

Closed Caption Log, Council Meeting, 10/07/11

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Mayor Leffingwell: Good afternoon, I'm austin mayor lee leffingwell. A quorum is present to I'm going to call to order the special called meeting of the austin city council on FRIDAY, OCTOBER 7th, 2011. At 1:35 p.m. Meeting in the council chambers, austin city hall, 301 west second street, austin, texas. Before we begin our agenda for today, I think there's some questions that came up yesterday, legal questions and we had the legal team here assembled. So without objection the council will now go into closed session to take up two items. 071 of the government code the council will consult with legal counsel regarding the following two items. Item one, to discuss legal issues related to the election to be held in the city of austin on 12th, 2012, TO ELECT THE Mayor and three councilmembers. And item 2, to discuss legal issues related to a resolution authorizing a november 2012 general election date. Is there any objection to going into executive session on these items? Hearing none, the council will now go into executive session. Is that.

Mayor Leffingwell: We'll go ahead and get started. We are out of closed session, in closed session we took 7 up and discussed legal issues in related to items 1 and 2. We several folks signed up to speak on item 1. Any comments councilmembers would like to make before we go into that? I will just comment that councilmember riley and i didn't get the casual friday memo. So here we are. First speaker is carroll keeton strayhorn signed up against.

Mayor Leffingwell: Excuse me, carol. Is huey fisher in the chamber? Okay, you have up to six minutes. strayhorn, you have up to six minutes.

You are donating time to me.

I appreciate it, but i don't think that I'll need it, believe it or not. [Laughter] thank you very much. Honorable mayor and council, I'm carol key ton strayhorn speaking for austinites for action. A non-profit, non-partisan texas corporation of concerned citizens with the goal of increasing voter turnout in local elections from all persons in all sectors of our great capital city. We are staunch advocates for government open and accessible to all. And we fight to remove barriers that deny democracy to the many for the benefit of the few. This critical decision before you today goes right to the heart of our system of american democracy. Our sometimes imperfect system of government, more often than not, works well. But it requires one key element, elected officials trust in all the people they represent. Those who voted for them and against them. And those who could not vote or did not vote at all. Please don't regard this small turnout today as an indication in this matter. I believe even the mayor only found out about this rush process last friday. And I believe it was about yesterday when the rest of the city was becoming aware of it. I received many calls in the last 24 hours from u.t. Fans, 20 somethings and 30 somethings who were told to leave the city early today because of the congestion. I imagine there are more austin voters on i-35 right now than would vote in this spring's municipal election. They are on a mission to -- they are on a mission to see that our longhorns beat the hell out of o.u. And they are trusting you to do the right thing in their absence. Significantly declining participation in past decades in our local elections is a function of the barriers placed before voters today. Not a lack of interest. So many elections, so many runoffs, so many bond issues, so many usual voting places being combined, moved or closed. It all gets mind boggling and creates a culture where democracy is denied. Today, you

can take what is first and foremost the most fundamental, important, common sense action to reverse this denial of democracy. Demonstrate trust in the democratic process by immediately embracing an election date most convenient for all austinians. And though not the most important reason, it's by far the most cost effective decision to boot. I've been blessed and honored to have represented austinians and texans all across this great state in elected office. But I want to remind you of the words of supreme court justice lewis brandeis who upon reflecting about american democracy said, and I quote, the most important political office is that of the private citizen. We couldn't agree more. I was elected mayor decades ago with voter turnout 38%. This spring, 2011, turnout was an abysmal 7%. I believe turnout could be 57% in the next municipal election if you do what we are urging. Move the upcoming municipal elections to november of 2012. Let all the people vote. Let all the people decide. It is the right thing to do. Put the private citizen in control of our great city's future now. Thank you very much.

Mayor Leffingwell: Thank you. Next speaker is glenn maxey, signed up against. Donating time to glenn is ashley keigley, okay. Kathryn [indiscernible] [indiscernible] selena here? Sam [indiscernible] sam [indiscernible] okay, got you. So you have 15 minutes. mayor, members, i would like to read first a letter that has been circulating in the last three days in the city of austin. Then I intend to read the signatures of everybody who signed up so far. To the members of our austin city council, we the undersigned democratic and civic activists, are wanting to express our support for moving the 2012 municipal election from the may general election date to the november general election date. We are also writing to express concerns with the process by which this change is being made, which seems designed to decrease public input. We support moving the 2012 austin city council elections to the november general election date. And there are many reasons for this move. The november 2012 election will save the city over \$500,000 in funds during a very difficult budget cycle. A november 2012 election will result in higher turnout. Engaging more austinians in the process of choosing our council. A november 2012 election will have an electorate that is more demographically similar to the population of austin as a whole. The city is already placing charter amendments and a bond election on the november 2012 ballot. If the voters are capable of determining how to vote on these complex issues, surely they can be trusted to vote on the councilmembers who will lead us. Senate bill 100, a piece of legislation that promoted -- prompted this discussion, explicitly permits a move of the election date and makes clear that such a decision will not violate the city charter. This is a great opportunity given to austin to expand the electorate and create voter participation and we strongly encourage you to do so. Furthermore, we are deeply unsettled by the process by which you are conducting this important city business. Which will have a profound impact on who participates in our 2012 municipal election. Holding the second reading of this item during the tuesday work session rather than a regular thursday council meeting and with less than 100 hours of when the work session agenda was submitted to the city clerk's office, would have curtailed the period for public input on a contested item. Now the special called meeting on friday to finalize the vote seems very rushed. We are concerned that you appear to be trying to make such an important decision that will determine who votes in our 2012 elections in such a hurried manner. We encourage you to vote in favor of placing the 2012 austin municipal elections on the november 2012 ballot. And in the future, when you are deciding whether to lower barriers to participation in democratic processes, we would hope for unanimous support in hopes of increasing voter engagement. Yours truly. [Reading signatories on petition] [reading Signatories on petition] [Reading signatories on petition] [reading signatories on petition] [reading signatories on petition] [reading signatories on petition] [reading signatories on petition] there's another some 50 people who signed up this morning. I think that will -- who signed up this morning. I think that will continue throughout the coming weeks and probably throughout the next election cycle. This election should be set when the largest number of voters can vote, that's november 2012, please listen to your constituents. Thank you. S.

Thank you. [Applause]

Mayor Leffingwell: Next speaker is william worsham. Also signed up against, you have three minutes.

Thank you mayor and council. Before I start, I'd like to say on behalf of about 10,000 aggies in austin, this has not been an inconvenience whatsoever to us. How many among us have ever heard the tomorrow the voters elected to tax themselves? Or this project was funded by a voter approved bond?

Of the 800,000 or so of austin residents, these voters electing to tax themselves typically amount to fewer than one in eight of the actual residents of this town. As was the case, in the prop 1 bond election even last november, no one on this council even received 50,000 votes when they were elected. So we have a voting problem in at least three ways. One we have a low voter turnout because one vote will never matter. Two, we have the perception if not the actual undue influence by those benefiting from a certain election outcome. And in this case, we also have an administrative conflict that will cost over a million dollars. Fortunately, the texas legislature gave you the tools to begin to address some of these issues. By moving next may's election from may until november. Again, my name is bill worsham, I'm a civil engineer. For the past 16 years, I've both lived and worked within three miles of this building and I've never to this point been moved to come and speak before you. I'm here on my own behalf and also as an advisory committee member of austinites for action. Which again is formed to increase voter turnout, improve open, accessible government, and we support the notion that government should trust the people that it serves. I support the move to the november elections because it will help accomplish these worthy goals. There's -- what I think is a valid perception that too much control in austin is in the hands of those that directly benefit from city government decisions and programs. Any action that forcibly transfers resources away from the people who earn them, that creates the jobs, away from those people, should have the -- excuse me -- any action that forcibly transfers control and resources away from the property owners and the people that create wealth in this community -- should have the support -- those actions should have the support -- the actions that you take should have the support of those that resources are taken from, not just the support of those to whom the resources are given to. A vote to keep this election in may is a vote to maintain a distorted system that misses that crucial point. Again we have a problem [buzzer sounding] and a good start at a solution to that problem. I ask that you take action to move this vote to november. Thank you.

Mayor Leffingwell: Thank you. Next speaker is mike blizzard. Signed up against. A number of people donating time. Bill [indiscernible], is bill here? Okay. Matthew little. Matthew is here. Richard depalma. Is he here? I don't see richard. Karl thomas muscleman. So you have 12 minutes.

I hope that I don't need that much. First i, I wanted to say i think more people signed glen's letter than vote in the typical may election. If -- it's probably at the majority status right now. Be over it by the end of the day. I don't come here often, either. I haven't spoken to the city council, I don't think, in several years. And I also was impelled to come down here because first by a letter that was distributed, that I found insulting to the voters of austin. And I felt the need to respond to that. And secondly by some of the things that were said by some of the councilmembers that I just think were incorrect in this debate. I wanted to talk mostly about that. The reason that I need a little bit of time is I have to go back in the way back machine to do this. Because there's some important dates, 1984, 1990, 1994, '98, up until today. I want to talk about that. And so I'm going to start, i was a campaign manager for a revenue bond election in 1998, may of 1998. It was a water and wastewater revenue bond. To preserve land over the aquifer. It passed, \$65 million, councilmember spelman, it was councilmember spelman there in his first incarnation and voted to put that on the ballot. Revenue bond. November of 1998 was a massive general bond election. Coincidentally, that was the first time that a bond ballot was ever put on the november election. We had the same arguments. I coincidentally, also -- a lot of coincidences, worked for randy miller at the time. And we did a poll because some of the councilmembers were so concerned about what if we give our bond to the unwashed masses, we did a split sample poll, we actually showed that these bonds were going to be approved more because more renters come out in november, more young people, more minorities, and they were overwhelmingly for these bonds because bonds typically do things for people. For a reason. We have held our bond elections in november, by the way, ever since we had one in 1998, we had a transportation bond in 2000, we had an overall bond election in 2006, and we had a transportation bond in 2010. All even numbered november elections. We've been doing it ever since, but people didn't want to do it at first. I got off on a tangent. But it's important, too. I want to talk about october, 1999. Bill spelman was on the city council. There was a rushed forward lcra water deal. That necessitated revenue bonds. Okay? Was there an election? No, there was not an election, there was no time for an election. Lcra had set this limit on time. We have to decide. The entire council, kirk watson, daryl slusher, bill spelman, jackie goodman, every one of them, voted to issue revenue bonds without an election in violation of the charter. According to mayor pro tem sheryl cole,

that was a violation of their oath of office. Because I know nothing that in law changed between november of 1998 and october of 1999. Someone show me a state law that changed. Between that time. I don't believe there is one. What this means is that revenue bonds, at least at that point, the argument was made by city attorney andy martin, in public, that the city had the option to do this without an election. Not that they could not put it to an election. But they didn't have to. And that is how revenue bonds have been approved ever since. And I ask any of you to show me a law that has changed since then. That makes it now that you can't put a revenue bond election as councilmember spelman and other councilmembers argued in that last meeting, that you can't do it. Show me. I know the interpretation of the law. I disagree with it. In fact, bill spelman disagrees with it. He told me, I never really bought this argument. Which means again, according to sheryl coal, that it's a violation of office, he is admitting that he's violating his oath of office if he accepts that as are all of you, according to this argument that moving this election would be a violation of your oath of office. It's not. The state law allows you to do this under the charter. I have something else for ya. You already have in 1994, i hope that your lawyers have brought this to your attention, a get out of election date free card. Approved by the austin voters by 88% of the vote. Let me read you a charter amendment that was put forward in 1994. The reason I noticed this is when I was reading the charter which we've all been talking about, I noticed all of this stuff in election that continually says as authorized by state law, but I don't see that in the revenue bond section. It says amended in 1994. Here's the amendment that is put to the voters. Shall the city of the charter of the city of austin be amended to make the provisions on election dates, filing vacancies on the council, runoff elections, filing of candidates and the candidacy on the ballots to be consistent with state law. The voters approved this by 88%. And the reason why, it's pretty simple, election dates move around. If you had a set election date in the charter, and then the state decides to move that around, as they are doing with the primaries right now, then the charter would be consistently out of compliance. So what they did is knowing this, they put this out to the voters. It doesn't say may. It doesn't say november. It says shall these dates be specific with the state law. And the voters said yes. We've never done that with revenue bonds. I would argue that they are putting -- that putting revenue bonds, approving revenue bonds without going to the voters is a bigger violation of the charter than moving this. We put this out to the voters to give the flexibility to the city council. We've never done that with revenue bonds. In fact, I'm not going to go into this, but if the same argument that the city legal tells you in executive session about why you can't put revenue bonds on the ballot, I would argue it's the same reason that you can't ask the voters to do this. You can't ask the voters to change the election dates. Because state law is now giving you the latitude to do that. You now have the latitude to do it. So if you put that out there, it wouldn't be binding. It would be a non-binding referendum. Which is -- and the charter doesn't allow it. That's the same argument that's used for revenue bonds. It's the exact same legal reasoning. For all of these reasons, you are free to do what you want. Make your choice of may and november, but please don't hide behind the charter and act like people are voting for november are violating their oath. Because they're not. And if they are, then all of you are doing it, except of course councilmember tovo who is new on the council. And that's been done by previous councils for the last 15 years. That's all that I have to say. If anyone has any questions ...

Mayor Leffingwell: Councilmember spelman.

Spelman: Mike, as i recall, the lcra deal was financed not with revenue bonds but with co's.

\$73 Million in revenue bonds. Approved back -- certain amount of co's, a certain amount of revenue bonds.

Spelman: I will have to go back and check that. I will trust that you are right if you have done your homework, my recollection of the whole thing we were paying for it out of co's because the original deal was to have the financing come through lcra and we decided we were able to finance it ourselves, i thought we weren't able to do that exceptly revenue bonds, except through co's.

Unless all of the reporting at that time and the discussion on the council about revenue bonds, where andy martin came forward and defended your revenue bonds and why you could do that without an

election. But certainly since then i would still argue what has changed in the law that allows you to, what has changed in the law since 1990. The only thing that I am aware of is a court ruling in 1984, an attorney general's opinion in 1990 that's the entire basis of the city's legal argument. If you have more information on that, I would love to hear it.

Spelman: As I told you privately, as you have now told everybody else --

[indiscernible] [multiple voices]

Spelman: Either way. Nothing is private in this town anyway.

Exactly, that's why i rarely send emails. I won't send any more to you either, mike. Next time we talk, it's going to be in a private conversation where I have actually frisked you to make sure that you haven't got anything on you. As I have said, regardless of the venue, I will say it to anybody else, I'm much more comfortable having revenue bonds go before the public. That's what it says in the charter, I'm much more comfortable with that. On the other hand is very difficult to deal with the situation when the lawyer says that you can't do that, it is illegal for you to put those revenue bonds in front of the public. I would much more comfortable if the legal opinion changes. The legal opinion is the legal opinion. I didn't feel at liberty to tell the lawyer I know more about the law than you do.

I'm saying the basis of that law from the memos that I have looked at that are public information, the basis of that would be the same basis as asking the voters to change the -- the election date, because you already have the latitude to change the election date yourself, that means that that would be a non-binding referendum and you are not allowed to do that under the charter.

Mike, you go to law school, I'll hire you and follow your opinion.

I'll have my brother come represent me.

Mayor Leffingwell: Excuse me. Councilmember tovo. Then you are next.

Tovo: Thanks, I have a quick question for our attorney, is it an accurate statement, as I understood blizzard, if we go to the voters and they have a charter amendment to change the election, is that true that would be a non-binding referendum.

I'm saying there's a legal argument that's made about putting revenue bonds on the ballot and why it's based on the attorney general's opinion from 1990. And why that can be construed as a non-binding referendum. It was provided to you all before you were on the council by david smith as evidence why you could not do it. I have read it. If you take that and believe it. Some of you don't. But if you do believe it, i question why this wouldn't be the same thing.

Tovo: That's a question for our attorney. Is it true that that would be a non-binding --

if we could go to the voters on?

Tovo: I believe the analogous situation was if we go to the voters in the fall as a charter amendment to change our election date, that that would be a non-binding referendum.

I think the authority granted under senate bill 100 is a bit different. Just a little bit different from the issue we've discussed with revenue bonds. So I did send you some information about the previous legal opinions. That's a bit of a twist, so I don't think it's directly analogous. It's somewhat analogous.

Tovo: Thank you.

Mayor Leffingwell: Mayor pro tem cole.

Cole: Thank you. Mike, if you -- you mentioned the fact that this situation is analogous, just like, the revenue bonds. And that we have been essentially -- the argument that I have heard around breaking our oath with these revenue bonds for years. So we are going to have to break it down because that is a very serious allegation. Now, let's start with the court case. That you read. Because you know that has not been a court case here. What was that?

1984 The court case actually -- mayor -- mayor McLELLAND AT THE TIME WAS Mayor and the city issued revenue bonds -- [indiscernible] yeah, okay, it was based on issuing revenue bonds without a vote and it was ruled that the city had the authority to do that.

Cole: So you understand there has been no court case here. And so -- so we can't be the exact same place we were as a result of a court case right now. You understand that, right?

Yeah, but we continued to have revenue bond elections well after 1984.

Cole: That's not my point. I want to make sure that you understand this is clear. We have been hearing it, we have been hearing it loud. The hearing it loud is this kind of idea that well the bigger idea is we go around about violating our oath all the time and I know that I have never intentionally done that and I wouldn't feel comfortable speaking on behalf of all of my colleagues, we have never intentionally done that. Tom time this ever comes up as an issue that I have heard, I've been here almost six year, is in connection with this issue and the revenue bonds. So even if we vote this up or down today, the only thing that -- there will be two issues in the city of austin. Austin is a lot of things, but city council members and mayors that violate the charter is just not one of them. So there's a court case. That is looking at charter language. That is identical, do you know, to the charter language that we are looking at now?

I'm just looking at the charter language that's in the charter today about the elections and then on revenue bonds.

Cole: So we know that charter amendments cannot be identical because we know that part of the language is dealing with revenue bonds it's not dealing with moving elections, will you agree with me on that one?

I would argue that the election language is more permissive than the --

Cole: I understand you are talking about authority. We can talk about what authority the charter is giving us. When you are looking at legal cases, you are saying we are breaking our oath under the charter, we have to ask, you say this is just like what we did with revenue bonds, well, we know there's a section of the charter that we were talking about at that time was different than the section of -- of the charter that we are looking at now.

That's true, yes.

Cole: Also in the revenue bond case, wasn't there an attorney general --

the attorney general's opinion was on a separate case. What it basically did, I will go through this as a lay p -- as a layperson, not as a lawyer, it said the city could not do non-binding refer donees if their charter did not allow a non-binding referendum. The argument on revenue bonds is a very big if and then argument. If we assume that state law by being permissive and allowing you to do that null lies this

requirement in the charter for a revenue bond, I'm soaring if we are just boring the pants off of people out here.

Cole: I'm loving it.

So if we assume that, if we assume because you have permission, you putting it out to the voters is non-binding because you can do it anyway, then -- then, I'm not saying that I agree with this, but I understand the argument. Then that becomes a non-binding referendum. And non-binding referendums are not called for in the charter, hence it's illegal to put forward a revenue bond because you know that you could do it anyway. That's the basis, of my understanding, of the legal argument about revenue bonds and whether to put them to the voters. Really it's just a difference of opinion. Previous city attorneys did not have this opinion. Other city attorneys have had this opinion.

Cole: Now we're seizing on the point. I'm going to let you go on that point. The point is there are conflicting opinion. My opinion, I've said it, I think that an action to move without voter approval pursuant to our charter language and the Texas constitution would be a violation of our charter. That does not mean that councilmember Riley thinks the same thing. But it also does not mean that, you know, councilmember Riley is, you know, a bad person, a liar or whatever. It just means two city council members and their city council member hats disagree, it might also mean that we are doing too much practicing of law up here and we disagree as lawyers. It also does not mean that because we disagree that -- that this debate isn't healthy and that we are somehow an unethical person. I know that you have known all of us for a very long time.

Yes.

Cole: So I just wanted to leave you with that.

Thank you. I just want to say on a note I agree with that. I wish this oath of office stuff had never come up or whatever. I think all of you all have run for office for the right reasons, serving for the right reasons, there's always going to be disagreements.

Mayor Leffingwell: I do have one question. I had not heard this until you brought it up today. But it was about the provision in the charter that said notwithstanding any -- the charter amendments approved by the voters that said anything in this charter basically that is in conflict with state law would not apply. Is that basically correct?

It listed several specific things. Not everything in the charter. So like for instance it didn't mention revenue bonds. There was a whole lot of things in the charter. But it mentioned election dates. Filing -- filling vacancies on the council. Runoff elections. Filing of candidates and the canvassing of ballots. Again, I'm assuming, I wish that I had time to go down to the history center, it's really hard to find online old charters to see how these things changed over time. My guess is that the state law kept monkeying with these things and kept getting our charter out of compliance. It was put to the voters essentially as one broad idea of, hey, if these things change by state law, is it okay if we can just change them? The voters said, 88% said yes.

Mayor Leffingwell: So what I understand from this is if you are going to try to make the argument that -- that voting for revenue -- voting for revenue bonds is against, contrary to the -- to the city charter, that case is much more clear than the one --

yes.

Mayor Leffingwell: -- we're dealing with right now, if you are making that argument, not having a vote for

revenue bonds is much more clearly a violation of the charter -- [multiple voices]

yeah, if you need.

Case that we have now.

Yeah. Thanks. Next speaker is -- gavino fernandez. Who signed up for the item. You have three minutes.

Good afternoon, mayor, council. My name is gavino fernandez, I'm speaking here on behalf of lulac district 12, district director and el concilio, a coalition of mexican-american neighborhood associations, i want to give a grassroots perspective, a disenfranchised grassroots perspective of the electoral system and education. Lulac historically has had a mission of continuing and educating our people of the importance of voting in elections. And greater turnout should be for all elections. Not just one election. And the notion that -- that in november, we're going to have a democracy sale so that everybody can walk in and vote for all of these individuals is -- it's a far cry from -- from the -- from people that vote because turnout is the will of the people. I remember the last time that our community came out in numbers was when the lottery was on the ballot. You saw boxes that had -- historically had 40 votes, 50 voter turnout, increased three fold. The other element is that city issues in this community are unique. Must -- and have been treated historically in a different election cycle. Because they are unique. Yes, in november, we have a larger turnout because of the student body here at the university of texas. We also have the student body here in may, but the turnout is not as high because the students have other priorities, they are taking exams or whatnot. And it's a local election. So -- so because of that, and the other -- the other issue that I guess is the breaker for us, is -- is this notion -- well, this -- this reality of -- of extending councilmember terms. I think that that is fundamentally a wrong thing to do. In a democracy. We have term limits in this community and the voters voted for term limits and i think that that is something that is being held very high, as this discussion is going on regarding the elections. And, again, we continuously educate our people to vote and participate in the elections. Because we had a unique experience where we had our own commissioners in the house, because the last bond election that -- that was held was a bond election in 1954, that put a holly power plant in our community. And that's why our people, a lot of times, stay away from the polls. But whatever decision this body makes, council, lulac and our community will uphold and honor that decision. Thank you.

Mayor Leffingwell: I have a question for you. You say that you are -- with that opinion you are representing lulac.

Lulac district 12.

Mayor Leffingwell: Okay. How is that different from the lulac organization that was here at the press conference two days ago at city hall who opposed having the elections in may?

Because we have two lulac districts.

Mayor Leffingwell: What district was that?

That was probably district seven. That was probably district seven. Each lulac council autonomous. That's one of the other elements --

Mayor Leffingwell: What part of the city does district 7 represent, which part does district 12 represent?

Lulac, geographically, district 7 and district 12 or -- there -- our area are seven counties in central texas.

Mayor Leffingwell: So you are in disagreement with lulac district 12?

I am supporting a may election. In 2012 with district 12.

Mayor Leffingwell: You would be in disagreement. Thank you. Sarah faust.

Thanks very much, my name is sarah faust. Here in support of item no. 1 To hold the elections in may of 2012. I think that it's really interesting how on this issue basically every argument that I have heard can be made on either side of the issue. Policy arguments, legal arguments, moral and ethical arguments. Put the private citizen in control of our great city's future. I agree. Put the private citizen in control, let us vote on when our council elections will be. Let us vote to amend the city charter. If the citizens can vote on complex issues such as charter amendments, yes, we can, please let us vote on that. Surely they can be trusted. Government should trust the people that it serves, yes, trust the people, let us vote on when we're going to vote on council elections and vote to amend the city charter. Then a letter was distributed on this issue that I found offensive. Yes, I agree. I got an email yesterday from the austin activists, austinites for action, that I felt was full of misinformation, was misconstruing the issues.

Mayor Leffingwell: Ma'am.

I'm so he, I got an email yesterday from glen maxey addressed to austin activists. I disagree with a lot of it and it made me want to come down here and let you know that other activists disagree. The legal arguments I think can be made on both sides as well. I mean, in my opinion, sb 100 gets you close, not all the way, not anything about article 11 section 5 of the constitution which requires you to amend the charter by a vote of the people. So in the end what we're coming down to is voting to extend your own terms or not. Respecting what you were elected to or not. So mayor pro tem, councilmember spelman, tovo, morrison, I support what you have been doing and encourage you to remain steadfast and hold up the vote as it has been. Thank you.

Mayor Leffingwell: Next speaker is bill bunch. Signed up for. Donating time is [indiscernible] you are signed up against. Nevertheless, you are allowed to donate your time. You have six minutes.

Thank you for that, I'll try not to use it. I am bill bunch. I'm a long-time resident of austin, speaking for myself today as a vot citizen. I also find a lot of these arguments rather interesting and amusing. I found it particularly spelman's comments yesterday about the history of these -- where our charter came from. And personally, I favor may elections. I really don't like the idea of having our local issues buried in the money and the distraction of the state and national elections. But if you are going to go there, you should go there with the voters voting to go there. These analogies to revenue bonds, legal analogies, et cetera, they don't wash. Revenue bonds don't show up and vote for dozens of items every week. For six months. They don't run against an opponent. You were voted for three-year terms. Nobody voted you in for three and a half years. And I find it deeply offensive for you to be voting to extend your own terms beyond what the charter calls for and beyond what you were voted in to office by the citizens. As - as much as I may support you, as members, I -- I'm appalled by that, every bit as much as if you were -- a republican right winger that I would never imagine voting for trying to extend their terms. I'm totally perplexed by some writers at the chronicle and at the statesman supporting a move to the november election. Now, you would think that these bastions of our local news media would be arguing the opposite, that they need to be able to have some time to report on local issues, educate their readership about local issues when they are not swamped with the state and federal issues. And yet they came out the other way and that tells me how little they really care about -- about educating the readers about local issues. I think it's worth mentioning just what's really going on here. I love that letter glen read. It sounded exactly like a randi shade donor list. And she lost. That was the big money interests that supported her against the neighbors, the environmentalists, the citizens who care about financial responsibility and who aren't down here trying to pick the pockets of tax and ratepayers. That's what this is about. The folks who are on the council, mayor leffingwell, mike martinez, who see that they can raise

the big bucks from the big moneyed interests and from the democratic party establishment, that their election, reelection opportunities are vastly greater in november 2012 than in may 2012, that's the bottom line here. It's not about democracy. Or caring about how many people vote. You guys are trying to get reelected with your big money. And your democratic party connections. And -- and people should know that. Thank you.

Mayor Leffingwell: Councilmember martinez?

Martinez: Bill, regardless of the outcome of this vote my plans will not change. I gratefully accept being elected by the democratic party and all of the democrats that will vote for me. I take complete offense at your comments.

I usually --

Martinez: I didn't ask you a question.

I usually vote for democrats, but I'm offended by the party -- meddling --

Mayor Leffingwell: The mic will be turned off. The next speaker is one of those moneyed interests whose name is on this list, ken flipin. [One moment please for change in captioners]

because now if we're working federal elections, it will be harder to work city elections and it's a different timing. But I'm not worried about us. I'm not worried about, quite frankly, y'all's upcoming elections, whether they're extended or not, because even though I realize there is some importance there, the bigger question is the democratic value of having more people participate in electing who will be on this council, whether it's two years, four years, eight, 10, 20, 30, 40 years into the future. And even though I realized that there is some contribution in extending your own terms, at some point it's like the chicken and the egg. You've got to make a decision to do something like that. And it's only a short extension, and I also would argue that I don't think that mike or lee or any particular people have a better option or a better chance of winning in november than they would in may. I can tell you if you hire the right people and you work your campaign right and you work hard, you can get elected to city council in this town. And if it's in november, you're going to have to work it a little bit differently, but more importantly, and most importantly, you and future people running for that office are going to have to work harder because there are going to be more people participating in our democracy. There will be more people voting, more people coming and speaking because more people are going to have to be informed on the issues. The candidates that will win are the ones that are going to reach out to all of those voters, those low information voters. Well, do you know what? Low information voters tend to be younger, they tend to be poorer. These are the exact people that the city and the services that the city provides are most important. I mean, federal elections may be the bonanza in the sky, but local government has more of an impact on people's lives than federal government. And so therefore it is your responsibilities as publicly elected officials to reach out to as much of the electorate with your positions and where you will stand and what you will do on council. That's your job. And if there's a higher number of people that are going to be voting, that means that you're going to have to do your job better and that they will become more informed and educated. I see it as a plus for the city in the long-term because candidates and once you're councilmembers and future councilmembers, will have to be more responsive because more of the public would have voted for him and be informed on the issues. So therefore we will get a better democracy in the long run. I have worked on so many of these campaigns and we know the inside baseball. We know working the democrat clubs and all that. You want to talk about an inside game, that's an inside game and it's always between two different powers. I want it to be broader than that. We need to change and shake up the way our democracy works any time we can to improve it. And to me it's a basic question of does it improve it to have more people participating? It improves it because it's going to improve y'all. Y'all will have to work harder, make your message more clear. And you can do it and i challenge to you do that. And that's why I support having it in november.

Mayor Leffingwell: Thank you, ken. Colin clarke. Councilmember spelman.

Spelman: I want to congratulate you on having said the first great thing on this issue in a week. Thanks.

Mayor Leffingwell: Colin clarke is signed up for. You have three minutes.

Thank you, mayor. Good afternoon, colin clarke speaking for myself. I don't really have a hard and fast opinion on whether the elections should be in may or november, but I think that the voters should decide that, as laura morrison set forth in her op ed. That made a lot of sense to me. As other folks have mentioned, everyone that glen -- every name that glen read, they voted for you, they voted for you to be here for three years. And if the voters want to decide that we're going to bump the election, then the voters would have at that election granted you that extra six months. But granting it to yourself does seem offensive. You could imagine let's say the president of the united states decided that we have a really low turnout for presidential elections compared to other western democracies. That's not that great. Let's do it on saturday. Let's do it a saturday six months from now. So the president gets another six months. You could imagine the outrage if george bush should try to stay in office for six more months when his term was up. People said no, we can't do that. So I really don't mean to compare anybody to george bush, but just imagine that. [Laughter] no matter how much we like you, want you to stay on, we elected you for three years and we would appreciate if you would honor that by letting the voters decide that. And just to bring up a saturday thing again, if you move it to november, if I'm wrong, you would be on a tuesday. Okay. Teachers, firefighters, cops, everybody is at work on tuesday. So let's just remember that. Right now we do have elections on saturday, which is a little bit more enabling. It is pathetic that it is a 10 percent turnout. I understand if you move it. But if you're doing elections in odd numbered years where there's not a national race, then what would turnout be in 2013 on a tuesday? That might be even less than 10 percent. So thank you for your consideration.

Mayor Leffingwell: Our history of odd numbered years is over 30 percent. That's a recent history. Next speaker is gus pena signed up for.

Good afternoon, mayor, city manager. Gus pena. People like to talk in the audience, but I'm going to forgive them. I'm going to forgive your actions, councilmember martinez. I try to be professional and respectful. Bill bunch is a good friend of mine. You're an elected official. You know, show respect. Smiling over there, smiling councilmember riley. Let me tell you this, folks, I'm a native east austin austinite. I have fought discrimination in the 50's, 60's and 70's. I served proudly in the united states marine corps during vietnam. My dad, he was a soldier in the first world war. My older brother lucio, first world war veteran. Many new just cousins, uncles, aunts served in I had nephews serving in afghanistan now and in iraq. What I want to say is this is I have a list also. I only have two there, my favorites besides my wife, my boy lucio and his girlfriend monica, all my extended family. God and jesus. I hate to sound like a presidential candidate, but that is the most powerful here, whether you want to believe it or not, god and jesus. Democracy. I'm a former discrimination complaints investigator for the federal agencies, it's right here. Anybody who doesn't believe it, come over and see it. When we worked on lloyd doggett's campaign, she says I need your help, need your kids. Lloyd was about to lose his campaign. Our congressman. I support him. We went and helped with the kids from the east quadrant, east austin, he won reelection. What are we talking about more participation? Yeah. We've been suppressed, oppressed and still depressed because of some of the actions of this council. I fully support leaving the elections in may. I've known mayor pro tem sheryl cole for many years, bill spelman, I was kidding around. And mayor, if I do seem cruel I apologize for telling you this, but smile that pepsident smile. It's a friendly joke in the community. I used to va program on kzgi. I know the governor, I know everybody. My cousin served as transportation secretary on the clinton administration. I will tell you this much, councilmember martinez, you disrespected me yesterday. I tried to help out people, the poor, needy, have not, homeless and the homeless. They don't forget. I didn't mean to criticize you. That was not meant in the latino community. It doesn't mean you weren't there physically. I'm not going to disrespect you sir, so don't do it to me because you did it to bill bunch and I highly am offended about that. What I want to do is leave these elections in may. Work more harder on social service agency

funding. We have a lot of people that are homeless veterans that shouldn't be out there and we're dickering and bickering about this. [Buzzer sounds] thank you very much. Keep it in may.

Mayor Leffingwell: Next speaker is roy whaley. Signed up for.

Howdy y'all. My name is roy whaley and I'm here speaking as an individual, not representing any organization. And it's sad to be here today on the opposite side of an issue with a bunch of people that I have block walked with and phone banked with and folded a lot of fliers and have done a lot of campaign work, had a lot of food and a lot of beer, a lot of food and beer was the better part of it. And it's a shame that there's a division right now, but I expect us all to come back together and work together for our democracy. This isn't to me any more complicated than simply letting the process take its place. The process is people get to vote. This is going to be on the -- in november we get to vote if we want to move the election. Probably it will happen, but let's go through the process. Like I said yesterday, we don't want to be run off of polls. We don't want to govern off of polls. Last month the polls showed that rick perry was packing his bags to go to washington. The polls this month say he's not even going to go to the deer lease next month. So let's take the time to go through the process, do it properly, and that's the way this city has worked. We haven't all been happy about the way the process has worked out. But it's our city. Let's work together. It's our democracy. Let's go through it. If it means that we have the election next may and then switch to november, we're good folks and we'll learn how to deal with it. There's differing opinions on that and I'm not here to offer an opinion on that. We'll learn how to deal with it. And the people who want to stay involved with stay involved. The problem is there's no voter suppression. People can get off the couch and go and vote for they will just do it. Part of it is our job to educate them. Part of it is your job to give them something to vote for. And that's true of any governing body. So I look forward to getting this behind us. I don't like any of the rancor that I hear. I don't think it adds anything. I hope that it doesn't extend into personal friendships that I have here. I certainly don't feel any of that. I want to put it behind us as a city and dedicate our energy instead of arguing about november, may. Let's work on the problems we have today. And we've got a bunch of 'em. And together we can really make a difference. We can come together as a community and move forward. And I would like to say one thing as far as the respect. I would ask that there's not so much pontification from the dias and there's no way for us to respond to that. And I'll end right there unless you care to pontiff indicate or ask me a question, sir.

Mayor Leffingwell: I was just going to say i appreciate the last speaker ending on a conciliatory note, but you just julyfide that. [Laughter] nullified that, the last statement. [Laughter] those are all the speakers that we have signed up wishing to speak. Heather fazio and albert alexander also signed up for. Signed up against are clay olmstead, jessica (indiscernible) and austin adams. Those are all the speakers that we have. So council?

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: With no speech, I move approval of item 1 on third reading.

Mayor Leffingwell: Councilmember spelman moves approval of item 1. Seconded by councilmember morrison. Any discussion? All in favor say aye. Opposed say no. Passes on a vote of four-three with councilmember riley, councilmember martinez and myself voting no. So council, it is the ruling of the chair that item number 2 is out of order since it conflicts with the passed item 1. Those are all the items that we have on our agenda. So without objection we