

# City Council Regular Meeting Transcript – 08/06/2015

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[10:23:01 AM]

>> Mayor Adler: Good morning. We'll go ahead and convene. I'm Steve Adler, I'm the mayor of the city of Austin. We're going to begin today with an invocation from reverend doctor Mathias. Please, sir. Everyone rise.

>> Honorable mayor, councilmembers, city staff and city of Austin, may we keep Austin weird. For many that phrase "Keep Austin weird" is a respect for the diversity of our community and for many religious communities here in this city the phrase is a calling to keep Austin holy. You see, the English word "Weird" comes from an old English word, wyrd, which means holy. Not of this world. Weird. As we gather here this morning, aware of the great diversity of our great city and of the holiness, the seductiveness to which all of us are called let us pause for a moment in silence to recall the great mysteries and forces that have brought us to this present moment and enabled us to be who we are and to do what we do. Thank you. Honorable mayor and councilmembers, may you be filled with wisdom as you meet today, and may your words and actions help to bring to the city of Austin a greater spirit of compassion, justice, and community.

[10:25:07 AM]

Thank you.

>> Mayor Adler: Reverend, thank you. A quorum is present. I'm going to call this meeting of the Austin city council to order. It is Thursday, August 6. My wife's 60th birthday, I'll just announce.

[Laughter]

>> [Off mic]

>> Mayor Adler: We are meeting -- birthday would have been good? But it's a special birthday.

>> Especially now.

>> Mayor Adler: We've already started off on the wrong foot.

[Laughter] There has been a special and anonymous request for us not to go until midnight tonight though.

[Laughter]

>> Houston: Mayor,.

>> Mayor Adler: Yes.

>> Houston: Before we get started I want to remind people that today is the 50th anniversary of the voting rights act so that we don't forget that.

[ Applause ]

>> Mayor Adler: It is 10:25. We're in Austin city hall, 301 west second street. Before we begin I'm going

to read some changes and corrections into the record. We should note that items 2h22 -- 22 and 7 are being postponed to August 20 of 2015. Number 18 had a word change. It was to authorize negotiation, negotiation and execution. Item number 43 is withdrawn. Item 45 has added councilmember Casar as a sponsor.

[10:27:11 AM]

We have some time-certain items on the agenda today. At noon we'll have citizen communication. At 3:00 the Austin housing finance corporation board of directors meeting. We have public hearings at 4:00. And we're also going to set at 4:00 item number 55, which I think is the fun fun matter, festival, at 4:00. 5:30 we have live music and proclamations. Music tonight with Daniel yanas. We have items being pulled off consent agenda. Councilmembers, if you have any more you need to let me know. I have items being pulled, item number 3, item number -- did I Mr. Zimmerman. Item number 5 being pulled by speakers, I have item number 19 and 20 being pulled by Zimmerman, seven and 22 were postponed. Item 23 is associated with item 72, so 23 will be handled when we handle number 72. That will be handled out of sequence and not part of the consent agenda. Item 24 pulled by Mr. Zimmerman, 25 pulled by Ms. Pool, 26 pulled by Ms. Tovo, 30 pulled by Ms. Houston, 38, 39, pulled by councilmember pool, also item 40 by Ms. Pool. 43 has been withdrawn. 44 is pulled by speakers, 46 pulled by Mr. Zimmerman, 51 pulled by Mr. Zimmerman.

[10:29:15 AM]

As I said, 55 is pulled. 55 is set for time certain at 4:00. Are there any other items to be pulled on this agenda? Mr. Casar.

>> Casar: Number 29 and number 30, Mr. Mayor.

>> Mayor Adler: Number 29 and number -- I'm sorry?

>> Casar: 30.

>> Mayor Adler: 30. Also pulled by Ms. Houston. There's been a request by staff that we pull item number 5, which is the contracting list. While we have people here to speak on it, I'm going to call the speakers to speak on that item. But it will be postponed and pulled.

>> Pool: Mayor.

>> Mayor Adler: Yes.

>> Pool: I wanted just to mention the items that I had pulled, I did not pull to make any changes to what the proposal is. Simply I pulled them because I just wanted to make a couple of comments on them. So at your pleasure, at the dais' pleasure, if you want to bring them up sooner, because then they could be put back on consent potentially.

>> Mayor Adler: Okay. Do you want to make your comment on those now? And then we'll put them on the consent agenda.

>> Pool: If that's where you want to go at this point, I'd be happy to.

>> Mayor Adler: Go ahead.

>> Pool: Okay. So item 25 is the onion creek master plan. We had a very good comprehensive presentation of it at the open space environment sustainability committee, I think, two months ago. This is a park that is in councilmember Garza's district.

[10:31:19 AM]

The comment that I wanted to make is that it appears on the map that the extension, the road that is anticipated, will bisect the parts parks and there were concerns raised by members of the open space

committee that we be mindful of the fact that the allowed will be going through a park. And when this road is contemplated that we bring in stakeholders from the community to be involved in that conversation and that we, with the goal of possibly suppressing the speed limits and ensuring safety. And for all of the users of the park and also to recognize that it will be parkland on both sides.

>> Mayor, since we're on that one, can I comment on that as well? This is a wonderful example of how collaboration has happened with a private developer. The good night ranch has funded the master plan, and this is something that we're going to have to continue to do. Our parks are, you know -- it's often an issue that they're underfunded, and I agree with that. So I just wanted to continue this collaboration hopefully in the future for parks. We need to continue collaborating with private developers and working with them to get this kind of thing done. I want to thank the city. I attended one of the public meetings to device this plan. They did a wonderful job of working with the community, and my district is looking forward to this park being built out.

>> Mayor Adler: Great. So item 25 that we said pulled is now back on the consent agenda. Okay? Ms. Tovo.

>> Tovo: I can I can do the same, mayor, with your permission on item 26. I had pulled this initially to does a few more questions. I have gotten some more information from the Austin police department. This is a contract for services through UT's continuing education department, and I'll just -- I've had an opportunity, as I said, to ask the police department about whether there is in-house expertise here at the city of Austin that could provide that kind of training or whether it makes sense from a cost perspective to hire staff to work through the police academy and to provide that training.

[10:33:41 AM]

However, I'm not going to stand in the way of the contract here today. I just offer that for future consideration, that if this is an ongoing need and will be an ongoing expense, perhaps it makes better sense to offer that as a city service rather than as a contract with the university of Texas. But I'm happy to add that back onto the consent agenda as well, and that's item 26.

>> Mayor Adler: Okay. So 26 goes back onto the consent agenda. Other than items 25, 26, anything to come back to us? Ms. Troxclair.

>> Troxclair: I just have two more items to pull?

>> Mayor Adler: Okay.

>> Troxclair: Item number 49 because we need to fill in the blank for that replacement site and item 52 because I have a simple management.

>> Mayor Adler: Okay.

>> Pool: Mayor, the other three I had pulled were 38, 39, 40.

>> Mayor Adler: Okay. They're back on --

>> Pool: I just wanted to make a comment.

>> Mayor Adler: Why don't you go ahead and make a comment.

>> Pool: Great. Two of these items will post a speed limit on some currently unlimited parts some of roadway. The second one is reducing a speed limit on an existing roadway. In some of the research I've been doing in working on issues coming up to budget, specifically in the area of pedestrian and bicycle safety and also with the good work that I saw on the website for the city of Austin's commission for seniors, we have a task force called vision zero. In this the work isn't complete done yet. It's in our planning and development review department, which I think is development services now, and one of the specific items that -- I just wanted to draw people's attention to and to start a conversation that could then go further as policy conversation, maybe in the mobility committee, is shifting the paradigm about speeds and this would be a good test case, although I am not going to offer it today because I understand the traffic analysis that has been done on this, and the shifting of the paradigm involves

lowering speed limits by five to 10 miles an hour throughout the system.

[10:36:02 AM]

Originally, I had thought that the new limits would be a good test case to move from a 40-mile-an-hour speed limit down to 35. But in the interest of moving things forward and I would like at this point simply to raise the issue to to start the conversation and also to indicate my deep concern over the fact I think we're up to 65 fatalities now in the city, which is I believe about twice what we had at this time last year. So that was why I wanted to pull those items but I'd be happy to put them back on consent, having made that -- to start the conversation.

>> Mayor Adler: Great. Ms. Kitchen.

>> Kitchen: Thank you, councilmember pool. This has been on the will minds of all of us, councilmembers, and I'm very excited to have vision zero working on these projects. We have already set this item for September 2 mobility committee. So at the September 2 mobility committee meeting, 3:00 on the second, a Wednesday, we'll get a report from the vision zero task force. We will also be talking with our staff about our current approach to safety. And I might say that safety is a high priority for the city of Austin and for the city of Austin staff and traffic safety is an existing criteria that we look at. And it's a high priority criteria when we look at how we handle our roads and changes to our roads. So this will be a good conversation to have in September, and I will certainly remind all the councilmembers if anyone would like to participate with the mobility committee members.

>> Mayor Adler: Thank you. I think -- go ahead. Ms. Gallo? This is what I'm -- I'm sorry, Mr. Zimmerman.

>> Speaker2:.

>> Zimmerman: One comment on 38.

>> Gallo: I need to add to a cosponsor.

>> Mayor Adler: Please.

>> Gallo: If you would show me as cosponsor on 46, 47, 48.

[10:38:06 AM]

>> Mayor Adler: 46, 47, 48, I think the clerk now has that.

>> Gallo: Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. Quick comment. I appreciate councilmember pool bringing this up. We looked into item 38 because it's in district 6. I've driven the road in question during campaigning. I was impressed with the engineering process that was used in setting the speed limit. The speed limit for this particular road was consistent with other allowedways adjacent to that there was a traffic survey done of the speeds, one accident in the last several years. I was impressed with the engineering study, and I wouldn't support changing the paradigm away from what it is now. I think what it is now makes sense, that there's a balance between safety concerns. And also through put because it's common sense that if you arbitrarily lower a speed limit by 5, 10 miles an hour based on what the road can safely handle you're going to increase congestion, which is already a problem in the city. So the road at 40 miles per hour obviously carries more traffic than the road at 30 miles per hour. So I just wanted to add those comments.

>> Mayor Adler: All right. I am showing that the items that are not on the consent agenda are items 3, 5, 7, 19, 20, 22, 23, 24, 29, 30, 43, 44, 46, 49, 51, 52, and 55. Anybody see anything they think I might be missing?

>> 23 was withdrawn --

>> Mayor Adler: 43 was withdrawn so it was one of the ones I just read off. Okay. Now with respect to

the voting on that, the record should reflect that Mr. Zimmerman is abtraining -- abstaining from number 2, abstaining from number 6, 8, 10, 11, 13, 14, 15, 18, 21, 27, 28, 31, 32, 33, 34, 35, 36, 37, is against 42, and the other consent items he is voting for -- oh, 47 and 48, I'm sorry, against 47 and against 48.

[10:40:53 AM]

>> Zimmerman: Thank you.

>> Mayor Adler: And the balance voting for.

>> Zimmerman: That's correct, Mr. Mayor. Thank you.

>> Mayor Adler: Okay. There a motion to approve the consent? Mr. Zimmerman moves to approve the consent agenda.

>> Houston: Please show me abstaining on 23.

>> Mayor Adler: Ms. Houston abstaining on 23. That's been pulled, it's going to be heard with item 72. Mr. Zimmerman moves consent, Ms. Gallo seconds. The consent agenda as noted with the exceptions is otherwise approved unanimously. We have a speaker to speak on the consent agenda, and I apologize for not calling you up senior, and the consent speakers are Mr. King, Ms. Taylor, and Mr. Robins. Mr. King, do you want to speak first? Mr. King.

>> Thank you, mayor. And I believe I'm speaking on item 58, which is on consent. Is that right? The parkland dedication fees.

>> Mayor Adler: Yes, it is.

>> Okay. Thank you, mayor and councilmembers. And, you know, I'm really glad that we're here talking about this resolution to increase the parkland dedication and the associated parkland fees. It's long overconfuse I'm glad we're making this adjustment. It's a really important step in the right direction, help us get more parkland we need for new residents moving in. I'm just concerned about the possibility of delaying this, the public hearing for another month when it's already been publicly vetted since October 2014.

[10:42:53 AM]

And y'all know all the stakeholders that have been involved in the process. Many of the same stakeholders, in fact probably all of the stakeholders that are apparently calling for a delay were involved in this process. And so, you know, I'm not sure what benefit that's going to do to delay this. I don't think it's going to delay it. And if we were to go ahead and schedule the hearing for the 17th, those stakeholders have time between now and then to provide that input. And at the hearing as well. And you could keep the public hearing open at that particular hearing for a subsequent meeting to allow more stakeholder input. So I don't think delaying this is going to provide any benefit that's going to help out the process here. And it's not going to inhibit those stakeholders from providing the input that they feel they need to provide. So I say let's keep this on track because any delay is going to effectively delay making -- solving an equity problem here. Right now, we have a problem where development is not paying for itself when it comes to new parkland, and that's a big issue in the last round of council elections. So this is a step in the direction, making development, new development, pay its way. And by not doing this, and if we delay this further, then it just simply means that that cost for new development is going to continue to be on the backs of taxpayers. And that's an affordability issue right there. So the sooner we get these parkland dedication fees where they need to be, a more -- at a more fair and equitable level, the better it's going to help the affordability for our taxpayers here in Austin. So I hope that you will stay on track, not delay the hearing, and keep it moving forward. Thank you very much.

>> Mayor Adler: Thank you, sir. Sherry Taylor. Is Ms. Taylor here to speak on item 17?

[10:45:00 AM]

Good morning, Ms. Taylor.

>> Good morning. Thank you for allowing me to come and speak. I was just curious about the item and when I signed up out there it wasn't an option to donate time. I'm from Austin. I've been involved with the school system, and the item was talking about \$280 for free juvenile delinquency prevention services and I was curious if there would be the possibility of whoever is the sponsor for that on the council to put information out at the free pantries and other places like that so that the parents of students who might be considered next summer or the summer after that or the summer after that to participate in some of the wonderful free things that go on in Austin for juveniles, that they'd have a way to know that -- who to go to to get sponsorship, bus tickets to get there or church bus or civic bus or some kind of function that involves kids who are considered at risk. And they've already been identified by free lunch program and by the delinquency program if there's an issue with the family. So to give these kids an opportunity to participate in something outside of the nature of their neighborhood might be something to consider. I happen to be at an event a couple weeks back, at the St. John's convention tabernacle and it was membered that, unfortunately, the tabernacle was damaged by some kids, I guess they didn't have anything else to do. So maybe you can promote all these wonderful things going in Austin that are free, free, free, but in certain neighborhoods they don't have transportation to promote that. If a list could be published, as is published for free pantry information and free health information, if a list could be developed for free juvenile delinquency prevention services.

[10:47:04 AM]

And --

>> Mayor Adler: I think that -- is.

>> Then maybe the children would get more motivated across town integrating with other kids, doing fun things besides just school, which is also fun.

>> Mayor Adler: All right.

>> Thank you.

>> Mayor Adler: I think that point is really well-taken. Rey, is that something you could follow up both with her and then, manager, to take a look at making sure those services are widely announce so people who are eligible or could profit by them could take advantage of them?

>> We'll do it.

>> Mayor Adler: Thank you. The next speaker is Paul Robins. Mr. Robins.

>> Council, speaking about an issue after its already been voted on doesn't say much about process.

>> Mayor Adler: I'm going to -- that was my error, so at the end of the public speakers I'm going to ask the council if anyone wants to change a vote or revisit anything.

>> Thank you.

>> Mayor Adler: So the item will come back up again.

>> The lack of diversity of the low-income task force is not just about denying east Austin a voice. To give you an idea of how insulated it is, three of the eight active members literally work in the same building. You have just reappointed one of these people who has not shown up since February 20th I realize the sentiment of many of you is that maybe mistakes were made, but the work is almost done so let's just get finished by appointing the old members. And I get that. There's things worth fighting about. There's things that aren't.

[10:49:06 AM]

However, if you remove the person that never showed up since February 20th and put the resource management commissions appointee on, then you would have someone who has a background in energy, because most of these people don't, and who is -- he's not from east Austin, but he is from district 4. So if you're inclined, I would urge you to appoint Mike Wong in the case of -- in the -- in replacement of Kelly Weis and maybe the task force would be slightly more balanced. Thank you for hearing me out. Bye.

>> Mayor Adler: Mr. Robins, hold on a second.

>> Zimmerman: Thank you, Mr. Robins, Mr. Zimmerman. If it's agreeable with the council I would like to bring this item up for reconsideration. I did vote in favor prior to your remarks and if there's a second on that motion to reconsider, we can talk further. Is that my understanding?

>> Mayor Adler: Okay. I would second that motion to reconsider that item. Which is item number which? 41?

>> Zimmerman: Was it 41?

>> Mayor Adler: 41 I think is the boards and commission nominations. I'm going to second it for the purpose -- I'm sorry, it's 45?

>> Zimmerman: 45, okay.

>> Mayor Adler: I'll second that for the purpose of allowing it to be reconsidered without commenting on the merits. There's been a motion to reconsider item 45, since it's separate from the boards and commissions appointment. Is there any objection to reconsideration of item number 45? Ms. Tovo.

>> Tovo: Generally I'll support a reconsideration. In this case I've had an opportunity to hear the argument and I feel comfortable with my vote on it so I'm not going to support reconsidering.

>> Mayor Adler: Okay. Any further discussion? All in favor of reconsidering 45.

[10:51:06 AM]

>> Casar: Mr. Mayor, I just wanted to state I'm interested in reconsidering it, having brief discussion. Mr. Wong has mentioned -- is my appointee to the rm:and has expressed interest in participating and showing up.

>> Mayor Adler: Okay. Again, I'm going to vote for this because I made the error of not letting the speaker speak before the discussion was made, and that was my fault. But -- and I think it's appropriate, given the speaker came to speak on it, that we take a formal vote on that issue after the speaker has spoken so I'm going to vote in favor of reconsidering. Any further discussion on this? Those in favor of reconsidering, please raise your hand. Those opposed? The two votes opposite are tovo and Renteria. Reconsidering passes. We're now on item 45. This is your -- sorry, did you want to speak to it?

>> Casar: Certainly, so he's my nominee to the resource management commission and my understanding -- actually appointed by the council but nominated by me. And my understanding is that this task force was originally established to have someone from the rmc. Ms. Weis, I have heard anecdotally to today has not attended in several months and Mr. Wong has expressed interest in participating. So I understand that the group only has a couple of months left to go, so I could understand an argument of -- in these last couple of months, why bring someone on for the last couple of months -- why -- we have a name on there of somebody who hasn't been showing up but at the same time if the rm:is supposed to be representation, Mr. Wong does have experience in this field and I think would pretty quickly jump in and participate. So I would be happy to vote to swap Ms. Weis's name out for Mr. Wong's.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: As a point of order could I go ahead and make a motion.

>> Mayor Adler: A motion would be in order at this point.

>> Zimmerman: I'd like to move that we substitute Mike Wong for Kelly Weis, based on the testimony we've heard about attendance and what Mr. Casar said, so I make that motion to substitute Wong for Weis.

[10:53:19 AM]

>> Tovo: Mayor, wouldn't it be appropriate to have a motion to approve the item 1st? I'd be happy as a sponsor to do that.

>> Mayor Adler: It could have come up that way. That's fine. We have an motion to approve, we have a motion to change out Wong for Weis, we have discussion to change out Wong for Weis. Yes, Ms. Kitchen.

>> Kitchen: Oh, I just have a question. I'm not familiar with the circumstances so I'm just departures anyone is aware of why Kelly Weis has not been attending and if that's supposed to change. So it's just a question.

>> Mayor Adler: Ms. Tovo, do you want to speak to your motion?

>> Tovo: I'll just say in relationship to the question that you've asked, I'm not sure, nor am I sure that anybody on this dais has reached out to her to see whether or not she intends to participate, whether she's been following the process, and is comfortable with the work that's been done. I have not had that kind of conversation. I would just ask my colleagues if they have. Ms. Weis works for habitat for humanity, she has in the past, and I think certainly does bring expertise to this area but I'm not sure why she has not attended in recent months.

>> Mayor Adler: Is this something we could timewise put off until next week so that -- since it's information that has just come to us, if there's not a reason to decide today, and we could decide next week, Ms. Tovo, you would have an opportunity to check with those people.

>> Tovo: I'd be happy to do that. The impetus, again, is that the staff have communicated that they feel the entire task force needs to be reappointed. I brought forward this resolution so that that didn't happen. I believe, as I mentioned on Tuesday, given that this work has been -- this -- this group has worked together for almost ten months, I believe it's more appropriate, rather than reappoint an entirely new task force to allow the group to finish their work. As I said on Tuesday, I believe making new additional appointments is not as efficient and effective.

[10:55:25 AM]

I know Mike Wong. Not through his work with energy, but through other neighborhood work he's doing. This is not a comment about his expertise or the value he might bring to that work. I believe -- I mean, I like Mike Wong, I appreciate his work. Again, what I said on Tuesday was I think there's just consistency to keeping the group together that's been working together but I'm happy to delay that conversation a week if that's the will of the group.

>> Mayor Adler: Ms. Houston and Ms. Pool.

>> Houston: Thank you, mayor. And I think that we have in front of us a situation where groups were started at commissions and task force was started during the at large system and now we find it a very exclusive group and there's not much availability to have input from other parts of the city. And so I'm going to be supporting the motion, and I just want to say that that's not the only place I find this. In many places where we've had master plans developed that's been very insulated, and so I think we need to start looking at where those opportunities are to include more of the city in those conversations before we, as a council, make a policy decision.

>> Mayor Adler: Ms. Pool.



>> Pool: I was going to suggest that we table this for a time and maybe we could get the information that we're looking for between now and, say, 4:00 this afternoon or at some point that we designate and ask staff to do a little due diligence. And then we could still vote it today with additional information.

>> Mayor Adler: Okay. That makes sense to me.

>> Gallo: We talked about this at work session and as we did our research on it. As Mr. Robins pointed out, there's several reasons that this committee does not reflect the entire Austin committee community, one of which is that there's four district that are not represented on it at the current time.

[10:57:27 AM]

I understand and appreciate mayor pro tem tovo's comment about the -- they're almost to the end of their task and it would be better to continue forward with the group that's there, with the exception I would support adding another person to replace the person that has been absent so much. But I just want to go on record that if the work of this group extends past October, then I would be in support of an amendment to this, that would allow the four districts -- three or four districts that are not represented to add members to the task force that would lep. So the task force -- represent, so the task force would represent the entire community of Austin.

>> Mayor Adler: Ms. Pool has moved to lay this on the table for a moment. We can pick it up and see if we can advance this issue. Is there a second in Mr. Casar. Any discussion? Those in favor -- yes, Ms. Troxclair.

>> Troxclair: I just thought we might ask the speaker who brought this issue to our attention if he's willing to wait around or if we have a time certain so that he can be here when we discuss it again and take a vote?

>> You're most kind. I am willing to wait. And what else have I got to do?

[Laughter]

>> Troxclair: Maybe we could set it for -- a certain time so he knows when to be back.

>> I am only commenting on what I have heard secondhand so I can't swear what I'm about to say is 100% factual. I have heard that Ms. Weis is no longer with habitat and whether I am wrong or not, I have looked at all the minutes, which are online, of this task force, and unless I missed something, she just hasn't been to a meeting since February 20. Thank you.

>> Mayor Adler: Okay, thank you. Ms. Gallo.

>> Gallo: This brings up another issue, too, that hopefully staff can fill us in on, which is what is our policy for absences on these boards and commissions?

[10:59:33 AM]

And I think it would be helpful for the council to know that. Is there an automatic removal after a certain point in time? We don't need to hear that report now, but if that could be part of the presentation for when this comes back up, I think that would -- I think all of us want to make sure we have boards and commissions and members that are actively participating and what the trigger that would make the council aware of the fact that that was not happening.

>> Mayor Adler: There's been a motion and a second to table. I'll try to pull this up maybe just immediately before 4:00. And that will give people a chance to try and touch base with Ms. Weis or otherwise. Those in favor of tabling, please raise your hand. Those opposed to tabling. Tabled unanimously. So anyone want to consider any other items on consent agenda addressed by speakers? Then we're going to go ahead and proceed with the items that have been pulled.

>> Mr. Mayor, this time we have the less traumatic drawing.

>> Mayor Adler: Oh, yes, let's do that. More traumatic for some than others.

>> Mayor Adler: We're going to draw for council dais positions. You're staying for the process? We decided as a council we would do a rotation every six months or so so we all sit next to one another. We're going to start at this end. Draw one through ten, one is the position that the mayor pro tem is in right now. Ten is the position that Ms. Troxclair is in. We're not going to change position on the dais for this meeting but following the draw for the next meeting we would ask staff to put us on the dais with the name tags.

[11:01:35 AM]

>> Tovo: And the number is -- one. And I didn't rig it.

[ Laughter ]

>> Tovo: But I'm delighted.

>> Five.

>> Mayor Adler: Five.

>> Ten. I'm number ten.

>> Mayor Adler: Ten.

>> Six.

>> Mayor Adler: Six.

>> Eight.

>> Mayor Adler: Eight. We're moving. Three.

>> I haven't moved in a while.

>> Mayor Adler: It's actually pretty far to the left. Your number? Seven. Two. Four.

>> You're moving far to the left.

>> Mayor Adler: The Numbers that you're pulled looking at the council going from your right to left, one, five, ten, six, eight, three, seven, two, nine, four.

[11:03:39 AM]

You'll stay where you are. The next position next to you will be Ms. Houston and Mr. Zimmerman and then it will work that way. Okay? We're now going to proceed with the agenda. The first item that was pulled we get to is item number three. Mr. Zimmerman, you pulled that?

>> Zimmerman: Yes, Mr. Mayor. It's connected to item 24. I'd be okay if it's agreeable with the council to consider 3 and 24 together when we get to 24.

>> Mayor Adler: That's fine. We'll go ahead and do that. So let's then call out item number five. This item is going to be postponed. Staff is here? Is staff here to speak for number five? Is there a time sensitivity with this issue? We want to put it off a week, there's not a problem with that?

>> We can put it off for a week or two. There are some time matters for the watershed. Much beyond that, we would be concerned. We can postpone it to the August 20 meeting.

>> Mayor Adler: The question has come up with respect to whether or not -- the issue is we have the rotation list and we stop at 5, it's been suggested that we get to -- we may do this. Let me call the speakers who are speaking and when we're done, we'll bring you back up.

>> Of course.

>> Mayor Adler: Let me call on the people who want to speak on this issue. We have five people who are signed up. Simmit Gupta?

>> Thank you, mayor. Good morning, mayor Adler, mayor pro tem tovo, and councilmembers.

[11:05:40 AM]

I want to thank you all for giving me this opportunity to speak on this topic about the professional service agreement. So yesterday I printed the list and I looked at all of the different companies that are on this list. I did a study of the five -- the first five. They're all very reputable companies. Four of them are in Texas but one of them is in Austin and one of them is a partnership with a company that's very international. These are all very reputable companies. However, when I looked at the next five, I noticed three of the five are -- and my recommendation would be to include them in that list so they get a chance to play in this space and also -- and also answers Austin's well known reputation for supporting them. I didn't use my three minutes. I'll make it available to the others. Thank you very much.

>> Mayor Adler: That's okay. Thank you very much.

>> Thank you.

>> Mayor Adler: Schiller, is Sa the be here? You have six minutes if you'd like it?

>> Mayor pro tem tovo and the councilmembers, glad to be here. I'm representing the Asian network -- network of Asian organizes which is a combination of 14 Asian organizations and I want to talk about this item number five because I found out that the mb, wb company has been inside with the top five. However, they're in the top ten. And I found out also from the business standpoint, I'm serving on the mb/wb commission. I have seen the people, small business people coming to the commission and asking for the business of working with the city. However, if we keep using the big companies, which is the backup, most companies, probably employees like to do.

[11:07:41 AM]

But I think we need to give opportunities for small people which local people here the opportunity to do the business with the city. So I think my -- my suggestion is we expand the top five to top ten in the rotation within the -- look at the design fee is \$10 million and the construction fee will be about more than \$100 million to \$150 million. So if we figure that into the ten companies, I think it will be fair, not only to the big companies, also fair to the local companies. So I think everybody have a chance do their business with the city here. And I also remember in the old time there's a story about -- in China, the one guy working for a prime minister and the prime minister never got a chance to show him how good he was and the one day he volunteered himself to the prime minister and said hey, let me do this. And the prime minister said hey, if you're so smart, if you're in the back of the smart people, you'll stick out. But he said -- this person say, you never put me in the back. So he never get the chance to do the work for the city. And then I'm asking for the opportunity for the small business people, the top ten companies can work for the city for the watershed division. Thank you so much. Thank you for your time.

>> Mayor Adler: Thank you. Paul Kim?

>> Good morning, mayor. Good morning, councilmembers. My name is Paul Kim and I'm currently serving as a chair of greater Austin Asian chamber of commerce. I'm here speaking on behalf of the business community that is part of the fastest-growing segment of the population in Austin right now. As a representative of the minority chamber in Austin, I'm here to appeal to you to expand the prime contract of rotation list for 2015 watershed engineering and flood mitigation from 5 to 10.

[11:09:48 AM]

By expanding the list, create much more broad prime contract approval representative of the diversity in Austin business community and city of Austin's recognition of need for the inclusion of the less-served businesses. Recent years minority and women-owned business have demonstrated that they are not only capable and qualified, but more times, they can getting the job done more economically. One of

the examples would be how beneficial it was to the city to utilize the local mbe and WBE firms. As prime contractors through the implementation of contractor assistant program in the Austin clean water program. I believe the overall result was realization of almost \$12 million in savings for the city. Honorable mayor and councilmembers, I urge you to take full advantage of this opportunity to better meet the city's mbe and WBE participation goals and take advantage of the potential project cost reduction by expanding the prime contract to pull from proposed 5 to 10. Thank you for giving me this opportunity to speak to you today.

>> Mayor Adler: Before you go, you're talking to the rank -- the top ten ranked firms?

>> Yes.

>> Mayor Adler: Thank you.

>> Yes.

>> Mayor Adler: Good morning, mayor Adler, councilmember tovo.

[11:11:50 AM]

I'm here today in support of the list. I know the watershed flood has hard mitigation rotation list, I looked at that as well. All of the companies are able to meet the goals of the city. And that are three highly qualified minority owned and women owned firms on that list on the full list. Of qualified firms. I'm not as happy to see not all of the five firms chosen as prime by city staff included the minority and women-owned firms. And while I understand and appreciate that the city's mbe/wbe participation goals will be met by using the five firms who will then sub contract to minority and women-owned firms, I don't believe we should stop there. You know, as city councilmembers, we have a very diverse group here. And I want to put this in terms directly to your experiences. There's a difference between being a city staffer and being a councilmember. There's a difference between -- there's a difference between being a subcontractor and a prime. I think that the city needs to push forward for a variety of reasons already cited, one, I think it would be greater competition to involve ten firms but I think it's important that the city give the opportunity for qualified and women-owned firms to be prime contractors. Again, I think there's a measure of dignity involved on being on the giving side of sub contracts as just opposed to being on the receiving side of sub contracts. I would also like to talk about the future of Austin. There are a lot of young women and minority engineering students at the university of Texas, at Houston Tillison, at Texas state, I think it's important that they be able to see that the road to starting your own company and achieving the pinnacle of your career, which in this case of city contracting would be becoming a prime contractor, is open.

[11:14:08 AM]

And that there are clear examples of companies with minority and women business ownership achieving those goals. So I think for all of the variety of reasons that I've cited, I would hope that you would be able to expand this list. And I want to emphasize, I mean, as I've looked through the list, the difference between the top five and the next five in terms of qualification points is not very much. And I think it's certainly within your purview to be more inclusive of that list to achieve the goals that I've cited. Thank you very much.

[ Buzzer ]

>> Mayor Adler: Thank you. Staff, if we were to postpone this item for one week, would you be able to come back to us at the work session next week and talk to us about the ramifications of increasing the Numbers on this list? If there were issues with that, ways to be able to increase leadership opportunities for additional or NBA companies. Would you be able to do that?

>> Yes.

>> Mayor Adler: Council, I would ask as a personal favor on this issue that we hold off debating this issue further. And that we postpone this item for one week and then ask staff to come back to us on Tuesday and engage in a conversation with us. It's been moved and postponed, one week. Seconded by Mr. Casar. Any further discussion? Thank you. Ms. Gallo?

>> Gallo: Will you allow speakers or will it be closed for this discussion. It would be advantages you to know if there will be speakers allowed next week or not?

>> Mayor Adler: I would allow speakers next week. It may change. So I would allow speakers next week. Because I don't know how it would turn out. Okay? Any further discussion? In favor of postponing this one week, raise your hand.

[11:16:11 AM]

Those opposed. Postponed one week. That's generally the conversation that I would like to hear. I didn't have you signed up on this.

>> Mayor Adler: Do you want to come down and speak to us?

>> Yes.

>> Mayor Adler: Okay.

>> May, you while Mr. Pena is coming down, can I make a suggestion? As far as the comments of the public next week that would be at the council meeting on Thursday, right? Not at the work session. But we will talk about it at the work session? Right?

>> Mr. Mayor, councilmembers, Mr. Pena, proud Marine Corps veteran. When I ran for city council, we had a form at Magrabit. It was owned by an Asian American gentleman and consortium. This issue came up again that the Asian-American community has not been represented in one shape, manner or form within the minority business procurement process. And forgive me, I don't know too much about that. But I'm a former EEO discrimination complaints investigator. I'm saying you glad you postponed it to open it up. And Mr. Kim brings up some very valid points as does the other gentleman from -- that represents the Asian American community. We need to be inclusive. I'm not saying you're not inclusive and fair. But it should be a Bert process, an inclusive process. And that's what I'm all about. That's what we're all about. I'm co-founder for veterans for progress. We're 1500 strong. These are -- bless you -- these are one of the issues that we need to improve on, mayors, councilmembers. I appreciate your inclusiveness. Mr. Kim, you and the other gentleman. I recognize you but I just got out of the hospital again this morning. I'm glad you're going bring it forward again.

[11:18:13 AM]

Be more inclusive. He's right. The Asian-American community is growing and they do have a part in the community. And Mr. Mayor, thank you very much, I just signed up for it even though I just got out of the hospital. And thank you for allowing me to sign up. Be more inclusive. A process that needs to be more representative in the community.

>> Mayor Adler: Yes, sir, thank you, Mr. Pena. The next item on the agenda, item 19 pulled by Mr. Zimmerman. Mr. Zimmerman?

>> Zimmerman: It was my hope we could have this. It's a legal matter I understand has some history behind it and decisions that were made that didn't belong to this council but I would appreciate to discuss that in executive session before there's a vote on that.

>> Mayor Adler: Can we put this item until later in the day and discuss it at our executive session and pull it back? Ms. Kitchen?

>> Kitchen: I'm sorry. I thought we had number seven too.

>> Mayor Adler: I had seven postponed to August 20. So with respect to item 19, we're going to hold off

calling that up right now. Going to discuss it in the session and bring it back after lunch.

>> Zimmerman: 19 and 20, I believe.

>> Mayor Adler: That's correct. That gives us to item 22, postponed. Item 23 is the item that we -- is linked to item 72. We'll get to that later when we getting to that agenda. That gets us to item 24.

>> Zimmerman: That's the Zimmerman lane purchase.

>> Mayor Adler: Items 23 and item 24. Yes, please.

[11:20:16 AM]

Did you have a question on pulling that?

>> Zimmerman: Well, we went over this in the work session. My first objection was the how we could have a \$400,000 appraisal on a property that was on the tax rolls at four times less than that. It was around \$90,000. I didn't get an answer to that. What I heard was the property was pursued for purchase, there was an appraisal sought. The appraisal came in at \$400,000. Which is a nonanswer to my question of how come tcad could be 400% wrong on the appraisal?

>> Councilmember Willie Conrad, not sure I can speak for tk in this case.

>> Mayor Adler: I can speak for the taxpayers. This is the kind of thing that makes people angry is that somebody is paying taxes on the tcap rule at \$90,000. Suddenly the property is worth \$400,000 when the taxpayers are asked to pay for it. If you don't have comments on that, I don't have questions for you. I have something for the council. I want to appeal to the council.

>> I have a question,>> Mayor

Adler: Hold on a moment. Ms. Houston?

>> Houston: Excuse me, before you leave, can you tell me where the \$400,000, what pot of money this comes from?

>> Yes, ma'am. When bccp was established --

>> Houston: For those -- excuse me -- for those watching on TV and listening to the radio, if you can use words and not acronym, I would appreciate it.

>> The ball cones conservation plan was established, the preserve was also established. The preserve serves as mitigation for habitat lost through development and public service infrastructure and projects.

[11:22:18 AM]

The way the process is established, property owners could buy mitigation credits from the balcones conservation plan in order to mitigate their development projects. We sell the credits to them. They basically cost \$5500 an acre. There are some that could be cheaper depending on the type of habitat being mitigated. We sell mitigation credits to private property owners. In the federal permit that authorizes our habitat conservation plan, the balcones conservation plan, we're required to use the revenues from the sell of the mitigation credits for the purchase of land or other purposes that serves the balcones canyon lands preserves. So in this case, the \$400,000 that will be decaded to the purchase of this property are from revenues we've received from selling mitigation to private property owners. So basically what that does is it allows people to mitigate their project but also for the bccp to acquire the land that we're required to acquire for our permit without a due burden on the rest of the tax base. So the private property developed their property. That property -- the improvements in the property could then contribute to the tax base. But the revenues from selling mitigation credits helped to pay for the land acquisition without going directly to our tax base on the city's purchases.

>> Houston: Thank you.

>> Mayor Adler: Other questions? Ms. Gallo and Ms. Pool?

>> Gallo: You answered part of the question. What I wanted to know was what the mitigation account

can be used for, you said purchase but you said other purposes. What are the other purposes the money can be used for?

>> The specific language in the permit and elsewhere in the habitat conservation plan said for land access and other purposes.

[11:24:22 AM]

What the city of Austin and bccp uses them for are capital improvement projects on bccp, primarily fencing.

>> Gallo: Thank you.

>> Mayor Adler: Ms. Pool.

>> Pool: I think you're ticking down the clock with us. Is that right? Your retirement is pending?

>> Yes, ma'am.

>> Pool: You're retiring soon.

>> Yes, ma'am.

>> Pool: Always happy to see you. The approach of the balcones canyon land is similar, can I make the equation to the interprize fund, the airport, the moneys raised is that the airport can only be used for maintenance and things that are raised at the airport so that the moneys that are raised are directed to the preserves and can only be used for operations and maintenance at the preserves?

>> That's an excellent analogy.

>> Pool: Thank you so much.

>> Mayor Adler: Any questions. Further questions for staff? Thank you. Mr. Zimmerman?

>> Zimmerman: So before you go, the idea that the mitigation credits, what I said in my objection to this is that the property owners are required to pay in and so this \$400,000 that was collected in mitigation fees, that cost is going to have to be passed on -- is going to have to be passed on. Do our taxpayers in some other way. So that \$400,000 is going to have to go to increased rents, increamed prices for houses and condos? So we are paying that \$400,000. And if we did not purchase this property, we have quite a bit of businesses and we have concordia university, very close to this property. And as these areas grow, this where do you lived be a great place. It's right off of Zimmerman lane off of 620. It's a terrific place to develop a place for people to live.

[11:26:23 AM]

>> We certainly have competing interests there. I'll point out first and foremost that people are not required to participate in bccp, the balcones canyon lands preservation is voluntary. People are required to comply with the native species act, the law of the land. This was the strigs of the people that created the balcones canyon lands conservation plan in the early 1990s for local control of how we approach compliance where the act. While anyone can go to U.S. Fish and wild life service and apply for their own permit, I guess reasonably speaking, they could decide not to comply with the act. I can't speak to that. But what your predecessors and the visionary people that develop the conservation plan said is we have a local solution where we can control our own destiny. We can make sure that we can comply where the species act and provide for continued economic development in our community. And it's been very successful, as I said at the work session the other day, the improvements that have occurred because of bccp, 2013 were appraised at \$4.5 million by tcad.

>> Zimmerman: I appreciate the fact that you're retiring too. You've been a central figure in this for a long time. I've been involved with bcp. I was president of the mud adjacent to bccp. We've had disagreements over this. I knew the bccp's appetite for land like a bastrop wild fire, it never says enough. So my understanding we do have tens of thousands of acres already in preserve land for the

birds. Isn't it true that we've already met, you know, the requirement for acquiring acreage? Is it 30,000?

[11:28:28 AM]

40,000 acres?

>> Not entirely accurate. They set a minimum goal for bccp of 35,400 acres. We exceeded that requirement. But the habitat conservation also included configuration requirements, including minimum requirements for the units in the preserve. We have not met the minimum acres requirement in the bulk creek.

>> Zimmerman: It can evolve. Like a wild fire. I think I'm going to burn more land. It's going to keep growing and growing. I don't see anything that's going to stop it from evolving and evolving and where's the stop mechanism.

>> Stops with policy makers Lineback you. I would disagree there's an infinite goal. There's well clearly defined goals in the habitat conservation plan spelled out in the public record and staff is working today to fulfill all of those commitments that we made as a city and a county to achieve those goals.

>> Zimmerman: So there is no limit. 30,400 is a minimum. Now a new minimum. Next year, a new minimum. Next year, a new one after that. There's no limit to how it could grow?

>> In a's not what I said, sir.

>> Mayor Adler: Any further questions for staff? Thank you very much.

>> Thank you.

>> Mayor Adler: Further conversation on the dais? Ms. Tovo?

>> Tovo: I would like to be recognized for omission?

>> Mayor Adler: Yes.

>> Tovo: I would like to move the approval of -- do you want to take them separately? Iep tell three?

>> Mayor Adler: We can do it together.

>> Tovo: Item three and 24 -- twenty -- I'm going to need some help here. 24. Thank you. And also I hope we have an opportunity to recognize Mr. Conrad for his five work here again.

[11:30:28 AM]

But since we're voting on this item here today, I want to thank you. You're going to be terribly missed at the city of Austin but we certainly, the city of Austin has benefitted from all of your work for the years and we owe you a great debt. Thank you very much, best of luck if your retirement.

>> Mayor Adler: It's been moved, item 3 and 24 by Ms. Tovo. Been seconded by Ms. Pool. And I want to join in the seconding for the work that you have done. You've become like a folk hero to many of us in this -- and I mean that in the -- in the grandest sense for what you've done for this community. So thank you. We are now in discussing items Numbers 3 and 24. On the appraisal question that you raised, Mr. Zimmerman, there is a disconnect, I think, sometimes between what is market value and what is appraised value. And I would hope that some deliberative body would seek to challenge or raise questions with respect to that process and I'm pleased to be part of a group that's doing that. Further discussions? Mr. Zimmerman?

>> Zimmerman: Along the lines of getting something done. I would like to amend the motion of getting \$400,000 to \$100,000 in the posted language in item three.

>> Mayor Adler: There's been an amendment to approve payment of \$100,000. Is there a second to that? With no second, that -- Ms. Houston?

>> Houston: I was going to second just for discussion.

>> Mayor Adler: We're now discussing -- on number 24, we have the dollar amount. It's been moved to



amend it to drop the payment from \$400,000 to \$100,000.

[11:32:33 AM]

Seconded by Ms. Houston.

>> Houston: Mayor, I just want to say that it seems like what we're paying for this piece of property is way out of bounds for what it's appraised at. So I have a real concern about the practicality of using that much money when people can see what the actual appraisal is.

>> Mayor Adler: I understand. It's interesting in the kind of law that I used to the, which was land valuation cases, where courts and juries were asked to decide what the value of a piece of property was, the evidence that was admissible was the testimony that came from appraisers who were hired to assess the value as was done in this case to arrive at the \$400,000 number. The ad velorum tax value of a piece of property may or may not be related to market value. There are ways to set value in the ad velorum process that come to what the tax value is that may not be market value. If it's a value on the uniform and equal challenge. They cannot do an individualized appraisal on each parcel are often block appraisals. So sometimes they'll lack the specificity or the differences between particular tracks. And so for all of those reasons in the cases that I handled where value is at issue, the ad velorum tax value was never admissible as evidence of what the market value of property was. So in this case, the fact that the appraised value differs from the ad velorum tax value in my mind is not a reason to reject a deal that's being struck on what has been determined to be the market value by the independent appraisers.

[11:34:40 AM]

It does in my mind raise questions that I think the community would have about that disconnect in part because there's not a general understanding that sometimes the tax value is not market value but beyond that, I think that it just raises general questions and one of the reasons I'm happy that we're working with the county in moving forward with this challenge is in part to take a look at the issues so that we can help move us to an ever more fair system so that there's ever greater confidence in the public. But on this particular incident where we have actual appraisals to support market value, I'm comfortable with that. Further discussion on this item, Ms. Gallo?

>> Gallo: Good luck to the person sitting here next. So the -- it's very temperamental. I noticed the appraisal is not in the pact of backup. There's not a lot of appraisal versus tcad and I was curious.

>> Junie plumber, traditionally we haven't included the appraisal. It's not that we wouldn't be willing to. We just haven't. We do order them. Those appraisals are reviewed and approved after they're turned in. They go through an elaborate review process and they're signed off by city staff they've been reviewed and improved. We would provide them but traditionally have not.

>> Gallo: That would answer some of the questions if there's a disconnect between the tcad values and the appraisal values.

>> You will traditionally always see a big difference between the assessed tax value and the current fair market value.

>> Gallo: Wonderful, if you can send a copy of that that would be great.

[11:36:44 AM]

>> Mayor Adler: Further conversation on the amendment to go from \$400,000 to \$100,000. Mr. Simernman?

>> Zimmerman: Quickly, before you go, how many apratz Sal groups?

>> One, a third-party apratzer?

>> Zimmerman: Who was it?

>> Adrian Lorie Johnson.

>> Zimmerman: So only one appraisal done. By point of comparison, when I was president of my M.U.D., we had green belt property and we had at least two appraisals and I'm thinking we had three appraisals done. There was significant difference in the appraisals. They differed around 10% to 20%. Hearing none, let's take a vote, in favor of the amendment going from 400 to 100, raise your hand. Those opposed, please raise your hand. Mr. Zimmerman voting no. Ms. Houston abstaining and the rest of the panel voting against -- Mr. Zimmerman voting yes for the amendment. The rest voting no except for Ms. Houston who abstains. Items number 3 and 24. Any discussion? Ms. Troxclair?

>> Troxclair: It was an important discussion that we raised about the appraisals. There have been discussion about the purchases we've seen already in our short time in office and I know articles that were printed about appraisals before we got in the office that had differing appraisal sales and questions about whether or not the city overpaid for pieces of property. I understand there's more expense about another appraisal. In the long run, if there are varying opinions about how much it costs and we can default to the lowest appraisal, it might be helpful to the city in the long run to have more than one opinion.

[11:38:52 AM]

>> Probably not the individual to address that question. Lorraine Riser, our director probably should. I will tell you that we invest a lot in these appraisals. We do pay very much for them. These projects, land plans, appraisals are expensive. They are reviewed, as I said, by city staff that are appraisers and qualified in this area. So it isn't that I'm saying you couldn't. I just think that it needs to be considered financially and maybe Ms. Riser who is not here today can address that further.

>> Mayor Adler: I'll point out that it's probably an issue we're having, maybe in committee because the issues are complicated, if we do that in an imminent domain context and get free appraisals, you can make your offer but you have a duty to turn over to the landowner the other two appraisals. You can watch what happens in that negotiation process. Ms. Pool?

>> Pool: I would like to reiterate and point B out that even if we were to pay less for this land that money is still available to use for the purpose of additional acreage towards the Balcones Canyon Land Preserve. The money is not used for anything else. It's essentially in the bank to buy and maintain the preserves. So we -- we -- if we lowered it, it would have more money I guess to buy more land. And I support the price that's on this currently.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I remember from work session probably the issue of additional appraisal is we paid \$400,000 for the adjoining tract.

>> In 2011, ten acres, we paid \$405,000.

>> Gallo: That's the property next door to that.

>> That's correct.

>> Gallo: That sets the precedent from the price of this from a previous purpose.

>> Mayor Adler: Mr. Main your.

>> Zimmerman: This goes back to the problem with the appraisal. If there's a comparable sale that was done years ago how come the other track remains on tax at \$90,000, 400% lower than the comparable sale.

[11:41:00 AM]

The other thing I want to ask my colleagues is where I say, look, we heard in the mobility committee

yesterday about the expense of building roads and infrastructure we know we have a housing shortage in the city. This is adjacent to upgraded infrastructure. There's new strip centers and up in development going in. So the -- the infrastructure for development has been upgraded along that 620 corridor. It makes no sense to pull this property off of being available for development, which we need. We have housing shortage. We can add land in rural areas such as out in Burnet County where we had a huge preserve for wild life. It would make so much more sense to have a policy of adding land out in rural areas where we don't need infrastructure, we don't need water and electricity and roads out in these wild life preserve areas. That's where if we need more mitigation, that's where it should go. The policy for me is incredibly misguided to take land where it's near infrastructure, pull it off of development, take it off of tax rolls and put an eight-foot-high fence around I want and keep all human beings around it for the foreseeable future. It's a terrible, terrible decision. We need to change policy on this. I'm urging a vote against this measure.

>> Mayor Adler: Any further discussion on this item? Hearing none, all in favor of items 3 and 24, raise your hand. Those opposed? With -- all in favor with the exception of Mr. Zimmerman and Ms. Houston voting no. Thank you very much. Now going to move on to the next item. I think that gets us to -- you pulled this item?

[11:43:12 AM]

>> Casar: Yes, I can address 29 and 30. Did you pull both of these as well, councilmember Houston? I wanted to address 29 and 30 because they are contracts for labor and in all of our contracts, we require our own city's living wage, the city's minimum wage to be included in the contracts. These are three-year contracts that we're considering authorizing. If we change the city's living wage in this budget session, I would want to maintain the flexibility for us to incorporate that wage into contracts after this year so my intention would be to move approval of these. But to direct city staff to bring these back before the extension to create the opportunity for us to renegotiate with the newer wages in the next year after one year. So I -- it would not be changing the substance of the contracts, but just that -- I would want to limit the contracts to their initial term and have subsequent renewals be brought before the council.

>> Mayor Adler: Is staff here to speak to this issue? I think the question is, if this council is proposed by the manager and his budget to increase the living wage, what's the best way to make sure that the contracts reflected the living wage, what's the best way to do that? Could you turn on your mic? Or is it --

>> It's on, sorry. Sorry. Not long enough. Mayor, councilmembers, James can borrow, purchasing. The way purchasing has been performing the living wage provision in our operations is to apply the living wage that is in place at the time of contract awards. There are a number of influences on pricing throughout the life of the term contract and all of those come into consideration at points of extension.

[11:45:21 AM]

In the life of the program thus far, we tried not to have it be too much of an influencing factor when you extend the contract. If there's a change in any policies, then it can be argued that there's a one-for-one increase. Although the cost of employees may not be 100% driving the increase. It could be leveraged as a 100% price increase factor. So we try to manage the value of the contracts to the best of our ability without having that much leverage against the city. So what we recommend doing is applying living wage at the time of a new solicitation and a new contract award. So if that were to be the case, it would be more straight forward from a procurement perspective for us to go about and seek new competition from the conclusion of the potential three-year term, whether that be for item nine for for 30.

>> Mr. Mayor, my suggestion in this case would be to have the contracts come back to the council after their initial term so we can make a determination to terminate and reissue or allow the

extensionings. One of the items I share her concern about. Not minority and small business firms being able to apply so we can consider the items one year today. The wage increase that we had during this budget cycle, the loophole had come to the attention of our opportunity at the economic opportunity where subcontractors cannot participate in the living wage. Someone could say they're complying with the living wage, having on the book all of the security work not complying with the living wage and therefore undercut the bids of those who do participate in the program. So my hope would be let's get this done today because I understand the contracts will expire soon. We can clean up the subcontractor issue hopefully as a policy matter before this body in the coming months and in one year we can choose to extend these contracts because I understand the issues raised by Mr. Scarborough, or we can choose to terminate them and resolicit to address the two or three different issues.

[11:47:40 AM]

>> Mayor Adler: You're saying one year, but do you mean three years?

>> The initial term is three years.

>> Kitchen: Is it possible to direct staff for the contracts or the extensions be brought forward to the council?

>> Yes, it's optional for the city and the contractor. So when they put in their bids, they did so under the assumption of a three-year initial term. So to the extend that they whether or not you would be negotiating anything with them, that would be anticipated already at the extension increments. So to do so, to come back and ask for additional authorization and consideration is perfectly fine.

>> Mayor Adler: If we did not do anything with this and passed it as it was in front of us, would you have to come back to the council at the time of the extensions following the three years?

>> No, sir.

>> Mayor Adler: Mr. Casar moves to have the council come back after the priep mare term to visit with council again before an extension is approved. Second to that motion? Mr. Zimmerman seconds that.

>> Zimmerman: And to clarify, Mr. Scarborough. I appreciate your help on the matter and if you can come a little beforehand, further beforehand, before October, so we have a chance to terminate if we so choose to give you enough time to resolicit and get someone onboard so there's not a gap in security or landscaping?

>> Thank you. When we look at a contract extension, we're typically going to start our review of performance in whether going back out to the market is in the city's best interest 12 to 19 months before the expiration.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I want to clarify this will be three years before we have the opportunity to address either living wage or -- or the minority women-owned business issue. Because the initial contract is three years and the extension -- or the extension is for three years on top of that.

[11:49:41 AM]

Show the whole time frame is six years as proposed. So I -- you know, is this -- let me just ask a few questions. Is -- I'm assuming that three years is our typical time frame. If that's why it's three years? Or have we had a different time frame in the past?

>> The period of any term or increments of terms for a contract is a business decision established by the city based on our requirements, our operational requirements and also what's typical and customary in that market and what we can achieve the best economic value. So if it's a shorter period, you may not get the best pricing, longer period, you get better pricing but you increase the risk for the contractor. All of the things come in to consideration when you determine the best period of time.

>> Kitchen: Thank you very much. I do understand all that. But the -- what was the last contract? Was that a three-year term? Is that the practice of the city with these particular services?

>> Not familiar with how the terms were segmented in the last contract, but I did not hear these were better than the last contract. I would assume yes. We can find that out for you.

>> Kitchen: I'm curious. We've done a two-year in the past and now we're changing to three year initial term. This might not be the time we wanted to make that change given the discussions we're having about living wage. So that's -- that's the question I have. Can anyone answer that at this point?

>> The last contract I was just updating, the last contract, the initial term was, in fact, three years.

>> Kitchen: For both of these items?

>> For 29, I'm not sure about 30. I'll have to find out about 30.

>> Kitchen: So the three years is what was negotiated with the company, is that -- and in what they bid based on?

>> This was -- yeah. The three-year term was established with the city's requirement. They went out with the packets. They based their pricing on that.

>> Kitchen: Okay.

[11:51:42 AM]

I think it might be helpful for us in the future particularly considering what we're hearing from council now, our concerns about living wage and the concern about minority and women-owned business. So perhaps we can work in the future when we're putting bids out to account for those kinds of changes because three years is a long time for those workers to have to think about that. So thank you.

>> Mayor Adler: Further conversation on Mr. Casar's amendment? Ms. Houston?

>> Houston: Oh, no.

>> Mayor Adler: Further conversation.

>> Casar: One more conversation. Are you aware that these contracts have to be disclosed to the city if the work is further sub contracted.

>> If the work is --

>> Casar: Further sub contracted.

>> If there are sub contracts with the bid received by the city or if subcontractors are used at any point during the life of the contract, all of that is subject to our nwbe program. And we would pull a list of available firms and those firms would be contacted by telephone by contractor if they wish to sub contract at any point.

>> Casar: We're not aware any of the firms will sub contract further? The reasoning for that is the fact that we have not had deliberation and put among this body about that subcontractor's living wage loophole?

>> No. We're not aware of any subcontractor.

>> Casar: Thank you.

>> Mayor Adler: Further conversation. Those in favor of the amendment from Mr. Casar, please raise your hand? This is to have the contract come back after the first three years. Those opposed? It's unanimous on the dais. We're now to the main item on number 29. Any further discussion on that, number 29. Those in favor of 29, please raise your hand. Those opposed. Unanimous on the dais. Gets us to number 30.

>> Houston: Mr. Scarborough, don't leave.

[11:53:42 AM]

>> Yes, ma'am.

>> Houston: I noticed on item 30 that 16 minority business -- minority and business-owned businesses were solicited. Has your staff done any -- had any conversation about why we're not getting responses? We know we have lawn escaping services.

>> That's an ongoing question in our office. We're looking at all solicitations and looking at the number of businesses that are registered with us that we contact and contrasting that to the number of offers that we received. And we're actively developing feedback mechanisms so we can have certified businesses and noncertified businesses so we have impediments or concerns or how to get information more clearly to increase the response rate. The response rate in this particular solicitation is consistent with what we see across our aggregate body of procurements in terms of the Numbers of companies that we -- that notify and the Numbers of companies that we receive offers from. Now, again, when we identify companies that we notify, we don't necessarily know that they're companies. Individuals that may register with the city because they may want to keep up with the city's business opportunities or keep abreast of what a given department is doing, or they want to know what the city is doing. So we send out notices based on anybody who registers and wants to know more about the city's opportunities. We -- many of them, most of them are likely firms that wish to do businesses in those areas, not all of them are.

>> Houston: One of the issues for me is how we write the scope of work. Because I noticed for pampered lawns, it's a current provider of these services.

[11:55:44 AM]

So when you write the scope of work for this particular landscaping job, do you write it in a way that's neutral or do you write it in a way that this company can continue to get the contract.

>> We always endeavor to state the city's requirements in a manner that meets our operational needs but still facilitates the greatest amount of competition. And in this case, while the naming of the item and the resulting contract seems somewhat broad, it's really for lawn mowing, edging, trimming, and it's more of a narrow body of work. And so when we looked at the availability of certified firms, it was -- there weren't enough scope opportunities and director can explain more about that. But when we -- when we look for companies, we always will contrast the requirements of the city and if there are opportunities to segment or narrow a scope of work under a specification, we'll look to do so. So in this case, we took the entire body of requirements and segmented it to three components based on location and on size. So of the three components of work, there was a large component, a moderate size component and a small component hoping to facilitate opportunities for smaller companies. These things were taken into consideration for this specific solicitation for item 30. But unfortunately we didn't receive any offers from certified firms.

>> Houston: As we move forward, I would like to hear what the response rate is and if you find out why people aren't responding, if the letters come back, if the e-mails bounce, that would be helpful.

[11:57:44 AM]

>> Tovo: If I can add on to Mr. Scarborough's response. I think that our department can take on a more aggressive effort to find out why they didn't respond in this particular instance. This particular solicitation we did see as a good opportunity because there are so many certified mbes and wbes who provide this service. We did send out notice to our certified firms. They received notice from our purchasing office but they received a special invitation from our department as well encouraging them to bid. I would like to follow up with them to see a little bit more of why they did not bid. Perhaps it's equipment needs, I don't know if at this point, we can certainly have more research and bring that back to council.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I want to echo councilman Houston's thoughts. We had a conversation that sounded similar to what I'm hearing. Well, we're not getting the bids in, we need to make inquiries, investigate the process. The same language I'm hearing in August is what I heard back in January and February. So I just have to vote no on this. Because I think it's obvious based on the results, the process is broken and I'm hearing exactly the same things and here we are again with mbe, WBE, be-zero. I just have to vote no.

>> Mayor Adler: Any further conversations on this item 30? All in favor of item 30, please raise your hand. Those opposed? It's 8-3, troxclaire, Houston, Zimmerman voting no. Thank you very much. That gets us to noon. Which gets us to citizen communication.

[11:59:48 AM]

Following citizen communication, we'll break for lunch and go back and have our executive session.

>> Tovo: Mayor?

>> Mayor Adler: Yes. Ms. Tovo?

>> Tovo: We have a lanche number of people regarding the item. I wanted to give them a sense of when the item would come up or if my colleagues would make a time certain item for perhaps 3:00.

>> Mayor Adler: I'm comfortable with it. A lot of people coming?

>> Tovo: Unless we can get to it sooner, at which case I would say 2:00.

>> Mayor Adler: Let's call it at 2:00. And then we can look back after this. We'll call the issue up at 2:00. This afternoon.

>> Tovo: Thank you. And thanks to the attendees. I apologize that we didn't get to it sooner but at 2:00 will be sooner than it would have been otherwise.

>> Mayor Adler: It was a good point to bring up, Ms. Tovo. So then to citizen communication. Today we will begin with sislana Almanza.

>> I did have a handout, mayor, I hope it's coming around. This is -- I'm sisana Almanza and the president of the neighborhood plan. Good afternoon mayor and city councilmembers. I come to you because the infield tools promoted in the zoning plan were supposed to be used to help people in sub standard lots repair their homes. But in actuality, these tools are being used to gentrify our community. Two examples, two recent examples. One is in the motopolous community once known as poverty island and still a high-poverty area.

[12:01:56 PM]

We had an applicant at 749 montopolous drive who is going to be able to by put 12 lots of 1.20 acreage of land. In order to put 12 lots on that amount of land, it would have triggered an ss-48. Single family 48 zoning. But because they're able to use cottage lot standards, it did not go to a zoning case. So what it did was it left the community out of the process because it became a subdivision which by state law has to be approved in the planning commission says I wish we could have done something but because it meet this is criteria, it's going to move forward. So that completely left us out of the process. The second case was the case at 6114 langeham, it's a standard single-family sf-3 lot. They want to divide that to three lots. One lot to three lots. Staff is using cottage lot standards. So the community around there is -- did a valid petition. They were informed that a valid petition could not be used because it's not a zoning change. So even though you have the majority of the homeowners who live around there again not -- you know, they're just regular homes, nothing fancy, but things that people bought very early, a long time ago, now they're being told again, we're out of that process. We cannot do anything because it's a cottage lot being used. Not a zoning change. You cannot do a petition. Our voices are being left out. This

tool, the tools of cottage lot and small lot is being -- it has been used to gentrify our community.

[12:03:58 PM]

Of course it was not pitched that way from the beginning and of course it's gone on through a lot of different neighborhoods. So we're here to request that the Austin city council and the planning commission look at these tools, do a study, cease to take anymore until you have the time to bring some alternative recommendations down. Okay? Thank you very much.

[ Buzzer ]

>> Mayor Adler: Thank you very much. The next item is William McKinney. Speaking about the bohawk matter. I will point out to the council that this is an item that went to committee. So when it gets pulled up, we'll pull it up consistent with the limitations on broad debate unless there's council otherwise.

That's my intent to do it. Ms. Tovo?

>> Tovo: Mayor, I appreciate you raising that issue. At the appropriate time, I would like to talk about that. We did have them sign up in the committee. One signed up in ordinance, one in opposition, and one member of the advisory committee that spoke in support of the ban. The ordinance has undergone substantial changes between the committee and now and I would argue we have a full public hearing again today in consideration of the fact that it's substantially different from what was presented to the health and human services committee.

>> Houston: Mayor?

>> Mayor Adler: This issue has been before a couple of councils for several years now, various advisory committees. I'm not sure how we would manage having a full public hearing based upon -- it's still basically the same, it's to ban bull hooks. So that issue has been constant for the last several years, bless you.

[12:05:59 PM]

So just to give you more information about how long this process has been going on.

>> Mayor Adler: You have three minutes.

>> I'm not William McKinney. I'm the third speaker and I would like to ask permission for William and I to switch places for William to go second and me to go third. I'm Kale Murray. I'm an Austin resident in district one. You're going to hear a lot more about the bull hook at 2:00. But right now, I would like you to watch a video and the reason it's important for you to see this video is to see how the bull hook is used out of the public's view. The opponents like to say it's a guide and it is a guide because young elephants are beat with it repeatedly so that over time all they have to do is be shown the bull hook and they will submit and do what the trainer is commanding them to do. So if you could start the video, that would be great. I won't do a lot of talking. Later on, you see still photos, you see this young elephant in the wild would live with her mother for life but taken from her mother at 1 to 2 years of age. She's taught if she does not submit to the bull hook, she'll be beat with it, jabbed with it. Used on sensitive issue where there's not tissue separating skin and bone, such as under her ears, inside her chin, inside her mouth. This is the first lesson to submit to the bull hook.

[ Truck pelting ]

[ Trumpeting ]

[12:09:30 PM]

>> Good afternoon. I'm William McKinney. I live in district 10. And I would like to present the second part of this video. Second part of the video is exclusive of Barnum & Bailey trainers. I'm sorry. We're -- there's



another 20 -- 20 seconds or so and then it will switch to the Barnum & Bailey. Okay, this is on a concourse, I believe, Madison square garden. Obviously Barnum & Bailey elephants with their head dress on. And you'll notice there are few trainers here and it's very loud what they're doing and you don't see any of the others look over like, you know, what are you doing? It's obviously -- it's not an aberration. This is common practice. This is in Oakland, California, bar par numb&bailey trainer.

[12:11:34 PM]

-- Barnum & Bailey trainer. As Kayla said, you know, the circuses a lot of the time calls this a guide. As you can see in these videos, they are not guiding the elephants. Thank you.

[ Applause ]

>> Mayor Adler: Thank you, the next speaker we have is Thomas. Thomas panton.

>> It's difficult to see those videos. My name is Thomas panteen and I'm talking about the motorcycle park. Starting in fall of 2012, the secretary of the bcp both city of Austin employees started a campaign in the environmental board we were riding trails that were not grandfathered. In response, we presented a very convincing document showing we were running trails. Four months later Mrs. Conrad and Ms. Koontz started a new campaign riding their motorcycles but it was easy to resolve because the same data shows that after 45 years of riding motorcycles and bicycles, our park had better than average density when compared to other bcp parks.

[12:13:55 PM]

It became very clear to us that bcp management wasn't interested in trying to compromise justifications to close our trails. The text on the screen or our monitors is an e-mail I found using the freedom of information act. It shows the bcp staff disregard for stake holder writes. The bcp is arguing we cause erosion. However we can -- evidence shows that the park has less erosion than other bcp parks. We believe it's because we drive in small areas and we use light motorcycles and because our terrain is very rocky. Our concern, excuse me, is that these days of unfounded allegations has persuaded several elected officials not to talk to us and make the decision without the facts. Austin is a great city. We believe in protecting diversity equality. If someone want to marry the person of the same sex, some people like to play soccer in the park. We like to ride our motorcycles in the woods. We are supposed to be safe from prejudice and discrimination. Again, I would like to point out the motorcycle park was 26 years old before the bcp was created and the same bcp documents that protect the birds protects also the recreational uses in the motorcycle. The democratic decision that was based -- reached 20 years ago and shouldn't be overturned but capricious to city employees. My research is much more extensive what I'm showing here. If the mayor is interested, I'd be glad to share. The good news is that the motorcycle park we ride in very small areas. After 45 years demonstrated the birds and we can now demonstrate that we have less erosion than other park uses.

[12:16:00 PM]

In sum, we're asking for the decision to be made to solve discrimination based on accurate data and not prejudice. Thank you very much.

>> Mayor Adler: Thank you, sir. Hold on, sir. Mr. Zimmerman?

>> Zimmerman: I appreciate you coming forward. I want to extend an invitation to you and your colleagues to visit our office and talk about this extensively. I have a different opinion of some of the acts of Mr. Conrad that I disagree with. In our neighborhood in canyon creek, he led a campaign to confiscate 200 acres of our property and erect ugly eight-foot fences with barbed wire in the top in the

back yards of our neighborhoods. So in understand exactly what you're talking about. And I want to come to the office for help.

>> It's difficult to explain this in three-minute increments. Never got equal time. Thank you.

>> Can you also contact my office?

>> Mayor Adler: Thank you, sir.

>> Mayor Adler: Ms. Pool?

>> Pool: It occurs to me we might allow our staff to respond to that at some point if there's allegations maybe we can talk about it later.

>> Zimmerman: We could, but if we do that, I would like for equal time for Mr. Panteen to present his side of the story if we do that.

>> Pool: The preserve is under a committee's attorney which has appointee from the county and the city. And that's the -- the body that has the oversight for the committee.

>> Zimmerman: The preserves owned by the taxpayers of this city and the constituents like this gentleman.

>> Mayor Adler: Talk about it in an appropriate time. We won't do it now during citizen communication.

>> If I may, it's complicated for the bcp. But these are city of Austin employees and this is within the city of Austin ethics regulations.

[12:18:01 PM]

It's difficult, because they do work for the bcp is in the endeavor.

>> Mayor Adler: I understand. The balcones canyonland preserve.

>> Mayor Adler: Thank you. Next speaker, cavindo Fernandez. Ed English is on deck.

>> I'm Mr. Fernandez speaking to you as the decommissioning committee. Before I want to go to that, I do want to announce or mention to you that look like district 12 chapter is embarking on a process to bring a lulac national education service center to Austin. Several across the state, Houston, lampassas, it's basically a nonprofit organization for the purpose of implementing education and leadership programs to narrow the opportunity gap for American and disadvantaged youth. We'll be concentrating in martin middle school and east side memorial in providing these services. Now, we go -- I know that when y'all were campaigning, affordable housing was an issue. When y'all were campaigning, afford about is an issue. And I want to bring to you an opportunity to conquer those challenges. We have an anti-gentrification tool available to us. We have \$1.2 million left of the holly home repair program that needs to be spent. I met with the city staff, Betsy, and they are -- they have agreed to remove the lien in a were placed on people's homes for minor repair. And let me share with you what I'm asking -- what I'm mentioning right now is nothing new.

[12:20:02 PM]

When the power plant almost burned our community, Austin energy agreed to close it down, not that day but in ten years. It's going to provide us these types of fundings. Home repair is a big one. We had people in the area that had home repairs replaced like my father when he applied and when he passed away, I was eligible and I continued the process. We have the opportunity here to keep nine families in the barrio. We're Paules concerned about gentrification and we're losing people. You don't have to worry about it, the money is already there. We have the money and the people. We have the money to repair the homes. We keep them there for 30 years. What more of a prescription can you have available to meet that goal and objectives that y'all have when you were running for council to address the issue of affordability. These are homes that will be made available to senior citizens and people say oh, my god, but the tax Ms. Well, senior citizens have homestead disability. Not only that, seniors have the

option to freeze our taxes and when ever whoever takes over, they can pick them up. So we ask you to do nine homes with the \$1.2 million. We do not want to bound these like Austin finance homes is recommending. We do not want to go out to nonprofits because we're losing \$200,000. We do that because nonprofits are going to charge you administration fees. And I asked Betsy, I'm going to put on my staff. Why is it that you make something so simple very difficult. It's only \$1.2 million, guys. Thank you and I hope that you were -- I thought this was going to come before y'all before it got initiated. But this is our position and we'd like for you to reconsider and take that in to again keep nine families in east Austin, thank you, council.

[12:22:05 PM]

>> Mayor Adler: Thank you. Mr. English and then cliff Drummond is on deck.

>> Mayor, mayor pro tem, councilmembers, good to have the opportunity to speak to you today. I'm a resident of north ausz tin. I'm free handed but today I'm going to read comments that I prepared in advance. I want you to take this opportunity to take the coup sill for moving forward with legal challenge to Travis county appraisal districts for the property tax evaluations. A bold move undertaken for what many consider the right reason. Re-establishing the equitable challenge at the property tax burden. No one likes playing property taxes and noncommercial taxpayers had to shoulder an increasing percentage of that burden for many years. Attended forums in various groups by various parts of the city. For my vantage point, support for the action you have undertaken is wide spread and deep. Having said this, I have to note I have no memory of any speaker mentioning the fact that should the city be successful in the efforts, there's nothing that automatically translates to success in tax relief to any player. To my knowledge, that relief will require separate and distinct action on the part of council. Up to you to translate any memory that's meaningful to the pursuit of the stated goals in this challenge. To this end, I have challenged council to put forward and pass a resolution should one be forthcoming in what most supporters in this challenge expect, tax relief. I would ask that the resolution specifically require the city manager to provide to council after a successful challenge following the re-evaluation of commercial properties subtracting the legal and administrative costs associated with the challenge that could be achieved with the additional revenue collected on a dollar-for-dollar basis. The resolution would require council to use that data at the next available opportunity to lower the tax rate.

[12:24:08 PM]

The net desired effect would be to ensure that any revenue wind fall is returned to the taxpayers of Austin via a corresponding rate reduction. Is it premature to ask council to pass such a resolution? I think not. Should media reports on the progress of the challenge suggest that the odds of a favorable outcome of the city are good or increasingly likely. There will be those with all manner of ideas on just how to spend the additional revenue. Promises made are too often forgotten, watered down, or whittled away over time. I'm ask P asking if this council will make a firm and clear statement now to the taxpayers of Austin that a successful challenge will result in a corresponding reduction. The admirable goal in fairness on what the challenge was faced in to writing and pass a resolution will do just that. Thank you for your time and consideration.

>> Mayor Adler: Thank you, sir. Mr. Drummond? And then Brenda Richter.

>> Excuse me, mayor, members of the council. Good afternoon, I'm cliff Drummond, president of Travis county water district number ten. You will also be hearing from Brenda Richter right after me of northtown mud and don Conklin who's the vice president of north Austin mud number one. The three of us are speaking to you today since we expect your staff will brief you on the judge's ruling in our case on executive session. Frankly what your staff will not tell you is how this decision reveals the impropriety in

the matter that always tin water utility leadership along with the past city council have set water and waste water rates. Two state judges just handed the city of Austin the stinging defeat in the 66-page ruling after two years of details review of always tin water utility rates.

[12:26:20 PM]

In short, the judges rules that the waste water rates are illegal and do not adhere to state law. Always tin's rates are not in the judge's word, quote -- words, quote, just and reasonable, close quote. The judges further said, quote, the city refused to provide reliable evidence, close quote. The judges also pointedly admonished the city saying, quote, just including the cost in the city's budget does not make that cost just, reasonable, or necessary. Nor does it make it a part of cost of service. As an example of another improper charge, I know that during each of your campaigns you expressed strong feelings and opposition even to what are true in plant number four. You'll be happy to know that the judges agreed with you on the basis of law. Water treatment plant number four is not necessary and the city should not charge existing customers for this plant built to serve future needs. The judges ruled importantly ruled that transfers from awu for the sake of funding the city's general fund are illegal. Now, your staff would try to convince you that the city should therefore collect a profit in lieu of taxes from water and waste water kups hers. However, as a nonprofit municipality, the city is not allowed to collect excess revenue under Texas law. The judges ruled that the city's water and waste water rates are not based on the actual costs of providing that service. I suggest that you read the judge's decision yourself. You will get a very clear understanding of how unreliable the Numbers are that you receive from awu and the city manager. This is frankly embarrassing to a great city.

[12:28:21 PM]

The judge's decision up for adoption by the PUC next week was far more than a ruling in our favor. [ Buzzer ] This is a ruling that now starts to protect all customers and rate payers of awu from improper charges including general fund transfers.

>> Mayor Adler: Thank you.

>> Thank you very much.

>> Mayor Adler: Thank you, sir.

[ Applause ]

>> Mayor Adler: The next speaker is Brenda Richter. And Joseph azanovia is on deck.

>> Hello. I'm Brenda Richter and I represent northtown mud. I bring attention and awareness not only to the challenge of our city's wholesale water rate setting methods, but to urge you to stand up for all customers of the Austin water utility. I'm going to start off by saying that we're surprised that your utility staff has not followed through on the June 30 memo stating a full briefing on the proposal for decision along with any potential settlement options will be presented to the city council at the soonest opportunity following issuance of the propose Sal for decision that would be today. The proposal for decision was released July 10. We appear before the PUC for final ruling next week, Friday, August 14. At best, this staff has left you with one day to make a decision. Just like you, I'm an elected official tasked with representing my residents and ensuring that they are being treated with fairness, honesty, and transparency. I am before you today as your peer because our residents as customers of the city were not being treated fairly or seeing the transparency we expect in government. I urge you to provide better oversight to this utility and its staff and to the leadership that makes the fundamental changes at the utility that have gone unchecked for the next 25 years. The fair cost of water rates and the outdated model that awu uses, not only in its -- not only is it directly against conservation and the approach to pricing, but it lacks innovation and foresight.

[12:30:29 PM]

This issue with the -- with the

>> That you have inherited as newly elected officials is not new. In fact as far back as 199 the city received judgment to stop balancing the budget through utility and general fund transfers. And yet over time city management has continued to act willfully against judicial instruction, incrementally increasing their dependence on the general fund transfers and obscuring extra costs. While we are not represented by you, we do represent an electorate who expects us to manage affordability in the neighborhoods and communities they choose to live in. Our constituents are not the only ones who face hidden costs in utility bills. Your residents do as well. This is you -- this issue is about paying the fair cost of service rates for residents in the city as well. Each one of you ran on a platform to fix the city's affordability. Here is an easy first steps to the continuing problem. This is about what is fair and right for all residents. It's about transparency in government and having a staff who communicates the issues with you so that the leadership of this council can be included in these decisions. It's time your staff was honest with you. Thank you for your time.

[ Applause ]

>> Mayor Adler: Thank you. Joseph Zenobia and then don Conklin.

>> Thank you, mayor, councilmembers, I'm Zenobia Joseph. My frequents today are specifically related to government code chapter 552, the public information act. But I have some comments that are germane as it relates to Texas voter id law because it's actually in today's up in, "The New York times" specifics Texas id law called breach of voting rights act, and it's specifically stating senate bill 14 was violated as it relates to section 4 of the federal voting rights exact since we're on the eve of the 50th anniversary I thought was germane.

[12:32:51 PM]

One of the things we've all heard in these last couple months, days, is that black lives matter, but that mantra should be extended to recognize that black opinions matter too. And so, mayor, I am going to transparently say that I voted for you because of your platform for transparency, but I am disturbed because I gave you my open records request and when I spoke before you on June 18, tweak you said that your -- 2015, you said that your staff would get back with me and I did respectfully speak to your staff but according to government code chapter 552, as you're well aware, a written communication is required by law. And so I would ask you to recognize that your staff still needs to provide that communication to me. It was specifically related to homelessness as it related you to wanting to end veteran homelessness by 2015. The other comment I will make that has gotten me really upset is on June 23, when you held that meeting and I was so fortunate to be a part of it, it was specifically about the city plan and updating it for east Austin. And one of your staff members, an immigrant, mind you, came up to me in the meeting and said "I want you to know this is not a public meeting." That member actually approached me after that meeting was over and reminded me, again, that it was not a public meeting. But during that meeting, you specified that you were eager to work with the public and that you were wanting to have public involvement. So I ask that staff member if she heard the same words that I did. And so I would just ask you, respectfully, that if your staff members do not have a commitment to those values that you hold, that you recognize that maybe there needs to be a change. I handled that particular incident by calling the African-American man on your staff aside, and he talked to that staff member. Unfortunately he asked if I ate chicken and ribs and pigs feet and watermelon to try to lighten the situation.

[12:34:59 PM]

We have a long way to go, and one of the things that I wanted you to recognize is that you have an opportunity to lead and make some changes. The last thing I'll mention, which is actually on the agenda, is that when it comes to public speaking as it relates to agenda items --

[buzzer sounding]

>> Sometimes the kiosk does have a flaw so if you could ask before you close an item if there's anybody in the audience who wants to testify on, for, against an item, that would be helpful and thank you so much for listening.

[ Applause ]

>> Mayor Adler: We're going to be taking a break here to go into executive session. But before we, do I'd like to visit with you.

>> Yes, mayor, thank you so much for listening.

>> Mayor Adler: Thank you. The next speaker is don Conklin.

>> Mayor Adler, councilmembers, thank you for the opportunity to speak today. My not a public meeting is don Conklin, and I'm the -- my name is don Conklin. Like my colleagues before me, I'm here to talk about our ongoing water and wastewater appeal case against the city. More than being frustrated at the expense and inconvenience of having to resort to the courts for redress, I am especially disappointed at having to revisit an issue I understood was resolved over 25 years ago. In 1989, north Austin mud was part of another coalition that challenged the city over these very same issues. We prevailed in that case, and the court made it clear the rate model the city was using at the time included many cost components that the state deemed inappropriate and allowed. The court set out district guidelines on how the city should set future water rates. Since that time the water utility has systematically tweaked and tuned the cost of service model each year, reinserting many of the costs the court specifically disallowed in '89.

[12:37:05 PM]

By 2013, we simply had no choice but to return to the courts for the very same issues we did in '89. Make no mistake, we did not want this fight, but the city left with us no choice. Like many of you, I became frustrated and disenchanted with the representation I was getting from my elected officials. Like you, I ran on a platform and promised that I would be more informed, transparent, and honest in how I represented my constituents and my neighbors. I hope that you join me in your own disappointment at the conduct of the water utility and other staff members that have led us to where we are today. To be fair, this case is specifically -- rates charged to wholesale customers outside the city with no recourse through elections but make no mistake. These inappropriate and disallowed costs including the general fund transfers apply to all customers, including city residents. Clearly, these costs have to be covered somewhere or costs reduced, but I think I speak for all customers when I say I would like to know what I am paying for and how. The state has made it clear time and again the utility rates should be based on the cost of providing service and nothing else. There's an appropriate, legal, and more honest way to pay for the costs of running the city. You are not the cause of this problem we face today but you can be the voice of reason and integrity in bringing honest and transparency back to Austin utility rates. It is my sincere hope that through your strength and leadership on the council, this can be the first step in rebuilding the trust and faith in the city and re-establishing a relationship built on fairness and integrity. If you have any questions or would like more information, you're welcome to reach out to me, and I'll be more than happy to discuss the matter with you. Thank you very much.

>> Mayor Adler:.

[ Applause ]

>> Mayor Adler: Thank you I think that concludes the folks we had signed up for speaking.

[12:39:05 PM]

Council is going to now go into closed session to take up three items. Pursuant to section 551 Todd 5071 of the city code concerning item 19, the Whittington matter, item 20, which are legal issues related to the budget amendment, amending the fiscal year operating budget to limit the liability reserve, ordinance number 20140908-001. Which is reserve associated with the Whittington matter and item 67, legal issues with the challenge petition for the appraisal -- Travis fiscal appraisal district. Item 66 has been withdrawn. So it is now 12:30. We're going to go into executive session. I think we had the bullhook people coming back at 2:00. Do we want to come back at 2:00? Do we want to come back a little before 2:00? Do you want to make a --

>> Tovo: I would say if we've got a little bit more time, depending on when we end executive session I'd love to come back and knock out one of the consent agenda items before 2:00 if we've got time available.

>> Troxclair: I don't think we'll have time.

>> Mayor Adler: I think the general sense is to come back at 2:00 so let's go ahead and do that. We'll come back at 2:00. No objection going into executive session. Hearing none, the council will now go into executive session.

[Executive session]

[1:57:42 PM]

>> Test

[2:08:44 PM]

>> Mayor Adler: We have a quorum. We're going to reconvene. We said we would return to the bullhook matter. It is item number 51. On item number 51, we have 42 citizens that have signed up to speak. There are 30 speakers for, 10 speakers against. This is a matter that went to committee, so by our rules, we would have four speakers speaking for, four speakers speaking against, with a two-minute time period with each of those speakers. As we were leaving, Ms. Tovo, I think you wanted to make a motion to deviate from that?

>> Tovo: I do, thank you, mayor. In consideration of the fact that when this went to health -- the health and human services committee, the ordinance was not what is before us today, there were some comments and some concerns raised at the health and human service meeting from the rodeo, among others, that this would capture them as well, I would move that we waive our rules and allow the public who are here to testify on this issue. I believe that they've been talking among themselves, and it may be that we don't have quite as many speakers come forward and speak as have signed up. And I would point out that we did not have what I would regard as a huge number of speakers at our health and human service meeting. As I mentioned earlier, we had one speaker registered in support of the ordinance, nine other speakers. I have not been able to confirm whether they were all signed up in opposition, or whether some were neutral. We also had the then chair of the animal advisory board who spoke -- was not signed up, but did speak.

[2:10:47 PM]

Again, we didn't have a huge number of speakers. Again, mayor, I would request of my colleagues that

we waive our our rules on this item and allow those that are in attendance today, and I think I saw some of them here before 9:00, to speak on this item, to address us today.

>> Houston: Mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I don't mind widening it, but, I think it would be fair to have ten and ten, since there are ten for and ten against. That would be a more equitable distribution of the speakers, therefore.

>> Mayor Adler: Okay. We have a motion to amend our rules -- to waive our rules, so as to allow standard speaking arrangements, which would be unlimited up to three minutes. Ms. Houston is suggested to change or amend that motion so as to allow ten speakers on each side. Would that be the same two minutes?

>> Houston: Three minutes.

>> Mayor Adler: She's suggesting ten people on each side, three minutes each. Ms. Tovo, you said you thought there might have been some other alignment coming? You indicated there might be some conversation where people would voluntarily take the Numbers down. I don't know how far --

>> Tovo: I don't know, either. I don't know how many would address us were we to move forward with the motion I made. I'm not sure I got a second. We could ask for a show of hands of how many people would like to address us today. And that would give us some sense.

>> Mayor Adler: I understand.

>> I'd be happy to second the mayor pro tem's request.

>> Mayor Adler: Okay.

>> Tovo: Based on the show of hands, it looks like more than ten, but not 40.

>> Mayor Adler: How many people are here -- we're -- in our Normal rules, we would limit the speakers to four on each side for two minutes. There's been a request to extend that.

[2:12:50 PM]

There are a lot of people who are signed up that have indicated to council that they are for or against, but have indicated that they do not need to speak. And that's probably at least about half the people in the room. But so we can gauge the interest, if you are in favor of this ordinance and wishing to speak, would you raise your hand and stand up, please? I count about 16, 17 people. How many people are wishing to speak for this that are against this? Would you raise your hand -- or against it, would you raise your hand, please? Stand up. Okay. So, I think it's about three or four people. Thank you. There's been a motion which has been seconded to keep it open for everyone. We have a motion from Ms. Houston.

>> Houston: I made a motion. I need a second.

>> Mayor Adler: To limit it to ten on each side for three minutes. Is there a second to Ms. Houston's motion? Ms. Pool seconds Ms. Houston's --

>> No.

>> Mr. Mayor.

>> Mayor Adler: Ms. Gallo seconds -- there's been a second to Ms. Houston's amendment from Ms. Gallo. Oh, I'm sorry.

>> That's all right.

>> Make that mistake once, and then it just sticks with you. Really.

>> Zimmerman: A point of inquiry --

>> Mayor Adler: I need to reorder everyone on this dais.

[ Laughing ]

>> Zimmerman: Point of inquiry, point of order. Maybe this is a question for the rules for our attorney. We've done this before. We've had some debates and discussions. Sometimes we override the rules and



sometimes we don't. To override the rule, do we need a two-thirds majority of the council to override that ordinance we set back in January, or is it simple majority?

>> Simple majority on that, councilmember.

[2:14:50 PM]

>> Zimmerman: Okay.

>> Mayor Adler: It's been moved and seconded to limit it to ten. Any discussion on this? Ms. Gallo.

>> Gallo: I seconded the motion to extend what our Normal rule is, but not to the unlimited amount, just because we went through a lot of dialogue and discussion early on in the year. To have a process that allowed communication at the committee level, and then also allowed limited communication at the council level. And this wasn't to exclude people from being able to speak, but it was to allow and direct them to speaking in the way that we felt like would be most helpful early on in the process of discussing agenda items. My concern with this is an equity issue from the standpoint that as we begin making exceptions to the rules, then it's not fair to always -- I mean, we should always be making exceptions to those rules. If we're needing to make exceptions over and over again, we need to change those rules. So I think in this particular situation, since there are a lot of people here that have been here for a while, I'm willing to compromise and extend the rule to allow more people to speak, but I think the unlimited is really setting the rule aside completely.

>> Mayor Adler: I'm also going to vote in favor of limiting the debate on Ms. Houston's deal for those reasons. I think that if we're never enforcing the rule, then it's the same as not having a rule. And we're trying to get people to participate in this process at the committee level. But given the people here, I'm also going to be in favor of increasing that number by about 150%, so taking it up to ten to each side. Ms. Troxclair.

>> Troxclair: With all of that said, maybe we should take a vote on enforcing the rules as we currently have them in place. We also have another very controversial issue set for a time certain later this afternoon, and I want to be respectful of those people who are going to be here expecting to speak on their issue as well.

[2:17:00 PM]

And we may be faced -- you know, with a similar situation and probably a very long night either way on your wife's birthday.

[ Laughing ] So, I just do think that the rules -- we set the rules in place for a reason, and we should think about respecting them so going forward, people know what to expect when they're engaging in the city council's process.

>> Mayor Adler: Ms. Houston.

>> Houston: I just want to say one last thing. This issue had an opportunity to come back before the health and human services commission. We could've had another public hearing. However, it was decided to move it straight to the council agenda. And so, that would have been another opportunity to have public hearing.

>> Mayor Adler: Ms. Pool and then Ms. Kitchen.

>> Pool: If we -- I would say that if we're going to limit other than the rule that we have, then I think there should be some recognition as far as equity is concerned. If you have twice as many people on one side as the other, that should also be reflected in how many people are allowed to speak. If we're going to limit it down from being open-ended entirely, but it's going to be more than the four on each side, then if we have ten times as many people on one side, they should have ten times as many slots to SP speak.

>> Mayor Adler: In this particular case, it looked like when we were asking people to raise their hand, it was about six or so people on the other side. I think that's going to happen as a matter of how it's going to happen. Mr. Zimmerman -- I'm sorry, Ms. Kitchen. I recognized her.

>> Kitchen: I just wanted to say that -- just going forward, I think one way that we might deal with it, just as a reminder to ourselves -- and I'll try to remember this, too -- is at work session. Work session gives us an opportunity to anticipate the issues that more people are going to want to speak on. We should address at work session. We should say at work session that we're going -- that we should reiterate the rule at work session.

[2:19:01 PM]

And then we should let people know at work session that that's what we're going to do. If there's some reason that we're not, we should talk about it at work session. I'm just saying I will try to remember to do that myself, and I'm hoping that we will do that going forward, because that gives -- I think -- I personally think with the opportunity to speak in front of the committees at a full public hearing, that that's the way we set that up. And so, I'm going to vote with councilmember Houston's amendment, because I think it's a fair thing to do at this point. And I think it respects the rule that we put in place, and also respects the fact that we did have a public hearing in the committee.

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

>> Garza: It's not a rule nor is it an exception to the rule. We set up a process. Part of that process was, if in the instance a councilmember who brings an ifc -- this isn't from a committee. This is an ifc. This is a different process. So, this really doesn't even apply. My understanding of the rule was that if it comes out of the committee, it's had a full public hearing at the committee level. This isn't coming out of the committee, this is coming from councilmember Tovo.

>> No, it went through a committee.

>> Garza: The concern when we were setting up this process was, people want it to be heard. People wanted a chance to be in front of the full council. When that happens, that councilmember can get four other councilmembers -- not a majority, just one councilmember plus four -- to have the regular three minutes unlimited. And so, I think we all need clarification on the process that we set up. But I always feel we err on the side of public comment. We have people here that waited, and we should listen to every single one of them that wants to speak.

[ Cheering and applause ]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I'd like to call the question on councilmember Houston's --

[2:21:04 PM]

>> Mayor Adler: Any further debate on the amendment? Then there's been a motion to cut off debate. Those in favor of cutting off debate. I'm sorry? I know, but he's made a motion to cut off debate. If there was no further debate, we would've gone straight to a vote. Since there is a desire for additional debate, we'll vote on the motion to end debate. Those in favor of ending debate on the dais, please raise your hand. One, two, three, four. One, two, three, four, five, six, seven. Those opposed to ending debate raise your hand? Tovo, pool, Garza, and Casar. So debate has ended. That would be 7-4. Needed to be a two-thirds vote to end debate, so debate is not ended. Ms. Tovo.

>> Tovo: I appreciate councilmember Garza's clarification. This is a little bit of an odd item, it was on the health and human services agenda and moved directly to council, and we did communicate with the chair of that committee to determine what was the best plan of action, in part it was done because of the council committee agenda. I just want to say I think this is the biggest change that we made as a new

council for the community, and it's the one I probably hear the most about, the limitation of public comment here at city hall. It was one that I believe I expressed some reservations about initially. I'm certainly interested in continuing to see how it works, but I am not interested in having a rule that prevents us from hearing from the public at times where it seems appropriate to do so. It is just the fact that when things are in the committee, they're not always as widely known. There will be press in between the committee hearing and the time it gets to council that informs a broader group of people. You see young people here today who were in school at the time, back in June when this went before the health and human service committee and didn't have an opportunity to attend. I know this from being on the other side of the dais.

[2:23:06 PM]

When you come down to city hall to participate in an issue, when debate is limited, it often gets limited to some lead speakers and the everyday austinites who want to come down and talk to us sometimes get left out of that lineup, and I think that's unfortunate. On the questions before us, I certainly appreciate ten speakers versus four. So, while I wish we were about to open it up to full dialogue, at least ten will allow some additional voices that we might not have heard.

[ Applause ]

>> Renteria: Mayor.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I think we should look at the committee structure and maybe doing away with the committees. We went out and set up these committee structures, and made rules. And now we're constantly debating whether -- what kind of -- what should we do with the rules that we established with the committees. And this isn't the first time that we're addressing this issue. You know, so maybe it's time to look at and revisit what the committee structure and what it's really meant to do, whether it's really meant to have all these debates at a committee level and then come and have just a certain amount of speakers, or do -- should we just do away with the committees, and just have it all out here and let everyone speak all they want to, you know. So -- because we thought we were going to try to save time, but now we're saying no, we want to have a full hearing on -- and that's not fair just to have it on one issue, and then there's other issues that other people come before us and they bring a whole big crowd of people, and, you know, we were going to set this thing up so we wouldn't have to spend 3:00, 4:00, 5:00 in the morning meetings.

[2:25:08 PM]

I mean, if we had done the same thing with the taxi cab drivers, and what we're going to have coming up next with strs, and we're going to have the issue with Uber and Lyft, they'll flood this whole place out and bring hundreds of people. We're going to have to get serious and decide what we really want to do with how we're going to operate our committee structure and our city council meetings.

>> I'd like to suggest, everyone is raising important issues that we need to discuss thoroughly. I don't think we can address them here. So, we do have an agenda item for our next work session. The transition committee has been working on, you know, various issues related to our committee structure and our changes. And we do have this on work session agendas. So I think that we can make a note, and we can have a discussion next Tuesday. And each additional Tuesday after that that we need to to work through these issues.

>> Mayor Adler: I think that's good. I think it would be good to have a conversation. I would reiterate what Mr. Renteria said. I think we had a long and hard debate want what we were going to do with respect to limits. We are trying really hard to encourage people to come to the committees to be able to

speaking. We've enforced that had rule several times. I'm not sure it's fair for the speakers who had shown up then that weren't able to speak if we were to open it up. In my mind, we left a way out if, in fact, something had significantly changed where there was a morphing of what the main issue was in front of us. In this case, this is a very important issue, but it hasn't changed. In fact, it's an issue that has been with this council for a long time. I'm on a vote for Ms. Houston's compromise in this instance in part because I think we are transitioning to abiding by what we said. And every time we do this, we're getting closer and closer to that.

[2:27:11 PM]

And I am encouraged by that movement. Any further discussion on Ms. Houston's amendment? Hearing none, those in favor of Ms. Houston's amendment, please raise your hand. One, two, three. One, two, three, four, five, six, seven. Those opposed? It is the mayor pro tem, Pool, Garza, and Casar. So we're going to limit this to ten. Now, that was the amendment. All those in favor of limiting -- modifying the existing rule, please raise your hand. Those opposed to modifying the existing rule? Ms. Troxclair votes no, it's a 10-1 vote. So we're going to limit it to ten each side, three minutes, consistent with this action. The first speaker we have is Ernest.

>> Mr. Mayor.

>> Mayor Adler: Yes. Ms. Pool.

>> Pool: Have the sides chosen their speakers? Is this an updated list of the people -- since we're limiting it to ten on each side, that the groups have chosen -- or are you just taking the first ten?

>> Mayor Adler: I was taking the first ten, but if anybody on that first ten wants to defer their time or give their time to someone else, that would be fine for that person to --

>> Pool: And a follow-on question, will we go pro and then con, and alternate, or will we hear all one side and then all another side?

>> Mayor Adler: My sense based on the number of hands that were raised is it's not quite equal that way, so I was going to go one or two and then switch to the other side, as I've kind of done in the past.

>> Pool: Thank you.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I'm just curious about whether -- I want to signal to the folks that are here that there are a number of amendments that I passed out an amendment to what is on the table.

[2:29:16 PM]

And I want to signal that because those of you who are speaking may want to know about those amendments. The amendment I passed out -- is it appropriate for me to describe it?

>> Mayor Adler: Describe it so the speakers know what's going to be coming up. We're not going to engage in discussion. But, giving notice to people would be helpful.

>> Kitchen: Okay. The amendment that I will be proposing will change the language to apply to any person. And so that it will not -- the ban will not be limited to circuses.

[ Applause ]

>> Mayor Adler: I think there are other amendments that are going to be laid out. Ms. Houston, did you have one?

>> Houston: Yes, I have an amendment that under part two, treatment of elephants in a circus, to delete section C.

>> Mayor Adler: Okay. And then that was the list that you said of those --

>> Houston: Prohibited actions.

>> Mayor Adler: That you said --

>> Houston: Right.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: I had planned on one amendment coming, affecting the date that the ordinance would apply. And that would -- it would be October 1st of 2018. So I planned on making that.

>> Mayor Adler: Okay. That does not limit this dais to those amendments. But I think that's good information for the community to have. Ms. Tovo.

>> Tovo: Mayor, when I move approval of the item before us, I am going to make one slight change to what is in backup. And under part four, it will say this ordinance takes effect on September 1, 2015.

[ Cheering and applause ]

>> Tovo: It keeps it at 2013, but it gets it beyond this year's circus commitment.

[2:31:16 PM]

>> Mayor Adler: Okay. So, I'm now going to call people. If you want to give your time to someone else, you can certainly do that. Ernest is the first called speaker.

>> Mayor Adler: Is he here? I'm going to go to the next speaker. Okay. You have three minutes. Can we turn on the microphone? Try again.

>> Hello, mayor Adler and city council members. My name is Ernest. I'm with Austin for cruelty-free entertainment. Thank you for giving me a moment to speak to you about this important topic. For the last four years, our group has been working to gather community support for this ordinance. We have rounded up 5,000 signatures from local austinites on this petition. Here is the petition here, asking -- this petition asks the city council, you, and the mayor, to protect animals in circuses. We've gathered letters of support from groups around Austin, the state of Texas, and across the United States. There is support for this ordinance everywhere from typical austinite to families and people of every kind. Here are a couple of things we insist this ordinance contain, or include. This bullhook ban should protect all elephants in Austin. Because bullhooks are used in the same brutal way regardless of whether they are used in circuses or to give elephant rides. Also, the ban on bullhooks should be effective September 1, 2015.

[2:33:17 PM]

A delay allows people to continue to abuse elephants with bullhooks. Finally, the bullhook ban does not stop circuses from coming to Austin, it just bans bullhooks period. Any circus can still come to Austin, but without bullhooks. Thank you for your time.

[ Applause ]

>> Mayor Adler: Bill swain.

>> Good afternoon.

>> Mayor Adler: Take your time.

>> Good afternoon, my name is bill swain. I am probably own the only three privately owned elephants in the state. We do a couple of benefits for some schools who want to use the elephant to make money. I've done weddings in this area. I bring an elephant to town every two or three years for a youth group, inspiring them to carry on conservation with elephants. I've been at this a long time, almost 40 years. I have never been engaged in any kind of activity that was cruel to the elephant. This is my bullhook.

[ Chuckling ] If you'd like to see it, would anybody up there care to see it? It's not sharp or an instrument of destruction, it's just a way to guide the animal, all right? Had I ever been engaged in any kind of cruel activity, you would've seen me on the big screen. Everybody that comes around me has a recording device. They even hide them in the trees next to my property at home so they can be sure and catch me when I'm not watching.

[2:35:18 PM]

I find their cameras. So the point is, I think this is kind of a needless thing. In the future, you're not going to have any elephants come to town with the circus. The shrine circus shows in cedar park. I come to town only on occasion when someone wants an elephant for a function like a birthday party or a school picnic, or various things like that. If you eliminate the elephant from Austin, it's not making Austin a better town, because you have no zoo. So, how would some of these children, particularly children who come from poor neighborhoods, ever have an opportunity to get up close to these animals? I think it's limiting their options. And I think what makes sense to allow some elephants to come to town on occasion, if not necessarily with the circus, but with other events. That pretty well sums up my comments on this.

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

>> Zimmerman: Thank you. Did you -- were you here when some of the videos were shown, from some animals that were -- elephant that were being struck from other circuses or in California or something?

>> Yeah.

>> Zimmerman: But it looked to me like -- am I correct that what we saw was -- that was pretty clearly just some animal abuse. Shouldn't those people already fall under animal cruelty laws that we have on the books?

>> Those laws are already covered in the books. We were at the committee meeting. The gentleman from your legal department mentioned, most of the stuff is already covered under the Texas penal code. They'd be in jail before they got to Austin.

>> Zimmerman: Yep.

>> So, that answered your question.

>> Mayor Adler: Okay. Thank you.

>> Anyone else?

>> Mayor Adler: I think that's it for right now.

>> Okay. I don't want to see you lock the door on the elephant in the city of Austin. It's a diverse city. I graduated from UT. And --

>> Mayor Adler: Mr. Swain.

>> A bachelor's of admin straying, which hasn't done me a lot of good.

[2:37:20 PM]

>> Mayor Adler: Mr. Swain, thank you.

>> Thank you.

>> Mayor Adler: The next speaker is Ben calliston.

>> Good afternoon, mayor Adler and the councilmembers. My name is Ben calliston, director of the ranch here in east Texas. Our sanctuary is accredited and home to almost a thousand animals and 43 species all saved from cruelty and neglect. I'm here to talk to you about the elephant. After caring for elephants that were discarded from the circus industry and seeing first-hand the cruelty inflicted on them, we ask you to support legislation to prohibit the use of bullhooks on elephants, and the ones that are used in circuses, and urge you to amend the ordinance so it applies to all elephants, not just circuses. Babe here, you see her pictured, arrived in the mid-1990s from the circus, before which she was transported as a baby from Africa. Her condition was poor. The vets didn't give her a good prognosis. The care staff saw the damage caused by the use of the bullhook. Her legs and feet were so compromised, she couldn't lay down.

[2:39:22 PM]

Her legs were broken at some point in her prior life. There are safer and more humane ways of handling elephants, which have been in existence for more than two decades, through operant conditioning, positive reinforcement, we were able to treat her. The training methods require no painful devices, and improve the safety of the caregivers. As you can see, this is our target device. And in comparison to what you have just seen as being a bullhook. This has no sharp edges on it. Actually, funnily enough, it made it through security with no issues. This, your city hall security deemed it to be a weapon. We had to have it at the security desk. They would only turn it over to us right before this hearing. They do deem it to be a weapon. And therefore, have to keep it in their control. These -- this device here, it has no sharp metal points. It acts as a target. We use it to teach the animals to present various parts of the body with positive reward, as opposed to this. I want to show you this one here in comparison to one you've just seen, which is another form of bullhook, very similar to what you saw in the video earlier. This is used to enforce harmful standards and maintain dominance over an animal. When that dominance we verses, we've seen 15 deaths in 15 years with unprotected contact. With this positive reinforcement training, approach, we provided babe with daily foot care, medical blood draws from the back of her ear, and trunk washes. We were able to shift her without using any painful devices, simply asking her through that boss positive reinforcement training. No recognized professional training organization states the use of bullhooks is the preferred way to manage elephants.

[ Beeping ]

>> The association of zoos and aquariums mandated a policy in which keepers can no longer share the same space with elephants, making the bullhook obsolete.

[2:41:31 PM]

Most zoos no longer use bullhooks.

>> Mayor Adler: Thank you.

>> Thank you.

[ Applause ]

>> Mayor Adler: Is Katie jaral here? Katie jaral?

>> Good afternoon, mayor Adler and councilmembers. My name is Katie jaral, and I am the Texas state director for the humane society of the united States. On behalf of our supporters in Austin, I respectfully ask you to support the ordinance to prohibit the use of bullhooks on elephants used in circuses, and I urge you to amend that ordinance so that the bullhook ban applies to all elephants, not just elephants in circuses. Bullhooks are used to prod, pull, hook, and hit elephants on the most sensitive areas of their bodies in order to train them to perform, to reinforce tricks, to ensure that those tricks are performed on cue, to force elephants who may be ill or injured to continue performing, to control elephant during routine handling, and to punish them when they fail to perform properly. For the bullhook to be effective, the trainer must first establish it as an aversive stimulus, meaning the elephant learns compliance with command averts a painful stab or strike. This is reinforced throughout the elephant's life behind closed doors, and out of the watchful eye of the public and law enforcement. As long as the elephant fears the bullhook, the mere presence of it is enough to control them. Its mere presence is abusive, even when the animal isn't struck. You will likely hear that it is the misuse of the bullhook that is the issue. However, there is no such thing as misuse of a bullhook. It is abusive fundamentally. In order to minimize the negative connotations of the bullhook, the industry has publicly started calling this menacing weapon a guide.

[2:43:44 PM]

Every captive elephant in the United States who has killed a person has been subjected to bullhook abuse. There are many instances of elephants who have run amok while giving rides to children, further evidence that a bullhook serves no purpose should an elephant rebel against a trainer's physical dominance. Existing laws do not provide enough protection for elephants. Federal law does not prohibit the use of bullhooks, nor does Texas' anti-animal cruelty statute. But as the tide of public opinion shifts and communities express concern about the humane treatment of animals, local governments are taking action. As a result, nearly 50 jurisdictions across the U.S. Have now prohibited the use of bullhooks or have banned the use of elephants in performing shows altogether. Many other states are considering similar measures. Your vote in favor of the proposed ordinance will send the message that Austin cares deeply about the humane treatment of elephants as we do all other animals, and it is not a place that welcomes circuses or other traveling shows that rely on the use of cruel devices such as a bullhook.

[ Beeping ]

>> I respectfully ask for your support today, and I'm happy to answer any questions.

[ Applause ]

>> The large cities -- the cities that have outlawed the bullhook, what are the large cities?

>> I have a handout here that lists all of them that I'm happy to pass along. The three most recent ones are Los Angeles, Oakland, and Richmond. We have a list of all 50 cities in Kentucky, Idaho, Indiana, Georgia, Florida, Missouri, all of these states have cities and jurisdictions that have passed ordinances to either ban the bullhook or ban elephants in their cities altogether. And so, the fact that Austin isn't on this list truly is a travesty.

>> Mayor Adler: With respect to the initial one, the large recent ones, is that an immediate ban, or are they allowing --

[2:45:48 PM]

>> They differ with each city.

>> Mayor Adler: Do you know for those three?

>> I believe Los Angeles is taking place rather immediately, before the phase-out in 2018. But some have taken the 2018 date.

>> Mayor Adler: Do you have a feel for how many are which and how many are the other?

>> I can look into it and make sure you have all that information, but it doesn't have that on the list.

>> Mayor Adler: If you can get that right away, I'd appreciate it. We're making a decision pretty quick.

>> Sure. Absolutely.

>> Mayor Adler: The next speaker we have is Trista Adams.

>> Good afternoon, mayor Adler, and members of the city council. I'm here on behalf of Feld entertainment, the producer of Barnum & Bailey circus, Disney on ice, and other live family entertainment. In less than two weeks, Ringling Bros. is scheduled to make a visit to Austin. Ringling Bros. is the largest and most well-known traveling exhibitor of animals in the world, and owns the largest herd of elephants in the western hemisphere, with 43 Asian elephants. We are strongly opposed to this ordinance which would prohibit the use of a widely accepted, federally approved, appropriate, humane elephant husbandry tool. If enacted, the ordinance would prevent Ringling Bros. from returning to Austin until after 2018, when all of the elephants will be relocated to a conservation center in Florida that is dedicated to the research, reproduction, and retirement of the Asian elephant. The decision to relocate our elephants to the center was not an easy one, but we believe it is in the best interest of our company, the elephants, and our customers.



[2:47:49 PM]

This transition will take some time, as it involves training, preparation, and construction. We have three traveling units with each elephant. There are many factors involved with the transition which include transportation logistics, employees' jobs, construction of our center, and reorganization of each show. We cannot remove the elephants without proper planning. While the elephants will be exiting the circus, our company will fulfill its commitment to the elephant to ensure future generations have the chance to see this endangered species. With over 145 years of experience in working with and caring for elephants, we are able to conduct pioneering research at our center and have an unmatched 26 births in the last 20 years since its opening. There are currently 29 elephants at our center. The remaining elephant will be moved there over the next three years. Our circus units that visit Austin will have elephants in 2015 and 2016 for sure, and possibly 2017 and 2018. This tour is scheduled several years in advance. It's not possible to remove the elephants from the show each week that the circus is in town. The ordinance could force the cancellation of our show for at least this year and next. It isn't as simple as an alternative tool or forgetting the bullhook. This is not an option. We use a method of handling called free contact, where the elephant and the handler share the same physical space without barriers. The only other means of elephant management is called protective contact, where the elephant remains behind a barrier at all times, and has no direct contact with handlers, the public, or veterinarians.

[ Beeping ]

>> In closing, the reality is that banning this tool will do nothing to ensure the proper care of elephants.

[2:49:50 PM]

It will only ensure circuses with elephants will no longer visit the city of Austin. I request you take no action until you have the opportunity to come to the Frank Erwin Center and see how the elephants are cared for and managed in a free contact setting. Thank you.

>> Mayor Adler: Do I understand correctly that the existing contract that you have right now to tour is this year and next year?

>> Yes.

>> Mayor Adler: Okay. Thank you.

>> I believe so.

>> Mayor Adler: Thank you. Any further questions? Thank you very much.

>> Thank you.

>> Mayor Adler: The next speaker is Olivia Heurinsky. Hi.

>> Hello, Mayor Adler and the city council members. Thank you for giving me a moment to speak to you about this issue. My name is Olivia, I am 12 years old, and I am for the ban of the bullhooks in Austin. In my opinion, bullhooks are used to torment and drive whatever animal it is used on into fear. Animals know what pain feels like. They can't speak up for themselves, making some people think it's okay to inflict pain on animals when it isn't. People will put animals like elephants on chains and beat them until they give up and do stupid tricks for our pleasure. Circuses should just let all animals go to sanctuaries instead of living in fear of a bullhook. People sometimes say that circuses can educate children about the animals entertaining you. I believe that is not true because you are not seeing the animals in their natural habitats or behaving naturally. No one would ever see animals doing tricks in the wild. I find more interest in watching a documentary or learning about elephants on the internet, or seeing them in the wild instead of watching a circus where the elephants are being beaten and forced to do unnatural things. I don't think it is right for kids to see poor animals live in pain, fear, and sorrow.

[2:51:57 PM]

Animals cannot speak up, but councilmembers, you can. Speak up for all the poor animals on chains by banning the bullhook in Austin. This way we can take a step forward in ending inhumane treatment on animals. Thank you.

[ Applause ]

>> Good job.

>> Mayor Adler: Stacy Kirby.

>> I wonder what district she lives in. You'd better watch out.

[ Laughing ]

>> Good afternoon, mayor, and city councilmembers. Thank you very much for giving me an opportunity to address you. My name is Stacy Kirby, here on behalf of Margaret Whitaker, director of programs at the elephant sanctuary in Tennessee. Unfortunately, Margaret couldn't be here today. So I'll read her statement. Let the record show that a copy of her statement has been given to all of the councilmembers along with some letters from the global sanctuary for elephants, the humane society, veterinary medical association, and the international fund for animal welfare. I'll now read Ms. Whitaker's statement. "I support the proposed ban of the tool known as the bullhook. I have worked with elephants for 25 years. I now work for an animal consulting firm with offices in Texas and California. We teach the system of elephant management known as protected contact, which uses positive reinforcement. Protected contact has garnered much support. Most U.S. Zoos and many European and southeast Asian facilities rely on positive training methods, and all zoos in Mexico use protected contact.

[2:53:57 PM]

I'm a board member of the aza and served on the board of directors of the animal behavior management alliance. I'm the director of elephant programs at the elephant seanceware, where retired elephants live in a natural facility and are managed exclusively by used protected contact. I have worked with over 160 elephants training them to voluntarily cooperate with uncomfortable procedures such as injections, wound care, routine foot care, and being transported by air and road. Many of the elephants I worked were with considered too dangerous by traditional trainers. However, with patient application of positive reinforcement, these elephants became highly cooperative. Elephants trained for the entertainment industry are taught through negative reinforcement and physical punishment starting from a very early age. The bullhook is used to deliver painful stimuli to address behavior. Often the threat of the bullhook alone is enough to cue behavior. Many trainers claim they don't use bullhooks on elephants in the show, therefore, no harm is done. I've witnessed first-hand the results of traditional training. Elephants with conspicuous old marks on their bodies, and recognize they're made a mistake and duck in anticipation of being hit. Even though they hadn't been hit in years, they showed signs of a history of punishment training. The emotional scars are ever-lasting." That's the end of her statement. For myself, I, too, graduated from school here. I landed here in 1989. I wasn't born here. My dad was in the military for 22 years. We bounced around --

[ beeping ]

>> Of all the places that I lived when I was growing up, I knew Austin was my home when I got here. And I knew that this city was where I wanted to raise my kids.

[2:56:01 PM]

I'm a voter, constituent, mom. I'm raising a family here. Our opponents have shows where we're one stop of their schedule. They're not raising families here. I think it's really important for us as citizens to

tell you how we feel about the humane treatment of animals in our city, instead of having outsiders write city policy on this issue. Thank you very much.

[ Cheering and applause ]

>> Mayor Adler: The next speaker is Ted friend. Ted friend.

>> Did you have any questions? I'm so sorry.

>> Mayor Adler: I think we're set. Thank you. Ted friend.

>> I understand that there may be some people who want to yield some time to me, so could we determine how much time I actually have?

>> Mayor Adler: We can. And part of that will determine how many speakers speak. If everyone who wanted to yield time to you yields time to you, you would be the last speaker to speak. I also have peter brown and Alexandra zevala. I don't know if they want to yield their time to you, as well. I'm sorry?

>> Do you want to yield your time?

>> Mayor Adler: Oh, she had to leave. Okay. What about peter brown?

>> I don't want to give up my time.

>> Mayor Adler: Okay. Three, six, nine. You can have 12 minutes.

[2:58:01 PM]

>> Mayor Adler: Four speakers. You have 12 minutes.

>> Mayor Adler: I'm sorry? So, there are people that have yielded their time to you. So instead of just having three minutes, you can have 12 minutes. And you're the last speaker to speak.

>> Time for some other people --

>> Mayor, I believe Mr. Brown said he wanted to speak.

>> Mayor Adler: That's right. So I'm giving you nine minutes, and three minutes for Mr. Brown. You have nine minutes.

>> Well, thank you very much. I was a professor, and texasing Aro life research faculty fellow with Texas A&M's department of animal science for 38 years, where I was their head scientist working in the field of animal welfare science. I'm going to read this so I can stay on time. I just retired two months ago. I had a great career doing pro-animal work by conducting objective research and applying basic logic to assist legislators and other policy-makers in making wise decisions. In 1986, the animal protection institute of America named me humanitarian of the year, for documenting welfare problems in raising veal cabs in narrow crates. The industry is phasing out those systems. Api also recognized me for research I conducted on what was key to their getting a federal injunction on a program, a usda program that required hot iron branding of dairy cows. We showed that there was a viable alternative that was much less painful.

[3:00:05 PM]

In 2001, usda, the us department of agriculture, health inspection service, their animal care division, the group that inspects circuses, zoos, and laboratories, funded me to conduct a series of studies looking into the welfare of elephants and big cats traveling with circuses. My studies resulted in the articles published in scientific and trade publications. I purchased an rv trailer for the project myself. And about ten graduate and undergraduate students over the years, over about six years traveled with some eight circuses as time permitted. Our trailer was parked directly in front the elephants and taggers to facilitate our collecting data. Those studies have been cited numerous times by both pro and anti-circus factions. For example, animal defend orders international issued a report in 2006 entitled "Animals in traveling circuses: The science of suffering." They cited my studies least six times, which is six times more than they cited anyone else. Clearly, Adi considered me to be one of the top experts on circus

animals, although most of their references to our work were egregious misrepresentations. Our conclusions are identical to those of Dr. Worthington's 1990 study on circuses in England, which was commissioned by the royal society for the prevention of cruelty to animals. They funded Martha because she was a pro, had a pro animal record. But the rspca viciously turned on Martha because of what she concluded, which I'll summarize. It's page 220 in the handout, the total conclusions.

[3:02:07 PM]

The study shows the welfare of animals in British circuses is judged by physical and psychological criteria, is not as a rule, inferior to that of other animal husbandry systems such as in zoos, private stables, and kennels. It is, therefore, irrational to take a stand against circuses on the grounds that those animals necessarily suffer unless they are to take the same stand against zoos, stables, racehorses, kennels, pets, and all other animal-keeping systems, end quote. Please don't let the radical fringe of what has been an important and useful movement convince you to make bad legislation. A major problem is that the fringe and its leadership have convinced people to believe their emotional and inflammatory propaganda. For example, last year, aspca, hsus, American society for prevention of cruelty to animals, humane society of the U.S., api, and other groups were ordered to reimburse ringling bros. For legal fees. They brought a totally unsubstantiated lawsuit against ringling, claiming abuse of the elephants. That legal battle dragged on for more than 12 years. The activists used the lawsuit as a major fundraiser featuring it in their advertising while bombarding Americans with claims and carefully-selected snippets of video that circuses are inherently cruel to elephants. When they got to federal court, the groups could provide no evidence of cruelty, and their key witness was not credible, in the words of the judge. The judge found that the groups also pay the witness at least \$190,000 to keep him interested in the case. Those activists groups probably paid attorneys upwards of \$35 million, which is especially sad because that money should've gone to improve the welfare of animals, not the welfare of attorneys.

[3:04:16 PM]

This ordinance will not reflect well on the city of Austin because the ankus is no different from a bit used by anyone who rides a horse or other common training devices we use on pets. The ankus is just like the show stick used by youngsters all over Texas for training their pet show steers, and is used in the same manner. On the back, I have a picture of show sticks from a feed store. I think you are well aware of that issue. Certainly any stick, rock, bit, or ankus can be abused when used by idiots. So we all need to be on the alert for signs of abuse. In circuses, that's relatively easy, because someone is always filming them, you know. Professional activists are out there filming them. You saw some of that film, although some of it was 25 years old. The people in that film need to be fired or in jail. Unfortunately, this ordinance just provides a false sense of accomplishment by banning a useful tool. And that's just tragic. Thank you. Any questions?

>> Mayor Adler: Next speaker is William reevis. Liz roscoe is on deck.

>> Good afternoon. Dear mayor Adler, mayor pro tem tovo, and honorable city councilmembers, I want to start off first by answering your question to Katie jaral. We have the dates for the cities that you asked about. Richmond is January of 2018. Los Angeles is January of 2017. And Oakland is January of 2017.

>> Mayor Adler: Thank you.

>> I hope that doesn't count as my time.

[3:06:18 PM]

>> Mayor Adler: We'll start your time now.

>> Wonderful. I am a proud native texan, and a proud resident of Austin, Texas. And I also am the director of philanthropy for the animal legal defense fund, a national organization of attorneys working to protect the lives and advance the interest of animals through the legal system. Unlike what the gentleman right before me said, most of the attorneys working on behalf of animals do not make millions of dollars. In fact, they donate their time to help these animals that don't have a voice for themselves. We have a nationwide membership of over 200,000 members and supporters, many of them who reside in Austin and the state of Texas. It's on their behalf that I respectfully urge the Austin city council to pass an ordinance banning the use of bullhooks employed by circuses to control and punish elephants. There is no humane way to make a multiton elephant stand on her head. Perhaps the gentleman who spoke before me as a scientist could let us know how we could get an elephant to perform these stunts that the elephants would never perform in his or her natural environment. Elephants used by circuses, the fact is, they are violently trained with bullhooks from the time that they are mere babies, after which they perform hundreds of times per year under the constant threat of abuse. Constant threat of abuse. They are jabbed during training and performances, and spend most of their lives cramped in transport cages that are barely bigger than their bodies. Elephants account for mere minutes of a two-hour circus, and are unnecessary for the presentation of a dazzling show. To suggest that Austin will be suffering from the lack of elephants performing in Austin is to not know all of the opportunities for real entertainment austinites have. Please don't be misled by the self-serving misinformation that you are receiving from the opposition.

[3:08:24 PM]

Circus exhibitors that perform in Austin, all of them have histories of failing to comply with minimum standards of handling and care proscribed by the act, and I'd be happy to provide you with documentation if you'd like to see the federal records. The fact remains that the only way to get dangerous animals to perform unnatural tricks is to train them through physical punishment and negative reinforcement. Keep in mind, circus training is never open to the public. Even the U.S. Department of agriculture does not monitor circus training. The only way to ensure Austin isn't unwittingly supporting the abuse of elephants and big cats who are trained with cruel bullhooks, whips, and other weapons long before they ever arrive or perform in Austin is to ban these cruel weapons in our jurisdiction. On behalf of the animal legal defense fund, I ask you to pass this important measure, and I thank you for the consideration.

[ Beeping ]

>> Mayor Adler: Thank you.

[ Applause ]

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

>> Gallo: I have a question. I just want to thank you for what you do in representing animals that can't represent themselves. And I was curious, when -- you know, I'm concerned about how we can properly handle and take care of people that do cruelty to animals. And after watching the films -- I assume you watched the videos -- the behavior that you saw there, was that criminal in a legal . . .

>> There are -- well, it's depending on the actual case. There are so many exemptions for these animals. And in that case, I believe there were mere fines. But there wasn't any jail time served by any of the people that you saw.

>> Gallo: My hope through all of this, we have passionate people in front of us, is that there is as much focus towards producing legislation and laws that will penalize the people that are cruel to animals.

[3:10:30 PM]

[ Applause ]

>> Gallo: I grew up riding and training big horses, 1200-pound horses. And we used bits in their mouths, riding crops, we used lunging whips, we used a variety of tools to help train them in a humane way. And positive reinforcement. But I have seen through many, many years of riding, there are other people that use these same devices in extremely cruel ways that inflict really emotional damages on the animals. So, my message to everyone is please, stay as passionate as you are, but it seems like by your answer and that these people could not be punished with cruel behavior, that we need to really work on the laws that punish the behavior instead of the tools. So, I implore all of you to continue the message, and continue the work, because your answer to me is of concern. To see that kind of behavior towards animals and to hear it can't be punished legally.

>> Legislation is a way that humans continue to evolve. And there are many things that we have done in history to animals we thought was fine, but we need to understand it's no longer acceptable.

[ Applause ]

>> Gallo: So thank you for the work that you do.

[ Applause ]

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is Liz roscoe. And robin Ross is on deck. Is Liz roscoe here?

>> [ Off mic ].

>> Mayor Adler: Take your time.

>> Thank you, Mr. Mayor, and councilmembers. I'm here. I am asking you to support the ban for all elephants that come to the city of Austin. I'm asking that the ban of the bullhook become effective 2015. Not only have other cities passed a similar ordinance, but nine countries have completely banned all animals from being used in circuses.

[3:12:33 PM]

As austinites, we pride ourselves on being Progressive and humane when it comes to all lives. You have before you the opportunity to be the leader, and we can also make history in this country by making this ban effective this year. The time is now. We don't need to prove animals are sentient beings. You can see them. Just watch any YouTube video. The video you saw today. I grew up poor. My parents couldn't afford to take all three of us to the circus. They only had the money to take one, and I wasn't chosen. Now that I am an adult, I'm so grateful I was not the one chosen to go to the circus, because that has opened up an amazing love and passion, and compassion for animals. I currently do wildlife work in Zimbabwe, and yes, I am blessed to see these wildlife creatures in their natural habitat. I work with vets to try and save the remaining free wildlife. Elephants can be treated without a bullhook. You were misled. We use tranquilizers for the safety of all. We can treat these creatures. We treat them and leave them in their natural habitats. We don't need them as entertainment. They're referred to as wildlife for a reason. They are not meant to be entertainment. Whoever started the trend did it simply out of greed. Yes, we all know Feld is retiring their elephants by 2018, but let's all be realistic. It isn't by their choice. It's a result from work done by compassionate and caring people. The time is now, and we all know it. Keep your circus, just modify it. It's been done before. History shows that Mr. Barnum purchased a slave to use as an exhibit. Other circuses purchased natives from other countries.

[3:14:34 PM]

They weren't being used as performers, they were an attraction to be looked at, petted, and fed. We have a great opportunity right now. Please, make the right decision on this ban.

>> Mayor Adler: thank you.

[ Applause ]

>> Mayor Adler: Thank you. Peter Brown is on deck.

>> Mayor Adler, Mayor Pro Tem Tovo and Councilmembers, thank you for the opportunity to speak today. I am really excited about the opportunity that we have to protect the performing animals who come to our city. I think we have a great opportunity today. And I wanted to read out loud some of the language that's in this ordinance that I know Councilmember Houston has moved that we take out. But I think that the section in part 2 where we're talking about the prohibited behaviors is worth reading aloud because I was shocked when I read this the first time, that it was even an issue of controversy that we have to talk about this. So in part 2, the behaviors that would be prohibited by this ordinance, it says the circus may not train or control an elephant by depriving an elephant of food, water, or rest, by electricity, by punishing the elephant in a way that results in damage, scarring or breaking the skin, by inserting an instrument into an elephant's bodily orifice, the use or display of a baseball bat, ax handle, pitch fork or similar tool. We've already heard a lot about bullhooks. So my message to you is these things are not okay. These behaviors we're talking about banning are not acceptable, and I know that you have representatives of the circus industry in the room today who have a financial interest in continuing the status question, but you had 65 people here this morning, a number of us speaking to you today, a pile of 5,000 signatures of people who say that that status quo is not acceptable in the city of Austin, and at a minimum, we can ban these behaviors that I just ran through.

[3:16:39 PM]

So I wanted to reiterate that we're not alone in this. There are other cities, including Los Angeles, Oakland and Richmond that have come before us, and I, as a 15-year resident of Austin would like to see us be the next leader to vote for humane treatment for the animals while they're in our watch, while they're in our city. And I think we can do the right thing here. I think this is a values issue, and I appreciate the opportunity to talk to you about it today. Thanks.

[ Applause ]

>> Mayor Adler: I didn't hear the source of what you were reading from when you started speaking.

>> Oh, I was reading from the proposed ordinance that I got off the website yesterday.

>> Mayor Adler: Okay, thank you.

>> That was the list of prohibited behaviors.

>> Mayor Adler: All right. Thank you.

>> Thank you.

>> Mayor Adler: Mr. Brown. Tammy Cavens is on deck.

>> Mr. Mayor, Mayor Pro Tem, and members of the city council, I've gotten the distinct pleasure to meet with a few of you and your staff, and I have been impressed and pleased at your approach to this difficult problem and learning more about the issue because it can be a complicated issue and it's obviously one that draws a lot of emotion from folks. My purpose here today is to clear a couple of things up. First I'd like to address the video that y'all saw before we actually started to debate the ordinance. It needs to be said for the record that that does not reflect or represent how our elephants are cared for and handled on a daily basis. They are an outlier, I guess you could say, and the video was edited extensively, shot over a period of what we think to be about nine months. The sounds that you heard are added sounds. And it was shot by Pita. They did not give it to anybody.

[3:18:40 PM]

They just released it to the news. It's essentially a piece of propaganda. Do we like it? No. It's painful to watch. We hate it. But the fact of the matter is, there it is -- the usda did investigate, if this answers the question that was asked earlier, concluded in a 2011 statement and were not found ever to have been in violation of federal welfare act. Second item I want to characterization we don't train our elephants. I've spoken with some of you on this and your staff. We do not train them through abuse, it's positive healthy environment reinforcement. The only acceptable way to train an elephant. I said it before, we don't like and hurt elephants, and we treat them as such throughout the training process. And as my colleague mentioned, we are going to be here at the Irwin center and I really do hope some of you have a chance to make it down, meet the elephants, meet the trainers, and we are confident that you will like what you see. I was going to mention the lawsuit. I think that that has been pretty well covered. It is the case that we have been sued, being -- Feld entertainment has been sued and it was a lengthy process that we came out on the right side of. We were not found negligent or mistreating any of our animals and we simply don't.

>> Mayor Adler: You have about 30 seconds left.

>> Yeah, thank you, sir. We have a full-time team of veterinarians, technicians, animal caregivers, and we are heavily regulated, to some of the earlier points about animal mistreatment, the pretty powerful language about axes and baseball bats, it's already highly illegal and it is the last thing that you'd want to do with an elephant. All of that is already illegal. It's a separate question, the actual enforcement of it, but for the record it's important to see through the facts and say, yes, that stuff is already illegal.

[3:20:45 PM]

And with that I conclude. Thank you, all.

>> Mayor Adler: Thank you.

>> Houston: Mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: Sir, I'm sorry.

>> Yep.

>> Houston: Could you tell me how much an elephant is worth?

>> Oh, that's an interesting question. How much it costs, you mean?

>> Houston: Mm-hmm.

>> I have to say I don't know the answer to that. I can tell you how much it takes to care for them.

>> Houston: Okay.

>> Anywhere between 60 and \$70,000 a year, with the caveat that I'd like to get back to you on that with the exact Numbers. They're elaborately extensive maintain. They eat a lot. They are somewhat susceptible to sickness. They need a lot of checkups. It takes a lot of time and money to take care of their feet, for example. So they're expensive and that's another reason for the time horizon we've discussed with all of you. They're a high-maintenance kind of animal. So, I mean, we haven't -- we've never sold an elephant. We have given elephants to zoos, but usually if they don't take to the road well, they stay at the cec in Florida, which is where the traveling elephants will reside after the 2018 rule when they're taken off the road. That's also where they retire.

>> Houston: Thank you.

>> Zimmerman: Another quick question on the same topic. I'm going to guess that, you know, 100 years ago the elephants were brought in, you know, on ships and they were foreign born. But how many -- what's the makeup now? Are most or all the elephants born in the usa is now.

>> Yeah, that's right.

>> Zimmerman: They're all from the usa?



>> That's correct. There's -- we have a pretty extensive breeding program at the cec in Florida, and, yes, there's no elephant importation anymore, that's correct. As I said, some of them don't take to the road. Elephants -- those who perform like to perform, much like humans. Those that don't stay back at the ranch.

[3:22:45 PM]

>> Mayor Adler: Okay, thank you. Anything else?

>> Thank you, all. Appreciate it.

>> Mayor Adler: Thank you. Tammy caven and then David lundstadt.

>> Thank you all very much for considering this important item and taking the time to hear me today. I really appreciate it. My name is tammy Cowan. My husband and I are both teachers here in Austin. It appears the U.S. is moving toward a time where there will be no more elephants in circuses. This year the national geographic published an article the ringling brothers will no longer have elephants in their shows. Why is that I asked myself? We all know elephants are the main attraction and have been for a very long time. The answer is that there's been a huge shift in the public's idea of entertainment. That's what the circus is, pure entertainment. Do we really need to be entertained at the hands of suffering? Everyone can agree on an intelligently and socially aware animal. The citizens of the united States have spoken screen it appears city after city people are standing up for these animals and choosing more enlightened Progressive forms of entertainment for their families. An [interview with the associated press, the vice president acknowledged a, quote, moot shift among, sir, consumers and another was quoted in usa today recently saying a lot of us aren't comfortable with us touring as elephants, as a reason why they're retiring in 2018. I agree with them. I'm not comfortable taking my family to see this form of interatempt. Scientists say they can express problem solving, grief, empty, and are highly social, docile animals. For an elephant in the traveling circus they live in fear of the pain, with the use of devices such as the bullhook, to do unnatural tricks.

[3:24:51 PM]

I don't need to see an elephant stand on their head or on one leg to be entertained and we recently don't learn anything about elephants by going to the circus. I'm ready to be a part of progress and I think Austin should be too. Please support councilmember tovo's ordinance and vote yes on banning bullhooks in all of Austin. Here in Austin it's our time to stand up for these beautiful animals, much like the cities of Oakland, California, Los Angeles, California, Newport beach, California, bass Dena, San Francisco, Boulder, Stamford beech grove, Maryland, quincy, Massachusetts, province town, Richburg, Greenberg, chapel hill, North Carolina, Burlington, Vermont, Redmond, west Austin, Austin should be on this list. Thank you for your consideration in helping to make Austin a more compassionate and Progressive city.

[ Applause ]

>> Mayor Adler: So.

>> Zimmerman: When you were talking, the thought occurred to me, we have documented cases of people abusing domestic dogs and cats. We have countless others who consider their pets a form of entertainment, they're entertained by their pets. I wonder, should that ban apply to cats and dogs in people's home.

>> I can't speak to abuse of cats and dogs --

>> Zimmerman: It's on the news, it's on the news. People abuse cats and dogs.

>> I don't agree with that either.

>> Zimmerman: Okay.

>> Thank you so much for listening to me. I really appreciate all that you've done.

[ Applause ]

>> Mayor Adler: Mr. Lundstadt.

>> Good morning, mayor Adler, I mean, good afternoon, council.

[3:26:51 PM]

David Lundstadt, chair of your animal advisory commission and I have behind me chief animal services officer Tawny Hammond should you have questions. I'd like to start out by thanking Mayor Pro Tem Tovo, you've been a champion and we're grateful. To the cosponsors, Council Garza, Kitchen, Renteria, my republican friend, Troxclair. Thank you very much.

[Laughter]

>> Animal advisory commission has taken this issue up twice. We sent the original recommendation to council two years ago in 2013. We also approved the language of the proposed ordinance a few months ago. I just want to be clear that our recommendation that we sent the council originally did not have the narrow focus on strictly defining it as a circus. Our recommendation was for all traveling shows exhibitions so I think that one amendment is in line with our original recommendation, and the other thing that we did not intend was for any kind of delay in implementation. It's been two years since we sent the recommendation so, in my opinion, we're already two years behind. I realize you guys have to consider contracts and those kind of things. But it doesn't seem unreasonable to me, since the circus is going to be here in a couple of weeks, for contracts to be renegotiated or altered in a year's time. At the very least, at the end of the contract, in 2016. So I hope I'll keep that in mind -- you'll keep that in mind. I do want to say regarding chief animal services officer Tawny Hammond, I was walking in the chamber when the video started running and I met her on the way out and she was choking back tears and I thought to myself, what a great hire that was, to have somebody so compassionate and so moved that she can't even stay inside and watch the video.

[3:29:13 PM]

So, you know, job well done, guys, on that hire. You know, most of what we deal with is cats and dogs in the shelter, but, you know, we're Austin. We should be leading the way. We're already behind. So we really need to get on board with this, and I thank you for your time. I'm pretty sure that you guys are going to vote the right way, and I really thank you for listening to all of us today. Thank you.

[ Applause ]

>> Mayor Adler: Thank you. Ms. Hammond, would you come up? Again welcome to Austin.

>> Thank you. Good to be here.

>> Mayor Adler: It's good to have you here, and I know you are like midmove and have arrived midconversation.

>> Yes.

>> Mayor Adler: But do you have any advice or counsel for the council -- counsel for council on this issue?

>> We've heard a lot of interesting things today and I think the thing that is one of my -- speaking professionally, not personally, you've asked my professional input, is my concern is that the animal protection officers can do just what they're supposed to do, and that's protect animals in the city of Austin. That's one of the reasons I came here. It's one of the best managed governed cities in the nation, and I uprooted my life and came across the country and want to be an Austinite and live here. So I'm very pleased to be here. My chief concern is we can protect animals in Austin because I do believe that is a value, and the nation is watching us, they're watching what Austin does, this rock star of the

country. And our animal -- and our values. In order for us to do that, I think something like this is very important because you heard from various people, experts, that the training takes place out of sight before they get to Austin. It would stand to reason that if we go to do an inspection of a circus or an event, there's not going to be any active abuse that we can see or training/abuse, depending upon your opinion.

[3:31:25 PM]

So in order for us to protect animals in Austin city limits, this makes sense to me professionally. And that's my professional opinion.

[ Applause ]

>> My -- I just want to be clear. I want to be clear that that's my job. That's what I signed on for, to make sure that animals are protected in Austin. And so this would make sense to me. Regardless of how I feel personally.

>> Mayor Adler: Okay. Thank you.

>> And I did hear from animal protection officers. I just got back Monday night late. Movers got here yesterday. I had homework to do on this. And I did talk to some of the animal protection officers and that's what she stowed me multiply when we go do an inspection there's not going to be anything actively happening. In tool, how it's used prior or behind closed doors, regardless of what your opinion is of it, I think we're not going to see that abuse. So that's why I think something like this is important.

>> Mayor Adler: There are several other cities that have been mentioned that have stepped forward to pass bans. And are being held out as examples. Most of them have their bans taking effect after -- in 2017 as opposed to happening now.

>> Mm-hmm.

>> Mayor Adler: Do you have any advice to us on that issue?

>> I think you've heard from the community, you know, how strongly they feel about it. I think that something like this should really take place immediately.

[ Applause ]

>> I don't -- again, just speaking professionally. My job is to protect animals. Why wait? If ringling brothers going to tend in '18 and to do it in 2018 or 2017 if the council agrees and thinks that a change is necessary --

>> Why wait is this.

>> My question to you would be why wait? Because the animal protection officers that are going in, inspecting, they want to protect animals not in 2017.

[3:33:32 PM]

They'd like to do it today.

>> Mayor Adler: Okay, thank you.

>> Mayor?

>> Mayor Adler: Hold on.

[ Applause ]

>> Mayor Adler: Mr. Renteria.

>> Renteria: I just wanted to -- there was a mention about a contract, 2016. What was that about?

>> The contract?

>> Renteria: Yeah.

>> I think we're under contract or we have the circus coming to Austin -- was that the reference?

>> Renteria: Yes.

>> So we have appearances on the books taking place at the university of Texas. When I spoke, I believe it was Tuesday, very briefly, in the business meeting, I was referencing that when you asked me for input. I was not rendering an opinion professionally, but now that I know a little bit more about the ban and what we're looking at --

>> Renteria: But do we --

>> Mayor Adler: I think we do know the answer to the question. I think Ringling said that they were under contract this year, 2015, and also 2016. I'm sorry?

>> [Off mic]

>> Mayor Adler: Committed days for 2015 and 2016.

>> Renteria: Okay, thank you.

>> Mayor Adler: Ms. Pool.

>> Pool: So I had a question about the contract, and it was -- is the contract with the university of Texas?

>> Yes, I believe that's true. It's not with the city. Correct me if I'm wrong, but I believe that the circus will be on the university of Texas campus on their property, and that's why I referenced in the meeting earlier this week about deferring to legal. And I had Mr. Caldwell speak.

>> Pool: Right.

>> Now this is much broader discussion and that's why I was rendering my 97 on that.

>> Pool: I have a question which may not be appropriate now. Maybe later. I had a question from the folks with Feld. Should I wait until the end of the --

>> Mayor Adler: We've had all our public speakers so if you want to --

>> Pool: Terrific. Peter Brown, I guess could you come up?

>> Thank you.

>> Mayor Adler: Thank you.

>> Pool: Thank you, Ms. Hammond.

[3:35:33 PM]

Thanks for coming back up to answer a question. One of the comments was that we should regulate -- punish the bad actor and regulate the human behavior, not the tools. We should ensure the tools are used properly. I understand the sentiment there. So how in fact -- Ms. Hammond mentioned that if we come to the circus and go backstage or during training, we probably -- would we be able to have access to the backstage or to training at times when we might be able to see the bad behavior?

>> Yes, yeah. We've done an -- that in other cities. Backstage, meet the vets, you meet the trainers.

>> Pool: Are these scheduled visits that you know in advance that they're coming, or are they surprise visits?

>> Well, in the past, in other cities, we've done scheduled. There's a time. However, when -- I think actually you did that, that's correct. We are, however, pretty heavily regulated, federal, state, municipal, and those people who oversee the circus animal care, they can come by any time, and they do. Particularly here in Austin we let them know and say come take a look. There's full transparency, but they do come unannounced.

>> Pool: Thanks.

>> Federal, state, municipal level.

>> Mayor Adler: Mr. Brown, while you're here I'm probably going to vote for the ban. Just because I think that Austin --

[applause]

>> Mayor Adler: I want you to speak for the timing issue. There are a lot of cities that have been mentioned to us that are doing this. Most of them are doing it in 2017. I want to better understand what the impact is if we did it -- I think the proposal from Ms. Tovo was to do it effective September 1 versus

doing it September of 2016 versus doing it September of 202517.

[3:37:36 PM]

>> Right. I'm pretty sure -- I do want to state for the record that I'm pretty sure in Richmond it is a 2018 date. The three cities mentioned so far are Isl.a., Oakland, Richmond, Virginia. And they all passed with essentially a 3-year time horizon. L.a. Is 2017 because it was passed first. Oakland and Richmond is 2018, someone mentioned it was 2017 but we're pretty sure it's 2018. Logistically, when Feld decided to stop taking the elephants on the road, the reason why that three-year time frame is the set date is simply because it's hard logistically to decide what to do with the animals themselves. We do have the cec in Florida, but it's not to take on an additional 20 to 25 elephants and requires a big buildout, lots of construction, staff. Importantly there's 20 or some odd staff members who are union employees. They're teamsters with each traveling show. We have to renegotiate subcontracts see what we can do with people in their employment for them and their families. Circuses themselves are planned anywhere between one, three years in advance. They're recruiting talent, production folks are putting the show together. So when the decision was made, the circuses are already written. Somebody mentioned before, it's just a couple minutes. That's not true. The elephants in the ringling show take up -- they're on all the branding, it's the prize act in the show. So it's a good 20, 30 minutes of floor time. So that all needs to change and it takes a while just to put the creative into place. So there's a variety of both logistical and creative reasons why we've got that time horizon, not to mention the fact it's hard to get big elephants around in that kind of number. The train routes, we are on a private train. The routes are usually planned out one to two years in advance.

[3:39:37 PM]

>> Mayor Adler: Okay.

>> Does that address your --

>> Mayor Adler: It does. It helps me understand. I think that the research that's just been texted to me was Richmond was originally pass Ford 2017 but then changed to align with the Kirk phase-out in 2018.

>> That sounds right.

>> Mayor Adler: I don't know if that's true.

>> I thought it was 2018.

>> Mayor Adler: Okay.

>> But that's certainly what I thought.

>> Mayor Adler: Thank you. Ms. Tovo?

>> Tovo:.

>> Mayor Adler: No more questions for this witness. Any more questions for this witness? I think we're done. Thank you.

>> Zimmerman: One quick question.

[Off mic] I have a quick one.

>> Mayor Adler: Mr. Zimmerman, yes.

>> Zimmerman: Mr. Brown, somebody who had testified here who we had -- we had quite a few experts talk us to about this. Somebody mentioned the word of -- mentioned the word "Propaganda" being used.

>> Right.

>> Zimmerman: I'm going to be voting against this ordinance in large part because of section C, circus may not train or control an elephant. It lists several things here that look like torture and abuse. And to me the propaganda part of this resolution is to suggest, to suggest that the city council needs to hurry

up and ban these practices. You know, it's animal cruelty. We already have laws against animal cruelty. If somebody were to do this in Austin to an elephant, they could already be prosecuted and they would be prosecuted. We wouldn't tolerate these behaviors. In my view, for this to come to us is bad press and it's a false accusation against our city to say that we're permitting these things now so we have to pass this ordinance to outlaw them.

>> That's exactly right.

>> Zimmerman: I'm offended because our city already doesn't tolerate this and it's already against the law. Is that fair to say.

>> Very fair to say. It is against the law, particularly for Asian elephants, which are the endangered species of elephants, absolutely true. I would second that by saying that the trainers themselves have a very, very close relationship with the elephants that they oversee.

[3:41:43 PM]

Now, this is another misunderstood thing about trainers and the elephants that they keep. They really love these elephants. These elephants require an enormous amount of work and they are personable creators and develop long-lasting relationships. The last thing you're going to see a trainer do is mistreat an elephant pretty much in any way. The use of the very strong and somewhat radicalized language in there, we do see that. That is something that comes in based on sort of the national verbiage, so to speak. By, yeah, it's -- it's already illegal and it's the last thing we want to do to an elephant. It's fundamentally misunderstood issue. I should also add in, back there the -- just the treatment of elephants and the way they behave is also something that is misunderstood. And an example of that is an elephant standing on its head. Elephants do that frequently. They do it --

[laughter]

>> They do it in the wild. It's true. That is true. That is documented behavior, and we have it -- we see it all the time at the cec and that's a fact.

>> Mayor Adler: Any further questions of this witness? Ms. Gallo.

>> Gallo: It may be -- I think you answered it in answering councilmember Zimmerman's question, but I just -- I think somebody brought this up before in the speaking, was the items under number C, the list of items that were read off. I want to make sure that I understand very clearly and it may be our animal services person, new director, that can chime in here too, but from what I'm hearing, those are already prohibited behaviors and illegal to do. Is that correct?

>> That is correct. I mean, it would be illegal to take a chair and hit an elephant with it, meaning to say that these are sort of like -- it's a dramatic way of saying that you can't hurt an elephant.

[3:43:46 PM]

But to your question, that's absolutely right. That is illegal. You can't mistreat an elephant. You can't abuse an elephant because it is a violation of the law.

>> Gallo: Thank you for that clarification.

>> Mayor Adler: Ms. Kitchen and then Ms. Tovo.

>> Kitchen: Just a clarification. Are you speaking to federal law or state law or local law?

>> That's federal law.

>> Kitchen: Federal law.

>> That's correct. I mean, the primary regulator is the usda, is really who oversees that. Having said, that there are state constitutes and statutes as well.

>> Kitchen: The reason I ask, this language is very specific to training or controlling an elephant. So you probably haven't had the opportunity to compare it. There may be differences in this language and what

the law currently requires. And I'm just curious if you happen to know that. I wouldn't expect you to, but if you happen to know that.

>> I don't think -- can you reask the question, make sure I understand it?

>> Kitchen: Okay. You know, yes there are things in the current federal law that are illegal. But unless I can see what that language is, I don't know that it's exactly the same as what we're talking about.

>> That's a good point.

>> Kitchen: So. . .

>> Off the top of my head, I don't know the exact language in the federal law.

>> Kitchen: Okay.

>> I do doubt it has the ax and baseball bats as an example. It's more broad, can't hurt or abuse elephants. We can certainly get that.

>> Kitchen: I don't know if our legal counsel knows that. Is our legal counsel able to answer?

>> Mayor Adler: Ms. Tovo.

>> Tovo: Mayor, on that point, I have a couple questions on another topic, but I believe that we could ask our legal staff. It's my understanding -- and I've got the statute in front of me, that our state law prohibits torture but does not articulate the same items that would be in our local ordinance if this passes today with that language. And I believe that our legal staff who drafted the ordinance did use -- did model that -- those passages after other cities that have passed similar ordinances.

[3:45:53 PM]

But, again, I would like to Ms. Grace or others who worked on it from our legal staff 37 but I'm happy to read to you the four pages of the Texas penal code I have in front of me.

>> Unless our staff want to summarize it.

>> Mayor Adler: Mr. Brown, thank you.

>> Sure.

>> Mayor, council, Kerry grace and John stein we are the law department. We're tag teaming this project. To your question, we don't have the federal law. We have not reviewed the federal law. The state-wide animal cruelty law doesn't include this language, you're correct. The language was actually -- that's in the ordinance was actually -- came from your office, I think it was presented to you. So it's -- we're actually not really sure of its origins. It's pretty specific, you're correct.

>> Tovo: And as I recall, I believe it came -- I believe it may have -- Mr. Lundstadt may be able to clarify. I think it may have been in some of the animal advisory commission recommendations but in looking at some of the language in other cities, I see some overlap there.

>> And there's some overlap in the state statute. I do have a copy of the state statute.

>> I'm looking at Los Angeles, for example, it shall be unlawful for anybody to use a bullhook, ax, pitch fork, other implemented tool, et cetera, et cetera. The -- inaccuracy I think I would need a few more minutes to kind of crosswalk termination but I believe that the passages in C were also taken from some of the other ordinances that have been passed.

>> In other cities, yes.

>> Tovo: At least in spirit.

>> Entirely possible.

>> Mayor Adler: Is that the state ordinance.

>> Houston: That's the state.

[3:47:54 PM]

>> Mayor Adler: From the penal code.

>> Houston: The non---

>> Mayor Adler: Yes.

>> Kitchen: Are you done?

>> Mayor Adler: Did you have --

>> Kitchen: I just wanted to know, so y'all have not reviewed the federal law? Is that one --

>> That's correct.

>> Kitchen: Do you know where we could find the federal law?

>> We can certainly point you to it, in probably a few moments.

>> Kitchen: Okay. Thank you.

>> Mayor Adler: And your observation, Ms. Houston, on the state law?

>> Houston: The state statute seems to specify -- it specifies nonlive stock animals. It talks about the cruelty, and I don't have it in front of me. You have it. So all the things that are covered in C are covered in the state statute.

>> Mayor Adler: State statute says a person commits an offense if the person intentionally, knowingly or recklessly tortures or in a cruel manner kills or causes serious bodily injury, kills, administers poison to or causes serious bodily injury, fails unreasonably to provide necessary food, care, water, shelter, abandons unreasonably an animal, transports or confines an animal in a cruel manner, without the owner's consent causes bodily injury to an animal, causes one animal to fight with another animal if either animal is not a dog. Uses a live animal as a lure dog in a dog race, seriously overworks an animal. Further discussion on this issue? Thank you. Ms. Tovo?

>> Tovo: Yes, mayor. I'd like to call back, if I may, Ms. Ferrell -- empty cheer of the humane society so she can speak to the ordinances in other cities. It's my understanding that some of those may be in effect now.

[3:49:54 PM]

>> Yes, absolutely.

>> Tovo: Of the three we were talking about going into effect in the future. You might also be able to speak to the language --

>> Section C?

>> Tovo: How it's similar, you know, just in looking at that time. I think it talks about electric prods, electricity, there definitely are provisions we would have in our local ordinance that are not, I believe, captured by the passage that we just read from the state. And I believe they are consistent with the ordinance. Frankly, with the spirit of what we're trying to do here, which so to make sure that elephants, if they're brought into the city of Austin, are treated in a certain manner.

>> Yes, absolutely. So to your first question about the effective dates, San Francisco, California, they passed their bill in April of 2015, and it went into effect 30 days after passage of the bill. The Los Angeles, California, bill passed in April 2014, went into effect January of 2017. Oakland, California, they passed their bill in December 2014, it's going into effect in 2017. Richmond, Virginia, passed their bill in May of 2015, it's going into effect 2018. There are 40 non-bullhook bans that have been passed in other jurisdictions over the last 20 years, most of them taking effect immediately, they prohibit elephants from coming into the city altogether. As far as the language in section C, we do have evidence. There is a lot of evidence of circuses using other abusive techniques on elephants other than bullhooks, and this section C serves the purpose of making sure that just because we remove bullhooks we don't open the door to allow them to do these other things. And, you know, we have established that a lot of these training techniques are taking place behind closed doors. The public are not seeing them. Law enforcement, local law enforcement would not see them. These are things that take place before these elephants arrive to Austin. So it would be part of the ordinance so that we go on record as a city saying



that these archaic methods that have been used in the past are not replaced when the bullhook is taken away.

[3:52:02 PM]

>> Mayor Adler: Thank you. Ms. Tovo, can you -- thank you.

>> Thanks.

>> Mayor Adler: Can you -- my understanding is that the motion that you're going to make is to take place in September -- September 1, so after the circus that's in two weeks.

>> Tovo: Correct. That would allow the circus that is on its way here eminently to take place.

>> Mayor Adler: I understand -- this is just a procedural question. I'm trying to figure out why this came to us as a councilmember motion as opposed to something coming from the committee. Were these -- what was the standing? What happened at the committee on this? Why is this coming here that way as opposed to coming here from a committee?

>> Houston: You'd have to ask mayor pro tem tovo. I thought it was coming back to the council committee and then the next thing I heard, it was being pulled off and placed on the city council agenda.

>> Mayor Adler: Okay.

>> Tovo: As I mentioned earlier, I believe that we did -- my staff did speak with chair Houston's staff about what -- about that. I think there was a question about whether we would need an executive session, and if that happened at the committee, would we then need to transmit at the council. It seemed to me that it was probably most expedient just to move it on to council for a full discussion, as Mr. Lundstadt said, this has been going on for -- you know, this was a recommendation of the animal advisory committee a file two years ago. It has been the subject of two council resolutions since, one to investigate the legality of it, the second to move forward and create an ordinance. I think that second resolution was done last full. It's taken a long time for the construction of an ordinance. It took a couple months to get it on the health and human services committee. And here we are with another circus season where that question hadn't been decided and so it was my interest in -- we did have a discussion at the committee. I believe that it was time to move this forward for a full council discussion and decision, in part because the community has been waiting a long time for some resolution to this issue.

[3:54:14 PM]

>> Mayor Adler: Okay. Mr. -- Ms. School then Mr. Zimmerman.

>> Pool: It's possible, if I can speculate, if we had brought the item before our recess, since it was heard by committee before we went on July recess, we would have been able to address this senior rather than doing it two weeks before the circus is coming to town.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Zimmerman: I wanted to follow up on councilmember Houston's question pip thought it was a good question, and I didn't understand the answer. I think her question was, you know, the issue had come to the committee for discussion. So I didn't understand -- I thought sheds a great question. Why didn't the - she had a great question. Why didn't the committee go ahead and bring something instead of something coming from council. I think councilmember Renteria mentioned that. If we're not going to have this process of vetting things through committee and letting the committee bring it forward, why do we have committees?

>> Mayor Adler: Any further discussion? All right. Someone want to put a motion on to the floor for us to consider? Ms. Tovo.

>> Tovo: I'd be pleased to do that. I month move approval of the item before us. As I mentioned before, with the insertion of the date September 1, 2015.

>> Pool: Mayor, I will second that.

>> Mayor Adler: Motion has been made by Ms. Tovo, seconded by Ms. Pool. Ms. Kitchen.

>> Kitchen: I have an amendment to that motion.

>> Mayor Adler: Okay.

>> Kitchen: And I based out the amendment -- I passed out the amendment and that would delete -- it amends part one by deleting the definition of "Circus" and amends part two by replacing "Circus" with the term "Person" and the effect is to extend the provisions of this ordinance to any person and not be limited to circus.

[ Applause ]

>> Mayor Adler: What was the first part of the amendment that you made?

>> Kitchen: I passes out the revised amendment. Beal you have to delete the definition of circus because you're taking out the term "Circus."

[3:56:21 PM]

>> Mayor Adler: We have a motion and amendment expanding the scope of this from circus to any person. And that's what we're debating right now, the expansion of "Circus" to any person.

>> Kitchen: Let me explain. My reason for bringing this --

>> Mayor Adler: Real fast, is there a second? Ms. Pool seconds.

>> Kitchen: Briefly, my reason, I do think it's aligned with the commission recommendations, which I think is important. I also do not see it -- I don't see a distinction between a circus or any person in terms of my rationale for supporting this ban in the first place.

>> Mayor Adler: Okay. Discussion or debate on this -- on this amendment?

>> Zimmerman: I'd like to speak against.

>> Mayor Adler: All right, Mr. Zimmerman.

>> Zimmerman: I'd like to speak against this amendment. I believe -- I've heard from some constituents that -- and I think we had someone testify that elephants are brought here for private means for weddings, for certain cultures, and, again, I go back to the fact that animal abuse is already against the law. We already have statutes prohibiting, you know, the abuse of elephants, as well as other animals. So it's completely unnecessary. And I think it could be a broad interpretation that members of our community could take as being targeted towards them. Because not everybody has a cultural tradition of bringing elephants into the city. That's a pretty narrow scone of people so I'm against that amendment.

>> Mayor Adler: Ms. Houston.

>> Houston: I'll be voting against that as well because this is out of our control. We've heard several testimonies this afternoon that indicate that the training of these pacaderms happen someplace else. I would have a difficult time to create a policy we have no way to enforce. By the time they get to Austin they're not doing any training of the elephants.

[3:58:23 PM]

So we're trying to put a policy in place that prohibits something that's done someplace else prior to the animals getting here. So I will be voting against changing that to person.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I'm going to vote against this amendment but for a different reason. I think when we change the scope from circuses to persons that we haven't given the veterinarian association and veterinarians the opportunity to talk us to. I've been provided with two letters, one was from the American veterinarian medical association that that was opposed to the van in evidently Los Angeles and also the

American association of zoo veterinarians and I think it's critical to hear from the part of the population in the industry that actually cares for animals and to make sure that what we're doing doesn't impact their ability to safely medicate and care for animals. So it's not that I would not vote for that, in extending that at some other point, but I think we've changed the scope so dramatically from just circuses to including everyone that I don't think we've given the veterinarian population the ability to express their concerns with us doing that at this point.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Thank you. I think I should explain a little bit further my thinking. We did have testimony from an individual who gave us a visual example of a tool that could be used instead of a bullhook. So I think that that has convinced me that there are other opportunities to work with elephants besides using a bullhook. Also, I would point out that the -- that the language of this ordinance is not only about training an elephant. It also mentions that a person may not brandish, exhibit or display a bullhook in the presence of an elephant.

[4:00:27 PM]

And may not train or control an elephant by the various measures that are mentioned here. So to my mind, what we're doing is making a judgment call, you know, which we each have to do ourselves. But in lighting of what we've -- light of what we've heard but we're making a judgment that a bullhook is not an appropriate way to treat an elephant, and I don't think that -- if it's not an appropriate way to treat an elephant, it's not appropriate by anyone. And so --

[ applause ]

>> Kitchen: -- That's my reason for doing it.

>> Mayor Adler: Any further debate on mistake's amendment to enlarge the scope? Seeing none, those in favor of Ms. Kitchen's amendment to enlarge the scope raise your hand. Those opposed? Gallo, Zimmerman, Houston, troxclair voting no. 7-4. The amendment is put on.

[ Applause ]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'd like to be recognized to make an amendment to the dates. I believe we have an amendment on the floor, but I'd like to alter that to October 1 of 2018 for the date that the ordinance takes effect.

>> Mayor Adler: Okay.

>> Zimmerman: October 2018.

>> Mayor Adler: The resolution as proposed has September 2015. And you're proposing to go to October 1 of 2018.

>> Houston: I'll second that motion.

>> Mayor Adler: There's been a second. Been moved and seconded by Ms. Houston. Any discussion on the duration? Ms. Troxclair.

>> Troxclair: I think that it would be important to hear from our legal staff. I know we kind of started this conversation on Tuesday during work session, but we stopped it short, and I know that there have been legal issues in the past in regards to the timing. So I just want to better understand where the city stands in regards to its current commitments.

[4:02:35 PM]

>> Mayor Adler: So let's ask that question. So the question is relating to the legality of what we might do with duration. And the initial question is, is that something we should discuss here or is that something we should discuss in executive session?

>> John Schneider, law department. The city doesn't have any legal commitments with the circus. That would be between the university of Texas and the circus. So we wouldn't -- that wouldn't be us. That would be them.

>> Troxclair: But -- so then we would be making decisions that would affect a contract of the university of Texas, which I just feel like we need to have more -- therefore, clearly is a contract or plans already in place for at least 2016, and I need to better understand what those commitments are. And, also, our ability -- if we do decide to pass something that would impede on those commitments, what is our ability to enforce anything that we pass if the circus is not taking place on -- if it's taking place on the university of Texas campus and its their responsibility?

>> This -- that's a -- well, that's a very different question. The city's ordinances are entitled to a presumption of validity. There are some issues that could be raised between the university and the circus regarding what the obligations of each of those parties was, given the state of municipal law at the time. There are arguments that could be raised by the circus regarding a law that impaired an existing contract, but those would, again, be issues that may or may not arise, and I couldn't speak to them now.

[4:04:42 PM]

>> Troxclair: Because there was -- there was a city attorney at our work session on Tuesday that made -- expressed some concern regarding the timing and the city's ability to enforce anything before -- that would impede on an existing contract.

>> I was at the work session and no one from the law department spoke on this item.

>> Troxclair: Who was that?

>> Tovo: Mayor, if I may?

>> Mayor Adler: Yes.

>> Tovo: It was a staff member from animal services.

>> Troxclair: From animal services, okay.

>> Mayor Adler: Okay. Further conversation? Questions on this amendment?

>> Houston: I have an amendment.

>> Mayor Adler: All right. So what is before us right now is changing the date to October of '18. Do you want to amend the date change?

>> Houston: No.

>> Mayor Adler: Then let's hold on to that amendment. We have an amendment to October of '18. Is there further conversation on maybe it October '18? Ms. Tovo.

>> Tovo: Yes. I can't support this amendment. You know, we have Feld entertainment has announced that its retiring the elephants by 2018 so a ban on using the bullhook in 2018 is in effect meaningless. Because there won't be elephants in the circus any longer.

[ Applause ] It's my understanding, based on the testimony here today, that UT has contract for this year, 2015. We're not impacting this year, and 2016. Again, this has been in -- in process for a very long time. UT is very aware of what we're considering today. And I would hope -- I certainly don't want to speak to them, but they have information about what we're considering today, and are not here to comment on it, but they certainly are aware that we're considering something today that would impact their contract for 2016. But I would just, again, as I said on Tuesday, if there's an interest in moving the date, I would at least move it to a date that's a little more reasonable than 2018.

[4:06:54 PM]

[ Applause ]

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: And I need to speak to this -- the date amendment because of -- some of the things that I said at the Tuesday work session. We sometimes in the city work in a vacuum and work in silos, and so this issue has been -- this conversation has been going on for two years, I think. And I am for humane treatment of animals, all animals. But as I said before, there are children in my community that will never see an elephant. And I know y'all sigh and I've gotten hate mail and I see the expressions on your faces. But I don't see any of my people, my children, my school children, here. And so I will be denying them the opportunity for the next two years to be able to see a live elephant in the flesh. I know y'all will say take them to San Antonio. Well, my kids can't go to San Antonio like yours can. They don't have cars that will take them or parents that have the opportunity to take off from work to go to the zoo. But they can get tickets to go to the circus. And I'm not going to deny them that opportunity to be able to see a live elephant. I will be willing to phase this in, but they need to be able to have at least two years to see this so I will be supporting a change in the date.

>> [Off mic]

>> Mayor Adler: Hold on, please. I'm sorry. Further debate, Ms. Troxclair?

>> Troxclair: Would it be appropriate to make an amendment to the amendment?

>> Mayor Adler: Yes.

>> Troxclair: Okay. Because it seems -- I'm listening and I'm trying to understand the predicament that we're in with current commitments but also wanting to make sure that animals in the city are treated humanely. It seems like there is some middle ground here.

[4:08:59 PM]

We're talking -- the current commitments seem to be through 2016, and the resolution as currently written through 2018. So I would support a revision to 2017 so that the circus can continue to fulfill the commitments that they've already made. The university -- we don't have to worry about legal liability and enforcement issues and whether or not we can or can't enforce something that we're passing. But, also, make a commitment to the community that is as soon as possible after those things are complete, that we want to make sure that bullhooks aren't used in Austin after that date. So I guess I would make a motion to amend the date to 2017.

>> Mayor Adler: For October of 2017?

>> Troxclair: Yes.

>> Mayor Adler: There's been an amendment to the amendment offered to make it October of 2017. Is there a second to that amendment to the amendment? Ms. Houston seconds that. We're now debating the amendment to the amendment, which is to come back -- come back one year.

>> Gallo: Can I ask clarification.

>> Mayor Adler: Ms. Gallo.

>> Gallo: So the current obligation that UT has with the circus is through October -- through the circus of next year, in 2016? Or through the circus in 2017.

>> Mayor Adler: It's the next year is what we were told. The date established was --

>> Gallo: 2016.

>> Mayor Adler: That's correct.

>> Gallo: So a date that went through October 2016 would honor the time commitment that UT has already done with the circus currently? Is that right?

>> Mayor Adler: I'm probably going to vote against the amendment to the amendment as well as to the amendment.

[Laughter]

[Applause]

[4:10:59 PM]

But it the time comes up to adopt the 2016 date so that it keeps the two years that are part of the existing agreement, and my hope would be that the circus would be able to move forward, to a time frame to be able to take care of the elephants and be able to provide for them in that period of time, and I would hope that other cities would join us and the cities that were giving longer periods of time than that, they would join news inching up a little bit -- us in inching up to increase the pressure. So I'm going to vote against the amendment to the amendment, the amendment, and my hope is that I get a chance to vote on something that has the end of 2016.

>> Renteria: I would second, that mayor.

>> Mayor Adler: We can't make that yet.

[ Applause ]

>> Mayor Adler: We can't make an amendment to the amendment to the amendment. We now are voting -- what is before us is the -- Ms. Troxclair?

>> Troxclair: So I think -- I guess there is still some middle ground, is what you're saying, between fulfilling our commitment and October 2017. So I --

>> Mayor Adler: Do you want to change your motion to be the end of 2016.

>> Troxclair: Change my motion to October 2016, which would fulfill the commitments but move on after that.

>> Mayor Adler: Okay.

>> Troxclair: That what you were trying to get at?

>> Mayor Adler: Is there a second to that amendment? Ms. Houston?

>> Houston: I just want to clarify. The circus will be here in August.

>> Mayor Adler: Yes.

>> Houston: Councilmember tovo councilmember troxclair, I want to make sure I understand. The circus will be here in August and then next year.

>> Mayor Adler: That's correct.

>> Houston: That will fulfill the commitments to the university, right?

>> Mayor Adler: That's correct. Is that correct? Yes.

>> Houston: Okay.

>> Zimmerman: I have a point of information.

>> Mayor Adler: Yes, Mr. Zimmerman.

>> Zimmerman: We have broadened this, right, from circus to person. So stop talking about person.

>> Houston: Oh, that's right. That's right.

>> Zimmerman: Stop using the word "Circus" because I thought we broadened this.

>> Mayor Adler: We did. If that amendment to the amendment passes we're outlawing bullhooks in this town -- outlawing bullhooks in this town.

[4:13:07 PM]

>> Zimmerman: If somebody wants to have a we adding and they want an elephant --

>> Mayor Adler: They're going to have --

>> Zimmerman: Better get married soon.

>> Mayor Adler: My hope would be that to the degree that that happens, it happens with people having figured out how to do it differently. Ms. Troxclair.

>> Troxclair: Okay. I appreciate that reminder from councilmember Zimmerman because I would have clearly supported a ban on the circus in October of 2016, but I do still have outstanding questions, as

councilmember Gallo alluded to, regarding veterinarian care in the city. We had a vet come and testify at the health and human services committee that a ban like this would prevent her from giving healthcare to elephants. So I do have some outstanding questions on that. So if the resolution was specific to circuses then I would be okay with 2016, but I'm, I guess, going to withdraw my amendment or leave it to someone else to try to figure this out.

>> Mayor Adler: Okay. Part of my frustration with this is I wish this had stayed in the committee so that it could have been vetted better and since it wasn't going to stop this circus that's happening here in two weeks, we could have done this in October and the committee could have met, or November. Given where we are right now I'm probably going to vote to approve, if I have the opportunity, the ban that is in October of 2016. And if there is reason, if the veterinarians come back or there's other reason for us to revisit that policy, I would not be adverse to -- if there's a veterinary reason or otherwise, but we've now invested two and a half hours two and a half hours at a council meeting. Is there -- Mr. Renteria.

>> Renteria: March mayor, I'd like to make the amendment to 2016.

>> Mayor Adler: There's been a motion to amend this to be 2016.

[4:15:09 PM]

Seconded by Ms. Kitchen. Is there any discussion on that?

>> Pool: Procedure question.

>> Mayor Adler: Yes.

>> Pool: So we vote on 2016.

>> Mayor Adler: Right.

>> Pool: And then that changes mayor pro tem's original amendment.

>> Mayor Adler: That's correct.

>> Pool: So 2015 becomes 2016.

>> Mayor Adler: 2015 becomes 2016.

>> Pool: And we don't ever vote on 2015.

>> Mayor Adler: We don't ever vote on 2015.

>> Pool: I'd like to say I prefer 2015. It seems that the --

[ applause ] It seems like the sense of the dais is for 2016. I want to ban it so I'd prefer 2015. If it's got to be 2016 at least we will be sending that message now and making the statement.

>> Mayor Adler: Okay.

>> Pool: But I would prefer 2015.

>> Mayor Adler: Any further discussion on the amendment to the amendment to 2016? October of 2016?

>> Tovo: Actually, I'm sorry, mayor, I think I need to ask a clarification question as well, following up on councilmember pool's. If 2016 were to fail, are we going back to councilmember -- I'm not terribly familiar with amendments to amendments. Are we then going to vote on councilmember Zimmerman's amendment? Or are we going back to the original motion?

>> Mayor Adler: It actually requires two votes. So we're voting to change Mr. Zimmerman's amendment to be 2016 as opposed to 2018. Once we decide whether or not to change Mr. Zimmerman's amendment we'll vote on Mr. Zimmerman's amendment either as changed or unchanged.

>> Tovo: All right.

>> Mayor Adler: The vote is to change Mr. Zimmerman's amendment to go from 2018 to 2016. Those in favor please raise your hand. Those opposed please raise your hand. We have two no votes. So now Mr. Zimmerman's amendment has been amended, it's now 2016. Now we're voting on the amendment to change the date from 2015 to 2016.

[4:17:11 PM]

Is there any discussion on that? Those in favor of making -- October 1 of that year. Did you -- anybody want to discuss that before we take that vote?

>> Garza: We're voting on.

>> Mayor Adler: Changing from September 1, 2015, changing to September 1, 2016.

>> Pool: Mayor.

>> Mayor Adler: October 1, 2016.

>> Pool: Mayor, if this motion fails then we are back to the mayor pro tem's original?

>> Mayor Adler: That is correct.

>> Pool: The question I was trying to get to.

>> Mayor Adler: That is correct.

>> Pool: Thank you.

>> Garza: I do have some comments. I understand maybe if there's -- because we changed the language to person so there's concern about any other events besides the circus. So then I would say we would change the date to December of 2015 to get us through there. But if the main concern is the commitments of UT with the circus, or contract, we're not saying that the circus can't come. We're just saying you can't use bullhooks on elephants.

[ Applause ] And maybe this is a law question. I didn't practice contract lashings but -- law, but I would assume they wouldn't face a possible breach of contract if there's an ordinance in place that doesn't allow them to fulfill that contract. I don't know if that's the case or not. Anyway, I'm for -- I think we should put this ban in place. It doesn't stop elephants from coming. It just stops the practice of the bullhook and other tortuous devices.

>> Mayor Adler: Any further discussion? Those in favor of the amendment to change the date to October 1, 2016, please raise your hands. Those opposed? It is 7-4, those -- mayor pro tem, pool, Garza, and Casar, I think. We are now to the main motion as amended to be broader, to include not just circuses, but persons.

[4:19:14 PM]

Is there any further discussion on the main motion as amended? Mr. Casar.

>> Casar: Just brief comments because I've been pretty quiet throughout the debate. I just want to recognize the advocates for your hard work on this issue. I think it's part of the spirit of the city and part of why I love this town, that people are willing to be so passionate about something greater than themselves. So thank you for that, first of all. But secondly, I do want to urge you, with my heart and with lots of care, to take very seriously the comments brought up by my colleague, councilmember Houston, and that I second them and urge you to do your organizing in communities that, you know -- that may have a difficult time going to San Antonio and to be able to speak your message through all sorts of different demographics and different geographic parts of town. I'm sure many of you are working on trying to do that but she is feeling those concerns. I think that it is good for that sort of organizing work to spread your message to all different kinds of town and all different sorts of people. I don't mean to be approach preachy. It's an important achieve I feel message. I am supportive but I want to mention that for all the future work I'm sure you'll bring to this council protecting the welfare of our animals. Thank you.

[ Applause ]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Turks Mr. Mayor. Was there an amendment -- thank you, Mr. Mayor. Was there an amendment from councilmember Houston? You're going to get to it, okay.



>> Mayor Adler: We are now on the main motion as amended by Ms. Kitchen. Any further amendments to this? Ms. Houston.

>> Houston: On Tuesday -- well, first of all, I want to -- first of all,, I want to thank everybody for being here, especially our youngest advocate. Did you a great job. That's what this community needs, for you to get involved and speak your mind to the council because we were all paying attention.

[4:21:18 PM]

Thank you so much. The other thing that I want to do is say that on Tuesday, I had a -- an amendment that talked about aspirational, that this is a city of compassion and a city that doesn't look for or condone any kind of inhumane treatment to our animals. And so when I floated that by legal, they said because of the legal penalties associated with mayor pro tem's original resolution, it had to be proscriptive, could not be aspirational. And so I wanted to talk about, rather than pointing out the negative things that were in section C, I wanted to be able to talk about the things that we do allow and how those kinds of values and how we treat our animals are part of who we are as a community. And some of those are in the state law as well. But I can't do that. So I move to strike subsection C under the treatment of elements -- I guess we're going to change that heading by a person. I want to strike subsection C and reletter subsection 327 so that it now becomes C instead of D. And I've passed that out to everyone so that they can look at that. And the reason I want to do that is not only because of the negative implications, but none of that has happened in this city. There have been no instances of any of those things delineated in subsection C in Austin, Texas. Some of those things may have happened, as we saw on the video in other parts of the country, but as someone said, we should make our own city policies. We should not make policies based upon something that happened in some other city. So this would make it so that a person may not banish, exhibit, display a bullhook in the presence of an elephant.

[4:23:20 PM]

Period. And then the other section is, this section applies at all times regardless of whether the person is being used in the exhibition by a person. I don't know how you change circus to person in all those things, but that's my amendment, and --

>> Mayor Adler: Okay. It's been seconded by Mr. Zimmerman. We're now discussing Ms. Houston's motion to delete subsection C. My understanding of the earlier amendment is whenever it said "Circus" it was being replaced with "Person." Now discussion on Ms. Houston's amendment to strike this section C. Any discussion on this? Ms. Gallo.

>> Gallo: I'm going to support this, but only because I already heard that all of these items are already currently covered under state code. You know, I think periods important as a city because as we get ordinances that are more and more complicated for people to figure out where to look for what our current code and legislation is I think it makes it more difficult to enforce. We're seeing that on lots of levels, lots of different policy areas. I would imagine that we have ordinances within the city for animal cruelty, and I would suggest that before this committee, health and human services, that possibly that we want to look at how those address items that are perhaps not already addressed at the state or federal level. So rather than duplicate something we already have, I would make the recommendation that we do a really thorough vetting is of our current animal cruelty ordinances and codes within the city and that we encompass all animals with that, not just elephants. Because I think all of the things that are addressed with this section are things that we wouldn't want to have happen to any animal, not just elephants. So I would like us to be more inclusive of all of the animals that we care about in this community, not just the elephants.

[4:25:22 PM]

And because of the duplication, it sounds like we already have, I will support strike this from the ordinance.

>> Mayor Adler: Ms. Pool.

>> Pool: Thank you, Mr. Mayor. I will not support this excision of the specific activities that are -- we are banning. I recognize that it may be in state law but it makes it difficult for people doing legal research and research to support our ordinances when you have to flip from one town to another. Having spent some time working as a staff rep at the legislature, it's -- I know a little bit about trying to craft policy through legislation. And it's much simpler if you actually in fact have it all in front of so you that all of the provisions that the city stands for and supports is right -- it's right there in front of you so I will not support this amendment.

>> Mayor Adler: Ms. Tovo.

>> Tovo: So I guess I'll frame my comments in the form of a question. In looking at -- I think that we're both looking at 42.092, cruelty to nonlive stock animals, is that correct, councilmember Houston? I see a passage about necessary food, care, and shelter in item 42.097.

>> Houston: Then torture is eight.

>> Tovo: And torture, but I don't see a discussion of depriving the elephant of rest, I don't see a discussion -- and I may be missing it. I don't see a discussion of c2, electricity, of c3, punishing the elephant in a way that results in damage, scarring, breaking the skin, 4, the inunderstanding of an instrument in an elephant's bodily orifice, or use of a baseball bat, ax, pitch fork, similar tool. We heard some of our folks who came down to testify today expressed concern that the bullhook not be replaced with other instruments that would basically serve the same purpose as a bullhook in terms of being instruments of pain and being used in training.

[4:27:40 PM]

So I can't at this point support removing of that. I think it's important that we express that these are -- these are our -- are some specific examples of what the state statute covers in terms of torture. I'm not sure that everyone would agree on some of these specific examples, and that's why I think it's so important to codify it so that there is no -- the vaguery of -- the vagueness of torture is articulated in some fashion in our local code. Again, so that we're guarding against the bullhook being replaced by other instruments of pain.

>> Houston: Mayor pro tem --

[ applause ] All of those things that you -- all of the things that you read off are torture to me, as an animal welfare activist, all of the things about electricity, that's torture. It continues, tortures an animal in a cruel manner or causes bodily injury to an animal, kills. I mean, it's fail to provide reasonable food, water, care, shelter for an animal. All of those things are in here, and everything that you name is torture in my animal welfare mind. So I'm not sure how we could be -- why torture would be something less than those kinds of things.

>> Mayor Adler: For me, what I'm going to do is I'm going to support the amendment to strike this language from this ordinance in part because I don't want these kinds of things to be limited just to elephants. And I -- if this does not pass and get included in this, I will refer to the committee the request that we take a look at enacting a city cruelty to animal ordinance generally so that we can more broadly protect the animals in our city. In part because, again, from a procedural standpoint, I'm uncomfortable with us making policy decisions like this from the dais. I think we should take advantage of the committee system that we have to be able to further those things.

[4:29:42 PM]

Further discussion on Ms. Houston's amendment? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'm also going to be voting to strike this language, as I alluded to before. It really seems to me, critics of our city could use this in kind of a perverse way. To me, this is a false accusation made against our city, that -- that Austin could be such a dangerous place for an elephant that new laws need to be passed to protect elephants. To me, to me this is a false accusation. We don't have this problem here. There's been no testimony that any animal has ever been tortured or abused in this way and this community would not tolerate any of these behaviors and they could be successfully prosecuted under our existing laws. I just can't -- laws. I just can't path Tom why this was brought up. It seems to create a false accusation and then provides a remedy for a false accusation. I really would encourage my colleagues to strike this down.

>> Any further debate on Ms. Houston's amendment? Those in favor please raise your hand? One, two, three, four, five, six? Those opposed? It's 6-5 it passes, Tovo, Pool, Kitchen, Garza and Casar voting no. I will refer the matter of animal cruelty ordinance generally to the health and human services committee. Further discussion on this matter as amended? Ms. Tovo?

>> Tovo: I want to echo my thanks to all the animal advocates who have been involved in this issue. It's been in the process for several years, but I'm reminded from looking at my notes that I'm told that the first time someone addressed the Austin city council about this matter was really 1999. And I know I've seen some of those presentations over the years both in my time on council and before individuals who have come down to citizens communications to show videos, to talk to council, really to educate all of us about this issue.

[4:31:58 PM]

I thank you for your advocacy and for your continued involvement in this, including -- I want to echo my thanks to my youngest advocates who are here today for speaking about the many other ways in which we can all learn about and appreciate the wild animals that exist on this planet. So thank you all.

>> Mayor Adler: Ms. Gallo?

>> Gallo: I want to echo that. Thank you all for spending a lot of your time today being with us. Anyone that knows me knows that I love animals and take care of them as best I can. I want to echo also the appreciation for probably the youngest member of the audience in coming here and speaking to us. If you're looking for an internship next summer, if your mom will let you take the car and drive over here, we would love to see you in our office. Thank you for being involved and thank you for being here.

>> Mayor Adler: Apparently a constituent of district 10 with you trying to co-opt here. Thank you very much. You did a great job and I'm proud to be part of a council that is taking this action. Ms. Pool?

>> Pool: I want to convey my thanks to everyone for staying today as well. It's a highly emotional issue that we just spent two or three issues on, difficult issues. The video was really difficult to watch. And I thank everyone for taking the time to put all of the presentations together. I also appreciate meeting with Mr. Brown from felt entertainment and the good work that you all are doing to explain the work that you're doing and how you do care for these animals and that you do have their welfare top of mind. And I just thank you all so much. And hopefully we'll be able to craft a good larger policy document that deals with overarching cruelty to animals for this community because I do think that expresses well our community values. Thank you.

[4:34:01 PM]

>> Mayor Adler: No further debate we'll take a vote on the motion. This is a vote on Ms. Tovo's motion as amended. This is item number 52 as amended by -- 51 as amended by kitchen and by Houston.

>> Zimmerman: Sorry. Before we take a final vote, I just want to say district 6 does have the highest population of Asians, and I'm going to -- I appreciate my colleagues greatly moving the resolution and of course all the time people took on this. I'm still going to be voting against this resolution. The language was changed to persons and I think as it's going to be passed here it's going to affect my Asian constituents in district 6. And as councilmember Houston pointed out, I really appreciate her comments. If you enjoy the privilege of wealth, wealth is not a bad thing. If you earn it honestly it's a great thing. There's a privilege of wealth that you could send your kids to Africa on a private mission to be able to go and see the elephants in their natural habitat. So you always have that privilege. If you're wealthy enough to send your kids to Africa to see the elephants, but if you don't have the wealth to do it, I'm afraid this ordinance is going to take away the opportunity that kids have enjoyed for a century to be able to see these magnificent animals up close and personal. So I'm still going to be voting against the ordinance. But I want to say thank you to our colleagues and to everyone for making the ordinance the best we could.

>> Mayor Adler: We're now on a vote of item 51. Those in favor of 51 as amended please raise your hand? Those opposed? It is 10-1, Mr. Zimmerman voting no. Thank you very much. Thank you for coming down.

[4:36:01 PM]

[Applause]. We're now going to pull up item that relates to the fun, fun, fun fest, which was set for 4:00. We're past 4:00. We have a couple of things that have been set on time certain at this point, housing matter was at 3:00. This is set for 4:00. Ms. Troxclair, did you have a thought.

>> Troxclair: Well, we had a constituent here earlier who spoke about a task force appointment and we told him to come back at 4:00.

>> Mayor Adler: That's right.

>> Troxclair: That might be better to handle before we get into fun, fun, fun.

>> Ms. Tovo, do you have further information? On item 45 do you have more information?

>> Mayor Adler: All right. Here we are. It's suggested that we have a lot of staff here for items number --

>> Tovo: 69 and 70, mayor. Mayor, I believe it's 69 and 70.

[4:38:01 PM]

>> Mayor Adler: 69 and 70. Do we have anyone speaking on those?

>> Mayor and council, Greg Guernsey, planning and zoning department. Item number 69 is a postponement to August 21st and item number 70 is withdrawn, there's no action required. 69 just a postponement until the 1st.

>> Mayor Adler: Postponed to the 1st and 70?

>> Has been withdrawn. No action required.

>> Mayor Adler: We have one speaker here that has shown up to speak on item number 69. Susana Almanza? Is she here? There's been a motion to postpone item number 69 until when? October 1st. Is there a second? Request to do that made by Ms. Garza, seconded by Ms. Gallo. Any discussion? The staff is asking. He can't make it. Garza makes it, Gallo seconds it. Any discussion? Those in favor of postponing 69, raise your hand. Those opposed? It's unanimous on the dais with three members absent, Zimmerman, Renteria and the mayor pro tem. 70 has been withdrawn. That allows staff to leave for those. We said we would bring up item number 45, which is the membership of the low income consumers. This is -- there was one person on the committee. It was suggested maybe there be a

tradeout. Staff has told us that the last 19 meetings, that person has only been able to make four of them and has not been responsive to the council clerk as the clerk has reached out to her.

[4:40:11 PM]

>> Pool: Mayor, I wanted to mention that habitat for humanity has a different director and it a different person.

>> Mayor Adler: I think there was a motion to substitute this person out for a specific other person S that what it was?

>> Zimmerman: That was what it was. Mr. Wong.

>> Mayor Adler: Is there a motion to amend this by substituting out Mr. Wong for that other person made by Ms. Pool? Seconded by Mr. Zimmerman? Any conversation or discussion? Those in favor --

>> Casar: Mr. Mayor, although that sounds like a simple change, I did have a chance to talk to the low income task force members in this intervening period of time since they'll just be writing a report and in the report they'll be asking for us to make nominations for a longer term or geographically equitable and lots more points of view task force. I don't want to medal with that so -- meddle with that. I'm fine with just the report being written by existing members. I would be in favor of the recommendation to form a new task force and we all appoint a new person. Because I understand that we don't want lots of folks feeling like they have to jump up or get people up to speed. Thank you all for raising your hands temporarily because I know I pushed for it, but I'm just fine keeping it the way it is. And that's what I think I heard from the mayor pro tem.

>> Mayor Adler: I appreciate that. This motion on the floor right now is made by pool, seconded by Zimmerman. I'm probably going to be inclined to vote just because of what we've learned in the interim in terms of --

>> Casar: What if we just added Mr. Wong's name, but did not necessarily delete Ms. Weis?

>> Zimmerman: You can vote against the motion.

>> Casar: I'm not going to vote against my own [indiscernible].

>> Mayor Adler: Okay, the motion to substitute out Mr. Wong for the other person. No debate, those in favor raise your hand? Those opposed?

[4:42:21 PM]

The motion was to substitute out the woman I don't remember her name, Kelly wees, to drop we willy Weis and to put Mr. Wong in his place.

>> Houston: I'm sorry, I was confused.

>> Mayor Adler: This one is confusing. It's unanimous on the dais. Everyone is voting yes. So Mr. Wong is now replacing that other commissioner. That takes care of item number 45. We now have a called item, which is the fun, fun, fun fest. Item, which we were trying to set for 4:00.

>> Casar: Mr. Mayor, do we have to pass 45 or is this the amendment?

>> That was the amendment. All now in favor? Those in favor of adopting favor as amending please raise your hand? Those opposed? It's unanimous on the dais. With Ms. Pool off. Good catch. We are now considering the fun, fun, fun fest, which is number what?

>> Casar: Mr. Mayor, I have several amendments.

>> Mayor Adler: On this. So 55 is some in front of us. This is the fun, fun, fun fest. My understanding is that there's been some additional work that's been done in the work that's been done in the meantime. Mr. Casar moves 55. Is there a second to 55? Ms. Garza? Mr. Casar?

>> Casar: I think legal has those amendments that should be passed out here momentarily, but it will be

pretty simple for me to explain them. Let me frame them and then explain the amendments. The issue is that the fun, fun, fun fest is a locally run festival with a lot of local artists who get exposure on the same stage as national acts and that makes it in my view an important event at a time when it's not getting very much easier to be a musician in Austin, but the festival has been bumped around several times so it's needed extra council attention in recent years getting bumped from Waterloo and then the struggles with the great renovations of the park formerly known as auditorium shores.

[4:44:39 PM]

As if that's not complicated enough, at the same weekend this year that the festival is planned for, we have the opera and then the very important charity sale for the settlement home. And so balancing the needs of all those events, plus joggers and dog lovers, has not been a simple task and I appreciate the stakeholders and our staff for -- city staff for working on that. The compromise resolution before you, I'm proposing some amendments to fit more of the needs of even more of the parties. It makes it clear for just this one transition year as the renovations get finished as we speak, a maximum of one acre of the dog park is allowed to be used. And staff can negotiate use of up to maximum of one acre of the three and a half acre dog park. Also, we've included provisions to keep the roundabout open across from the park that is critical for the traffic flow for the opera and traffic -- and the settlement home sale. We need to keep that roundabout open and safe as staff works that out. I've also included a provision for a review of how the departments coordinate events in the future. I heard during work session of course many frustrations from awful you and from the -- from all of you and from the community about how all this works and so we want to initiate a review by the city manager of how those departments coordinate events. I know it's not an easy task, but that should be work that can be-- we can take that stakeholder feedback and that review of how the departments coordinate those events so it can be discussed by the task force and we can hopefully have -- take up the broader issue later of how vic Mathias shores, the long center, palmer, congress avenue bridge, all those events and needs get taken care of at a higher level policy level. But the present resolution is about helping to fix the short-term issues faced by all these events, the trail users and the neighborhood. And I've made sure to add some amendment language that includes nearby neighborhoods as critical stakeholders in the process of thinking how we can deal with this policy moving forward.

[4:46:46 PM]

I hope that legal can pass out those amendments. I believe my staff informed me they had handed those off to legal.

>> Mayor Adler: Haven't seen them yet.

>> While we're waiting for them to come out to speak, I have a quick question for bob. Is he here?

Would you come down for just a second? Only because it might frame the discussion that folks have.

One, the work with music is very important to the community, so I'm happy if this passes, if this allows the event to go forward.

>> Thank you.

>> Mayor Adler: I also appreciate the accommodation that everybody is trying to make here to work it out, recognizing that we have too many people in too small a space and too many events. My understanding is that recently you've been able to take a look at this and by moving the fences around it looks like you only need about a half acre of additional land, is that right?

>> Yes, sir, that's correct.

>> Mayor Adler: And you're going to pull up the fence on the waterfront area so that that is generally open, is that correct?

>> Yes, sir.

>> Mayor Adler: And then with respect to the use of the opera and Riverside drive, you were able to find a traffic plan that enables Riverside drive to be open between 4:00 and 11:00 P.M., is that right?

>> Yes, sir. We went back and took a look at our stuff. From our perspective, keeping the footprint inside auditorium shores, allows us to keep the stage back and manage crowd safety. What we want to do is understanding that the opera needs a particular block of team thyme to keep that road up for their patrons, we would like to close that before and after so we can make sure that we have our heavy machinery that moves back and forth from a parking lot on the other side of the street in a dedicated lane. So this wouldn't be festival attendees that are in the traffic lane, it would actually just be almost like a safety closure to make sure that we can get heavy machinery and trash, that sort of thing, out of the festival and into where it's supposed to go.

[4:49:01 PM]

>> Mayor Adler: Are the folks coming to east palmer to use the performance hall, we'll be able to use that roadway to be able to access from Lamar and Riverside between that -- their important times between 4:00 and 11:00?

>> Right. We've asked for city staff to help us a little bit. I think there's going to be some considerations that we're going to need to talk at length about with respect to how we, you know, mitigate getting people across the street when the street is open, but I think those things aren't challenges that we can't overcome.

>> Mayor Adler: Sounds good. Thank you. Further questions? Yes. And then we're going to ask some questions to help frame this and we'll go to the public speakers and bring it back to the dais.

>> Kitchen: By question is related to the parkland events task force. I want to check again with the staff if you know or someone else knows when that committee is -- when that task force is scheduled to have its first meeting? I think that might be helpful for the public to understand.

>> Afternoon, councilmember, Jason mower, the first meeting will be August 25th. Thank y'all very much. We'll be sending out notification to the entire task force by end of day tomorrow.

>> Mayor Adler: Thank you. Ms. Gallo? Sir, excuse me, sir?

>> Gallo: Thank you for being here to answer questions. I'm trying to understand why all of a sudden -- why we are faced with this where we have three events, two of which have been at that location for decades? And now we have a third event that's producing over 20,000 people a day that's -- the impact of all those people in this condensed space a little difficult. It's my understanding that fun, fun, fun fest used to be at Waterloo.

>> That's correct.

>> Gallo: And I guess they were moved when all the construction was taking place there and temporarily moved to auditorium shores. And I'm sorry, I will probably call it auditorium shores forever. They were moved there temporarily until the construction was complete.

[4:51:04 PM]

So has the construction been completed in Waterloo?

>> It has not. The intake structure, as I understand it, is still under construction on the north end up at Waterloo park.

>> Gallo: And how long will it be before that's complete?

>> I would I will have to follow up and get you that timeline from watershed protection.

>> Thank you.

>> Pool: I will have some questions for -- I don't know, Jason, if it would be you or transportation to

speaking to the issue of the transportation plan that is being offered by --

>> We do have some representatives here, councilmember. Hey, Rob. If you could just walk us through the plan that has been committed by transition events and -- transmission events and let us know your opinion on whether it's sufficient?

>> Well, councilmember, Robert Spillar, transportation department. I have to apologize in advance. We got their first plan I believe yesterday and an update today at 1:00. I can't comment on that.

Authoritatively. I can tell you in the past we have been able to serve the three events with the traffic circle open. I can tell you that in fact they have asked for lane closure so that they can move equipment back and forth between what I think they call their bone yard, which is where they keep their heavy equipment, and the main stages. Whether that is really needed for safety or efficiency, I can't tell you right now. I think that there's still a variety of back and forth discussions that need to happen before we come up with a solid transportation plan that we can approve per the normal process. The other thing that we have found useful in the past is managing the intersection at Riverside and South First. And I believe we've asked them to supply extra staff to assist in managing that intersection. Specifically when you get the initial crush of the crowds entering the event.

[4:53:07 PM]

I will tell you that in the past when this has happened it is unfortunate that all three happen at the same time. We call that the perfect storm here at Auditorium Shores. We've been able to successfully manage that situation in the past. It is a process and it is always a dynamic process to manage that, but we've been able to manage it in the past. Certainly it is not our preferred scenario to have all three of those major events at the same time, but I understand those events get scheduled and booked and planned a year in advance and so even before the permitting is able to start, I think that planning on the part of the three different venues starts happening very early in order to get the size acts and quality acts they need.

>> Pool: Can you explain the bone yard please?

>> I think that's a colloquial term for where they keep the machinery and the pieces they need to move in and out of there. That is a parking lot on -- on the southside of Riverside and the stages are on the mouth of Riverside. It's just a convenient place to move in and out that equipment when it's not being used.

>> Pool: Do those big trucks drive on the parkland?

>> I do not know that. You would have to ask the promoter to be specific. I would suspect they use forklifts.

>> That is a good question. Since 2009 when the great lawn was redeveloped we have been able to track and monitor some best practices that we developed with C-3 Presents on how to protect the turf, so we do have a multi-page document which talks about access to parkland and preferred technologies and that comes to our management team and the parks department and we work in cooperation with the festivals on where and how they can get in with the mechanisms to protect the park.

[4:55:08 PM]

>> Pool: Does that plan also take into account the root zone on the heritage trees that are in that area?

>> Yes, it does. We have a process for that as well.

>> Pool: Do you have any -- any thoughts about revisiting of what happened in January with the cyclocross and the trees and the critical root zones on the trees?

>> I don't plan revisiting that because we have a very thorough process in place right now through the forestry team.



>> Pool: And I have a question that goes to the sod that was recently laid for the off-leash area. It hasn't been down for very long. Is that going to be more expensive or has the city lost value because -- with this festival coming in on some -- on the turf that will have to be repaired?

>> We have someone here from our capital planning team that's with that project. I'll ask him to step up and talk about the grow-in time, but the costs for replacement and repair would be the same cost, but he can talk a little by about the grow-in period. I will ask Terri to step up for you.

>> Good afternoon, Marty stump, assistant director, Austin parks and recreation department. The turf grass that will be within the use area that we're talking about here within the off leash area has been down since the spring. We anticipated a need to have a substantial grow-in period even for the off leash use so the sequence of work that we laid out with our contractor was to get that grass down soon in the process and we're finishing up with details on that project now with the fence and those other things. So we're confident that the turf grass has had an ample grow-in period of time.

>> Pool: Does the contract provide assurances for the subsidy that if there's damage that's not anticipated that it's really clear who is responsible for picking up the tab for that so that we don't have legal battles related?

>> Absolutely.

[4:57:08 PM]

I certainly I understand that Jason and his work with the promoter and the contract does provide for inspection post event and if there's damage the event sponsor is responsible for the repair.

>> And it's really clear that that's the case?

>> Absolutely.

>> Pool: I'll have a couple of questions for the events sponsor about the transportation plan, but that's all I have for staff at this time. Thank you.

>> Gallo: While staff is still -- before they've left I've got a question about I'm trying to visualize the bone yard location. Is that in the paved area on the northside of Riverside says to me that that's that yard behind the opera and the palmer events center?

>> No, what the festival will be referring to is the bone yard is the small parking lot along Riverside drive on the south curb line, there's a small parking lot adjacent to butler park so it is not in the long center service yard.

>> Gallo: Thank you. And my second question, I asked at work session one of the huge issues that we had last year with the garage, which the settlement home and maybe the opera pays for also, that actually buys the parking garage spaces for this time period, was that evidently on social media it went out that if somebody said that they were attending the garage sale they could get into the parking garage. And as a result all the parking garage spaces were filled. So at our Tuesday work session I asked that parks and also the event planner present to us a plan for 20,000 people, and granted not all of them will be driving cars and hopefully they'll be car pooling and taking transit and walking and biking, but I do know that that will add a lot of cars into the area. So do we have that plan that's been presented for shuttles and remote parking for the fun fest event?

>> I do not have it here, but I will check and get back with you. That is typically a process that we make sure that those shuttle routes are set up and adequate.

[4:59:15 PM]

The parking is something that we manage by time of day. As you heard the opera is in the evening and we presell the spaces for that event separate from the other events. So this is a recurring challenge at this location because with these two venues so close together, plus the park, we have in the past been

able to balance that. So that's what I can tell you at this point, but I'll be happy to get with you on the shuttle review.

>> Pool: So whatever it was for shuttles and remote parking and social media notification, which I know this event can do really well, of the attendees for letting them know that the garage is not available, will we make sure their plan is put into place? That is, that exceeds what was expected last year? Because what happened last year did not work.

>> Yes, ma'am. You know, and councilmember, occasionally things like social media pop up that you don't expect things to happen and when that occurs, we always do an after action and try to learn each year from that. But yes, we will put into plan an action to address those issues that you've referred to from last year.

>> Gallo: And how quickly would you expect to get that back to us?

>> I will get back to you hopefully tomorrow as to what level has been done thus far and what our initial ideas are for responding to that issue?

>> Gallo: And if the two other events who were impacted dramatically by their parking spots being taken that they had paid for to basically reserve for their events last year, is there ever discussion of refunding or rebating or discounting the fees that they paid for that parking? What they paid for the city did not deliver.

>> Right. So those garages are operated by the convention center and I'm a happy to talk to them about that, but I cannot answer.

>> Gallo: I think that would be really appropriate based on what happened last year.

[5:01:16 PM]

Thank you. And I look forward to a resolution. I know fun, fun, fun fest will work with us and help with the great social media opportunities to really make sure that this doesn't happen again this year.

>> Mayor Adler: Okay. We'll go to public discussion at this point. The first speaker we have is David king. We have 45 minutes' worth of speakers on this, so anybody who wants to give time back to the council would be appreciated. We have one speaker against in this group.

>> Thank you mayor and councilmembers. My name is David king. I live in the zilker neighborhood and my neighborhood is affected by this event in terms of traffic and noise from the event. And also some of my neighbors have dogs and they rely on using the dog park there at auditorium shores. And so this is important to us. So I hope that as we look at this resolution that we'll consider nearby neighborhoods to not just be those that are across the street, but those that do have a direct impact as well from those types of impacts and not limit the scope of the neighborhoods that are allowed to participate in this process. So -- and I do think it's important that we coordinate the schedules of the different entities that use that area, long center, palmer events center, and the events on auditorium shores. I think there needs to be a clear and consistent policy on when the dog park is going to be used for other purposes than for dogs and off leash use. We have a gray area. We have a difference of opinion. Previous council intended this, maybe not, who knows? I think we need to have a clear and concise policy that's consistently enforced on that. And I am a member of the parkland special events task force and I look forward to trying to resolve some of the issues here and bring this back to you for your consideration. I really appreciate the opportunity as well.

[5:03:17 PM]

I think we need to establish a maximum capacity of what that area can hold. And make that clear to everybody. And then music is an important value, obviously. That's one of the reasons I moved here to Austin. I love this city, it's the music. I love music. I was in a band in high school. I've been a deejay. I

really love music. And really the music that is played at fun, fun, fun fest. I really love it. So I'm not against the event there. I just want to make sure that our policies on how we use our parkland are really based in our community values, and that -- these events are important, but they're profit-making events and so when we look at that, and I think it's important that we talk about the community values for these for-profit events that are on our parkland. And in terms of yes, fun, fun, fun fest pays their fees, and they do make some donations and of course they contribute to our music community here, of course, but I think that all for-profit events should have a statement of community values. They should include information about how much they've actually donated to the non-profits that they claim that they support. And I'm not saying that they don't support non-profits. I'm just saying that we need to have real data to look at so we can see what is that effect. And the -- the questions about the trees earlier and the protection of our parkland, I think that's a priority. We've seen where that has not happened with the cyclocross. And I want to make a point about the trees planted there. I think if they've already been planted there they should remain there. It is parkland and it provides shade for different events. I would be very worried that we would move those trees that were just planted there. And then one last point about Waterloo park.

>> Mayor Adler: Real fast.

>> They were moved to auditorium shores temporarily, but I wonder if Waterloo park is going to be large enough now since they've grown.

[5:05:21 PM]

So I think that question needs to be looked at if they're going to be relocated back, where are those other areas that they could be relocated to. Thank you.

>> Mayor Adler: Thank you very much. Next speaker is Jennifer Houlihan. You have up to six minutes, but you don't need to use it all.

>> My name is Jennifer Huleman, I'm executive director of Austin music people. We are the advocacy group for the Austin music industry. Community values were just mentioned. We're here to talk about a very basic issue. The issues that have come up, trees, parking plan, maximum capacity for events, how on Earth multiple massive events got scheduled on the same weekend in a limited physical space, some of those are very important conversations to have and they will be had I'm confident by the parkland events task force. The issue here today is a basic one. It's not about a slippery slope of multiple events moving into a small part of a small part of the park. It is not about adding extra days. Fun, fun has not asked for extra days. It's about keeping a promise that was made and it is about doing things right. The promise was made to fun, fun, fun fest that a movable fence be used so they could operate their business. That promise has already been broken. Breaking that promise to fun, fun, fun fest impacts 300 jobs for a company that, as was stated, has no fee waivers. It requires them to move and for them to move part of their project does not just impact them. It can impact the opera, it can impact the settlement homes. These are worthy non-profit organizations in our community that deserve just as much of a seat at the table for these conversations. These conversations should not be happening without them. Doing things right means having staff engaging all stakeholders before making decisions like this, whether it's closing a pool or whether it's moving part of a festival.

[5:07:28 PM]

It means implementing projects as directed by city council. And for those who say who knows what the previous council wants, you know what the previous council wanted I know there are transcripts. You've gotten two letters from previous councils. Claire figure what their intentions were with this process. We know that not all of our constituents could be here today. Many of them you know from the music

census work two or three jobs. They live in the suburbs. They can't get in their cars and take off time in the middle of the day to join us here. But if they were here they would say the same thing to you that they are saying in I believe you have now reached 1,034 emails in each of our mailboxes. So there's about 11,000 emails have hit city hall on this issue. And what they say is it's time for city hall to keep its promise and to do what's right. This organization raise operated in good faith and we hope you will do the same. Thank you.

>> Mayor Adler: Thank you.

[Applause]. Bobby Garza. Katherine mohine is next after Mr. Garza.

>> I don't have anything to say, I would just happy questions and if I can answer anything specifically, I'm happy to do that now.

>> Mayor Adler: Any questions questions for Mr. Garza?

>> As you can tell, the parking situation last year was really a problem and I know you're working with transportation or parks to come to a better resolution than what happened last year. Can you share what you're thinking or planning at this point? I know it's not formalized, but I think it would help make people that are listening that have been concerned with it a little more comfortable.

>> Yes, ma'am. We try to use as many means at our disposal to encourage people to use alternative transportation. We put cap metro's trip planner to our website and say if you want to take the bus, do that.

[5:09:33 PM]

We'll also have one of the largest bike valets the city has ever seen working with a local non-profit where you drop your bike off and you don't have to worry about parking it. We also encourage people to not take the hike and bike trail and walk from other places. We send people maps of everything downtown, all of the public parking. We have a shuttle service that runs from the eastside. We're paying for parking at our own expense for all of our staff and artists both at a hotel and off site parking location. We're doing a bunch of different things from closing off the neighborhood and Bouldin and we pay for that there. And I'm happy to sit down with settlement home and palmer and long center and whomever else wants to be at the table to see if we can figure out what to do. I know one of the suggestions you've had is if we monitor social media and think about that stuff. We've got people that do that and we can look at that stuff as well. We generally try to in the email we sent you today we sent you screen grabs of what we've done previously. It's to encourage people to do stuff other than come down and drive. In big bold letters it says don't park in the neighborhoods and don't park in the parking garages.

>> I appreciate that. But obviously there are people that will bring their cars because those people who brought the cars are the problem last year. You said you have a shuttle that runs from east? Where is that?

>> It's historically been at 501 studios, east fifth or sixth and brushy. And we have a shuttle that carries 50 people at a time. It runs the entirety of our festival.

>> Are you considering adding additional shuttles in other parts of town to handle traffic perhaps coming from the west?

>> We can definitely look at that. It gets a little cost prohibitive for us, but that's something I'm happy to look at.

>> Thank you.

>> Mayor Adler: Ms. Pool?

>> Pool: I was going to ask more questions about the parking too, and I think councilmember Gallo has gotten there for me. I would like to see the final plan for parking and transportation. I would like to see evidence that you are definitely moving your folks to using alternative modes of transportation.

[5:11:38 PM]

I think folks coming to fun, fun, fun fest may be physically more capable of doing that than the folks who will be shopping at settlement club and they also -- the garage sale. And also they will be carrying packages too and it's important that they have access to the parking lot. And that is also a promise that the city has given to folks with the settlement home is that they paid for the spaces in the parking garage. So I think in the larger picture and the larger scheme of things, I think we're all hopeful that the collision, perfect storm that Mr. Spillar described does not happen this year, but we'll be watching very carefully.

>> I don't want anybody to understand that we have never messaged anybody that parking is available over there or anywhere south of where our location is. That's something we're pretty proactive about and we'll keep doing that and making sure that our message is pretty clear. Park north of the river, take alternative transportation. We've got a huge really cool project with bike valet stuff that we're working on and I think it will be cool. As much as we can do we're going to do it. And if there's other stuff that we can help solve, we're happy to.

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

>> I wanted to verify that you're not proposing to use any part of butler park?

>> No, ma'am.

>> Tovo: Thank you. That's no longer in consideration at all?

>> No.

>> Tovo: Thank you.

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

>> Hello. I'm Katherine from Bouldin creek neighborhood association. I wanted to first thank mayor pro tem tovo and councilmember Casar for working with us. We registered as neutral in our position. We're not happy about losing some of the dog park, but we understand what's been going on with the problems with flex space.

[5:13:44 PM]

I want to just say that for us it's not so much about a promise made or broken, it's also about balance of this park. It's a public space and so yes, we want fun fun to succeed and to be able to do business in this park, but it's a park. There are stakeholders. I'm happy to work with you. Our whole neighborhood wants for this to work out, but we don't want to have this happen again next year. So we're focused on the future. Actually, we're already anxious that the parkland people have not yet met because we think it's already late to be planning for 2016. So with that in mind it's not too late to figure out whether it's all scheduled on the same day. It's not early. It needs to be done now so we don't have the same thing happen. And what we need to have happen is a clear set is of rules, a structure, so that fun fun and transmission events don't have to come to you and we don't have to spend time on work groups and council to go over this. That we can have it happen at pard. It should happen the way the city should function. Here's the rules, here's the capacity and we determine the capacity by the number of people who can fit, how the infrastructure fits in, how parking and transportation works, along with already scheduled activities such as the opera. Let's go that way. And then the neighborhoods can still be a stakeholder. By the way, I'm very thankful that we're at it as stakeholders. We are stakeholders. We live here. This is the park that all of us use all the time. We're looking forward to the work of the parkland and special events task force, and we remain neutral on this because, as I said, not happy about losing more. We don't like this last minute kind of changeover, but we are cognizant of the problems that have been encountered with them.

[5:15:46 PM]

The redesign of the flex space. So thank you.

>> Mayor Adler:.. Anything else?

>> Casar: I just wanted to thank you for your graciousness and understanding through this process. I know that sometimes it can be scary that something might be a slippery slope, but I assure you that in this transition year I was sympathetic and got my head stuck in trying to sort it all out and thank you for listening and working with me on this. My sentiments are the same that I think this council needs to be tackling some really big issues and this was just something that we need to sort out through, sort of the transition that council costs, which is a great thing, renovating the park, but there were some hiccups. Thank you. And I look forward to you and your neighborhood's work as a stakeholder.

>> And if I could say one last thing, we're anxious about what happens if fun fun -- we think they're a victim of their own success. They have grown so much. What are we going to do if that happens? Or one of the other events? I hope that it's something that this new task force will address.

>> Casar: I agree.

>> Mayor Adler: I want to thank you too. And with respect to what Mr. King said, you know, in so many ways the question before us is an operational question, not a policy question. And we'll be a lot more productive as a council and do more significant things for the community the more we can spend our time on those larger policy issues. So I share also the hope and expectation that the policy group dealing with this will come back with direction for the city. That that balances everybody's needs. But given the fact that we were dealing operationally here as a council in this one time, I also appreciate the participation in that process. Thank you. Next speaker that we have is John Nash.

[5:17:46 PM]

And then Betsy Giles.

>> Thank you, Mr. Mayor. I'll keep my comments as short as I can. And any time that I've got remaining I'm happy to entertain questions. I'm the president of the board of trustees for the opera. I'll tell you that first and foremost we have been participating in the planning meetings this year. We participated in the planning meetings last year. The working group of stakeholders has done a lot of great work, and I think it's worth saying that there's a tremendous amount of goodwill that we have for everybody that's involved. Fun, fun, fun fest, settlement home, Austin police, the parks department, transportation, everybody is working very hard to make this happen. Mr. Mayor, you said this is more of an operational question than a policy question, in many ways I think that's absolutely right. It would be our hope that this gets out of this room in future years. I'll tell you that the opera is presenting during the night of fun, fun, fun fest. I'll tell you during the term of fun, fun, fun fest this year we'll have over a thousand children seeing the opera in the long center for free. We'll have 150 to 200 local artists and artisans employed in the production of the opera. This is something that's important to the community and we think everyone knows that, but we certainly don't mind saying that to the council. I'll also tell you that we have a three-year planning cycle with the long center so the timing of our events is known far, far in advance of any of the issues that are being brought to you today. And I think it's fair to say that this could be entirely avoided from our perspective. Having said that, what we need are three simple things. One, we need Riverside to be open from Lamar to first during our Saturday evening performance.

[5:19:48 PM]

That is provided for in the amendment that Mr. Casar has brought. We think that's sufficient for our needs. Two, we need sound bleed from the festival to be minimized to the point that we're certain that

there's no sound from the festival in the long center during the performance. That is something that's very critical to us. And it's important that the stages for the festival be moved as far west as possible from our perspective so that that can be assured. Not having the dog park available, the one acre or half acre, whatever it is, will, we understand from the folks at fun, fun, fun fest, force them to move their stages further east, making the sound impact on the long center and our performance much more likely. So for that reason we think this is an important topic. The solution of opening up this portion of the dog park is the only solution that we've heard that the constituents agree will solve that problem for us. Buzz. Finally, parking, which has been addressed in great detail already, we think it's very important that all of our patrons have access to the parking garage in an unfettered way, and that's the really critical last issue for us.

>> Mayor Adler: Great. Thank you. Any questions? Thank you. Next speaker is Betsy Giles. And Marilyn Wilson is on deck.

>> Good afternoon mayor Adler, mayor pro tem tovo and honorable councilmembers. My name is Betsy Giles and I'm president of the settlement club. Thanks for giving me the opportunity today to talk to you about the settlement home for children. And I'm going to briefly summarize what I think you already have a handout from us.

[5:21:50 PM]

And then touch on the topics that are important to us in this discussion. The home, which is located on Peyton gin road across from Lanier high school, in north Austin, will celebrate its 100th year anniversary in 2016. What started as a day nursery for children of working parents has grown into a licensed, private, non-profit residential treatment center group home program and transitional living program accommodating more than 50 girls ages seven and older with histories of severe trauma, abuse and neglect. The home also has a foster and adoption program which provides foster and adopted families for girls and boys birth to 18. The settlement club, who I'm representing, is a non-profit tax exempt corporation composed of over 400 members which financially supports the home. One of the major sources of revenue to support the home's functions is the settlement home charity garage and estate sale put on by the club. Our club members work tirelessly January through the first week in October, which is when -- I mean November, which is when the sale is always held. This is the 40th year we have held this event, which raised over \$600,000 net last year. It's by far our largest fund-raiser and at the home, 93 cents of every dollar goes to support our children. As you can see, this event is extremely important to us to help support the home's children. We have three basic issues to mention to you that affect our charity garage and estate sale. First we want to keep all lanes of Riverside drive open, including the roundabout, and east and west access. Secondly, we don't want to have a sound or odor bleed at palmer.

[5:23:53 PM]

And thirdly, we need to ensure that there is adequate parking for our guests from Thursday until Sunday afternoon. I'd like to thank mayor Adler, mayor pro tem tovo, councilmembers Casar and Gallo for working with us to help resolve these issues. We're here to support councilmember Casar's resolution which is attempting to make our simultaneous events move along in an organized fashion. Marilyn Wilson is going to speak after me. She's the development director of the settlement home and she's been working with the staff on a day-to-day basis and she can provide a little more detail as to our positions.

[Buzzer sounds]

>> Tovo: Mayor, I just have a quick question for Ms. Giles. Can you remind us how much the settlement

club raises through its garage sale?

>> Well, last year we grossed I believe over 850,000 and netted over 600.

>> Tovo: Thank you. It's really tremendous. And the first time I heard those Numbers I was really staggered. I don't think most of us think about a weekend garage sale from any organization netting that much. And it's really tremendous. Thank you. That puts in perspective how important it is that you have a successful event.

>> Thank you.

>> Mayor Adler: Ms. Giles, hold on one moment. Ms. Gallo?

>> Gallo: I have a question too. This is a wonderful sale and a good free public advertisement for everyone to come. Hopefully you can find a parking spot.

[Laughter]. One of the issues that came up last year was the difficulty in other people using the parking garage and the settlement club, the garage sale customers not being able to find space. It's my understanding that the settlement club does pay for the privilege of using the garage.

>> That is correct.

>> Gallo: Could you address that and talk about what the agreement is and how much you pay?

>> I will let Marilyn address that. That's in her part of the program, but thank you so much.

>> Mayor Adler: Thank you.

[5:25:58 PM]

>> So.

>> Mayor Adler:, mayor pro tem tovo and honorable councilmembers, thank you very much for having us today. I want to say thank you very much to the city staff who have been working tirelessly on this issue. We've been dealing with it for over five years and not much has changed except it is getting worse. We need a short-term solution, which is why we are here in supports of the efforts that councilmember Casar. I have to say if we had it our way the resolution would address the need for long-term solution for which the multiple events occurring in the same place using the same facilities would have been addressed. I am willing to offer my services to help, volunteer my time, to work on these issues. We too, as John stated, at the opera, share a three-year planning cycle with palmer events center. There are three issues that I would like to specifically address. Riverside does need to remain open. But through Thursday, November 5th, through Sunday the 8th. This is critical for both of our guests and spotsers to have access to -- sponsors to have access to north circle and both sides of the parking garage for traffic to flow. We must have places to park for our paying guests. Last year the numerous complaints that we received calculated -- afterwards we calculated a net loss of over \$50,000. This losses -- if we have another year like that, that directly impacts the lives of our children in which we serve. Two, we cannot have the sound bleed that we had last year or odor bleed. Last year the sound bleed from the sound check alone was annoying and it caused the dishes to rattle and we couldn't hear each other talk. This is during a preview party in a year that we included the upper levels of palmer events center when we expanded our rental expense to include the upper levels, increased our expenses for a preparty to be nicer and yet we couldn't hear each other. Now, during the sale when the concerts were going on the dishes and crystals shook, lamps, during the hallways when we expanded our inventory.

[5:28:00 PM]

B, the diesel fumes from the generators filled the north lobby of palmer and affected those with breathing issues and made some ill with hawks and nausea. Parking issues, the last one. We have over 25,000 shoppers that come annually to this sale. That number is a conservative estimate and has not



been done with a full accuracy for five years. We have over 2,000 attendees that come for the Prue preview party and I would like to state that we need the same arrangement for Thursday night that the opera is getting for Saturday night. We also have our own community outreach program, giving for living, where we donate shopping vouchers to those in need. And last year on Sunday of the garage sale, we donated those shopping slouchers, \$25 each, to 12 -- sorry. 1,250 vouchers went out. They're valued at \$25 each. Each shopper is empowered to go get what they need, and the items go away. For those people who attend our event, they need a place to park. We have a donor who helps underwrite event parking and sends us eight dollars to park, but guess what we need to have spaces for them to park! So please allow our patrons to park. Please help us to help those in need. The annual charity garage and estate sale is produced to raise funds for our children, but we need help to make also be the best it can be.

>> Mayor Adler: You have more time if you want it.

>> Thank you. Has helped to raise -- settlement home is -- sorry. The annual charity garage and estate sale is produced to help raise funds for children entrusted to our care at settlement home. What we have left we share with others in need. Help make -- help us make Austin the best it can be. This is not a new issue. This is the short-term issue of how do we get through this year. The long-term issue is how do we not get into this issue again? For the reasons above we support the resolution that is the best approach to the short-term issue. We thank you very much for your time. I'll be able to answer any questions that you may have.

[5:30:06 PM]

Obviously you have a lot of passion.

>> Mayor Adler: Do you it periods good, given the cause. Is there any questions? Ms. Gallo.

>> Gallo: So if you could answer the question.

>> Sure.

>> Gallo: Betsy, said you would, I think do that, about the parking.

>> Sure.

>> Gallo: I think it's important for people to understand in the community the settlement club actually pays for the parking in the garage to make that available to their customers. Could you talk a little bit about what arrangement is, what the cost is.

>> Absolutely. We have volunteers that stand outside of the parking garage and in order to help meet the needs of the community, we realize that \$8, if you're living in poverty, is a lot of money. You will decide whether or not you're going to be eating a meal that day or if you're going to go to the settlement home for children's charity garage sale and buy items that you need. If that's the case, we want you to please come. So a donor has underwritten the garage sale parking spots, and what we do is they will tally this list and we cross-check it and then we pay for all of it. When it got to our attention that there was a tweet and we realized that three social social media, there's not a lot you can do on that. When you have that, park at Parmer, it's free parking, it negatively impacts what impact we can do to help change lives. The money we use from the sale of that, the -- the year before that we made over \$650,000 net, so for a charity garage sale, that obviously has an inventory that's quite large but it does rely on people coming in and out the door. Last year, the meetings -- to get to the sale on Friday, it was so bad that you couldn't get to and from Parmer to city hall without it taking about an hour and a half. That required an on-site meeting on the street at 10:00 A.M. So knowing that that was an issue, we then knew we had to look at our Numbers. We also knew that we weren't able to get the garage turned over.

[5:32:08 PM]

All of these things came out to where we knew that there were people -- we knew we had to look at the systems and processes. We also knew that there were a lot of other people parking in these spaces. We couldn't fix the system at that time, but we knew that we were going to be underwriting a lot of people going to different things. It's not a sure, safe system, but we do what we can and we're helping people with what we can. That's how we handle it. We're open to suggestions on making it better. This year we have implemented a day ticket with steps of buying in advance that will help solve the problem for Thursday and Friday. Saturday and Sunday we will still have people standing out there giving parking stub tickets. I hope that answers the questions.

>> Mayor Adler: Great, thank you. Thank you very much. Mr. Casar.

>> Casar: Thank you again so much for working with me. Two of the concerns you mention I had wanted to bring up with Mr. Garza to confirm some conversations I've had.

>> Thank you.

>> Casar: Sorry to drag you up a second time.

>> Mayor Adler: Third time.

>> Casar: Third time.

>> Third time is the charm.

>> Casar: Ms. Wilson brought up the sound check from last year and I heard you had conversation about how that would be handled this year but I wanted to get that on the record so we could come back do this if necessary.

>> Absolutely. So couple of things. We were in butler last year because we were displaced from auditorium shores so that contributed to the zeal fumes, the sound, a lot of the crowding there. Obviously now that we're not at auditorium shores that will be much different. Second part about that was there was a whole lot of really, really bad weather last year so that pushed our sound check back further we would have liked for it to have been. Whenever it does rain, we have a whole lot of turf rules we have to follow, to heavy machinery couldn't get on and 234 place so we could set up stages and set up sound and stuff. Then it ran a little later. Second part about that I really want to point out, one of the reasons it did go over is because for the first time for any festival that I know of in the city, in the city's history, we used mobile sound monitoring technology in conjunction with the music and entertainment division and ape.

[5:34:17 PM]

It took us a long time to figure out where we place the monitors and calibrate them properly. What that did, it allowed us to track our decibel levels realtime so we were in constant communication with folks from the city. If we were ever peaking at any point we could turn down specific frequency ranges and overall house sound, like right away, instead of waiting for somebody to call or somebody to complain, we felt like it was a good proactive measure to take before.

>> Casar: So you don't imagine you'll be doing everything you can to not sound check during the -- that same preparty event mentioned by Ms. Wilson?

>> Absolutely. Some of that is going to be impacted by how fast we can load in and where we can stage our trucks.

>> Casar: Then there's been some conversations about the dates, the opera being set several years in advance. How long ago was the date set for the festival?

>> We understood what our weekend would be last November.

>> Casar: Okay.

>> And I will chime in with everybody else. We would love to have a conversation about future years and when we can schedule this stuff. Just as much as the opera and settlement home don't enjoy having their event on the same weekend, neither do we. All of this could be alleviated if we scheduled it better.

>> Casar: Did you provide multiple dates to the department that would work.

>> We always go through that process. We say here is our first choice and they say yes or no. We rely on staff to tell us if it's not a date that's viable, then we pick another one. Last year when we are talking about how to move into butler and part of auditorium shores, I think we talked about five different date changes before we were actually able to put tickets on sale. That's a financial hardship for us, places our festival at risk if we can't have a long enough selling cycle, that really hurts our business.

>> Casar: Thank you.

>> Sure.

>> Mayor Adler: Okay, it is 5:35. We have two speakers left. My hope would be that maybe we could do this quickly and then take a vote and then get to the music and proclamations. Otherwise, this group is going to have to wait an hour for us to come back.

[5:36:19 PM]

Let's see how we do with that. Last two speakers that we have noticed on this are Jamie grant and then Marcus lawyer.

>> Mr. Mayor, members of council, my name is Jamie grant, I work at the long center for performing arts, and I want to thank you very much for the opportunity to speak today. Ultimately, we need to solve the long-term problems. When the palmer event center was opened in 1959 it opened with 1600 parking spots. The new palmer and the long center with events on auditorium shores now has 1200 parking spots. Hence, some of the challenges that we have. We have three issues. We need west Riverside drive open during the event so that our patrons can get in and out. Our friends at the -- at palmer save parking spots in the garage for our patrons, and that's paramount for us to -- for that to continue. An issue surrounding sound bleed continues to be a challenge for us and we need to make sure that we can look at that. The other thing I would finally like to mention is that the task force work is very important to us. And we at the long center would be thrilled to participate. Thank you.

>> Mayor Adler: Thank you. I can't imagine you wouldn't be participating in that. The -- bobby, with respect to Riverside, that's going to be open during those events. Is that correct? Thank you. And the parking is the issue that we've been talking about. Last speaker we have here is Marcus lawyer.

>> Hello. Thanks for your timing.

>> Mayor Adler: Yes, sir.

>> I'll be brief. I'm going to speak on behalf of somebody from the Glenda neighborhood, I look at 78704, just south of bowled inn area Bouldin area.

[5:38:21 PM]

I've been using that dog park for years and still do. I'm grateful that it's there but I'm grateful for the city for allowing so many dog parks, I have access at Riverside, zilker park, my dog's favorite place because it's wide. So there's -- it's just a nice amount of shade. We like it for other reasons. But, you know, we have places like red bud island as well. As far as the off-leash area, what I was under the impression we were here to talk about, as a dog owner I'm completely cool with skipping that weekend. It's not a good place to take a dog anyways, even if we did have that off-leash area for dogs, I wouldn't use it because it's loud. My dog doesn't like loud rock bands. We'll just go over to zilker park because then it's open during that particular weekend. I think it's closed from, what, late September to late October? So I'm glad to take him over there. For transparency, I also work for the festival, so I'd really love to see this happen.

[ Laughter ]

-- Because it's a beautiful festival. I've been kind of spoiled by it. I've traveled around the country, gone

to other festivals, and I've always appreciated how this one operates and just the way it feels and the way it flows. And to keep the footprint that we've been trying for, it really does kind of help with the flow of it. It just -- we don't want to shrink it down, you know, we're just happy with the space that we have, we just want to keep that area over there and, you know, take our dogs somewhere else insofar weekend.

>> Mayor Adler: Great.

>> I'm cool with it as a dog owner and person in the neighborhood as well.

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

[ Applause ]

>> Mayor Adler: Thank you. That gets us back to the dais. Mr. Casar, I think you've done a really good job of trying to manage these competing interests. I know there were several other council office that's were real actively engaged in this as well.

[5:40:23 PM]

It's been seconded now. Is there any discussion on this matter before we take a vote? Hearing none, those -- sorry, Ms. Houston?

>> Houston: I just have one quick. I want to ensure that this is not a legacy event, that this is something that's going to be given to the parkland events task force for the next year.

>> Mayor Adler: That is my understanding.

>> Houston: Is that clear to everybody, though?

>> Mayor Adler: That clear to everybody?

[ Laughter ] Ms. Tovo.

>> Tovo: I appreciate councilmember Houston for bringing up that point because we have heard both in our e-mail and in some of our discussion the word "Promise" commitment." I believe we have tasked or parkland task force with looking at events generally at this space, particularly, and making sure that we craft a good balance between the events that take place there, the events that take place in the facilities palmer and the long center and the needs of the neighborhoods surrounding those. That may mean some of the events that currently take place on auditorium shores may no longer in the future. They may take place at one of our other public parklands or somewhere else. So I appreciate you bringing up that point. I want it to be really clear that we are evaluating, I hope, that our parkland task force will take that very question up and really figure out what the best path forward is for the city. I too want to add my thanks to councilmember Casar for coming up with a resolution that it sounds like most of the stakeholders support, and I appreciate that. It's not an easy task. These are really challenging issues, as a former resident in Bold Inn Creek I'm familiar with the impact have on that neighborhood. I appreciate the sobers for working with this and being willing to stand up here today and be neutral on the issue. And also I want to thank transmission events. I know you've worked hard on this issue and with the other stakeholders to try to figure out a good solution so this is a very reasonable proposition, and I'm willing to support it this year, with the understanding that we are tasking that parkland task force to take into consideration the points that have been raised here today and fundamental, at the very heart of what they need to provide some real specific advice on is the point about having multiple large events on the same weekend.

[5:42:43 PM]

That has been such a long-term goal of this city not of that happened and it's happened multiple times. I hope they can come up with some really specific rules that will make sure that big events don't get scheduled again in the long center in the palmer auditorium and along auditorium shores on the same

weekend. But, again, I'm prepared to support this today. I think fun fun fun fest is a real asset in this city and of course I want it to be successful too.

>> Mayor Adler: Thank you.

>> Houston: I call the question.

>> Zimmerman: Call the question.

>> Mayor Adler: Is there any further debate? Mr. Casar.

>> Casar: I just wanted to --

>> Mayor Adler: Real quick.

>> Casar: Clarify what my understanding of this does, according to councilmember Houston's question.

We are not authorizing or unauthorizing fun fun fun fest with -- long-term with this -- this resolution has just to do with this portion of the dog park and reassurances about the traffic patterns and stakeholder process moving forward. It's really up to staff to sign negotiations and approve transportation plans and fees and contracts with the events. You know, we don't approve the Austin urban music festival, those are the only two I've been to at auditorium shores and I know are there. We don't approve these events. It would be us as a policy body to be make any sort of changes greater than this but this isn't authorizing fun fun fun fest forever or even this year. This resolution is strictly about that solution regarding traffic and the dog park, which was the policy direction that staff indicated would be helpful to make this all work. So just trying to be helpful for this year's events.

>> Mayor Adler: I think it works for this year and the fact that staff wanted it -- needed to come back to council, I think, is an indication that something is not working right. When the task force comes back, it's going to be a heavy lift, don't mean to minimize that for this group as we set that policy, but like one of the speakers said, the ultimate resolution of these shouldn't be happening in this room once we set that policy. I will now take the vote.

[5:44:45 PM]

Those in favor -- Ms. Gallo?

>> Gallo: I just have a question.

>> Mayor Adler: Okay.

>> Gallo: So I just -- I want to make sure that we're very clear to staff that -- I know that events are planned far in advance, and if the planning is already beginning for this festival for year year at auditorium shores I think we've sent a very clear message to staff that in the parkland events task force has not come up with a resolution that impacts this specific problem on this specific weekend and I'm sure there are other weekends, that this issue will come back to council before staff makes a decision to do this again next year. So just so that we're clear, I understand what you were saying, but I think timing may be an issue, and I don't want to start conversations with contracts for next year that puts us in the same position if the parkland task force hasn't gotten to the nat they've resolved the issue for next year.

>> Tovo: I know we're right at 5:30.

>> Zimmerman: There's a motion on the floor, seconded and debate and go to a vote if we could.

>> Mayor Adler: The motion on the floor to end debate. Are we okay with that? Does anybody want to debate.

>> Houston: No.

>> Mayor Adler: All right all in favor please raise your hand. Those opposed? It's unanimous on the dais. We're now going to go into music and proclamation. Can we come back here at 6:45? 6:45 we'll come back. We stand in recess until then.

[Recess]

[5:53:11 PM]

>> Mayor Adler: once again, we get to my favorite part of city council meetings. I think you all can understand that if you've been watching the afternoon. This is when we get to listen to music. This is what Austin is -- this is what Austin is all about. And today we have giving us with his performances, Daniel Llanes. He's a Texas artist. He is a versatile performer who uses his technique as a springboard for creation of exciting repertoire. Mr. Llanes has created compositions for the piano, flute, percussion. He's a bilingual singer song writer. He has choreographed, staged, produced, ballet, he's appeared as a guest artist or performed with regional companies throughout the southwest, including Ballet East, Sin Bad and the Talking Drums, the dance theater of the southwest, Ballet of Texas, and the Houston International Festival, and he has lectured and performed at the Whole Life Expo in Austin, Texas. Please help me welcome Daniel Llanes.

[ Applause ]

>> Thank you very much. Oh, my gosh. Thank you very much. I'd like to dedicate this little performance for y'all and for the city of Austin to all those people who are active and come and participate in government. And I also am very appreciative of all the elected -- all the people that run for office.

[5:55:13 PM]

I don't envy them. And so I'm going to do a couple of Numbers for you. I'll start out with a poem, asking all of us to save the trees. Keep the trees. Keep the rain. Big old trees bring the rain. Without trees, there is no rain. Without rain, no you or me. Keep the trees. Keep the rain. Keep the trees, big old trees bring the rain. Without trees, there is no rain. Without rain, no you or me. Save a tree. Bring the rain. Plant a tree. Keep the rain. Save a tree, bring the rain. Plant a tree. Keep the rain. Save the trees. Yes?

[ Applause ]

>> What kind of world do you want?

[ ♪ Music ♪ ]

[5:58:04 PM]

[ Applause ]

>> Okay. There you go.

[Clapping]

>> Come on. There you go.

[ ♪ Music ♪ ]

[6:00:20 PM]

[ Applause ]

>> Thank you very much. Thank you, mayor. Appreciate it.

>> Mayor Adler: Daniel, thank you so much. Thank you.

>> I do a lot of stuff, and I thought that this would be appropriate for this beautiful hall.

>> Mayor Adler: It absolutely is. So if somebody wants to see you perform, where would they next go to see you?

>> Boy, well, I'm off for the month of August.

[ Laughter ] But in September I'll start up my 16th year of contracts with the city, I'll be all over the city. The best way for you to find out is to go to my Wednesday, [earthculturedancer.com](http://earthculturedancer.com). And send me an e-mail, get on my blast explic that's how you'll know. Otherwise look at the paper and social media.

>> Mayor Adler: I have the honor of being able to present you with a proclamation.

>> I can't believe it.

>> Mayor Adler: As a proclamation, be it known that the city of Austin, Texas is blessed with my creative musicians, whose talents extend to virtually every musical genre and whereas our music scene thrives because Austin audiences support good music and -- produced by legends, our local favorites and newcomers alike, and whereas we are pleased to showcase and to support our local artists, now, therefore, I, Steve Adler, mayor of the live music capital, do hereby proclaim August 6 of the year 2015 as Daniel Llanes day. Congratulations.

[ Cheers & applause ]

>> Thank you very much. I'm so blessed to be in a town where art and culture are appreciated. Thank you very much.

[6:03:07 PM]

>> Mayor Adler: wow, this looks good.

>> Three blocks south of the long center, actually.

>> Mayor Adler: Wow.

>> One for all the councilmembers. I think there's 12 and there's 11 of you. I saw 13 up there. I wasn't sure.

>> Speaker 1: We have the city exposure manager threw. We have another proclamation. Be it known that whereas honeybees are critical to the process of pollination, with one bite of food and three benefiting directly origin directly from honeybee pollination, they are essential for production of more than 90 food crops. And bee pollination is responsible for \$50 billion in added crop value. And whereas the honeybee works together with other bees in the colony as a single vibrant living organism that helps to maintain healthy ecosystems, and whereas honeybees face a significant threat from colony collapse disorder, which has been linked with disease, pathogens, parasites, environmental stress, loss of natural habitat, and inappropriate use of pesticides and herbicides, and whereas the United States department of agriculture is working in cooperation with other federal agencies, universities, industry, and additional partners to find ways to improve honeybee health and habitat, now, therefore, I, Steve Adler, mayor of the city of Austin, Texas, do hereby proclaim August 15, coming up, as honeybee awareness week. Tanya, do you want to say something?

>> I do. Thank you so much.

>> Mayor Adler: Okay.

>> Ah. Thank you all so much for taking time out of your busy day to come here and celebrate one of nature's very fascinating creators.

[6:05:09 PM]

Better known to us as the honeybee. Let me share a few interesting tidbits about our beloved honeybees. A honeybee can travel up to 6 miles and as fast as 15 miles an hour. The average worker bee only produces about 1/12-teaspoon of honey in their lifetime so a colony will visit 2 million flowers and fly up to 55,000 miles just to bring you 1 pound of delicious honey. Worker bees are all females and they do all the work. Sound familiar?

[ Laughter ] As a consequence of flying so much and so far, they only live about six weeks. Each colony has one convene bee who dedicates her life to laying 1500 or more eggs per day in order to maintain colony strengths in Numbers queen bees can choose to produce males or females when they lay their eggs. Male honeybees are much larger, but they can't hurt you because they don't have a stinger and perhaps best of all, the honeybees dance while they work to communicate with one another in the hive. We could learn something there. We still have so much to learn about honeybees, and we can help

them -- so that we can help them thrive but we simply must take better care of how we treat our planet, our land, water and air to ensure their survival. I want to recognize a few people that have led or are still leading the way for new beekeepers here in Texas. My mentors and tour deivies Danny and Laura Weaver who have four generations of bee keepers started back in 1888, Mary and her late husband that started keeping bees back in the 1960s and have been instrumental in keeping bees in the Williamson county beekeepers association. Some of my mentors, Emma, Dee, Jimmy, Chris, Lance, Chris Moore and Clint Walker.

[6:07:12 PM]

Mark Dikes and Mary Reed, here with the Texas inspection service now have created a Texas master bee keeping program to help new beekeepers to get started with learning how to be better beekeepers. Dr. Rengal has brought a testimonies amount of funding and research opportunities for the university students, and we have our younger generation of beekeepers, some of them here today, like -- well, the Texas state beekeepers association president, Blake Shook, and our honey queens Tab that, and our princess Elise, who is also here today. We want our young -- they get to show our younger generation how cool it is to keep bees, and to all my new bee friends who are here today, Gaye, JJ, Pamela, Jack, Steve, Russell, and more of you, everybody who is here to help support the Travis county beekeepers association and the annual tour deivies. Lastly I want to thank my husband and bee partner Chuck for making all of our beehives, we have 80 hives, and supporting my dream of saving the world one bee at a time. I hope to see all of you on August 15 as we celebrate Minnesota honeybee awareness day at the third annual tour deivies P hives, I'll be there and I hope you will too. Thank you, Mayor Adler and all councilmembers. Congratulations.

>> This is so beautiful. Yes.

[ Applause ]

[6:09:47 PM]

>> Now you'll deliver this honey to the right people, right?

>> Mayor Adler: I will.

[ Laughter ]

>> Mayor Adler: I'll make the city manager and city attorney fight over that last one.

>> Right across the room.

>> Mayor Adler: She's going after my honey already.

>> Nobody else is going to see you.

>> Mayor Adler: Really? The honey is gone now. We have a special certificate of appreciation. This is for adopting a drought-sensible landscape package, which will now be installed in all new home builds in Austin. And for that we appreciate the Austin homebuilders association and it is deserving of public claim and recognition. The Hebrews of Greater Austin recognizes that using water to support lush greenlandscapes is not the wisest use of our precious water resources. In keeping with Austin's water conservation goals, the home builders association took a leadership role to change the landscaping standard for new home construction in Austin. And across the central region of Texas. The new landscape plan is quite specific approach to volume landscape construction and provide homebuilders with guidance in the use of quality topsoil and drought-tolerant or adaptive plant species, limiting turf areas and installing efficient irrigation.

[6:11:47 PM]



The plan will give new homeowners information necessary to sustain a healthy landscape that uses less water and looks more like the native environments in and around Austin. For that, this certificate of precious is presented this sixth day of August in the year 2015, signed by the city council of Austin, Texas, by me, mayor of the city. Congratulations.

[ Applause ]

>> Thank you.

>> Mayor Adler: Do you want to say something?

>> Sure. I want to thank you all for coming out and the mayor and 00:00. About a year ago our association looked around and realize we build probably 95% of the homes or our members do. In the typical practice was to put St. Augustine center front to back and then you're done. Then the city of Austin offers a rebate to take all of that back out and put in dry protection landscape is the owner is paying three times for a landscape system and it didn't make sense. We got together with a couple of landscape architects, Ann Coleman and associates, rbi, city of Austin staff and Icra staff together and came up with an appropriate landscape package for the city of Austin for the central Texas criterion it's not St. Augustine front to back, three disagrees eight bushes. Me naught down into a document, presented it to the homebuilders association, and we're putting it out to our members and the association and saying this is what we needs to be planting in Austin from now on. Have a native type grass, limit it to no more than 50% of your yard, no more than 7,000 square feet, put dirt underneath that that's appropriate soil MIX and a lot of other factors that go into that but I think it's going to help preserve one of our very limited water resources. The Lakes are full now but if we don't preserve our water, they'll drain back down oxygen we'll be in the same situation. So this is something we as an association take fluoride, saying we want to be the leadership role in this and help preserve water in the central Texas area.

[6:13:55 PM]

>> Mayor Adler: Thank you.

>> Thank you.

[ Applause ]

>> Mayor adler:we have a duck and a proclamation.

[ Laughter ] Great. We have -- like a bee, but a duck. If it quacks like a duck. We have a proclamation. Be it known that whereas, on August 8 of the year 2015, the duck derby will be held on the shores of lady bird lake as a benefit for the Austin girls and -- boys and girls club, it's a nonprofit organization that supports and provides valuable assistance to the 23 boys and girls clubs in the Austin area. And whereas 10,000 rubber ducks will be dropped in dramatic fashion from the Ann Richards bridge to race for a 1-place finish for their adopters, and whereas this fun events goals directly support the boys and girls clubs in Austin, whose members experience a 15% higher overall gpa average and 87% fewer absences than nonmember peers, with a 100% success rate of club members graduating high school on time compared to 81% for the nonmember peers.

[6:16:32 PM]

Now, therefore, I Steve Adler, mayor of the city of Austin, Texas, do hereby proclaim August 8 of the year 2015 as Austin boys and girls club foundation duck derby day. Congratulations.

[ Applause ] Gene narcotics do you want -- Gina, do you want to say something?

>> Thank you for -- thank you, mayor, and council, for the privilege to have August 8 as duck derby day and thank you so much for recognizing the important work of the Austin boys and girls clubs, as mentioned, the boys and girls clubs make a profound difference in the lives of children in our city, and in

our communities. And one of the statistics that is important to me, that I think y'all will find interesting that he didn't mention, is 57% of club alumni say the boys and girls clubs saved their lives. So it's more than just an afterschool program. It is a program that makes children in our community feel valued, feel loved, feel like they have the opportunity to make a difference. The kids that attend the boys and girls clubs become our employees and our leaders. I think we have had a few leaders on the city council that have come through the Austin boys and girls club. So thank you so much for recognizing the work that the boys and girls clubs do, and we hope the Austin duck derby becomes an annual tradition for the office and for the boys and girls club. So thanks again. I think duck derby brought a gift four, a little pen and hopefully you'll wear that proudly this Saturday and remind people of why we're doing the Austin duck derby. Thanks again. Thank you so much.

>> Mayor Adler: Thank you.

[ Applause ]

[6:20:04 PM]

>> Pool:well, this is my distinct honor to be able to present this proclamation. I know we missed the actual day, being on recess and all, but we are making up for it in good -- in good celebration. So let me start a proclamation. Be it known that whereas on July 26, 1990, the Americans with disabilities act was signed into law, greatly expanding civil rights protections for an estimated 57 million Americans with disabilities. And forever creating a second Independence day to celebrate quality of opportunity for -- equality of opportunity for all Americans. This commemoration is especially meaningful for all citizens with disabilities as it marks the 25th anniversary of the enactment of the Ada. And whereas we recognize that Austin citizens with disabilities have a right to full participation in the social, cultural, and economic activities of our community and that these citizens help to support the community and contribute to the economy of Austin and whereas, as accessibility for and inclusion of citizens with disabilities is a core value for all city programs and services, the city of Austin has established a strong, ongoing commitment to full implementation of the Ada, thus offering more opportunities and a better quality of life for everyone in our community. Now, therefore, I, Leslie pool, councilmember district 7, on behalf of mayor Adler and the rest of the city council, do hereby proclaim July 26, 2015, as the 25th anniversary of the passage of the Americans with disabilities act.

[6:22:18 PM]

[ Applause ]

>> Councilmember pool, on behalf of the mayor's committee for people with disabilities, please accept my sincerest gratitude. My fellow commissioners and I are proud to serve for a city where accessibility is a priority and inclusion of citizens with disabilities is a standard rather than an expectation. As councilmember pool proclaimed 25, years ago, a second Independence day was born, with the signing of the Americans with disabilities act, forever changing countless lives of people with disabilities and creating a foundation for equality for generations to come. Many texans, including several austinites, contributed to the passage and implementation of this ground-breaking legislation. Tonight please join me in celebrating this anniversary of this great milestone by recognizing the following businesses for their accessibility, their welcoming attitude, and upholding the spirit of the Ada. Thank you for your dedication, your efforts to help customers with disabilities contribute to Austin's diverse economy, thus enhancing the quality of life for everyone who lives here. When I call your name, please come forward to receive your award. You may say a few words if you'd like. Then join the mayor for a photo.

[6:24:19 PM]

Kgsr radio Austin.

>> Thank you.

>> And I'm not sure if the other winners are here tonight, but I'd like to recognize them anyway. Smash burger at Mueller. Minz cafe. And maudy's at the triangle.

[ Applause ]

>> That was Tanya winters, the chair of the mayor's committee for people with disabilities.

[ Applause ]

[6:27:21 PM]

>> Mayor adler:today I get the opportunity to be able to present a city of Austin distinguished service award. This award is presented to an exemplary employee and citizens, timothy hill. It's presented to Mr. Hill for his selflessness in aiding two Austin residents. Tim exhibited courage when he stopped on the side of the road to help a woman in labor and with a 911 operator's coaching he safely delivered the baby and kept the parents calm until ems arrived. Most importantly, he offered comfort and support to a family in need. Although his job is training, Tim showed dedication to the city's values by acting as a backup responder to a departmental emergency when needed. This certificate is presented with gratitude on this sixth day of August in the year 2015, signed by the city council of Austin, Texas, by Steve Adler, mayor. Mr. Hill, congratulations.

[ Applause ]

>> Mayor Adler: Do you want to say anything? Come take a picture with me.

>> As department director, I'm proud employer of Tim hill. We are very proud of Tim's reaction in an adverse situation but we're not advised. He's always shown great dedication to the well-being of others. He's worked as ace technical train fore a year and a half. He provides cpr, first aid and defensive driving training to employees. One person who took first aid training from Tim recalled that he encouraged the plan to excise empathy by thinking about how a person might be feeling about being injured.

[6:29:28 PM]

Earlier this year Tim received a department director's award for aiming higher as he -- representation of his stellar performance as a city employee. Tim as a long history of public service. He spent the first of his career in the U.S. Navy as an ordinance technician. Tim and his wife have been married for 15 years and he has two daughters, and he's -- we should bring them in here. And his oldest is a student at Austin community college and his youngest attends manor new technology high school. His exceptional characteristic makes him a great employee and a great citizen. I'm proud to -- the city of Austin is lucky to have him and I'm proud to have him as part of the resource recovery team.

[ Applause ]

[6:31:49 PM]

>> Garza:thank you for -- councilmember kitchen for letting me join in this. We had the privilege of speaking at the ibew union hall a couple weekends ago to celebrate the medicaid and medicare so we're here for a proclaiming to recognize that 50th anniversary. We have with us Claiborne, Yolanda, and Glenn Scott from the Texas alliance of -- retired Americans. And councilmember kitchen is going to read the proclamation.

>> Kitchen: Thank you, councilmember Garza. So we're both just very excited and proud to be here to declare this medicaid's 50th anniversary day. So I'm going to read this proclamation of this very, very

important event in our nation's history. So be it known that, whereas medicare is the nation's largest and most successful health insurance system, serving the health needs of more than 53 million older and disabled Americans, and whereas medicare has been the most financially efficient healthcare system in the United States, with administrative costs averaging only 2% of program outlays and before medicare 50% of all seniors lived in poverty. And in 1972 medicare was expanded to cover younger beneficiaries with severe life-changing permanent disabilities and in 2013 half of all people with medicare lived on incomes less than 23,500 per year. And whereas July 30, 2015, marked the 50th anniversary of the signing of the medicare act, now therefore, on behalf of mayor Steve Adler, we hereby proclaim August 6 as medicare's 50th anniversary day.

[6:33:51 PM]

To celebrate the creation of the medicare program and its success in keeping seniors and people with disabilities healthy and out of poverty. And I want to thank the leadership of the Texas alliance for retired Americans to -- for continuing to advocate on behalf of health insurance for retired -- retired Americans and all Americans. Thank you so much. Would you all like to say anything?  
[ Applause ]

>> Thank you. Thank you, mayor. And thank you, councilmember kitchen and councilmember Delia Garza for giving us this proclamation and all of the council. This really truly is medicare celebrating its 50th birthday. Medicare is the quintessential healthcare program in this country that has brought older people and people with disabilities out of poverty and provided them healthcare and we're here to not only celebrate, but to educate the community of Austin and around the country in our other chapters that medicare is under attack, there are those who want to out and radically change medicare we believe for the worst. This is a time to celebrate but also a time to defend and expand and advocate for medicare and medicaid for not just my generation of Americans and people with disabilities but future generations and thank you very much.

[ Applause ]

[6:37:28 PM]

[Recess]

[6:50:55 PM]

>> Mayor Adler: it looking to me like we have a quorum. That computer is off. Thanks, Tom.

>> Zimmerman: I'd help but we have professionals to do it.

>> I wouldn't go that far.

[ Laughter ]

>> Zimmerman: Steve, if you've got a software that many --

[off mic]

[6:53:20 PM]

>> Mayor Adler: All right, let's see what we can do. We have a quorum. We're going to go ahead and reconvene. We have two items that we passed this morning because we went into executive session concerning the Whittington resolution per judgment. It's items 19 and 20. Is there a motion to pass 19 and 20. Ms. Pool, seconded by Ms. Kitchen. Any discussion on those items? All in favor please raise your hand. Those opposed? Unanimous on the dais, with Ms. Gallo off the dais. We have a housing matter,

which is item 23 and 72. Let's pick those up and then we'll go into the housing agenda.

>> Good evening, Betsy Spencer, director of neighborhood housing community development. Item 2 is conducting a public hearing and consider a resolution supporting an application to be submitted by pedcor investments LLC or an affiliateddant for an award of low-income house credits from the Texas department of housing community affairs --

>> Mayor Adler: Excuse me, Betsy, Betsy, hang on a second. What I wanted to do, if it's appropriate first before we go into the housing hearing, which I haven't initiated yet, there are two housing matters that were on our agenda, on the regular agenda. Are they part of the housing agenda or are they --

>> No, sir. 72 is part of your regular council agenda as a public hearing.

[6:55:26 PM]

Item 23 was postponed until the public hearing, which is number 72, was conducted. The Austin housing finance corporation is a separate existent entity and neither are on the board agenda. Did that answer your question.

>> Mayor Adler: So we have to do 72 before 23 and you're introducing item 72.

>> Yes, sir.

>> Mayor Adler: Please disagreed absolutely. So this is a public hearing. The purpose -- this is a requirement by the Texas department of housing and community affairs for the tax credit application. And so the desired outcome for this is approval of a resolution of no objection. And so that's the purpose of the public hearing.

>> Mayor Adler: Okay.

>> I'm not sure if there's any speakers.

>> Mayor Adler: Let me check and see. On item number 72, there are speakers. Is there a motion to close the public hearing on item 72? Ms. Pool, seconded by Ms. Kitchen. Any objection to ending the public hearing? Hearing none, the public hearing is --

>> Houston: I just had a question.

>> Mayor Adler: Ms. Houston.

>> Houston: Ms. Spencer, could you tell me how the public hearings are noticed since there's nobody here to speak on them? How do you notice people that a public hearing will be held incident.

>> With the council agenda, the way the council agenda is notified.

>> Houston: That's it.

>> Speaker1:.

>> I believe that date of birth accurate. That to be accurate.

>> Houston: Until the public is paying attention to the agenda, they really have no notice that the public hearing is tonight.

>> That is correct.

>> Houston: Thank you.

>> Zimmerman: If I could, when is the last time we have a living breathing person show up for one of the hearings? Because --

>> I don't have the answer to that question.

>> Zimmerman: I think we've had several of these and I can't remember anybody being here, right? We've had a number of these meetings, so-called public hearings --

>> Different types. We have a variety of different public hearings but I apologize I don't have the attendance.

[6:57:28 PM]

>> Mayor Adler: In this case, whether people show up or not, we have to have the public hearing in order to be able to proceed with business.

>> Houston: Mayor, I think it's just the notification.

>> Mayor Adler: Notice question.

>> Houston: And how you engage the public so that the public knows, if they have to go through the council agenda, then there is no public engagement as far as the public hearing that we're about to close.

>> Mayor Adler: Ms. Wool, with respect to the citizens engagement group that you're looking at, can you take a look at this item also? Add it to the agenda of that group to take a look at the public hearings that we have on the agenda that few people, if any, show up to, like the one we just had with the housing on item number 72.

>> Pool: Sure. Be happy to pass that along to our facilitator, Diane Miller. You bet.

>> Mayor Adler: That would be great. Thank you. We still then have -- so with item number 72 with the hearing closed, does that take us then to item 23?

>> No.

>> Mayor Adler: Or is there action to take on 72.

>> Yes, there is action to be taken on 72, and that is actually a resolution of no objection.

>> Mayor Adler: Okay.

>> That backup should be in your packet and so that is the action -- the action requested is resolution of no objection to this application.

>> Mayor Adler: Okay.

>> I would note that this is an application to the Texas department of housing and community affairs. We have no financial investment in this transaction. However, the application process for the tax credits requires that the municipality conduct a public hearing and provide a resolution of no objection. So that is the action that is before you. But there is no financial impact to the city on this particular action.

>> Mayor Adler: Okay P.M. Does someone want to move the motion for no objection? Ms. Tovo moves.

[6:59:29 PM]

Ms. Pool seconds floodplain any debate? Ms. Troxclair.

>> Troxclair: I wanted to mention this is a resolution for support for a 4% application, which I don't know if we've had one of these yet, but the 4% application is not a competitive grant through the Texas department of housing and community affairs, so our approval will more or less, as long as they meet their requirements, guarantee them the grant from the state agency. So in our discussions of having smart, you know, community planning and making sure that these housing complexes are going in places where they have access to public transportation and food and all of those things, I just wanted to bring that to everybody's attention because we also talk a lot about -- a lot of times the things that are in front of rust the 9% grants -- us are the 9% grants, very competitive. This resolution in front of the city council will basically grant them -- you can correct me if I'm wrong, but it's a non-competitive grant. Just wanted to point that out.

>> You are actually correct. The four percent are non-competitive. It's not a grant, it is in the form of equity. I'm not going to say that it automatically grants anything because they've got to meet all of the threshold items, but you are absolutely correct this is a non-competitive application.

>> Mayor Adler: Any further discussion? Mr. Zimmerman?

>> Zimmerman: I want to object to the -- is this item 1 on the agenda?

>> Mayor Adler: No, it's 72 linked with 23.

>> Zimmerman: I have something in front of me, Austin housing finance corporation.

>> Mayor Adler: And we have three items on that agenda, but we have not yet called that meeting.

>> Zimmerman: All right. So I would like to have my -- I object to this resolution that's on the table. Thank you.

>> Mayor Adler: Your objection is noted. All those in favor of the motion raise your hand?

[7:01:31 PM]

Those opposed? The objection of Zimmerman and Houston, the others voting yes. That gets us into item number 23.

>> Item number 23 is approving a resolution supporting the same project and the reason this resolution was brought before you, the Texas department of housing and community affairs does have a rule that if the proposed project is within one mile of an existing property that has received low income housing tax credits or within the last three years has received tax credits, then the applicant must bring before you a resolution asking for support. And that is what item number 23 is. We are asking for a resolution of support based on the one-mile rule and the three-mile rule.

>> Mayor Adler: This is a recommendation that you mathematic in your office?

>> Correct.

>> Mayor Adler: Is there a motion to adopt 23? Ms. Pool. Is there a second? Ms. Garza?

>> Houston: May I ask a question? Ms. Pool, councilmember pool, this is in your district. And have you looked at the amenities that are available for this particular property? And they have grocery stores and --

>> Pool: I have no objections at all to the project that's coming before us that's in district 7.

>> Houston: That's fine. And as we said before, this is on -- Parmer lane is in Dunn and I have consistently said that we keep putting projects out where there are no amenities and no transit. There's no buses to go out there. So I'm still concerned that we continue to increase the density on that lane without having the kinds of conveniences that the rest of us have in our communities. So I will be voting against it.

>> Mayor Adler: Okay. Any further conversation on this 23? Those in favor of 23 please raise your hand?

[7:03:34 PM]

Did you want to speak again?

>> Pool: I was just going to say that to the extent that we are looking to add housing particularly for lower income and missing middle, that this is an important piece, the work that we do through our housing finance corporation. And I recognize that there are parts of town where we may not have a complete array of amenities and some areas where we do. We are constrict and constrained by the properties that we have to purchase and build on and sometimes you have to get the rooftops there before you can get the additional amenities. So I think to the extent that there may not be a grocery store within easy access, that would not be a reason to deny continuing forward with putting the housing on the ground.

>> Mayor Adler: Okay. We're taking the vote. Those in favor of item number 23 please raise your hand? Those opposed? Ms. Houston, Mr. Zimmerman, the others voting aye. 23 passes. I think that now let's go ahead while you're up and let's do the Austin housing finance corporation agenda. We're going to convene this meeting on August the 6th. The time is 7:00 Od 5 and we are at city hall. And we've recessed the city council for the purpose of convening this housing finance corporation meeting. Do you want to lay out the items?

>> Good evening, board of directors, Bettie Spencer, treasurer of the Austin housing finance corporation. We have three items before you today. And you may have some speakers. I'm not sure. Brief summary. While I offer all items on consent, item number 1 is to conduct a public hearing

regarding the issuance of housing revenue bonds for the Aldridge 51 apartments. You may remember we did bring this item before you all the way through the process several months ago, but because of requests by the developer there was an increased need for additional bond capacity so we are bringing this forward to you under those conditions.

[7:05:50 PM]

Items 2 and 3 are both to authorize the execution of a loan agreement, one for foundation communities and one for the Wolff pack group LLC to formalize additional commitments made this past February. These are nine percent tax credit commitments. They were successful in receiving their award for the nine percent tax credits the end of July and we are bringing back the action for full commitment of funding. And I'm available for any other questions.

>> Mayor Adler: Thank you. We also have two speakers on all three of these items. And I want to call them and give them a chance to speak if they want to. Is Mr. Pena here, Gus Pena? I don't know that I saw him here. And James Lancaster. Is he here? Those were our speakers. We have items 1, 2, 3 in front of us. Is there discussion? Ms. Houston?

>> Houston: I'm just asking what district are 1, 2 and 3 in?

>> Zimmerman: Number 2 is the controversial cardinal point, and it's in district 6. And I do have some questions on item 2 when you get to it.

>> Mayor Adler: Do you know where items 1 and 3 are?

>> Item 1 I believe is in councilmember tovo's district in the Robert Mueller municipal airport redevelopment. I'm David potter, by the way, with Austin housing finance corporation. Item 2 is in district 6, councilmember Zimmerman's. And item 3 is in councilmember kitchen's district.

>> Mayor Adler: Okay. Let me first call up items 1 and 3. Is there any discussion on items 1 and 3? Is there a motion to approve items 1 and 3? Mr. Renteria, seconded by Ms. Kitchen. Any discussion on 1 and 3? Those in favor please raise your hand? Those opposed? Mr. Zimmerman's voting no. The others voting eye.

[7:07:51 PM]

That then gets us to item number 2. Is there a motion to approve item number 2? Ms. Tovo makes that motion. Seconded by Mr. Renteria. Let's now discuss that. Mr. Zimmerman, you want to --

>> Zimmerman: Yes. Thank you, Mr. Mayor. Tell me a little bit again about the property. We looked this property up on tcad, the area in question there. And there was some confusion there. Again, its appraisal values being kind of erratic. The amount of the appraisal on tcad was relative low and then it jumped way up. And we were trying to figure out was there -- it says the 1.8 million is used to assist with acquisition of the property. So what is the price of the land that's being purchased for cardinal point? How many acres and how much?

>> I'm going to have the developer come and speak to that.

>> Zimmerman: Okay.

>> I'm Walter morrow, the director of foundation communities. We're buying the land for 2.5 million, it's about eight and a half acres.

>> Zimmerman: Okay. Do you know what the tcad appraisal was on this property in the years past? What the history of the property valuation was?

>> I don't have it in my head. I don't have it in front of me.

>> Zimmerman: So you don't know -- has the property gone up in value or gone down since you've made the offer to purchase?

>> We've been under contract for about nine months. We feel like we negotiated a fair deal for the



value of the land that's zoned for multi-family, that apartments can be built on it.

>> Zimmerman: Okay. So we just had a discussion earlier about 10 acres on Zimmerman lane and the city I think had paid for one appraisal on that property that came out 400% higher than the tcad rolls. Was there an appraisal done on this property before the loan was approved?

[7:09:51 PM]

Has there been any professional appraisal?

>> It's required for the application process.

>> We have to do a market study and then the Texas department of housing does a substantial real estate underwriting. We have not commissioned an appraisal yet from a financial institution.

>> Zimmerman: So we're approving this quite a bit of money here and we haven't had an appraisal yet done on the property? Is that what I'm hearing?

>> He has met all the requirements for the Texas department of housing and community affairs.

>> Zimmerman: And tdhca doesn't require an appraisal on the property that's being purchased for a project that they're funding with tax credits?

>> They don't. They do require market study, they have comparable sales data. They evaluate the value of the land per unit and per acre so they do extensive evaluation of the property.

>> Zimmerman: Can you tell me what the cost of the land is per unit? There's a figure here of \$15,000 per unit, but that's total project cost, right? It says here --

>> 2.5 million, 120 units. A little over \$20,000 a unit. Per door for an apartment complex on a great piece of land in a good location, in a good area, a good price in this market right here.

>> Zimmerman: And the market study that you referred to, is that where these rents came from, the rents that I see \$565 for a 775 square feet? Was that part of that market study you referred to?

>> Those are I believe -- what you're looking at are the rents that are proposed for the project based on the maximum affordable rents that we can charge. So the market study looked at rents in the entire market area and our rents are half of what people would typically find in the area.

>> Zimmerman: But that's kind of the point. These Numbers have to come from somewhere. I'm trying to understand where those Numbers came from.

[7:11:54 PM]

>> Those are the maximum rents that can be charged under the tax credit program.

>> Zimmerman: Okay. All right, thanks.

>> Mayor Adler: Thank you. Any further comments on this item number 2? There's been a motion and a second to approve item number 2. Those in favor raise your hand. Those opposed? All in favor with Zimmerman voting no. I want to go back and just clean up the record on number 1. When we approved number 1, since that was to open and hold a public hearing, I just want to confirm and just take the revote again real fast. The vote on number 1 was to close the public hearing on that item. We'll take the vote again just to make sure. Those in favor of closing the public hearing please raise your hand? Those opposed? Zimmerman and Houston voting no. The public hearing is closed. That gets us through --

>> Troxclair: Mayor, I'm sorry, I wanted to be shown as abstaining from item number 2, please.

>> Mayor Adler: Ms. Troxclair is shown as abstaining from number 2. Sorry I didn't recognize that. That dispenses with the agenda on the housing and finance corporation. So we are adjourning that meeting and now we're picking back up with the agenda that we have. Item number 46 pulled by Mr. -- Let me back up. Item number 44 we have some speakers. I think this is yours, Ms. Troxclair? Is that right?

[7:13:56 PM]

>> Zimmerman: I actually put that up from my office. And I believe she's one of the co-sponsors.

>> Mayor Adler: Got you.

>> Pool: Is there any way we could get the Numbers of the items on the screen? We used to have it but it's not up there. Is that a techy thing?

>> [Inaudible - no mic].

>> Staff will look into it. Apparently they've been putting it up probably inconsistently through the meeting, so we'll go with that.

>> Pool: What item are we at now?

>> Mayor Adler: We'll pick up item number 44. And before we do that, since we just had the technical issue, I want to point out to the council as well as to the community generally that today at our meeting we have and will have going forward indefinitely a computer that is set at the front row of chairs, seats, that is available for anyone who wants to be able to see the closed captioning when we have pulled up something on our screen that is the slides and that kind of thing, when you can't see the closed captioning. It's not intended as the permanent solution to this, but until we get to there, we now have capacity inside this room for someone to be able to see closed captioning when we have slides. Okay, Mr. Zimmerman?

>> Zimmerman: Mr. Mayor, I move adoption of the resolution and item 44 affecting pay increases.

>> Mayor Adler: There's been a motion 44 for the pay increases. Is there a second on to that motion at this point? Ms. Troxclair seconds that. We can have discussion and debate on the base wage increase. Mr. Zimmerman, do you want to open that?

[7:15:57 PM]

>> Zimmerman: I could, but we raised this initially back in may and I think there's been discussion and back and forth so I would rather hear from my colleagues first.

>> Mayor Adler: Let's go to the public here to speak on this item number 44. Sorry, Ms. Kitchen?

>> Kitchen: If I could make a comment first. I don't know -- let me just make this comment and if you would like to defer discussion until later, that's okay. I'll just make this comment because I think it might be helpful for the speakers. I just want to point out that at work session we did have some discussion about the potential of -- I don't know if postponing or tabling is the right term, because some of us talked in terms of the importance of talking about this kind of impact on the proposed budget, discussing it in the context of other items that we may bring forward. So for some of us at least, and myself included, I'm not ready to address this item. And I'm not ready to vote on it. And so I just wanted to indicate -- I just wanted to signal that to our speakers that we may have the option of taking this up at a later date.

>> Mayor Adler: For what it's worth, if people are polling, I also raised that issue or spoke to it at the meeting. And I would really like this to be discussed in the context of the other moving pieces on the budget as well rather than us picking up ad hoc budget items so I also will be voting to have it handled at that point. We have some people in the public that would like to speak. The first speaker that we have is Sharon Blythe. Is Sharon here? The second speaker we have is David king. Mr. King?

>> Thank you, mayor and councilmembers. I'm here to speak in favor of granting our employees a raise.

[7:17:59 PM]

I think that's important to do. But I do like the strategy to make sure that we're taking care of the lower salaried employees and looking at them, and the ones that are on the higher end, you know, I really appreciate the recent strategy to tweak the plan so we're recognizing that some of our employees are

making below \$15 an hour, which is the living wage in Austin. And so I think that it would be important that we consider first moving the employees that are below \$15 an hour up to \$15 an hour. And then those that are making above that amount, then we can look at some kind of increased strategy. And like I did in our homestead exemption process when we went through in trying to be equitable, I think we need to look at that kind of a strategy here. So just like we did in the homestead exemption discussion, we talked about instead of a percentage increase across the board, we looked at a flat amount. Because a flat amount is going to help those that -- at the lower end. It will give them a bigger increase than those at the higher end. I think that's the same kind of strategy we should look at here. Because we do need to look at making sure that we're paying our employees an affordable wage. And then when it comes to making sure that we're competitive with the market I understand we need to make some adjustments there to keep our employees here. But I also wonder how merit increases factor in to our decision here. I work for a state agency and it was my job to give merit increases and working with the state they very rarely gave across the board increases, very rarely, but what they did do is say we're going to give you some merit money and we want you to hold your people accountable for meeting their objectives and then if we do that then use your merit money to give them their increases. So I think we need to look at merit increases and how that plays into our overall salary discussion.

[7:20:04 PM]

How do we pay our employees? I think that -- they can't go separate, they need to go together. So I would like to hear some discussion about how merits are handled with our employees here? And I'm all for rewarding our employees and keeping our good employees here who work hard and do a good job for us, keep them from being taken away, I do appreciate that. I think how we handle our merit system needs to be part of the discussion. Thank you very much.

>> Mayor Adler: Thank you. Carol Guthrie.

>> Good evening. I am the Carol Guthrie and I am the business manager for asme. And I am here to speak against item 44. I do commend someone for being concerned about the people at the bottom, but when you take this kind of approach, it has some unintended consequences. And I believe in the proposed budget that the city manager has proposed, there is a living wage increase which will take care of many of the people at the bottom of the pay scale. And when we recommended that to you awhile back we also had included for compression. So if you now come back and start having a different cutoff with different percentages, you create compression to the pay scale. So where somebody might be a crew leader, if you give this person right under that person more money and this one ends up with less, they could potentially end up making the same money. And so any time we look at any kind of adjustment to the pay scale we need to make sure that it's uniform across the board.

[7:22:13 PM]

So number one, I think this should be taken up with the budget, but number two, we do support the city manager's proposed budget of a three percent increase across the board for all employees. Thank you.

>> Mayor Adler: Thank you. Zoila Vega? That's all the speakers that we have. We're back up now to the dais. Ms. Pool?

>> Pool: I just wanted to note for folks in the audience and also along the dais, my colleagues, that there was a notice in the newspaper recently, I think it was yesterday or maybe this morning, the proposed budget for Williamson county included 17 new positions and a three percent merit raise for all non-law enforcement employees. So our neighbor to the north, wilco, is moving in the direction that the city of Austin was looking at doing, and is awarding its employees a three 3% across the board pay raise.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I would like to make a motion to -- I'm not certain if tabling or postponing is the appropriate motion, but whichever is appropriate, I'd like to make that motion so that we take this item up again, but that we take it up in context of the other conversations about the budget.

>> Mayor Adler: I think if we postpone it to other conversations and that will enable someone to bring it up -- since we don't know exactly how it will lay out, that enables someone to reurge or bring that up at the time. So there's been a motion to postpone to make it part of the budget conversations. Mr. Renteria seconds that motion. The discussion now should be on the issue of whether or not we should postpone or not.

[7:24:14 PM]

Is there any conversation on whether we should postpone or not? Ms. Garza?

>> Garza: I guess I don't see how this item is any different than other items that we've had where we direct, I guess, the city manager to include something in the affordable care act budget. I had a similar item. So I know that could have been postponed to the subject discussion. I'm glad the city manager included my item in the forecast. I'm ready to vote on this and I'm going to vote against it. I feel like this is the easiest way to address affordability in our city. I think the best way is to pay our city workers a fair wage. And it could come up again in budget, even -- if we vote this specific form down today, I think it saves our staff time from having to figure out those Numbers. We can come out with a different variation of this in the budget, but I would be opposed to a postponement.

>> Mayor Adler: Further discussion of the issue? Mr. Zimmerman and then Ms. Kitchen?

>> Zimmerman: Maybe an inquiry here. We talked about this Tuesday, but was there a date proposed for when this would come up. This came from the budget forecast, which was April, quite a few months ago, and we started talking about this in May. If we postpone it, would it come up on next week's agenda? Is there objection to naming a time when we would bring these resolutions up?

>> Mayor Adler: We are back in budget with two briefing days. The manager and I were going to sit down and lay out for everybody what an orderly process may be, recognizing from the conversation that people wanted time to be able to present ideas and get Numbers and have them to be able to consider them in the larger context. And I would hope that we'll be able to do that --

[7:26:15 PM]

>> I'm working on that up shares.

>> Mayor Adler: He's working on it as we speak.

>> Zimmerman: We've had a lot of hours of briefing already and not really any opportunity to -- for the other way, for the constituent to speak to budget through us as elected councilmembers. So that's why I would -- I'd like to get this conversation started today so I would vote against the postponement.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: Let me just explain a little bit more about what my concerns are. I cannot -- I will not support this as it's laid out today. But I am interested -- I'm very interested in looking at -- I'm concerned that the proposed budget setting the living wage at \$13 is too low. It's not what was recommended for raising the living wage, it was \$13 and some additional amount. And we've heard testimony about the need for as much as \$15. So I want to understand that in the context of this sort of proposal. I also think there's some inherent fairness in considering making sure that our lower wage workers are brought up to a higher level, and that includes both the consideration of the living wage, the consideration of how much we give in a cost of living and also the consideration of bringing both the pay equity consideration and the consideration of bringing those that are below market up to market. So I guess what I'm just saying is that to me, and it may just be me, but to me I want to look at this kind of option in the context of all

those other factors. So that's why I'm suggesting postponing it.

>> Mayor Adler: Any further discussion on the postponement? All in favor of postponing, raise your hand?

>> Troxclair: I'm sorry. So if we vote to postpone it there will be no discussion? That will be the end of discussion?

>> Mayor Adler: It would be the end of discussion for today.

[7:28:15 PM]

It wouldn't be the end of discussion. It would be the end of discussion today.

>> Troxclair: Can I make a couple of comments then? I wanted to say to the last speaker, I wanted to point out that the resolution is specifically for this fiscal year. So I understand that over time if you I guess kept this structure in place or I don't know how long it would take, but it would take a very long time for the people at the bottom of the pay scale and the people at the top of the pay scale to eventually meet, but this resolution is specific to fiscal year -- for this budget year, which, you know, I think we have been specifically tasked by the people of Austin to take a hard look at affordability. So this was one idea, one proposal to take a serious look at it. And I guess I would also say to my fellow councilmembers, I just -- when I go back to my district and I tell people that our proposed budget is going to increase their tax rate and increase their taxes, they are just floored. They do not understand what it is going to take for this council to take their concerns about the cost of living seriously. I think a lot of them see the entire transition from an at large system to geographic representation as really they're voices finally being heard and I think that the conversation in all of our districts, even though affordability means different things to everyday, I think the clear message was that we have to get a hold of our spending. I think that Williamson county, wilco, whatever councilmember pool was referring to, I don't think that they're facing the extreme pressures that people trying to keep their houses in the city of Austin are facing. I so appreciate our city employees who do work incredibly, incredibly hard, and I want to reward them for their work, but I also want them to know that a reduction in their -- in their raises, if we take it seriously and we put -- put that six million dollars and apply it to the tax rate and reduce their taxes because of it, they're going to benefit on the other end as well because their tax rate will be lower too and they will owe less property taxes as well.

[7:30:34 PM]

So I just -- I think that this is a very reasonable proposal that deserves us discussing, but if this isn't the answer, then I just challenge you to say what is, you know? If this isn't it, what else can we do to really take this affordability issue seriously and truly provide some cost of living relief to all of our constituents.

>> Mayor Adler: I would argue for exactly that last question you asked. I want this to be considered when we're considering those other things as well. Any further discussion on the motion to postpone?

>> Casar: Mr. Mayor, I'm just -- I'm not going to vote for a postponement, but I think that this doesn't preclude folks from bringing up budget amendments anyway. It seems like this resolution wouldn't pass today either way, but could always be brought up as a budget amendment and be brought up as part of the process. Even if this is voted down today it doesn't mean we can't talk about it as a part of the budget and have the different scenarios described by councilmember Kitchen.

>> Mayor Adler: Those in favor of postponing please raise your hand? Looks like three. Those opposed to postponing raise your hand? So the three were Kitchen, Adler and Renteria. So we'll consider this. Further discussion on this issue? Mr. Zimmerman?

>> Zimmerman: I'd like to answer the objection to the resolution. First of all, there was no -- to my knowledge no public hearings involved. There was no input from our taxpayers. People paying the bills.

The people who are struggling to afford to live in Austin. I don't recall that there was any public hearing had about the 3%? Was there a public hearing about the 3% pay increase in the proposed forecast.

>> No.

>> Zimmerman: Thank you. What I heard from hr is other cities and municipalities were called.

[7:32:35 PM]

They were polled. So various government entities, cities were giving their employees pay increases and so the city of Austin said well, let's do me too. If wilco is doing it and other cities are all doing three percent, let's do three percent too. We took the different approach of saying, let's look at what the people in the city are earning. What is their median wage increase computed by the bureau of labor and statistics, and that's .8% for the last year that data was available. It's not three percent. So I think this is really about the perspective of the new council. Is the most important thing of the new council the perspective of the people struggling to pay taxes to the city or is the perspective for the benefit of city employees? So I think if you look at the cost of living that affects city employees, a lot of them don't live in the city because they can't afford it, but if you're looking at the city employee situation you go oh, give them three%. If you look at the taxpayers, you say do you know what, the city shouldn't be paid faster than the people who pay the bills? So you would say .8% is more fair. And we did modify the resolution to provide a little more boost for the lower wage Ernie zunigaer so we thought -- for the lower wage earner so we thought it was the way to approach it. I'm in the minority position as a fiscal conservative so we did modify the resolution to weight the lower income earners with more -- with bigger raises. So I think this is a common sense thing to do and I'd like to encourage my colleagues to go ahead and vote for this today. And to my understanding this is a resolution. So even if this were voted in today, it doesn't automatically go into the budget, right? There still has to be a budget vote, isn't that correct?

>> Mayor Adler: For all those reasons -- the answer to that is yes, and for all those reasons I think that this is an ill-advised vote for us to be taking because it's going to confuse people. I'm going to vote against this because without reaching the merits, because I think this is the wrong time for us to be considering this for all the reasons that everybody has given over the course of the debate.

[7:34:45 PM]

I'm going to be voting no without reaching the merits of whatever this resolution is intending to do. Mr. Renteria and Ms. Gallo.

>> Renteria: I'll also be voting no. The only reason why I was willing to postpone it is just to -- so that the citizens could actually see the Numbers that were going to come out. But I was going to support the three percent because I believe that -- you know, we as a council, when we decided to give the six percent homestead exemption that was part of the deal that we also, you know -- I could see the three percent coming in. When the manager recommended three percent, that would also help our employees and we also gave them a six percent reduction on their homes. So I really believe that, you know, that our workers really -- especially now with the 11 councilmembers, mayor and 10 councilmembers, we have really asked a lot from our keys -- from our employees, just a lot. It's almost embarrassing how much we've worked our staff. So I think and really do believe -- I do believe that they deserve a three percent increase.

>> Mayor Adler: Okay. Any further discussion on this? Ms. Gallo?

>> Gallo: You know, -- we were elected to make the stuff decisions and -- tough decisions and I think the budget process is probably the toughest certainly that we've faced so far and we will face over the next month or so. And we heard -- I think all of us heard very clearly that the citizens of Austin really want us

to control the spending at city hall and keep utility bills and tax bills from continuing to rise each year. And that's really difficult to do because it means as much as all of us would like to spend on everything -- we would love to fund everything.

[7:36:48 PM]

It would be great -- it would be a great feeling to be able to fund everything, but if we're going to listen to the citizens of Austin we can't do that. So it's a matter of trying to figure out piece by piece by piece where we can cut to be able to do what the citizens of Austin are asking us to do. We've just seen the budgets from all the departments and I think every department budget is going up from last year except for probably Austin energy, is what my memory is, but that could be wrong. So a big portion of each of those department budgets are salaries and health care costs. And so how do we start to do that? And we really need to hear from the public to help us with this decision because we're trying to make the best decisions, but there's advantages and disadvantages to every single one of the decisions we're trying to make. So I think it's a place to start. I agree with the councilmember who says our staff is incredible in this city and they have worked so hard. We've all worked very hard, but they've worked hard too. But we can't do what the citizens are asking us to do if we don't start cutting in places because like I said, budget that's been presented to us shows every department is going up except for one, and that doesn't translate to controlling city costs.

>> Mayor Adler: Ms. Kitchen? And then Ms. Houston and then Ms. Troxclair.

>> Kitchen: I agree with councilmember troxclair's statement that we have got to find a way to listen to what our constituents are asking of us in terms of not increasing our tax rate. So I am going to vote against this. I wish we weren't having this vote right now. But I am going to vote against this and I'm going to be committed to work with my fellow councilmembers to try to find other places in the budget that we can address this. While I also will be looking to address what I think are some equities that we need to address in terms of the pay levels and that has to do with the living wage and some other items.

[7:38:52 PM]

>> Mayor Adler: Ms. Houston?

>> Houston: I signed on to this resolution because even in district 1 there is a concern, and many of my constituents work for the city, many work for the state, and the people who work for the state don't get those kind of raises every year. And so they are beginning to question with the amount of property taxes that we pay, how does the city staff get raises last year, a flat amount in the middle of the year, and now here we are again? Because they just don't get those kind of raises. So it's about equity. And I agree this is probably not the right time to have this discussion because we have so many other things that we're going to be juggling as it relates to health care and the living wage and bringing on people who are part time. I can't even remember all of the things that may have an impact on the budget, but if we don't start the conversation soon, when will we start the conversation? So it gets complicated because it's not that much time. If we had four months to work this out we would have it, but we don't have it. We have this month and next month. So I just think we need to kind of think through how we use the funding. Because the staff has done an incredible job. I said they're the hardest working group of people I've ever seen in the last six months and they've been very accommodating and very thoughtful and have gone out of their way to provide the kind of supports that we ask them for. So I don't know what the answer is, but we have to start somewhere thinking about how this is phased in and how we cover all those costs, which are unbelievable.

[7:40:55 PM]

>> Troxclair: I just wanted to point out that every single city employee would receive a raise if this resolution were adopted. This would not cut anybody's pay. Every single city employee would receive a raise at least, if not more, than the raise that the rest of the city is receiving, which is about .8%. So I just want us to keep that in mind that we're not trying to cut anybody's pay or hurt anybody, but we want to have a discussion about how the raises are allocated. But after listening to the discussion, would it be in order to reconsider the vote that we took to postpone the item?

>> Mayor Adler: You could make that motion?

>> Troxclair: I would like to make that motion.

>> Mayor Adler: There's been a motion to reconsider the vote on postponing. Is there a second to that motion to reconsider? Ms. Kitchen.

>> Troxclair: I would hope that that would give everybody the time to either think more, ask more questions about this proposal, or come up with your own proposal that you feel like addresses the affordability issue in a way that allows us to lower the tax rate.

>> Mayor Adler: The question before us is to reconsider the vote on the motion to postpone. Further discussion on that? Then let's take a vote. Those in favor of reconsidering --

>> Pool: Can I ask a process question. We were in the middle of considering a different motion, and this would go back to a motion that we had already voted on while we have not dispensed with the one we were -- which was the vote on the Zimmerman resolution.

>> Mayor Adler: There was a motion to postpone the Zimmerman matter. The reason we're going to consider the motion to reconsider is because if we pass the motion --

[7:42:55 PM]

>> Pool: I understand that, but I'm -- I'm wanting to make sure that we're doing this properly and in order.

>> Mayor Adler: We are. We have to unwind what we've done. It's a motion that she's entitled to have the body reconsider if she wants to try to do that. If we vote on the merits of the resolution first, there's no -- there is no motion to vote to postpone the vote. What is on the floor is the motion to postpone the vote. We can't have the vote and then reconsider the motion to postpone having the vote.

>> Pool: Okay. I thought we had already voted not to postpone.

>> Zimmerman: Point of order. Robert's rules. If you were on the winning side of a vote, then you can make the motion to reconsider.

>> Pool: I know that, yeah.

>> Mayor Adler: Which she was. So she's the person who has made that motion. It's order.

>> Pool: That's fine. I thought we were in the middle of discussing a different motion and I didn't understand that we could abandon that. So are we tabling that?

>> Mayor Adler: You're not tabling it. We have the main motion still on the floor. There was a motion to postpone, it was decided. Now there's a motion to reconsider the motion to postpone, but the main motion is still on the floor. That hasn't changed. This is a subsidiary motion to on the main motion. There's been no further debate on the motion to reconsider. Those in favor of reconsidering the motion to postpone, please raise your hand.

>> Kitchen: Mr. Mayor, I thought I made a mistake that I wasn't allowed to second because I was on the losing end. Is that correct?

>> Mayor Adler: I think the motion has to be made by somebody on the losing end. I don't think the rules require the second. On the winning side. I don't think the second has to also be on the winning side.

>> Kitchen: That's fine.



>> Mayor Adler: So we are now on the motion to reconsider. Those in favor of reconsidering the motion to postpone, please raise your hand. That is one, two, three, four, five, six. Those opposed?

[7:44:56 PM]

The ones opposed are Tovo, Pool, Garza. It passes. I think it was 8-3. Other than those no votes is there anything else? All right. We're now reconsidering the vote. Those in favor of postponing this to be part of the budget conversation, please raise your hand? One, two, three, four, five, six, seven. Those opposed to the motion to postpone? Tovo, Pool, Garza and Casar. This matter is postponed. We'll consider it as part of that later discussion. That gets us to the next item on the agenda, which is item number 46. Mr. Zimmerman, you pulled this. This was Barton Springs Fest.

>> Zimmerman: I move adoption of the resolution with an amendment. And the amendment would be on the back side of the proposed resolution at the bottom of the page, it's a be it further resolved. In that last paragraph it says Austin city council appreciates and encourage the continued participation and cooperation of Austin parks and recreation, watershed protection, Austin utility staff working with the Save Our Springs Alliance. My motion is to strike the Save Our Springs Alliance and to strike the Save Barton Creek Association and others. That's the motion. All it does is -- my motion modifies this proposed resolution by striking Save Our Springs Alliance and striking Save Barton Creek Association and others.

>> Mayor Adler: Let me see if I can follow. Right now it says the. The city council appreciates the cooperation of different entities and others in making the Barton Springs University [indiscernible]. You're striking from that Save Our Springs Alliance and the Save Barton Creek Association.

[7:46:57 PM]

>> Zimmerman: And others.

>> Mayor Adler: Okay. There's been a motion to adopt item number 46. And as part of that motion it contains that change. Is there a second to that motion? Ms. Troxclair seconds that motion. So if we're looking at -- at the -- this is a resolution that provides that there's going to be -- the last paragraph be it resolved, the city council formally notes that it appreciates and encourages the continued participation and appreciation of different organizations. Two of the organizations listed are Save Our Springs and the Save Barton Creek Association. Mr. Zimmerman is proposing that we continue to note the appreciation and encouragement for the other entities, but to strike from that list of entities the Save Our Springs Alliance and the Save Barton Creek Association. It's been moved by Mr. Zimmerman. It's been seconded - - it's been seconded by Ms. Troxclair. It would be in the order for someone to move to amend this motion if they wanted to to add those two back in. Ms. Pool makes that motion. Is there a second to that? Ms. Tovo seconds that motion. So what is on the floor now is the question of whether or not those two items, those two organizations should be added back into the resolution.

>> Pool: Mayor, I can only speculate as to why my colleague wishes to remove Save Barton Creek Association and Save Our Springs, but I will simply state that all of the entities that are named here have been instrumental in conducting the Barton Springs University and they also do a lot of volunteer work to make sure the springs stay clean and they work on pollution and watershed issues.

[7:49:13 PM]

So there is no good, objective reason for removing those two very credible entities.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. There's a great objective and rational reason for removing these

two politically motivated organizations. The list of organizations, we looked these up. Austin parks and recreation, all of these other -- the Texas environmental science, all of these other organizations have boards. I believe the -- there's a conservation district here that as elections. Obviously the Austin city council has elections and we have oversight of Austin parks and recreation. So the two things that don't fit objectively newspaper this resolution are these two political organizations that have been very deeply involved in controversial issues. Political issues. They're not educational, they're more political than they are educational. And that's why these two don't fit. The other thing that doesn't fit is and others. Because if you add language that says "And others", other political organizations that have a certain political leaning can be added in with more objective groups and organizations. I consider the aquifer conservation district, they elect a board of directors in an election, kind of like what a mud board does, and these two organizations don't belong and the "And others" don't belong either. We should limit this to the organizations that have elected board of directors like the city council and a utility district.

>> Mayor Adler: The amendment on the floor is to add those two organizations back in. Any further discussion? Those in favor of adding those two organizations back in please raise your hands? Those opposed? It is 10-1, Mr. Zimmerman. We are now with this item number 46, as was contained in the backup.

[7:51:13 PM]

Is there any further discussion? Those in favor of item number 46, please raise your hand? Those opposed? It's 10-1, Mr. Zimmerman voting no. That helps us with that item. The next item for us to consider I think is item number 49. Ms. Troxclair, you pulled this. There's a resolution seeking a replacement site for Google fiber community connection program. I don't know if staff is here. Is there a motion to -- Ms. Garza moves approval of 49. Is there a second to that.

>> Mayor, we need to fill in the blank of this resolution that we're choosing before we pass it.

>> Mayor Adler: Got it. Good pull. There's been a motion to approve it. Let's do that. Is there a second to the motion? Ms. Troxclair seconds that motion. Now that it's in front of us, Ms. Troxclair, do you want to -- is staff here for this?

>> Troxclair: Sure. I think I can lay it out briefly and you can tell me if I miss anything. Basically there were 100 sites chosen by previous council to receive free Google fiber for a certain period of time. One of those organizations that was chosen is no longer -- they don't have the capability to, I guess, accept the technology. So they have withdrawn and we need to nominate another entity to replace them on our list of entities that will be receiving Google fiber services for free through 2023. So I would nominate -- we're looking for an organization that has -- I was looking for an organization that had similar qualities to the organization that is withdrawing.

[7:53:15 PM]

Let's see. I am going to nominate community care because they are very similar to austin-travis county integral care, which is the entity that is withdrawing. They're in the same zip code and also provide the same types of services. So nominating community care to take that place.

>> Mayor Adler: The resolution I'm looking at is there were two? I'm looking at -- at resolution 2048 that is dated -- what I'm looking at is a resolution that said two of them. Can't change it. And then there was a resolution, there was a per the process outlined in a resolution for adopting replacement sites, the council committee for emerging technology and telecommunication made a recommendation. And then there were two recommendations contained. Am I reading the right thing? So my question would go, can we change those two or is there a process? Can you help us with this.

>> I'll be happy to. Rondella Hawkins, telecommunications and regulatory affairs office. Mayor, the

backup materials include several resolutions passed by the previous council, including the one you're referring to was for two replacement sites. And the current resolution, there's one organization that withdrew, Travis county integral care. So we're seeking one replacement site.

>> Mayor Adler: Got it. Now I'm caught up. Thank you. So that I can get it again, Ms. Troxclair, your nomination was who?

>> Troxclair: My nomination is for community care.

>> Mayor Adler: Okay. Ms. Pool?

>> Pool: I wanted to lend my support for the choice of community care as councilmember troxclair laid out, it's a similar organization, it's in a similar location and it fulfills the needs that Ms. Hawkins has laid out for us.

[7:55:32 PM]

I think there was a needed change in the committee that was in there too. Was there another housekeeping item that you needed us to do?

>> Yes. I believe that since the council committee for emerging technology and telecommunications no longer exists, it's replacing that to update it with the economic opportunities committee which would have the authority for recommending a replacement site.

>> Pool: Right. Thanks.

>> Mayor Adler: Which I see is in the resolution being proposed. Great. Sorry to have lagged so far behind.

>> Troxclair: No problem.

>> Mayor Adler: So there's a problem to do community care. Is there any discussion? Those in favor -- Ms. Garza?

>> Garza: I just want to thank councilmember troxclair. Both the site that's no longer able to accept this is in district 2 and she sought a site in district 2 to replace that. Thank you for watching out for district 2.

>> Mayor Adler: Those in favor of the resolution, please raise your hand? Those opposed? It's unanimous on the dais. Thank you, Ms. Troxclair. That then gets us to the next item, I think, which is item number 52.

>> Troxclair: Mayor, this is the taxpayer impact statement item and I pulled-it just because I had an amendment that y'all should all have at your desk. It's pretty simple. I worked with the mayor's office and councilmember Casar as well as our city staff in kind of cleaning up some of the language as well as inserting budget highlights as the things that will be included on the taxpayer impact statement.

>> Pool: I'd like to second that.

>> Mayor Adler: Ms. Pool seconds that motion made by Ms. Troxclair. Any discussion on this item? Then we'll go to a vote. Those in favor please raise your hand?

[7:57:33 PM]

Those opposed? This passes unanimously on the dais. That's item number 52. Are we down to just the one last item? I think it's item number 71. Is that right? I think 77 is our last item. 71 is the floodplain variance.

>> Thank you, Mr. Mayor, mayor pro tem, councilmembers. My name is Kevin Shunk, floodplain administrator. The item before you is a floodplain variance request. This is your second floodplain variance request that you've considered and possibly before the month is done you'll double that into four. Depends on how the month goes. So it is obviously as development applications come forward to us and if the particular development application can't satisfy all the floodplain rules, it is the applicant's - they have the ability to request a variance to some of the rules. So that's why we're here for this one,

and for this one in particular, this was -- this property is 6109 oak Claire drive. This is in what's called Gaines creek, a tributary of Barton creek. What I'm going to do is walk you through the variance request itself and the development that's being proposed, and then I'm going to talk a little bit about how we got to where we are today and then even more importantly about what in the future is happening in this particular neighborhood to address some of the pretty significant flood risks.

[7:59:34 PM]

So here's an overview of the location, right there somewhat in the middle of the screen is the property outline. That's 290 running through the middle of the page just south or blow the property that white rectangle is the ymca building, top left is oak hill elementary and just south of 290 there that's the oak hill ball fields, just to kind of orient you. The blue line running across the property, that's the center line of the gains tributary, the creek on the bottom of the screen just happens to be Williamson creek. There's a close-up view of the property itself with the floodplains delineated. The darker blue color is the 25-year floodplain and the lighter the 100-year floodplain. As you can see the majority of the property within the 100-year floodplain, a small corner not in the floodplain. One thing I want to point out, it is actually somewhat significant, is that this floodplain is not yet a FEMA floodplain and is not indicated on a FEMA map yet. I'll explain why that is. We're in the process of doing it. I'll get into it in a little more detail. So what we're seeing here are just the city of Austin floodplains, the runs that we use to regulate development. Existing conditions for the site now is that it's undeveloped. Nothing is on the site as we speak. This subdivision was platted in 1948. And this -- there's not been any development on this particular lot since it was platted, first 67 years. I think it's safe to say that every other lot in the subdivision has been developed or near every one. So the owner of the property is proposing to build a 2-story single family residence with an attached covered carport.

[8:01:37 PM]

It's a 2200 square foot house with an 80 square foot balance Connie, 180 square foot covered patio and 490 square foot attached carport. The finished floor elevation or where you would step into the house is elevated just over 2 feet above the 100-year floodplain. So our rules require that it be 1 foot above and so they've gone above and beyond that, in that it's elevated to feet -- 2 feet above. As you can see the foundation is a peer and beam construction, which obviously can allow flood water to be stored or flow underneath the building itself. There's how the housing will sit on the lot. Again the floodplain is delineated so the house is fully within the 25-year floodplain and obviously within the 100-year floodplain as well. The depth of flooding on the site and within the street with significant. And so for the 100-year floodplain, the depth at the front of the house is just under 4 feet, 3.6 feet deep and for 259-year floodplain at the house is about 2.6 feet and a little shallower Wednesday you get to the street but not -- shallow we are but not by much. As you may expect the water flowing across the road is flowing with some velocity so I wouldn't call it still water. It's actually water moving somewhere around 3 feet per second and we have a graphic we can represent maybe what that might look like. So for the first floodplain variance that did I several months ago, we talked about the floodplain regulations and I'll run through some of the major ones here and talk a little bit about how this proposed development is addressing some of them or not addressing some, which brings them for the floodplain variance request.

[8:03:40 PM]

One of the most important floodplain regulations we have is what we call the no adverse impact rule,

essentially says proposed development cannot cause additional flooding on other properties. It's very simple. It's sound floodplain management. You can build something, and if it encroaches in the floodplain, it cannot cause additional flooding on anybody else. That indication of whether it causes flooding is typically handled through an engineering analysis that the applicant pays for, pays the civil engineer to do, and submits it to the city. And then the city reviews that engineering analysis and either concurs or there's comments back and forth and then we get to a point where we can see whether there is an adverse impact or not. For this particular development application, the applicant has requested a variance from doing the engineering analysis at all. So they haven't submitted the analysis. They're requesting a variance to have to submit the analysis. So that makes it really difficult from staff's standpoint and from council's standpoint in trying to make a decision on this property, as to does this development increase flooding on other properties? Well, we don't know because we haven't had an analysis submitted that indicates that. The other -- one of the other floodplain management regulations is free board. I talked about that just a few minutes ago. This house actually seats our freeboard requirements, 2 feet above the 100-floodplain, where the requirement is 1 foot. The safe access rule, we talked about that with the first veins. It's essentially trying to prevent constructing islands in the floodplain. So if you have a house that's -- or a property that's surrounded by a floodplain entirely and you built a house in that floodplain and the elevated above, the house itself may not have flood risk because it's elevated well above, but now the people that are inside the house or the first responders that are trying to get to the house don't have ingress and egress because it's surrounded by flood waters.

[8:05:44 PM]

So the safe access rule states you have to be able to walk from the house to the right-of-way, all at an elevation 1 foot bailiff the floodplain. Obviously, if the entire lot and the right-of-way in front of the lot is in the floodplain, there's no way that somebody can meet that rule and so that is, as we talked about before, a somewhat common floodplain variance that we will be talking about in the future. This property in particular does not meet the safe access requirement, hence, one of the variances that they're requesting. The drainage easement requirement requires the owner to dedicate a drainage easement, document the limits of the 100-year floodplain and again a typical variance request is to request that the footprint of the building not be in the drainage easement, actually the city doesn't really want the building in the drainage easement, the lender, if there is one, definitely doesn't want the building in the drainage easement. So the request is only to not dedicate -- to leave out the whole of the footprint of the building, but still to dedicate the easement. That's fairly typical. The structural certification requirement is very important. And it states that if you're going to build something, house, structure, in the floodplain, it has to be able to withstand the forces of the flood waters. And the point of that is so it's not washing away, doesn't create debris that goes downstream into culverts and causes more flooding. This development has submitted a structural certification, indicating that it was designed in accordance with those rules. Now, if you look in your backup packet you'll notice that there are -- I believe that there's eight variance requests and I've only highlighted two of them here. The reason for that is these are the two that I see being the most significant. Some of the requests that you see in your backup packet all deal with the same item, which is the engineering analysis. So I didn't repeat it over and over again, but in a nutshell, the two most significant variances with this request are the safe access variance and the variance to not provide the drainage study.

[8:07:56 PM]

Now we talked about safe access before. Talked about not want to go create islands. This is a picture

somebody took during the Halloween flood of 2013 from their front accommodation they were elevated above the floodplain. This is an example of why safe access is important. Having flood waters surround the building, not being able to get or out of the building makes for a significant flood risk for the people in the house, as well as the first responders. Now, this is obviously onion creek, flowing a little faster than 3 feet per second but nonetheless one of the best videos I've seen that represents what safe access is, why it's important.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Just a quick question on the -- that study for the flood. Who is qualified to do those studies, and how much do they cost? Is cost part of the reason they want a instantaneous they don't want to have -- variance? They don't want to have to pay for the study?

>> I believe the owner did mention that as part of their reason not to provide it. I can -- so it was their request not to provide it for that reason. Who is qualified, typically there are civil engineers who are providing those analyses.

>> Zimmerman: Any budgeted.

>> Is it 5,000, \$10,000, does it vary depending on the floodplain.

>> It varies, depends on the situation, I would say. I couldn't offer it to you, how much. There's a range.

>> Zimmerman: Okay.

>> Mayor Adler: Okay. Continue.

>> Again, the drainage study itself is to identify whether there's additional flooding on other property. Obviously, to eliminate increases and risks to other property. And the request here is to not prepare the analysis entirely. So just a quick summary of findings and, again, these are in your backup as well. We don't know what the floodplain impacts would be from this proposed development and that causes great fresh a floodplain manager standpoint, about what's going to happen to other properties when this development happens.

[8:09:59 PM]

There are house ons either side of this lot that exist now, and one -- the house on the north of this property did flood on October 13, 2013 so we note that there's flood risk there and know flooding is happening with some of those buildings. The building itself, the proposed building, will not have safe access. However, it does meet the finished floor requirement, goes above and beyond that. The hardship condition may exist, and we always state whether the hardship condition exists within the backup packet, the reason I say it does or doesn't, I said it may exist, is because I feel that there's not necessarily a hardship to a variance for not providing the study. However, there may be a hardship when you just consider the safe access variance itself. Staff is recommending denial of this floodplain variance request for the reasons that building a house on this lot would not be safe. There is significant flood risk on this property. It's evident from storms that have happened in the past. It's evident from some of the neighbors in that area and evident from the engineering study from the floodplain stayed should that we did that showed -- should that showed how high the floodplain is. There is a draft ordinance in your packet, however. So if you would like to consider these variances, the draft ordinance is there for your consideration. I just wanted to bring up the two conditions that are part of that. One is the drainage easement, the condition is that they would submit the drainage easement to us before they get a certificate of occupancy and then the elevation certificate document is an assurance that the house was built at the elevation that they stated it would be built at. That's a standard procedure for us for conditions. So that's the request in and of itself. Now, I want to talk about how we got to the point where we are today.

[8:11:59 PM]

And this piece is significant for to understand. However, it doesn't necessarily craft -- have anything about the flood risk, but I think it's important for you to know how this development started and how we got to this point where we are today. A lot of words and Numbers on the slide, but I'll talk through. The owner of the property purchased the property, I think, like two or three years ago. And submitted for a building permit application in 2013, mid-2013. At that point in time we had -- we were about halfway through with the floodplain study. So, like I said, this is not on a FEMA map. We had not completed the floodplain study yet. So there was no indication on any document that a floodplain existed on this lot. So they were granted a building permit. It didn't get floodplain review because there was no floodplain on the property. So in July 2013, the permit was approved. They did start construction. First inspection approved September 2013. About that time, staff had a public meeting in this neighborhood because there's significant flood risks, as we had been hearing a lot about some of the flood risks so we started the floodplain study for the gains tributary, and we went to the neighborhood to talk about that. And that's when we learned that there is a development -- this development was occurring and then were looking at our floodplain maps and realizing that what they were developing, it's not the house you see today if it was a different one. What cause -- it would cause risks, not only to that house, but to other houses as well. So the city put a hold on that building permit on October 4, 2013. October 13, 2013, you may remember, significant rainstorm centered on sunset valley, nearing 12 inches of rain. This part of town that this property is located in, again, received a lot of water.

[8:14:01 PM]

And many homes within this neighborhood flooded that night, and water flowed over oak Claire and then essentially washed away some of the material they were using to build the foundation, indicating that there was obviously flood risk here, the home to the north of it did receive some damage from that flood. So in November 2013, the city sent a letter revoking the building permit for that property. And then we brought the owner in to talk about the flood risks and how they would need to revise the application in order to address what is now a floodplain and it needs to comply or is best to comply with the floodplain regulations. They went back and redesigned. The original design was a one-story house about 2,000 square feet. Now it's two stories, about 2,000 square feet, so it's a smaller footprint. They redesigned the building, submit for a building permit in August of 2014. We had not, unfortunately, had our floodplains on our GIS system, and that's the system that we use internally for staff in the residential group to identify this needs floodplain review. So if they didn't see it, then the floodplain group would never have seen that application. A second permit was approved in August of 2014. There were some issues with the owner and the current builder and so the builder who obtained that permit actually withdrew it himself in September 2014. Soon after that the new builder came and talked to us with the owner and said, you know, we need -- we want to reapply for this and then we stated to them, as you know, as we've been talking about for almost a year now, it's within the floodplain, needs a floodplain variance and that's what brings us here today. That's the history of how we got to where we are. Now a little bit of history -- not history, a little bit of looking into the future on what's happening. Like I mentioned, this area of town has some significant flooding problems.

[8:16:05 PM]

We have probably -- we have identified 51 flooding complaints. However, I'm sure there's probably more than that. Within probably the past less than ten years, but one of the council questions that we received from councilmember Troxclair was within the last ten years. So we have 55 documented

complaints and -- 5551 -- 51 documented complaints. The solution would be complete a floodplain study, we've done that, Gaines creek, now we have the floodplain study. And those preliminary results, as I mentioned, were in September 2013. Final results in August. And they are not yet on a FEMA map. That will be part of the process, but it hasn't been done yet. So these are only what we would call city of Austin floodplains. So the next step in the mitigation process is to do a preliminary engineering report. The notice to proceed on that was just last month and we just had a kick-off meeting for it this week, as a matter of fact. That project will identify alternatives to fix flooding problems within the neighborhood, which of there are many. There are storm drain problems, there are creek problems, there are roads that are overtopped, significant flood hazards so that report will identify alternatives and then it will give a recommendation of how the consultant thinks the city should proceed with this particular project or a variety of projects. We anticipate completion of the preliminary engineering report in August of 2016. Once we get that analysis, that report and we know what the alternative is, then we make the decision to go to final design and then permitting for that piece. And that we see could take us through August 2018. Now when I said initiate mitigation solutions, possible initial solutions could start once the preliminary engineering report is done. So we don't necessarily have to wait for all of the final design and permitting because if there are pieces of the mitigation solution, we could start immediately, we'll do that. So the neighborhood might see some solutions happening as early as August 2016.

[8:18:09 PM]

However, if it is a significant construction project that does take the permitting -- the design and the permitting to do and then construction, it could be 2018. What I'm trying to say is that we are putting resources into finding the flood solution for this neighborhood. It has significant flooding problems. We know that. And we are finding the solution for it, and even though we've just started the preliminary engineering report, we have, within this year's budget and in our five-year forecast, are putting money in to save for the construction aspect of it. So we are starting the -- to fund the construction aspect. It's not like we're going to get done with the per and have to wait another ten years to get to construction. Of course I don't know what the final solution will be, but we're starting that process of funding it. So that -- I hope that helps you out with the request that's on the table. But then understanding how we got to where we are today and then where we're going to go as we go to the future. So I know it's a lot to handle. If you have any questions, I'll be happy to answer them and I do -- and the owner is here and the builder to present as well.

>> Tovo: Thanks for that presentation. Just a quick question four. Are there other instances where the city of Austin has waved -- issued a variance for the engineering drawings that would measure adverse impact on surrounding properties?

>> So for the seven years that I've been doing this, I know there's been one. And in our research from floodplain variances that -- all the Hans we've, do I -- ones that we've done, I can only find we've done it once, not that long ago, fairmont hotel over on waller creek and I think it's a much different situation than what we have here today. For the biggest reasons because obviously waller creek floodplain is changing significantly with a very significant tunnel that we're building. So the fairmont down on Cesar Chavez right across from the convention center had a floodplain on the lot. They were proposing to build a retaining wall that encroached on the existing floodplain, but not on the proposed floodplain, and they requested a variance from submitting an engineering study because the floodplain was going to change.

[8:20:20 PM]

So that's the one that I can think of.



>> Tovo: But all the other cases with which you're familiar --

>> It's very common for attorney submit the engineering study.

>> Tovo: This is kind of the first step to measuring the impact.

>> Right.

>> Tovo: Okay, thank you.

>> Mayor Adler: Do we want to hear from the applicant first? The builder? Ms. Troxclair.

>> Troxclair: First of all, thank you for the work that the city is doing to address that neighborhood. I do know that they have some significant flooding issues, and I know that there will be lots of neighbors who will be relieved to hear about the progress. As far as this property, can you tell me, so the study that's required, this property in particular was not -- it's raised floor. So water can move underneath it. Right?

>> The property itself?

>> Troxclair: The -- well, the building that they're proposing to build on, the house.

>> It's elevated.

>> Troxclair: It's elevated, right.

>> On pier and beam foundation.

>> Troxclair: Rather than a concrete foundation.

>> Slab, right.

>> Troxclair: So water can move underneath it.

>> Yes.

>> Troxclair: So is that -- is that -- do you have the same, I guess, flood mitigation concerns when -- I mean, the reason that flood mitigation is an issue, because you have the -- the water can't absorb, it has to move around something but it doesn't seem in this circumstance you would have that because the water can move underneath the house.

>> I would say it's different. I mean, if as it a slab on grade foundation verses a pier and beam, I would say the pier and beam would be less impact for sure but it still doesn't mean there would be no impact.

>> Troxclair: Okay, thank you.

>> Mayor Adler: We have -- want to be to the applicant yet? Applicant/builder? Okay, go ahead.

>> Gallo: Thank you for that description of all of this, and I'm still trying to understand kind of the process that this has gone through.

[8:22:27 PM]

Excuse me. So explain again why this is is not on a FEMA map. So this is not -- FEMA has not determined that this property is in a floodplain?

>> Correct.

>> Gallo: And so how is it on a city -- how is it a city determination when we don't have a FEMA determination? So are they independent of each other? Does the city make a determination and then apply to FEMA to consider -- I mean, I don't understand. I thought FEMA kind of trumped everything and now I'm hearing that we've kind of got this subprocess working here. Can you explain that a little better?

>> I'd say in the early portion of the flood insurance program, in the late 1970s and '80s, FEMA made the decisions on these creeks are going to get flooded and they'd come to the community, say we're going to study this creek and this creek. As time has gone along, FEMA has realized they have limited funding to do studies on all the creeks. So they've looked to the local community for assistance, and that assistance can come in the form of us providing data to do floodplain studies, we have staff that can review floodplain studies. And so they have agreements with local communities, it's called a cooperating technical partner, which is city of Austin is one, and so now, in this case, FEMA, in a sense, is -- somewhat looks to the city of Austin to say, you guys tell us. You're there. You know what's going on in your city. You tell us what needs to be studied. And in the case of about six floodplain shades we just

finished -- studies that we just finished over the course of the past several years, the city of Austin actually contracted all the work. We had a grant from FEMA to do some of it, but we did all the work for -- our consultants did it and then we processed the preliminary FEMA maps and we did the lion's share of the FEMA process. So FEMA looks to us to say you tell us where the risks are, and you tell us what streams that should be studied based upon what we want to show our citizens.

[8:24:27 PM]

So Gaines creek just -- it was too small to show up. We had lots of other creeks in the city that we felt needed to be maps, but there's significant flood risks on Gaines creek so now it's the time where we did the engineering analysis, so we have city of Austin floodplains and we'll get to the point of putting on a - - putting on a FEMA map gnaw process hasn't started yet.

>> Gallo: My concern with that process is when -- help me with this. Because when somebody buys a export it's surveyed, the survey will show -- there will be a floodplain map also because then insurance, flood insurance, will be required if it's showing up in the 100-year floodplain. So what I'm hearing is there's a whole segment of at-risk flood properties that are not showing up on surveys when people are buying the properties that the people do not know they're at risk and, as a result, are not getting flood insurance. Am I understanding that that's what's happening here?

>> That is exactly what is happening here, and it happens in other portions of the city, where we have flood risks either from creeks or local storm drains where it's not on a FEMA map. That's why our public outreach isn't just to pump in the floodplain. Our public outreach is to everybody, to say if you live near a characterization if there's a channel in your start, storm drain in front of concur yard, you may have flood risk and you need to consider whether you should buy flood insurance or not. It's a city-wide approach for us to educate people about flood risk and how they can mitigate some of those risks.

>> Gallo: Unfortunately, as councilmember troxclair and I both know, in the real estate business, people are not going to have a tendency to buy flood insurance unless they're required to do it and the only reason they're going to be required to do it is if it shows up as being in a floodplain on the survey. So that is really concerning information, that we've got lots of at-risk properties out there that are not being triggered by a process on FEMA maps.

>> One thing I'll say on Gaines in particular, if we started the process to go through -- to put it on a FEMA map, it's a federal process, it takes several years, well, by that time, we're hoping that we can start having flood mitigation solutions.

[8:26:40 PM]

And so those flood mitigation solutions are likely going to change the floodplain. So if that is happening in somewhat of a compressed time, let's get some flood mitigations on the ground so, therefore, the FEMA map is going to represent that floodplain as opposed to the larger floodplain, while we here at the city can still be going to the public and educating them about, yes, there's flood risks here and telling them about those risks. So the process for us to get it on a FEMA floodplain is, unfortunately, lengthy and it's definitely something that we will do. We just haven't initiated it yet.

>> Gallo: Okay. I'm a little concerned that we will do but we haven't initiated. It seems like -- this is really concerning to anyway we've got this risk out there for the population that we can do something about and even if it takes a while for it -- the process to work completely, any delay on our part from taking that process forward is really concerning.

>> It concerns me too.

>> Gallo: I'm less concerned -- I mean, I would rather us be proactive about getting at-risk properties on the FEMA map than the length of time it takes for them to come off the map.

>> Yeah. I -- that makes sense.

>> Mayor Adler: Ms. Pool.

>> Pool: Mr. Shunk, thanks for the great presentation on this. You've been helping us with some of the new red zoned properties, the flood -- that are no in the 100 or 25-year floodplain in Brentwood and those properties weren't previously in a floodplain. And can you describe some of the circumstances that have caused some established neighborhoods, for instance, Brentwood has been around for a really, really long time and these folks had never been in a floodplain but now they are. What are the changes in circumstances that would cause an established neighborhood that's never been in a floodplain now to be in one?

>> I think it's the fact that, over time, the city has spent a lot of money to identify flood risks and that is primarily been on significant creeks.

[8:28:41 PM]

Shoal creek, Waller creek, Onion creek. Well, we know there are flood risks on a lot of other creeks and it just is a matter of time for us to get to those creeks, identify the -- do the study, identify the hazards and put them on a -- hazards and put them on a map.

>> Pool: In this case in Brentwood these folks actually flooded in the Memorial Day rainstorm. So what would the circumstances that have caused that -- what would those circumstances have been? These -- for some properties that have never been flooded before but were now flooded.

>> What's the circumstance for them to be in a FEMA floodplain?

>> Pool: For them to have actually flooded, where they have never flooded before.

>> Well, maybe in the case of Brentwood or just take the Memorial Day storm in and of itself, the fact that maybe the Brentwood homes have never flooded I think is an indication that, fortunately, they have not had that much rain in the neighborhood to cause that type of flooding. And when you look at the history of the rainfall in the area, certainly it's rained a lot. Memorial Day storm 1981 had a lot of rain in that neighborhood, but if you look at the Memorial Day 2015 storm, that as a pretty significant rainfall that happened in the -- little different than some rainfalls and I think that's why in Brentwood we saw some of the flooding that we had there and it hasn't happened in a long time. Development has been in that area for significant period of time, so I think it was just a matter of the duration and the intensity of the rain.

>> Pool: I think it's good to get the assistance of the property owners to submit the reports that are required so that we can have sufficient information to be able to make the appropriate decisions on these cases. So I would appeal to the owner and the builder who are here to go ahead and do the work.

>> Mayor Adler: Let me call Ms. Kitchen and then Ms. Houston and then let's go to the applicant and to the builder.

>> Kitchen: I'll just say this, and I don't know if you can speak to this or not, but my question, again, is as others brought up in previous discussions, is so then if we approve this ability to build and there's no house there now, then where does that put the city in terms of city's liability for buyouts?

[8:31:05 PM]

So I'm raising that question again. We've raised it before. So I don't know if you can speak to that at the moment.

>> Well, I would just say that we don't know what the flood mitigation solution is because we just started the inflame engineering report. It may include a variety of solutions for the neighborhood. So it's hard to say exactly what the solution would be at this property or for Gaines in general. Or for some of the other areas in the neighborhood.

>> Kitchen: So right now -- well, okay. So one of our flood mitigation strategies is buyouts, is what we're saying, essentially. That's one of the things that we need to revisit as a city. So. . .

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you so much for the information. I learn a little bit more each time you come and you've got four more coming, I understand. I'm concerned about the new construction in this property, but I'm also concerned about the effect this property will have on other properties downstream. And so is there any way to know what impact that building that the -- the impervious cover cover of that, but you said it's pier and beam so I guess it flows through. But will that have any negative effects on properties downstream?

>> We won't know exactly unless the engineering analysis was done, but I can say that it's likely that it would have an impact. I mean, if you look at the October 13, 2013 flood, the house to the north flooded. So if there was some sort of blockage, albeit small, it makes sense that it would have been maybe even additional flooding on that property or some other properties. There are not only properties but roadways that are in the floodplain downstream of this property, maybe those would be impact and some upstream that could be impacted.

>> Houston: Okay. Thank you.

>> Mayor Adler: We have three speakers.

[8:33:05 PM]

Is the applicant here, the builder? Do you want to pick which one of to you come up -- to you come up first? Good evening, sir.

>> Good evening. My name is Manny cooper and I'm the owner of this property. To begin with, when we bought the lot, I went to the city and specifically asked them if the property was in a floodplain zone. This was in April 2012, and they said it was not in a floodplain zone. Later, they admitted that the watershed department did not communicate with the building department at that time so that information was available, but they didn't use it. So they gave me a permit to build the house and we started the building process. We spent about \$30,000, \$40,000, on top of the cost of the land to build a house. And we had the Halloween flood, and the city came back and said that the house is too low. You have to raise it another 2 feet, and the builder advised me that it will cost you another \$100,000 to raise the slab. And later on, the building department came back and said, oh, by the way, you cannot build the house on the slab. It has to be built on pier -- beam. And if you build the house and redesign the house, it's not going to work and -- it will work and you can go ahead with the project. So we hired an architect and an engineer, and we made new plans, submit that -- submit that to the city from a previous builder, and the permit was granted.

[8:35:10 PM]

And for some reason, the builder backed out and I contacted Hernandez here to build on that lot. And at that point they said that the building department did not communicate with the watershed department, and since they didn't do that, we're not allowing you to build the house on that lot. So, yeah, at this point, after almost three years, and there's no house being built, all our money is tied up.

>> Good afternoon, good evening. I'm the builder, my name is Eli Hernandez, I'm the builder and I've been trying to kind of work through the process to see if we can get some solution to getting a permit from the city. There's been some questions about the study, the analysis that they're requesting. We have seeked out some -- we have reached out and they have come back to us with -- a pretty significant amount of costs, additional costs, for hydraulic analysis.

[ Buzzer sounding ]

>> In addition, the time frame they're requesting about a 12-month time frame. So as you can see, it's just adding on additional costs to the owner, in terms of the time and the resources that need to be allocated for the report. So. . .

>> Mayor Adler: Questions for the builder or the applicant? Ms. Troxclair.

>> Troxclair: Did you say how much the drainage study would cost?

>> It's not the drain. It's the -- drainage it's the analysis, hydraulic analysis report.

[8:37:16 PM]

>> Troxclair: Okay.

>> We reached out to a couple of them and they're over \$10,000, and in addition to that, the time frame, they're looking at about 12 months. It seems like they want to do a study of the entire -- I guess not the entire subdivision but a portion of the subdivision, so it's adding just a little bit more cost it's going -- cost and it's going outside the boundary of the owner's property.

>> Troxclair: So that is the reason you're requesting not to submit the study, because it's cost prohibitive.

>> I think that's one of the reasons but also the other reason is, you know, some of the other back and forth that's been taking place with the owner and getting permits and getting the permits pulled. So it's.

. .

>> Troxclair: Taking too long.

>> It's taking too long and I think at the end of the day we're just looking for a solution where -- you know, he's been -- he's done it several times, where he has to rearchitect his full plans and yet that's not enough. But initially that was the request. So we're just trying to figure out if we go forward and get the analysis, what's the next request going to be? Because there's a lot of uncertainty.

>> Troxclair: Mm-hmm. And how -- about how much money is -- have you spent in total on this, on this project? , I guess, after you purchased the building?

>> \$112,000.

>> Troxclair: That's how much you've -- you purchased the land for or that's how much you spent.

>> No. That's combining the cost of the the -- in three years we have not moved --

>> That's not counting any other time and the resources, they're trying to get a solution.

>> Troxclair: So \$40,000 in the process of the -- trying to get permits and getting the building started and not started and --

>> Correct.

>> Troxclair: And all of that process.

[8:39:18 PM]

Okay.

>> We are not sure even after we do this study that they'll grant us a permit.

>> Troxclair: Right.

>> There's no guarantee.

>> Troxclair: So you're worried -- you don't want to spend another -- on top of the \$112,000, you don't want to spend another \$10,000 and have the city say they're not going to give you the permit.

>> Troxclair: Yeah, I can understand that.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: That was my question. These are terrible situations because you get into something, you don't know what's coming, what's coming down the line. You're committed. You spend all this money. You're, you know, \$115,000, \$120,000 into it. So my question, I guess, for staff and for the council, if we vote no on the variance, then you just lost a lot of \$120,000? Because no one is going to bite a lot

if no one can build or do anything with it. So isn't that, you know, kind of a regulatory taking? Does the city have liability for saying, oh, you can't build and so now you've got all this money and your land is useless? How does that work? That's a question for legal. Or does the city consider, has absolutely no responsibility, it just says you can't, Mr. I'm sorry, lost \$120,000.

>> Mayor Adler: I'm going to legal legal comment in just a second. There's no good resolution to this situation. You should -- it would -- it would have been better had you known when you bought the property the situation you were in.

>> Yes. We have --

>> Mayor Adler: And the -- and the data was not readily available for you to know.

>> It's still not. I printed this out. I'm a realtor. I printed this out today. And it still doesn't show that the property is in a floodplain zone.

[8:41:19 PM]

>> Mayor Adler: Right. There's no way. So it's assumed that there was no way you could have known.

>> No.

>> Mayor Adler: No way you could have known. That doesn't evaluate the fact that the -- alter the fact that the property is in a floodplain, as a matter of fact. Whether you knew it or not. And that's what makes this situation hard breaking. Because there's no way for you to have been known. The decision for the council ultimately is what to do. It would be real appealing to be able to say, since you could not have known that you were in a floodplain, that you should be able to build. The problem with that is that as soon as we correct that injustice, we could be creating another injustice by creating a situation that would potentially endanger other people, which puts us in a horrible place. It has us committing, in essence, an injustice whichever way we choose. Because either there's an injustice directed toward you because you're stopped from building in a situation where you couldn't have known you couldn't build, or we let you build and then we potentially put people in harm's way who also are innocent in this matter. I want legal to address Mr. Zimmerman's question. My experience in working in these kinds of cases is that every time the government does something that results in a reduced price does not equal a taking. There are lots of action that the government takes that results in people losing money and losing value.

[8:43:24 PM]

So the law requires something more than that. It requires that plus something else. And I'm not sure that a alert discovery or -- later discovery or realization the property was unbuildable, unless you can show the city created the flood problem, would be something that is a take. Do you want to address that?

>> So the mayor explains it well, as always. All these kinds of things. There are situation that's happen that are very difficult and they're not easy for the people involved, but as a governmental entity, we do have leeway. We try and work and protect taxpayers dollars. As I always say, anybody can bring any kind of a claim, but I'm not sure that this would go anywhere that would end up helping the folks in the situation.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I didn't.

>> Pool: I didn't hear the last thing that she said.

>> Gallo: There's so many layers of concern that I have with this whole process. The first is, certainly until we have our flood buyout policy and probably even then, I'm going to be very reluctant to ever grant a waiver to build in the 25-year floodplain. I think we put our citizens at risk, I think we put our

public safety officials at risk, and we've seen too many recent floods with deaths to continue that process. The concern that I have here is what I think I'm hearing is that at some point, either before you bought the property or after you bought the property, you actually went to the city to find out if the property was in the floodplain and because of the disconnect between two city departments -- and, I mean, this is a city staff question, but I think because of the disconnect between two city departments, we had the information already that the property was in the floodplain? No. So when was -- when -- I'm a little confused with when that happened.

[8:45:30 PM]

So when did -- when did the city determine that that area was in the floodplain? And where was that in his process?

>> So we had a very rough preliminary floodplain delineation just after the city issued his building permit. So if when he bought the property he came and talked to somebody at the city, whether that's watershed or development services department, nobody would have -- we wouldn't have known it was in the floodplain because there's no floodplain delineated. It was after the -- he got his building permit, then we went to the public meeting to talk about flood problems and were doing this floodplain study, and it was then that we had what we first saw was, well, here's the first cut at the floodplains, preliminary floodplain. And that's when we knew that it was in the floodplain.

>> Gallo: So at that point the city had that information. He had already received his first building permit.

>> Right.

>> Gallo: And at that point he was told to stop building, that it was in the -- that y'all would pull the permit back because it was in the floodplain?

>> Correct.

>> Gallo: So how much money had been spent at that point?

>> After that point, we had spent at least \$30,000 into that project.

>> Gallo: Up to that point?

>> Yes.

>> Gallo: When you got the first building permit, and then you were notified that we're pulling it back. How much time was between the time that he got his building permit and the time that city -- the city determined that that was actually in a floodplain?

>> Well, I think if you look at the permit history, I think it was issued in July and then the city pulled it in November.

>> Gallo: Okay. And then once it was pulled, it had been determined that it was in the floodplain, but I'm hearing that money was still spent and the process still continued forward with the assumption or the expectation or the hope or desire that building could continue.

[8:47:40 PM]

So I'm trying to understand why that occurred.

>> Okay. So that's a process that we do frequently with people who are buying land in the floodplain. I have this piece of property. It's in the floodplain. What can I do with it? Well, here, I'll lay out the floodplain regulations. Here's everything that's required, and here's what you don't satisfy. So you're going to have to design something that either meets as many of the rules as you can, but no matter what they did, they knew from day one that they would be coming to you for a floodplain variance because there's no way it met safe access. So then we talked through what the regulations are. It's freeboard. What are you going to do about freeboard. We recommend you raise it as high as you can. 1 foot is the rule. Higher the better. They did 2 feet. We talk about drainage studies and adverse impact,

develop the floodplain and the drainage study will indicate whether the proposed design causes an impact, and if it ask you may have to tweak the design. In the end if you've done everything you can and it still shows there's an impact, you'll still have to come to council. You're already coming anyway. So those are conversations we have with people very frequently.

>> Gallo: Okay. So my interpretation -- or my feeling about all of this is that I don't think it's a -- that the city is responsible for a decision to continue the process when the owner of the property knows that the city is informed and it's in a floodplain. That's a risk that an owner is -- takes on themselves because continuing the process then would require getting a waiver from the city council to continue. I guess the thing that I'm struggling with is that we do all the buyouts. We go into neighborhoods and we buyout the properties that are at risk, whether -- you know, and part of the discussion is whether or not the people knew they were at risk or knew they were in the floodplain, doesn't seem to be part of our analysis and our determination of whether or not we're going to buy them out.

[8:49:42 PM]

So what I'm struggling with is here we have someone that nothing he had available showed he was in the floodplain so he bought the export he spent a certain -- and he spent a certain amount of non-get a building permit that was permitted permitted and given to him by the city and a couple months later it was taken away from him. And so it's -- how does it differ from all of these other situations that we're dealing with on these buyouts? I almost -- I'm not gonna vote for a waiver into a 25-year floodplain but at the same time I hope that maybe we can have a continued discussion on how to handle this particular case because we seem to spend money on buyouts in very similar situations.

>> Mayor Adler: Ms. Pool.

>> Pool: I think in this instance that working with the owner and not building here would help us not have to have this property be in a buyout situation at some time in the future. It looks to me like the -- and the floodplains change over time. It was -- that was one of the questions I was trying to get in the conversation previously with Mr. Shunk. Sometimes it's because there's additional impervious cover and development upstream and uphill. Sometimes it's because of erosion and just changes to the landscaping. But I think the better part of Val lore in this -- valor in this, unfortunately, is to try to prevent a home from being inundated in a flood that could take a life.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Is this something that has to be decided tonight or is there time for us -- or are -- is there time and are there any other options available to simultaneous I complete agree with what councilmember Gallo and pool said. I mean, I don't feel right about allowing building in a property we know is at serious risk because I think it will get us into an even worse situation and conversation downtown road, but at the same time I feel like the city made a mistake here.

[8:51:48 PM]

I mean, I feel like we gave this property owner a building permit and then took it away and he is facing significant financial loss because of it. So, I mean, I agree that this should be -- I think the city should take some responsibility for that. I know it's no one's fault, but if there is a way to have further conversations and possibly come up with what the market value is, you know, knowing that this is in the floodplain and having this considered as part of a buyout for the difference of what he's spent in -- invested in the property after his permit was approved, I just -- I'm -- I just wonder if there's some kind of common -- or some kind of compromise or any other options to us rather than either allowing building in a floodplain we know is dangerous or putting this man in a situation where he's, you know, potentially lose his life savings over a bad decision.



>> Mayor Adler: Ms. Troxclair, if you wanted to pick this up and try to examine if there was an alternative, then I would support a motion to postpone decision so as to give you the opportunity to do that. I mean, in some respects -- and in other flooding cases we've look at, someone goes out, buys a piece of property, builds a home on it, and later it's determined that it's in the floodplain. They didn't know. They are innocent victims of that situation. Quite frankly, I think in some respects the city is an innocent victim in that situation, when we granted a permit and didn't know. That's the same kind of innocent circumstances a property owner who buys that property. Ultimately, I look at this and I see someone who has invested a lot of what they have on a piece of property like that, and I look at that track and say this is a candidate for a buyout, in the same way that all of the properties that we have in the city that are in the floodplain that were bought not knowing, I think they are candidates for buyouts.

[8:54:04 PM]

Then -- but that begs the question, since we have so many properties in the city that are candidates for buyouts, how do we prioritize those properties? And the staff has come back to us and, I think, is developing that matrix, and some of the things they look at are, is there someone who is sleeping there at night, who faces potentially dying? That person who has also invested a lot of their money innocently could be a good candidate for a buyout. And I think real estate is going to work us through that matrix to be able to prioritize those situations. But as concerns this one, this is something that's gone on for a long time. Obviously, it's very serious. We are dealing with innocence and hardship. So I don't need to make a decision tonight, and if you wanted to take a look at that therefore and could come -- this and could come up with something, I would applaud you and support that motion. Mr. Renteria.

>> Renteria: Yes, mayor. You know, I couldn't -- I want to -- I guess a point of order. Are we -- I can't vote for this variance because I just don't feel like it would be right to have someone build there, knowing that they would be placed -- placing either their life or someone else's life in danger. So, I mean, we can discuss buyouts and these other things later on if we want to, but, you know, this item right now is -- 77 is, you know -- 71, we need to make the decision tonight so that we can let this gentleman here know that -- you know, that he needs to start pursuing other options.

[8:56:04 PM]

Because we're not going to give him the variance to build there. And I can't vote for it. So we need to make that decision tonight.

>> Pool: Mayor.

>> Mayor Adler: Ms. Pool, then Ms. Kitchen.

>> Pool: So the question before us on item 71 is whether to grant the variance to allow the owner not to provide the technical survey, correct? We're not approving him building. We're simply saying whether we agree to the variance not to provide the survey?

>> Mayor Adler: He can't move forward unless a variance is granted. He's asked for the variance in order to be able to proceed.

>> Pool: And it strikes me that very survey is so key to us knowing the true aspects of this particular property, without which even the owner ought not to want to build there. This is new construction, there's nothing at this site, right? Is that correct?

>> Yes, that is correct.

>> Pool: Okay. So no one is in imminent danger --

>> No, that's correct.

>> Pool: Okay. There's no structure there. He has invested in purchasing the lot. Sir, you are a real estate agent, is that correct? So you have some background in property purchase?

>> According to the people who lived there, they said that was the worst flooding in Halloween, 2013. And there were no injuries, nobody was killed. So I don't know why he -- Kevin is stating that it's a grave danger to people in the floodplain zone.

>> Pool: Thank you. Is your -- did you say that you are by profession in real estate?

>> Yeah, I'm a realtor.

>> Pool: Okay, all right. So you have some expertise, then, in --

>> As I was going -- about to say, I have a report that I printed out yesterday on realis and it says the property is not in a floodplain zone.

>> Pool: Thank you. So the points that I was making was that it is -- so -- the vote is on a variance, to allow him not to provide necessary paperwork that would assist the city and us in knowing what the true dangers are on this site.

[8:58:22 PM]

And because there is no construction there, that part of a buyout really doesn't seem to apply. So I agree with my colleague, Mr. Renteria, that we should go ahead and give an up or down vote on whether to insist on the technical documents be provided as per Normal, that's standard operating procedure, and I -- I have not heard anything here today that would lead me to support handling this any differently than any other --

>> Mayor Adler: Okay.

>> Pool: Person.

>> Mayor Adler: We're getting really close to having a resolution on this. We have one last speaker.

>> Kitchen: Can I speak first.

>> Mayor Adler: So long as you don't get us any closer to a resolution.

>> Kitchen: I'll be very quick. I'm sorry, sir. I just wanted to support -- this is a -- tough situation. It is in councilmember troxclair's district. And I think that if she is willing to -- to work with the staff and the parties involved that I think we should allow her that opportunity.

>> Mayor Adler: Mr. Hirsch, do you want to talk for three minutes? Thank you, gentlemen.

>> Mayor, members of the council, my name is Stewart Harry Hirsch and like most in Austin I rent. I think of myself as a taxpayer because I send a check to my landlord who pays taxes, although apparently 55% of us may not be thought of that way. I've been doing this a long time. And I had due diligence in a lot in Montopolis that the floodplain maps were ongoing we lost -- wrong and we lost 20 lots in a 100-lot subdivision and had to build a million dollar bridge on our own dime. So I understand the kind of dilemma that this owner is in. A 40 year problem. We've been adopting floodplain regulations as part of building code since 1975 and we've been making these kind of mistakes for 40 years.

[9:00:27 PM]

I know Zucker didn't highlight it the way he should have, but it's the case. We knew it in memorial day, we've known it all throughout. On the specifics of the variance before you and all other housing variance requests, I cannot say strong enough that you need to treat them differently than commercial and public buildings because the assumption is that people sleep there. And we as renters, we're not parties to these decisions. And so we Kennedy up in these places and die even if the owner knows, and we didn't, even if part of the staff knew and the other part of the staff didn't know. So the issue about denying the variance for me and all other cases until you finally get a report out of your task force on housing type developments means you need to deny variances. On commercial it's different because people are assumingly not sleeping there. It's a fairness issue and there was a fairness issue in our subdivision in Montopolis where the economics of affordable housing go away when you lose 20 out of 100 lots and

then you build a-million-dollar bridge on your own dime, you can't get to where you promise the public you're going to get to. You have a system problem. That system problem occurred once one part of the city knew that there was a floodplain risk and the other part of the city didn't know, and my suspicion is this month you will get resolutions to Zucker that won't take care of any of this at all. So this needs to be on a faster track than it is because the risk is for not just this gentleman, but everyone else similarly situated in a place where the information in permitting and the information in watershed is different and we have good hard working people, but lousy systems that don't make it work.

[9:02:30 PM]

And this is the 40th anniversary of bad systems. The floodplain local amendments to the building code were adopted in 75.

[Buzzer sounds] So I'm asking whatever you do with his case, please deny the variance, figure out what is an equitable solution for him is and then come up with a policy so that this discontinues sooner rather than later.

>> Mayor Adler: Thank you. Ms. Pool, my only concern with doing what you suggest is that there were more than just that one variance, and I'm worried, the risk the landowner had is if he invests the money to do that F he finds the money to do that and he does that, there will still be other variances. Even if he does that there's no guarantee that he would get that. And if the councilmember in that district is ready to take on this bigger global issue, again, I -- I would give her the opportunity to with able to do that before I took action and set people on a course that I'm not sure.

>> Pool: And I understand all of that. It's just that I don't want to -- it looks like this is not a good location for is all tied up in the task force, the flood mitigation task force which we're hoping to have all our appointments done by the first of department. I don't see how going forward with this -- it sounds like we won't, though, if troxclair is going to take it up off the table for tonight and try to work through some solution -- I not sure she would know until she started looking.

>> Pool: I want to get back to what the actual ask is here and it's for variances. And I'm not inclined to grant the variances.

[9:04:32 PM]

It in a floodplain. And the information that we need that he's asking not to provide is really instrumental and key and central to us being able to make the kind of decision you will be working O you will still need that documentation in order for any kind of a decision to be made here. So we may be tabling it or putting it off for another day, but that is the central issue and that is he doesn't want to provide some key documents that we need to make a good decision.

>> Mayor Adler: Ms. Tovo, do you want to go and then Ms. Troxclair?

>> Tovo: I wanted to just agree with councilmember Renteria, we're posted for action to consider variances regarding the floodplain. If there's some other proposal coming forward from council, it's going to be a completely different item. It doesn't make great sense to postpone an item strictly about floodplain variances even in the instance that there would be some kind of proposal to purchase the tract. So again, I just concur with councilmember Renteria that I'm not -- I'd rather go ahead and hear it. Let me say that this is a very troubling situation and I certainly understand, can understand the property owners' frustrations. That being said I don't see -- and I understand why the property owner wouldn't want to invest any more money in wanting to look at a study, but the other variances were troubling to me too. I don't think I would support even if that were not being requested, I don't think I could support this floodplain variance under other circumstances anyway.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: I was just going to say, too, the property owner that-- I think that you can tell from the dais that we're very sympathetic, but in general with the flooding issues that we've seen, I don't expect the council to approve the variance whether we take the vote today or whether we take the vote in a week or two or after I have time to see if there are any other options.

[9:06:48 PM]

So my advise if we do postpone it would be to not invest any more money in the property at this point, but it just seemed to me that I don't know what the other options are. And if there is a possibility to maintain this item on a future agenda so we know when it's coming back and if there is a way to amend it so that we don't grant a variance, but we figure something else out -- I just don't know what the options are. I thought postponing it would, you know -- he's heard the conversation tonight. I think that he understands the perspective of the council, but I don't know if there are any other options at this point. So it just seems to me to make more sense to hold a place for it on the calendar so that we can talk about it again rather than -- you know, I don't know, rather than bring up a whole new item. But it's up to the council, of course.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I haven't chimed in on this yet, but I have something to say about it from growing up in the home building family, being an engineer, worked on complex problems like this before. But I think the city has one and only one concern about this, and that is if the variance were approved and if this structure went up on piers -- I believe there's 36 piers, about a 16-inch diameter. It's kind of like what happens with the bridge, when you put a bridge in a tributary, the bridge can have some friction of coefficient and possibly back up the stream. So there is a concern that building a structure here could impact the neighboring properties. But it just kills me to think our council is willing to just write off \$120,000 that this property owner is already into this property. If he had his choice there's no way he would even think about building in a floodplain, but his choice is build in a floodplain or write off \$120,000.

[9:08:49 PM]

These are two horrible choices. So I would support a postponement of this because I -- I'd like the question answered as to why is the presumption that it's up to the property owner to prove that his structure is not going to adversely impact his neighbors by backing up water further and possibly raising the floodplain? Why doesn't the city have that obligation to prove that his property would cause additional flooding in the area. I think the fact that he did due diligence, he's a realtor, so he knows where to look for flood information, and the information still doesn't reflect that he's in a floodplain. So he did do due diligence. And to this day the information that's available to him publicly doesn't see he's in a floodplain, even though he's being prohibited from building. It's a horrible situation, but I would -- if I had to vote on it I would vote to give him the variance because the alternative is he's out \$120,000. Maybe the city has no legal obligation to make him whole, but I think we have a moral obligation because we're condemning the property and asking him to write off 120,000. So it's a mess. My first choice would be to support a postponement if councilmember troxclair would do that to investigate this further. But if people want to vote, I would vote in favor of his variance because I can't vote against his property and cause him to lose all his money.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I would like to make a motion to postpone this item for three weeks with the understanding that councilmember troxclair will work with all parties involved to see if there is any option. I'm making this motion because maybe it's right back before us and there are no other options, but I'm not

in a position to make that statement now and I would like to give councilmember troxclair and the parties involved the opportunity to see if there is anything else that can be done.

[9:10:52 PM]

And I think that that's the appropriate thing to do at this time.

>> Zimmerman: I'll second that motion.

>> Mayor Adler: It's been moved and seconded to postpone three weeks. Is there any discussion? Ms. Tovo?

>> Tovo: I've decided that I will support the motion for postponement really for just one basic reason. That is if we vote on it today, and vote it down, he can't come back for another year and I suppose there's an opportunity for him to consider the discussion that we've had here and consider the variances he's asking for and reconsider. I will say, though, that -- and I stand by my comments earlier that I will not support the variances requested.

>> Mayor Adler: Further discussion on the motion to postpone? Yes, Mr. Renteria?

>> Renteria: [Inaudible - no mic].

>> Mayor Adler: Do we need legal back again?

>> A very important legal question, is there a meeting in three weeks?

>> Mayor Adler: No meeting in three weeks.

>> Kitchen: When is the next meeting that we can postpone it to? Four weeks? Two weeks?

>> Mayor Adler: We're checking. While we're checking on that --

>> The 20th and

[indiscernible] The 17th of September. August 20th --

>> Pool: And Austin energy on the 20th. There's no council meeting scheduled for September 3rd.

>> Kitchen: So what are our options? I guess I would ask councilmember troxclair which she would support?

>> Mayor Adler: Would you like it the 27th? It would be set on the Austin energy meeting? I don't think it would be a long conversation. No? That makes it then -- not on the third. That would make it the 10th. Is it there a meeting on the 10th?

>> Zimmerman: A zoning meeting on the 10th.

>> Pool: I think because of budget we have things changed around.

>> Mayor Adler: We're in the middle of the budget right then.

[9:12:54 PM]

So probably September 17th. The 17th.

>> Troxclair: Okay.

>> Mayor Adler: Put it off to September 17th. Ms. Pool?

>> Pool: I'll go ahead and support the postponement, although I don't support not requiring the documentation, the survey and so forth. What I might ask is is there a different way, a different configuration on that lot so that it's not in the floodplain. That and may be something that is pursued and looked at in the time between now and September 17.

>> Mayor Adler: There's been a motion to postpone until September 17th. Any further debate? Is there a second to that motion? Mr. Zimmerman seconds that motion. Those in favor of the postponement please raise your hand? Those opposed? It's unanimous on the dais to postpone to give the time to work on this issue. It's the last thing we have. Anything else from council?

>> Kitchen: Yes, I have one other thing. I want to wish our mayor and our first lady, I guess, a happy birthday to our first lady.

>> A happy 30<sup>th</sup> birthday.

>> Kitchen: Yes, 30th birthday and maybe they'll still have time for dinner.

>> Mayor Adler: She's holding the table. Probably drinking wine.

[Laughter].

>> She's one up on you. And I'm delighted to make the motion to adjourn prior to 10:00.

>> Mayor Adler: Seconded. We stand adjourned.