep that retroactive provision in the bill as it moved toward the house floor for a vote, today or tomorrow.

>> Mayor Adler: If a bill -- go aheadtrix when you say it is specifically targeted out of Austin, is it bracketed to only apply to Austin?

>> No, the testimony that was given by the department association out of the house and senate, they talked about Austin's ordinancetrix but it would apply --

>> It is a statewide bill.

>> Mayor Adler: A statewide bill but an exception that came out of the senate that said it would apply to everybody but Austin.

>> It says that, but the retroactive provision said any ordinance that was on the books 2015 is not subject to the provisions of the bill.

>> Mayor Adler: Austin is the only one that has that. The house bill that comes out, at this point what came out of the house committee preserved that amendment protecting Austin.

>> Yes, sir.

>> Mayor Adler: If the house passes it that way, with the exception for Austin included, does it go to a conference committee? It would be done at that point?

>> No. What would happen procedurally is on Friday, the senate bill was referred late Thursday night to the house committee.

[9:38:03 AM]

On Friday, that committee held a hearing in the members' office. It was a formal meeting only. No testimony was taken and they voted out the senate bill. So under the house rules what would happen is they call up the house bill on the house floor and substitute out the senate bills since they now are identical bills and they would actually vote on the senate bill.

>> Mayor Adler: But on the house floor?

>> Correct.

>> Mayor Adler: And the fear is they remove the provision.

>> Yes, sir.

>> Mayor Adler: And then it goes to conference committee and the senate, with only 16 votes can vote to conform to the house version?

>> It would not need to go to a conference, it would go back for concurrence and concurrence only requires 16 votes. That's correct.

>> Mayor Adler: Thanks.

>> The next piece of legislation that we have been following very closely is house bill 2440. That is the bill that would preempt local regulation of transportation network companies and make those companies subject to state regulations. That bill is continually pending in the house calendar's committee as of today. The next legislation is --

>> Can you give us your latest understanding about whether that is going to move or not?

>> What we heard yesterday was no. I spoke to representative Rodriguez, who is a member of the calendars committee at length about it yesterday. Calendars continues to meet. They met late last night and set a couple of bills. He's continuing to oppose it in calendars. I talked to Houston late last night. They continue to oppose it in calendars. But at this point, as you know, council member --

>> I'm asking for their best estimate. I'm not asking for anything for sure. But they told you yesterday their best estimate was that it wouldn't move.

>> Correct, as of 5:00 yesterday.

[9:40:04 AM]

>> Ok.

>> [Indiscernible].

>> Yeah, yeah.

>> Pardon?

>> The deadline for all house bills being out of the house is Thursday. So the last calendar has to be printed, I think 36 hours. So that is today or tomorrow.

>> Ok. So we'll know yes or no very soon.

>> Except that there are a couple of bills that are moving. There is a bill by representative smithy that specifically deals with statewide insurance for tnc. It could be amended to that. There is another one that potentially might be germane.

>> What is that one?

>> I will get the bill number to you. There are two bills out there that we're watching that may be germane.

>> What is the bill number on the smithy one?

>> 1733. Something like that. I will get it to you.

>> Pool: Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: Just a note on this topic. I thank our staff for intergovernmental relations for coming, I would like to say, maybe we can do this up to the two work sessions up to sine die. To keep track because things will move fast and maybe target it to a small number of bills we're carefully following as we get the foundation.

>> Mayor Adler: Ok. I think that makes sense. If staff could put that on the agenda, that would be great.

>> Will do.

>> The next series of bills. 3488 is a bill bracketed to Austin. It would allow decredentialing provisions to be appealed to the state office of administrative hearings. That bill is pending in calendars. One of the lobbyists is talking to calendar members and it doesn't seem to be moving.

[9:42:09 AM]

House bill --

>> I have a question on the decredentialing bill. If this bill doesn't pass, I would like to look at its provisions and see if there is any way that the city can offer and provide appeal rights in these very important matters. Right now, my understanding is -- maybe you can fill us in a little bit, currently the medical director has the sole discretion on whole -- approving and unapproving credentials for our medical technicians.

>> And the medical director is here. I knew this bill was of concern to council members. My understanding is in the last three, four weeks, he's put in place a new procedure. If you would like, I think he could come up and explain to you what the new procedure looks like. So you can understand what he actually does with decredentialing.

>> Pool: That would be great. Mayor is that all right?

>> Mayor Adler: That is fine.

>> Pool: What is the city's position on this?

>> We opposed it because it overturned the regulations in place relating to how the medical director operates.

>> Do you know if ems.

>> They're supporting it, looking for an additional avenue for redress.

>> It is late in the game to ask this question. What was our process to determine what we oppose and what we supported.

>> We look at the program. We have general provisions with our authority to govern ourselves. We currently, as a home rule city have current provisions that govern the medical director. This was an issue that came up in the bargaining process, my understanding is, related to the medical director.

[9:44:13 AM]

So we looked to the program looking to the bills specifically for the departments when we send them to them. It was under the general provision of the authority to governor ourselves. If we wanted to do this, we don't need the legislature to tell us how to do it.

>> That is not my question. My question is the process to determine which bills we're for or against. It sounds like the legislative team has discretion to determine which bills we're supporting and which bills we're not. Is that correct?

>> I don't know --

>> What do you mean by the program?

>> The adopted council adopted legislative program.

>> Ok.

>> And we see if it fits in something that you have said we're for, we're against, we oppose and protecting our authority to governor ourselves is something we look at in trying to administer the program.

>> For future reference if the council wants to be more specific and if the council wants to actually understand the bills without --

>> Kitchen: In this program, there is a more general statement that authorizes the legislative team to be opposed to anything that impacts our abilities to governor.

>> Local control.

>> Kitchen: Local control is part of the program.

>> Yes, there is language in there. We work with departments -- we, the governmental relations office don't generally make the final decision.

>> Kitchen: But I'm talking about council.

>> Ok.

>> Kitchen: As opposed to staff. I'm trying to understand the process for future reference.

>> Mayor Adler: My understanding is if it is a current operating procedure, ordinance of the city and it gets challenged, or if there is a challenge of other C cities' ordinances, we take the position to defend ours or the right of the city to establish its own rule, absent a more specific position taken by the council.

[9:46:16 AM]

>> Kitchen: Ok. I think for future reference the council needs to look at how we do that.

>> Mayor Adler: Ms. Pool.

>> Pool: For me and possibly council member Zimmerman and kitchen, the issue is a timing thing. We were not aware that the intergovernmental relations staff would be at the capitol specifically trying to change the outcome of filed legislation. Either for or against. And we had one briefing in March right after filing deadline, I think. And we're here in the middle of may, just about two to three weeks from sine die and this is a second time to have any in-depth or any kind of conversation. So I understand the concerns and I share them, that we just have not been advised by our staff, other than the weekly -- which we had requested, the weekly reports. But we have not engaged in any kind of conversation to understand why the city would be taking whatever stance it did. And to fully vet it ourselves so that we could, in fact, maybe participate in the support or the opposition.

>> Mayor Adler: I think that is a real good -- the issue has come up, I think as we look perspectively at future sessions and future opportunities, even in the absent of an oral report, just more regular, more complete reporting of when we testify and where we're testifying, that could come out so people could monitor what we're working on or not working on.

>> I agree, mayor. During this interim time that Carrie and I are doing this, we have made notes about room for improvement. We're going to work with the city manager as he moves to find some permanent staff for these positions. Yeah, we have ideas and the ideas that the council is sharing about the improvements, we're happy to work on, for this particular function of the city.

>> Mayor Adler: All right. If we could proceed.

[9:48:20 AM]

Sorry. Ms. Houston and then Ms. Garza.

>> Houston: Thank you. If I remember correctly, the first briefing we had was when we were over at the Hilton and they talked about the legislative program and John Herndon was there and you were kind of being moved in. But I remember that as the first opportunity to have a conversation about the legislative programming. And it was my understanding at that point, that did the prior council agree that these are the kinds of priorities that we needed to set. Some council action occurred to set the tone, because the legislative session was started by the time we got -- well almost started by the time we got installed. So that's my fuzzy memory that this is something that we knew. We knew that the prior council had agreed on these priorities so they went forth and did their work. That's all I wanted to share.

>> Mayor Adler: Ms. Garza.

>> Garza: Is the program set forth by eight council resolution?

>> Yes.

>> Garza: I guess some of the misunderstanding is that -- I can understand where generally we would want to oppose anything that goes against some kind of rule we already have in place, but some of these rules we already have in place are rules that never came before the council, for example, a decredentialing procedure would be more of an administrative procedure, correct? So that is not something that would have ever come before the council. So the stuff that we're protecting is not necessarily stuff that the council has decided on? Ok?

>> Tovo: Mayor?

>> Mayor Adler: Ms. Tovo.

>> Tovo: As I understand our legislative program, you know, the staff -- our governmental relations staff are opposing a variety of bills that would impose state control over issues about which we want to have local control.

[9:50:37 AM]

So the way to change a policy -- I mean, if there is a policy that needs to be changed, we need to address it here at council and encourage others who have concerns about it to talk with council and not our state legislators. I'm sure that is obvious from the previous conversation. I want to say a support that stance that, you know, we want to -- we want to -- we want to have the ability to continue making -- making policy -- you know, taking policy actions here locally, not at the state level, whether we're talking about source of income or other issues, where we might take a different position as a council, but the ability to do it here legally is -- here locally is important to me.

>> Mayor Adler: I'm comfortable with our legislative people to step in the cracks to defend whatever we do in this city. Whether it is something that has specifically come to the council or not come to the council with respect to what we do and our prerogatives. I think the point is well taken when our legislative group is doing that, we need to build into the system more real-time reporting of that so if a policy issue does come up that is appropriate to come back to council, we know, as real-time as we can so we can take action, if the council wants to operate.

>> I agree, because we want you to be nimble, but it is good to be read in on the topic before and after the fact. So when people come to us and tell us about actions our staff are taking at the capitol, we know, what happened from a direct conversation and we can help explain it or characterize it. The other point I'd like to make is it is really important if we see issues percolating locally that look like they may bloom at the legislative level that we try to address them here so we are not being directed by the state legislature.

[9:52:47 AM]

We are the best stewards of our policies here and have the best handle on our specific city's needs and values. And to the extent, for instance this particular issue ended up at the capitol, I wish we had been able to have it better addressed or more clearly addressed -- and this happened before we came on board, I believe. So this is sort of a case where I think with a little more action on the council's part, we may have been able to avoid the legislation being filed.

>> Mayor Adler: Ok. Mr. Zimmerman and then let's move ahead and get the briefing on this.

>> Zimmerman: Thank you, Mr. Mayor, it is a great opportunity to address this policy. Way too late to do anything for this cycle, obviously. This needs to be fixed for 2017. The big problem I have here -- and I want to get on the record how inverted and crazy this looks to me that we have unelected city staff making decisions on what to oppose or support in the name of the city and the council is not even consulted and worse than that, if I have a disagreement with unelected city staff making the decisions, if I disagree, there is a feeling on the old council that I would be out of line. As somebody elected by my constituent to represent my constituent because unelected city staff had a different opinion. I think that is just completely backwards. It should have been the other way around. City council is elected representatives need to be making the decisions about what we support and oppose. I know the filing deadline, right, for the legislature is about in March. You know, of odd years. A filing deadline where all the bills have to be in. The way this happens, we wait until the filing deadline, the bills are in, and then we have a conversation about what the city wants to support or oppose. That is how I would like to see that happen in 2017.

[9:54:48 AM]

>> Mayor Adler: We'll tee that up.

>> Zimmerman: That a big policy discussion.

>> Mayor Adler: I agree. I think the council has given real direction to our legislative team. They've been specifically directed by council to defend what we do, our policies, our ordinances and it has been specifically directed to do what's necessary to try to preserve local prerogative. I think we need more real-time reporting so if a policy issue is being defended that this council believes we should have a different policy, tell give rise to that policy conversation. And in the larger picture, Mr. Zimmerman, if it will give us -- it will give any one of us an outlet to be able to raise those issues, if we disagree with a position that either the city has previously taken or that is being defended. I think we can be also nimble and reactive to what is working in the session, too. We need to set up the systems to do that. You want to just, real high level, because this is not the time to debate through this issue, but at a high level, would you describe what this issue is?

>> Certainly. Just very brief background. Texas is a delegated practice state. I'm Paul henchy, the medical director. I'm sorry. In a delegated practice state, in order to function, you have to have a physician that is willing to allow them to operate under their residence. What comes with that is a duty for that physician to supervise the care and be responsible for the care that is provided. So we review tens of thousands of calls every year as part of this process. Last year we reviewed 800 complaints from folks,

maybe events from providers themselves, hospitals, patients, patients' families, things of that nature. When we review these, many are things that can be reviewed and fixed.

[9:56:53 AM]

Very few are willful for the community. In those cases we can withdraw the ability to practice, because they represent an ongoing danger to the public. What this -- what this bill is designed to do is to create, after the decision of the medical director and the clinician, to put in a process where an administrative law judge, through the state office of administrative hearings process could overturn that position. And what that would mean is that potentially, the city would be forced to take a provider that was previously found to be a risk to the public and put them potentially back into patient contact or force the city to take them back into employment. What comes along with that is potentially risk. If they've been identified as a risk to the community from prior acts, any future acts come back to the city and I think pose a substantial liability risk for the city. In addition, there is a piece in the performance improvement process, in order to encourage providers to self-report and be engaged in the performance improvement piece, everything that they say in a performance improve am review process is protected from discovery. If someone were to file a lawsuit, that information is protected. It is designed to protect the providers so they're willing to participate and speak openly about the event. It is not clear that the state office of administrative hearings process maintains that same level of protection. If that were to be -- if that were to be disclosed or become discoverable, if the city were to be sued or a civil action against the city and that were discoverable, essentially they have all the information from the performance improvement process which would place the city at a disdifrnth -- distinct disadvantage. This kicks in after they've been terminated.

[9:58:54 AM]

In some cases it misses the mark. I'm not an employer, I'm excluded from the negotiations discussion. What came out is a desire for an appeals process. As parts of that, we built in an appeals process in the structure where the deputy medical direct are reviews the events, and comes to me as the final person in the process as an appeal to review the process again and review that. This bill kicks in after they have been decredentials. Looking at what the source of this is, what the need is, what the ask is, we have built a new process, put it in place a couple of weeks ago, where we built an external body. If pay provider is recommended for decredentialing, the provider can go to an external body. It is made up of peers that they work for and physicians of the Travis county medical society. This is an external body. None of the medical directors are involved. They review the case and bring a recommendation forward to me as it is final part of the process. In that they give me a minority opinion, if not unanimous minor opinion and majority opinion to maximize our information on our side to make sure we're making good decisions before they're decredentialed and before the firing process. That is what we have put in place now to address this issue from the standpoint of the bill, it represents, I think it represents substantial liability for the city if we were forced to take folks back in the process.

>> Mayor Adler: Thank you. Any questions? Again, not intended as the policy conversation on this issue, but now is the time to ask high-level questions.

>> Gallo: When a person is --

>> Decredentialed.

[10:00:55 AM]

Deauthorization of their office.

>> Gallo: Who determines that?

>> The medical practices act for whoever supervises that system.

>> Gallo: So the approximately director, you.

>> In this case, yes.

>> Gallo: It sounds like the beginning of an appeals process from -- through an independent group of people is being established, which I think is probably from what we're hearing a good step. But I want to make sure that I understand, the final determination, then, goes back to you again?

>> Yes. So I can't change that piece. That is legislated. I have that duty no matter what, as a physician, that is my duty to the medical board as a part of the delegated practice. We build inasmuch due process and appeals and external validation of the fact pattern before it comes back to me. To be compliant with the law, as it stands, it has to come back to me.

>> Gallo: Do you foresee making decisions that would be counter to the majority appeal group's determination?

>> It is unlikely, unless there is a clear and flagrant risk to the public. It is unlike an external body of my fears and provider peers if they didn't feel it would rise to the level found previously it would be difficult to decide to decredential that person. If there was a risk to a patient we didn't identify or the risk was overstated. Trying to answer your question, that much information puts as many layers of protection and accountability in the process as I possibly can in the existing system.

>> Gallo: Thank you.

>> Mayor Adler: The line we're trying to walk here is we have noticed a discussion about a legislative update and we haven't noticed a conversation about this issue.

[10:02:57 AM]

So people who, in the community that might want to participate in a discussion about this issue would not have had notice of a policy conversation. So wouldn't have been able to be here. So continuing to walk that line, Ms. Pool and Ms. Kitchen.

>> Pool: Just a fact question. In the decredentialing, the item that's at concern with this bill, what is the consequence to the holder of the credential, which is the medical director, Dr. Henchy, should you -- should the emt not be deauthorized but then some larger liability were to occur, does that accrue to the holder, the ultimate holder of the credential and or to the person who has violated it?

>> I'm not sure I fully understand your question. If the question is does the liability lie solely with me or does the city share in it.

>> Pool: I will try to say it better. It is complicated even for me. You don't decredential a tech and that person is sued, are you liable as well in that suit and the city or how is the blame and responsibility shared?

>> Let me help you with that, we can talk about the tort claims but the medical director can be named in a lawsuit like that, we would defend the tech and medical director and the city itself. There is ways that we would probably get those individuals out of the litigation. So your question, I think, is about legal liability. That is a concern, of course, public safety is the most important concern. That is Dr. Henchy's most important concern. They operate under his license.

[10:04:57 AM]

So that is the issue that he has about being personally responsible for him. That is why when the contract was negotiated in 2013, there were these procedures put in place to make sure that there was some kind of recourse, even though he has the ultimate responsibility, there was a process. I understand

now from your conversation that they're going to add in an external board before the ultimate decision that he has to make, because it is his license.

>> Pool: So the last question I have goes to this legislation, if it were to pass, would then the responsibility lie with a different level of government or at a different -- would it take the city out of that picture?

>> No.

>> Pool: Ok.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: This relates to the legislation.

>> Mayor Adler: Put on your microphone.

>> Kitchen: This relates to what the legislation, would do I think. Emts can only operate under the license much the physician. There are various providers that can't act independently and they have to act under a physician and an emt is one of those. A nurse-practitioner has limitations on when they can practice and other kinds of providers have certain limitations. An emt cannot operate independently they have to be supervised by a physician is that what we're saying.

>> Correct. Independent of the license. The license is given to them by the state. Their ability to practice locally is determined by the physician who puts their license forth for them to practice under.

>> So an emt could act independently without being under physician, that is a city requirement. Is that what you're saying?

>> No, no. Sorry. Your license comes from the state. You can go anywhere in the state with a license. Your ability to practice here in Austin is determined by the medical director based on the medical practices act.

[10:07:04 AM]

>> Kitchen: But it is the state license that determines the scope of your practice -- yes, it is and what can be done. That is not really my point. My point is you had mentioned with the delegation, I had thought -- I could be -- I could be wrong about this, but I had thought when these types of providers are operating under a physician that there was some additional level of appeal. So what you're saying is there isn't?

>> So --

>> Kitchen: The existing state law doesn't allow for an additional level of appeal beyond the medical director.

>> Correct.

>> Kitchen: So in other jurisdictions it is the same. It is the medical director that is the endpoint, the final decider.

>> Correct.

>> Kitchen: And when you decredential, does that take away the emt has -- emt's license.

>> No.

>> Kitchen: Just to practice in the city of Austin.

>> Correct.

>> Mayor Adler: We can have further discussion on this issue health and human services can probably pick it up or public safety. Ms. Garza.

>> Garza: I wanted to clarify. My line of questioning wasn't that I disagree with the current practice. Approximate it is to understand the current process. I think it is great when staff takes things off our plate quite frankly. The issue, I think with the -- I got an e-mail asking me to speak at the capitol for this bill, and it set off a red flag, I thought I probably shouldn't be doing that. I probably should be talking to staff about. So I said, I don't think we're supposed to go speak to anything that is not on our legislative

agenda. So I don't know if you already do this. I know we get tons of e-mails already that I skim. But I guess an update on what we're supporting and why would be helpful so when I get those e-mails.

[10:09:09 AM]

Because we got one about the no-kill legislation. A ton of e-mails about that. I know there was confusion about that. If there is an update on what we get and why. It seems like they work themselves out. So when the bills go out there, it brings attention to it and we put procedures in place to help fix whatever the problem is. So anyway, some kind of updates would be helpful when we get the e-mails and we have no idea where we stand on it.

>> We currently send the council a weekly update. At the end of the update -- what we're sending you is a track one bills. We have four separate tracks of how the staff tracks the bills. We're sending you most important issues. This issue was on there. It listed at the end of it, if we have take known action on it for the week. So if there is nothing there, it means we have not done anything for this week. We're looking at process improvements, listening to you. We will forward that to the person who gets to sit in this seat permanently. It is a good discussion about what other kinds of improvements you would like to see going forward from the governmental relations office. Thank you. The next legislation is house bill 2870 by representative Alonzo, relates to prescribed burns. It has passed the house and is currently in the senate. It was -- it is right there, 2870. And it is currently just received in the senate yesterday. The next two bills are some positive pieces of legislation that are moving forward. House bill 1324, representative cellia Israel, relates to buses on the should every. That bill passed the house last week. Our legislative consultants worked a lot with representative Israel's office to work the house to get that passed. It is now headed to the senate.

[10:11:10 AM]

And then we have house bill 594, which is the bill that would lower the tolls for large trucks on state highway 130. That particular bill is now scheduled to be debated on the house floor on the 13th of this month, which is, I guess tomorrow. Tomorrow. So those are moving forward. I'm going to quickly run through this next list of significant issues. There are two bills that would -- relating to chapter 245 vesting rights. House bill 1472 by representative workman it is a bill that would allow the attorney general to bring a lawsuit to enforce chapter 245 and also provide for actual damages, if a city were to lose one of the lawsuits, that bill is scheduled for a vote on the house floor tomorrow as well. House bill 3876 is another vesting rights bill that would require that you go to mediation. If you don't go to mediation, it would then allow the project to be automatically vested. That bill is pending in the house calendars committee. The next couple bills relate to property tax. Senate bill 182 is the big revenue caps bill that we have been opposing all session by senator Bettencourt. That bill had a hearing in senate finance but is still pending in the senate finance committee. It doesn't look like it will move further right now. Senate bill 1760, is a bill by senator Creighton that we weren't concerned about at all until senator Bettencourt put an amendment on it. Under the provisions of the amendment placed on the bill, it says that in order for any governmental entity to adopt a tax rate that goes above the effective tax rate, you have to have a 60% vote of your governing body. So that bill passed out of the senate.

[10:13:12 AM]

It is now pending in the house ways and means committee. The next three bills, by representative Isaac, house bill 3620, 3621, and 3622 are all still pending in committee. They were targeted to Austin, but right now, are just still pending in house committees. Final slide, these are mostly bills that are also, you

know, bad. We talked about senate bill 343, senator Huffines that turns home rule cities into general law cities. And then the 7360, that is still pending. Three separate bills to preempt local nondiscrimination ordinances. Still pending in committee. House bill 912, another bill by representative Isaac is a statewide bill that prohibits cities from protesting wastewater discharge mer -- permits. It is pending.

>> Mayor Adler: Hold on.

>> I'm sorry.

>> Can you tell me in what wear they're discharging the wastewater discharge permits?

>> The bill says if you are a governmental entity and you will protest a wastewater discharge permit, you cannot do that, if your standards for discharge are lower than the proposed permit that you are protesting. We testified against that bill.

>> Mayor Adler:

[Indiscernible].

>> Thank you.

>> I think the city of Lubbock testified against it. We're still working it, our staff are still working it, we'll work it in the senate. There are a couple of bills that were specifically targeted at preempting blastic bag bins, house bill 1939 and senate bill 1806.

[10:15:14 AM]

1806 had a hearing two weeks ago, the provisions in 1806 related to the blastic bag ban were removed. Others were so egregious we had a witness from the law department testifying against it. Basically under senate bill 1806, it would prohibit a city from adopting regulations on any matters in which someone has a state license. So things like payday lenders, plumbers, electricians, all host or manner of local ordinances, you wouldn't be able to regulate them under this bill. Lots of -- there were lots of cities there testifying against the bill. It is pending in the senate state affairs committee. And finally, on this list, house bill 2073. It is similar to house bill 912 in that it would prohibit you from protesting a wastewater permit if your wastewater discharge permit was a lesser standard. However, this one is specifically targeted to Austin. So we have the statewide one, which is 912. And 2073, it has not gone anywhere. It is still pending in house committee. So that is just kind of a quick update of the things specifically targeted to the city of Austin that are moving. Now we have kind of the deadlines where we're at right now, if you go down, we're at kind of crunch time for house bills in the house. Thursday, house bills have to be on second reading. Friday they have to be on third reading in the house. Otherwise, if they're not local, house bills are probably going to die or live another life by being put on something else. For the house, the deadlines are the 26th and 27th of may. For senate bills they have to be considered for second and third reading for those days.

[10:17:15 AM]

The session is over June 21 -- I mean, June 1, that would be horrible. Union. The last day for the governor to veto is June 21. And August 31, effective date of most new bills, and most have the effective date of September 1. There are many things moving on the house floor for the remainder of this week. We're happy to answer questions about general or specific issues that maybe we didn't cover.

>> Mayor Adler: Any questions? Ms. Garza.

>> Garza: Is there a chance -- can they extend the session? Special session?

>> There is talk of that. The only constitutional thing the legislature is required to do is adopt a budget. If they can't come to some agreement, you know, work out the differences in the house version and senate version, there is discussion about a special session on the budget. The positive thing, from our

perspective about special sessions is under the Texas constitution, the governor has to put specific items in the call of a special session. So those sessions generally, the call is limited to specific items, however, other bills get filed of course. Unless the governor specifically opens up a call for that issue, the session will be focused on a very narrow set of issues.

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

>> Thank you, mayor.

>> Mayor Adler: That gets us to our work council agenda, some items have been pulled. But I think there is some other items that we want to discuss as well. Just to get kind of status. In addition to the ones that show up, I think that would include item 4. And also item 14 and 29.

[10:19:18 AM]

So adding 4, 14, and 29.

>> Mayor?

>> Mayor Adler: Yes.

>> If we could pull 11, also. There is a recent development from yesterday and this morning. I would like to update.

>> Mayor Adler: 4, 7, 8, 11, 12, 13, 14, 29 and 30. Item number 4 is the -- the milkweed issue, you want to talk about that?

>> Right. I pulled this to give folks an opportunity to ask questions that you might have in advance of it being on our agenda on Thursday. We had a presentation from the national wildlife federation at the open space committee meeting at the end of April. And the conversation went to the die-off of monarch butterflies and other pollinators and the ripple effect that has on fruits and vegetable pollination. They can't become fruit without pollination. I was in a meeting with the fish and wildlife service, the federal agency, Adam zorenner, the field officer at the Austin office asked if there was anything the city could do to help raise awareness of the community about the loss of milkweed which is directly related to using insecticides and pesticides, specifically roundup. With a die off of the milkweed, we are seeing a die-off of the monarch. Over the last 20 years the monarch population has died off 90%, which is stunning. This resolution shines light on the issue and work in collaboration with the community and the federal agencies.

[10:21:23 AM]

And add milkweed to our list of cultivation plants so we can help to increase its Numbers. And over time, the fact that the seeds are scarce will start to be reversed and hopefully we'll see a proliferation of the lovely monarchs once again. So I hope on Thursday to achieve your support and approval for this resolution.

>> Mayor Adler: Thank you. Any further comments or questions? Is there a fiscal impact for this.

>> I was going to ask about the fiscal impact, yeah.

>> Pool: To the best of my knowledge, simply adding it to the list of plants to be cultivated, there would be no financial impact.

>> Mayor Adler: Thank you.

>> Pool: We're asking the community to take this action and where possible, we would like to plant it in city properties. And I'd be happy to personally purchase milkweed plants if necessary to jump-start it. Thank you.

>> Mayor Adler: This is an ordinance that seemed to have particular support at that middle school that we were at.

>> Pool: Right. The green flag school. Clint small, green tech academy. Yes.

>> Mayor Adler: Further questions on this issue? Ms. Gallo.

>> Gallo: I named the wrong agenda items to pull. It is actually number 2. My apologies.

>> Houston: And did you say 6.

>> Mayor Adler: And 6 as well. I'm sorry. So let's talk about number two then.

>> Gallo: It is starting out to be one of those days. This is an item that came before the council last week and was approved on first reading. It is the situation with the salvage yard that is off of spicewood and yopon in northwest Austin. It is a nonconforming use, been there forever and ever and ever.

[10:23:29 AM]

To mentioned he bought car parts there ages ago. But what happened recently, we approved it mayor pro tem tovo brought up good points that have been addressed and the ordinance has been changed to reflect all of those. But one of the other concerns that the neighbors have had is it's been used as a salvage yard and glass business and there has never been -- yopon is the residential street, speedwood - spicewood springs is the more commercial street. The driveway entrance was shown on yopon, which is the residential street and at the bottom of a steep hill that cars gather quite a bit of speed going down to get to this point. The neighbors had concern with that access. We have been trying to figure out a way to limit that access or delete that access so it still continues to be just on spicewood. There is concern from transportation because of the limits sight on spicewood. Spicewood springs is really 1 of the roadway areas in Austin that needs additional work. It is very narrow. It has multiple low-water crossings that also flood. At one point this neighborhood was landlocked and couldn't get out until the north end of it was opened up to another subdivision. What is happening at this point, this is impervious cover credit that the city has gotten into an easement on the bull creek side of the property, which is good for bull creek. The neighborhood, owner support it. I think at this point, we're looking at negotiations with city staff and a neighbor.

[10:25:31 AM]

There was a conversation between city staff and neighbor yesterday afternoon. I think there will be a proposal to offer more impervious credits for more of the area to go into the easement. Which will then limit and negate his ability to do the storage, the additional construction, the building that would have been permitted by the site plan being filed prior to the annexation. And so if that is allowed to go in place, it will address the issue of the driveway because there would not be the additional construction and business on the property. I think the city staff will recommend a bit of postponement to allow city staff to go through the negotiations to see if they can work through that. The owner would get more impervious credits, however, the property that is not developed right now that is used as the salvage yard would not be developed because of the additional piece of the easement. As a result of that, there would be no driveway access to yaupon which is the residential straight. Lots of layers, at this point there is additional dialogue and negotiations to be done between city staff and the owner of the property.

>> Tovo: Thanks for that update. Just a quick, general question. Does that mean the site plan would go away?

>> Gallo: It's my understanding that the answer to that would be yes.

>> Tovo: So that would answer other questions about the extension of the site plan for 10 years beyond three and also the elimination of the pet kennel use, which you would know better whether that continues to be a concern of neighbors. But in any case, the owner expressed a willingness to reconsider that. So that would resolve some of those issues.

>> Gallo: Yes, correct. It really has been a situation where it is one of those where the owner is trying to work with the neighborhood.

[10:27:34 AM]

That use has been there far before the neighborhood. Is not the perfect situation, but it is moving in the direction of being a much better situation.

>> Tovo: That's great. I'm happy to hear that. It sounds like there will be a postponement on Thursday, we think?

>> Gallo: I think.

>> Tovo: Mr. Grenzy -- he's doing odd expressions with his eyes I can't interpret.

>> I had a chance to speak with Mr. Cavanaugh yesterday, and he would consider possibly changing the agreement to basically get rid of more of the area that would be devoted to the convenient storage. He indicated the area would increase to about four acres, that would be set aside for impervious cover credits. Instead of two to one, he would want two and a half to one for the entire area of two and a half cover. He would like to incorporate the glass business but incorporate that to a convenient storage, but move it to spicewood. And eliminate the drive to yaupon and with the plan, I would have to have a discussion with the law department. He would be a new glass business that is not there. The one that he has is grandfathered. But if he reconstructed a new use, that would require probably some additional deviations from the ordinance. I need to talk to law department about. He would like to have some of the impervious cover credits up-front, and he would be willing to give up the kennel for even more transfers of impervious cover. So staff isn't comfortable moving forward if that is the council's desire to go back and talk with the owner. The owner is fine -- Mr. Cavanaugh is fine with what is on the table now as well as staff.

[10:29:38 AM]

If council wants us to discuss this further, we would. We would ask it be postponed until June 11. Legal counsel, I'm working with will be out and environmental officer will be out. I would certainly want to converse with watershed and law department before we I'm not sure if I'm not sure if time is of the essence. We've been having this discussion four or five years so I'm not sure if a another month would hurt. We're happy moving forward if council wants to give the direction to go back and discuss a possible other option that was kind of floated Sunday night or Sunday afternoon, that was presented to staff yesterday; we would certainly consider that.

>> Issue further restricting the entitlements in exchange for greater impervious cover.

>> That's correct.

>> Tovo: I think I missed something on what you said, but I think I got the upshot, is that if we made -- well, let me just ask you this. We have the option of making changes to that agreement before we approve it, anyway, regardless of where you guys are in your negotiation, so if the last sticking point is the access, I assume we would have the option of considering that on Thursday and just making a change as a council.

>> That's correct. If council decides to change the agreement that you have before you, we would suggest that you probably postpone it so we have time to draft the language so everybody can see it, including Mr. Cavanaugh.

>> Tovo: Or get it -- get that message to you in advance so that you have time to draft it between now and Thursday?

>> Yes, although, as I said, if some of this requires probably a correction or change the site plan that's already in place, and Mr. Cavanaugh is working certainly to do that, if the changes go beyond, let's say,

and start eliminating the kennel or start changing the access, we would need to redraft the language and --

[10:31:46 AM]

>> Tovo: Okay.

>> -- I would need to work with the law department in crafting that language. You could take second reading, certainly, and that way, there would be some direction and we'll bring that back another day.

>> Tovo: So did I understand -- Mr. Cavanaugh, at the meeting itself, said he wasn't wedded to the kennel. It now sounds like -- I thought he was suggesting he's willing to consider removal it. Now it sounds like he's willing to remove it but would want some level of additional --

>> Yes. He was very clear with me yesterday that he might be willing to give up the kennel, but he would only give it up in exchange for something, and that something might be the additional impervious cover credits and some other considerations.

>> Tovo: Okay. And that's -- again, how many more years does he have on his remaining site plan? One?

>> He has one and he can ask for an administrative extension of a year, then he can come back to the commission and ask for additional times.

>> Tovo: So he's got two years basically, one year left running on the site plan that's filed, then he could ask for an extension of an administrative approval of an additional years so he's got a total of two years on the site plan?

>> I think he has probably a year and couple of months, then the existing site plan would expire, I believe, this year sometime.

>> Tovo: Okay. So he really just has a couple months left on his existing site plan and one-year extension, and the kennel use would not be permitted.

>> That's right. Although he could ask for an extension. He could file building permit requests for the structure, then he could keep moving with that. Theoretically, it wouldn't expire, as long as he diligently pursued the construction.

>> Tovo: Okay. Thank you district 1 are his rights tied to the site plan, or do his rights exist under other grandfathering separate and apart from the site plan? In other words, if the site plan expired, could he apply for the same site plan under other rights?

>> He could. As you might recall, from the previous meeting, he has certain state law protections to the use.

[10:33:50 AM]

His site plan wouldn't expire, but he'd have to go to the expense of basically refileing the whole application again. And to the extent that he's meeting certain health safety laws, we could enforce those, but we could not prohibit the use of that site plan because it's protected by state law, of a new state plan being refiled.

>> Mayor Adler: So if we were to get rid of the kennel use, say, whether or not the site plan expired wouldn't get rid of the kennel use. If we wanted to get rid of the kennel use, he would have to voluntarily give that up.

>> That's right. I believe that right is protected under -- even if the site plan expired, he could come back and file a new site plan, pay all new fees, go through a whole new review. We could not deny the use. That's not to say the design of the property might change property and might have to do some additional landscaping and thing like that, but we could not deny the use from conceivably going forward.

>> Mayor Adler: Could he be entitled to the second point of access? Access? If the site plan expired, could he --

>> That's a good question. I'd probably want to --

>> Mayor Adler: Let me withdraw that question. That would probably be a question for us to take in executive session, so I'm going to withdraw that question.

>> Okay.

>> So just to explain kind of, the current situation, the current use of the property has only one driveway to spicewood. It does not have a driveway to yaupon at this point.

>> It does have -- pardon me, it has a driveway approved Rae in the site plan, that's not built via sesquicentennial boulevard, which is a short substreet that goes from yaupon along the edge of this property, along it's eastern backgrounder, and would serve only storage use and the kennel. The glass business has a separate driveway to spicewood springs.

[10:35:51 AM]

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: A question for councilmember Gallo I'm remembering at the council meeting on Thursday you said that the neighbors wanted there to be access on owe upon? Yaupon; is thatright?

>> It would act as if it would be a driveway. It's only the depth of a single family lot, so it's -- part of our arterial roadway plan from the '80s that never went forward, it was known as arterial [inaudible], so this is a way to cross the subdivision, so that original developer put the extension for arterial to cross over yaupon, but it's never going to move because of bcp land further to the west.

>> Gallo: Okay. Thank you.

>> Mayor Adler: Any further discussion on this item? Thank you. Item number 6. I'm sorry, nobody pulled 5. Item number 6.

>> Houston: I think I circled it wrong.

>> Mayor Adler: So I'm confused as to whether or not this is an item from the committee or if this is an item from outside the committee.

>> Houston: No, the item from the committee is not this, the item from the committee is in the backup information. This is a new resolution so that needs to be moved to item from council. I don't know how - - perhaps Ms. Thomas from legal could help us understand what happened.

>> Mayor Adler: And also to address it, the issue would be that if it's an item that's not from the committee but from council, there's certain notice provision that's required.

[10:37:54 AM]

So it's -- right? To be able to put something on the agenda. And I just don't know --

>> I think the confusion became because there was an item from council and there was also committee action. When the agenda office got them, they merged the two rather than kept them as two separate things. So this is a glitch in our system with our new committees, and I think that they're working to make sure it doesn't happen again, and they're very sorry. But the backup has -- maybe Debra can a explain it better, what's in the backup. And you could add backup if you want.

>> What is in the backup is the committee -- sorry, Deborah Thomas with the law department. What is in the backup is the committee recommendation, but it does not include the committee resolution. The resolution and backup is what is, in essence, councilmember Garza's ifc. And they're a bit different.

>> Mayor Adler: And what is the difference between what came from the committee and what is the issue from the councilmember?

>> The council committee made a recommendation to go forward but did not create a resolution. There was -- the original resolution was forwarded to the committee. There was a substitute resolution that

did not get any legs, and so then we just decided to make a recommendation back to the full council about -- which is in the backup, but then the new resolution is not something that we even discussed.

>> Mayor Adler: Okay.

>> Houston: At the committee level.

>> Mayor Adler: Could you help me understand the difference? The recommendation committee was to ask for -- what was the recommendation from the committee?

>> Houston: Let me read it to you.

>> Mayor Adler: Thank you.

>> Houston: The recommendation to the full council that the city manager include the concept of applied behavioral analysis therapy in the 2015-2016 budget, and to bring forth additional funding level options. The reason we put that in is because human resources was having a problem being able to get some defined limits around the issues, so -- and the substitute resolution, there was a cap on ages.

[10:40:09 AM]

We went from 18 to 13. There was some other funding options that would give them the ability to be more predictable about what the costs were going to be. You could put a number of visits per year. There were a lot of things that they didn't have at that point, so that's why we came back with some funding level options that would be able to give them a prescribed benefit and we have some idea about what the limits would be.

>> Mayor Adler: Okay. And then what's the -- Ms. Garza, this is your resolution, and how does your resolution differ from the recommendation that came back from the committee?

>> It differs in --

>> Mayor Adler: Could you turn on your microphone, please? Garza there was a lot of discussion at the committee level of how to present this because the original -- my original resolution was to direct the city manager to include this in the budget presentation. So he would include it in what he presented as our budget. The committee wanted to -- wanted city management to give options. And then -- so there was a lot of discussion on the ability to do that because when the city manager -- and again, I'm learning the budget process -- when the budget is given to us, it's just given to us as a document with all these -- you know, this is what my recommendation for the budget is. It's -- it -- I didn't understand how it could be possible to ask the city manager to give options in that document that has a million, you know, line items and recommendations. So I think -- so the committee decided -- the general committee -- my understanding, correct me if I'm wrong, was, we want to include this, but we want options on the different levels of coverage available, and age issues. And so that was the committee's recommendation.

[10:42:12 AM]

Maybe the confusion is that we put this back on the council agenda, not coming from committee acting is this this was what the committee recommended; this was just put back on the council agenda because we have enough sponsors to do that.

>> Mayor Adler: So are you -- so is your deal effectively picking one of the options that would otherwise come back?

>> Garza: Yes.

>> Mayor Adler: Okay. So -- go ahead.

>> So I guess my question is, do you intend to incorporate the committee -- the recommendation that the committee passed, into your resolution? Or do you intend to move forward with the resolution as stated outside of the committee recommendation?

>> And I guess I don't know how to do that because I'm not sure how the budget process works. If we can create a resolution somehow -- if there's an amendment that can be offered that incorporates what the committee wanted with those options and that's doable, I'd be okay with that, but I don't know how we direct the city manager to do something or ask him to do something with options, the way the budget -- I don't understand the way the budget process works.

>> I guess just from my perspective -- I think councilmember Garza generally stated what was all talked about. I think we all had an interest making sure that autism benefits -- continuing the conversation about including autism benefits in the next budget, but I was very uncomfortable with directing the inclusion of that without -- based on the fact that we have such vastly different estimates of how much it would cost.

[10:44:19 AM]

There's vastly different potentials of theme levels, and so I was not comfortable supporting -- directing the city manager to include something without having any kind of parameters of what we were really asking for, what we were really -- how much that would cost. And so that was kind of -- you know, I feel like the compromise, for a better word -- and you're right, we all are trying to learn how this budget process works, and that's kind of the question I was trying to ask the other day at our budget work session. But I guess we all need to better understand how that is possible because the intent of the committee was that we be presented with the options first, so that we can see the cost of what we're actually voting on, and the parameters of what we're actually voting on rather than kind of having a -- having no clear idea of what this would include.

>> Mayor Adler: There are also other options with insurance. There's options with respect to temporary employees or contract employees, and there were also transgender issues. Are we looking at those things whole stickily? Ms. Kitchen, then back to --

>> Kitchen: Well, I can see bringing this separately from the other issues. I mean, the process that we were following, the one that I brought forward, which was the coverage for part-time temporary contract employees is following a process whereby -- what's supposed to come back to us is the cost. But I think that's a bigger issue than what we're talking about here. This is a very discreet policy question from my perspective, and that is whether we're going to offer coverage for this type of benefit. The others are different. They're coverage for people, not a specific benefit. The other reason I think this is different is because the resolution in it has a cap.

[10:46:19 AM]

And so put some parameters around a dollar amount. So I think simply what's happening here is the committee -- I agree with what councilmember troxclair was saying in terms of the committee approach, but that doesn't mean councilmembers can't bring separately a more specific resolution, which is for ifc, which is what this is. So some of us felt like we had enough information and that we could go forward with it, and we wanted to bring that forward, you know, because there -- I personally felt like there were enough parameters between what was provided to us from an information standpoint on cost.

>> Mayor Adler: Ms. Houston.

>> Houston: So I want everybody to be clear. Everybody on the committee wants the city to provide, in their self-funded plan, this therapy to people who have children or adults with autism. That's not the issue here. The issue is how to define those benefits in a way that does not give the families some unlimited understanding of what those benefits may be, and trying to give the benefit plan manager the opportunity to have some kind of reasonableness and predictability about what's happening. So that's one piece. We all agree that this should be considered and should be a part of the budget. The other

part for me is a policy issue. So why do we have committees? We send it to a committee. The committee sends a recommendation that's positive, a positive recommendation back to the full council to discuss, and then we have another resolution that, until the backup came -- I didn't see it until yesterday or today or this morning. And so we're starting all over again with that process. And so how do we negotiate between the committee making a positive recommendation and then having another item from council placed on the agenda.

[10:48:26 AM]

So I think those are two different issue, but one is a policy, how do we negotiate that, and the other one is, we want this to be included, and that's what the recommendation said. And that's what we're referring back to the full council.

>> Mayor Adler: Okay. Mr. Casar. . >> Casar: I'd like to address both of those points. Thank you for bringing them up, councilmember. In terms of options in coverage, my understanding -- and I would love to hear from Mr. Wash the on this -- is that this would essentially adopt what we all agree on, that we want to have some kind of coverage, but then in the budget cycle, the city manager would bring forward what he believes and what our city staff believes is the best option, and of course we can then debate during the budget cycle whether it should be more or less. But this is basically putting the ball in the city manager's court to examine the insurance options and to bring back what fits in our budget. So that's the reason why, upon first glance, reading the resolution, it resonated with me as what came out of committee because instead of examining options ourselves, then direct got the city manager to take a look at those options and incorporating them into the budget, we're just putting the ball in the professionals' court to look at these options. We're adopting a policy that we want to see this sort of coverage, but we're not stating exactly for what years or for what amounts. But that is -- that is up to our staff to research and develop and bring back in the budget? Is that more or less right? And then I will say love to address briefly the point on resolutions and recommendations coming out of committee.

>> Mayor Adler: Okay. Mr. Washington.

>> Mark Washington, H.R. Director. I think from one resolution that's exactly what I recall direction to be, for staff to take the policy direction and then look at the options. The manager would bring forth a recommendation back.

[10:50:29 AM]

I think the other resolution prescribes a specific option, in terms of the cap and in terms of the number of hours available for treatment, and that would be the recommendation. As I was briefly speaking somewhere assistant city manager lombreras, first, we would analyze it, make a staff recommendation, then during the budget process, if the council chose to except it or to modify it or to change it, the staff would also have additional options available for council's consideration beyond the city manager's recommendation on the first. The second one would just be a direction, as I understand it, back to the city manager saying this is the option we'd like to see, cross it out, assume it's in the budget -- assume that to be as part 69 base budget, but I think what the manager indicated is he would still bring -- even if that was council direction, he would still bring forth his best recommendation.

>> Casar: That was my understanding as well. Then to the second piece --

>> I'm sorry, I'm going to ask for a clarification on that before I move on. When you say the first option and the second option, the first option, which option are you referring to? The committee recommendation?

>> Casar: The committee recommendation.

>> Because from the way I just heard this conversation, what councilmember Casar said was the opposite of what you said. He said that he thought that the resolution in front of us allowed for the staff to study the issue and bring back options, and actually that's the exact sticking point that led us to the creation of the committee recommendation, rather than the original resolution, because we felt like the original resolution was making -- was setting that direction, whereas the committee recommendation specifically speaks to the fact that we would like to see -- that we want you -- or we want the city manager to include applied behavior analysis therapy in the budget, but also identify funding levels and options so that we can see -- have information before making a decision or direction.

[10:52:45 AM]

>> Right. I'm sorry. So I was -- I think there are three things that I'm looking at. There's the original resolution that went to committee, which is consistent with the committee's recommendation, and I consider it as part of the first option; and then there's this most recent resolution that has the caps as a sole option, as I understand it. Understand.

>> But I want to be clear, this this wasn't an attempt to side step the committee, it was to incorporate what the committee recommended into my original resolution. And the wording says -- it only speaks of caps one time, and it says "And could consider a cap." It doesn't say that this is -- and in addition, I feel that we have to have something to work off of, like something to start the conversation. It can't be just a -- you don't bring things to council with a general, this is what I -- this is my general idea. There has to be something to start with. So this is merely an offer, a starting point that we can discuss more today or more on Thursday about the different --

>> Mayor Adler: Let me ask a question of you, just so -- I'm trying to figure, and maybe, Mr. Washington, you can weigh in too, because it's kind of a substance question and a budget question. So my understanding is that the manager's job is to give us a budget, which he'll do. And he'll include in that budget whatever his recommendation is. And we could direct him, when you give us your recommendation, to include this in your recommendation, and we really can't do that, because his budget recommendation will be his recommendation. And we could say to him, we'd really like for you, or we direct you to recommend this to us, and he will say, by charter, it is my job to give you what I recommend, which means what I recommend. And we want him to do that. At the same time, we get to decide what the budget is. So regardless of what he recommends, we can say to him, didn't you include this and we wanted it included, or you included this, but you included it as a different level than we ultimately want to have it happen.

[10:54:58 AM]

So at the end of the day, come later this summer, the manager is going to give us a budget. It's either going to include this or not include this. It's entirely at his discretion whether it does. Once he gives it to us, then it's no longer his budget, it now becomes our budget, and we can decide whether or not to put it in, and at what level do we want to put it in. And at that point, we would want to know what the -- I guess what the menu is of options for that. So does this -- does your resolution -- how does your resolution fit within that scheme?

>> Well, that's why I'm unclear of that because I'm not sure -- I thought if council directs the city manager to do something, he's supposed to do that. But maybe that's where the gray -- there's gray in there because watching the budget session last week, it seemed like he seemed to indicate he doesn't have to put anything in there that he doesn't -- he doesn't recommend. So I guess that's a question. If we have a resolution that directs the city manager to do something, is he supposed to do it?

>> Mayor Adler: Well, because the charter tells him -- unless we change the charter, which we can't do by ordinance, he has to give us the budget he recommends, which may or may not include what we want. But we control -- I guess we could ask legal to opine on that, but I think he doesn't control what ultimately we do. So ultimately, we have the full discretion to say we hear what you recommend and thank you, but we disagree with that. Do you want to --

>> So I just think the policy question you all are talking about is whether or not to have the applied behavioral analysis available. And so your policy decision is to further council for the city manager to look into that when he creates a budget. He will create a budget that is a budget that he recommends, then you all will take it and it will be your budget after that.

>> Mayor Adler: And Ms. Kitchen?

>> Kitchen: That's not what this says.

[10:56:58 AM]

This resolution doesn't -- if I'm reading it correctly, and what my thought was with regard to the resolution, it doesn't direct the city manager to include something in the budget, it makes a policy statement that, as a benefit package, we're going to cover this for our employees. That's a fundamental -- to my mind, anyway, that's fundamentally different than directing the city manager to keep -- to put something in his budget. I mean, it actually states that it's going to -- if the council adopts a policy that these services should be provided for city employees. So, to me, that's not the same as asking the city manager to include something in the budget. To me, it's setting a policy.

>> Mayor Adler: Does it prescribe a certain level?

>> Kitchen: Yes, it talks about from the perspective -- yes, and that's a policy decision, too. It's a policy decision to say that, as a city, we're going to cover a service, it simply says we're going to cover that service at an equivalent level to other types of plans. That's all it says. So that's a policy decision. That's not a budget decision, from my perspective.

>> Mayor Adler: So if the council wanted to see what the options were, at this level, a level that might provide greater protection than what this says, or a level that provides a little bit protection than what this says, if that's what somebody wanted to do, would they vote for the resolution or would they vote for the -- the committee --

>> Kitchen: They would vote for the committee -- this is different. This takes it -- to my mind, anyway, this takes it -- original, we said we wanted to understand -- we wanted -- as a budget process, we wanted to understand what the costs were. This is a different action. This is taking the policy decision to say, yes, we want it covered, which we haven't voted on.

[10:59:01 AM]

You know, it's making the statement that, yes, we want it covered.

>> Mayor Adler: Okay. So then my question then would be if the committee was recommending that it wanted to know what different options were, the sponsors of these resolutions have picked one of those options. So it would be helpful for me to know what the difference in costs is between the option that was picked and the other options, and why the sponsors of this bill picked that level, as compared to the one, one up and one down, and what would be the ones one up and one down?

>> The problem with that is, there is -- we had several presentations, and there's no clear indication of what the cost would be because the city's actuary or somebody has estimated this wide range, from a 30,000 to, I think, 100,000.

>> Mayor Adler: Per occurrence? Or total budget impact?

>> No, just like per -- I think it's like per session or --

>> Kitchen: Per person. Per covered life.

>> Garza: Where the advocates brought us information that said every time these estimates are given, they're severely overestimated, like almost 200% overestimated. Then we asked for information from AISD, who covers it, and the county, and they're numbers, which, in my opinion, would be closer to what we would pay because they're AISD and Travis county, were significantly smaller. So that's why it's been difficult getting those numbers, because there's such a range in what it could be, and then what it is for similar county and government entities here in Travis county.

>> Houston: And that's the reason we sent it to committee, because we could have those kinds of in-depth discussions. There's one person covered under Travis county, so that's an outlier. And I can't remember what the particulars are of Austin independent school district. But the issue is that this is a concern to us. We think there is a need for families who have family members on the autism spectrum, that they need this kind of support.

[11:01:08 AM]

It shows that it works. But the point I want to speak to at this point is that, no, it's not being looked at holistically, because we know from having reports -- information from human resources, that there are other things that provider council and current council are contemplating putting in that will, you know, have an impact on what the health care benefit will look like. And so this is not to delay this to say, yes, we want it, we want it, but we want to make sure that when we get to the budget, we know what all of those cost factors might be. Maybe it's an age cap, maybe it's a limit per visits, like this one seems to be. Maybe it's a dollar amount. There may be some exceptions. Maybe we do it on a pilot. There are a lot of things that we talked about in committee that now may negate all of that conversation, or maybe not, depending on how the budget goes that we can still have those conversations. But we tried to be very thoughtful about being directed, about this is something we care about yet we want to know what other options are available.

>> Mayor Adler: Okay. And in the committee did you look at whether this raised the cost for employees and whether it goes us close to an excise plan?

>> Houston: Yes. Human resources can talk about that. Yes, we did. Considering all the other things that we have on the plate that we'll have to consider.

>> Yes. We did look at the -- the total costs, and there would be a premium impact to employees with dependents. And we've not finalized the rates because there's other factors we would have to take into consideration in developing the rates among those other cost improvements -- benefit plan improvements. And we also did look at the excise tax issue that was asked in previous committee questions, and it would have an impact, if the excise tax is implemented as projected for 2018.

[11:03:17 AM]

>> Mayor Adler: Mr. Zimmerman and Ms. Tovo.

>> Zimmerman: Thank you, Mr. Mayor. So to speak to councilmember Kitchen's point, yes, there's a policy question here, but I think what's happened at the city and why it's so unaffordable is, policy has been made in a vacuum with respect to cost. You know. And we can talk about a policy sounding great, but then when we incorporate the cost and think about the fiscal consequences, we -- fiscal consequences, we think, that's not good policy if it's going to cost this much. So I stand with my colleagues to say that it's impossible to separate policy decisions from what the cost is. It's extremely important. I mean, if there were very, very minimal costs that were controlled, I'd be in favor of adding, you know, a benefit in question, but if there's no cap and it's not limited, it will be, I think, a terrible policy to just make a blanket statement, yes, we're going to cover it, irrespective of the cost.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I just want to speak to cost real quick because while there is such a range in what is being estimate and what is being currently offered at other levels, the -- even at the highest estimate, it's less than one percent of the entire payouts of last year, even estimated at the highest percent. So if there's one number that we know, we know that number. But it's less than one percent of the entire payouts of the city's health insurance plan.

>> Mayor Adler: Ms. Tovo.

>> Tovo: Mr. Washington when the previous council passed the resolution, I thought we were directing the city manager to include in this upcoming budget benefits for transgender benefits.

>> That's correct.

>> Tovo: So that was what the language looked like; correct? Directed the city manager to include those costs in this next year's budget.

>> That's correct.

>> Tovo: So I see this -- I see the resolution as really consistent with that.

[11:05:18 AM]

We are -- if it passes directing the city manager to include -- to include that coverage in the recommended budget, as has been discussed, the budget that comes forward may include it as -- you know, in the base budget, or it may be on a list of things the council has directed, but are not included, and signaled out for our specific attention. And I would suggest that, one, the resolution -- the specific resolution before us does respond to one of the concerns that we heard at our committee meeting in suggesting that a cap might be one way to contain -- or not to contain the costs, though it would do that, but to have more predictable budgeting -- you know, a more predictable budgeting method. But I think we could also consider whether -- whether we need to be explicit that the staff, when they bring forward the budget, could also include, you know, an option or two to consider. But I'm not uncomfortable with this at all. I think this is -- you know, again, I agree with chair Houston that there was support for including -- for providing these benefits. There were a lot of various considerations that we talked about and couldn't -- you know, couldn't either get the information about -- now, this is me talking. It was my opinion that -- that we had not consensus on considering some of those other options, and also not exactly all the information we would need to come to a clear decision on some of those issues, but we'll have an opportunity to do so in the budget. But I think right now, setting a path that we want to consider for budget is, you know, certainly I support.

>> Mayor Adler: So it's my intent, so that you know, to call this issue out as an item from the committee, with the committee recommendation, so that that gets put onto the floor.

[11:07:22 AM]

And then, Ms. Garza, I will immediately recognize you to make an amendment to the committee report, so as to include the resolution language that he want to have, so that it comes back from the committee, and then it will be handled as an amendment, as any amendment could be made to the committee for recommendation, and that way, we have some maintained integrity to the committee process.

>> Houston: Mayor, I'm sorry, you said then go back to the committee? What did you say?

>> Mayor Adler: My understanding is that the committee has made a recommendation.

>> Houston: Right.

>> Mayor Adler: That recommendation is going to come before the council on Thursday.

>> Houston: Right.

>> Mayor Adler: I'm going to recognize Ms. Garza to amend the recommendation to the committee. Whenever a committee comes back with a report, it's put on the agenda, it's covered. Any one of us can make an amendment to the committee recommendation. We don't have to adopt the committee recommendation. In fact, anyone can amend it.

>> Houston: Okay. So, mayor, one of the reasons that we would fast-track this and get it on and get it settled on Thursday is because councilmember Garza's desire to get it done before she goes on maternity leave.

>> Mayor Adler: Right. It could still happen that way.

>> Houston: Okay. I thought I heard you say once the amendment, whatever, happens, it will go back to the committee --

>> Mayor Adler: It won't go back to the committee. There's a committee recommendation. Any one of us can make -- when anything comes back from a committee, any one of us can make amendments or changes to the committee recommendation. So it looks to me -- and help me if I'm looking at this wrong -- what Ms. Garza seems to be doing is saying, I've seen the committee recommendation, I think we can approve the committee recommendation by giving a greater specificity. So that would be, in essence, an amendment to a committee recommendation or committee report. We would then debate Ms. Garza's amendment the same way we would as if we were handling it straight as a resolution that came from a councilmember. Am I seeing that wrong? We would be in exactly the same place, except we will have kept with the policy that what brought this back to the table, to the dais, was the recommendation of the committee, but then we would immediately consider the -- the amendment or the substitute resolution to what the committee recommended.

[11:09:40 AM]

Let me know if I'm looking at that wrong. Ms. Kitchen.

>> Kitchen: Well, my question is just that -- and I'm sorry, I'm not remembering exactly how the recommendation came back, but, you know, a recommendation may not be anything to act on. If it doesn't come back as a resolution, it's not anything to act on, it's just a report from the committee. So I had thought that what was coming back from this committee was more in the nature of a report, rather than something to vote on. So I wouldn't see it as an amendment to that, I would just see it as a, okay, here's a report for what the committee did, and, okay, so here's a resolution. Is that not right?

>> Mayor Adler: I don't know, because I'm not -- really, I'm not clear as to what it is that --

>> Kitchen: Well, I'm not either. I'm not clear either. I was thinking it was just a report. Is that right?

>> And we submitted -- maybe there's some confusion as to -- I know the agenda office may have included this in the wrong area, but we submitted this as an item from council to be -- because, again, no intention to side-step the committee process. We wanted it to be heard before council, and we wanted the backing of the -- some kind of positive committee recommendation, which I believe we got. It's a general report, recommendation, saying, yes, we want this included. But I agree that I don't know if it's an amendment because there is no language to amend. It's just a report from the committee.

>> Mayor Adler: I need to understand better what it is that came back from the committee.

>> Well, assistance city manager. . >> Houston: I guess there's a broader issue here. Once the committee meets, is the expectation that any action has to be in the form of a resolution, or can it be a recommendation to council to take a certain action?

[11:11:41 AM]

Because that was never the issue. I never heard that we had to come back with a resolution.

>> Mayor Adler: No, and I think you've come back, so what you've come back with is a recommendation to the council to do something.

>> Casar: Mr. Mayor? I'm sorry, I've been waiting to see this.

>> Mayor Adler: Go ahead.

>> Casar: Since the beginning of this conversation when I get my two pieces. I've noticed this has been an issue in a couple of meetings, I have some proposed ways of handling this hole stickily across committees. Just to safer ourselves hopefully the time of dealing with this particular issue, we can deal with it however the mayor and council check marks but before we get into how we deal with this in all committees, I have spent a few hours, when I was sitting on a bus, going through some of this on my own, and will present it to this -- to the meeting we're having this afternoon and, hopefully, the depending on how the conversation goes there, bring it back to the council so that we can iron this out, longstanding across committees, how recommendations work, which is how resolutions work and how they are sent to council from committees. So just to save us from having that conversation here during work session, I've tried saving some of that pain and hopefully we'll get it back to you soon.

>> Mayor Adler: I'll hold an a abeyance then and call it itch on Thursday.

>> Houston: I appreciate you sharing that with us because that is an issue. Historically, everything came through resolution. Perhaps that's not the best way. Maybe we talk to staff, develop a consensus about it, then make a recommendation back to full council, at which point we start doing the resolutions. Again, when I was going throughout the district -- I'm going to do a don Zimmerman now -- the people in my district said that they get tired of having to respond against resolutions that have been drafted in the dark, and then they have to come and react to it. So we're -- the way I'm trying to operate is start that conversation down here, get all the input we can, and then make a recommendation at that point.

[11:13:49 AM]

Then we go draft a resolution. But if that's wrong, then I need to know that, and I think we all need to know that, because my way of doing it is by recommending to council that we support this. And then we draft a resolution.

>> Mayor Adler: I understand.

>> Houston: Okay?

>> Mayor Adler: Yes.

>> Excuse me, mayor. I do understand what everyone is saying, but at this moment, what is on the agenda is posting language that could possibly support either of the recommendations. So -- but the resolution that is in backup that is ready for council to act is councilmember Garza's resolution, because the posting would support -- and I'd have to rely on councilmember Houston to decide if it did support that, but it looks like it does. It's broad enough to do that then if you were going to make -- if you were going to have an action, someone -- it would be flipped; it would be councilmember Garza's resolution that was present, and anyone who wanted to do an amendment to that could do an amendment to that to bring in those things that councilmember Houston and troxclair talked about.

>> Mayor Adler: Okay. Thank you. Further discussion? Ms. Tovo?

>> Tovo: Mayor, I look forward to hearing councilmember Casar's poem, but let me just say the analogous situation was, you brought forward a staffing proposal, it got referred to audit and finance. We studied it over the course of two meetings, four hours-ish, and provides a recommendation that was a little different. And so I think our recommendation was appended at backup to your original resolution. We had a discussion about that. In the end, there was something else distributed, and that goes what we voted on. But the committee's -- the committee's response was backup to the original resolution, and I see that this is a very similar situation.

[11:15:50 AM]

>> Mayor Adler: I understand. Thank you.

>> Tovo: And we're about to have, you know, the reverse, the health and human services considered the sobriety center, made a resolution to move it forward, but there's not a resolution, in all of the details that need to be attached so I'm going to bring forward a specific resolution. But, you know, you need some more details to really advance on an issue. So I think that -- again, I think we're about to have the reverse of this situation happen, but it seems to me that councilmember Garza's resolution is very similar to the one you did.

>> Mayor Adler: Furs conversation on this issue? Ms. Garza?

>> Garza: And I realize we're going to have this further discussion in the transition committee, but I just - I feel you have to have somewhere to start. You have to have some language to start. For example, the taxicab franchise resolution is like 15 pages, and that's where we're starting. And then it's gone to committee, and we're, you know, picking that apart, little by little. But I don't feel like this goes against the goal of the committee. It's -- and that's why it's called an item from council, you know. We each advocate for what we believe is a good direction, and then we bring it forth and then we brick it apart that way. But I'm concerned about -- I just feel like there needs to be a starting point when we bring resolutions forward.

>> Houston: But, councilmember Garza, this is on as an item from the committee, rather than an item from council.

>> And we didn't submit it that way.

>> Houston: But just for an example, when we're talking about predictability and some controls for human resources, I'm not sure what page, but it's a "Whereas, Texas law requires that are diagnosed before the tenth birthday until treatment is no longer needed," that's so broad, there's no way to kind of figure out what the controls are, until treatment is no longer needed. Is that 75 years?

[11:17:51 AM]

Is that when you get to be 30? And some of the other self-funded plans do of some caps on those kinds of things. So those --

>> We're trying to get more information.

>> Mayor Adler: Thank you. Any further discussion on this item? Then we'll move on to the next item. The next item we have is item 7.

>> Do we know who pulled this one?

>> Mayor Adler: 7 and 8. I'm sorry?

>> Do we know who pulled it?

>> Mayor Adler: I did.

>> Okay.

>> Mayor Adler: So why don't you go ahead and set this up real fast.

>> Sure. Planning and zoning department. Items 7 and 8 are both the Korean united presbyterian church cases. One is a neighborhood plan amendment and one is the related zoning case. These cases, both of them went before the previous city council and were approved. The request is to take an existing church and convert it to a small office building complex with two office buildings, adjoining three-story garage so that would be wrapped by ten apartments. When the case passed on first reading, previous council passed 4-2. However a valid petition remains. I had a conversation with the person who is the leader of the group that got the valid petition, and he says that it is a valid petition against any rezoning of the property. So the current request is for goco zoning. Gomuco zoning. However, essentially what the

applicant is requesting is lo zoning and only two conditions that are applicable to go zoning, those being the impervious cover and the building coverage.

[11:19:54 AM]

Both instances, go gives you 10% more than what lo does. So one way of looking at it is, it's basically lo zoning, but with the impervious cover from go, the impervious cover and building coverage from go, and both situations would have an mu because they do want to have a residential component to the project.

>> Mayor Adler: Does the go zone impervious cover allow for the existing improvements or would it allow for additional improvements?

>> I'm not sure what the existing impervious cover on the project is. I can tell you from looking at the area, it looks pretty high. It's already built out as a church. We don't have any information about what the existing impervious cover is. Under the go it would be 80% allowed, under lo it would be 70% allowed as you see but you don't know what the existing is.

>> I don't know what the existing is.

>> Mayor Adler: With respect to this tract, what would the vote need to be, given a valid petition on this council for approval?

>> This Thursday there could be a couple situations. If the case passed -- if it got less than six votes, it would be dead. 6, 7, or 8 votes could pass on second reading, and nine votes or more it could pass on third readings.

>> Would you mind saying that again?

>> Sure. Less than six votes, it would be dead. If it got six, seven, or eight votes, it could pass on then second reading only. Or if it received nine or more votes, it could pass on second and third. Or the city council, if it received six votes, could vote for something entirely different than what the -- you know, the ordinance that we have written is, and we would do it on second reading only again and bring it back for third with whatever --

>> Mayor Adler: Ultimately, this would need nine votes in order to change the zoning.

>> That's correct.

>> Mayor Adler: What happens to this property if the zoning is not changed?

>> The property is currently zoned sf 3. Sf 3 is what we call family residential. It's basically single family and complex homes. However, it does allow for churches. And so that's why we have a church on this property. If the zoning were denied, then the options are pretty limited.

[11:21:55 AM]

It could either be a church, a house or a complex, or possibly a small day care. It could be a group home. But mainly it would be a residential or a church, would be the -- you know, small scale residential or church.

>> Mayor Adler: Staff is recommending zoning change?

>> Yes. The staff is recommending lo zoning. And the -- I believe the planning commission agreed with staff recommendation. The previous council gave them go zoning, but as I said, only with those two conditions from go; otherwise, it's the same as lo zoning.

>> Mayor Adler: Why does staff recommend the zoning change?

>> Because if you look at the zoning map, this basically is at the end of a block that comes off of burnet road, near the intersection with burnet and Justin. There's existing commercial across the street, existing multifamily across the street, and this whole -- I want to call it super block, but this large block coming off burnet road, this is the tail end of it, and all the other remaining property on the block is zoned commercial or multifamily. There's a large church, comprises -- another church comprises another

good part of that block as well, and we just thought that given the existing zoning in the area and the existing uses in the area, we were okay with lo zoning.

>> Mayor Adler: So even if this property were vacant, you would be recommending the same zoning?

>> Yes.

>> Mayor Adler: Okay. Any questions or comments on this issue? Mr. Casar, then Ms. Gallo.

>> Casar: Can you remind me, if this passes on second reading then goes only -- then goes to third reading, is there still nine votes required to pass on third reading as well?

>> Yes. It could pass tomorrow on second with less than nine, more than six but less than nine.

However, by the time we got to third reading, it would require nine votes. If it received nine or more votes tomorrow, we could do second and third at the same time.

>> Mayor Adler: Because of the valid petition. Ms. Gallon on he?

[11:23:56 AM]

>> Gallo: Do you know offhand what the traffic count for Justin is?

>> No, I do not.

>> Gallo: Okay. If we could -- I think that would be important information to have, as we talk about changing this use. You know, that's such a dilemma on some of these used to be residential but are becoming more and more high-traffic streets in neighborhoods. And so this -- the zoning that staff has recommended would then -- so multifamily is currently allowed under the zoning?

>> No, it's zoned sf 3 so can duplex or single-family would be allowed.

>> Gallo: So the zoning that staff is recommending would be -- would not include multifamily.

>> No, the zoning the staff is recommending is lo, mu, comp, so it could allow a multifamily unit to it as well. It could either be office or, you know, multifamily or single-family or a mixture thereof.

>> Gallo: And would there be any limitations to the percentage of multifamily if somebody wanted to do all multifamily on that property?

>> There would not be a limit to percentage, but there would be a limitation with regard to the density, the impervious cover, that kind of thing. So --

>> Gallo: Okay. Thank you.

>> Mayor Adler: Ms. Pool.

>> Pool: I think this will be this council's first case that has a valid petition? Is that correct?

>> Mayor Adler: No.

>> Pool: Okay.

>> There may have been one other one.

>> Pool: And that is a real powerful tool that council and the neighborhoods have in order to control the level of development that is brought in to change -- the amount of change that is allowed in neighborhoods. This was an interior street off of burnet road. It's about a block or two off. And there is a small strip shopping center, very '50s era, along Justin lane, I think it's called Justin plaza, and the neighborhood has tried to work -- this is another situation where the neighborhood has tried to work with the developer and has not come to any agreement, and I am prepared, as have previous councilmembers, to respect a valid petition as one of the few powerful pools that a neighborhood has in order to try to have some say in the fate of the neighborhood that they live in.

[11:26:28 AM]

So I will be supporting the neighborhood's position on this. And we did have some conversations with Mr. Rusthoven and the head of the neighborhood association group. I don't think -- the gentleman who is representing the group is not actually representing the neighborhood association, this is the

neighborhood, and they are adamant with the valid petition and are working to ensure that it stays in place.

>> Mayor Adler: Furs conversation on these couples 7 and 8? Ms. Proclamation?

>> Troxclair: Where -- I did not see mention of a valid petition in the discussions of the planning commission or I guess staff report. Where should I be looking to find mention of the vales petition?

>> In the staff report we have a second and third reading summary sheet, and it's right here, petition on the first page.

>> Mayor Adler: Hold that up and point again, please.

>> On the second and third reading summary sheet, the front page of the staff report that talks about a valid petition. It says 28.74 percent. I do believe that since the report was prepared, the petition is now at 34%. The petition is not applicable to the neighborhood plan item, which is item number 7. It is applicable to the zoning item, which is item number 8. So the valid petitions are only for zoning cases, not for plan amendments.

>> Okay.

>> Mayor Adler: Any further discussion on 7 and 8? Ms. Gallo?

>> Gallo: A couple of questions. In our packet, is there a summary of the crestview neighborhood planning contact team October 14th meeting?

>> Yes. That should be in the -- in the item 7, the plan amendment backup.

>> Gallo: Okay. So somewhere in there?

>> Yes. Let's see. It would be on page 5, 5 through 7 is a summary of the questions that were asked at that meeting on April 21st of last year.

[11:28:34 AM]

>> Gallo: I also think it's to important to note we're not looking at -- we're looking at office that is being proposed here, not housing, not apartments, and not residential units.

>> Yeah. The proposal, the applicants proposing right now, of course, this is zoning, so you would not be tied to it, but the proposal he has given us would have a -- would have an office right here, the court yeah, parking garage, then ten apartments wrapped around the edge of the parking garage. However, this is I will stative only and it would not be necessary for him to build these apartments if proofs.

>> Gallo: Since last fall, since the October 14th meeting -- and councilmember pool may know the answer to this -- has there been any other meetings of the contact team to discuss this?

>> Not that I'm aware of.

>> Gallo: Councilmember pool, do you know?

>> Pool: I think Mr. Rusthoven is correct. I don't know, either. And I think that that may not be particularly salient in this case. I think that the group of neighbors who live in this area are the ones that have come together, even during the campaign this was an issue. A number of us who were running in district 7 signed a letter to oppose the development at this site. So this has been going on for some months, since last summer. I think that the valid petition clearly and adequately reflects the concerns of the people who live in the general vicinity and their desire not to have additional offices in this interior to a neighborhood location. Again, we're not talking about housing units.

>> Gallo: Yeah. And that brings up a question. Is it your opinion that the neighborhood would support the multifamily component of this?

[11:30:35 AM]

I mean, I'm looking at it on Justin and kind of surrounded by commercial and wondering if there's a use that the neighborhood would -- would support other than just single-family.

>> Pool: I'd be happy to convene a meeting that you could come to and we could talk with them, if you'd like.

>> Gallo: Okay. But in the conversations prior, do you have any sense that that would be something that would be --

>> Pool: My understanding was, the developer was not interested in going that direction, so that never really entered into the conversation.

>> Gallo: But I'm not talking about from the developer, just from the neighborhood, since you've had communications, is that something they would see as a reasonable use of the property?

>> Pool: I'd be happy to set up a meeting if you'd like.

>> Gallo: Okay. Thank you.

>> Mayor Adler: Any further conversation on these items 7 and 8? Ms. Tovo.

>> Tovo: This is really a question from our staff. This is the second item I remember that has come forward. The public hearing was closed, but the public hearing was really done with a whole different group of people. And so I understand that we can't reopen the public hearing -- well, maybe let me ask that question. I think the last time I asked this, I was told we cannot reopen the public hearing because it's been posted, but the public hearing is closed. Is that right?

>> Right now under the items, the public hearing is closed. However, the council could also ask questions of anyone in the audience to come up.

>> Mayor Adler: We could also postpone the item and reopen.

>> Tovo: Reopen the public hearing? I guess my question is, do we have many more of these zoning issues coming forward where the first reading was with the previous council, and the public hearing has been closed? Because I think we do a real disservice to ourselves, since we're not hearing from -- you know, if we're not hearing from the people.

>> I've had that issue with individual councilmembers, of course as they've changed, one or two councilmembers with an election, but of course this is the first time having almost everybody be new. I don't believe that there are too many.

>> Tovo: Okay.

>> I would have to actually go back. Some of them actually go into hibernation, if you will, a little bit, they're waiting for closings to occur, or sometimes people just -- a deal falls through and they don't call us, and the zoning case just expires on its own.

[11:32:42 AM]

But I, off the top of my head, cannot recall any right now, but I could look into that and see if we -- talk to my staff and see what they know of that's coming down the line.

>> Mayor Adler: I agree with councilmember tovo. If there are any of those coming up like this again, if you could flag those ahead of time so we can decide how best to post them, so that we give people an opportunity to talk to this council, I think that would be a good idea.

>> The other thing that's involved, too, is a notice. So if we were to want to kind of basically reopen those, the staff would need about a month of lead time to be able to move out a new notice and take out a newspaper to say we're reconducting the hearing. A lot of people who already spoke think there's no need to come back again. We'd have to notify them by mail this is kind of reopened, if you will.

>> Mayor Adler: Why don't you go ahead understand identify any of those, set them on a work session like this, for a consideration of whether or not we direct to go ahead and renotice because we'll vote to potentially open up a hearing again.

>> Okay. Some of them, like I said, they may not come back. You know what I mean?

>> Mayor Adler: Just the ones that are --

>> Moving along.

>> Can I ask a question? Is that going to pertain to this one?

>> Mayor Adler: No. This is set on our agenda. Someone could have to handle it, someone to move to postpone it for that purpose if they wanted to, but we're not taking any action here. Ms. Goal oh, then Mr. Zimmerman.

>> Gallo: I notice there's reference to tract 1 and tract 2. Could you share with me which tract is which on the --

>> Sure. One fronts Justin and the other is behind it?

>> The difference between the two tracts is a matter of the height. Tract 1 is the tract that's on the corner of Cullen and Hardy Lane, Hardy Drive. And tract 2 is the one that solely fronts along Justin Lane. It's not the hard corner. One is 40-foot height and the other is 30-foot height.

>> Mayor Adler: Okay. Thank you. We now move to items 11 and 12.

[11:34:43 AM]

This is the waller on Swede Hill. I'm sorry, Mr. Syringes I'm sorry.

>> Zimmerman: I just wanted to maybe third what Mayor Pro Tem and what you had mentioned about public hearings having been closed under prior council. I think as a policy, I agree with that and concur. We ought to feel free to open those back up so we can hear.

>> Mayor Adler: Let the moment be marked.

[Laughter]

>> Mayor Adler: This is where we're supposed to adjourn the meeting. I just --

>> Can't get any better than that.

>> Mayor Adler: Really. We're on items 11 and 12. I understand that one appeared, the applicant, has asked for a postponement?

>> Yes, they did. We received a postponement request till your June 11 meeting.

>> Mayor Adler: Is this the first request?

>> It is the first request. However, if you'll recall, a while back when we had a postponement from this item, I believe it was in -- what was it, I guess March, maybe, the staff requested a postponement, and the reason that we did that was that we presumed, like most applicants, time is money and they are in a hurry, and we do what we call dual notified this case. We notified it for planning commission and city council with the same notice. However, we failed to inform the applicant of that. It's something that most applicants would like us to do without us having to even ask. When the case went to the planning commission and received an unfavorable vote from the planning commission, the applicant wanted to take some time to reconsider their options with the case, to possibly meet with the council, meet with the neighborhood, et cetera. So because I felt that we failed in our duty to inform them that it was on the city council agenda as quickly -- quicker than they thought, we requested a postponement last time. The neighborhood was adamant at that time that they were okay with doing it only for one month, so we postponed it from the March meeting -- I'm sorry -- from the April meeting to this meeting.

[11:36:46 AM]

And now at this time the applicant is requesting a postponement, but it is the first that the applicant has requested, that the previous postponement was by the staff.

>> Mayor Adler: And is there a preexisting custom where an applicant or neighborhood gets --

>> Yes. It is not a written rule but it has been the tradition of the city council for as long as I've been doing this, and the same with the planning commission, the zoning planning commission, that basically each side receives a postponement, quite a few no questions asked, if you will, and beyond that, there

are usually discussions about that, but -- and staff is usually kind of considered outside of that process, so usually there's one from the neighborhood and one from the applicant that are typically granted.

>> Mayor Adler: Okay. Any furs discussion on this item? Ms. Houston.

>> Houston: Mayor, I've talked with the members of the neighborhood and they're okay with the postponement. They said to the 4th or the 10th, but the 11th is the zoning. June 11th.

>> Mayor Adler: That's good. We'll go on then to the next item that's been pulled, item 14 was not pulled -- no, no, I'm sorry, item 13, Cameron apartments. This is in a tract that's in a cs commercial industrial area that someone is trying to get rezoned for residential use?

>> Correct. The property is currently loaned LI, or limited industrial, with no restrictions. The applicant's original request was for mf-5 or medium-high density, multiple family residential. There wasn't -- when it went to the zoning planning commission, they recommended csmu, commercial services mixed use, which would also allow for the same amount of residential as the mf-5. However, it would allow for commercial uses as well. The applicant could again do either or both of those uses.

[11:38:47 AM]

However, there was an issue, because the zoning and planning commission recommendation of csmu was actually higher than what the applicant was requesting of mf-5. So if you recall at the last meeting, we informed the council that we would -- if the city council wanted to take up the csmu recommendation, that we'd have to postpone the case and renotify it to have the csmu be an option for the city council. At that time, you all directed me to go ahead, renotify it, so that would be an option, but you also said go ahead and take it back to the zoning and planning commission since we're having to renotify anyway, and there was an opportunity to notify it for csmu, so essentially the zap vote, even though it's just recommendation, could actually be valid, if you will. In the meantime, the applicant has amended the request to csmu, so the request is no longer mf-5, it is csmu. However, because csmu does allow for a strictly residential project at basically the same density levels as mf-5, the staff can still not recommend the case, the reason being that it is surrounded on one, two, three sides by LI zoning, and the fourth side it is bordered by cs or commercial services zoning. Li zoning is, for all practice purposes, our most intense zoning category that we have in the city. There's one more above it of MI. However, we don't see that, haven't seen that for quite a while. The staff has concerns about, frankly, having multifamily residential use adjacent to LI, which could allow for a wide variety of industrial uses, and we feel could be an issue with regard to not only noise concerns and nuisance concerns, but safety concerns.

>> Mayor Adler: Question, most of the land around this is vacant still, no?

>> That is correct.

>> Mayor Adler: Is this area appropriately zoned? Should this be an area that is zoned for intense multifamily --

>> Yes.

[11:40:48 AM]

Going all the way back to the mid-1970s, there's a street near here called brown lane, and there was a brown lane study that was performed quite a while ago, but it did identify this area as an area where industrial zoning was appropriate, and if you look at this area going call the way down to U.S. 290, where you have the walnut creek business park, this is kind of the northern area above that business majority of this area park. This area is different, it's not an established business park with a zone side of deed restrictions as you would have in walnut creek, but rather it's still industrial that feeds off the industrial park. It's been industrial for a very long time. The reason I know that, we don't have

conditional overlays on a lot of this LI zoning. A lot of times if you have a case that's brought in as LI, there will be some type of restrictions posed upon it by the council, either a trip restriction or use restriction. So when I see a large area that's just blank in LI, as I see here, that tells me that it goes back, you know, quite a while, certainly probably to the early '80s, or if not before then. And, again, this has been an area that's been identified don't get as being appropriate for industrial zoning. There are existing LI uses that are across the street from this, on the other side of Cameron road. And even though the property around it is vacant right now, there would be nothing stopping anybody without any reapproval required from the city council or planning commission to come in with an industrial use as a site plan and to build that. There are no restrictions.

>> Mayor Adler: So --

>> And in addition, across the street, there is an adapted neighborhood plan for the heritage neighborhood. And for the majority of the land between east rundberg lane and 183, it's all designated, across the street in the neighborhood plan, as industrial, except right in the corner of east rundberg and right at the corner of Anderson lane and Cameron road.

>> Mayor Adler: So I guess my question is an educational question.

[11:42:49 AM]

What if land was zoned light industrial a long time ago, because that was the intended use? But we see over the last 20 years that nobody in the market wants to put it a light industrial use. One could surmise from that that maybe that's not the use that is appropriate. And my question is, do you ever initiate small area studies? I mean, is there -- does it make sense -- the reason we're not -- the reason the recommendation is to not let the tract go multifamily, because it's surrounded by light industrial zoned property. The light industrial zoned property is zoned light industrial because 20, 25 years ago there was a study that said this is a good place for industrial property. My question is, from a planning perspective, looking at it today, recognizing that a lot of this land there is vacant, does it make more sense for that to be multifamily land? And if it did, what are -- does the city -- would the city initiate that? Would the city go to those landowners and say, hey, would you rather be multifamily than light industrial? Do we have any idea what other people want, or do we just -- as the only real option just to stick with light industrial and not multifamily because there's a lot of industrial zoned property. I guess I'm asking kind of an academic question, as well as specific.

>> And that's a good question. I think certainly council could give direction of looking at adding this area as a neighborhood planning area, so we would come back and take a look at this. The area that's across the street in the heritage neighborhood, I believe, was just zoned, and the neighborhood plan was just adopted in less than two or three years ago, I think 2013 or 2012. I'd have to go back and look. But right across the street from this tract, it was designated as industrial in that neighborhood plan that was only a few years ago. There are areas in the city where we've had transitions from industrial, certainly we've seen places like the domain come back and basically be revised, although that was controlled only by a few property owners.

[11:45:00 AM]

We've had other large tracts of land like the lockheed martin tract that's south of Ben white, orburg son road, and we've actually put in place that you could introduce residential in some of these areas, but introduce setbacks that may be a hundred feet or even up to 200 feet setting back from some of the industrial uses because of the potential of having hazardous businesses show up. We certainly don't want a repeat of like plax air where you might have cases where you might be trying to introduce residential nearby, or as you might have heard recently, pure casting, which was a result of an area that

was industrial long ago, in the established use, and then residential coming in by a csu and being introduced to an area. So we do take these things into consideration. The amount of industrial land in Austin is being reduced, but, yes, mayor, you could certainly come back and then give direction to doing a neighborhood plan where one has not been done before. That's how we did oak hill. That's how we did the area in the -- just west of mopac, kind of along lake Austin, down by the Brackenridge tract area. Council gave direction to go do auto neighborhood plan in that area next. It didn't happen right away, but it did happen soon enough, maybe a year or two afterward, we moved in that direction and started finishing other neighborhood planning areas.

>> Mayor Adler: Okay. Thank you. Any further discussion on this item number 13?

>> Houston: Yes, sir.

>> Mayor Adler: Ms. Houston.

>> Mayor Adler: Councilmember Casar and I share a backgrounder on Cameron road, and the tract is actually in district 1, but his neighborhood is west of Cameron, and so did the community weigh in on this at all where -- were they contacted?

>> We mailed out our standard e-mail that's called a registered neighborhood associations, and the people within five hundred feet.

[11:47:03 AM]

And, frankly, we have not had much feedback on this case. We have received a few. You know, the return letters that we get from people. But relatively speaking, we have not received much input at all. We've received, I think, about -- I count about hour, maybe six -- six of the return letters.

>> Houston: Okay. And the neighborhoods that are closely related to this one are further north in district 1, and so they wouldn't have gotten any notification because they're more than 500 feet away from the development. Was there anything about traffic at that location at rundberg and Cameron?

>> With regard to the input that we received from people?

>> Houston: Uh-huh.

>> We just -- we received one all right that said someone would favor a multifamily over industrial because they believe it would have less traffic. And the other responses did not have anything having to say about the traffic.

>> Houston: Okay. So traffic is a concern, as I say, all the time in that area. We go from dessau as six lanes, three north, three south, and we keep that pattern until we get to 290, then we go the one lane. So the people who feed off of that going into town and then coming out have some -- some issues with traffic, just so that you're aware. And I can't remember how many units the apartment is proposing.

>> The total number of units they're proposing, the -- I don't know of an exact number that they're proposing. However, we did have a trip per day of actually 3 -- oh, 310 maximum units, as well as 200 trips a day, which actually equates to about that same number of apartments.

[11:49:04 AM]

>> Houston: Okay. Then my last concern is the fact that there are, again, no amenities except for grocery stores -- not grocery, corner stores and gas stations, and we keep putting density in areas where there's nothing else there. The closest H-E-B is across I-35 to this location. So I just want -- I will continue to bring that up so that you all, when you talk to developers, that you talk about the increase in density and the lack of any development of amenities in that area.

>> My understanding is that this is solely a residential project, solely a multifamily project.

>> Houston: They still have to eat someplace and buy groceries, go to the doctor, so that really doesn't tell me much except that there's nothing there. They can't walk to it, they have to drive to it, which increases our traffic, so thank you.

>> Uh-huh.

>> Mayor Adler: Anything else on this item?

>> Casar: And, mayor, this is again an interesting tract to think about from my office as councilmember Houston said, even though it's on the district 1 side of Cameron road, it's really close to district 4 neighborhoods. One of the neighborhood associations that we recently formed in a mobile home park is just on the other side of Cameron road, across from the industrial sites. And while we have had some industrial sites where there's transition Zones that are non-residential, the transition zone here for this industrial use is actually a mobile home park, then leading to the creek on one side and to Gus Garcia park on the other. So I do want to get some of those neighbors who will be very close by involved. But just in our conversations with folks, they do want somewhere to -- to go and sit down and have a cup of coffee or a beer or some food. Right now we have just a lot of fast food in the area, and then a few sort of gas station strip centers. There is retail zoned property in the area that hasn't been developed, so it's not that there isn't the opportunity for -- in the zoning, for there to be retail in the area.

[11:51:08 AM]

So it's the difficulty that we don't have sufficient, it seems, incomes in the area for folks to really want to come and do the sort of retail that a lot of those neighbors desire so it makes it a difficult case. This apartment project, as far as I can tell, is at market, but at market is going to be significantly less than, for example, at market downtown or at market on burnet. So it wouldn't be really an affordable place, I think some people would welcome some income diversity in the area, but at the same time there are some concerns from some of the lower income residents about sort of a tendency towards a lot of brand new projects going up in this area that is, you know, somewhat mixed income, but definitely more on the moderate income side, and what sort of that could signal for their neighborhood. And so affordable in rents is a concern there as well. So it's just a complicated project. And of course we're going to have new neighbors there, and as staff mentioned, those new neighbors will be bordering existing industrial uses, even though that's a vacant tract, there are existing industrial uses on Ferguson, right across from there. So it's really a pretty sort of complicated puzzle. And so I would just urge my colleagues that if we're going to move forward, that we just move forward on first reading so we can keep thinking it through. My concern in that neighborhood, in that area, just over the last few weeks while this has been postponed, was a proposed animal carcass incinerator that will be a budding part of this project, but it seems it's actually allowed in the LI zoning. My understanding from tceq, and we'll keep working with them, the amount of emissions are quite low and these are regulated at the state level, but it goes to show it is complicated, if there's not a market for an industrial user to come in here, moving quickly to residential should be something that we think through. And I'm not opposed to it, but I would like for us to continue the conversation moving forward.

[11:53:08 AM]

>> Mayor Adler: Ms. Tovo.

>> Tovo: I wanted to ask the staff, is there an opportunity here to consider csv?

>> Didn't we just have this conversation at the last meeting with the burnet road? Yes, that would be an opportunity to -- csv would be an option. However, we would have to renotify the case because they did not request csv. And, again, with csv, you're required to see some things, and then you get some things, you know. So they would get the element of density and they would get the reduced parking, and they

would get the unlimited far, but they would be required to do affordable housing and they would be required to do mixed use. However, even if they did get csv, if they chose not to take advantage of those bonus items, if you will, they would not be required to do the affordability or the mixed use. So there is a scenario where you could have csv where essentially it becomes the same thing as csmu because they're now taking advantage of the bonus part of the then density program, if you will.

>> Tovo: Okay. I think I need to talk more with you about that and the difference between adding -- yeah, the difference between csv and csmuv. But I think, generally, if -- well, I know that the staff have raised some very valid concerns about whether this is an appropriate place for housing, given its proximity to industrial, and I appreciate the concerns my colleagues have raised as well. As a general principle, if we're considering -- as we consider these cases where applicants are asking for cs and there's an opportunity to add an affordability component with the V, I think that's certainly a direction I'd like to see us move, when appropriate.

>> If I can quickly -- the I allows for retail uses as well, I just want to clarify that it allows for a wide variety of everything we had in the code, with the exception of residential.

[11:55:13 AM]

>> Mayor Adler: Just to follow up on councilmember tovo's question, I'm trying to recollect csv. So we have a tract that is, in essence, zoned at this point light industrial that wanted to move to residential, dense residentials, which was the mf-5. The csmu would have let them put Putin the residential. Csv would say if we're going to give you the ability to do residential here, there are certain requirements that come with that. My question is, when you say they could take the bonus, they're not obligated to the affordability unless they take the extra bonus, is that they couldn't do any residential unless they do the bonus --

>> No, they can still do -- if they receive csv, they can still do essentially what would be the same exact thing as csmu if they chose not to take advantage of those bonus items that are in the vmu program.

>> Mayor Adler: Okay.

>> So they could choose not to do the unlimited density, they could choose not to do the limited far reduced setbacks and reduced parking. In that case they would not be obligated to do the affordability and the mixed use. So at that point, even though it's csv, if they're not seeking the bonuses, it really becomes the same thing as csmu, which, if you take out the cs part, if they're not interested in doing any commercial uses, is essentially the same thing as mf-5, which was their original request.

>> Mayor Adler: I understand.

>> Casar: Mr. Mayor, I didn't think about this, mayor pro tem and Mr. Makers while we keep having that conversation and that's part of why I think that we should hold it to first reading and consider whether we want to approve it or not, but -- on any further readings, but my concern is that this tract is very, very large, and so my very preliminary understanding is that the proposed project will not need -- very likely not need the increased density, and to take advantage of the density bonus that would trigger the retail and the affordability because of the size of this site, or as other smaller sites would much more likely incentivize that.

[11:57:21 AM]

But don't take my word for it now, if you give us a few weeks, maybe we'll get it -- we'll get you some more information.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I just want to ask a quick follow-up. Why would the V require renotification?

>> Because we consider it to be more intense than just the csmu.

>> Tovo: Okay. Because of the option for the increased density? Okay. Thanks.

>> Mayor Adler: We'll go on to the next item now, item 14, Whiddon. Is there an agreement on this, except --

>> We are very, very close to an agreement. I had a meeting -- the case originally came in as Irmu for this, on an joining piece of property. This is adjacent to -- it's called the radio coffee and bar, which is a case approved by the previous city council for a cocktail lounge or bar. Just the week or two ago it was approved. For Irmu for two adjoining pieces of property, he abandoned the request for Irmu and amended the request for Lomu, which is what the planning recommended. At this time he's only rezoning half of the property because the other half has existing. The neighborhoods seemed to indicate an additional acceptance of Lomu. However, after we went to the planning commission, we heard from them they would like them to agree to eight conditional conditions, some of which have multiple things he within each one of those eight. And I had meeting with the developer and his agent this past week and got them to agree to seven of those eight. The last one remain remaining is the driveway onto a side street off of Menchaca, which is, as its name applies, a cul-de-sac, it doesn't go anywhere. It has single family houses and duplexes. He, the applicants steel feels the necessity to have a driveway onto the side street, even though there would be no reason to take a left onto that street because you go nowhere, but he feels it is necessary to provide access to take a right and then to be able to take a left on Menchaca because sometimes the traffic from the light at Ben white and Menchaca or fort view and Menchaca backs up to this property, ass and he feels if

[11:59:39 AM]

--and he feels if someone had the option, a side driveway, that would make that movement easier. There's an existing driveway for an office that's a similar situation across the street, and his intention would be the two driveways, the code requires two driveways basically align with each other. The traffic cap on this thing, he's agreed to a cap of no more than 500 trips per day, and so I think that this whole remaining issue is that I understand that councilmember kitchen's office has spoken to the Austin transportation department about taking a look at the traffic situation on Menchaca itself, and the -- how the traffic operates with regard to the Ben white and fort view intersections. I actually just texted the applicant not too long ago while you were on your previous discussion, and he has agreed to go ahead and agree to a postponement until June 11th to allow atd the time to do that -- that study.

>> Kitchen: May I speak to that.

>> Mayor Adler: Okay. Ms. Kitchen.

>> Kitchen: Yes. The thinking is that providing some additional level of information on the -- specifically onto the traffic safety issues along Menchaca by the transportation department will help provide information both to the applicant and the neighborhood so that they can resolve that one last remaining point. So the reason for the postponement is to allow that happen.

>> Mayor Adler: Any further discuss on this item? That gets us then to item number 29. This is something that was added late to the agenda?

>> Yes. What happened, mayor, this is maybe consent zoning case, no option to it, it's oak hill, requested zoning for a music school, and so they're requesting Irmu -- Ir to allow the music school, however, they're basically agreeing to lo uses and regulations with the exception of allowing a music school.

[12:01:42 PM]

The reason why it was added late is that we mistakenly used one of the old 2 o'clock zoning notices. You all recently switched zoning to 10:00 A.M., and for some reason someone found an old piece of paper

and used it, and it says 2:00 P.M. So we had to set this item for a 2:00 P.M. Time certain. However, otherwise, we feel that it will be a consent 3 zoning case. The only thing we ask is that we not approve this item before 2 o'clock on Thursday, and other than that, it should be consent.

>> And it was consent at planning commission and has the support of the oak hill neighborhood planning team.

>> Mayor Adler: Okay. Any further conversation on 29? Then item number 30?

>> Hi.

>> Mayor Adler: Hi.

>> Hi. I'm donna galidi. The applicant is proposing to construct a hotel and restaurant. The existing warehouse facility on site was permitted in 1984 prior to the adoption of the waterfront overlay district.

[12:03:48 PM]

The red bluff waterfront regulations establish a primary set back of 40 feet from the top of the bank and a secondary set back of 110 feet from that primary set back. The site plans in your backup show these set back lines, and I have an overall waterfront overlay map that I could hand out.

>> Mayor Adler: Would you hand that out?

>> Yes. Thank you. The applicant requested three variances from the waterfront overlay zoning regulations, two variances related to the construction in the secondary set back, and those were approved by planning commission on January 13th. No appeals were filed on those secondary set back variances, variance approvals. The third variance is to allow construction in the primary set back, and those were approved by planning commission on February 24th during a reconsideration hearing with nine conditions, and that's the variance being appealed. Council has two options, to either deny or uphold the appeal. If the appeal is denied, the variance to the primary setback will be approved as motioned by the planning commission. The developer would then be able to proceed with the site plan application. If the council decides to uphold the appeal, the variance will be denied and the site plan would require a redesign. Staff recommends the variance because it would allow the applicant to better at hear to the vision of the waterfront overlay by not only reducing the impervious cover but also by reducing the building's impact in the primary set back, because a remodel of the existing warehouse facility would maintain the existing impact in the primary set back. Thank you.

>> Mayor Adler: Okay. Would you explain the last thing you said? Explain why it is that granting the variance furthers the overlay goals?

>> The existing warehouse facility could be remodeled in place, but there wouldn't be as much of a reduction in the facility is encroaching into that setback more than if they were to demolish the building and rebuild -- the proposal is to rebuild less in that primary setback, pulled back away from the water edge, the water side of the primary setback.

[12:06:09 PM]

Then the planning commission conditions emphasized -- well, the planning commission conditions reduced the impervious cover from 41% down to 16%. Additionally, there's -- there are conditions enhancing bioengineered erosion control, environmental and other site conditions that will also help adhere to the waterfront overlay.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: May I ask staff to put this on the overhead and then point to where we're talking about? Because this is a good picture of the overlay, but it doesn't tell us where the site is located.

>> Mayor Adler: And I think we have that identified as number 10, we'll put it on the overhead.

>> Houston: Thank you.

>> This is the entire waterfront overlay, and red bluff subdistrict is 10, which is here from here. The primary setback is the red line and the secondary setback is the yellow line. You can see on the red bluff subdistrict, it is pretty far to the edge of that -- that subdistrict.

[12:08:15 PM]

Our site is kind of in the middle.

>> Mayor Adler: I have a copy of a waterfront overlay task force report that was done in December of 2008. Are you familiar with that?

>> Yes.

>> Mayor Adler: And there was an analysis of this red bluff tract as part of that overlay analysis. And that task force said that the primary setback of the current 450 contour line is arbitrary, hundreds of feet from the shoreline, has no orientation to the original ordinance, answer is consistent with the primary setback and all other setbacks west of longhorn dam. My question is, is this still relevant? Is it still talking about the same things that we're talking about here or have the conditions or ordinances changed?

>> No, mayor. George Adams, assistant director of the development services department. The report is still relevant. Those -- there were some changes made not ordinance as a result of that task force report, but that -- that particular point, the way that the setbacks are measured in the subdistrict was not changed.

>> Mayor Adler: Would you explain that to me then?

>> So throughout the waterfront overlay, there are 16 subdistricts, and there are different regulations that apply. The regulations vary within those subdistricts. In most of the subdistricts west of the dam, the primary setback is called out some distance from the shoreline of the lake. In this subdistrict and one or two others, the primary -- the setbacks are defined from an elevation, a contour line along the lake. And so if you -- if you look at the combination of the -- kind of the nature of this subdistrict and the way that we measure the setback in this subdistrict creates a very small envelope for any sort of development to occur within.

[12:10:24 PM]

So --

>> Mayor Adler: But does having it measure at the contour line better further the objectives of the overlay ordinance?

>> I can -- yeah, measuring from a contour line is consistent with, for example, the lake Austin ordinance. But the contour line called out in the lake Austin ordinance is -- is a different contour line. And I think that might be where the task force was talking about an arbitrary number, whereas in the lake Austin ordinance, we know exactly where that -- what take contour line is relating to and the ordinance refers to that. In the waterfront overlay ordinance, it just simply says the 450 contour line, and it doesn't explain where that 450 comes from. And I've spoken with some environmental folks in the watershed department, and the best we can determine is that it appears to be the top of the -- the top of the bluff. But, like I said, that's not -- that's not as precise as knowing where the contour line came from.

>> Mayor Adler: And if it was the top of the bluff, if that's what was intended, does that further the goals of the ordinance?

>> I would have to refer back to the recommendation that's in the task force report because one of the things that that task force was focused on was kind of reconnecting the regulations of the waterfront overlay district with the intent of the town lake corridor study, which was the -- the original study that

set the stage for the ordinance. And so, you know, by them making the statement that it has no -- no relation to the original intent of the ordinance, I would say they, as a body, questioned whether that was effectively implementing the town lake corridor study.

>> Mayor Adler: If we don't get any, were they are recommendations!

[12:12:27 PM]

You to clarify the primary primary and secondary set back, that doesn't give us any hint what they were thinking.

>> As I mentioned, if you look at the composition of that group and kind of the totality of their recommendations, they're really trying to reconnect, and I guess reinsert some provisions that specifically spoke to the town lake corridor study. I think that was generally their overall -- one of their overall directions.

>> Mayor Adler: Okay. So is the issue here whether or not -- do you think that it's likely if this tract were redeveloped, that it would redevelop on the existing footprint, or do you think it would be torn down and you'd get a newer, better development that would stay within the envelope, including the secondary setback that's been waived?

>> That's -- that's a tough question to answer. I mean, I can put my opinion out there and --

>> Mayor Adler: Sure.

>> But that's really -- and it might be helpful to look at the exhibit for the site plan to speak to some of that S.

>> Casar: And Mr. Mayor, a question onto yours, you said that if it was redeveloped, if it would be redeveloped on the existing footprint, but is it -- if it's redeveloped, does it have to conform entirely, or - - because my understanding was only if it's remodeled as a warehouse, but obviously if it's redeveloped into something new, then they would have to go through the same process.

>> Yeah. There -- you know, the options for this site are, they could remodel or rehab the existing building and essentially leave the footprint more or less as is and make some use of it.

>> Mayor Adler: So they could change the use in that instance, or they would be limited to the existing use?

>> Yeah, they could change the use to another permitted use within that zoning district.

[12:14:27 PM]

They could completely clear the site --

>> Mayor Adler: Which would include what? I mean would that include hotel?

>> I believe this is zone, let me see, CS? We'll so to get that.

>> Mayor Adler: Okay.

>> As I recall, this is a -- it's a fairly to --

>> It's grmu.

>> Grmu, so it allows a wide range of uses.

>> Mayor Adler: Okay.

>> You know, they could completely clear the site, at which point they would be subject to our regulations, or they could pursue something along these lines, where they're requesting for a variance from some of the provisions of the water overlay district. So in response to your question, your earlier question, this is -- this is the land use site plan, which shows their proposal, and this line here that's highlighted in yellow is the primary set back. The one behind it is the secondary setback. So you can see how it affects the site, especially on the eastern edge of the property, that it leaves a fairly narrow band of property that could be developed in compliance with the current waterfront overlay regulations. So

all of this would -- all of this would have to be pulled out of the setback. And then there's certain limitations on what can be done within that secondary setback as well.

>> Mayor Adler: So it would require the reconfiguration of one of six buildings? Seven buildings?

>> Depending on what's allowed in the secondary setback.

>> In the secondary -- the secondary setback allows only fountains, patios, terraces, outdoor restaurants and similar uses.

>> So it's pretty restrictive. And it's my understanding at both waterfront planning and planning commission, there really wasn't any disagreement about the variances within the secondary setback.

[12:16:37 PM]

>> Mayor Adler: Which allowed greater uses.

>> Right.

>> Mayor Adler: So taking that as given a, if we granted the appeal and said you have to stay within the secondary, it would require just refigure racing -- is it just that one building?

>> They would have to take all improvements out of the primary setback.

>> Mayor Adler: And I'm looking at the chart that you --

>> So it's everything this side of this line.

>> Mayor, it's a pretty big warehouse, too, building, that's there right now.

>> Mayor Adler: Okay.

>> So at that point, yes, the site would have to be redesigned, and then they would make the choice about whether they would want to remodel and reuse the existing building or redesign the site to come into compliance.

>> Mayor Adler: So the building -- I'm sorry, then I'll pass -- the building that's conflicting, that building, is a prehave existing -- th pre -- a pre-existing --

>> There's an existing warehouse building that is much larger and continuous, it's not broken up like these --

>> Mayor Adler: So that would represent on their planning, new building. Is that right?

>> These? These are all new buildings, yes

>> Mayor Adler: So as I'm looking at it, it looks as if the one building that's encroaching -- the one building that's significantly encroaching is that building.

>> Yeah, there's that -- right. That's building C, and that's encroaching significantly, and then the building all the way to the left is that one, also encroaching a little bit. Then on the far right, the pool and there's some patio kind of between the pool and building C that would have to be removed.

>> Mayor Adler: Would we have the option of granting the appeal in part? Could we grant the appeal as to the building, half of which is in the primary, but allowing the encroachment of the ones that are minorly encroaching, and the pool, low elevation?

[12:18:47 PM]

>> Assistant attorney. Yes, you sit in the shoes of the planning commission, and you can exercise the same authority that they could. So if you want to grant -- if you want to modify their approval to take out some of the variances, you definitely have the authority to do that.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: The site plan doesn't adequately, in my opinion, show the elevation. This is on a cliff. Is that correct?

>> The -- the primary setback that George is showing, the yellow line on the bottom of the page, that really represents -- well -- yeah, you're right, it doesn't -- it doesn't show those contours the way that

other pages would, especially when the other half of the site -- the construction site plan comes through that has more of all of that -- the elevations, things that you would expect to see related to construction site plans.

>> Pool: The intent behind the primary setback was, back when it was established stuff, did that go to the safety and the foundations of the buildings that might be on there? Because if they're at the edge of a cliff with erosion and everything -- there were some issues there, right?

>> My recollection is that a lot of the intent was focused on the character of the lake, the preserving the natural character, those sorts of issues. I don't recall there being a lot of focus on kind of structural concerns about placement of buildings, it was more impacts on the environment, impacts on the natural character of the lake.

>> Pool: The natural character of the lake, at that point, I went down there and drove down red bluff road, and it is right -- it is a unique piece of property, and it is right up against the river at that point, and it's a good 20-plus feet up from the river bed, is my understanding.

[12:21:00 PM]

And I'm thinking that the way we use the Colorado river at that point when we do have floods, and we open the spillways above this part of the river, and the river goes up, it goes up a considerable number of feet at any given time, and there's no predicting the power of the water coming down. So even if the waterfront overlay task force was not looking at concerns that -- impacts of the river, at the time they were writing this, I think they are very real, and the buildings were grandfathered in, which is standard operating procedure. So it seems to me that there would be a good reason to grant the variance on safety concerns, particularly for that one building, which I think is the one that the mayor was pointing to, which is the third one from the left, where the majority of it encroaches into that primary in order to preserve a safety margin, and also, frankly, for the foundations of the building to make sure that they're not undermined in a high water -- high water event. Just a thought.

>> Renteria: Mayor?

>> Mayor Adler: Mr. Renteria, then Mr. Zimmerman.

>> Renteria: I went down and visited that, especially I went to planet X and looked in back of that. We should be very concerned about that river because Guerrero park is one of those sections that have eroded. I mean, there's Boulders and all the little retention Boulders they put there in Guerrero park have washed into the river. The secret island that they call beach, secret bean, that's all it is is just the erosion coming off of Guerrero park. We really need to start looking at that little section of the river because if there's a bluff, then it goes down, there's another little area there where the city has been using that as a resource of being able to move their vehicles down there.

[12:23:15 PM]

Now they closed that area off. They're requiring the owners of the planet K to leave a gate there so they could go down there to fix up the little sewage line that they put in there that looks horrible. You know, it's just -- the whole area looks trashy. And the little businesses down there are just dumping all their trash right over the cliff there. And it's real beautiful place. I mean, I played there when I was a kid. But that place has been neglected for so long, and by having this hotel here, I didn't -- I wasn't involved in this hotel, but the red bluff people, when they had approved that, it wasn't the contact team that was there that agreed or negotiated this hotel, it was the red bluff people because they also realized that, you know, they have such a beautiful place in the back, but there's no access to it. And if we could fix it up -- I mean, if the flooding -- the flooding would never get up that high. Guerrero park would be under water then if it went up that high. You know, that's how far -- high that bluff is. But there's a lot of

potential there to have this place developed. And, I mean, we're looking at having a world class tennis court right down on the other side of Montopolis coming in here in a few years. I've talked to that neighborhood, and they are really on board of going and improving this project that the park is proposing. So there's a lot of potential that we cannot have access to that bottom. There could be a beautiful trail that connects that, you know, to the other side of the -- of the dam there, you know. There is no access to that, none of that area. And it's beautiful, you know. And -- but as long as it's out of sight, it's going to be a dumping little area, you know, where people dump stuff. You know? Because there's no access to it.

[12:25:22 PM]

>> Mayor Adler: Mr. Zimmerman, then Ms. .

>> Zimmerman: Thank you, mayor. I had a couple of technical questions. I'm looking at the drawing, some of the elevations. There's a line at the bottom -- it says limits of the Colorado river. It says elevation above sea level as 410 feet. So is that the height of the downstream dam or what is -- what is the 410 feet?

>> I think that is the limit, actually, of the CEF or critical environmental feature setback. So a little to the left is a point called critical environment feature, it's spring number 3. And then let me move over to the --

>> Zimmerman: Yeah, if you could move over and show me because I don't see that. The reason I'm asking, it looks like there's quite a bit of distance here. Then there's another line that says 100-year floodplain, but I don't see an elevation connected to that. I'm trying to figure out how this goes up. Then there's a ridge line on the sketch as well, and it shows 455 feet. So that's that considerable, I guess, 40-foot commission depth between maybe the hundred-year floodplain. So there's really no risk of water getting up anywhere close to that area. There's a big civil engineering problem with making the foundations right, secure enough, especially in that kind of river bottom soil, but again, that's -- civil engineers take care of that. We don't have to mess with that.

>> So to address your first question -- oh, I need the other page as well.

>> This one?

>> Yeah. Here we go. This is labeled CEF -- critical environmental feature spring 3, and then this circle is the setback. And I believe this label is referring to the setback, the elevation of the setback, although the details of that are really going to be reviewed by environmental staff during the construction half of -- when the construction half of the site plan comes in.

[12:27:37 PM]

You mentioned the civil engineering. This is the land use half of the site plan, which doesn't require engineering, so -- and that's in order to -- for the applicant to process and move through these variance requests before investing in that engineering half of the site plan. And so when that half of the site plan comes through, there will be pages that are much more detailed and with detailed review. But, yes, the 450 that you -- that 450 line that you saw is the line of the -- the primary setback is measured from that 450 contour.

>> And just to clarify, you know, this site is up on a bluff. It drops off quite a bit down to what is, I guess, the stream bed.

>> Well, quite a bit is 40 feet. It's 40 feet.

>> Yeah. And there's -- for the council meeting on Thursday, we'll have an area which I think will illustrate this better, but there's a pretty heavy tree cover between kind of that property line extending down the bluff to the stream bed of the river.

>> Mayor Adler: Ms. Houston?

>> Houston: Mayor, I have a question. So it's my understanding that the developer can build their development without encroaching on the primary setback. Right?

>> They would only be able to remodel the existing building. The primary setback is -- the primary setback is located right here. Yeah, they would have to -- without the variance, the primary setback, they would have to remove construction Dr. In this portion of the building, this pool, and this decking.

[12:29:44 PM]

And then there's some of this building as well. The two variances that are not under appeal, concerning the secondary setback, the secondary setback is all this space in between, which is a majority of the lot.

>> [Inaudible]

>> Houston: Well, I thought I did.

>> I think I can -- the applicant could not build this project.

>> Houston: But could build something.

>> They could build something, but I think the question is, would they choose to build something new that's in compliance with the code, or would they choose to remodel the existing building, which is -- and I apologize for not having a plan of the existing conditions out there. We'll have that on Thursday as well. But it's a fairly monolithic warehouse building that is approximately

>> Would this help you? While we're getting that up, the -- I do have a concern about the primary setback and encroaching. It is a bluff and it is very high and I'm concerned about the safety issues regardless of what is built there. And even the stability on that bluff is questionable. As council member Renteria said, we have very different kind of soil. It doesn't hold up really well under a whole lot of conditions. So, you know, if we can do some way to help the people get the property up, but not encroach on the primary setback, I'm willing to support that.

>> So you can see the site outlined in white and this is the existing buildings are shown in white on here.

[12:31:52 PM]

What you can't read as easily is that there's also quite a bit of existing surface parking in this area.

>> And you can see the water bed down there, yeah.

>> Getting back to council member Houston's question, most of the project is in the secondary setback, which is not the subject of the appeal.

>> That's correct.

>> So most of their project can be built. Without the city. If we don't grant the appeal, most of the project could be built.

>> With the exception of the one building -- with the exception of the two buildings and the deck and the pool.

>> Did you point that out to me where the deck and the pool?

>> Just to clarify, you meant if we don't grant variance, if we do grant the appeal.

>> If we uphold the appeal.

>> Once again, anything that is within this line is within the primary setback, so that includes a small portion of this building, a larger portion of this building, pool, deck area would be the primary impact.

>> Is the pool a grade?

>> I would assume so.

>> Is the deck at grade?

>> It's going to be -- I mean, it's not going to be elevated, if that's --

>> That's the question.

>> I don't believe so. I mean, it's not fully -- these are not fully engineered plans, so it's challenging to say specifically, but I would assume they would be at grade.

>> The other map, the other thing you had had contour lines on it.

[12:33:53 PM]

The one that you had up had some detailed contour lines. It's not that one. There's another one that has contour lines. There they are. I can see them there. So the pool where is it is now you can see -- I guess that's what you would call grade level. Look how it starts to drop off here. See the lines? So anything north of that line right there would probably be called grade way up here.

>> Is the pool north of that line?

>> Yes.

>> Yeah, it looks like it is.

>> Okay.

>> It is at grade, based on that.

>> Is that the existing building that's right there that you're showing us, the existing building?

>> Yeah.

>> So they can keep that there and remodel.

>> Mayor Adler: Any further conversation on this item 30? Thank you. Ms. Garza.

>> The map that shows the existing buildings in there, I guess I'm wondering what the concern is from my colleagues about having something in there, if there's already -- because I received an e-mail that sounded like, no pun intended, slippery slope of allowing stuff in this area and then, you know, people keep building, but there's already a bunch of stuff in that area. Just help me understand the concern of building something else in that primary setback?

>> I'll just, you know, offer my opinion on that. I mean, the waterfront overlay was established after some of those things were constructed. In fact, it was in response to the Hyatt building across. And so from my perspective, I look really carefully at waterfront overlay issues because when those properties are being redeveloped we have an opportunity to bring them in compliance with the adopted vision that was adopted after some of that construction happened.

[12:36:09 PM]

>> Mayor Adler: Further discussion, Ms. Houston?

>> Thank you for that. That's good context and good history.

>> I assume that's the case here but I assume this was constructed prior to the water -- yeah, it had to have been.

>> Mayor Adler: Although I think in this particular area there were some things that were constructed post overlay but granted. Is that correct?

>> Yes. I think that is accurate. And the existing warehouse facility on our subject site was permitted in 1984 before any waterfront regulations.

>> Do you know --

>> Would you tell us what that means, please?

>> Yeah. And just to expand on that point, council member Garza, I think the difficulty is to know whether or not if we don't grant this variance is there still enough market force for somebody to say I am not going to remodel, I'm going to build. How much more convenient is it? I'm not saying, Mr. Mayor, that you necessarily endorse this view but it sounded like you were interested in granting the variance for the deck and the pool would be like but not for some of the buildings. And that's an interesting idea, so thanks for bringing it up.

>> Mayor Adler: Just asking questions.

>> But some of the current ones that are in the primary, they were basically variances granted after the overlay existed. Or is that not true?

>> Council member, it's not understanding that there was a time several years ago when there may have been some residential structures that were either allowed to be constructed or expanded incorrectly within either the primary or the secondary setback.

[12:38:11 PM]

So as far as I'm aware there's no commercial uses that have done that. But there were some instances of residential structures.

>> So this would be the first variance?

>> I don't think it would be the first. We would have to go back and research that. There have been variances to the waterfront overlay development regulations. Whether we have approved these exact types of variances, I would have to research. And whether we have approved variances to allow similar improvements in the primary setback S we would have to do some research.

>> Mayor Adler: Ms. Tovo.

>> When you see some of the residential projects were allowed to be constructed within the setback, you're talking about on nearby tracts?

>> Right.

>> Not on this tract.

>> Single family.

>> None of the structures that are on this particular are on these tracts --

>> That's correct.

>> Were constructed in error. They were constructed before the waterfront overlay.

>> Yes.

>> Thank you for that question. I think it would be interesting to see what the waterfront overlay variances are. Each zone of the waterfront overlay is a little different. Other council members may want to cross the waterfront overlay but if you could identify which of those, that would be helpful.

>> Mayor Adler: I don't know how grand the task is but I would like to know variances outside of this area as well, unless that's a burdensome request. Before we go into executive session, Mr. Zimmerman?

>> Thank you. I handed out a copy of an e-mail message just for reference for our legislative update that we were talking about today. We went through our e-mail, the last legislative update we had was Friday, April 10.

[12:40:12 PM]

It's five pages. It has 73 items. Not only was hb910 the open carry bill, our police chief made a lot of news opposing that. I understand passion, I'm all over that. Not only was hb910 not in the 73 items but there was nothing about any of the handgun legislation. We had campus carry. Some people remember campus carry was out there. We had constitutional carry, so we had quite a few bills dealing with firearms and none of the bills were in the 73 bills that were in the legislative update. I wanted to draw that to your attention. We sent out a message and was prompted by the police chief activism. I had four questions and did not receive a reply. Just an update as to why this was a big issue for me this morning.

>> Mayor Adler: The city council will go into closed session pursuant to 551.071 of the government code. Item a 1 legal issues relating to the city council resolution directing the city manager to file a petition with the Travis county review board. Item a2 has been withdrawn. Before I ask if there's any objection into going into executive session, without objection from the council, I'm going to release the closed

caption people since the only thing that will happen at the end of executive session is I will be coming out and adjourning. That way those folks can leave. If there's no objection going into executive session on the item announced, the council will now go into Executive Session.

We are out of closed session, in closed session we took up and discussed legal issues, related to issue A1 the Council meeting having handled all its business stands..
work session stands adjourned.