

City Council Work Session Transcript – 05/19/2015

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[9:21:02 AM]

>> Mayor Adler: All right. We're going to go ahead and convene. Today is Tuesday, may 19th, 2015. This is the Austin council work session. The time is 9:21. We are in the board and commission room at Austin city hall, 301 west second street, Austin, Texas. We have a quorum present. Council, we have three briefings that are scheduled. One that relates to the legislative session, one that relates to the voluntary flood buyout program and one that relates to the challenge petition. My recommendation would be that we do the first two of those briefings so that we can touch base in executive session during or towards lunch on the challenge so that we can then come out of that executive session and then have the briefing on the challenge. So when we finish the first two briefings, C 1 and C 2, then we can go to the items that have been pulled. I would urge everybody to take a look at the items that have been pulled. Best as I can tell we've pulled three-quarters of the Thursday's agenda. So we may want people to look at the things that have been pulled and see if they need to be pulled or if they were pulled as an opportunity to speak to the whole council and just give information or knowledge that we try to do that in a way that we get that information conveyed and we move on to the next one so we can move through the agenda.

[9:23:02 AM]

I know people have things on the calendar for the balance of the day of a lunch and would like to get to that. So I throw that into the world. So let's get to the first of the briefings. The legislative briefing. I know you gave us an exhaustive briefing last week so this one can be shorter, but tell us what has changed or what we need to know.

>> My name is Karen canard with the governmental relations office. Today I'm going to briefly update you on what has happened this last week with some of the significant issues of the session. Some of the significant issues related to Austin and also the remaining timeline with the session. As we discussed the last week, these issues continue to be the major issues, the budget, tax cuts and tax reform, public and higher education, immigration and border security, transportation funding and guns. Since last week it appears that the top elected officials, the governor, the speaker of the house and the lieutenant governor have been having direct conversations related to the budget tax cuts and tax reforms. And as has been reported in the media and reports from our outside legislative consultants they appear to be coming to some consensus on these issues. Based upon what we've heard so far related to the tax cuts and tax reforms, it appears that the house is going to relent on their approach to tax cuts and tax reform and go more with the approach that the senate has been pushing, which relates to property tax reform and property tax cuts. What we've heard is that the two bills that I discussed last week, 17 bill 1760,

which is by senator Creighton relating to more transparency and how local governments adopt their tax rates, and that provision that was added on the senate floor relating to having a 60% vote to enact any kind of tax increase that is above the effective tax rate will be a provision that both the house and senate agree to.

[9:25:26 AM]

We also understand, however, that revenue caps may still be back on the table because that is a crucial issue for the lieutenant governor, so senate bill 182, which is senator bet encounter's bill is still in play as to what tax cuts may look like as sort of relates to us. The one thing that the house and senate did agree on with tax cuts and tax reform is a cut in the state franchise tax which relates to businesses and what we have heard is that they're going to go with the house approach to that, which would be a 25% reduction in the state franchise tax for businesses.

>> I have a question. It sounds like the angle that the legislature is going at overlooks property tax appraisal reform. They're looking at putting caps on how much revenue can be raised. I suppose that's a way to get at it, but doesn't sound like there's any meaningful movement towards reducing our overreliance on property taxes.

>> No, I don't think that that's something that's being looked at.

>> Okay.

>> I do think that -- so you agree with what I'm saying.

>> I don't think appraisals have been looked at this session very --

>> That was what -- okay.

>> I think there may be some tweaks, but as far as lowering the appraisal cap is that what you're asking about?

>> The call last year that was statewide that I heard and very specifically in Austin was that people paying property taxes feel like they're tax bills are too high. There's an overreliance on using property tax appraisals as the generator for revenue for government. And so I thought that there would be some clear action taken by the legislature to address that straight on, and it sounds like that is not what is in fact transpiring.

[9:27:26 AM]

There's some change to the franchise tax, which would lower the amount that they pay, but I don't hear anything in there -- am I missing something that would directly assist --

>> I think they're looking at property tax reform. So there's a provision that may potentially raise the homestead exemption, but as far as the actual appraisal system, there may have been some tweaks to like the process, but the state no longer relying on the two sources of revenue, sales tax and property tax to fund services, that's not changing significantly. I will say right now there's a hearing going on and we have a witness there on senator Watson's bill, senate bill 279, which is the initiative that the council is very interested in relating to having a flat dollar amount property tax option. I know I just got texted that there was a substitute bill. I don't know what it says because I'm not there right now, but I do know that is also potentially part of what the tax reform will look like. As I mentioned last week there were questions about having that flat tax option raised by some large business interests and so I assume when I can get that substitute I can report on it to you next week. That hearing is going on actually right now.

>> Mayor Adler: And we need to let you get out of here as quickly as you can so you can get up there. My understanding is the substitute being proposed, the earlier accommodation center made to go to a 20% of the median value does not satisfy all the people calling for that and that what may be proposed

this morning, my understanding, is going to be proposed as a dollar limitation on what the flat could be, taking it as low as \$25,000.

>> I think that was the concern that there be just a dollar amount with a ceiling on that dollar amount. And like I said, I'll get that and be able to report it to you next week.

[9:29:28 AM]

The other issues I want to say, the budget from what we understand is basically done. Once they get the tax reform piece, they'll have that whole package. Public education, higher education as you know I mentioned, public education, house bill 4, the high quality pre-k program, that's pretty much done. Transportation funding is also pretty much done. Sjr five, which is going to be allowing a constitutional amendment to dedicate a portion of the vehicle sales tax to state highway fund, that's pretty much done. And then yesterday the issue on open carry, the guns issue, the house and the senate are basically going to go with the house approach which is going to allow open carry to all concealed handgun holders.

>> Quickly, the next couple of days our governmental relations office and our external lobby team will be focusing on these threw bills which still have legs. The first one is senate bill 1639, which is the annexation bill. Some of you may have read that the house companion, house bill 2221 died on the house floor on a point of order last Thursday, but senate bill 1639 is still active in the house. We've been -- in the senate. We've been working the senators on it. Senator Watson taking the lead with helping us tell our story about how bad that bill is and asking for support and trying to not move it forward. Another bill of great importance to us is senate bill 267, which is the bill that would preempt ordinances. As you know senator Watson added an amendment to the bill in the senator to prevent that bill from being reproactive and not impacting Austin's ordinance. That bill was sent to the house calendar's committee last Thursday. We are actively working the calendar committee to keep it in there and to try to keep senator Watson's amendment on it on the house floor.

[9:31:37 AM]

As I mentioned earlier senate bill 182 and senate bill 1660 are part of the house and senate governor conversations about Texas reform. Senate bill 279 being heard right now. Couple other bills that are still kind of active, house bill 270, which would relate to prescribed burns, has been sent to the senate, but hasn't been referred to a senate committee, so just watching that one. Also house bill 1324, which relates to buses on shoulders is in the senate. And yesterday was referred to the senate transportation committee looking for a hearing on that maybe in the next day or two. Senate bill 1806, which is a bill that basically looks at restricting home rule authority on ordinances that we can adopt. It had a hearing a on couple of weeks ago, but still active. House bill 912, which is a bill that would prohibit entities from protesting wastewater discharge permits, that bill was also referred to the senate agriculture, water and rule affairs committee on last week and it's pending a hearing. So those are kind of the issues still in play that we're spending the most of our time on. There's some other issues of course that we're working on, but those are taking up the majority of our time. Just want to remind you again of the timeline. We're down to the crunch time right now. Last week all house bills had to be out of the house by last Thursday, and that happened. Next week all senate bills have to be considered on the house floor so it will be a hard push from probably today until Saturday when the last house calendar has to be published and then picking up again Sunday, Monday, Tuesday. Tuesday and Wednesday all senate bills have to be out of the house. As you know the session ends on June 1st with June 21st being the last day for the governor to veto bills. And most bills will become effective August 31st unless they have a specific effective date listed in the bill.

[9:33:42 AM]

So that's a quick run-through of what's going on right now. Happy to answer any questions that you may have.

>> Mayor Adler: Does anybody have any questions? Thank you very much.

>> Thank you.

>> Mayor Adler: The next briefing we'll have is on the flood buyout program.

>> Good morning, council. We're here to discuss the new city voluntary flood buyout policy. My name is Nick Goodwilling, a city attorney in the law and land use division. First as a way of introduction, council last year provided direction to create a voluntary buyout policy. The city doesn't currently have an existing buyout policy so staff went ahead with the process of creating a new policy and we looked at a broad range of issues. Staff looked at sort of what's been done in the past and ways to that we can address the issue going forward and really we set forth some primary goals, which are we want the policy to be fair across the board with all people impacted by the policy and needs to be legally sound. And it needs to be easily understandable for people in the community that are impacted by flooding so that we understand that they're in a vulnerable situation and that this isn't something that we want to add to their stress when it happens.

[9:36:08 AM]

This is the prioritization in part with where the watershed department will discuss the prioritization policy and then move into a policy structure that will be presented by the office of real estate services. So the first part is the legal framework. And generally a voluntary buyout means that the city doesn't intend to use eminent domain or the threat of eminent domain. A lot of times in the past we have acquired property using the threat of eminent domain whereas this is voluntary so the idea is that the city would not proceed to involuntarily take the homes at a later date. Generally the requirements for the city is that we have to look at the -- the city is a home rule municipality, so as a result we have broad legal discretion, drafting policies and making laws and to the extent that we don't have any laws imposing regulations on us we have broad discretion and latitude to act as we like to. Generally when acquiring property and expending public funds we do have to have a public purpose so that's something that the city always looks at whenever we're going to spend any money, what is the public purpose, how is it defined. In this case some of the public purpose that we're looking at is drainage, we're creating drainage facilities or we're acquiring properties for health and safety purposes or there are other public purposes that might come into play. And then specifically with respect to this particular issue, there is a specific state law in the property code, section 21.046, and it establishes that the city must pay some relocation expenses. It doesn't say what amount we have to pay, but in cases of eminent domain when we're using eminent domain, code enforcement, rehabilitation actions and demolition programs, we do have to pay something for relocation, but it doesn't say what the amount is.

[9:38:13 AM]

I'll talk to you a little bit about that specific code provision and what our demolition programs, while it's not defined in the property code, but in this situation we are talking about using drainage utility fees to create drainage facilities and we are talking about removing substantially damaged homes from the floodplain and so it looks like a demolition program because what the benefits include under the state law is moving expenses, rental supplements, relocation payments and replacement housing assistance. And we'll go into what that entails, but we have flexibility and at of those benefits and the only thing

that the property code states that really limits us in any way with respect to the relocation benefits is the maximum amount authorized. And in doing that they reference the federal uniform relocation assistance and real property acquisition policies act. And we're going to discuss that a lot today. It's a long -- it's a long title, so we're going to refer to it as uniform relocation act or the Ura a lot. And really a lot of the policy or proposed policies are based on the you are Ra just as sort of a guidance and what we've done in the past, we've used the Ura to guide us in the past. So what is the Ura? It's a federal law and it's only mandatory with the use of federal funds. And what that means is if we're having funding directly from hud or directly from the army corps of engineers, which we do in another flood buyout area, we're more obligated to follow it directly. Also this occurs with state funding, which passes federal funding through.

[9:40:15 AM]

And so if we want eligibility for reimbursement according to those programs, then we're required to follow it. But generally we're not obligated to follow it in the situation except for determining the max. And it establishes guidelines for notice, purchase price, appraisals and relocation benefits. Just as a way of background for what we've done in the past, we thought if it's good for you all to see because you might not have been involved in it previously, just to see what we've done recently in buyouts. And there are really -- our three most recent buyout areas all involve the onion creek area. That being said, there are three very distinct portions of the onion creek area and they've been treated somewhat differently because of a lot of times external factors. There are two portions of onion creek in the 25 year floodplain and one that is in 100 year floodplain. In the 25 year floodplain it's broken down to the city has entered into a project partnership agreement with the army corps of engineers and that contract defines some of what we've done in that area. And so it's a little bit different than the 25 year of the onion creek area that isn't in the core project area. So in the core project area of the 25 year floodplain, we have acquired the properties using the threat of eminent domain. We have not brought any eminent domain proceedings to council yet for authority to move forward to use eminent domain, but all of the acquisitions so far have been done under the threat of eminent domain. With that there was federal funding, the army corps of engineers is reimbursing the city for those acquisitions. And in that the city has paid for relocation under the uniform relocation act. Moving next, the onion creek --

>> Mayor Adler: Old on one moment please, I'm sorry. Gives Gallo.

>> Gallo: If I could ask a question. You said at this point all the homes have been purchased through the threat and nothing brought to the council.

[9:42:22 AM]

Are there any properties that have not been finalized that may be brought to the council?

>> Yes. Real estate services is moving forward to prepare those cases.

>> Gallo: And what percentage of the total would you say that is?

>> We're right at four percent right now.

>> Four percent of the total? Okay. Thank you.

>> Gallo: Are we going -- for the process to unfold as we do it. I know we don't do a lot of eminent domain.

>> Historically we haven't done a lot of eminent domain in these situations. The historic partnership agreement does have a specific area of property we need to deliver to the army corps of engineers and in that it is contemplated that we would use eminent domain pursuant to that document. So as a result all of the letters that have been sent to the sellers in that area have been -- have mentioned the threat of eminent domain. That being said, any decision to actually move forward with eminent domain has to

come back to counsel. And the -- to council. And the way the city has historically proceeded in eminent domain matters is we have gone to council to provide authorization to move forward with negotiation and execution for people that are willing to buy and then when we have holdouts we come back and we get council authority and council makes the determination that there is a public use and it's necessary for that public use. It's a little bit different than some other entities do it, but that's how the city has traditionally done it.

>> Gallo: We lay the groundwork and say this is an area for us and how we would like to proceed. We go in negotiations with the homeowners and if there are holdouts we say you shouldn't be staying there.

[9:44:23 AM]

>> That's correct.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I apologize. You might be getting to this in the presentation, but I want to know what we're talking about so far applies to the Williamson creek homes as well?

>> It does not. This is just a way of background with the Williamson creek. There's been funding allocated, 18 million has been allocated. It's been based -- that 18 million was based using the full uniform relocation act, but that being said, there hasn't been any kind of council action to move forward with the actual acquisition of those properties and so this is more of a background and then with respect to the voluntary policy as a whole, that's really a decision that you all have discretion to make in this context of do we want to craft a policy that covers every voluntary situation going forward or do we want to address Williamson creek separately.

>> I had some questions related to Williamson creek. I'll ask for it after you move forward, okay?

>> Absolutely.

>> Gallo: Mayor, I have another question. How much does that add to the cost of transaction for each home if we were to have to go through the full condemnation process legally?

>> Right now in we stop it depends on how far we go, but after a commissioners hearing it usually adds about \$35,000 per property.

>> Gallo: Per property, thank you.

>> Mayor Adler: Please proceed.

>> Absolutely. And then the secondary that we have worked with is the 25 year floodplain. The non-corps area of onion creek. And that was also acquired using the threat of eminent domain. 85% of the property owners have accepted offers and we have four property owners who have not accepted -- accepted offers.

[9:46:24 AM]

That was done completely with city funds, however, and full relocation was offered under the uniform relocation act. Then the most recent was as approved by this council and it was the onion creek 100 year floodplain buyout. That is completely voluntary. It's not under the threat of eminent domain. We have been using city funding and full relocation was offered under the uniform relocation act.

>> Mayor Adler: Ms. Gallo?

>> Gallo: Thank you very much for this presentation. I think as we're trying to get up to speed on all of the details this is really helpful. So what I'm trying to understand and if you're going to talk about this more in detail later certainly I can wait for the answer, but so what I think I'm hearing is that full relocation is required when there is federal money or state money that comes through federal money.

>> That's correct.

>> Gallo: So when we get to the 100 year floodplain and it's voluntary and city funding, then the choice

to pay relocation was the city's choice, not required.

>> That's correct.

>> Gallo: And the 25-year non-corps area, which was city funding, the choice to pay the relocation was city choice, not required.

>> That's correct.

>> Gallo: Okay. Thank you.

>> Mayor Adler: With respect to the onion creek voluntary where the full relocation was offered, how many projects -- how many acquisitions, if any, have happened in that category?

>> In the 100 year floodplain no acquisitions have happened yet because we're staggering the buyout, which we'll address later in presentation.

>> Mayor Adler: Have you offered full location to anyone yet?

>> Yes, we have.

>> Mayor Adler: About how many people?

>> I don't have that number off the top of my head.

>> Zimmerman: Quickly on the slide, if you're going to get to it, let me know, but when I see recent and buyouts, recent makes me think how recent, six months, a year, 10 years?

[9:48:29 AM]

If you could give me the dates on those three bullet items. And second when I see buyout, how much? So those two pieces of information are not here on this slide. Are they coming later?

>> They are not. And I think Lorraine can probably speak to that, but these are the last 15 years of buyouts.

>> Within the last 10 years?

>> 15.

>> Zimmerman: 15 years. And how much money per bullet item then?

>> I don't have that number with me. Today. But I can follow up and give that to council.

>> Zimmerman: Does it seem like a rationale thing to ask? It's very, very, very important piece of information, how much money? Is it hundreds of thousands, millions of dollars, tens of millions?

>> She said she would check.

>> Zimmerman: Thank you.

>> Mayor Adler: Continue on, thank you.

>> I'm Victoria Lee. I'm the department director of watershed protection. And I'm here to talk about how we prioritize all the houses that we plan to purchase because of flood risk. This first map here, as I presented before, we have thousands of homes that are at the 100-year flood risk level. And this map shows where the structures are located in the 100-year floodplain, with flood depths of two feet or higher. And as you can see the lower onion in the middle. Williamson creek area have the largest cluster of houses with high flood depths. You may see the large dots over the city. The larger the dots, the deeper the flood depths. Can you go to the next one? Funding was specifically made available for Williamson creek residents recovering from the October 2013 flood events, October 13th and Halloween.

[9:50:41 AM]

Staff has determined there are approximately 63 homes at risk for flooding in the 25-year floodplain in Williamson creek. And those are the ones proposed for buy outs. For all other areas in the city, since this is a new proposed program, we do not currently have dedicate C.D. Funding program, -- dedicated funding program. However each year and immediately following disasters, the city would apply for

federal emergency management agency, FEMA, or other agency grants, and we are very optimistic about our chances to secure future funding. In addition, watershed protection department may allocate the capital improvement project funding towards the voluntary buyout program if the buyout is determined to be the most cost effective solution.

>> Mayor Adler: Ms. Gallo?

>> Gallo: So the structures at risk, the 23 homes that are -- that you mentioned as far as the Williamson creek 25 year, is all of the money for that program at this point city money?

>> Correct.

>> There's no federal funds. So the council will be asked to determine whether or not to add relocation costs to that program or has that been decided before? Where are we in the process of when council makes a determination of relocation costs or not and they said city funded projects?

>> Still under this proposal stage. And today is for your consideration and discussion.

>> Okay. And when you -- if if that group of additional costs were not paid at the city's option, is what is paid to the owner the appraised value of the property?

[9:52:47 AM]

I remember in onion creek we had situations where it was appraised value, but a substantial amount was added for being able to purchase a like property somewhere else. Where does that money -- is that part of the relocation or is that part of what you're paying us for is the appraised value. To me as a realtor appraised value is what the appraiser has valued the property at. I want to make sure I'm adding.

>> It would be called relocation benefit.

>> So that would come with the relocation, not with the appraised value that the city determines.

>> That's correct.

>> Gallo: Thank you.

>> Kitchen: I'll take this time to ask about Williamson creek and about the timing. When would an item come back to council to approve the purchase of the homes under that 18 million? My understanding is that's the next step that 18 million was approved, but we haven't moved forward in purchasing and an item needs to come back to council. Is that correct?

>> That's correct.

>> Kitchen: Do we have a timeline for that?

>> Temporarily we are setting it on June fourth, a Thursday.

>> Kitchen: So we can expect to see that on June fourth.

>> Yes.

>> Mayor Adler: The \$18 million covers both the purchase of the compensation for the value as well as the relocation?

>> Yeah. It's an estimate.

>> And in the 25 year floodplain the relocation being offered to those folks is the federal standard.

>> For the 25 year onion.

>> Yes.

>> Correct.

>> For the 18-million-dollar --

>> Here the 18 is for the Williamson creek.

>> And what's being offered to the Williamson creek people with respect to relocation standards?

>> Mayor, the 18 million was based on a federal relocation, but we wanted to have this presentation to get a feel from council what direction to go before we posted that agenda item.

[9:54:56 AM]

So we -- that's why it hasn't been posted yet. We haven't made a final determination yet on which package of relocation benefits to put on the agenda.

>> We're giving you what has happened in the past 15 years. Williamson creek and in the future all buyouts, we understand you're trying to come up with a voluntary program. So this presentation is to help frame that so you can make that decision about what payouts will be done in the future.

>> Mayor Adler: That was my question. So everybody here would understand the end game, the question ultimately, and there may be more than one question, but one of the questions we have that is being Teed up here is the extent to which -- the question is how complete do we decide where we have discretion. How complete do we make relocation. The delta number that Ms. Gallo, that you were asked about when someone is being asked to move, they get paid fair market value for their home regardless. But if they cannot find -- then the question is then what's their alternate place to move to. So the second step is to figure out what it will cost them to relocate to a comparable property or as close to comparable as possible without being less than what they moved from. And if there's an additional amount that is costs above what their fair market value is under the federal rules that entire gap is paid. But it is not required under state law under voluntary program for the same federal standard. We can't exceed that. So the question for us ultimately at the end of this presentation, one question will be for us ultimately for this council to decide is do we offer people who are being relocated the full delta between the fair market value of the property and what it costs for them to relocate?

[9:57:04 AM]

That's like the big question in front of us, right?

>> Yes.

>> Ms. Pool and then Ms. Kitchen.

>> So to further that conversation when we get back to having to make some decisions, what I'd like to ask is -- and it may be a two hundred hour request from the city auditor. I would like to understand best practices in peer cities and also how Austin has managed these dollarwise. I think councilmember Zimmerman asked how much money has been spent. It would be nice to see what the range is in the buyouts. Not that that is necessarily the metric to make the decision, but it would give us a better understanding of the context that we're working in. And I do have some philosophical -- I do have a bit of a philosophical stance on this in that if this flooding to the extent that it can be determined, was caused because the city council in previous years had approved building further upstream so that the impervious cover came up and we didn't sufficiently regulate or mitigate for flooding, then I think we do have a liability and I recognize and support the fact that we have done these buyouts for folks who purchased without maybe fully understanding the situation that's in front of them or the city made some actions later that changed the topography that would then negatively affect people in putting them in flood's way. Cover,.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: And my question relates to the relationship between the Williamson creek and theony buyouts in terms of the relocation amounts. Are we -- I guess my question is are we talking about the same amounts for the two areas? Or is there some difference?

>> Are you talking about the relocation dollar amount?

>> Kitchen: Yes.

>> That's what we're trying to get a direction from council. Do they want to have a different amount?

[9:59:06 AM]

>> Kitchen: Yeah, I would be very concerned about treating the two areas differently. So we can have that conversation, but it appears to me if we're going to allow a certain dollar amount in the onion creek area we should treat the other areas the same.

>> Mayor Adler: And ultimately the question is going to be reach versus depth, how many people do you want to cover versus how completely do you want to cover the people that we reach.

>> Right.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'm going to maybe raise a point of order, if I could, but this is very important policy discussion. It seems like -- it's one thing to have a briefing, but it necessarily raises policy questions. So it seems to me like this is turning into a very important policy discussion that really ought to be posted separately and maybe even put in one of our council committees so that we can post it and have people come in and hear the conversation. Because the conversation points to me, and the questions that come out of the briefing, it's about setting policy, what we want to do, how much money do we want to spend. There are 18 pages here that would lead to more questions that -- and it's almost as if a policy discussion is happening by default and I'd rather see this issue put into committee and give it the proper deliberation it deserves.

>> Mayor Adler: So this came out -- and my thinking in not sending this to a committee was when I started looking at the committee to send this to, because there were policy questions and it was broad, I was about to send it to half the committees we had. So people would have heard serial meetings on the same thing. But your point is well-taken, in that this may involve a longer conversation. There are policy issues. My suggestion, to the degree we can, let's get through the presentation and let these folks do that as expeditiously as they can and at the end of the presentation, when the questions are Teed up, let's have a conversation about how we want to move next and also relative to the time frame that we have.

[10:01:08 AM]

I know that there are a lot of communities that are really anxious for to us move forward. Councilmember Garza is not here with us today because she's imminently delivering, but I know that from things that she's said, she's been, for her constituents, pushing very hard to keep the time frame moving. So let's get through this presentation and then we can talk about what we have to decide relative to the time pressures that we have. Ms. Houston?

>> Houston: That was my suggestion.

>> Mayor Adler: I like your suggestion. L all right. Let's go ahead and proceed.

>> Okay. And this proposed program was structured around the goal of cost effectively reducing or eliminating the flood risk to people. So we propose two fairly criteria for eligibility. First the habitable house building structure must have an identified 100-year flood risk. So this includes properties that may not be mapped in the floodplains of our creeks but are still subject to 100-year flooding. For instance, the undersized storm sewers or ditches may create a significant problem for certain properties that may best be solved with a buyout, such as the house discussed in the April council work session. Also, we used the term "Structure" and not property because we want to generally focus buyouts for structures that are at risk, not yards or other open areas. And the second criteria is that buyouts should only be performed when no other cost-effective engineered solution is available. For the larger clusters of structures within 100-year flood risk our department has already identified the capital improvement projects to determine the preferred solution.

[10:03:10 AM]

For those single or smaller clusters of structures that have flood risk, the prioritization has not been performed or they fall into a lower risk -- lower rank. So for those structures, staff proposes to evaluate if a buyout would be the most cost-effective solution. And so since the funding is limited, so we propose to use a ranking index to prioritize the buyouts. The index considers both the benefit and the costs of each property. Benefits mean avoided flood risk, and costs means the cost to purchase the house. The higher the flood risks, the higher the priority. And the higher the costs, the lower the priority. So the primary variables used in determining the risk ranking would collide the flood depth and frequency flooding, how deep and how often it floods. And an assessment of the number of people at risk of injury or death. We want to be able to get the most number of people out of harm's way as cost-effectively as possible. And for costs, we will use the value of the property based on the Texas central appraisal district's assessed value, simple to use it to prioritize without having to do appraisals, not related at all to any potential offer. These three parameters will be part of an engineering analysis that will then develop a prioritization ranking. We feel this meets the framework requirement to provide fair, equitable treatment to all affected persons and this ranking process will likely result in individual homes more so than groups of homeless be ranked as the highest risk properties, and this is because the analysis will be individual, home-based and not subdivision based or based on groups of homes.

[10:05:34 AM]

So, therefore, we propose the following three criteria. The first priority would go to the structures that experience substantial damage after flood. Those houses would be the most in need of assistance, and so have the top priority. For example, we tried to purchase the substantially damaged houses first after the Halloween flood. The structures that are not substantially damaged but experienced flood damage nonetheless are not yet repaired may also warrant priority for a buyout. It may be more cost-effective to purchase certain houses quickly after flood because money has not yet been spent to repair the homes. So the city would not be paying for a newly fixed homes. These structures will be quickly reprioritized on the risk ranking index based on their amount of flood loss. Aside from properties damaged by flooding, those with potential for flood damage will be ranked according to their overall risk level and buyout cost-effectiveness in preventing future damage as previously described. Since the \$18 million in funding should be sufficient to purchase all the properties having the 25-year flood risk in the Williamson creek area, further prioritization is not necessary for the buyout for Williamson creek, as I proposed.

>> Lorraine Reiser, officer of real estate. I'll be going through the process, the buyout process, and I'm going to be highlighting some of the things that we do that are nonmonetary so you can understand what we go through when we relocate a family. We start out with the initial interview, where we meet the family, we introduce observation we explain the process.

[10:07:38 AM]

We conduct the interview to determine special needs, such as children in schools or handicapped or illnesses, as the family may face. We try to determine where the credit -- what the credit history may be. We try to look at -- find out some information about their current mortgage details, whether their preference is to own a home or whether their preference is to go into a rental situation. Is there a business on the property? We obtain a copy of the lease if there's a tenant on the property. And we most of all try to reassure them that we're here to help and we will walk them through the process. And I just want to point out, every step along the way, the owner can decline to move forward. This is a voluntary project. After the initial interview, the owner can say, you know, I'm not interested, after hearing about the program, and we will not bother them again. The next thing that we do is we hire independent praisers. The scope of the appraisal assignment is based on market value and the current

conditions of the home as of the date of the appraisal. We attend the meeting. Staff attends the meeting with the appraiser and property owner to help determine which is personal and real property, for instance, stoves, refrigerators, washers, dryers, air conditioning systems, does the owner want to sell that or not so we make sure the value is only on those things that we're actually purchasing. We have a checklist to help the property owner show their property in the best light to the appraiser. We also at that point in time do a room count to determine the amount of moving expenses the owner gets. And we also review the appraisals for uniformity and inclusiveness of all things that were picked up during the inspection. At that point after the appraisal review we prepare and offer to purchase the home. The offer includes a purchase and sale agreement, a copy of the appraisal --

[10:09:45 AM]

>> Mayor Adler: Ms. Pool?

>> Pool: I was going to wait until you finished that section but I'll go ahead and -- I just wanted to know, back on the bullet where you said that after the interview because it's a voluntary program the owner can decline to be involved.

>> Right.

>> Pool: How does that status then carry through should the owner decline to move and stays there but is flooded a second or third time?

>> In the past -- I'll talk about the onion creek. If somebody says they decline we move on to the next person. There has been times through the years, because we've been doing this since 1999, people have come back and said can we be in the program, if there's money available, if it meets the priority list, then we will consider adding them back onto the list at that time. But the future is based on the direction that we get from council, but that's how we've handled it in the past.

>> Pool: It sounds like that second request comes during the initial process that's running. What about someone doesn't move, we've done our buyouts, that person stays there and that area floods five years later?

>> If council -- or there's a determination made that we need to go out and rebuy the area, we may go back and reapproach the family. If it's determined like in the corps area that we're going to use eminent domain, we would approach them under the threat of eminent domain at that time.

>> Pool: Then the last question that I have is does the Travis central appraisal district recognize and lower the valuation of the property after that first round, someone has flood, been offered a buyout and declined it, would that tend to depress the appraisal that is done in the future?

>> Yes, it does because it's based on fair market value. And that's why the relocation benefits are so important to the family.

>> Pool: Okay. So the central appraisal district takes that into account?

>> Yes, ma'am.

>> Pool: Do we share those records with Travis county?

>> We share everything with Travis county appraisal district.

>> Pool: Thank you.

[10:11:46 AM]

>> Okay. Let me look here. Okay. So, again, when we're making the offer, we include the contract, a copy of the appraisal. We also include a relocation packet, where we've looked on the market and found a home for sale that's functionally equivalent to the home they have and it's on the market and -- the day that we make the offer. So, in other words, they have a home that they can go in and buy as of the day we make the offer. That comp -- or that property actually sets the upper limit of the relocation

benefit they can purchase. For instance, if we make an offer for their home for 175,000 and we find we've found a functionally equivalent house, then we would offer a relocation benefit or replacement housing payment of \$25,000. Now, if they have to spend it to get it, so they have to buy a house at least \$200,000 in order to get it so they can't pocket the money. They have to use it on the home and we bring the money to the closing table. Also, we look -- we also offer a moving expense based on the room count. It's based on the national standard for the state of Texas. There's a chart they get a dollar amount per room. And then, also, we go over some miscellaneous closing expenses that they can get. At this point, again, the owner can say, no, we are not wanting to accept your offer and we would walk away at that point in time. We also do the due diligence. We do the title searches. We help them clear any title defects. There's a lot of families out in onion creek and in other areas where they've had family members that have owned the home pass away and gone to relatives that they haven't been able to clear the title themselves. So we help with that. If there's any abstracts adjustments or things like that we help them clear them or pay them off at closing.

[10:13:50 AM]

We also offer relocation and moving expenses, and so -- we offer to buy our -- two potential situations. We have the owner of the house who lives in the house, that's the owner-occupied. We also have the owner of the house which rents, landlord-tenant situation, both are handled differently so I'd like to go through those. If it's an owner-occupied and they want to buy a new home, then we offer them relocation advisory services and those relocation advisory services include referrals to nonprofits for credit counseling if they bought their home when they had better credit and now maybe they've retired or are on social security and they need credit counseling, we help with that. We also advise them to hire a real estate agent to assist in the home search. We also, if we know there's health issues in the home, we work with the health department. Other nonprofits help assist in ADA issues that may be going on or they may need -- need in their future home and we do -- we also have gotten social workers, mental council counseling if we're not sure -- because of medication they're on that they can sign a contract, we'll have a social worker, we'll get a doctor's permission slip. I want to let you know there's a lot of detail that goes into advisory services that we walk each family through as we go along. So that's the advisory services. It's kind of a catchall for anything they need, we try to help them through. We also offer the appraised value of the current home, as is, where is, closing costs on the -- both the home we're buying and their new home, moving expenses and a relocation, the housing payment of up to \$31,000.

[10:15:52 AM]

Council, one of the things that could be a decision point is that we offer up to the \$31,000 and we stop, whereas the housing of last resort offers whatever it takes to get them in the new house. We're seeing like \$50, \$60,000 right now in onion creek. You could say that we're not going as far as housing of last resort and stop it at a flat \$31,000. So I'm going to let you know you different tiers, different decision points that possibly could be made on that. And so, also, in the federal regs, one of the other things they have is a mortgage differential payment, and that is if you are in a lower mortgage rate right now and you are moving into a higher rate, either because of a credit history or just because rates have gone up generally, there's a formula that the federal government uses, and we buy-down their mortgage rate so they're paying the same mortgage that they're doing now. You could decide not to pay that. Okay, if it's owner-occupied, sometimes the owner occupants want to go into a rental house, rental property. So we then offer relocation advisory services, the appraised value of their current home, housing costs, moving expenses, and they could qualify for rental assistance up to \$7,500. If offers to landlords and tenants. If

you're a landlord and you own a property, would you receive relocation advisory services, which basically talk about if you're buying a new home or are buying another property to replace your rental property, what benefits you're, what you're eligible for, which could include new property and paint as relocation sinks you get the appraised value of your current home, moving expenses and that usually happens if the landlord furnishes the home and then we pay to move that furniture for the landlord or any other personal property the landlord may have on the property.

[10:18:11 AM]

The re-establishment, again, that goes towards setting up a new rental property. Usually it's paint, carpet or whatever it takes to bring the house up to code. Usually -- we have very few people that actually apply for this benefit, but it is there under the federal regs. And then they can use -- get up to \$2,500 for their cost associated with finding a replacement property. And there's no housing of last resort for the landlords. The tenant receives relocation advisory services, moving expenses. If the tenant finishes -- if it's the tenant's furniture, sometimes if it's just a few household belongings, even if it's an owner-furnished home they'll be eligible for that. They can get up to rental assistance payment and that is based on the -- we look at what market rent is in the floodplain, what the market rate is outside the floodplain for similar property. The differential times 42 months is what is equal to that \$7,500. And they can use that money to go towards a down payment. So a renter can move to a down payment if they have credit and they wish to do that. Housing of last resort. There's little -- there's very few comparable housing for -- especially what we've seen in onion creek. We suspect in Williamson creek, with the initial look at the values, there will be a little more comparable housing for those property owners, but the real problem, challenging for us has been to find houses in the 250 and below range. Last month, looking in the Austin area, there were only 40 homes on the market period, whether it's sanitary, whether it has homeowner fees or whatever the issues are, there's only 42 period.

[10:20:28 AM]

We're actually right now have over 100 relocations in play. There's not even enough homes for the families that we're relocating right now. And even according to mls, the housing stock is down to under 2%, and they consider 6% is a healthy market. So that's one of the things that's a situation that we're facing, is that there's not any homes for them to buy. And we're having to really stagger the offers because we don't want families having to compete against each other for the two or three homes that are for sale that they can afford. So that's a real situation that we're struggling with right now. So limiting the benefits, you will have more of those types of issues, if they have to go into a lower price market and they'll probably have to move out of town. So just so you'll understand that. Okay. So, again, housing of last resort allows the city to exceed the maximum limits of whatever is set and helps to find whatever it takes to get people into a similar situation of what they had. To be eligible for relocation benefits, I want to talk to you about a couple things you may not be aware of. One, they have to be lawfully present in the United States. So a family, if they're not lawfully present, they cannot be eligible for relocation benefits. Now, that's under federal guidelines. Now, if a family has young children and they are born in the United States and are United States citizens, then that could make the family eligible. So there are some exceptions to that program right now, but I just wanted to make you aware of that.

[10:22:28 AM]

You did not receive a valid eviction notice prior to the negotiation. So if the owner is in the process of

evicting a tenant or the tenant has moved because of an eviction process before we've started the negotiations, then that tenant would not be eligible for relocation benefits. And if you did not -- if you occupied the home just for the purpose of claiming benefits, then you also aren't eligible, and we've had that happen a time or two.

>> Casar: Sorry, mayor, I have a question on those three. You're saying those are federal guidelines that apply to the funding that we are utilizing?

>> Yes.

>> Casar: So we are required in dispersing that federal -- some of those federal funds to ask about all three of these --

>> Just as a point of clarification, councilmember Casar, Lorraine's presentation has been how we run through through the relocation act, we're flexible, these are decisions in terms of how we proceed. Each of those points weren't mandated. This however speaks to general eligibility requirements under the uniform relocation act and we do know we are capped at what the maximum authorized is under the act. So persons in this category, the maximum is likely zero. We can look into that specific issue for you.

>> Casar: Certainly. We can follow up when we have the actual policy discussion. I understand that we're trying to mirror that program. What I was trying to understand is these are the -- these are the requirements for federal funding.

>> Yes.

>> Casar: Since we're using city funds this would be a policy decision made on our own, where we would ask if you received a prior eviction notice or we would ask -- find out in some way if you occupied the home for the benefit or we would ask for immigration status and that would be a policy decision this council would make?

>> Let me clarify one thing that I probably should have added but your question has prompted that.

[10:24:32 AM]

We don't make an offer to a tenant unless the owner accepts the offer because there's issues related to that. So once the owner of the building accepts the offer, then we negotiate with the tenant. Because we don't want to be in the situation where we keep relocating tenants over and over again in the same house and the owner keeps renting it to new people. So we require that the owner sell the house in order to pay a benefit to the tenant.

>> Casar: Understood. These are eligibility requirement for both tenants and homeowners with federal monies.

>> Yes.

>> Casar: And in your presentation what you might recommend to us, but ultimately these are policy decisions this council has to make?

>> Absolutely, yes, sir.

>> Casar: Okay. Thank you.

>> Mayor Adler: Thank you. Please proceed.

>> The typical purchase time line that we're seeing is eight to 12 months if it's non-eminent domain it's 18 to 24 months in the use of eminent domain. And part of the length of time during using eminent domain is because of sb-18 and mandatory time lines that we have to follow in that. What's driving the time line right now, again, is the owner's ability to find a new home. A lot of times they don't want to sign it, they won't say no but they won't sign a purchase of contract until they have an idea of where they can go and that they do have some options of a place to move. Extending the time line, we may want to look at, again-- we're starting to produce a weekly report that actually tells us how many homes are available on the market each week in different price ranges in the city and in the city's extended areas. So that way we can be aware of what's available as we move forward with all the buyouts on the

market. And, again-- and that's creating a time -- extension of time line where we're having to stagger the time lines so we don't have everybody competing for the same house.

[10:26:41 AM]

When we did the neighborhood group meeting at onion creek, the consensus of the group seemed to be that they don't want to be all competing for the same house. So they'd rather stagger it than everybody be given the same comp on the same day. I think that's it. And now questions?

>> Houston: Mayor.

>> Mayor Adler: Yes. Ms. Houston.

>> Houston: What if a person has insurance, either personal insurance or flood insurance? How does that factor into an equation?

>> I can answer that. It doesn't factor in it under any of these scenarios. Where it did factor in is under -- if we get federal money, FEMA, and if the money is right after a flood disaster like in the Halloween floods, there is a requirement for FEMA funding that we have to subtract out whatever they were given for flood -- to renovate their house, if they haven't renovated it yet, it has to be subtracted from the offer.

>> Houston: Then one other question. Some people already rehabilitated their houses.

>> Yes.

>> Houston: Does that mean if we offer them a buyout we go to the higher level?

>> Yes, ma'am. The current appraisals might look at every single appraisal and they're now being made offers on the current condition of their houses, and most of them have new flooring, new walls, new appliances so their offer is based on that.

>> Houston: Okay. This is my last question. For the Williamson creek, the \$18 million, is that fixed or would you come back to us at some point and need an increase in that?

>> Right now, based on what we're seeing in the market and depending on what buyout policy you have, we think that will be enough money.

[10:28:43 AM]

>> Mayor Adler: Are you going to present us with the Numbers on the different policy choices and --

>> On what we spent to date?

>> Mayor Adler: On the ramifications of a relocaion policy.

>> Yes, sir.

>> Mayor Adler: So that's the next part of your presentation?

>> I don't have that today. This was just to go into this level of detail. What we were planning is coming back again with a -- get your direction and then put together that, some more information, and then come back with an agenda item in the future for a policy decision. This was just to start the conversation so we could kind of get a feel for what council was thinking.

>> Mayor Adler: Okay. So let's talk just a little bit and people can talk about it too. In order for me to be able to have a conversation about the policy decision involved, I would need to understand better the scope or the impact, what is the ramifications of adopting this policy decision, what are the ramifications of, you know -- here's five different ways or however money the appropriate number is, and this is the ramifications in terms of budget, in terms of the people that we can help, in terms of the people who are lined up to get help, expecting to get the same help that their neighbors got.

>> Yes.

>> Mayor Adler: So how do we get that -- is that information you're going to just provide to the council?

>> Yes, sir.

>> Mayor Adler: Do you have any idea what the time line is for being able to do that?

>> I already have a draft of that information, anticipating it. So I think I can have it to you by the end of the week.

>> Mayor Adler: That would be great. You had raised your hand, Ms. Tovo. And then Ms. Troxclair and then Ms. Gallo.

>> Tovo: I had a couple of questions related to this -- related to the policy discussion, but my main one right now is what is the expected time line for bringing forward an item related to the purchase of the Williamson creek properties?

>> We were looking at June 4, depending on how this conversation -- if we could get -- if we kind of got a feel of if you were to move forward or if you wanted more policy discussion.

[10:30:56 AM]

>> Tovo: Well, I understand certainly the need to have a policy discussion and I'm glad we're doing it here today and I hope that we can continue it. But given the length of time that those homeowners have been waiting, I would say it's a very high priority to move forward with the purchase. And three homes were already purchased, as I recall, last fall, and they were giving -- given fuller relocation benefits -- or let me just say file, the full package of relocation benefits.

>> That's correct.

>> Tovo: So I echo the comment made environmental, that it would seem to be the equitable thing to do would be to make the same offer to the other property owners. But, again, you know, I understand the interest in talking about this more, and I hope we can exile those discussions between now and June 4 so that those homeowners can get some resolution to their situation. It's also my understanding that some of the property owners don't wish to sell.

>> That's true.

>> Tovo: So I hope -- when you provide us with the figures, I hope you'll do your best, I know it's a -- you may have some idea and you may have to just estimate, but I hope that we can take that into account as well in considering that not everybody will seek to be bought out.

>> That's true.

>> Tovo: Anyway, thank you for your work and the presentation. That was very helpful.

>> Mayor Adler: Ms. Troxclair, then Ms. Gallo.

>> Troxclair: I just was trying to hold my questions to the end. So they're a little bit all over the place. But you mentioned that the -- we have a discussion, city staff has a discussion with the homeowner about which personal property items would be included in the sale. I'm just wondering why the city is in the business of buying refrigerators and washer and dryers in particular since those aren't items that are typically included in a real estate transaction.

>> Under -- well, again, under federal regs, that's a requirement and there's a form through it, and some properties have been sold with some of those items.

[10:33:05 AM]

But we just want to clarify it with the owner, and there's a statement that they sign.

>> Troxclair: Well, I mean, I can understand, you listed a lot of different appliances in that list. I can certainly understand stove and other things that are a part of the property and that people don't move from home to home. So when you say it's a federal requirement, what exactly is the federal requirement? That we buy refrigerators or that we ask them what --

>> Right, that we ask them what they consider real property and what it is they consider personal property. And so we do -- and, typically, we don't see anybody selling their washer and dryers as part of

their home. It's just more -- part of that, it is on the list, but mostly I was trying to give you guidelines, an idea I was talking about when I said personal property.

>> Troxclair: Yeah. I guess there's still a disconnect in my mind of what is considered personal property under, like, state real estate guidelines and what you're saying is considered personal property under federal guidelines.

>> Under federal guidelines it's on the list but we're looking across the whole country, and so my guess is there's some areas that that might be considered selling as part of real estate.

>> Troxclair: Okay. I guess -- so the assumption is if the person wants -- says, well, I don't need my washer and drier, refrigerator, you include the value of those items in the offer that we make to them. So we're buying their appliances?

>> Yes.

>> Troxclair: Okay. I guess I just -- I still don't understand that. But I don't know that we're going to come to a resolution on that now so I'll have to think about it more. Who determines the comparable property that establishes the upper limit of relocation costs?

>> That's determined by staff.

>> Troxclair: By staff.

[10:35:07 AM]

So an appraiser comes out and does an individual property appraisal of the property that the city is looking to buy.

>> Right.

>> Troxclair: To establish the fair market value of the property. That's not necessarily tied to the tcad appraisal?

>> Right.

>> Troxclair: We do our own separate appraisal?

>> Right.

>> Troxclair: City staff goes scout looks for other properties?

>> What we do -- that's for the appraised value. Now, what I -- on that part that you're talking about, that's for -- all we're doing is looking for something for sale on the market as of right now so we do an mls search for three bedrooms, two baths, built in 1995, wood construction, two story, similar to function what have they have now. And look and find the listings, and then we find, you know, what's closest to what they have. We usually pull three comps and choose one out of the three that we feel is most representative.

>> Troxclair: Okay. And where did the \$31,000 number come from? How was that number established? That was -- I forget what you called it, but the --

>> Repeating housing payment. That is the cap under the federal law. Within the federal law there's a \$31,000 cap. To the extent that you have market conditions that necessitate housing of last resort where you can't sort of run your program or operate it because you have insufficient housing stock in housing of last resort that section in the Ura allows you to exceed that \$31,000 cap.

>> Troxclair: Okay. But that dollar amount is set by federal guidelines?

>> Yes.

>> That's what in the federal law, yes.

>> Troxclair: Does that number move?

>> It moved in October. It was \$22,500 until October.

>> Troxclair: Okay. Let's see. What -- why -- why does the city pay closing costs and moving costs?

>> The premise of relocation is to do no harm.

[10:37:08 AM]

So you try to put people in the same financial situation that they were before. And so coming out of pocket for any costs, most families can't do that in these neighborhoods. So federal regs require us to pay for it.

>> Troxclair: Okay. Because a lot of times -- I can certainly understand paying any closing costs on the purchase of the property. But the city also covers closing costs on -- sorry, of the purchase of the property that the city is buying. The purchase of the new property, I mean, a lot of times closing costs is something that's negotiable and the seller of that property will often agree to pay closing costs. So we're --

>> We try to -- and we try to encourage that if we can. That's why we have an independent broker out there, real estate agent, working on the transaction. But if there are any costs that are incurred, then under the federal regs we pay them. It's a very specific line item.

>> Troxclair: Okay. What -- I guess I'm just trying to understand -- because I certainly -- and, I mean, I agree with the principle that we -- if we're asking people to move, we certainly don't want to do them any financial harm. We want to find something that is comparable and have the least impact to their lives and their families and all of that, especially in circumstances like councilmember pool mentioned, when it's, you know, developments or decisions of the city that have kind of caused those floodplains to shift and have caused people to flood. But, I mean, there is a benefit to -- I would think that families in those situations are also -- there's a benefit to them, too, of moving, but it just doesn't seem like -- it almost seems like with the way that the program is set up, and as thorough and kind of above and beyond what is required, it almost seems like we -- like there's an incentive to be in a house that's flooding because you get so much more covered than you would if you just went out and bought a new house on your own.

[10:39:15 AM]

So I guess I'm just trying to reconcile those two things. It seems like there would be -- I'm just trying to reconcile those two things. So what percentage are -- of the properties that you're buying are homesteads versus rentals? Do you know about?

>> I don't know. But just a guess, I would -- I believe about 70% are homeowners but I'll double-check that.

>> Troxclair: Okay. She said about 70%. I was just curious of a ballpark estimate. That's helpful. Okay. All right. That's all my questions for now. Thank you.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I'm just going to follow up on the mayor's question, because I think as we have this discussion and certainly from my standpoint I would want to support a policy that would be available city-wide and to all neighborhoods, not just select neighborhoods is that that have been -- however they've been selected. And so I think it's really important as we determine the financial impact of being able to offer this city-wide to all of the homeowners and renters that are in certain categories that you're proposing, as the mayor said, we need to understand the full fiscal impact on that. So my specific question is that -- you don't need to answer now but I'd like to have just as soon as possible, is I think you've indicated that there are 5700 homes in the 100-year floodplain. I'd like to know the tcad value on those, the total, and then what the full cost if we were to -- understanding this would be a voluntary program and if the city chose to pay the relocation -- that whole group of relocation cost issues, what that cost would be for all 5700. And then how many properties would be in the 25-year floodplain. I mean, do you know the answer to that? How many properties are in the 25-year floodplain?

>> For -- over the city?

>> Gallo: In all the city.

[10:41:16 AM]

>> It will be -- under 25-year flood risk will be over 10,000.

>> Gallo: Okay. So it's more than the -- I'm confused now. Somewhere on here we had a number of 5700 properties that were in the 100-year floodplain.

>> That's in the floodplain. But we have extra several thousands that's under the flood risk, not necessarily in the floodplain. But because of the insufficient drainage infrastructure, they are also at risk of getting flooded by 25-year flood or 100-year flood.

>> Gallo: Okay. So we have -- so your -- so your department is suggesting that we use the 100-year flood risk, not the 100-year floodplain?

>> Correct.

>> Gallo: So then I'm going to go back to my initial. I would like to know how many homes are in the 100-year flood risk, how many homes are in the 100-year floodplain, how many homes are in the 25-year flood risk, how many homes are in the 25-year floodplain, and the tcad values on each of those four categories and the total cost of relocation for each of those four categories.

>> From the top of my head --

>> Gallo: I know that's a lot of information. Carrying forward what the mayor was doing for specifically I think that would help me determine the fiscal impact of implementing this city-wide versus just neighborhood by neighborhood.

>> Yes.

>> Mayor Adler: That's the kind of data that you said you have potentially in your draft report. I know that we want to move this forward, and I know that there are a lot of people that are anxious about it. We called a special work session for next Tuesday.

>> Okay.

>> Mayor Adler: So that we can talk about the potential challenging of the appraisal district. We can add to that this issue, especially if you're able to get information to us this week, by the end of this week, so that we all have a weekend to take a look at it.

[10:43:19 AM]

>> Okay.

>> Mayor Adler: So that we can put into context the decision that hopefully we can still point toward on June four. Ms. Kitchen.

>> Kitchen: I'm a little concerned about -- I would really like an item brought on Williamson creek on June 4. And I'm concerned about us going in a direction of -- I think we're talking about two separate things. I think it's very important, of course, to look forward and look at a voluntary program policies going forward, and that policy may very well be different than how we choose to treat folks that have already been waiting for quite sometime and have already experienced a flood. So I think we should separate these issues. I think we should commit right now that we're going to go forward on June 4. We can have a discussion about the policy next week, which I think is important, but I wouldn't want that to hold up bringing forward an item. If I'm understanding correctly, and maybe I'm not understanding correctly, is that we cannot go forward with the additional buyouts for the additional homes that have already been identified in the Williamson creek area until we have this item brought do council. Is that right? I'm not sure why three were already bought out in the fall and now we're in a position we can't move forward on the rest of them without -- maybe can you help me understand that. Why were we able to buy out three in the fall, but not move forward with these until we have an item?

>> Councilmember, when we say have an item, we mean approval to move forward with the acquisition of the Williamson creek buyout. The council did approve us buying the three homes so we did move forward with that. We would just need authority to buy the remainder of the homes. That's what we would bring forward to you. We have a draft of that item already, so -- we can move it in whatever chosen speed council wants.

[10:45:23 AM]

>> Kitchen: All right. So I'm understanding. So for whatever reason in the fall the council did not approve all of the buyouts, but approved the three. I would like to -- so do you have the information you need to put the item on the June 4th --

>> Yes, councilmember.

>> Kitchen: I'd like to ask that that happen, that it be on the June 4th, we can have whatever policy decisions we need between now and then. We can even discuss -- I may be in the minority, I don't know, but I think that we should think in terms of treating the Williamson creek homes the same as onion creek. I may be in the minority on that, but I'm trying to make sure that we don't slow down the Williamson creek issue while trying to decide a broader policy issue going forward.

>> Mayor Adler: I think based on the testimony that people have given here today, I think there are four of us, probably more, would like it on the agenda on June 4th. Let's go ahead and post that on June 4th. Doesn't mean we have to take action. Means it will be on the agenda. Let's have the work session on this on Monday, even though that is two weeks before June 4th. So that we can get the additional information before this-- by the end of Friday so people have the weekend to look at it and we can discuss it again on Tuesday.

>> I missed the first part of what you said about last fall. I mean, those were the three that came forward for council consideration. I want to be very clear it's not -- it's cereal not my memory -- it's certainly not my memory that there were other properties on the agenda that the council did not approve and I want to be sure that we clarify that.

>> That is correct. Viewed another way, we had a recovery buyout that the city initiated after the Halloween flood. The three properties in Williamson actually flooded October 13th prior to Halloween. So that could be used viewed as a recovery buyout for the October 13th event.

[10:47:30 AM]

>> Tovo: Again, I only caught half of the comment that was made, but it almost sounded like there had been items on the agenda that the council had decided not to move forward. I wanted to be very clear that wasn't the case.

>> Mayor Adler: Ms. Houston and then Ms. Gallo.

>> Tovo: I hope you counted me in the four. As I said earlier it's a priority for me to see these on June fourth and I agree with -- as I mentioned earlier, I think they should have the same benefit.

>> Mayor Adler: Ms. Houston?

>> Houston: I'm wanting to have a broader policy question because there's so many parts of my district that have flooded in the past and I would like to know if we've offered anybody any buyouts on little walnut creek or any of those things. I don't want to set a precedent and then people expect that the next time we have a rain like we're having now that these are the things that everybody is going to be able to get. So I want us to be very careful and cautious about what it is that we say to people because one of the last reports that you gave us several months ago, we've got a lot of houses and a lot of people who are in danger of flooding. And so if that catastrophic flood happens again then we need to really be thoughtful about how we craft this policy. And so I just hope we have this larger policy

conversation.

>> Mayor Adler: Further conversation before we move on, recognizing that we'll have a policy covering on this on -- policy conversation on this on Tuesday and it's been set on the agenda and we have a lot of things to do.

>> Zimmerman: Thank you, Mr. Mayor. I'm just making a couple of comments in anticipation of the agenda item and what I'd like to see on there, the information. It looking at page 11 I think we have some good points here that point to policy, structures of substantial flood damage, greater than 50%.

[10:49:36 AM]

This is the kind of stuff I'll be looking for for June the 4th. These are measurable things. Could you quickly address the difference between a 25 year floodplain and a 100 year floodplain. On page seven we're talking flood risk being a citywide issue. This goes to the policy question of, you know, setting precedents that could be applied around the entire city. So if we have 5700 structures in the 100 year floodplain, if we look at the 25 year floodplain, because on the previous page, page six, we're talking about 25 year floodplains. I want to be clear that we understand are we limiting the policy to 100 year floodplains or is this policy and these points being extended to 25 year floodplain because would it make a huge difference? If there's 5700 in the 100 year floodplain would there be 15 or 20,000 in the 25 year floodplain? Yes, the 100 year floodplain said there is a .01 probability of happening in a given year. The 25 year floodplain has a .04 probability of happening in any given year. The 25 year floodplain is a subset within the 100 year floodplain, but based on the topography of where we're at you could be deeper in the 25 year floodplain. You would be surrounded by the 100 year floodplain, but not as deep. Austin has the gamut of G.O. Physical characteristics from steep, rocky, cavernous areas to broad floodplains in our eastern watersheds. So we want to get those with the frequency of flooding with the 10 year, 25 year first, but they do have a 100 year flood risk. Any one big event such as a 100 year storm would wipe out a lot of our citizens in a very drastic way.

[10:51:48 AM]

Whereas our policy has been to look at the gamut of flood situations, especially with climate change or whatever you want to call it, those serious storm events and reprioritizing in a different fashion. And that was one of the basis of our presentation today. Maybe going in a different direction and offering a citywide buyout.

>> I think when you present the Numbers that have been requested, somehow or another you will have to overlay that on there. You will have to pick a threshold risk point. I don't know what you call those, the ones that are most in imminent harm, so when we look at Numbers we're not just looking at the seven thousand or 10,000, but we're also looking at whatever would qualify above a certain point on your risk scale. Further comments on this before we move on, Ms. Pool?

>> How often does the federal government come in and reconfigure the floodplains?

>> I have our floodplain administrator here. I'll ask him to come up and address that? >>

>> Thank you, the federal government on their own may decide to restudy floodplains. Typically I might say FEMA would do it on a 10 year scale, but the city of Austin in particular does take a more proactive approach in establishing floodplains and we would probably do it more often than that. In general maybe 10 years for FEMA, but the city certainly has --

>> Something less for the city. Thank you.

>> Pool: For our discussion when we do dig into into this at the work session next week and then going forward, I also would like a very much to include the planning for where developments occur and their potential affects on existing neighborhoods that are then flooded because of the new impervious cover

or the new developments that have been zoned and platted and approved for development.

[10:53:55 AM]

So I think that needs to be part of the conversation. A really big part of the conversation. I don't want to keep creating situations where we create flood risk for people. It wasn't there when they bought and then it becomes that -- it happens to them.

>> Mayor Adler: A really important policy conversation to have. You're not suggesting that we try to tee that up and have that resolved also by June 14th?

>> Pool: I think it needs to be an element of our conversation. I think our forward planning tons have impact on our floodplain as and I want that to be of complete and very deeply embedded element in that policy discussion. I don't know about the timing, how much work it would cause for staff.

>> Mayor Adler: I agree with everything you said. What I don't want to do is delay the conversation so that we can't act on June fourth so that we can have that conversation, which I think is real important. It may not be Teed up as well as the taking the action on June fourth and having that policy conversation. I think that's clearly something that --

>> I agree and I don't want to delay the buyouts that we're looking at either. I don't know if I was one of the four people that you had. I might be number five. But I do not want to delay that.

>> Mayor Adler: I said at least four. I knew that would cover us all up here. Ms. Troxclair and then Ms. Tovo.

>> Troxclair: Just a quick comment on the Williamson creek issue and the broader issue. I can understand the interest in making sure we move forward with Williamson creek and we don't delay that any further, but it's also hard when we're saying things like well, we shouldn't offer them anything less than what the onion creek people got. And then next say we shouldn't offer them anything less than their neighbors got. It's hard for me to separate the two when it seems like we -- we either need to be able to have the policy conversation in conjunction with the decision about Williamson creek so that we can set a precedent going forward or we need to be really honest with each other as well as the community that -- that each situation is different and that the next time won't necessarily be the same as the time before.

[10:56:20 AM]

>> Mayor Adler: I would suggest that we not deinvolve into a policy conversation on this issue right now only because we need the information and data to be able to do that and we have tons of stuff on our agenda.

>> Kitchen: I would agree, but a flood has already happened on Williamson creek. I very much to set policy going forward so we can let people know in the future what our policy is. That's the distinction for me.

>> Mayor Adler: Any further conversation on this?

>> Gallo: Being respectful of the Williamson county issue, I would remind the council that over a month or so ago we had a discussion about a particular home in district 10 that staff has been in communications with for several years now that has flooded multiple times and our decision at our meeting was that we would delay doing anything until we had policy. So I think we have already said to a homeowner we're going to wait to make a decision on your situation until we have the full policy.

>> I don't think that was unanimous.

>> Just as we talk about their additional situations over and above Williamson county that we've delayed because of the policy.

>> Mayor Adler: That would be great. Thank you very much for the presentation.

>> May I take one minute. I want to recognize our financial manager, Diane Gonzalez. She worked very hard in securing funding for the onion creek and Williamson buyout. And she passed away last night.

>> Mayor Adler: She left quite a legacy in this city with the work that she did.

>> Mayor Adler: Councilmembers, do we want to hit some of the agenda items before we break for executive session and lunch?

[10:58:23 AM]

Okay. Let's go ahead and start. I want everybody to take a look at the items that have been pulled on this agenda, and I would suggest that everybody take a look at it and determine if some of the things they pulled, whether the questions that they have could be answered by going to the Q and a section, just as we work our way through this. I would like to --

>> Houston: I would like to ask councilmember kitchen if we could collapse item 32, 33 and 34, could they just be one issue instead of all of them?

>> Kitchen: Absolutely, I was planning on that.

>> Mayor Adler: So let's work our way through this as quickly as we can. Ms. Tovo?

>> Tovo: I can asked to be recognized during the last discussion because I had just one request. There were several people had multiple questions for staff and multiple information requests and I was just going to ask if those could be submitted through the Q and a process. I think that helps. It doesn't just help staff, it helps those of us who are trying to figure out what additional questions we want to submit. So I think usually the staff questions some of the ones that were raised in the work session, but I think doing it formally as a follow-up is helpful for staff, but also for other councilmembers and asking the same questions.

>> I think that's a good recommendation reminder. Let's work our way through. We have item number 2 related to the ad valorem tax exemption. We're going to discuss that in-depth tomorrow, Wednesday. We have a work session to do that. There's not -- I think it may be posted on the agenda for Thursday.

[11:00:25 AM]

We're not going to take any action on that this Thursday. Any other questions?

>> Tovo: I'm glad we're not contemplating taking action on Thursday. I think we need another week to think about it. I guess my general question is is our staff recommending that option because there has not been council direction to bring forward that for our consideration as there was, for example, with the prior homestead exemption that the council adopted or when the exemption was raised for seniors and individuals with disability. That was preceded by a council resolution. I was just wondering if this six percent homestead exemption has now become a staff recommendation and that's why it's on our agenda for consideration without council direction.

>> Mayor Adler: This is something that I asked -- since tomorrow's work session is mostly on this topic, I don't know if you want to get into the conversation now or tomorrow, but I've asked them -- I have no idea if they have one or not, but I've asked them to give us a recommendation.

>> Tovo: No, I have -- I have many questions related to the merits of it and how it would work and the Numbers. I guess on a procedural question, it's on our agenda in a way that was surprising and hasn't -- is not the typical path of things on the agenda. I had like to get clarification on whether this means it is a staff recommendation and that's why it's for our consideration.

>> Staff has not put out a recommendation in regards to the level of the exemption, but this is on the agenda for work session tomorrow, significant discussion tomorrow. So staff's plan was to put this item on the agenda for the 21st in the event that council got to a point following the work session tomorrow that you wanted to take action on the 21st, we wanted it to be on the agenda so you could take action if

you wanted to.

[11:02:33 AM]

If council is not at a point that they wanted to take action on the 21st, then we would postpone it until June fourth. But our intent would be to have this on the agenda every week until council takes action because of the time considerations involved. But staff has not made a recommendation in regards to a percent. The ordinance that was posted should just have a blank for the percent, but we wanted to be on the agenda so that council had the ability to take action on Thursday if the work session on Wednesday got you to that point where you were ready to.

>> Tovo: Okay. I understand that. Again, just in the -- I don't want to belabor the point. I'm just trying to make sure we've got a consistent practice for how things arrive on our agenda. And typically that would be preceded with a council resolution supported by the majority of the council to adopt -- or in this case to increase a homestead exemption to some percent. And the resolution we passed earlier in January asked staff to go and collect information and that's been done. There was not a resolution asking staff to return with an ordinance to increase the homestead exemption.

>> Mayor Adler: I don't know how it ended up on the agenda, but my guess is that stains felt like some action needed to be taken, I think by June fourth, I'm comfortable with the practice that the staff puts things on an agenda to make sure we handle things at a time when we handle them. In addition to the conversation that we have home on the homestead exemption we had talked last week about preparing some pages or outlines that might be helpful to the council in terms of what were the drivers on changes by funds, forecast. Is that something that you think you might be able to send out to the council offices today?

>> I absolutely do. To look at today and tonight and in anticipation of tomorrow's meeting.

>> They will be going out shortly.

[11:04:36 AM]

>> Mayor Adler: Anything else. The next item, number 4, been pulled by troxclair and Zimmerman. >>

>> Zimmerman: Thank you, Mr. Mayor. I guess we'd appreciated hearing some background for why this came up because I think councilmember troxclair and a number of others, we're always concerned when we see federal involvement in our local public safety. So why don't you go ahead. I'm sorry.

>> Mr. Mayor and council, James smart, assistant chief and chief of staff for the E.M.S. Department. This item, because it is an agreement with the local government, has to come to this body for approval, and it's not much different than many other agreements we have with paramedic schools, with the military, with medical schools to allow other medical people in school and other organizations to come here and practice their skills. So in this particular case I believe there are six individuals that are part of the medical team of the FBI that in plain clothes and unarmed would be able to come here and ride and practice their medical skills under supervision with our emt's and paramedics to keep their skills current because in their role with the FBI they really don't have opportunities to do that. As one of the leading E.M.S. Systems in the country, we host people from all over the country to come here, kind of like a teaching hospital does to a medical school.

>> Mayor Adler: Okay. Any further questions on this issue?

>> Zimmerman: Yes, another question. When you say animi squad employee, is a an FBI sought into who does -- employee who does emergency medical service. Is he a sniper E.

>> He's a state certified emt. I don't know what his additional roles are, but in that member of the team he has to provide treatment for people who are injured in the course of something.

[11:06:45 AM]

This provides him an opportunity to get on an ambulance, not in any kind of swat uniform or armed, and assist our crews in doing routine patient care to practice those skills. Like maybe a paramedic student or someone would be while they're in school riding out on our ambulances, which is very typical.

>> Zimmerman: So we've had some issues lately about credentialing on some of our technicians, our emergency medical techs and what have you. I've dug into that some and there are some complaints that honest mistakes are being made on some of these runs and the next thing you know someone loses credentialing or maybe the city is afraid of getting sued if something goes wrong. How do all those complications play into this? I thought first it would be someone would observe. I've been invited to go observe and I plan to do that. I'm not putting my hands on anybody. This sounds like we have a federal employee that would be a hands on guy on the crew.

>> It's been brought to my attention here that at least in the the way it's written right now is it would just be observational.

>> Mayor Adler: Any further questions?

>> Just a quick one. If I've submitted this through the Q and a I'll withdraw it since you're here. What is temporary? How long is this person observing?

>> I believe the plan for these individuals is there are six individuals and they would come ride out for part of a shift, maybe a daytime shift once a quarter. But we do have as I mentioned students from Austin community college and other E.M.S. Programs across the country that ride here frequently.

>> Tovo: But the ongoing ones are not any length of -- okay, thank you. That answered it.

>> Mayor Adler: Okay. Anything else?

[11:08:47 AM]

Ms. Troxclair?

>> So once a quarter in perpetuity or is it a temporary authorization?

>> We're still working on the agreement. It's not put in place yet, but typically these agreements are for one year with the option to renew them. I think the intent is for this program to be ongoing to allow those individuals the opportunity to get exposed to E.M.S. And medical care.

>> Troxclair: So I understand that you said that we have similar agreements with medical schools and things, but have we ever had FBI agents on ambulances?

>> I don't think we have. But we have had military. The military does some rideouts from time to time. We have, I believe, an agreement with the military for physicians that are doing a residency program in E.M.S. -- Residency program in E.M.S. I don't believe we've had the FBI riding.

>> Troxclair: Do you know how -- if this is a new thing, do you know how these FBI agents are currently maintaining their medical --

>> I don't. And I get the impression that that's the concern that they go through emt school and get trained, but they primarily work as law enforcement officers, so there's really not an opportunity to get exposed to the medical aspect of their job and they just want to be better prepared to handle those emergencies once they occur. And E.M.S. Is -- austin-travis county E.M.S. Is really the ideal place for that because we're a very busy and Progressive E.M.S. System and it really affords a lot of exposure and opportunities to do this.

>> Troxclair: Thank you.

>> Mayor Adler: Item number 8 was pulled by troxclair and kitchen. Ms. Kitchen?

>> I don't have any questions I need to ask right now. I can submit the questions.

>> Mayor Adler: Any further conversation on item number 8?

[11:10:48 AM]

>> Troxclair: Yeah. Thank y'all for being here. Sorry, I'm just trying to refresh my memory on this item. Okay. This is Austin energy contract, and it looks like it was -- the original contract was four years for 16 million. And then we added an additional -- we amended it to add an additional 10 million in 2013 and now we're increasing the amount an additional 14 million, totaling \$40 million for an item that was originally supposed to -- estimated to cost 16 million. So I'm just trying to understand what the scope or the reasoning for this increase is.

>> Sure. My name is Elena ball, vice-president of production for Austin energy. I actually have some slides that I prepared in anticipation of questions. The crux of the answer to your question is these services are in support of our gas turbine maintenance program. We have 10 gas turbines in our fleet. These units are essentially aircraft engines that we start with -- in total there are about 500 megawatts of energy. We start them typically within seven to 10 minutes. They're complementary to our renewable portfolio and in place for a realtime financial hedge. As soon as energy prices start going up we'll turn these machines on and buy-down the cost of electricity for our customers. That's how the machines are operated. Since this contract was originally bid, there's been a transformational change in our marketplace. You all heard about it in prior sessions with the utility oversight committee that has put new demands on these machines. They're cycling a lot more. They are certainly ramping to the full range of their output and it is driving up maintenance requirements for these machines. One thing I will say in the 14-million-dollar ask, one of the items that we are wanting to exercise is the purchase of a spare Im 6000 in order to support two things.

[11:13:02 AM]

One to buy-down the cost of spare parts. When we have the units down for planned outages we will have the machines down sometimes for several weeks. So we have two primary drivers of the business case. One is to have the machines back in service so we can continually run these machines and keep energy prices low. And secondly by having the spare engine we're actually able to work with our suppliers and extend the outages on our planned outages and buy-down the cost of spare parts. So that's essentially what the ask is. I have a lot of backup material so if you would like to dive into any of those topics I'm happy to do so.

>> Do you know of the 14 million additional that we're approving do you know how much of that is going to purchase the additional, I guess, turbine and how much is going to maintenance and operations?

>> Correct. About eight million is what we're estimating the spare engine to be. And the balance would be for additional maintenance support.

>> Mayor Adler: Okay.

>> Troxclair: I'll ask more questions maybe at another time.

>> Mayor Adler: Okay. Ms. Pool?

>> Pool: I'd just like to ask or make a note that work sessions have traditionally had a hard stop at noon. Do you think we'll be able on to have a hard stop at noon today?

>> Mayor Adler: I don't think so only because we have an executive session which will hopefully be brief, but then we will have a pretty significant briefing after that on the potential challenge question.

>> Pool: I'd like to just make note of that and request that we have a hard stop at noon so that we can move into executive session and then I'd also like to make a request of my colleagues on questions and answers that we actually submit them in writing so that we can get written responses. My real concern about having it done verbally at work session is it's very hard to go back and find them in the archives to get the answers in order to follow the discussion.

[11:15:04 AM]

And if we have -- we have an established procedure that's a question and answer with a written document, which is much easier for historic preservation and also for us to go back and refer to them. So I would just ask forbearance of everyone that we -- on that that we use the Q and a process that has been established and I also request that we have a hard stop today at noon so we can move into executive session.

>> Mayor Adler: Okay. I will call us up at noon. I will see how much of this we can get through and at that point we make a motion just to stop and we would know what -- whether there was anything left. So there's a motion that we stop at -- there's a motion that we stop at noon and move into executive session.

>> Zimmerman: I'll second the motion.

>> Kitchen: Could I discuss it?

>> There are a number of items on here there are not question and answers that I think are important for us to discuss. So I think we should -- I would like to suggest that we just move through as expeditiously as possible and see where we're at at noon. Because not all these items are things that are Q and a's for staff.

>> Pool: What I would like to reiterate is where there are Q and a issues that we use the Q and a process for them and I specifically was exempting briefings or information items.

>> Kitchen: I just don't know if we'll finish by noon is all.

>> Pool: Yeah, I know.

>> Mayor Adler: So there's been a motion and a second to move to executive session. We can take action as concerns our meeting. Motion and a second to move into executive session -- in essence we're setting a time certain and move to executive session at noon. And I assume if we're able to work through the agenda items prior to noon, we could still recess and we wouldn't have to wait until noon for the executive session. It's been moved and seconded. Is there any discussion on that? Kosovar I'll support --

[11:17:05 AM]

>> Casar: I'll support it, but I would say that we take up first and as early as possible the ones that require discussion among councilmembers and those that are much more clearly question and answer for an individual councilmember that we either save those for later or use the online Q and a system because I think it just happens to be the items that are -- have a higher number on them today are ones that I think people want to discuss amongst ourselves and that's what work session was created for.

>> Mayor Adler: Okay. The motion to stop at noon for the executive session. I can try to call them that way. Ms. Tovo.

>> Tovo: So I think we have -- I'm not sure if our city attorney weighed in on this, but I thought we had an established rule that we don't take action in work session so we probably just -- if I'm remembering that correctly, I think we need to waive that rule in taking action.

>> Mayor Adler: We can take an action to govern the course of our meeting.

>> I don't have them in front of me, you about you can do it either by consensus or you can do it this way. We'll look at the rule to be carefully sure next time.

>> Gallo: I have a question. When we say hard stop at 12, does that mean we won't come back after the executive session?

>> Mayor Adler: No. That wasn't part of the decision. She just -- I understand the motion to be that at noon we're going to stop. At noon we'll see where we are and we'll see whether we're going to come

back.

>> Gallo: We'll still come back.

>> There will be because there will be a public discussion of the challenge issue. Whether we discuss anything else as a group we'll collectively decide.

>> Zimmerman: Can I call the question?

>> Mayor Adler: Question has been called. Any further discussion? Those in favor of moving into executive session at noon and deciding that question now please raise your hand? Those opposed? One two three four. The motion does not pass. Let's try and work through this as quickly as we can.

[11:19:18 AM]

Number 16, do you have a lot of questions on this, Ms. Gallo, Ms. Troxclair? Is that something that we need to discuss here. Is that a question and answer opportunity?

>> Gallo: My question was whether or not this would be appropriate to refer to the audit and finance committee. It's a very large potential amount of over a million dollars so that would be my first question. Would it be appropriate for the mayor to refer this item to audit and finance? And then I have just another question which we can find out a -- it was how we refer things to audit. Not the committee, but to audit. But we'll figure that out. Just the first question of is this appropriate to refer to -- for the mayor to refer to the audit and finance committee?

>> Mayor Adler: Is there a policy reason associated with that or just because it's a big contract? >> I think you because it's a large amount and because we are sending contracts for large amounts to the audit and finance committee prior to the council hearing.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: I think that was my preference as well. Not only that it was a large amount, but there has been some discussion of the handling of this item in the past that was included in our backup where previous councilmembers had questions about the spending and also it seems like the administrative costs have gone up significantly. So I think I would be -- it would be easy for us to get all these questions answered if we were able to discuss it in audit and finance. It seems like this needs to be renewed at the end of August, so there might be time for us to have that discussion in committee first.

>> Mayor Adler: Is there a time deadline associated with this?

[11:21:20 AM]

>> This amount in front of you today is 149,000-dollar amendment to the existing contract to allow us to continue with the lease of the vehicles and the rental of the vehicle that we currently have rented to give us time until the 31st of August when the contract will be rebid. So we'll be rebidding this contract, resoliciting it and the current contract expires the 31st of August. You will see a new contract come before you then, but this is for 149,000-dollar amendment to the existing contract. When we originally put the contract forward the amount, the dollar amount was reduced from the dais by \$224,000. So we had originally projected a higher amount on the contract, it was reduced from the dais, and unfortunately that left us short and it was done with the understanding that if it did we would come back at that time to amend the amount so that we could continue through the end of the contract. That's what we need to do at this point. I'm sorry, I forgot to myself. I'm Jerry Caulk, the fleet officer for the city.

>> Mayor Adler: Any further information we need to be able to move forward to the next item? Okay. Certainly you could make the motion to refer this to committee at the meeting that we have on Thursday. That gets us up to number 20, which is a watershed protection department budget issue for the 16-3. Do we still have those folks here or did they leave with the briefing?

>> Pool: Is this related to our conversation earlier?

>> I think we discussed this and discussed a lot of it in the presentation before. I wanted to ask some questions. And we have a few more questions, but we'll do those in Q and a.

>> Mayor Adler: Thank you. That gets us then to items 23, 2425 and 26. I pulled these together with councilmember Casar.

[11:23:23 AM]

I just wanted to take a moment, discussion amongst us to address -- there were four items from council here. And we have a policy as is a group where we're trying to send things to committees to try to get handled, working through some of the related issues to transition, it would be helpful, Mr. Casar, if you could just go through these four issues and explain why they're coming up as an item from council as opposed to coming up from the committee.

>> Casar: Okay. So if I may, mayor, items number -- item number 23 I was hoping to have discussed at economic opportunity, but we had a very full meeting so I touched base with the chair and committee members and that's why we have -- I think it's an important step to move forward because the actual policy discussion will take place in the budget. I posted it on the message board on item number 23 that there was a bit of a drafting error in the back and forth with staff and my staff and I take responsibility for that. The resolution that I hope that we will move forward on Thursday just expresses our desire to the city manager's office that we take a look at the city's minimum wage and we also look at the various options presented by the city manager's office in making that ultimate decision of a taking a look at the city manager's recommendation. So the posting language says that we're dereking that change, but we can't direct that change, we would just suggest if we pass this as a council that we're interested in looking at those wage rates as we deliberate in the budget. So I will even offer an amendment that looks very similar to the amendment that the mayor pro tem offered on the benefits for families that have children with autism to make sure that the city manager has the flexibility in his recommendation to give his best judgment on a recommendation and then also provide us with options about if we raise the minimum wage rate at the center with the various levels what the fiscal impact would be and with the temporary employees what the fiscal impact would be, to make sure that we respect the manager's responsibilities under the charter and leave the policy discussion to the council ultimately weighing all the different he will thes.

[11:25:48 AM]

>> Mayor Adler: It's my understanding with respect to this issue we won't have the policy conversation about whether we want it or not. What we will be doing on Thursday is asking the manager to come back with options for us on the budget process. One of the issues that gave rise to us is it was something that -- suggested you put on the committee agenda. There wasn't the space or time to do that. I would ask for the transition committee to take a look at those. Maybe the better policy is to put everything on the committee agenda so that they're at least noticed and at the committee meeting the committee can decide which things I think R. It's going to hear or not hear. But I would ask for our little transition working group to take a look at that. But I understand that this is on here because it's timely with respect to the budget item and we're not going to be debating the policy issue here. My concern sometimes in putting something like that where we're not actually having the policy conversation, where we're just giving direction, is that I'm hopeful we're not going to have 40 people show up on Thursday wanting to talk about the minimum wage issue since we're not going to be engaging in a policy conversation on Thursday anyhow, but my understanding is that you're also talking to some of the stakeholders in this group perhaps to help us avoid that situation on Thursday?

>> Casar: Yes. What I would like is on this item and then also on the item about studying fair chance policies that we -- I'll be hosting an event and press conference with some of those advocates first thing in the morning before the council meeting and I think that I could touch base with those advocates to only very limited testimony since this would not be the actual policy implementation discussion. So if we have the items early in the agenda, say at 11 in the morning, but hope would be that we only have a handful of speakers considering that both of the items are essentially letting the city manager know that these are items that we're interested in study, but not policy discussion so we don't have 40 speakers one week and another 40 when it comes back to commitment.

[11:28:00 AM]

>> It's not to have policy discussions on item 23 or 25. And another thing for I think the transition committee to look at in conjunction with staff, these kinds of questions where we're asking staff to go away and come back with options for the council is something that can be initiated by the committees. I think that should be also addressed in the transition so we don't have to have something come back to the council to ask for staff to look at options that would be presented to the council, that a committee could do that as well. And we need to work through with staff and make sure that that's okay. I think that's the intent or the desire.

>> Casar: Mr. Mayor N my previous conversations with my staff my understanding is to form a stakeholder group or to ask for an ordinance to be drafted we traditionally do need a majority vote of the council. I would have opted for that option in committee if it were available, so I look forward to those conversations with staff to see if it is feasible or if it's what we want to proceed with or can to have committees direct the city manager to craft ordinance language or form a stakeholder group.

>> Mayor Adler: So I think the appropriate place to have that conversation with staff about what is doable or not doable and the impact would be in the transition committee unless you want to comment on it now.

>> Not particularly. I guess with respect to a request for things that potentially would have fiscal implications for the next budget. It would be our intent to provide that information as soon as possible because I would certainly be interested in knowing council's interest prior to developing my -- the budget recommendation for you to consider. So that is one thing. I do have some concern about the notion of the city manager taking with all due respect, direction from a council committee versus the council as a whole.

[11:30:02 AM]

>> Mayor Adler: Let's go ahead and address that in the transition committee because we need to work that out. It would be hard for me to express an opinion to you on whether to include some of these until I knew what the fiscal implication was. So it's kind of again a horse and cart type issue. It's hard for me to have that type of conversation in a vacuum without knowing what the fiscal. So I couldn't give you direction until I knew what the fiscal impact was.

>> Typically what we've tried to do in the past with regard to ifc as well as rca's is assuming we get them in time, part of the process too is to provide a fiscal note, fiscal impact note. And sometimes that's possible and sometimes it's not and the breadth and depth of it and what would be entailed when talking about physical I will packet. That is one of the things that we try, given an indication of what we're talking about an ifc or an rca.

>> Casar: Mr. Mayor, thankfully this item has been vetted and discussed with the human resources department for several months and we do have a memo stating that raising the minimum wage with the city from 11.39 an hour to about \$13 an hour by human resource's own calculations is about a 60,000-

dollar fiscal impact. But extending it to temporary employees would be a much greater fiscal impact. The hope of the resolution is to give the -- some indication to the city manager this is something the city council wishes to consider since the wage was set at \$11 in 2008 and only been raised 39 cents in those intervening years. This is something that we want to indicate as a majority of the council that it's of interest to us, but of course we won't make those final decisions that will have any fiscal implication until we approve a budget. That's the hope --

>> Mayor Adler: And I think it's good to send to the transition committee. We know how things used to be done in the olden days.

[11:32:02 AM]

I think there's a desire -- last year, which was an election season we saw a lot of issues that were Teed up without being vetted and the council was put in the position of discussing issues without the fiscal implications and how it fit into broader pieces. I think there are some of us that are trying in the way we're moving forward to try to avoid the council being in that position where it's having to discuss things where stakeholder groups are coming in with an expectation or a belief or an inference that the action that the council is taking is being taken to express opinions on things before they've been properly vetted. And I think there's a desire to try and get that vetting to move forward with the policy conversation itself. But I would suggest that the transition committee -- working group take a look and try and figure out how to use that. The other one that you have here to discuss is item number 24, which also came -- Ms. Houston?

>> Houston: Mayor, that's another question is that we seem to be doing these in is silos again rather than looking at holistic policy issues about animal services. Period. So we've got something on the agenda for health and human services next month regarding circus animals. Now this has been put on as an item from council about paying people to do dog walking and comfort care. I think that needs to be looked at more holistically and not each item at a time. I won't be supporting this.

>> Mayor Adler: Okay. Do you want to talk real fast about item 24?

>> Casar: Item 24 I'm sure you have received lots of communication.

>> Mayor Adler: In the context of why this is --

>> Casar: From our volunteers at the animal center and their concerns.

[11:34:03 AM]

My hope was and the animal advisory commission has expressed their concern. My hope was to indicate the council's -- the majority of the council's concern on this particular item to send it for a larger policy discussion and health and human services, which councilmember Garza indicated to me was something she really wanted to discuss, and for the longer term solution to having main animals in the kennel, particularly dogs for multiple days, necessity R. For that longer term policy fix to be discussed at health and human services. And between now and that committee meeting the animal advisory commission came up with some possible funding streams or solutions for this issue. They looked in particular at the donation fund for the animal center and so we just suggest in this resolution that that I may be a place that the city manager and those at animal services may wish to look, but does not prescribe what the short-term solution should be. I'm not sure in particular how everything in that donation fund is earmarked, but in just the information that's been provided to me there is quite a bit of money for t-shirts and for marketing for volunteers and many of the volunteers have contacted us not about wanting t-shirts, but about wanting to see the animals out of the kennels. We suggest that as one possible place to fund short-term solutions, but do not prescribe that. Want to indicate again to city management and to animal services that that's a priority of the council since we've been -- I wanted to be responsive to

the many, many phone calls and many emails from these dedicated volunteers that we've received.

>> Mayor Adler: I think the conversation we can have, because we're all going to be contacted by lots of different things because their issues are important and they're going to want to go around the committee system that we have. I think it's just important that when we do that we're doing it not only because there's interest in it, but we have some kind of ongoing policy that --

>> Casar: Sure. Mr. Mayor, I think that we're trying to respect the committee system by referring it to committee while also bringing it around that system because there is -- I hope that a majority of council will see there's a short-term need that has been expressed in the community about the conditions that these animals may be facing, these volunteers see the animals facing so we want to address and proactively and affirmatively that short-term need while respecting the committee system for its more diplomatic active policy process.

[11:36:34 AM]

>> Mayor Adler: Got it. Ms. Gallo?

>> Gallo: For any of you who have metally, my rescue dog, she hundreds my house and if she could come to the council office she would be running my office. We have huge issues in shelter and animal issues here in Austin, but I think we are also very close to hiring a new are animal services director and perhaps the manager could share with us where we are in that process. I think the animal community is very excited about these negotiations going on right now. But my thought would be that perhaps it would be appropriate to delay this resolution a bit, particularly if we're very close to getting a new director, so that the director can actually be the person that is bringing -- evaluating and bringing these forward. So that would be my only suggestion is perhaps a delay on this until we get the director hired, which hopefully will happen very quickly, might be more appropriate.

>> Ott: We are very close and in fact I think that assistant city manager bet advertise is in -- Bettis is in the process of negotiating with the final candidate. If those negotiations, have they progressed to a point where we can say any more than that?

>> Mayor and council, Burt Lumbreras, assistant city manager. All I can say is we're in negotiations and hope to finalize it pretty quickly. I do agree wholeheartedly that I think the council would benefit from the expertise and that the advice that she would be able to give on this topic. As a matter of fact, we've had that specific discussion. The other thing that I would point out last Wednesday the animal advisory commission will form a work group to focus on this issue and I think that my understanding is they want to be a part of helping to find a solution and they're willing to put a lot of stakeholders around this. We certainly believe that having those two parts in the equation are very, very critical.

[11:38:41 AM]

>> Mayor Adler: Thank you. Any further discussion of this.

>> Casar: My hope is many people are reaching out about this being an urgent issue when I came into office in January or February and the animal advisory commission took action in March that taking the continued delay may send the incorrect message in my view. So the be it resolved clause is just indicating that this is a priority for the council and that it says that we hope that the city manager will increase opportunities in the interim period for dogs to be let out of their cages and kennels, but it does not prescribe specifically how and specifically how often. We want to just make sure that city management knows that prioritizing that basic health and safety is a priority of this council and that we're not just going to -- the animal advisory commission works very hard and their recommendation being a March I think it sends a message for us to take action on this and for animal services to take it up in June. So I hope a couple more folks will vote with the co-sponsors and move this forward.

>> Mayor Adler: Ms. Houston?

>> Houston: With all due respect to my council colleagues and the mayor, there's a sense of urgency throughout this city in various districts about all kinds of things. In my district it's about health disparities. So I have to be able to weigh the balance between issues that come forward first about animals, and I am an animal lover. Please don't flood my email with I hate animals. And kitty red could come and kitty red would tell you that I love kitty red. But there are some other priorities that I have to deal with and animals in district 1 is not the priority and it's some short-term issues that if we had funds, which we don't, we could address as far as healthcare disparities. So we've got to think about this not as advocacy groups advocate, rightfully so for their issues, but in the broader concerns of this city. So I just want to say that in the scope of things I've got some real human issues that the city has not dealt with in a long time that need to be on the forefront.

[11:40:50 AM]

>> Mayor Adler: So we can talk about this further then on Thursday. On item number 26, this is similar to the item that came from health and human services last week. Out of an abundance of accusation I understand that Mr. Casar you posted this as an item of council and a resolution.

>> Casar: We're trying to get it posted for a couple of weeks as an item from the committee. When it seemed like that wasn't going to occur in 10 or 15 minutes I got together an item from council and just to clarify, the committee's recommendation was. And what is posted -- what we'll be posting for June is action that the committee can take is one. The committee after two meetings' worth of deliberation decided that between now and September our recommendation is that councilmembers from districts two, three, four and seven, which are the councilmembers who do not have a member on the code advisory group that resides in their district, may nominate someone to be appointed from the full city council council from the interim period between now and September and we would extend the same courtesy to the mayor's office. We identified several areas of expertise or areas of perspective of renters, small business owners, an officer from the neighborhood council that the community brought forth. Our hope was as those councilmembers consider nominees that they also take into strong consideration those gaps. We had a lot of discussion about it. I know that -- I think we accepted that there was no best way to do this, but this was the method that's recommended by committee to be passed on Thursday.

[11:42:52 AM]

And then for June planning and neighborhoods committee meeting we are going to be considering if we wish to extend -- a recommendation to extend the life of the cag beyond September. And I think the inclination of the members of the committee was a baseline total -- everybody comes off in September and each council office would have the ability to appoint their own or nominate their own member, but seats beyond those 11 I think were really a question of some contention at the planning and neighborhoods committee so I hope to iron out how we would add any members above those 11 post September and we hope to discuss that at the June committee meeting.

>> Mayor Adler: So the policy question in terms of procedure and it might be something the transition working group can talk about as well. It's my intent to call this up as a committee recommendation in this section of our satisfied where we deal with committee recommendations because there was one. What has been posted is the resolution -- the be it resolved language that was in the item from committee, which also is the intent of what was approved by the committee. So I'm going to call it up that way. It's listed on the agenda as being something -- number 26 has been listed with the sponsor's names on the item from the councilmember as opposed to the members of the committee more

properly since this is an item from the committee. The names that would be there, if any names would be there, would be the members of the committee since item number -- I guess number 26 is the item from council. So item number 40 I think, is that what it is?

>> Casar: Yes. And the issue -- one last issue that we will make sure gets addressed by Thursday is the item from committee. The committee report seems a little bit off of exactly what it is we recommended a little bit more vague than what it is we recommended and then the item from council is missing the courtesy to the mayor's office, which was part of our recommendation to make an appointment.

[11:44:52 AM]

So what my intention is on Thursday and my hope on Thursday is that we pass exactly what the committee recommended, which is after my staff reviewed the tape a couple of times over the weekend, is an appointee from -- not necessarily from districts 2, 3, 4 and 7, but a-- nominated by the councilmembers of 2, 3, 4 and 7 and the mayor.

>> Mayor Adler: And procedurally there is no problem with the council amending a recommendation that comes from the committee the same way that anybody can amend any resolution or anything that's brought forward by anybody. Ms. Kitchen?

>> Kitchen: I will also be bringing an amendment although in light of this discussion it sounds like it might be appropriate just to refer that amendment to the committee. And I posted the amendment on the council message board this morning. And the amendment -- the purpose of the amendment is to recommend extending the cag for another two years to have all the councilmembers appoint, just like we've done with other boards and commissions, each one of the councilmembers can make their own appointment. An additional four members to be appointed either by the mayor or by the committee or whatever the committee is suggest they don't have a strong feeling there, as well as a reaffirmation of the purpose. So I'm happy to instead of offering that as an amendment, to have that referred to committee as long as it's referred to -- as long as that is the item referred to committee for your consideration.

>> Casar: That is act exactly what we discuss used at the last committee meeting. Your exact recommends, even though you didn't pass it along to me and it's what we planned to discuss. We had spent so much time get to go this recommendation for the interim that at the request of my committee members that exact conversation has been deferred to June. And you --

>> Mayor Adler: I would suggest at this point we don't engage in that policy conversation because it's something that apparently will happen.

[11:46:54 AM]

I think sending it to referral committee.

>> Kitchen: My only question is timeline. We'll talk about that.

>> Casar: June the 15th would be the latest.

>> Mayor Adler: I want to make sure in the remain willing 13 minutes we have time for Ann to address the taxi four issues or five items that are on the agenda, but before we get there are there any further comments on this item 26? Councilmember pool?

>> Pool: Quick question. Will we be in a position to make appointments at the meeting on Thursday or do we eight until after this procedure after the resolution passes and then do it the earliest would be the June meeting or may 28 if we meet on may 28th.

>> Mayor Adler: May 28th would be the first opportunity because we have to post that. Ms. Tovo?

>> Tovo: Could we have it on boards and commissions appointment if we took up this item first? That was not my question, by the way. I'm just follow up questioning. I just throw that out for your thoughts.

>> Mayor Adler: Council says we can do it on Thursday if people dom with their nominations.
>> Tovo: I have a question for the sponsor of 26. In the recommendation that we passed the committee, we -- as you mentioned in your summary comments, there was specifically a discussion about representation from neighborhoods and neighborhood associations and the resolution picked up the other areas, green planning and design, small local business, but did not refer to that.
>> Casar: We will make sure we list in the backup the whole long list. Again that item from council had to be whipped up when we realized that -- we will make sure that backup is posted with the whole list, which I think we missed more than just the Austin neighborhoods council officers, we missed a few other areas --
>> Tovo: Because I see renters, renters advocate, landscape. You captured all of it but that one.
>> Casar: I think there may have been two or three, but we'll be posting it in the backup.
>> Mayor Adler: Okay.

[11:48:55 AM]

Ms. Kitchen -- Ms. Troxclair? Ms. Kitchen, I was going to move on to the next item.

>> Did we skip item number 25?

>> Mayor Adler: Item number 25 was handled in the same conversation we had with item 23 where we discussed we wouldn't be nagging in the policy conversation this -- engaging in the policy conversation this week. We would ask the city manager for options for the council to consider.

>> Okay.

>> Casar: But item 25 does to clarify to come a working group to examine different policy considerations we would hope to bring back to the opportunity committee in September. So that committee would have the time to really deliberate on the policy issues in the September meeting if we pass this resolution. And I know that we did a comment on animals being a priority. I think the condition of the animal center is important, but also several of the other items that councilmembers have co-sponsored with me, and I thank them for that, do have to do with very human needs of employment and making enough money to earn a living. I hope that we can -- since we have so many priorities and so many needs that we can elevate both the needs of the animals in the animal is there, but also of our own employees and people needing employment.

>> Renteria: On the cad on 26 I would also like to have the report where all the other cag Numbers, what are their provision and what they do so that when we're looking at the nominees, which, you know, we're saying that it should include renters, renters advocates and green building, maybe what are the other people that are on that board and what they do so that you can have a really good conversation.

>> Mayor Adler: Can staff send us a note that reaffirms what the positions are with respect to the people who are currently sitting on cag? Thank you, sir.

[11:50:56 AM]

Ms. Kitchen, do you want to talk to us about items 30 through 34?

>> Kitchen: Okay. I can be quick. I just want to give -- I'll talk about it from a procedural standpoint rather than the policy. This is a reminder, 30, 31 and 32 are the franchise agreement extensions on second reading. As you recall, we already approved them on first reading. So we went back to committee and we made some additional changes on second reading. You will see those in 30, 31 and 32. That also necessitated some ordinance changes and that's what item number 33 is. As well as another recommendation which is item number 34. So procedurally, and then of course I can answer questions about the policy if you want to get into that, but procedurally what we're bringing this back

for is second reading on the franchise agreement. The ordinance, which is number 33, we can approve that on first and second reading if we want and leave it open for third reading in case we have more changes. And then item number 34 would be first, second and third reading if everyone approved of that. So let me also say that we also have another mobility committee meeting at which we will take this up again and that's prior to our third reading, our third reading on the extension of the franchise agreements. So I would ask that if any of the councilmembers have additional policy issues or policy items or changes that they would like to see done that those not be brought up as amendments at this council meeting, but instead that they be brought to the next committee meeting. As long as -- I'm talking about new items because this has been a process where we've had significant public input at the committee level and we will again at the next -- at the next committee meeting.

[11:53:02 AM]

So that -- I think that's the place to dive into these policy issues. So I would suggest that councilmembers not bring new items that are new changes that we haven't -- that aren't part of what's being brought forward. Instead that those are brought back to the committee. The other thing is that I'm also suggesting that as part of the committee that this time that we keep with the ordinance requirements that we have limited public speaking of I think it's eight members at two minutes, if I'm remembering correctly, because we've already had two extensive public hearings and we also had public comment at the last council meeting and then there's an opportunity for additional public comment at the next mobility committee meeting. So I'm thinking that this is an appropriate time to stay with the idea behind the limited public hearing and hand in hand with that we should not be bringing up new policy issues because the public won't have had the opportunity to comment on those. Those should go back to committee. So that's what I wanted to lay out from a procedural standpoint. Happy to talk about the policy issues that we're bringing -- that the committee is bringing forward if you want to do that too.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: I want to concur with mobility chair kitchens. I concur completely.

>> Mayor Adler: Any further conversation?

>> Troxclair: I would like a brief update on what the committee -- on the conversations that they've had since the last council meeting so that we can be prepared for --

>> Kitchen: I can go over that real quickly. Basically at our at our last mobility committee meeting we reviewed the franchise agreements again and came up with additional recommendations and those -- there is a mobility report that lists the items at second reading.

[11:55:15 AM]

Let me go through those. First on the terms of the agreement we had discussion at mobility committee saying that we're bringing it back with a one-year term with no reapplication process as well as the authority for the city to amend without a reapplication process. Now, that's an item that I personally am going to suggest at our next committee meeting that we change because we did learn between the last committee meeting and today that the way these franchise agreements are written they can be changed at any time without redoing the -- without going back to council and without having to change the agreement. The franchise agreements in the nature of a contract and essentially it says in it that if the council changes the ordinances, in other words, changes the ordinance that set forth the rules for how taxis work, then the franchise agreement is changed without having -- it having to come back. So therefore when we set a term for an agreement we don't have to be concerned about setting a term that allows us -- that takes into account the fact that we want to change the ordinance because we can change the ordinance and that changes the agreement. If we're thinking about the term of the

agreement we should think about when we want the taxis to have to come back and reply. So I -- reapply. I think that was too short, but that was the discussion in the committee to I want to bring that back to the committee to talk about the term again. The staff can determine the annual increase or decrease in the number of taxicab permits by assessing performance measures approved or reviewed by city council. So what that does is it changes the current way in which there's a determination on the increase or decrease in the number of permits and pegs it to performance measures that are approved by city council.

[11:57:20 AM]

The third item is to extend the usable life of the vehicle that's used as a taxicab so that the -- a vehicle can be used so long as it meets existing inspection requirements instead of just stating a usable life on it. So that's a change that was something that was of interest to the taxicab companies. The next one relates to the chauffeur license, making the change so that the chauffeur license is held in the name of the driver without a sponsor being required. This was a change that we discussed as something that was of interest to the drivers currently they have to have a sponsor, ie, a taxicab company sponsor them. And they don't hold their own chauffeur license in their own name. So if they change taxicab companies they have to get a new license instead of taking that license with them. The last item is -- let's see... The next item on item 34, we move to ask city council for city staff to begin the process of creating a fourth driver owned franchise modeled after a co-op and to -- I think we have a deadline in that also. And to report the timeline, the scope and the number of permits for that fourth franchise back to the mobility -- fourth franchise back to mobility committee no later than August 4th. That's what we did. That doesn't mean that -- I think that there may be more to be discussed at our next mobility committee and we may bring forward additional changes for third reading. The other thing to note is that we have now learned as to where we are in the legislative process that house bill 2440 did not pass and that was the bill that would have -- that would have created state regulation of tncs.

[11:59:23 AM]

The committee may want to discuss additional changes in light of our state of policy around an equal playing field. Now we know what the parameters are, so.

>> Mayor Adler: Thank you. Any further conversation?

>> Tovo: Thank you for that overview. I like the direction that these regulations are going. A couple quick questions. The first is, I missed the date that you said the next committee meeting is. June 3rd?

>> Kitchen: I didn't say because I don't remember. Is it the 3rd?

>> Tovo: I see it there. They've typically been on Wednesdays.

>> Kitchen: No, it's June 3rd.

>> Tovo: I'm confused over the discussion of the franchise and the ordinance, because multiple times in the past, people have raised concerns that they wanted the council to address. And the answer we were getting from staff is that we could not make those changes outside of the franchise renewal process.

And I've listened to the staff, not all of them, but some of the staff discussion at the mobility committee. I want to really get clear, if council makes a substantial change to the ordinance --

>> Could I speak to that for a moment first?

>> Tovo: Yeah.

>> We've talked about this. Please address that. But the language of the franchise agreement itself states that the franchisee has to comply with the ordinance. But, please speak to that.

>> I'm Angela from the law department. That's exactly correct. What we were talking about is, there are certain requirements that we put on the franchise. We have to amend the franchise to affect those.

That's one thing. When we were talking about, what councilmember kitchen is referring to is there's a provision in the franchise that states that at all times, they must comply with city code. What councilmember kitchen is trying to do is amend city code and then by amending city code, they would effectively change the franchise.

[12:01:28 PM]

The things that are specific to the franchise agreements like, the number of permits they're allowed to have, the things that are obligations of the taxi franchises are things that can only be changed through the franchise ordinance reading, three readings process. We could always change the franchises any time during the course of their life. We could always do that. The pushback that I believe staff felt was the number of readings it took, the public that we had to have three readings. The charter requirements we discussed. That was some of the hesitation from what I understood about coming back mid-stream. But, we can always change them mid-stream.

>> Tovo: I'll go back and compile some of that information. I want to be really clear about this. We had raised questions and met with city legal not once but on multiple occasions and talked about some of what we were hearing from the cab drivers about changes in insurance they wanted to consider, and other changes. And we were told these could not be contemplated until the franchise renewals came up at this time in 2015. And, in fact, you know, there are a series of resolutions that talked about priorities and issues that should be addressed either in the stakeholder process, or by staff. And, you know, it says in the resolution, with the understanding that these need to be addressed. You know, cannot be addressed until 2015. So, I think we have to follow up outside. But, I'm very pleased to know that we have this flexibility, if that's accurate. But we've received very contrary legal advice in the past, and so, I just don't -- I mean, I -- it was just exactly the opposite.

>> Okay.

>> Tovo: So. I don't know. Where --

[12:03:28 PM]

>> Thank you for that perspective.

>> Tovo: I mean, if this is -- if we have the opportunity to go back and change franchise agreements mid-stream, then that's great flexibility to have if we're certain that that's the case.

>> We did --

>> Tovo: And the parties don't have to agree.

>> We did that in the past. If you recall, when we added the additional permits, they had to agree.

>> Tovo: What happens if we want to make an amendment? That's to their benefit, they were supportive. They're going to agree. What happens if we're imposing a new requirement that doesn't currently exist? As long as we change it through the ordinance, it automatically changes their franchise agreement, and there's no need to go back and renegotiate that, they don't have to agree?

>> They have to agree.

>> Tovo: So if we change the ordinance, they have to agree to the changes for it to change the franchise agreement.

>> If we change the franchise ordinance, yes. If we change the city code, then no.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: We have to remember the types of agreements. Remember, this is a contract. Think of the franchise agreement as a contract. This contract, like most contracts, says you have to comply with the law. Okay. So, if we change the ordinance, we're changing the law. The contract says you have to comply with that. If you're changing something that's in the agreement, that's things like the terms, how much

you're paying them. Something that's specific to a contract between the city and those franchisees. That you have to change in the agreement itself. But, if you're going to change the law -- and when people enter into agreements, as do the taxicab, they know they're entering it subject to the fact that they have to comply with the law. It helps me to think about it that way. Maybe that would be helpful. You see there's a difference.

[12:05:29 PM]

>> Tovo: I understand the distinction.

>> We're sorry, it's a complicated subject. We're not intentionally trying to mislead councilmembers.

>> Tovo: That's okay. We delved into it in some depth, but, I'll make sure some of the issues have the ability to be changed through the ordinance.

>> We're happy to meet with you and other councilmembers and answer specific questions. I believe it gets down to what, as Ms. Kitchen has said, what's in the agreement versus what's in the law that has to be followed.

>> Also, just those prior resolutions, if there's something as a committee we haven't looked at that prior councils suggest that we look at, please bring those forward for our next meeting. We can address them now. We don't have to wait.

>> Casar: I think something that perhaps city legal and transportation could produce that could make this clear is of the topics that have been brought up as community concerns, whether it be by drivers, consumers, or companies, which ones would be precluded from addressing if a franchise agreement is in effect. That way -- so, because I know that some things can be addressed in a franchise agreement or ordinance. So, I think the question that the mayor pro tem has that I think would really help us understand this question is, what would be precluded from addressing during the term of the franchise agreement, of the things that -- of the topics that -- best.

>> Mayor Adler: We can do that.

>> Kitchen: Thank you for that suggestion. That's a good idea. We'll do our best to bring something forward.

>> Tovo: Yeah, appreciate that. I have one additional question. Are the drafts that are posted online, I'm looking, are they marked to show the changes that the committee recommended, or will those be incorporated before?

[12:07:31 PM]

For example, the terms of agreement. The one year with no reapplication process. Do the ordinances and agreements before us reflect those changes, do you know?

>> Kitchen: Okay. So you'll see item number 33 reflects the ordinance changes. And that's a new item. So, it redlines existing ordinance, okay. And the franchise agreements themselves . . .

>> Tovo: I'm not seeing they're marked. I may have an older version. I'm not seeing the changes marked in here. It doesn't mean they haven't been incorporated.

>> I think the way the backup information is provided, and Angela will correct me, there was a total substitution. There's the staff recommendation, and the direction from council, which is a total substitution. Is that correct?

>> Yes. You'll find the only difference from what's marked as approved on first reading and mobility committee recommendation for second reading is the, for one year language in part one. And in the header. In discussions with councilmember kitchen, that's the way I drafted it because, since it was just for one year, there was no reason to waive the application process at that point. So, that's the only change you'll see from first reading to second.

>> Kitchen: That's right. The other recommendations are in the ordinance change. That's why it comes across this way. Does that make sense?

>> Tovo: It does. And it may be that somehow I printed the older ones, or these are the ones from the first reading. The one I'm looking at says three years. But, I'll go back and double check what's online. So, what is posted online reflects the committee recommendations?

[12:09:31 PM]

>> Yes, ma'am.

>> Tovo: Super. Thank you.

>> Mayor Adler: Okay. The next item we're going to discuss here will be item number 39, west Austin youth association issue.

>> I can bring that as questions.

>> Mayor Adler: Okay. I did have a question on that. Just real fast, just so that we knew. This is an item that came up before this council, as I recall, or was discussed earlier this year. And the question was, shouldn't we be considering this in the context of what the master plan was for the park. At the time, we were told that we didn't need to negotiate out or agree to any individual aspect of that park at this point, we could wait until we got the overall master plan. Has that changed?

>> Thank you, director of parks and recreation. No. I went back and looked at last year, the previous council passed a resolution to direct the city manager to work -- have the parks and recreation staff bring forward a new agreement that would give them a 50-year extension. And so, they already had in their existing agreement a 25-year with a 10-year extension. The problem is they are trying to invest anywhere from five to \$10 million in renovation of those fields, not including all the money they've spent on up-keep and maintenance. So, in order for them -- two things. One, not kick in the ten-year extension until we finish the master plan process, which everyone agrees.

>> Mayor Adler: I understand the recommendation. My question was, why're we doing this before we have the master plan of the park? Is there any reason why we can't see the master plan plan of the park, and then see if this fits whatever the master plan is? I'd hate to get the master plan of the park and find out it didn't, or the master plan was constrained for whatever reason.

>> No, I think it can come afterwards.

[12:11:33 PM]

We were trying to clean up something we were directed to do from a previous city council.

>> Mayor Adler: The point --

>> That's the other problem. We're going to be into the master plan planning process, it could take six to nine months. That's the other concern I would raise. Most of those agreements with worked with, our friends and partners that want to look at long-term opportunities. They're going out and asking for donations. Many of those folks trying to give those dollars ask for, I want to make sure there's a commitment there. They don't necessarily want to give 1 million, \$2 million when there's no long-term commitment in writing, because they realize that the city's going to own the infrastructure. And so, that is the other concern, is not having something where they can go out and raise those funds can present problems for those entities.

>> Mayor Adler: I understand that. I want people to be able to raise funds as soon as they can for projects. These are friends. I'm missing the connection between what we're doing here and the master plan. So, either you can say to me, there's no scenario that has a master plan that would conflict with this, when we do the master planning we're not going to say, geez, maybe we should've handled that differently or asking for something different. I understand the reason to do this, the purpose to do this,

and they're friends. I'm just, broader policy, or procedure-type question, my concern is, I thought when we discussed this earlier, we were going to wait until we got the master plan. Now it's back again. I don't know if you can speak to that now or on Thursday. But, that's my only concern.

>> I understand what you're saying. There is no -- the council can say, wait until after the master plan and that is not going to present any other problem than, one, we felt like we needed to get it done. We were directed to do so from the previous council. Number two, the only problem there is, if we wait nine months, that's the point I'm trying to make.

[12:13:36 PM]

If we wait nine months or longer when we finish the master plan plan, they're at the table helping us do the master plan and the Austin pets alive, and others, we're all planning the master plan with the communities and others. The question is, then they would not be able to start their fundraising for nine months, because they would not have that kind of agreement that they can then talk to business owners about giving money. That is the issue that was raised, and that's why we moved it forward. Certainly, if the council would prefer to wait until after the master plan, that is the issue.

>> Manager, then Ms. Kitchen.

>> I think you need to see more. And what would be the consequence for them if they had to delay fundraising. Is there a problematic issue?

>> Well, there's several issues. They're going about their programming now, but they are not moving forward their capital campaign until they have something in writing that says they can go ahead and have a longer-term agreement, and they can raise those funds. They don't want to go out and raise 5 to \$10 million or attempt to with the business community and individuals without being able to show them, here's the agreement with the city. It says we now have an extension that works. And that is why we felt it necessary to bring it forward.

>> And I would just chime in and support that. That that was the key element of this. It was to provide certainty in the face of a capital campaign that way is hoping to push forward with all energy at this time.

>> Mayor Adler: Okay, Ms. Kitchen, and Ms. Houston.

>> Kitchen: My question was just in relation to the master plan concept, too. And it's just because there's two provisions in here that cause me some question about whether they could end up being conflicting, or else set parameters for the master plan that we haven't discussed yet.

[12:15:37 PM]

And one of those has to do with parking, because it talks in terms of providing adequate parking without any specific parameters around that, which raises a question in my mind, without looking at the whole, you know, without looking at the whole plan, can we really say that this entity should have adequate parking. Going from 25 to 50 years, really with an additional 25-year extension, is really a 75-year agreement, which is a very, very long time. And my question of that is, just in the context of what we're trying to do with our parks, is that an outlier, should we set that length of time while we're not considering the master plan? So that's a concern.

>> It's a very good point. And I think one of those situations where they are not comfortable going forward and raising their funds, which they will not do if they don't have some type of a longer-term agreement. The agreement is always a concern to us as a department. I will say, it is not an outlier. We have the sunshine camp with a 50-year with a 50-year renewable, they're putting 3 to \$5 million in zilker park serving needy children in Austin and surrounding areas. We have other longer-term agreements with the Zack Scott theater. And so we do have those kinds of partnerships, particularly when it is a

complementary service like west Austin youth association. These are youth, young people they're serving not just in west Austin, but all over the city. When we get to those kind of programs from a staff perspective, it's easier for us to swallow. It is always a concern. But, we are at the situation, we were directed to get this information through. Would it be better if we were able to master plan it, because parking is going to be an issue.

[12:17:38 PM]

I will say that now. We are all going to have to share with the parking situation. That means parks and recreation, general -- citizenry, the Y, the school system, and our friends at way. It is going to have to be a true partnership. The good thing is the process is in place for us to sit at the table as a cohesive and collective team, all those stakeholders, including the business community, to come up with the best plan. This just affords west Austin youth association the opportunity to go out and raise funding so they're ready to go the minute that master plan is approved and can start putting in that new infrastructure.

>> Can I just say, councilmember --

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

>> Houston: I'm sorry.

>> Pool: No, that's fine.

>> Houston: Thank you, mayor. I'm going to have to start throwing little spitballs.

[Laughing]

>> Houston: You look that way.

>> Mayor Adler: I got you.

>> Houston: This -- flood plains, and I know that Austin pets alive has some flooding issues. Are the fields in a flood zone?

>> Yes, some of them are in a flood area. It's conducive for those kinds of athletic, more activities. You could not put -- that's the other thing. We worked with the consultant. We have been able to come up with the design, or at least a recommendation of where a new facility could go from an animal services.

>> Houston: No, I'm sorry. I'm talking about the athletic fields. Are they in the flood plain, too? So, we will do this several million dollars worth of upgrades and development, and then a flood comes along and what happens to that?

>> Well, from a ball field standpoint, it wipes out your turf that's -- your de-composed granite, but, it doesn't do anything to the field itself other than you have a lot of water on it.

[12:19:47 PM]

>> Houston: They have to raise so much money in order to put together this improvement.

>> Yes. They will raise that themselves.

>> Houston: Right. If a flood comes, since it's already in a flood zone, that money is going to be washed away, right?

>> No, not necessarily. There'll be some up-keep that will come from it, but the beauty of having soccer fields, open play fields, and baseball fields is that a flooding occurrence usually does not damage the field itself, per se, other than heavy rain and mud. The fencing sometimes --

>> Houston: How much are they supposed to be raising?

>> Between 5 and \$10 million.

>> Houston: They need a 50-year lease in order to recapture that, or have a commitment to stay there?

>> That's what they're requesting.

>> Houston: Thank you.

>> Pool: I wanted to be sure, councilmember kitchen, we had raised those questions, as well, about the length of time. With the Pressler extension coming down over this area, and considering the different uses that are there today, also, the concerns with the double-decking of mopac that also affects that area, and the flood plain. They all were part of the consideration. And then I just was interested in, council supported the programs that waya has conducted there for 30 years. And they're good stewards of that property, and I expected that they would continue. And I recognize that rigor is required in a campaign for a nonprofit. I appreciate all the questions.

>> Did this come through committee?

>> Pool: It sure did.

>> It doesn't say that here.

>> Pool: I think there's a second sheet behind that one. It was a unanimous vote in the space and environment committee. That's fine.

>> Mayor Adler: Okay. Any other items on this? Okay. The next item, we've already discussed relation to number 26. Item number 42 has made its way back to our agenda.

[12:21:53 PM]

I'm not sure we're ready to vote on this item yet. Are we? It would seem to me that there's a broader question here. Ms. Kitchen, go ahead.

>> Kitchen: I'm sorry. I should've looked at this. But, can I just confirm that th the -- I'm back on the previous item. The committee's recommendation is not what's been brought forward to us? Because the committee did not recommend --

>> You're looking at the parks board recommendation.

>> Kitchen: Okay, never mind. I'll just stop reading.

[Chuckling]

>> Mayor Adler: Item 42.

>> I'll just say a couple of things, and then I'll come through. I'd like us to have a policy conversation about length of time that parkland is -- that there's a concession, because there seems to be some inequities. And so where some are able to have a 73-year lease and give no money back to the city at all, we seem to be having a holdup on a concession lease where money is coming back into the city on this particular item. So I think there's a broader policy conversation about how we make sure that there's equitable policies in place depending upon who uses our parkland and how it's being used. Some for-profit organization, give no money back to the city. This particular opportunity has a for-profit entity giving money back to the city to do some other things. So I just think there's some inequities that at some point, we need to have a conversation about.

>> Mayor Adler: Okay. With respect to item number 42, I read the report coming back from the committees that have looked at 42 in terms of their area.

[12:23:55 PM]

Some committees that have looked at it and said, if we did it, these would be important things to do. You know, I still have some of the base-level questions I had with respect to driving, you know, coordinated strategic plans for development over in east Austin. And I'm not sure that I would be ready to handle this in the absence of addressing those larger issues. So, from where I come from, where I'm sitting right now, this is something that I would move for vote or participate in putting off until there were further conversations on that. I don't know how to do that, but there's where I am.

>> Houston: I've already spoken, so I'll defer.

>> A quick question. There were some comments made about putting this up for a vote in some way.

Could we -- what would it look like if we were to put that up for an initiative, or referendum for voters as an economic development program? Or even could it be anticipated that we could sell the land, get the money back, put it on the tax rolls, and then expect the money and economic development to come back into the city if the property were taxed and used as a golf course by a private entity?

>> Mayor Adler: We have noticed the committee that this is something that is -- for us to act on on Thursday. It could come up as a motion. Someone could make a motion. Someone could make a motion to amend that motion. I'm just not -- I've already spoken. I'm personally just not there yet -- the only one.

>> I'd like to address councilmember Zimmerman's question. If it were to be put to the citizens, the same thing that would happen 15 years ago.

[12:25:59 PM]

People who don't live in that area will vote it down, leaving the people who do live in that area without the kind of trigger they need to spur some economic development. This is not the complete economic development packet, but this is a trigger. And so we'll have the city of Austin, who usually don't care anything about what happens in that part of our city, making a decision about what does happen to the people who do live in that city, and who have been without those kinds of services for 40 years or so. But now, as the city is beginning to grow in that area, we're still not getting the amenities, and not the jobs, we're just getting the density. And so, that's what would happen. It would fail on a vote.

>> Zimmerman: Okay, that's good. Let me continue that. Is there any conceivable development plan someone might come up with that would really bring jobs and some economic prosperity to east Austin? Is there any conceivable plan that might be voted in by the majority of Austin voters? I agree, the majority cares about the majority, not about east Austin. They're caring about the majority. Is there any plan that we could get voted in? Maybe not.

>> Houston: I am not a seer. I cannot anticipate what that would look like, or when that would occur. But this is now. This has come up, as you have heard many times, at least with councilmember Lewis, councilmember Erdy, and now we're here and we're saying the same things again. So, the time is not later. It's now.

>> Mayor Adler: If no further discussion on item 42? Ms. Troxclair.

>> Troxclair: I guess I would ask when, if, mayor, if you're saying that you're not ready to move forward on this, and I know -- issue, and I appreciated the time that we had at least in the economic opportunity committee in taking three committee hearings to talk about it and discuss it, and come up with, you know, some potentially creative aspects, if the council was going to pass it.

[12:28:13 PM]

But I know when the -- when this issue was initially before council, we had a conversation on the dais about how long this had been going on. And that either way, regardless of what the answer was, that the community and the people who have been involved in this deserve some kind of resolution. Which is why we put it for a time certain, and now we've postponed it. So I'm just trying to understand.

>> Mayor Adler: I can't do better for you, but let me think about it and see if I can post something on the bulletin board prior to the meeting. Okay? Next item. The next item is item number 48. This is the red bluff tract. I pulled this one. I went out there and I've walked over this property pretty extensively and looked at it from lots of different angles. I'm concerned about policy with respect to making an exception or a variance to the overlay. I'm trying really hard to come up with a plan or perspective on this where we start moving away from planning by exception, and I understand that there are variances that are allowed by these ordinances, but if we keep doing this on an ad hoc basis, -- basis we're going

to spend all our time, as many councils have in the past, doing that. There were two possibilities that arose in conversations when I was out there with interested parties that might be different than the plan that was most recently proposed. One of them takes a look at not encroaching into the primary, except for things that were at grade. So the pool, or the decking. But of significant interest is the possibility that I think deserves some consideration. Right now, red bluff road is a road that is a 45-degree intersection with -- which my understanding is, is something that's not preferred from a planning perspective.

[12:30:25 PM]

That the preferred is to have a 90° intersection. It would be possible to take red bluff road and turn it at a 90° intersection east of its current 45° intersection, which, if we did that, would mean that potentially, we would vacate red bluff road that is at the back of this property, which is causing the squeeze that's causing the request for the variance. The owners of this property, they're making this application, also happen to own the property on the other side of red bluff. And if red bluff was vacated, they might be able to create a tract has pretty significant development. That might actually be a really wonderful building area. And it may be that they might be willing to give to the homes that adjoin them further to the east. Maybe some of that land that is across red their homes. There might be a better decision than what we're presented with. I'll probably be reaching out to the parties involved in this to suggest that -- or to ask whether or not those planning things make any sense to them, and to consider whether or not we should postpone this again in order to make a run at those kind of possibilities.

>> Mayor.

>> Mayor Adler: Yes.

>> Renteria: I agree with you. Because, you know, there's a lot of potential for that piece of -- that area there. You know. And, you know, you're right. If we're having a variance on a primary setback, that would give a bad precedent, because then we'll have everyone there trying to do the same thing. So, and, so I'll be supporting that motion.

[12:32:29 PM]

>> Mayor Adler: I want to see if I can develop that between now and Thursday's meeting, as well. Ms. Tovo. Anything else on this item, Ms. Tovo? Ms. Tovo?

>> Tovo: The motion you were talking about postponing?

>> Mayor Adler: That's what I would be proposing, to let time to develop these additional avenues. Any further comment? Okay. We've gotten past the things that were posted. We have a couple more things that people pulled. We'll hit those real fast. Number 52, the drainage fee. Just in case there's media in the room, I just wanted to point out that the drainage fee item, which is number 52, which is coming up on the agenda, there was a memo that I want to make sure that people see. It was dated April 30th of 2015. It was from city staff. Affordability is a huge issue in this city. And in the conversations that I've had with people, and I think a lot of people here have had, there's been a desire to address affordability as many different ways as we can. We've had a conversation about helping homeowners. We've had a conversation about helping renters. And it continues to be my view that not everything we are going to do is going to help everybody. And that we have to do what we can with the tools that we have to help everyone. And I would just point out that the new drainage proposal that's coming before us to be considered by the tables as presented by staff would show that there is a \$3.50 savings per month for apartments and for condos that are six stories or less, and a \$3 savings if we do this for apartments that are seven stories.

[12:34:43 PM]

\$3 plus for three and four-p four-plexes, as compared to rolling in a homestead exemption over a four-year period of time could mean that the cost savings to renters would be seven times what the monthly cost would be from the homestead exemption, if that were to be passed through. And I continue to believe that it wouldn't be passed through. But I just point out that it's important to me as a member of this council, who is concerned both about affordability for renters and homeowners, that we are doing things as part of a larger package. That we're not doing things in isolation, but that we are considering doing things as a larger package. And I am encouraged to see that one part of that affordability package will include a savings for renters of this kind of magnitude. That was the only comment I had on number 52. Any further conversation?

>> Casar: One question. We're considering -- it's an ordinance. I would hope considering how important this issue is, that we -- that council perhaps think about just first and second reading, because, it is a complicated issue. And while I do know that there will be certainly some benefits for renters, it also is not just in response for bringing affordability to certain classes of people, but my understanding is a court found our previous way of assessing this fee was unjust. And so, there's also a difference between being proactive in searching for affordability solutions and trying to fix what we were doing wrong as far as courts were concerned in the past.

>> Mayor Adler: And to that end, I would say throughout the campaign last year, I was pointing to this drainage fee as part of a package to address affordability.

[12:36:51 PM]

I think I am allowed to celebrate, still, when we start actually doing things that we have talked about on the trail for a year. Any other further conversations on this item 52? Mr. Zimmerman, there are some additional items you called.

>> Zimmerman: We can do those in the q&a. They're pretty straightforward, most of the things we pulled this straightforward questions.

>> Mayor Adler: Okay. If it's okay with the council, we're going to recess at this point. We're going to go into closed session to take up two items. Pursuant to section 551.071 of government code, council will consult with legal council. Legal issues associated with a city council resolution. That directs the city manager to file a challenge petition with the review board, relating to commercial values in the property set by Travis central appraisal district. And pursuant to section 551.086, the council may discuss item a2, matters related to large primary transmission and electric customers. Item a1 has been withdrawn. Is there any objection to going into executive session on the items announced? Hearing none, the council will now go into executive session. When we come out of executive session, we'll have our briefing on the challenge item.

[2:24:35 PM]

>> Mayor Adler: We are out of closed session. In closed session we took up and discussed legal issues related to a 3 and a competitive matter related to item a 2. We're back in the general work session for a briefing related to a possible challenge of the ad valorem tax appraisals. Council, I think that a copy of the report as produced by expert has been handed out to everyone. Our report is public. It's now posted and on the council bulletin board in case anybody watching this wants to access that -- that report. So we'll turn it over now for the briefing.

>> Good morning -- or good afternoon, really, mayor and council. Megan Riley on behalf of the city of Austin law department. We have a short briefing prepared for you on the tax appraisal challenge

petition question. Of course, the brief background, the purpose of this briefing is to touch on the potential tax challenge petition as council requested in 2014 resolution in June of last year, and just to give a brief background on that resolution, the council asked city staff to explore a legal option of filing a challenge petition with the appraisal review board of the Travis central appraisal district, and it's known as a challenge petition, and it requires taxing entities such as a city to challenge the level of appraisals in a particular category.

[2:26:42 PM]

The council resolution asks staff to explore the possibility of a targeted petition in the category of commercial properties, and what it would mean to file that with the Travis central appraisal district. As part of that resolution, the council asked us to marshal any necessary evidence in support of that petition which would require city staff to hire necessary experts to address the level appraisals at issue in the petition. The city did go out and operate at a request for qualifications or public process, asking for individuals in the field to provide proposals on how a challenge study would be done. We received, I believe, three proposals in response, and opted for the age group professionally, and I think the council passed the contract with the age group back in December of 2014. In response to that selection, the age group went out and did an analysis of the TCAD or the Travis county central appraisal district's valuations with respect to commercial properties, and that executive summary of their findings is before you, as well as the background of their methodology. As part of that original resolution, we were also asked to explore the possibility of working with area taxing entities for their support in filing of a possible challenge petition, both in terms of financial support for any particular study, as well as support in the challenge petition process itself. What we can tell you as part of the RFQ process is that the study was commissioned by the city and the city finances.

[2:28:48 PM]

Just briefly touching on the challenge procedure itself, this procedure is outlined in the tax code, but any petition filed by a taxing entity would be required to be filed with the appraisal review board no later than June 1st of this year. The review board would then conduct a hearing on the challenge petition itself and the Travis central appraisal district has estimated that a hearing on any challenge petition filed by a taxing entity would occur in mid-June. Subsequent to that hearing, the appraisal review board would make a determination as to whether or not any challenge petition that gets filed would have validity, and that the decision would then either direct the chief appraisal -- chief appraiser of the appraisal district to go back out and reappraise the particular category properties at issue in the petition, or the decision could determine that the appraisals presented initially by the TCAD group are sufficient, and there would not be an appraisal process after that point. The timeline that we have in front of you is just an impact timeline, taking into account the city of Austin deadlines as an entity that has some statutory obligations to set a budget and set a tax rate. So the items on the top part of your screen are those deadlines set out by both the city charter and the state law with respect to when the city has obligations to set its budget, set its tax rate. The bottom part are the estimates that have been provided by the Travis central appraisal district as to when they would be able to certify their tax rolls in response to a challenge petition. They have given dates for the possibility of a challenge petition triggering a reappraisal, as well as dates for a challenge petition not triggering a reappraisal, and those are the dates you see before you on the bottom half of your screen.

[2:31:05 PM]

This is just highlighting those two difference scenarios that I just mentioned, the impact assuming a challenge, and the impact assuming no challenge to the process for tcad to certify an appraisal rule. So with that, those are all the kind of background pieces of information we have for council on this.

>> Mayor Adler: Would you go through and tell us at a high level, what were the determinations in the report?

>> Certainly. At a very high level, the report examined categories of properties -- again, they can't be individual appraisals, so the methodology used by the experts that we had took a look at categories of information, and generally the experts found at a high level that commercial property within the city of Austin, when compared to the appraisal -- the tcad initial appraisals, were under valued. They used a methodology in arriving at that undervaluation of looking at the median amount of undervaluation. And so that executive summary indicates that from a median standpoint, the commercial property value within the city of Austin is approximately 41% undervalued.

>> Mayor Adler: That was over a period of time. Is that right?

>> It took a look at both historical information going back from the period of 2012 to 2014, but also took into account some observations that occurred within 2015.

>> Mayor Adler: Okay. And it was 40% over that period of time. Was it 27% or close to 30% for the year 2015 for that subclass of properties? Do you recall?

>> I -- I don't recall the specifics separating out 2015.

[2:33:10 PM]

What I can tell is, they did separate out that median amount for vacant land, as well as commercial, to arrive at that median amount.

>> Mayor Adler: And so for people that are watching the report, they think that in exhibit 4, when it looked at 2015, which would be operative for this -- I guess page 12 of the report, it looked like the conclusion -- and I could be reading this wrong, and now it's a public report so everybody can take a look at it. 76% for the vacant land, and 27 punished undervalued for the commercial property.

>> Right, which from a median standpoint gets you to the 41%.

>> Mayor Adler: As we get into the conversation and discussion about this issue, I just want to frame this conversation a little bit for the wider audience people that are watching this, too. This council has made the decision to lay out the report that was obtained and to have this conversation in a very open setting in hopes that a large part of the community would watch this, including the 119 taxing entities that are in Travis county, because a decision that we would make as a council may impact them. And in our questions, we can certainly talk through the scenarios where that might happen. But we are trying as best we can to lay this out in hopes that our -- the citizens and the stakeholders and our other governmental entities have the opportunity to be able to weigh in as part of that decision-making process. And then I'd also note that, for me personally, and I think for most, if not all, of the council, we're approaching this not from a place where they think Travis county appraisal district has done anything wrong. In fact, it may be that the district has done a really good job, based on the data that was available.

[2:35:18 PM]

And if you listen to the chief appraiser speak -- and I've heard her talk about the limitations and difficulties in doing the job, to try to come up with market value based on the fact that state law limits a lot of the data that would otherwise be -- be available. In this case, the experts, as retained by the city, have come up with a different methodology to ascertain whether or not there -- how close the correlation is between market value and appraised value, so different methodology than has been used.

But most important, has pulled together a sample of 735 sales of property in Travis county, direct those sale prices directly to what the appraised value was after adjusting for those things, which could otherwise prevent that kind of -- of comparison. And my understanding, if you read this report, is that 90% of that data may not have been available to the chief appraiser. So the hope is -- and we can, again, talk about the logistics of this, but my hope would be -- and I think the hope of most, if not all of the other members of the council -- would be that we could actually enter into a conversation with the appraisal district, recognizing that we are both trying to seek what I believe is a commonplace, which is to ensure that the ad valorem valuations, as required by law, most closely track what is true market value. And I look forward with additional methodologies or with additional data to discuss ways that, together, this community can move forward where the ad valorem and property tax system is fair to everyone, regardless of the kind of property that they own, because we're struggling together to try to come up with a process and methodology and data that will get us there.

[2:37:38 PM]

And I -- and I hope that the appraisal district will join us in that -- in that conversation. Does anyone want to say anything else before we get into questions? Ms. Tovo, do you want to lead us off on questions?

>> Tovo: Sure. I do have some questions and I'll make some more comments in a little while. But I wanted to start by asking Mr. Venino or whoever would like to address this question, about how it might impact -- how the filing would impact not just the city of Austin but also the other taxing entities. And in particular, I'd like you to address what the impact could be of a successful challenge petition on some of the school districts in our community. So I'm sorry, that was a multipart question.

>> I'm going to ask if we can get the presentation put up because we have a slide that I think lays out fairly -- fairly well how a challenge might affect the tax rate adoption and tax billing process. So, you know, this is for the city of Austin, and I think most taxing entities would follow a similar process. And on the bottom we're showing in blue what a standard process would look like, what we think this year's process would look like, if there was not a challenge. And so the first date on there is July 25th. That's when the chief appraiser for Travis central appraisal district would anticipate certifying the calculus roll. That certification of the tax roll is an important date because it then starts in motion a whole series of truth and taxation events that have to occur by state law before the city can adopt its tax rate. Under our current schedule, we would be before council on September 8th, 9th, and 10th, to both adopt the city's budget, and at the same time, to adopt the tax rate for fiscal year 2016.

[2:39:49 PM]

Once the city has adopted its tax rate and the tax roll has been certified, then the county assessor has information they need in order to notice people of what their tax bills will be, and then the deadline for paying your tax bill is on January 31st of calendar year 2016. So that would be kind of a very typical process that the city and other taxing entities would face in terms of adopting their budgets, their tax rates, and receiving tax payments. Typically the revenue all flows in. Your property tax revenues really flows in in December and January because people are paying their tax bills prior to the deadline of January 31st. 90-plus percent of our tax revenue will come in in those two months. The calendar -- the dates at the top that are highlighted in red is tcad has provided a couple different calendars. They've provided calendars for if a taxing jurisdiction were to challenge the tax roll and -- and to be successful in that challenge, and meaning that the appraiser review board would direct tcad to reappraise the properties that had come under challenge. So under that scenario, we would not anticipate, based upon information provided by tcad, certification of the tax roll until November, early November, November

9th, I believe is the date they actually set. Again, we could not start our truth in taxation process. The process of public hearings and noticing that's required in order to establish a tax rate, until that's occurred, so we would not anticipate setting a tax rate until mid-december. Now, you can immediately see there the big disconnect between our charter, which requires us to adopt a budget by September 27th, and setting of the tax rate in mid-december. So essentially, this council, and I believe almost -- probably every taxing entity affected by this, would be in a situation where they would need to adopt their budget separate from setting their tax rate, which is doable, it's just not the standard procedure for how these entities typically operate.

[2:42:00 PM]

So we would set a tax rate in mid-december. After the tax rates are set, the assessor projects that they would need four to eight weeks to get tax bills out. That would put them in a mid to late January time frame to get the tax bills out and the deadline for payment would now become March. So under that scenario, you can anticipate almost all of your property tax revenues flowing into coffers in February. So instead of half coming in in December and another half in January, there would be a delay until February of receiving those tax revenues. So in terms of the process timelines, I think that gets to your first question. I believe your second question was specifically in regards to the school districts?

>> Tovo: It was. And actually, maybe you could address what a successful challenge petition would do in terms of shifting the tax burden within the city of Austin, and then also with the school district as well. That's my --

>> I'm sorry. And I have follow-up to his previous statement. Do you want to go ahead first? I just want to follow up. You had suggested that we may be looking at most of the revenue coming in -- I forget if you said January or February?

>> February.

>> Kitchen: Yeah, February. Would it also not possibly be the case that people could go ahead and pay an estimated amount of their taxes before the end of the year if they wanted to in order to take a tax deduction in this year? And I realize it may be impossible for us to estimate how many might do that, but that would mitigate -- that would somewhat mitigate your estimate that all of our [inaudible] Would be coming in in February. Is that not correct?

>> We have posed that question, that very question to the assessor to see if there was the option, in their viewpoint, to be able to send out an estimated tax bill, and to collect the revenues based upon that estimate, and then send out a revision after things were set.

[2:44:14 PM]

We have not received a definitive answer on that. It seems reasonable to me what you're saying, but, you know, a lot of it would come down to what the assessor tells us.

>> Kitchen: Well, we do receive an assessment, earlier in the year, so people have an idea of what their taxes are going to be.

>> That comes from the central appraisal district.

>> Kitchen: Right. Uh-huh. So --

>> Mayor Adler: So another follow-up question on the scheduling issue. When you ask the tax assessor that question, I think you could ask that question both in terms of the way you phrased it a moment ago, in terms of sending out an estimated tax bill so that it could come in, which they may not be able to do because they may not feel comfortable making the estimate, but the question may also be asked, what if people send in a tax payment in the absence of an estimated tax bill, wouldn't they get credit for that on their taxes, on their income taxes as a deduction and the like. So I'd appreciate your asking that

question, too. And then with respect to the schedule that we see that you went through -- and this might be a question for Megan Riley -- I recognize that we haven't had a lot of practice doing this, and there are not a lot of examples to tell us how this will or could eventually play out. You've laid out one scenario here, but isn't it also possible that there could be different kinds of timeline scenarios? For example, we have the case that came from the texarkana court. There was a case in texarkana court where, in Lamar county, there was a challenge made by a school district to the Campbell's soup plant. There was a reappraisal that was done, based on -- there was a challenge first by the -- by the district, there was a determination that the challenge was successful. Subsequent to that, there was a reappraisal.

[2:46:16 PM]

The new tax notice was sent out to campbells, and campbells claimed that because the reappraisal hadn't happened by the July 20th date, that they could no longer comply by the state statute, which required them to take action by that earlier date; and, therefore, they said that the change in tax couldn't be applied to them. In our situation that we have, that same statute says the appraisal district, if it wants to because we're over a million people, can extend the July 20 date, but it also says it can extend the July 20 date up to an August 20 days. And I'm just curious as to the court in that Campbell case said that, while it might be very reasonable to imply or to suggest that, as a practical matter in law, that we'll work as fast as we can, and when the new number comes out, then the property owner then can file his appeal at -- that challenge at that point, and then handle it. The court says that while that may make perfect sense to us, that's not specifically what's required by the statute. Long question to suggest that, in this two-week period of time, when we're looking at this, since we have to make our decision sometime in the next two weeks -- and I would invite other taxing entities, if they're watching, or their attorneys are watching, to also chime in -- I mean, it could be possible under one scenario, interpretation may be that Travis county appraisal district would -- we would start the challenge process this year, we might prevail or agree that we win on that, but it might not actually then change the actual appraised values that are used until next year, as seem to be what would be the indicated action in campbells.

[2:48:17 PM]

And I'm not asking for an opinion as to whether that's right or wrong, but while we have laid out a schedule, is it still possible that we might be looking at different kinds of schedules as we look at this over the next couple weeks?

>> Certainly it's possible. The schedule that's laid out for you is the Travis central appraisal district's schedule. When we're taking into account any requirements under both truth and taxation, as well as the property code. Beyond that, there's certainly scenarios that could be posed as part of the -- for example, the Campbell's soup cases, was an individual protest. There certainly could be scenarios under which an individual protest might impact the schedule that's been laid out.

>> Mayor Adler: Well, it was a -- the school district brought the challenge to a class of properties, and then having been successful then, it was reappraised. Obviously, there weren't a lot of properties in that class; just like in our situation, if we were successful in a challenge, then the appraisal district would then go back and reappraise. When they reappraised and came with new Numbers, one would spouse that due process would require -- would allow any property owner who had gotten a new appraisal by virtue of the challenge to be able to file their own individual challenge, like what happened in the Campbell's soup case. Right?

>> Correct.

>> Mayor Adler: And if the rule in the Campbell's soup case was applied to the August 250 date, as opposed to -- August 20 date, as opposed to the July 20 date, superimposing that on top of what the appraisal district said their schedule might be, it would be too late for those individual people for commercial properties to challenge. And, again, I'm not suggesting that that's the right interpretation of the law, I'm just suggesting that at this point, we've laid all those things out, and over the next week or two, we need to figure these kinds of things out, maybe in consultation with the appraisal district.

>> Certainly.

>> Mayor Adler: Okay.

[2:50:17 PM]

Ms. Tovo? You want to continue with your questions?

>> Tovo: Oh, yes. Actually, we didn't finish the second part. So it's my understanding that if we had -- if the city of Austin had a successful challenge petition in court, and the properties were reappraised, the commercial properties were reappraised, the end result for the city of Austin is that we would have a shift in tax burden from commercial property -- excuse me -- from residential properties to commercial properties. In discussion, it sounds like that would work differently for the school districts, and I wondered, Mr. Venino or anyone, if you could address how that would work for the school districts because of the way in which they set their tax rate.

>> I think in all cases, you know, increasing -- reappraising -- reappraisal that resulted in an increase in the values of commercial property would result in the shift that you just described. So I think that shift would be true of any of the taxing entities. The difference has to do with what state law has to say about the restrictions on -- on cities and counties in setting their tax rate and the calculations of what's called the rollback tax rate, and the effective tax rate. And those tax rates really shift up and down, depending on what's happening with your values. So in the case of cities, if values were to increase, those state-defined rollback and effective tax rates would become lower, and the tack rate that the city would need in order to balance its budget would likewise become lower. From a city's perspective, most likely the only way that a city would actually receive additional revenue from this to pay for services with would be if they chose to exceed the state-defined rollback threshold, which we're anticipating most cities would not do. And so this would really be a resetting of the tax rate to a lower number for cities and resulting in the shift that councilmember tovo discussed.

[2:52:18 PM]

School districts, you know, work a little differently than that, and so a school district that's established a tax rate at a certain level, say it's 1.07 for operations and maintenance, and then if the values go up, then their tax revenue would increase short of them actually choosing to decrease their tax rate. They wouldn't be constrained by those rollback and effective thresholds. And so I think that's -- you know, that's at least a possible result. I wouldn't want to say it's a likely result, but it's certainly a possible result in the case of school districts, that they would choose to leave their tax rate at its existing level, and a higher value would then, therefore, generate additional revenue for the school districts.

>> Mayor Adler: Similar kind of thing might happen here, too. And, again, I'm playing out kind of scenarios because I wanted everyone to understand that if we do this, there's a fair amount of uncertainty, at least at this point, because, again, the path isn't real clear. Our charter requires us to adopt a budget and a tax rate by a certain date. Is that right?

>> It requires us to adopt the budget by September 3rd.

>> Mayor Adler: But not to set a tax rate.

>> The tax rate is defined by state law.

>> Mayor Adler: Okay. So by adopting the budget at that time, based on the property values that exist at that time, there's a tax rate then that is imputed at that point in time. Do we have the ability -- so I guess -- do we have the ability to change our budget three months later, effectively changing our tax rate? Or would we be -- could we change our budget the way we amend budgets now, but our tax-based -- our tax rate could conceivably stay as it was imputedly set back in September?

[2:54:19 PM]

>> I -- that's a little bit of a difficult question to answer because it depends on what the rate ends up being and how you go through the truth in taxation process.

>> Mayor Adler: So if I go through the truth in taxation process in September, as required by the charter for when I set my budget, I can do that based on the best available rates and values that I have at that point in time, because I would be in compliance with my truth in taxation, I would be setting a rate, imputedly or otherwise, that was not -- that was above my effective rate, but if I wanted to, I could target it to be below the eight percent, at the eight percent rollback rate. I could set it that way. Right?

>> You wouldn't be going through truth in taxation because that applies to the tax rate only, and it starts with the certified rolls. But you could come up with calculations that do their best guess at what those rates might end up being, and then, as you said, target it well below what the rollback rate would be in the hopes that the additional revenue would not bump you up over that.

>> But there would be no -- there would be no truth in taxation at that point because there was no certified roll. So that process couldn't start at that point in time.

>> Correct.

>> I would just say that, you know, the truth in taxation is triggered by a city exceeding the effective tax rate. We can't determine with certainty what the effective tax rate is without a certified tax roll. We would just be guessing. So ...

>> Mayor Adler: Okay. And then I think that with respect to the calendar, one of the decisions that has to be made would be in terms of -- when we file a challenge, we can file the challenge and we can, at that point, designate what class of property it is that we would want to challenge. And in this case, I think as you stated earlier, there are two classes of property which were addressed in this report. One was commercial property, improved, and one was commercial property that -- land that was vacant.

[2:56:23 PM]

Is that correct?

>> That's correct. That was the focus of the study.

>> Mayor Adler: And to make clear that we're not talking about, in either of these classes, talking about the multifamily projects, or multifamily or residential land -- or residential land. Is that correct?

>> That's correct.

>> Mayor Adler: So when we were talking about changing the tax burden in the context of our homestead exemption discussion that we've been having, homeowners and renters were -- multifamily tracks and homestead tracks -- homestead residential tracks and non-homestead residential property were not aligned because they would be treated differently under the homestead exemption. But in what we're talking about here, if there was a realignment of burden, all residential properties would be treated the same, if it was limited to the kind of challenge we did here. Is that correct?

>> That is correct.

>> Mayor Adler: And then we also then can decide at the time that we make our challenge what jurisdictional area or geographic area we would be pulling into the work. And I imagine one can make the argument that as the city, we would have standing to bring in property that was within the city, but

not property that was outside of the city, leaving the possible anomaly where part of the commercial property in Travis county could be subject to a reappraisal, and other commercial property in the city might not. A different scenario would be that the city of Austin would have standing to file an appeal, as against all property in Travis county, in part because at the back side of this, if we're successful on the challenge and there is a reappraisal, and then notices are sent out to the properties whose values have been reappraised, they have the right to appeal, and they could bring in an appeal based not only on market value but also on uniform and actual treatment, by looking at what other properties in Travis county were appraised at.

[2:58:38 PM]

And if we've just now successfully managed to move up only those commercial properties that happen to be in the city, we would anticipate that there would be a very uniform and equal challenge available to someone who challenged that and pulled over properties in Travis county that weren't necessarily within the city of Austin. So one of the other things to be taking a look at, legal department and, again, asking other taxing jurisdictions within the county to weigh in on, is a decision is going to have to be made as to what is the appropriate geographic area for folks to did the for us to file a challenge on. Would it be possible if other jurisdictions wanted to join us this N this in this challenge? If we were to do one byte end of the month, that they would have the opportunity on the part of their taxpayers to join with us in this challenge?

>> Certainly.

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

>> Kitchen: Did you want to go first?

>> Tovo: I have a question. Now, what would joining look like? Because as I understand it, the money that was allocated for the analysis would cover the cost of any consultant testimony before the appraisal review board, so there's not a cost sharing necessity, though it would certainly be welcome. But if one of -- one of the other taxing entities within the central appraisal district decided to join in in our challenge petition, would they be, in essence, filing their own challenge petition? Or standing in solidarity with ours? You know, what would that look like in terms of any kind of meaningful support?

[3:00:40 PM]

>> That -- they would probably need to file their own challenge petition, in part because the study was commissioned by the city of Austin, and so we certainly were taking a look at property -- the expert was taking a look at properties within the city of Austin, that are within Travis county.

>> I think that's correct. I think people would file their own petition, probably consolidate it administratively in some fashion.

>> Tovo: So if I understood what the mayor was just saying, I think he was suggesting there might be an opportunity to look beyond the city of Austin and other Travis county properties, if Travis county decided to file their own challenge petition, or if Travis county supported our did you understand, the kind of argument we're making, they would need to file their own challenge petition because the documentation we have available in our analysis is, as you said, focused on the city of Austin, it doesn't capture the areas outside of the city of Austin.

>> Correct.

>> Tovo: Within Travis county. Okay. Thanks.

>> Kitchen: Can I -- yeah. So I think we made this point earlier, but I'm just trying to get clear. But regardless of whether another taxing entity filed, they would still get the benefit of the success, if we were successful. Correct?

>> Yes.

>> Kitchen: Okay. Then one other quick point, and I'm just trying -- I would like to make sure that I'm understanding correctly, just to make it clear because this is kind of complex. I want to circle back around to some of the things that we've been asking about, and that's just back to why are we even thinking about this, and what is the potential value. So I wanted to read a statement from the executive summary, and just confirm that this is what we're talking about, where it states at the bottom on page 3, it says: If the underevaluation was corrected through a challenge by the city of Austin of the 2015 initial market value -- you know, of the commercial type properties, we're talking about -- in other words, if it's correct, if our report is correct that there is an underevaluation, and if that was corrected, then potentially additional property tax revenue could be generated for the city in 2015, and if that additional revenue was used to decrease the city's property tax rate, there would be potential savings for both Austin renters and homeowners through lower property taxes.

[3:03:05 PM]

In other words, the point of all this is that there's a potential the shift from commercial to residential, there's the potential to use the potentially higher revenues to then impact the property taxes for both renters and homeowners. So I'm just wanting to make sure that that's what we're talking about here.

>> I think another way to say that is the shifting of the same amount of money, we could be talking about the same amount of money, but more of it would come from the commercial properties, less from single-family and multifamily residences.

>> Kitchen: Which also then gives us the flexibility to lower the rates --

>> Right. That's right.

>> Kitchen: Right.

>> Tovo: Other questions, council? Councilmember troxclair.

>> Troxclair: It's funny that you brought up that point because I had the exact same part highlighted in the report. And, you know, for me, when we had this report brought to our attention and I see that there is strong evidence that commercial properties are so significantly undervalued, and if that that was corrected, we could provide significant tax relief to renters and homeowners, that's just so compelling to me. And I think in the context of the broader -- our broader discussions about affordability and using all the -- utilizing all the tools available to us to make sure that we can keep Austin affordable for the people who want to continue to live here, I think everybody -- we -- my preference would be for us to keep the tax rate, of course, for everybody as low as possible, and equity is an important part of that equation. And so as long as the valuations are equitable, we can keep the tax rates low and provide that much needed relief for homeowners and renters.

>> Tovo: Councilmember Zimmerman.

>> Zimmerman: Thank you, mayor pro tem. After, you know, fighting property taxes for more than a decade, I found that people get hung up all the time about tax rates.

[3:05:07 PM]

There's kind of a fixation on tax rates, and the second most confusing thing is the appraisal, the values, the total appraised value. This is interesting because it really drives the discussion and the risks of rollback elections, what drives it is spending. Spending drives these unaffordable taxes. And there's also -- you'll hear stuff about the rollback rate and we don't want to get -- we can't go over the rollback rate, rollback rate, rollback rate. What that's referring to is the maximum tax levy that can be taken from the people. And it's really not a tax rate, it's really not appraisals, it's about the tax levy, the amount of money that's being collected from all of us, collectively as taxpayers. So when we -- we're going to have -

- I'm sure we're going to have a lot of discussions about this. It'll probably go into the press and the media, and I just want to get my colleagues to be thinking about that, what drives the problem of unaffordability in taxes, it's not appraisals, it's not tax rates, it's the tax levy, which is how much money the government is spending. So it's a problem of spending, not the a problem of rates, not a problem of valuations.

>> Mayor pro tem I just want to note that we've lost a quorum and it's okay because we're not taking an action here, but just for the record.

>> Tovo: Other questions? Councilmember troxclair.

>> Troxclair: And I just want to reiterate that, for me, this is not a way to generate additional revenue for the city. It's not a way to increase the amount of money that -- the tax burden and increase the amount of money the city is spending. The goal for me, if we move forward with this, would be to then use that money to offset the tax rate. And so I think there's -- when I -- the couple of articles that I have read so far, there -- in the report, some of the way it's phrased talks about additional revenue.

[3:07:08 PM]

And although it would be additional revenue for -- from one particular, you know, set of properties, potentially, it's -- I don't think that it's the council's goal if we move forward that -- forward with that, I don't think our goal is a revenue generator. Our goal is to, at the end of the day, provide savings for homeowners and renters.

>> Tovo: I just want to jump in here if there are no other questions at the moment. I think we've talked about the history some, though in executive session, but last year when Travis county really raised this idea first, the Travis county commissioners court began to consider whether or not to file a challenge petition, the city of Austin then also brought forward a resolution that I sponsored with councilmember Morrison and mayor pro tem Cole to explore as well. On the dais, because of the timeline, we changed it to be the exploratory resolution that our staff described, to compile the evidence we he would need to mount a successful challenge petition this year. So I just want toes thank you to the staff who worked on this last year with a very tight time frame, to get that on the agenda, but also who have continued to carry forward this work all year and make sure it happened so that we were in a position this time to really look at the evidence and determine as a city whether it was in the best interest of taxpayers to move forward. I believe it is, after reading -- you know, when we brought forward that resolution last year, we did so because after attending property tax public hearings and hearing the number of people concerned about the rising costs of their taxes and talking the renters about the rising costs of rents and the way in which those housing costs are driving long-time residents out of our city, it seemed clear that we needed to take decisive action, we needed to take -- to really look at what options we had to address the increasing appraisals.

[3:09:13 PM]

And I want to echo what the mayor said before, after hearing the chief appraiser talk multiple -- on multiple occasions, I believe that the appraisal district is very committed to doing the very best job they have and getting the best information they have to set fair appraisals. But after looking at some of the anecdotal information coming forward in the newspaper, and again at those public meetings last year, it seemed clear that we had an obligation to really look more carefully at -- at what is going on in terms of the balance between commercial and residential properties. And after seeing -- after seeing this report, it seemed clear that we -- that we should explore moving forward. And I'm very supportive of doing so, which is why I brought the resolution forward on this week's agenda to file a challenge petition. And, you know, as has been cited, the report really does provide the evidence we need to show that -- to

show that commercial properties in this area are undervalued, and though that gap has closed with additional information, that the Travis -- that the tcad has gun to compile, there still is a gap between the pair market value and where those properties are appraised, and ultimately taxed. And so, you know, I think it's a matter of fairness that we pursue this position. I appreciate my colleagues and the co-sponsors on this item. Councilmember Renteria.

>> Renteria: Yeah, I agree with my colleagues. This has been an ongoing problem that we've been -- we've been slowly over the years -- and we're talking about years back -- that we have been shifting the burden to the homeowners. You know, it's -- and every time we reduce the -- you know, the appraised value comes in, and it's so high for the homeowners that -- and it lowers the tax rates, because of the rollback rate, we're always lowering the tax rates.

[3:11:19 PM]

And the big business, big corporations are getting the big breaks, you know, the commercials were, and not the homeowners. So, you know, when we were -- when I was running for -- in district 1, I was hearing from my constituents that, hey, this is just unfair for us. And this is what -- what we're doing is just -- we're doing it for fairness. You know. Because over the years, we have shifted the burden to the homeowner, so we just -- the voters have said that's enough. We need to address this issue. And this is what we're doing today. Thank you.

>> Tovo: Okay, councilmember. Any last comments?

>> Kitchen: I think it might be helpful to kind of lay out the process for the public. Did you want to do that?

>> Tovo: Sure. I'd be glad to. Today is really just a conversation. Tomorrow we'll have a budget hearing, and I expect we won't -- though the subject may come up, it's not part of our posted discussion, and then on Thursday, it is posted on the agenda for a public discussion. I hope members of the public will join us and come down and talk and provide feedback, if not in person, via e-mail, phone calls. We're very eager to hear from our stakeholders on this. It's my expectation, based on the conversation we've had, that we likely will not vote on it this Thursday, but will, instead, reserve next Tuesday's work session and next Thursday's council agenda for further discussion and council action. Does that -- does that sound like what you all have expected as well?

>> Kitchen: Yeah. I think that it's important for us to have plenty of time for the public to -- to -- to absorb or think through the report that we've put out there, and also to think through the risks that we're starting to identify because, you know, this -- I feel, as other have said, the responsibility of bringing this forward.

[3:13:23 PM]

I want to do that in a way that everybody understands what all the risks are, and we've got the agreement and understanding and the support of the public to move forward with it. So I think we'll try to make it as clear as possible. You know, for folks, because it can be somewhat of a [inaudible] In terms of the timeline and the different moving parts, so I'm sure we'll be -- as a group, be putting out some information, and appreciate the information that the staff has put out to help make that really clear for people.

>> Tovo: Thank you. All right. Well, with no other business before us, we stand adjourned at 3:14.

[8:59:45 PM]

>> Yes.

>>> Good afternoon. We're in city council chambers and it's 4:12 P.M. On May 18th. If you want to sign up to speak, this is your last chance right over here in the corner. You can sign up for the items you're interested in. Our first order of business is to approve the minutes from the April 30th meeting. Can I get a motion to do that. Moved by councilmember Gallo and seconded by councilmember Renteria. All in favor, please raise your hands. Passes unanimously. We will get started with general citizen communication. If you want to speak on an item that we don't have posted for action, feel free to come on up.

>> Chair and members of the committee. I'm steward, like most in Austin, I rent and want to talk about two topics not on your agenda today. One is the university neighborhood overlay based on an open records request that someone I know, but not me specifically has shared in the last couple weeks with me and then comparing that to Rainey. This is committee, the housing committee and the full council has had an early conversation in early months about smart housing and I wanted to report to you outcomes since the university neighborhood overlay was approved by the city council in 2004. 3,944 smart housing units have been completed. That compares to zero smart housing units completed in the Rainey district. 495 apartments completed that are required to be affordable. For 80% median income family housing for 15 years for 10% of the apartments in the university neighborhood overlay and Rainey, only 5% of the apartments are required to be affordable and only required to be affordable for one day.

[9:02:00 PM]

In addition in university neighborhood overlay, if you took additional height bonuses you had to serve on-site 50% median percent households and fee payments required or you could do additional on-site affordability. The fee and loop payments generated \$1,006,863 to date and others have done the 50% median family income with some of that money. You cannot make fee and loop payments in Rainey. There are 1,073 smart housing units. 131 required to be affordable. Unit code amendments resulted in requirements for higher fee and loop payments for future projects and allowing you to serve more students by relating by the bedroom instead of by the apartment for affordability purposes. The first time we've done that as a city. I'm here to suggest we can learn a lot from unit, both the way we run our stakeholder process and how that could apply to the potential code amendments in Rainey all of us who are stakeholders in unit, fully engaged to do the full five years, way too long to take the code and make it more responsive. In Rainey, it appears I was the only stakeholder that changes were going on that some of us might have problems with and now you'll hear from others who were impacted. I ask you to figure out how we can do better. Thank you very much.

>> This was great information, do you have something in writing or something that can be passed out or emailed to us.

[9:04:03 PM]

>> I gave a copy to talking points to staff.

>> Thank you.

>> Thanks.

>> Casar: Actually one last question for you. Can you talk us through how affordability by bedrooms works rather than units. We're trying to get a fix of affordable units and my understanding that was trying to address it but I'm not clear I'm clear the mechanics.

>> In unit, the developer can either rent 10% of the units or 10% of the bedrooms to students -- it used to be 80% and they don't have to be students, they could be people like me who want to live in west campus for some reason. 10%, you can do 10% of the bedrooms or 10% of the apartments, you have to decide that upfront before initial occupancy. The affordability period on that is on the old stuff is 15

years and the new stuff is going to be 40. And so it's a developer option going one way or the other. In addition to that, the developer has the option to provide an additional 10% and at 15% or below or make the fee and loop payment. And that has been the case since the beginning and that standards that modified somewhat to increase the amount of fee and loop payment you have to make and require -- even if you're providing an additional 10% and 150% with the height bonus. In uno, getting a lot more stuff that all of the stakeholders say works economically and gets to deeper levels of affordability and helps underwrite the work that the primarily the co-opts do in west campus of providing units at 50% or below. That's one of the things that happens in uno that's different that hands in Rainey if anyone take advantage of the new code amendments.

[9:06:11 PM]

My understanding is that they were grandfathered under the old system. So at this point, with the code amendments adopted last year, nobody's planning to do -- take advantage of the increased floor to area ratio and the other things you can do in Rainey. It's an ordinance with no takers at the moment.

>> Yes.

>>> Thanks, any other speakers. Three minutes.

>> I'm jail. With the endeavor real estate group and I guess one of the property owners, not a taker of the new density street bonus. In 2000 5, the Rainey street neighborhood became eligible for the density bonus and one of the components was 5% of the number of units that were above 40 feet in height had to be built at 80 feet afi. There was strong outreach at that time and strong support. In 2011, when the downtown plan was discussed, there was a call for a revised density bonus that was implemented in 2013 and that replaced the interim density bonus. The -- over the course of 2013, there were two amendments to the bonus streeted it become known as affordable for a day. And the other was to allow projects to go above a 12-to-1 far like the rest of downtown. When it happened, there were changes embedded in the ordinance that did not in my opinion get sufficient stakeholder outreach of the property owners and the neighborhood associations and the Rainey business association learned about the changes two or three months after the ordinance was approved.

[9:08:27 PM]

The two material changes were -- one is the prior Rainey street wednesdayity bonus, the one that existed from 2005 up to 2014. Required 5% at 80% but on the number of units. The change that was made in 2014 made the 35% applicable to the square footage. The second change that was made required an unit MIX that was proportionate -- affordable MIX proportionate to the overall building unit MIX and while those changes seemed on the surface to be not much of anything, mathematically, as you run it through the model, they're quite significant and our opinion resulted in while the stated goal of the Rainey street density bonus was to encourage greater density and more residential and family-friendly housing it's created a disadvantage. And a disadvantage to build residential and to build residential density and math matcally, a disincentive to build affordable housing. And for the last 15 months, no affordable housing permits in the Rainey street neighborhood subject to the new rules and we would like you to add an agenda item to the next agenda to discussion Rainey street. Thank you.

>> Yes.

>>> Committee members as the final item on the agenda is to discuss future agenda items. We can talk about it then if there's a desire to. Do we have anyone here who wished to speak on an tunnel not posted on the agenda? Okay. We'll move on to -- sorry, sir.

[9:10:28 PM]

>> Cliff, with the Rainey neighbors association board of directors. I came just a few minutes ago so I'm not sure if -- the item previously on there is offer. A comment from us with regard to residential development. The rna supports residential development. We think it's consistent with the downtown Austin plan for a high-density mixed use neighborhood. We have some preference for owned residential development because of a higher level of commitment to the community. We're neutral on embedding the affordable housing within the project that receives that benefit. Versus a fee in lieu. But we would make the observation that it seems slightly odd to us that the fee in lieu is not an option that's available in the Rainey district but it is within the rest of the cbd. Thank you.

>> Yes.

>>> Thank you. Sorry for almost passing you up, sir. Anyone else here to speak on items not on the agenda? Okay, we'll move on then to item number three, the first item for committee consideration. A review of recommendations related to permitting requirements for non-peak hour concrete installation within the portions of the cbd and public zoning stricts.

>> Thank you, chair. Committee, I'm with the planning and zoning department and I'd like to go through the presentation on an exciting world of late-night concrete pours. I'll begin and talk a little bit about the background of this ordinance. It came to council's attention last year when we had the public library being constructed.

[9:12:35 PM]

And at the time, the question arose about the pouring of concrete at late night and actually got a lot of press with regard to the foundation work that was going on at the new main library and pouring all night and there were trucks coming every few minutes for continuous pour. And a question arose after that, about what kind of permit was needed to do that type of work. And I had a conversation with our public works department and discussed that a permit was required but you could not obtain one because that particular property was zoned public. So from that, this ordinance kind of arose and the planning and development department brought it Ford to council to consider. Today I'll talk a little bit about the ordinance that would be in effect if the interim ordinance is not extended of the interim ordinance that council put in place and extended earlier this year, the many stakeholder concerns and there are many stakeholders in the audience who will address you on this topic. The downtown commission and the staff recommendation. So -- sorry, the current ordinance -- and this is really limited the delivery, the finishing and placement and pouring of concrete materials. Only within their contribute contribute. Central business district. Only a portion of the downtown area that would allow this to occur after 7:00 P.M. And before 6:00 A.M. Permits are not required pouring before those hours.

[9:14:36 PM]

Hours. But only applies in the central business district. There are three types of zoning districts that exist. Our central business district, or cbd zoning and downtown mixed use and public, or P public district zoning. The permits as they come in right now, there's not a notice requirement that's required for these types of permits. They're issued administratively for up to 72 hours or three days and then they can come back in and ask for another permit. We do require contact information and description of the work that's being done. And then the director does have discretion to deny these types of permits. It historically has not done so. We've pretty much allowed them at will. The interim ordinance came into place after this issue was brought up and after a lot of concerns were raised by property owners downtown, residents in particular downtown, because it affected their ability to sleep through the night. Business concerns that were raised about making sure that the delivery of concrete is timely. I'll go over

those in just a minute. But the interim ordinance did expand to take in the P public district so the interim ordinance takes in the cbd 40s and the P public district and allows for these permits to be issued for concrete pours after 7:00 A.M. And up to 2:00 A.M. And then also in special circumstances, that they would go even later than 2:00 A.M. And those special circumstances I think are those where you have some unique circumstances when an initial pour for the main foundation is being done, in some cases when you're pouring a slab for parking garages, it becomes more important the pours are done in a timely manner.

[9:16:46 PM]

And also provided that there's a notice that was sent to property owners who are next door and across the street or representatives of the property owners, or residences within 600 feet. That's about two city blocks. Also requires there's a 24-hour contact number. That's known if there's an issue, problem that would arise from these late inform height concrete pours there's someone to talk to. Specifically within the findings of that ordinance, aside from the general public, safety and welfare of issuing the permits the council pointed out there's a reasonable expectation to have a sound environment that does not preclude sleep. So that was pointed out in the interim ordinance. There was a recognition also, in the ordinance that the ordinance would not pertain primarily for the notice requirements and -- but it did require a sound and light mitigation plan and projects before December 1st of 2014. There's a lot of concerns that were raised by the construction industry and individuals that have buildings under construction that they had already entered into contracts that were anticipating that there'd be multiple permits for create pours. The interim ordinance would have expired in March. This council actually extended it to June. And so that's what brings us here today. The stakeholder concerns are many. For residences it's primarily people like to sleep. We're encouraging more people to move downtown. We have have 10,000 to 15,000 people living downtown and the previous mayor set a goal for 25,000 people living downtown and when you have the concrete pour permits going, they're good for three days, you can take them multiple -- they range from maybe three to over 100 permits may be issued for certain projects downtown.

[9:18:55 PM]

It's not uncommon having 30, 40 of these permits that might be pulled for a particular project for one of our larger buildings downtown. Others were concerned there was no notice. And there was no limitation on the permits issued in time. People for the most part downtown are pretty willing to put up with noise downtown. They recognize it's maybe a little different but not knowing when these concrete pours would occur, they might occur at a time when they could have planned to be away at certain times. Or made other arrangements. For a lot of residences, that's not necessarily available to downtown because their only residence might be downtown. There was concerns about traffic issues and some businesses raised concern that if you didn't allow concrete pour during the evening hours, it would contribute to traffic congestion downtown and traffic that's generated from the concrete trucks coming for the deliveries may not be compatible with pedestrians. That the projects would be longer in duration, which might cause more disruption to businesses that may be nearby and the pedestrians trying to walk or drive by the business or customers trying to get to their businesses. From the construction interests, there's a concern that if create is not delivered in a timely manner, that the ability it to do pours is -- to do pours is limited by hours and it could actually disrupt the quality of the construction. Because concrete must be delivered in a timely manner and be continuously poured and if not, it may cause that quality of the building to go down. Also, worker safety, particularly in the summer hours when the temperature rises. The pouring of concrete by a chemical process would give off heat

and makes it more dangerous for worker during the heat of the day, particularly in the summer months.

[9:21:10 PM]

Than working in the evening where the ambient temperature is lower. Also, there were concerns about the delivery. There are constraints you might hear in afternoon about limitation of hours of the truck drivers. You can only work so many hours during the day. There's also concerns again, adding to the traffic congestion, but our own Austin transportation department places limitations for closing streets and bringing the concrete in the morning, 4-to-9, or 4:00 to 6:00 in the afternoon. You don't see them in the afternoon because it's limited to come downtown to other how many. And there were questions about the air quality because of the truck traffic. Idling and adding to the decrease in air quality. Downtown commission took input from stakeholders and staff. In fact, with stakeholders in the original ordinance, the ordinance, the interim ordinance that was approved, we've had four stakeholder meetings, downtown commissions heard this in three meetings and came forward with a recommendation. Their recommendation is in detail in your backup. They did agree to include the P public district and a central business district. Again the P public district is new. They agreed there should be some light and noise mitigation plan. They did set decibel limits for 75-decibels from 10:00 P.M., that should say to 2:00 A.M. And 65 from 2:00 A.M. To 6:00 A.M. They did provide a provision that grandfathering, unlike the interim ordinance would only be for another three months from adoption of the final ordinance. There were a lot of concerns raised by stakeholders, residences, that the effectiveness of enforcement was not there.

[9:23:20 PM]

And general concern about repeat offenders of violating the noise ordinance. There should be advance notice provided and 4-hour contact and reduced that to 300 feet. About a city block away. And the ordinance only in effect for about a year and reevaluated because it's one where it's not something that you would normally find in other parts of the city and given the unique circumstances downtown. And there are sound ordinance for sound amplification where we talked about mainly for clubs which has amplifiers and sound. There was a study done on the levels and thought it should be followed up as a result of this ordinance. That looks at those lower base tones that have a tendency it to resonate more than the higher pitched sounds and they thought that was worthwhile. Stakeholders both in the construction industry, residences, businesses, all agree, including the downtown commission and staff, that this is not just an issue of the pouring of concrete. It's really about the issue of noise in general. This particular ordinance is only dealing with the late-night pour concrete, but I think the issues go far beyond than just concrete. We spent close to an hour in one of the stakeholder meetings talking and actually spread over two meetings talking about the backup sounds that you hear that the osha requires for vehicles and the different alternatives you can use to hush those sounds rather than the beep beep beep when a truck bumps up, using hushed tones that could be used.

[9:25:29 PM]

The staff recommendation is still under construction. Most of the stakeholders are seeing this for the first time. Staff agrees that cbd and P public districts are the areas limited and I would like to bring up an exhibit you have in your backup. And to make sure you understand, this isn't city wide. This is talking about permits that are only required in our downtown area. And they would only pertain to those areas that are in red. And the areas that are in the light blue. The areas in red are already eligible for these late-night concrete pour permits by ordinance. The areas in blue would be added. I'll note that some of

the property that you see that may be in blue, may be controlled by the state of Texas, either through the university of Texas or the state of Texas. And the city of Austin's noise regulations are not enforceable against the state of Texas or the university of Texas. We can certainly work with them and try to conjoel them into -- cajole them into complying but they don't apply to state agencies but they would apply to the city of Austin properties. Let me go back to the presentation. Again, the ordinance would call out the 7:00 P.M. To 2:00 A.M. Time period. And under special circumstances from 2:00 A.M. To 6:00 A.M. We would agree with the interim ordinance that that is something that needs to be looked at. In particular, the finishing of create was discussed during the stakeholder groups in the interim ordinance and also in the staff recommendation, that's -- the create pour to finish the texturing and surfacing of that concrete, that would not be limited by this ordinance and we agree with that.

[9:27:36 PM]

We also agree there's a notice provision that would be required. A 24-hour contact information. And representatives of property owners and residences within 300 feet. One thing that's not mentioned on the powerpoint that a sign be placed at the construction entrance giving the same information. For those individual who's may walk by or come upon the site and have a concern. Also, the site and light -- or sound and light mitigation plan. I've been working with don pits and Dave Murray in our music office. One thing that came up as a concern of a lot of residences, was sound enforcement. Our music office is doing a very good job, since we've done change or sound amplification permits to deal with noises from clubs and restaurants, bars that have the -- a lot of live music venues, dealing with annual permits and so what I have worked with, the sound office is there be a sound impact plan that would be reviewed by their office. Similar to a sound amplification permit that you would have with the sound office or sound amplification permit and they would look at those. We did not feel after talking to -- having an extensive conversation with the sound office, just as we do with the sound impact plans for a club or bar, that each site is unique and depending how a stage is set up or in this case, how -- where the trucks are cueing up and the concrete pumps are located, where they're portal or permanently located, they're unique to each location and decibel levels may change, given the circumstances and depending whether the residences are locatedar businesses located or neither one.

[9:29:36 PM]

So staff would not recommend a specific decibel level. We would deal with them through the sound mitigation plan. A lot was discussed about repeat offenders. The staff would have the direction not to issue another permit if there's a sound problem. These permits are only good for 72 hours or three days, so if there's a sound problem and it's brought to our attention we could work with the property owner on that property and basically tweak the sound mitigation plan to improve that to address that concern. This has worked successfully with the sound amplification permits and annual permits for clubs and bars we and we feel we can do that also with program. This would not come without a cost because the sound impact plans do require additional analysis by our sound office and they're working to place an additional fee in their budget that would come before you probably when your regular for fy '16 would come in and come into place -- October 1st if that's approved and that would cover the cost of that additional review. We still felt that the projects that are under construction because construction for these larger buildings, they just testimony take place over a couple months. They may take place a year, a year and a half, possibly two years for certain types of construction, we still felt those should be grandfathered back to that date and not given three months and expire and forced under the newer ordinances. A sound and light mitigation plan, would be required regardless of those that are after that date. Or under the new ordinance. So with that, if you have questions, I'll be happy to answer them.

[9:31:40 PM]

There's some information on other cities. Again, this is only an ordinance that deals with the late-night create pours. I can't stress enough how many people have concerns and continue to voice their concerns about noise in general. And I'm sure you'll hear some of those folks this afternoon. The staff recommendation is almost finalized except with regards to the language I'm working with the sound office and the law department on the sound impact plan. And that is something that really I didn't have a chance to share is stakeholders. The ordinance that's approved -- in the interim ordinance asked and directed staff to go and meet with stakeholders which we did and included the downtown commission and so the series of four meetings and three meetings, staff would come back with a recommendation and that is what we'll be presented to city council.

>> Casar: Thank you. Committee members would you like to ask questions now or prefer to hear from the speakers first and then ask questions. I don't have a preference. I'll go with whatever y'all prefer. Mayor pro tem.

>> Tovo: I'm wondering why the staff is recommending -- let me start by saying I understand the process it's gone through, the various stakeholder meetings and the attempt to find consensus, and given that, I still wonder why the staff are recommending the 2:00 as a dividing line between one level of review and the other and why it's not something more akin to the rest of the city which I believe is about 9:00.

>> The concrete pours end at 7:00 under the current ordinance, the sound and light plan that staff is talking about would apply to any of those permits from 7:00 on.

[9:33:50 PM]

But it's to provide some certainty if someone came in, they could go to 2:00. 2:00, I think, and we haven't had to my knowledge any permits since --

>> [Inaudible]

>> We haven't had any that have fallen under the new ordinance for new buildings going up for after 2:00. And the number of permits we get in a year may leave from four to six that we might have of new buildings that might go up at the most. But the special circumstances, I think, are those reserved for those initial pours of doing that foundation or certain work dealing with certain parking structures. We believe that we can probably accomplish the goals both the residential business and the construction industry if we leave it in place and so it's not a given that we're automatically going to go to 2:00 and then it has to rise to a higher standard. Both the development services office and our sound office would look at that as being if something is going beyond 2:00 there might be additional steps that might need to be taken. That's why we make a distinction. But in all cases you would have a light and sound mitigation plan for something that goes after 7:00.

>> Tovo: So the light and noise mitigation kicks in after 7:00 P.M.

>> Regardless.

>> Tovo: And there are special circumstances of limited duration from 6:00 to 6:00 but especially between 2:00 and 6:00.

>> That's correct.

>> Tovo: I'm wondering about the setting of 2:00 A.M., that's still long after --

>> 2:00 A.M.

>> Tovo: After a lot of people are in bed. It's recognized by the original, clubs and bars have to shut down.

[9:35:52 PM]

Not that many people live close to basser.

>> Tovo: Many don't.

>> 2:00 A.M. Was called out in the ordinance that was also a distinction that was made by the downtown commission and the stakeholder process. It's difficult to get agreement and you'll probably hear from the stomachs about what those -- from the stakeholders what the different times are. But staff thought calling out 2:00 A.M. And beyond that time, everything should be quieted down. Traffic downtown in general becomes quieter after 2 because bars are letting out and motor vehicle traffic downtown and we thought under special circumstances that required a higher test than before 2:00 A.M.

>> Tovo: So sounds to some extent, sounds like you're setting it at the bar closure time.

>> Yes, that was one --

>> Tovo: Thank you that provides some context and I'll look forward to hearing from our stakeholders.

>> Yes.

>>> I have one or two quick questions before we hear from everyone and I encourage those folks who -- let know what you have about the staff recommendation, I understand this is going to be new for some people. As far as the fee you've described, analyzing in the budget coming up, that fee only charged to those applying for pour concrete at night?

>> That's right. Only to the late night concrete pour permits.

>> Yes.

>>> And you mentioned the staff recommendation only addresses the noise from late night concrete pour but the backing up and beeping sound, I know we get lots of emails with folks videoing or recording what they hear in their residences, so is the staff recommendation just -- is the military obligation for the sound -- is the mitigation for concrete pouring but if we addressed the other issues we have to take other action?

[9:37:58 PM]

>> Yes, that's something that could be council gives direction to staff, whether it's framing general construction, there's a lot of noise that occurs. This particular ordinance arose as I said because of a large civic project we had in the late-night concrete pouring didn't extend to certain civic project.

>> Casar: And they set decibel limits was that just for the pouring of concrete or just general noises. Is that what we would have to take addressing that.

>> The decibel levels is with the concrete pour. But they recognize there's other noise that's a concern to residents and businesses alike.

>> Casar: Would the decibel levels they recommended, only the decibel levels for the pouring of concrete or the project in general. One of my concern is osha asks for the beeping sound on the backup of trucks. If we set decibel levels specifically as recommended would that be limits for the -- I'm trying to nail down is the decibel levels for Coates or just --

>> It's general. The noise related to concrete pour only. C. Okay.

>> There's an osha requirement that the city cannot override as far as the decibel levels of the vehicles. However, there's alternatives that a property owner could utilize, there are different systems that gives a swish, swish, swish or a hush, hush, hush, noise that could give an audible alert to someone nearby and the ability to use a flagger on the job site that might eliminate that noise completely in those terms.

[9:39:59 PM]

But this ordinance, as brought forward and initialed really just deals with one particular type of permit.

Affects only one part of the city, downtown and deals with late-night create pour C. Thanks I know you had to tell me that three times but the last time was helpful.

>> I'm trying to compare the staff recommendation to the interim original at this point and it looks like the interim has the 600 feet where the staff is 300. I want to make sure my thought process is correct. And looks like the staff recommendation added the signposting information with the contact information and then it looks like the staff recommendation added the informing related to sound mitigation. Have I missed anything in the comparisons between the interim and this?

>> Pretty close. The interim ordinance and the staff recommendation and downtown commission's recommendation speak to 300 feet. Staff added the additional signage that would be provided on the property. That the downtown commission did not add. The sound and -- light and sound mitigation plan which was in the interim ordinance would be replaced by the sound and light impact plan. The sound impact plan is something that is unique and reviewed by our music office. Although they would be expanding to -- concrete pour music, but it would be something they would also be looking at that has a higher -- requires a higher level of scrutiny as far as trying to mitigating sound that might be adverse to businesses residences alike.

>> And in the staff recommendation, I don't see decibel limits; is that correct.

[9:42:04 PM]

>> That's correct.

>> But they were also not in the interim ordinance either?

>> That's correct.

>> And a couple of questions to get a sense, actually I was eating dipper with someone who had the decibel app on their phone and we were talking about different limits the noise where we were eating was 75 and so it surprised me that 75 was as low as it is because I was thinking it would be higher but the restaurant we were sitting in, that was the noise level and so music is limited to 85, is that my understanding?

>> That's a decibel level. But when a club moves in, and they want to have amplified sound outdoors, there's a sound impact plans that done. And it's not necessarily the decibel level as much as it's the impact to the residents. If there's a business that's closed next door, the -- in the evening, the impact of the sound might be less on that business than it would be on the residence next door. And so working with our music office, they have successfully placed baffling directing sound downward. And working with property owners and residents alike to basically make the impact of the noise that might be generated from those permits to a point that would be tolerable. We had accolades by our music office for some businesses that came in originally, no one can sleep because the band is playing too loud. Coming back and say, no, they've taken care of the problem now. So it's a very successful program. Very proud of the music office and we think we can apply that success to the interim times we have during the construction of our larger buildings. And there's no decibel level on those.

[9:44:08 PM]

>> Pool: But there would be a perception, my guess, even with the baffling, the goal is to have the sound decibel below 85? Not above?

>> There's an upper limit certainly, and I think when you look at those, our music office is probably looking at something less than that. Other ordinances, it's exponential. So going up one decibel isn't necessarily the same as going one to two and may feel more like one to 10.

>> Gallo: Do you have any idea what a honking horn would be.

>> You might be looking at 70-decibels. You know, conversation, you are probably looking at anywhere

from 60, 70-decibels. Airplanes and lawnmowers, probably like 110. Large noises that you hear from -- let's say the typical air condition compressor on the side of the house, three or four-ton unit that cools your home, probably 75-decibels. If you move away a couple of feet might drop to 70-decibels. But it's the -- it's the types of sounds that are generated, sometimes not as much as the decibel level. If it was a white noise, background noise that was constant, that probably causes a lot less complaints. The concrete pumps and sometimes the trucks when emptying the concrete load at the end, they'll spool that truck up and it will whine and so it's not a consistent level. It will rise and fall. And that's a lot of the complaints that I've heard and then residents have experienced and our sound office found out.

[9:46:08 PM]

I will say

>> I will say the noise that's been generated at the ground level by a concrete pump on a a weighted scale was 95 decibels that was measured 15 feet from the pump without baffling. If you put up a 5 feet from that ground pump it dropped it down to 87.5. Presumably, if you actually use proper baffling and it was properly placed, that could drop even lower. From a distance of 20 feet, a concrete truck during its kind of that last spin cycle trying to get the end of the concrete out of the truck, that had a 91 decibels on the a-weighted scale, and that -- and an approximate distance of 100 feet, this is measured from the second floor of the away garage from concrete truck delivering at a full cycle, it was 63.2. December these were measured in January of this year by our music office. So that gives you an idea of some of the sound. But it's not the sound at a single point in time. The music office would look at the sound that might be generated over a period of time because of the fluctuations.

>> Gallo: So the staff recommendation is not to put a decibel limit 2002 do the sound impact plan? Is that what I'm hearing here?

>> That's correct.

>> Gallo: Do we know the fiscal impact of this?

>> That's actually kind of being -- right now being looked at. Right now we already issue these permits. And so there's that impact -- not impact in that sense. But the additional sound impact plan would require additional review by staff and that's what our sound office is working with their budget staff, trying to determine what that fee would be to do the annual -- or not the annual review, the review of the permits.

[9:48:18 PM]

The cost of the sound impact plan for the most part will be most at that time of the first application, and if there are changes that need to be made to the plan because baffling needs to be moved either because of complaint or because of an issue where the building construction has changed, as it's being constructed and the pump may need to be moved or delivery location removed, the time spent on those updates are going to be much less. And so, yes, it is being looked at, working through our music office.

>> Gallo: And how quickly do you think we would get that information?

>> I'll have to check them and I can get back certainly before this comes before council.

>> Gallo: Because this piece of it is an additional cost to the building of the property. Is that correct?

>> It would be. But it -- given the total cost of construction when the buildings we're talking become it's going to be pretty minimal.

>> Gallo: Okay. That would be good. It would be good to see that because I have no concept of kind of where we are or where that fee would be at this point. So thank you.

>> You might be looking at a staff person's time, maybe if I have or six hours on the -- five or six hours

on initial review, to do measuring, go out and measure it, go out and measure again, come back and maybe tweaking of that. So you're not talking about hours on end. The key thing that was really stressed by our music office and in particular by certain residences, that they really want to make sure that actually the music office got this right and did the enforcement up front as opposed to burdening our police department on the back side. What I heard more often than not was that if we get it right at the beginning, then enforcement is minimal because you get compliance upfront.

[9:50:20 PM]

When you complain that with the permits only being issued for three days, it allows for tweaking of that plan to get it right easier than having to come back and then calling out APD to go out and try to do a sound measurement after they have permits underway and having them come back out. We're trying to get it right up front rather than on the back end.

>> Gallo: That's good. We have that fee information -- will we have that fee information prior to it going to council?

>> Yes, I'll work with the music office to get you that information.

>> Gallo: Thank you.

>> Casar: One last question. I'm trying to come up with this in my head, as far as pros versus cons of including a decibel level limit?

>> Sound is unique. And having worked in the office that issues the sound amplification permits for bars, it depends on the time of year, it depends on the orientation of where, you know, that truck might show up just like a stage is located or the pump is located. And what's around you. There might be more baffling that might be place so it would protect a residence more than a business. And the decibel level may actually be louder on one side of a property than maybe on the side where the residents. The reflection of sound changes, depending on how the construction starts moving and occurring. So it's not a static case. If you set a particular decibel limit it becomes harder for that property owner probably to comply. With our regulations because they're trying to provide for mitigation around the entire project rather than from the areas that are most affected. And those end up being residences or those businesses that might operate at night.

>> Casar: Okay. Thank you very much. Anything else for Mr. Guernsey?

[9:52:20 PM]

We can always call him up after public comments as well. Okay. Then we will start taking public comment. If Kathy Marcus is here. And David Newberger is on beck afterwards.

>> Casar: Right there is perfect, Ms. Marcus. You have three minutes.

>> Can you hear? My name is Kathy Marcus, six year downtown resident of the spring and I'm representing the hoa of the spring, I'm a 33 year downtown business owner. I'm glad I got to read the staff recommendations to your committee because it barely resembles the recommendations downtown stakeholders came up with after many months and many meetings at city hall and then the downtown commission. What I can tell you is this document you have is not acceptable to downtown resident stakeholders and it negate the hard work we have put into this ordinance. I can just give you the differences between what you have and what the downtown commission came up with, which we are mortgage totally in agreement with either. First of all, the downtown commission set the decibel limits, as you know, your document does not do that and also the decibel limits were not just for concrete pores but actually for any kind of construction downtown. Also, the downtown commission will have the coa review those decibel levels within six months. That's not in your document. We have been woken up in the morning by holes being dug, concrete forms being assembled and trucks backing up.

This is not concrete pouring. This is concrete construction -- downtown construction. The sound levels are not addressed in your planning and neighborhood proposal. The downtown commission urges the city to provide equitable and effective enforcement mechanism with repeat violators. What you have in front of you does not address violators and leaves the director in charge of what is reasonably necessary to protect public health, safety and welfare and to ensure reasonable expectation of sound environment that does not preclude sleep.

[9:54:38 PM]

This is -- I'd like to have that job. I don't know who that director is. There's nobody we can appeal to. Also, your committee, what you've gotten from the city, allows for concrete finishing between 7:00 P.M. And 6:00 A.M., and provides an exception to building applications submitted prior to December 2014. The downtown commission grandfathers the first three months of the application. We can have concrete pouring for another five years from the applications that are now in place. The downtown resident stakeholders have issues in conflict with the downtown commission report, including changing the contact information network from 600 feet to 300 feet, which is nothing. And the cutoff -- and we believe that the cutoff time should be in line with all the other large cities in Texas, in New York, in San Francisco, in the United States, which pretty much cutoff construction time after seven.

[Buzzer sounding]

>> If this proposal comes before the city council as it is, you will have a lot of downtown stakeholders giving their three minutes in front of you. Thank you.

>> Casar: Ma'am, I believe that mayor pro tem has a question for you.

>> Oh, okay. Sorry.

>> Tovo: I do. So this issue has been going on a long time.

>> Yes, it has.

>> Tovo: We've gotten a lot of feedback from many of you at various times in the process, and one of the things I'm having -- I mentioned earlier, my staff member Joy Harden has been very involved and met with lots of you and attended the meetings. All that said I'm having a hard time still keeping straight all the various responses responses to the different recommendations. I know that we -- I think I understood your comments to be that you don't -- that while you support some of the downtown commissions' recommendations you don't support all of them.

[9:56:39 PM]

>> Yesed.

>> Tovo: So what would be the best way -- you are representing Springs Homeowners Association but you referred to downtown residents more generally.

>> Yes. We are in agreement with the downtown neighborhood association proposals.

>> Tovo: Okay.

>> Which have come up many a time and I believe that Bear Lous will go ahead and explain those once again.

>> Tovo: Thank you.

>> I'm totally not in agreement with any of the staff recommendations.

>> Tovo: Okay.

>> This was sprung on us just this weekend.

>> Tovo: And I understood from your comments I was very clear that you didn't support the staff's recommendation. It was less clear to me which of the downtown recommendations you supported and didn't support. It sounds though as if Springs Homeowners Association does support the downtown

Austin neighborhood association's position.

>> Yes.

>> Tovo: Is that correct? In its entirety?

>> Yes.

>> Tovo: We'll hear more about that in a bit. But.

>> Did you have another question.

>> Casar: I sure do, unless other committee members do. Thanks for bringing up other cities because this does seem to me like Austin is dealing with a good thing, which is, you know, to revitalizing our downtown and making sure it's a place for businesses and residences and I imagine other cities have dealt with this in the past.

>> Yes.

>> Casar: I think it would be very helpful for my office and perhaps for members of this committee to receive any information y'all may have on what the regulations are in other cities because I've asked the question a couple of times and am still not very clear. I understand that we're a hot southern city and that that makes the engineering of pouring concrete a little bit different, but any cities that you do have, still feel free to include New York but any cities in climates somewhat like ours I think would be helpful.

>> I'd be glad to forward you the information we have collected. Also the concrete lobby association has done a very extensive list on what other cities have done and nobody does it the way we do.

>> Casar: An et dotely if you feel comfortable in right now in some other Texas cities hot like Austin, what do they do?

[9:58:47 PM]

>> They don't pour concrete at night. New York has a 6:00 P.M. Cutoff on all construction noises so we've been through this before with the downtown commission too. Our recommendation is wi do think the downtown commission has made a really good effort on trying to combine all our interests but there's still major holes in there. We just want to sleep.

>> Casar: Thank you.

>> Thank you. Appreciate your time.

>> Casar: Councilmember Gallo?

>> Gallo: I just have a question of staff at this point with some of the areas of concern that she brought up. So I'm looking at the other cities, the other Texas cities, Houston, Dallas, San Antonio, Fort Worth, and I'm trying to -- it doesn't look like within what's been printed out for us it addresses whether this is for the entire city or whether it's for a geographic area which is what we're talking about, this ordinance being specific to a downtown geographic area. Do you know that information on these?

>> Well, yes. First, you do have in your backup materials a listing of Houston, Dallas, Chicago, Los Angeles, Boston, I think Portland, Denver, I thought Seattle too.

>> Casar: I asked for it and I got it before I even asked. Look at that.

[Laughter]

>> So that information is in there. I think the general information that you've received was probably talking about more about the city itself. There are certain exceptions that are written in for -- depending on which city that you're dealing with. As far as for times or additional restrictions on holidays, I don't know precisely when we did this ordinance review of these other cities that we talked about specifically downtown.

[10:00:51 PM]

There was some also issues of enforcement that were brought to my staff's attention when we were

doing this about permit violators and what would happen to them. Depending on which city you're dealing with, they go through different departments as well. But I think these ordinances generally you have before them, they speak to generally the concrete pour would be part of other construction noise and dealt city-wide.

>> Gallo: I guess my question, in looking at this it doesn't separate out specifically a downtown area, I'm looking Houston, Dallas Fort Worth and San Antonio. Do we think those cities perhaps have a different ordinance for the geographic areas of downtown or have none of these cities developed an ordinance that specifically deals with their downtown areas?

>> The staff person I worked with is here so if you can let me talk with him while we're taking some of the other speakers I can get that clarified.

>> Gallo: Okay, thank you.

>> Casar: Any other questions all right, we'll have Mr. Newberger and on deck after him is Candy Jones -- no, sorry, Candy Jones does not wish to speak so after that will be Bonita White.

>> Hi, David Newberger. I live in Amly on Second, cat catty-corner to the green water treatment plant. Y'all have received over 400 e-mails from a tiny website I put up called I love downtown Austin over the past probably three months. In almost -- almost universally those e-mails that have come in, and the bulk came in actually to the prior city council, so, mayor pro tem, you would have received all of these, almost universally ask for a cutoff time of 7:00 in the evening to match much of the rest of the city.

[10:02:58 PM]

The real gist of that is the residents in downtown are asking for cutting this off at a certain -- at a reasonable time in the evening. 2:00 A.M. For most of the downtown population that works the next day is giving them four, four and a half hours of quiet time before they have to get up and go to work the next day. It's not very workable. The 2:00 A.M. Cutoff with music -- music is a little bit different. It's also somewhat, although many residents do face the noise, it is somewhat isolated and consistent consistent and is primarily Friday and Saturday nights. The construction type of noise, as Mr. Guernsey has said, is complicated and it's not consistent. You get these rise and fall of noise. I've had at times clocked 9db on my balcony. Even with earplugs I can shut most of the noise down. I can't shut the vibration going through my own building down and those are low frequency noise that are resonating right across the street, up through a concrete building I live in. One thing that hasn't been raised here is the spring buoy, Seaholm, about to start construction five plus six, none of these buildings except for an exceptional one or two pores are pouring at night. They're doing it economically, they're doing it logically and they're doing during the day. This is exactly what goes on in almost every major city in the United States, is the downtown large buildings up against residential areas are poured during the day. We can do it. Is it more convenient at night? Yes, of course it is. Is it economically beneficial to certain interests? Yes, it is. But its impact in a very negative way the 15,000 and growing people who live downtown.

[10:04:59 PM]

This area is being built right now for these people living downtown. Not for the convenience of economic interest. And is it a balance that we need to do? Sure it is. But we really need to take a look at what it's doing to the lives of people --

[buzzer sounding]

>> -- That live downtown. I appreciate your time very much.

>> Casar: Mayor pro tem?

>> Tovo: Thanks for being here, and you're right, I did get lots of e-mails and would be happy to share

those with my colleagues. But I did want to ask you about, you know, there have been different perspectives all along about when an appropriate cutoff time would be, and I know environmental and I believe your -- you spoke to this at your petition, it advocated for a 7:00 P.M. Cutoff time. Is that still the position you're advancing?

>> That's my preference. Dana, which they'll speak to in a little bit, has asked for 10:00. Somewhere in that range makes sense. 2:00 A.M. Does not give somebody a night's sleep. 10:00 P.M. Is -- I've got a lovely balcony. I can't sit on the balcony most nights of the week and have dinner out there. Would I like 7:00 A.M.? Yeah, I would.

>> I've got 426 e-mails asking for 7:00 P.M. Would I like that? Yes. Am I uncompromising? No.

>> Tovo: Thank you.

>> Sure.

>> Casar: Next we have bonita white.

>> Good afternoon. I'm the president of the rainy neighbors association, and rainy neighborhood is bounded by waller creek on the west, Cesar Chavez on the north, I-35 on the east, and almost lady bird lake on the south.

[10:07:01 PM]

We have a exploding population. When I moved there in 1999 we had about 400 people living there. Today we have 2,000. By next year we'll have 2500 and then there's three major residential projects that are starting right now or very, very soon. We've had a lot -- this is not theoretical to us. We've had a lot of issues with sound and people sleeping. And we've dealt with it, I think, fairly successfully. And I want to tell you the two things that helped us deal with it. And that is strict enforcement of hours and a decibel level. And, frankly, when I read this because I've attended three out of the four meetings, I was surprised at the staff recommendation, that it did not have a decibel level. I tell you why. Throughout these meetings I felt like the downtown residents generally said, okay, we'll back off on the hours but we want an objective standard for sound and lighting that we can live with. And then when I read this proposal and saw that not only are there no hour -- the hours are virtually all night under certain circumstances or until 2:00 A.M., but it also -- there's no objective scientific standard that we can count on and to tell our people in the neighborhood that -- or the 6-year-old girl that goes to kindergarten that lives above me offer the 16-year-old boy that goes to high school, that, no, we really don't have any objective sound levels, it's up to each individual plan. In working with the music department, I think it's important to know in our neighborhood we're not an entertainment district. We're a mixed-use residential and we don't have 85 decibel level for outdoor music, we have a 75 decibel level.

[10:09:01 PM]

And we're not an entertainment district so they can't have that music going until 2:00 A.M. They have that music going from Sunday to Wednesday it will 10:30, Thursday to 11:00 and Friday and Saturday night until midnight. So I think extending throughout the entire downtown the entertainment hours for outdoor music is not a good recipe for quality of life for downtown residents. Another part of what our neighborhood association recommended was very strict enforcement and to lay that enforcement out in a way that I have not seen.

[Buzzer sounding]

>> Thank you.

>> Casar: Thank you. Next we have kitty mcman -- she did not Washington speak, -- wish to speak, next up is Alex,

[indiscernible], I think is your last name. If Alex comes back let us know and we'll give them their time

back. Next is Phil foden. On deck after Mr. Thoden is Tom Clutts.

>> Thank you, committee chairman Casar and councilmembers of the committee. I'm fill thoden here on be half of the acg, our members are building contractors working in the Austin area, many of them are working downtown. We have about 250 members who employ about 10,000 people in the community. Couple of thoughts. Contractors in this town, particularly working downtown, are striving to find balance as the city council is here today. You're hearing the voices of concerned people who live downtown and certainly their voice is needing to be addressed.

[10:11:08 PM]

But you also have, as you know, a lot of people who are demanding a built environment and they want it done quickly and affordably. We have a housing problem here and we don't have enough places to put people and that's spike up the cost of living in town. You're also hearing from those people who are demanding an improvement in traffic congestion downtown. My office is over at south Lamar and Barton springs and I frequently just ride my bicycle to work and back and also to come over here because it's easier to park by bicycle right in front of city council here than deal with what may be on south Lamar or downtown and, frankly, I am really afraid to put the nose of my car in the box of any intersection downtown for fear of being cited or worse, that obviously is a huge problem. And then, you know, you have all those balances. You know, we're part of that balance as the industry. And I think that if you look back, going back to 2008, there's been a permit for contractors to take advantage of, a permitting process that Greg laid out. And that's you get a 72-hour permit and that's how all these buildings, the initial waive was built with those rules and projects currently underway or about to kickoff were planned under those rules. Time-out back in November and voices were being expressed here about concerns about noise and there's a temporary comprise/solution adopted. And we view that as an industry we have come to a comprised position and we -- as I've reviewed the staff recommendation that Greg laid out, we are fined for the most part with that recommendation as a compromise. There are a lot of reasons why we pour at night. You'll hear from some other speakers about that. It's not just about saving some bucks. It's about worker safety, it's about traffic congestion, it's about structural engineering, and the integrity of the concrete.

[10:13:09 PM]

You've got about two hours to get concrete from a batch plant to downtown. I'll end by noting we had a 24-hour pour for a foundation of a building going in at the green water treatment plant about three weekends ago. I think that went pretty smoothly and we'd like the opportunity to continue, you know, working with the council, working with staff --

[buzzer sounding]

>> Working with downtown residents to continue this delicate balancing act between all the interested parties here in Austin. Thank you.

>> Casar: Thank you. Next we have Mr. Clutts. You can correct me if I pronounced your last name wrong and that goes to everybody else here too.

>> My name is Tom woods. I appreciate the opportunity to get up here for a few minutes and talk to you. I am currently employed by the beck group, which has several buildings in the -- excuse me, Austin area under construction. You know, we're always concerned about worker safety. We're concerned about the environment that's created by our projects, both the pollution environment as well as the number of trucks that go on the road tet, we're concerned about pedestrian safety. We're concerned about the short life span of concrete. Phil just told you it has a two-hour life. If my steel shows up three hours late, that doesn't cause me a problem. If the concrete shows up three hours late, it goes back. It's

wasted. It's no good. So it has a very short life span that you have to deal with. We're also concerned about the residents' right to rest and sleep. I mean, that's -- everybody wants that. We're also all working and living in a very vibrant, growing city. And we all, even business workers and residents, sometimes have to allow things to happen that we don't really enjoy, but they're part of the life that makes this city vibrant and growing.

[10:15:28 PM]

Someone mentioned a few minutes ago that there were several projects downtown that poured during the day and they had no problems and that is incorrect. There are some projects downtown that are poured during the day. They've had a lot of concrete problems. There's some of the buildings that were mentioned that have a very small footprint. When you have a very small footprint you make smaller pores, means less impact, fewer trucks that go out, less time you have to pour, less time you have to finish. If you take a large job sometimes they're up to 500 cubic yards of concrete at a time at 70 yards an hour, you see how many hours it takes to pour, and then you've got a number of hours after that to continue to finish the concrete afterwards. I've been in all the stakeholder meetings except for one. We have been unable to agree on anything. I personally believe and the residents may say that I'm prejudiced but I personally believe that the business industry has compromised more than anything, and at this point we feel like the recommendation is being made before the council is a recommendation that is not -- not the perfect solution, but something that's workable and we can go forward in a very delicate situation that we have. Thank you.

>> Casar: Thank you, Mr. Woods. I may have a question for you but I want to see if anybody else does first. Councilmember Gallo.

>> Gallo: It's funny, the areas that we become experts in. I've got some concrete questions because that was my concern, and I appreciate you addressing -- I didn't even think about the length of time that it takes to get from the plant to the sites. Thank you for bringing that up. Two questions. One is is there a maximum outdoor temperature that you get to that makes you not be able to pour or it not result in as good of a product if you're pouring at a lesser temperature?

>> No, ma'am,, there's not a -- I guess you can get an ambient temperature that's too hot, but understand that when you're -- we're pouring concrete, the concrete itself is about 90 degrees.

[10:17:40 PM]

If it is 100 degrees ambient temperature, the form work that you're standing on has -- is not only wood and it's dark and reflective but also got a lot of resteel absorbing heat so what you're actually standing on for an ambient temperature of 100 may be 110 to 115 degrees, which is -- creates a real safety hazard for a worker if he's standing on that pour a long period of time. Like I said, the residents will tell you that there's been buildings poured downtown where they had no safety problems at all. And that's good. That's great. That's fantastic. But the smaller the pour, then the less time that they're on those decks. If you take a large pour like we'll be having downtown, they'll be on the deck for a long period of time.

>> Gallo: Okay. My second question was if you had a decibel limit of 75, could you actually pour concrete and work on it within that decibel limit?

>> Well, if you can't sit in a restaurant for less than 75db, I don't think you can do much anywhere else. Whether you're and doing on a street and a bus goes by or whether you're sitting there in a hotel room and suddenly the backup alarms come on from the dumpster at 4:00 in the morning, there's things that's going to be like that. But 75 is really a very low db. I think that if the limit were set somewhere around 80, I think that we would be -- we would have a better opportunity. I think we're all doing things

downtown to help the noise that has been created. When we made the large mat pour downtown, we had probably about 45 trucks or so making the turns. And only five of them we couldn't disconnect the backup bells on. We are planning -- we're presently planning, where a permanent pump will go so it's going to be shielded and pointed away from all the residents. We've already talked about our light mitigation plan on all the pores up the upper decks so that we're making sure that our lights are going to be shining away from the residents.

[10:19:50 PM]

And that doesn't mean there's not going to be some reflection. You always have reflection. But our direct lighting we're always going to point it away. So we're real conscious of what the neighborhoods are going through. But in order to and/or pour safely and pour the best way that really needs to be done at night.

>> Gallo: Thank you.

>> Yes, ma'am.

>> Casar: And first of all before I ask my question I apologize for thinking your W was a kl. Your handwriting is much better than mine --

>> Listen, you can call me anything but just don't call me late for lunch.

[Laughter]

>> Casar: I know that beck is a national contractor and some folks have mentioned here that there are cities where there is a night pouring, others where there are. Do you have much experience in how general contractors in those that do concrete handle doing this kind of work in cities where they can't go so late into the night?

>> There are cities -- there are cities, and I'm not going to sit here and quote what their rules and regulations are.

>> Casar: Sure.

>> But there are cities that do allow concrete pouring in and around residential areas. Normally it takes a permit. Normally you go down, explain what you want and it happens. You know, Houston has built every -- every major city in Houston is built on a concrete map. Those have to be poured at night. You're pouring 24, 25, 27 hours so they have to be poured at night. Obviously they're doing something at night. I've done work in the Houston area, residential, I've actually done demo work and concrete pouring. I've done concrete pouring there, residential area in Dallas. And we poured every night and worked every night. So every city has some rules and regulations, but sometimes those rules and regulations are talked about and they're -- things are done in order to be able to allow contractors to be able do the job that they need to do and do it safely.

>> Casar: So you don't have any experience pouring concrete in cities where you, for example, wouldn't be allowed to pour late into the evening and how you handled that? I guess my question is you did answer well on cities that allow you to pour at night, but have you ever had to do any work in cities that don't allow you to do so?

[10:22:06 PM]

>> The only city I've ever worked in that did not allow night pours was myrtle beech, Susan kaderka. And that was on the beach area. The area -- I think it was three blocks within the beach. It was enforced. You just couldn't pour. There was a lot of -- you had to do a lot of extra planning. Your jobs took longer. You had to make small pours because of that situation, the heat more than anything else.

>> Thank you. I appreciate that.

>> Yeah. Anything else? Thank you.

>> Casar: Thank you. Our next speaker is berry lewis. After Mr. Lewis, rich is up next.

>> Mr. Chair, mayor pro tem, members of the council, thank you for your time and for your service to the community. My name is berry lewis. I am here both as a resident of downtown and a member of the board of a downtown homeowners association, and also as a member of the board of the downtown Austin neighborhood association. It's been my honor to serve on that board for the last three and a half years, and, frankly, I'm looking forward to six months from now when I get to get off the board. I come this evening -- or this afternoon to talk to you about this ordinance. This ordinance started out as a mistake. 9221 originated in 2008, when the Ashton was under construction and there was already a high rise building downtown that was occupied.

[10:24:11 PM]

It was amly number 1 or whatever the name of it is. And there was a lot of noise and commotion associated with the construction of the Ashton and the city was petitioned to allow night concrete pours downtown. And so the city did. The city created this ordinance, 9221 and they put it under the music ordinance section of the city code because it was about noise and because the music ordinance was about noise. You know, hindsight is always 20/20 but it was really a mistake. What they should have done was write a noise ordinance. Somehow, that didn't get done. This is an opportunity to redo that error. There are, in the city of Austin code, a number of provisions that have to do with compatibility standards. 25386 specifically provides for a noise standard of 70 decibels in a residential district. So as Mr. Guernsey knows, that is supposed to be the maximum noise that comes from your split system air conditioning unit. Any louder than that is too loud and your neighbors shouldn't have to suffer it. It also creates a specific exterior lighting standard.

[Buzzer sounding]

>> May I continue?

>> Casar: Please try finish up your thought about 20, 30 seconds. My issuesy want to give equal time.

[10:26:13 PM]

>> It provides that lights have to be hooded or shielded and that lighting cannot exceed 4/10 of a foot candle. Dana has been involved in this situation from the get-go for the last year. We've participated in the sessions. We have adopted a position last fall, which we will soon reiterate, and that position is a hard stop at 10:00 P.M. With provision that under special circumstances permits can be issued. We support the downtown commission recommendations, and we would ask that you give those recommendations every consideration. Thank you very much.

>> Casar: Mr. Lewis, I believe you have a question from mayor pro tem.

>> Tovo: I do, thanks. Do you support the downtown commission's recommendations in total?

>> No, ma'am. Dana, as an organization, the board, which is a mixed board, business and residents, Dana as an organization has adopted 10:00 P.M. As a hard stop time if was a comprise time, but that's the position that was adopted by Dana.

>> Tovo: Mr. Lewis, I think I heard that you intend to send us all an updated letter from Dana.

>> Yes, ma'am,, yes, ma'am.

>> Tovo: Explaining which recommendations you would support and which ones you have concerns about.

>> We recently surveyed our membership, and we had over 400 e-mail responses. 85% of whom supported a hard stop at 10:00 P.M.

[10:28:15 PM]

>> Tovo: Okay. Thank you.

>> Renteria: Can I ask you a question? You said that you wanted a dead stop at 10:00, 70 Gibbs, that including the music, all noise?

>> No, sir. The music is a different animal. You know, the -- Austin is the music -- the live music capital of the world. The difference is that there are areas in downtown Austin that are entertainment Zones. And those sound levels apply. But as you've already heard from Ms. White with the rainy street neighborhood association, those same sound levels do not apply in the rainy street district because it's not an entertainment district. There are large portions of downtown that are not entertainment districts.

>> Renteria: We have locations on Cesar Chavez that doesn't -- it doesn't apply to them, we have over 70 and it's a residential area with businesses on first street but across the alley there's single family housing.

>> I understand that. And I sympathize with you. The sound ordinance provides that where there are repeated complaints to the sound office, the sound office can refuse to reissue a permit and, under some circumstances, can revoke a permit. There are no such provisions in either the downtown commission recommendation or in the staff --

>> Renteria: That's true, but that's only outdoor music, not indoor.

>> Thank you very much.

>> Casar: Mr. Lewis, you have one last clarifying question from me I've gleaned from the two questions. Would you say that the two largest differences in Dana's position versus the downtown commission is, one, the hard stop at 10:00 P.M. And, two, the enforcement measures of that -- of enforcing the 10:00 P.M. Hard stop --

[10:30:25 PM]

>> The downtown commission's recommendations call for an enforcement mechanism but that's to be determined at some point in the future. Staff recommendations really do not.

>> Casar: Thank you.

>> Yes, sir,.

>> Would I say good afternoon but I think we've moved on to good evening. My name is rich sachie, I represent the Texas concrete association. We are all of those concrete trucks that we've been discussing and we receive 100% of those that supply into downtown. Also by way of introduction I'm also a licensed professional engineer and five of the other states have worked in including Texas, and councilmember Gallo if you'd allow me when we get to the end of my statement I have specifics to address your concrete temperature question that came up. We've been involved since the very beginning since the temporary ordinance went in place we were at all the stakeholder meetings, did give input, made every effort to talk about both compromises by providing facts and statistics about concrete delivery into downtown and make sure that both the downtown commission and staff had a full gamut of information in which to make their decisions. The downtown commission recommendation we had several issues with that. Some of them amounted to a prohibition but there were also aspects that were good, good, clear, defined limits there that we felt were a balance based on comments and conversations we had with the residents. The staff recommendation we also support much more fully because we think that does a much better job of balancing both resident concerns and the concerns of all of the commuters, all of the downtown participants, businesses, commuters, people that have to work here on a regular basis and deal with things like traffic, congestion, access, and so we're very, very supportive of the staff recommendation that allows our business to continue, allows buildings to be done faster and on time and we don't have some of the challenges and more importantly prohibitions

that we think the downtown commission recommendation presents.

[10:32:45 PM]

Councilmember Gallo, you had a question regarding the concrete temperature and I think it's very important to discuss that. The city of Austin itself has a specification for concrete temperature, not ambient, but delivery temperature. Those temperatures cannot be met if concrete is delivered between noon and 5:00 P.M. Between may and September. Those temperatures just cannot be met. That's why most concrete projects in downtown Austin for the city of Austin happen during the late hours of the evening. That's why we do concrete repairs at intersections during the evening, is to meet both city of Austin compliance requirements for temperature and to minimize the traffic problems and congestion there. So there are practical implications as well as specifications. The projects that Tom talked about for beck, it is a very common occurrence for engineers to specify a maximum delivery temperature for concrete, which means we have to deliver that during the evening and early morning hours to meet those requirements. In some cases it's almost impossible to do that during the daylight and daytime hours so I'm very glad you brought up that question. I would --

[buzzer sounding]

>> -- Like to finish up. I will continue to stand here if there's any technical questions or we come back to anything from a technical standpoint, I can answer questions about concrete trucks, delivery plants, any of those kind of things. I'd be more than happy to continue to be a resource. Thank you.

>> Casar: Thank you so much. I think you will have questions. Remind us how to pronounce your last name.

>> Sachie.

>> Casar: Thank you.

>> If there's anything I need to be recalled for, I'll be in the audience.

>> Casar: I think mayor pro tem has a question for you.

>> Tovo: I do. Thank you. You opened by saying that you represent the association that represents all of the concrete --

>> Producers, yes, ma'am.

>> Tovo: Thank you. Do you do so for other -- does your association represent concrete trucks -- concrete producers in other areas as well?

>> We're the entire state. So many of the members -- the members who supply into Austin, I represent them.

[10:34:49 PM]

But we also represent people who are supplying to Dallas and to San Antonio, Houston, fort Worth, and in fact before I was representing them, I was a practicing engineer with those groups so I have supplied concrete into and produced concrete into those cities as well. But we don't go past the borders of Texas.

>> Tovo: Thank you. I'm asking that in part because of the chair's questions environmental about -- earlier about information we have for other cities where the climate is similar.

>> I've worked in lousiana, Arkansas, Oklahoma, Arizona. Arizona is probably the best case example, climates similar to ours. We didn't have issues supplying concrete overnight into Phoenix, into testimony pee bays they've got -- testimony pee because they've got high temperatures, very common to supply projects in commercial district business, downtown Tempe, downtown Phoenix between midnight and 6:00 A.M.

>> Tovo: Of course I'm not sure that they have -- does Phoenix have the goal of having as many residential units downtown?

>> I would relate the Austin kind of thing to say a downtown San Antonio, Dallas is probably the closest, I would say, because of their density in downtown and the amount of high rise residential that's going into downtown Dallas. I personally have supplied numerous yards, hundreds of thousands of yards, in fact, of concrete into downtown Dallas overnight. It's being done now. It will be done this summer, same way it will be done in Houston, Fort Worth, and San Antonio.

>> Tovo: So I guess the point of that you're saying that those cities are more equivalent or more analogous situations perhaps than something like a Phoenix where there's not -- I mean, it's my -- it's my belief that there may not be as many downtown residents. I'm not sure whether that continues to be the case.

>> I was using it more in terms of temperatures, similar climates.

[10:36:50 PM]

Yes downtown cities, San Antonio, Fort Worth, Dallas, Houston, you do have quite a few residents down there and there's still commercial construction happening in those areas.

>> Tovo: Okay. Thank you.

>> Casar: Councilmember Gallo.

>> Gallo: Thank you for addressing because I think we've asked staff to look into that information because what we've been provided with that shows what the other cities do sounds like they don't address pouring in the evenings but what I'm hearing you say is that the reality is that the pouring that goes on in Dallas and San Antonio and Houston and Fort Worth, in their downtown areas, actually are occurring at night right now.

>> Yes.

>> Gallo: Is that what I'm hearing.

>> We've got a pretty good matrix where we did a comparison and we've given that to staff and I'd be more than happy to provide you a copy of that.

>> Gallo: Thank you.

>> Yes, ma'am.

>> Gallo: Probably everyone else up here would, to I would think. Thank you.

>> Thank you.

>> Casar: Thank you so much. And next we have Melissa Nesland. And after Ms. Nesland, we have Mary Ingall.

>> Good afternoon, evening, Melissa Nesland and here not originally to speak on this item but saw it on the agenda. Vice chair of the real estate council of Austin's policy committee, so didn't know much about concrete pouring until a few months back when this kicked off but have learned a great deal and attended many of the stakeholder meetings. I think from our perspective, our organization, you know, it comes back to balance, as you've heard many times today. Online, understanding we have residents that are -- excuse me, folks part of our organization that live downtown. We're also, you know, a lot of the general contractors are members, consultants, developers, and what have you, and we are all working really hard to strike that balance of affordability.

[10:38:59 PM]

As you've heard this evening or afternoon, you know, traffic, pedestrian traffic, the technical aspect of the actual construction, I was just sitting back there googling when talking about other cities, Sacramento, I just had two giant concrete pours, both of which went 20 hours overnight downtown. Logistically, we have to remember anything after 7:00 is going to require a permit, review, plan, so I think the understanding is that if it's these smaller projects that aren't going to require these massive

pours we're not going to be requesting these permits, not going want to want do that, spend the extra money. We surely need the option, and opportunity in those cases, significantly large pours. Let's face it we have traffic issues and the trucks have to get here in a timely fashion. I heard two hours I was reading on online 90 plugins the time it's mixed to the time it needs to be poured. That's a real issue. I can't get down 35 at 2:00 on a Saturday afternoon in a timely fashion let alone, you know, middle of the day peak traffic time. So I think there's a lot we need to consider here and so I would just like to support the staff's recommendation, the work that has been done. I know a number of folks across the board have been involved in this conversation and it's not an easy one. Only other thing would I add which has been touched on, we are in a unique position in Austin right now. With this growth, you know, mayor will when, however many years ago it was, 25,000 residents downtown. Thank god we're well on our way. That's a lot of work. I'm sorry in you're a resident down there right now but growth is tough and on so many different levels we all have to deal with it, whether sitting in traffic or what have you but I think when we look big picture wise, communitywise, the impacts to affordability that get passed on, construction time lines add three, four, five, six months, that's time passed onto that future resident.

[10:41:05 PM]

I mean, that's not just money that disappears and so I think we need to be mindful of the big picture and the growing propane's no fun. But I think we've all got to arm together --

[buzzer sounding]

>> -- And figure out the best compromise. Thank you.

>> Casar: Thank you.

>> My name is marl inge, president of the Austin neighborhoods exponential I'm hear to speak on be half of Barry lewis, Dana, member of the Austin neighborhoods council. I've been intimately involved with noise issues for a very long time, and I just wanted to say in support of the downtown neighborhood sobers that this is about a quality -- association that this is about a qualify of life situation. We're dealing with people who are trying to live here. I think it's very important that we find a good reasonable balance. We can still have growth, but it's really about the people who live here. And quality of life. Because if you can't sleep, you don't have a good quality of life. I know this personally because I periodically have to deal with noise from stubs in the entertainment district, and I live 30 blocks away. So anything that has to do with don and it is David Murray, they're excellent staff members and they're very resourceful and creative and so I'm happy to know that they're involved in this situation. Thank you.

>> Casar: Thank you. And is Mr. Lewis still here? He is? Mr. Lewis, I -- is David king here?

>> No.

>> Casar: Okay. I just saw later -- I just, say, saw he signed up to donate time to you and I imagine he was here when you spoke so I didn't want to steal any of your minutes if you had any last comments for a minute or two, I didn't want to deprive you of the time I noticed on the second sheet.

[10:43:11 PM]

>> I would like to point out --

>> Casar: If you can use the microphone because that's how we record what it is you're saying.

>> I would like to point out to the committee that in addition to the compatibility standards in the code that I already referred to, there are other parts of the code that refer to the noise issue. Again, these are noise issues. They're not -- they're not really concrete issues. Concrete is kind of coincidental. It's the noise that's the problem. We have businesses that operate 24 hours a day, seven days a week. Nobody cares. It's the noise that is the problem. I realize this is not on point, but a person may not operate an

amusement park device that causes or emits a noise offensive to a person of Normal sensibilities who resides or conducts business on property adjacent to or near the property on which the device is operated. Again, that's not construction. It's not concrete. But it is noise. That is section 432 of the city of Austin code. A person may not operate sound equipment that produces sound in excess of 85 decibels between 10:00 A.M. And 10:00 P.M. Or 80 decibels between 10:00 P.M. And 2:00 A.M., as measured at the lesser of 100 feet from the sound equipment or the boundary of the public recreation area. So if you live near one of those areas, there are restrictions on how loud the sound can be and when it can occur.

[10:45:17 PM]

And, again, you can't do that between 10:00 A.M. And 8:00 P.M. Sunday through Thursday or 10:00 A.M. And 10:00 P.M. Friday and Saturday.

>> Casar: Thank you, Mr. Lewis.

>> You're

>> Casar: Committee members, because we're not doing this technologically, just on paper, it took me a while to realize that he had donated time, in the interest of fairness, that's why I wanted to call him back up. All right. That is all of the speakers that we have, Mr. Guernsey, I believe that you were scraping together an answer for us. If you can give us that, then committee members we can ask him or anybody else any other questions that we would like?

>> So I spoke with staff, the ordinances generally presented are provided city-wide, you heard some that speak to the decibel levels and some of these actually speak to decibel levels not exceeding 85-decibels between the hours of 7:00 P.M. And 8:00 P.M. When measured from a property line of a residential property where the sound is received. So -- 7:00 P.M. And 8:00 A.M. For instance, that's in Houston and Dallas. There's -- it allows the director of public works may issue a permit to exceed the hours 7:00 A.M. To 7:00 P.M. Monday through Friday for general construction activity. And between the hours of 8:00 A.M. And 7:00 P.M. On Saturdays and legal holidays, but it does allow that -- that I guess the director of public works to issue an exception in the urgent need of a public safety or for other reasons determined by the public works director for public health, safety and welfare. There's -- there's other references, San Antonio. To -- any such time at some level is across real property that exceeds 80 decibels.

[10:47:23 PM]

And does not apply in cases of interest of public safety or in cases of public convenience, including city sponsored events such as fiesta's parade and public events. Portland, some -- no person shall offer equipment or

[indiscernible] To commercial activity which exceeds 85 decibels when measured 50 feet from the source. This will not apply to payment breakers, scrapers, concrete saws or rock drills. So the ordinances are pretty specific when you are looking at different parts, but generally the ordinances that I gave you apply to their city. And not just to the -- to the downtown area.

>> I think, councilmember Gallo may have had a bit more of a specific question. So I will let her had he state that and -- restate that and see.

>> Well, it may be that the gentleman that spoke has a grid that can help us with this. What I'm hearing is that the other cities are pouring downtown in the evenings and the information that you provided us, it sounds like what you're saying are their city-wide ordinances, which we have also, but we have ordinances that are more permissive, it sounds like, in the downtown area. My question was, do these cities have ordinances that layer on top of this that relate to a geographic specific area of the downtown? Or are these cities making exceptions under these ordinances to allow the concrete pouring

at night, which is what we heard from the concrete association gentleman. Sorry about that title [laughter]

>> Regarding rich from the association, I will go back and look. I think there are probably exceptions that are made by some of these cities to allow the concrete pourers that you may have heard referenced this evening. It's not necessarily a standard that probably the city is -- city of Austin, as I said, we have routinely, I guess since about 2008 allowed for the issuance of these consecutive concrete pour permits, for 72 hours and issued another one for 72 hours.

[10:49:39 PM]

And in the case of these other cities, I don't know if we asked the question how many times do you make these exceptions for these larger structures. That's something that we could ask, I guess. Of these cities when they do a large pour for downtown.

>> Gallo: I think that would be helpful because it sounds like they're doing it, they're allowing it and under what pieces of their ordinance or what permissions or what exceptions are they doing that I think would be really helpful for us. I think what I'm struggling with here is a fairness of sound downtown and I, you know, my suggestion would be that all of the concrete pourers are to pour in the next couple of weeks when roc comes to town. I guarantee you when we have a million motorcycles it exceeds the 75-decibel limits. That brings up the question, we allow festivals to come into the downtown area and we allow groups of people that certainly exceed the decibel limits that we are trying to set, where is the level playing field here that we allow businesses to be able to come in and do things that are noisy, but we allow 100,000 motorcycle riders to be here for a multiple day period of time and we allow festivals to occur, you know, across the lake from us right now and at zilker, where are those decibel limits and how do they come into play with all of this.

>> Barry may have covered this already. Again recall sound equipment, which we deal with amplified sound, is limited to 85 decibels between 10:00 A.M. And 2:00 A.M., measured at the property line of the business, that's just generally city-wide. Or is audible from the property line of a business between 2:00 A.M. And 10:00 A.M. In a residential area, sound equipment again this is just amplified sound, like a speaker or amplified sound, it's --

[10:51:49 PM]

[indiscernible] -- Sound equipment beyond a property line of a residence and ... Produces the sound in excess of 75 decibels. But that sound -- that's sound equipment and -- and I'm not here to talk about sound equipment as much as -- [laughter] --

>> Gallo: I know.

>> The ordinance that's limited to the pouring of concrete. You know, I think given some of the comments and I'll probably talk with the sound office again, staff is not final in its recommendation. We could probably put an upper limit on it if that's really the concern. But I think that the most important thing that staff would stress is that the permits themselves are unique to the location, even the time of year, prevailing winds, they all have an effect and that -- and that we still feel that having the ability to not issue a permit or to require changes to the permit, every three days, the permit is requested is -- is where staff recommendation I think is strongest and would benefit the public the most.

>> Committee members, do we have more questions for Mr. Guernsey? Mr. Guernsey, could you go over with me very briefly the question of grandfathering? I know that there is a difference between the staff recommendation and the various other recommendations and interim ordinances. Can you just explain to me a bit behind the rationale for the staff's recommendation on this item?

>> The staff's recommendation goes back to a little bit of history that we have on the sound permits that

have been issued. Let me just kind of walk through the reasons for that. The W residences and the hotel took 18 months to go -- basically -- sound perms that we issued to -- to finish its construction.

[10:53:53 PM]

And again these are late-night concrete pour permits. The third and brazos project, 14 months. 1615 west seventh street, the Rio grande apartments, took 10 months. 303 Colorado street, that took 10 months. Block 51 at 500 west fifth, that took eight months. There's probably others that are around here that have been present, I don't know when that was, some of those will go beyond that three-month period.

>> Casar: The time period for pouring concrete --

[multiple voices]

>> The three months --

>> Casar: I mean the months that you -- that the timelines that you laid out is 8 or 10 months in the concrete pouring phase of those projects?

>> Guernsey: That's correct. We felt if you kept the same grandfather date in the interim ordinance that was sufficient to address those issues in the past because they would all be finishing up somewhere between in that time period. That doesn't waive that sound impact and light mitigation plan that was talking about, but it does allow them to keep going with the applications that they could pour later in the evening without falling into that special circumstance. They still have to do those same type of permits that anybody else would do if they were to pull one under a proposal.

>> And some of the folks that -- that commented today had concerns that the staff recommendation allows for pours beyond 2:00 A.M. At the city's discretion. Could you describe for us a little bit about what sorts of -- of criteria would be used to know who is allowed to go beyond 2:00 A.M. Under this recommendation?

>> Guernsey: I asked my staff, have we had any I guess since the interim ordinance when in fact we had not had any.

[10:56:00 PM]

Certainly, if someone came in, doing that initial pour of the foundation, in the case of our library, that was one that was a 24-hour pour, that would be a special circumstance. I think where you are dealing with certain being explained to me garage structures or major foundation, parts of different buildings, there are certain times that it's critical that those pours will go on before the time that you might normally experience for pouring separate floors. You know, where you are dealing with the smaller floor plate, it doesn't -- the concern of the smaller floor plate doesn't rise to having as much concrete brought in. So that will initially trigger it. When you are having the base foundation, basically maybe pouring the garage levels, not dealing with the residential spire that might be going up above it, that's where it might bottom more critical.

>> Casar: Thank you. I think that both on that piece and also on the decibel level Numbers, I understand that the staff recommendation is trying to limit pours after 2:00 A.M. And also limit the number of decibels, but I think that something for staff to consider, since you're saying staff's recommendation is not quite yet firmed up or final, is perhaps some way to have some back-stops in your recommendation so that the public can trust and understand that staff is trying to recommend, you know, limiting the amount of noise, even if -- even if we may understand at our own discretion, that sets goals, I think it's public for the public hopefully to see some of those goals. So that's just my gut reaction to the comments that we've received and the staff recommendation. Do you have any other questions for anybody in the public or for our staff? Mayor pro tem?

>> Tovo: Before Guernsey, can you remind -- Mr. Guernsey, can you remind me of when the extended origin is going to expire, when in June?

[10:58:02 PM]

>> Guernsey: June 30th is the date.

>> Tovo: Thank you.

>> Casar: Councilmember Gallo, do you have any questions of anybody of the public or Mr. Guernsey?

>> Gallo: I do. I think just to summarize what I'm looking take murder to receiving is the information -- what I'm looking forward to receiving is the information that gives us how the cities of Houston, San Antonio, Dallas, and Fort Worth are actually allowing the concrete pouring in the evenings at night that speaks to the presentation that was given to us about the fact that that is going on.

>> Well, committee members and councilmember gal, you may have -- councilmember Gallo, you may have just missed this, but we do have the interim ordinance expiring at the end of June. If the council does want to take action, that -- that's an important part of timeline for our considerations and I am interested in the information that you -- that you've asked for as well. So if we want to take action, we are posted for action today. If we want to make any recommendation. If we choose not to make a recommendation, I assume that the council may be interested in hearing from us before our next committee meeting, because our committee meeting in June, we'll talk a little bit about schedule at the end of the meeting, but our committee meeting in June is mid-way through June. If we don't have a recommendation until mid June, it may leave the council in a bit of a tight spot. So just something for us to consider about whether we want to take action to recommend today or if we want to wait until that meeting or call a meeting earlier or have no recommendation, but the committee report. Those are all options open to us. But we do have a bit of a timeline.

>> Gallo: I apologize, you probably already addressed this. If a new ordinance is not implemented by June 15th, the interim stays in effect.

>> Casar: June the 30th. My understanding -- you can explain since you're already walking up.

>> So if the interim -- if no ordinance is approved to replace the interim ordinance, or the interim ordinance is not extended, then we would go back to the original ordinance as I presented at the very beginning of my presentation.

[11:00:19 PM]

So that there would be no notice, not necessarily a sound mitigation plan, although there's some discretion of the director to certainly still require something like that and so I think that -- administratively staff would probably still look at that. So it just goes back to the original ordinance that we had in place a year ago.

>> Thank you. Of course we have extended the interim ordinance at least under this council already, so that would be beyond what we can do if this committee and the council feels that we need more time, so I defer to y'all to see if we want to take any action today or take no action and consider --

>> I would be more comfortable if I could get some more information about the concrete pouring and what the other cities are doing so that I can make a good decision because I just don't want to just be pushed into it, you know, because this -- this is -- this is something that's going to affect a lot of people, so I would be more comfortable waiting until I get some more information. In order to make my decision.

>> Casar: Thank you, mayor pro tem?

>> Tovo: I agree. I have also received some information and I assume our community members who forwarded it will also share it with other councilmembers, especially those who sit on this committee.

But that other information includes information about San Antonio and others and some of the cities that we've been talking about. So lining up all of those -- all of those bits of information and trying to figure out what the situation really is, including some additional research from the staff, would be very helpful. But, you know, we've talked a little bit here today about the costs of -- the costs associated with additional reviews of the staff and how those costs might be passed along in the construction costs and eventually to residents. I just want to say, you know, one of the -- one of the reasons that we have -- one of the reasons that this development is taking place downtown is in part because of our residents who have been pioneers and moved downtown and helped be that first wave of individuals showing that downtown can be a great place to live.

[11:02:32 PM]

And so it really is an important balance that we need to strike and the quality of life issue is very important. We won't continue to have people wanting to move downtown if they know in doing so that they'll likely be getting very little sleep during these periods of construction boom in Austin. I will say the anecdotal, we have received anecdotal evidence from people who have made different decisions, have sold their condominiums and moved or stopped renting out or slept in the bathtub during evenings because of the construction noise and so again if it is our goal to continue to increase the residential population downtown, we need to be mindful of the quality of life issues that sound those residents. So I'm very interested in continuing to see whether we can get some provisions that not only work well for our construction industry and support that continued development downtown, but also provide mitigate -- mitigate the noise issues for residents.

>> Casar: Mayor pro tem, is that -- do you share the sense that councilmember Renteria shared that we might want to consider action at another date?

>> Tovo: Sure, yeah. I started with that, but then I talked so long I forgot. I may have overshadowed that point. I am not prepared to take action today.

>> Casar: Okay. Then it seems that the sense, unless councilmember Gallo objects, the sense is that we should take action at some other committee meeting, and we will talk at the end of the meeting about whether we need to call a second meeting in June or not because we really have a lot on our plate for our June meeting. And so I'm prepared to take us on to the next item, unless anybody else from the committee wants to make any last comment?

>> Gallo: IST just going to say the other option -- I was just going to say the other option would be for it to go to the full council instead of coming back to committee, once the information that we've asked for has been made available.

[11:04:46 PM]

>> Casar: I would entertain a motion to send it along to the full council without a recommendation from this committee or put it on the agenda for next committee agenda?

>> Renteria: We do have a council meeting on the 16th of June. And our planning is the night -- the day before.

>> Casar: Yes, planning and neighborhood committee is currently for the third Monday of the month, the 15th of June, then we have a council meeting on the 18th. So it's really up to y'all.

>> My suggestion would be that if we plan on putting it back on this committee's agenda, that we close the public hearing. I think that we've had a good, I appreciate all of you coming to speak and share your concerns, but I think that we've heard from a really good variety of people and have addressed a lot of different issues and would not think that we would need to hear that again at the committee level and certainly the public hearing could be before the full council.

>> Casar: But still hearing -- still being able to take action and recommendation as a committee on the 15th.

>> Uh-huh.

>> Casar: Can I take that as a motion from you to have this on our agenda for the 15th, but with no public comment.

>> So hear the presentation from staff on -- to hear the presentation from staff, that would be our regular committee meeting.

>> That's correct.

>> I'm fine with that.

>> Casar: Can I get a second for that? This would be to post on our committee agenda for possible action for June 15th. But without public comment. Then I guess at that meeting we could vote on -- well, if we wanted to hear it on the 18th, we probably couldn't vote that day the 15th because it's getting really close to the 18th. Do we want to just ask for it to be on the council's agenda for June the 18th and on our agenda for June the 15th?

[11:06:53 PM]

Okay, I'm seeing heads nod. I think we will go ahead and do that. Mayor pro tem?

>> Tovo: You know, one thing that concerns me about closing the public hearing, though I'm comfortable with entertaining that option. If we are considering on the 15th many amendments, I think that we would want to hear from at least some of our stakeholders, you know, representative different stakeholders about those amendments at least at our full council. You know, we may -- we may make some changes to the staff recommendations or to -- to embrace some of the other recommendations that have come forward and I want to be able to hear from all of the -- maybe not -- you know, at least a representative group of stakeholders about -- about their views on those.

>> Casar: Councilmember.

>> Gallo:.

>> I'm not talking about limiting it for the full council but I would close it for our committee since our committee has heard that. But I think it would be important for the full council to hear from the public.

>> Renteria: We can always ask questions and get answers.

>> Casar: Here's what I will do. We'll ask for this to be placed on our committee agenda for the 15th. We won't list it as public comments being opened or closed. We'll just assume that the comment is closed because we've already taken it. But I think that the stakeholders here, those who are interested, can organize themselves to come so that we could ask them questions. And then for the -- for the council meeting on the 18th, it sounds to me that you all want to allow for public comment again on the 18th, which would be waiving our rules, but we could -- we could do so. If that's -- if that's the recommendation of the committee. I assume that the council would respect -- I would hope that the council would respect that and vote to reopen the public comment period.

[11:08:54 PM]

Is that all right? I'm not sure if staff needs a vote from us or not for that to be clear. We're good? Okay. Well, thanks so much, everybody, for coming and commenting and hopefully we'll see a representative sample of you on the 15th and everybody altogether again on June the 18th. All right. We will move on to item no. 4, which is a briefing and possible recommendation on approach 2.5 of codenext.

>> Good evening, committee, councilmembers. My name is Matthew Lewis, the assistant director of the planning and zoning department. Tonight we're going to talk to you briefly about codenext and the codenext approach. The topics we'll go through tonight are an introduction to the project team and the

codenext project itself, the work that's taken place to date, what a code approach is, prior actions on the code approach and recommendations. We'll run through this relatively briefly. Codenext is the new land development code rewrite process. The land development code is the governing document that oversees all development that takes place in the city. It is the look, the feel, the function of the way that our built and natural environment interact and the way that the humans interact in those various environments. Based off of the importance of this code rewrite for Austin's future, we felt it would be extremely important to build a very cross departmental team that had different interests and background into this project so that there were multiple connections throughout this process as we move forward into code writing the technical elements that will govern the way that our city grows and handles and manages growth in the future.

[11:11:00 PM]

The project team consists of those listed on the slide. Constitutes continue with the public works department, managing the department partnering program. Scott gross from transportation, myself, Matthew lewis who will be the project lead, Darrick Nicholas, helping out with public information. Francis Reilly with planning and zoning, Jim Robertson, project manager, Jorge rousselin, one of the major project leads, Marlee Scarborough from the planning office, Jennifer Todd helping out with logistics and Paulina urbanowitz, a continuous member of the codenext process for continuity and public outreach and those types of things and Aaron wood from watershed protection. Also a few additional members that were added to the team. So ... Erin wood. There are the department lists being integrated into the project to make sure that there's a comprehensive knowledge that goes forward as we progress through the development code rewrite. The consultant team is opticos design, multiple subconsultants helping out with the project as well. With that I'm going to hand it over to Jim Robertson, the project manager on the project. Thank you.

>> Good. I think that I'm safe in saying evening now. Early evening. I'm Jim Robertson.

>> Casar: Hey, Mr. Robertson, we do have a hard stop at 7:00. I'm going to ask you to --

>> Okay. I'm head of the urban design division. As Matt said now the project manager for the next phase for the codenext project. I'm not going to dwell on this at all.

[11:13:01 PM]

I guess most of you are pretty up to date on the codenext process. Imagine Austin, of course, priority programs, eight priority programs under imagine Austin, of which priority program number 8 is the codenext process. The growth concept map. That will come into play a little bit later as we really begin to sort of map any code we develop. Imagine Austin speaks at great length and places a lot of importance on the notion of complete communities and of course, codenext, can play a key role in delivering and preserving complete communities within Austin. Then, of course, we have engaged for 15 plus years in robust neighborhood planning in Austin, that's a key foundational element as well for the codenext process. I'm just going to walk you through real quickly some of the key deliverables of the project to date. And then I'm going to tell you about what we're doing now. One was some initial outreach that was done to basically begin to assess how our code is used, where its shortcomings are, so forth. There was a listening to the community document. Then there was a codenext -- code diagnosis in 2014, that assessed the strengths and weaknesses of our existing land development code and began to basically inventory the key issues that a new development code could improve on compared to our exist being code. Of course the community character manual, that's actual we have there a community character manual that anybody can access online at the project website, but that's going to be continuing importance as we go forward. As we get into the called mapping phase of the code, a little

ways down the road yet, that will be really important, it will help us inform where various tools that the code gives us, where are the best places for them to apply. The topic du jour is code approach.

[11:15:08 PM]

This was released to the public in September of 2014. I want to be clear what it does and does not do. I'm going to cover this in a couple of different ways, because some people like me are visual thinkers, some are more verbal. There are different categories of things that code approach address. The framework and format for the organization of the code. That sounds like just sort of the table of contents or something like that. But it's actually very important. In some ways it's very important and ties the codenext project in some ways to the Zucker report. The Zucker report did speak to the relationship between our existing land development code and the impediments or complications that places upon projects that go through the review process as well as the reviewers who are reviewing projects. So the framework and format for the code will do a lot to address some of those issues. The second category is development application process. This has to do with what kinds of things will be discretionary reviews, what kinds of things will be administrative reviews. In other words, if you come in, you can demonstrate that you've met conditions A, B, C, D, E, you get administrative approval and you don't have to jump through a lot of hoops. There may be some that are customized code elements. That's the second category. The third is the type of development standards. I'm going to cover that in just a second. What do I want to stress, though, is that the phase 2 we're in right now, code approach does not decide this, it doesn't decide where -- whether -- where any new zoning districts or new zoning rules will be applied. That will happen down the road. The code approach document also identified three general approaches we could take. One was called a brisk sweep. Basically a cleanup and maybe reorganization. The other was named deep clean and reset.

[11:17:10 PM]

That was a more fundamental makeover of the code and the third of course was a complete makeover. This is the chart for the visual learners, people like me. The top are the three approaches, brisk sweep, deep clean and reset and the complete makeover. The rows on the left-hand side three categories, format and organization, develop review models, by right, customize, discretionary, so forth. Then the development standards models, would we under different approaches, whether it's one, two or three, you make it rely more heavily on euclidian based zoning, or a form based model. Going back, I want to give you a little more on development standards. So euclidian code is what we essentially have now. The basic tools of a euclidean zone are a map with colors on it, correspond to particular zoning district, F 1, 2, 3, ML, go, et cetera, et cetera, et cetera. If you want to apply that, you have to look at a number of places in our code, I have listed only a few of them. You look at a use table which tells you what you can do within that district. There are additional requirements for certain districts, there are additional requirements for certain uses. Then you look at the site development regulations for the district that applies to your parcel. Then you look at compatibility. Overlays, so forth. As a practitioner, I'm a licensed architect, I have designed project within the city of Austin, it's -- I'll say it's fairly complicated. It's a vertically organized code and not that hard to even realize to not realize that there's a piece of the code over here that may apply to your project.

>> Casar: Keep hurrying -- I really respect the thought and time you put into the presentation.

[11:19:13 PM]

>> I will move even faster. A form based code tries among other things, collects everything in one place,

once you know what applies to you, the development standards here, the uses that apply to your parcel here, you pretty much see all of the rules in one spot. The prior actions on this question of code approach, this is a table that shows all of the boards and commissions that considered it. You can see they all recommended basically approach 2. Some with conditions and so forth. Then the city council, your predecessor council, same city council with the exception of the mayor pro tem, different members, on November 20th adopted an approach known as 2.5. They said we want two, but we want a little more than 2, request Mrs. [Indiscernible] We want to lean towards form based, we want to lean towards as many as possible development by right opportunities as opposed to sort of discretionary or customized coding approaches and so forth. Our recommendation to you and will be the recommendation to the council is that you endorse the council's recommendation of November 20th. We believe that that will allow us to proceed in a timely manner, in a cost effective manner. It will -- the so-called 2.5 will allow us to address the things that imagine Austin says should be in a new land development code and really allows us to deal with some of those organization and departmental silos that the Zucker report addresses. Next steps would be your and the council's action on code approach. We're in the process of working towards finalizing the phase 2 scope in the contract with our consultant team. We will then immediately begin to work on the format and the organization, that first piece of those three things. We'll deliver a preliminary draft, we'll have workshops where we'll -- the word I've been using is test driving those drafts and then by about April, May, June or so of 2016, we'll have a draft code at least for review.

[11:21:29 PM]

Of course during this entire time we'll be coordinating with the code advisory group, coordinating our response, our work with the other responses to the Zucker report and so forth. And with that, that concludes my presentation to you.

>> Casar: Thank you. That was impressively quick. So we do have a number of speakers and members, with your approval, I would like to limit those speakers to two minutes because I think those speakers probably won't to see us talk about this and act on it and we may not have time for this and the density bonus and to talk about future agenda items if we don't find some place to save some time. Are we okay with that? I can tell you how many speakers we have, that may help. I don't want to discuss this for more than a minute.

>> Absolutely. It's the density bonus program something that can be moved to our next meeting?

>> Casar: That item was requested by the mayor pro tem. I would defer to her.

>> Tovo: Well, I see our housing staff has been here -- for several hours. And so -- so I sure hate to -- I sure hate to do that at this point in a meeting. I guess that I would also say I apologize for the confusion when we talked about it at our last meeting, it was clear it was also going to be the housing committee and they were having a presentation. So I thought that we were moving toward having a joint, some kind of joint sharing of information. So -- so I guess I leave it -- if we could do a very short discussion of the density bonus program if there's time that would be great since I know our staff have been here for all that time.

[11:23:33 PM]

I'm sorry, that's not a very clear answer, but I guess -- yes, it is something that we could table as long as there's not action coming forward to make any changes to our density bonus program. On the other hand we have asked staff to be here for the whole time and I hate to have their time be wasted and have them be asked to come back another time. Maybe we could try to keep that discussion relatively short. I guess I would ask if we are really planning taking action lower on codenext, that maybe will help

some of the speakers know whether to weigh in at this point.

>> Gallo: It's 6:36, our meeting is scheduled to end at 7:00. We both need to leave at 7:00. My concern, this is scheduling dilemma, when we have an agenda item that we have so many speakers signed up as we did our first agenda item, we don't want to discourage people from that, but it really does affect the agenda from the standpoint of the items coming up later. I don't know if there's an ability to determine earlier the number of speakers that are signed up to speak. I'm just throwing things out because this is -- we're now at 6:30 and just beginning to speak on the second agenda item. Actually number 3 but --

>> Casar: Well, councilmember, I think we are going to have some discussions on how the committees are going and how to improve them, since we're getting close to that six-month mark. There's been conversations about us having to meet more often if we want to handle the workload we're handling now or to reduce that workload if we want to keep the meetings the length that they are at. Before we talk about that now, give me a recommendation --

>> Gallo: I think we have six people who have sat here through several hours of discussion on another agenda item, I think it would be appropriate to let them speak the full three minutes and see where we end up as far as the discussion after they have spoken, whether we want to make a recommendation or continue to the next meeting.

[11:25:43 PM]

>> Casar: Do any of our staff or committee members know if we have to get out of the room by 7:00?

>> [Indiscernible]

>> Casar: Great. Here's what I will say. We will take the speakers for up to three minutes. We'll politely and kindly ask those of them who can speak for less than three minutes to do so. I know at least two of the committee members have to leave after 7:00, I will stick around to answer any questions or ask some questions on the density bonus, we will ask staff who are here for density bonus to try to give us a summarized version of their presentation and perhaps I can coordinate with councilmember Renteria for a more extended discussion at housing, we will make sure that all of the committee members here are invited to that meeting and we will try to make that work. Okay. Without further ado, we will call up David King. Looks like he's not here. Mr. Steed. Okay. We're saving time already. Ms. Nesland. Look at that. Why did we have this discussion? Mr. Morris, I know he's here. Then Andre, you are up next after him.

>> So I don't have all 18 minutes that we just saved or whatever that was.

[Laughter].

>> Casar: No.

>> I will still attempt to compress what I wanted to say here. My name is Bill Morris. I think that I know most of you, I'm a real estate professional here in town. Here to speak on behalf of myself and the Austin board of realtors on the topic of codeNEXT. We have been engaged since really the very beginning in this process, the earliest listening sessions, multiple community character in a box projects, attending and speaking to code advisory group meetings and listening to the code diagnosis and enjoying all of the interim, all of the project updates from Opticos, et cetera.

[11:27:55 PM]

Speaking at the last council meeting in November where this resolution was recommended, against this resolution, I would like to continue that conversation here today. Obviously our growth in the city is continuing and projected to continue for years. And we already have a shortage of workforce housing and affordable housing in a more traditional sense and a large part of the solution to that is the missing middle. I know a couple of us here attended a session on Saturday that did a great job of working

through that. We also know on the basis of the opticos report and the Zucker report that we've got a broken land development code. And permitting process. And we really believe that anything short of a complete makeover risks wasting the entire opportunity that codenext should represent and would count as a failure if we don't do a complete makeover. If the goal is a simple, understandable and predictable code, which it should be. That means that an applicant should be able to know what compliance looks like, fill out an application correctly in the first place, not have to guess about what compliance means or know where to go look in the code, where it may be hidden or something that can sneak up on you. Need to know who is going to be involved in the process, of reviewing and approving, how long it's going to take, how much it's going to cost, and in our opinion that can't be achieved in approach 2.5 where conceivably entire parts of the city can just simply opt out of any significant change or you go through a permitting process and there are people or groups outside of the process who still have a veto on any given application. And so we really think that it's important to -- to invest the time, don't disqualify any comments or opinions out of hand, but spend the time to reconcile all of those opinions early before the code is written and adopted.

[11:29:58 PM]

Spend the extra months, if that's what it takes on design charettes, bringing all of the parties together, making sure everybody understands the code in the same way before it is adopted. To conclude, imagine Austin, obviously was and is a bold vision for this city and we do encourage you to be equally bold in addressing this very fundamental foundation -- [buzzer sounding] -- Of implementation. And please adopt a -- a complete makeover. Thank you very much.

>> Casar: Thank you.

>> Thank you, council members, I'm Andre, here with the Austin board of realtors. Er a professional trade association with over 10,000 members in the central Texas and Austin area. I'll keep this short. You heard from bill Morris that we would prefer more thorough revision of the land development code. We feel this is a great opportunity for you guys to really provide some direction and in taking a bold approach. And really -- really thoroughly revising the code. In particular, we believe that it would be easier to dial back some of the proposed changes later on in the process if that were the will of the council, of the future councils, than it would be to make the changes more robust if the vision isn't there backing that up. So in -- with regard to the code approach 2.5, I think there are some things of value to salvage there. If you look at the language that council agreed to last session, the added language, the -- that includes some -- some language about form based code, but then also that encouraging the consultants to rewrite the code extensively when they feel that it's appropriate.

[11:32:08 PM]

And also to include as many buy right development opportunities as they believe appropriate. And I think this is good, good language for you to embrace and to thoroughly consider. Because at this point in time, all that you are doing is providing direction to the consultant. You're not specifically weighing in on a particular proposal, you're just kind of giving them the general direction for the direction that it's something like a scope of work. So in this case, instructing them to rewrite the -- make recommendations to rewrite the code more extensively will, I think, in the end result in stronger changes down the road, potentially. So anyway, I think that this is a good -- I think that we should be eager to get going on the -- moving codenext forward and so I urge you to take up this issue and really get into it. I know it's a complicated issue and it's hard to take up in a short amount of time, but that's all that I have to say.

>> [Indiscernible].

>> He said that very well.

>> Casar: Thanks. Committee members, my understanding from our staff is that we're posted for action on this item because past council intent seemed to be that it would be -- we should have the opportunity to be able to address this issue. I think that's correct, seeing heads nodding. So to be frank, I think I and the other committee members only saw this posted to our agenda just a few days ago, if not less than a week ago, and so personally I feel comfortable not taking action on this today. If that's the will of the committee, I'm open to hearing discussion and taking action if that's y'all's will.

[11:34:17 PM]

Of course I believe if the committee and the council doesn't take any action, that's a de facto endorsement of the current approach. But I would, of course, be open to hearing a motion today or taking direction or committee action item from y'all for the next meeting, if the desire from anyone is for us to take action at the next meeting. If I don't hear from anyone here, then it would be up to the council to take action if we wanted to change course is my understanding. I think what I am hearing from our staff and from the consultant is that if that action isn't taken relatively soon, then that's a de facto endorsement of approach 2.5 because they will have no other choice than to keep on moving forward with the approach as given. If everyone is on the committee is all right with that, I think that my preference is I will wait to hear from committee members in the next two weeks to see if you all have any recommendation for action for next meeting. If not, then it will be up to the co-sponsors on the council to take any action.

>> Gallo: I have a question, I'm sorry. He have a packet of backup information. Have you submitted a letter with your recommendation, because I do not see that in the backup. If ora was hear, she would fuss at me. Austin board of realtors.

>> We did submit a letter last fall, I'm happy to provide that to you at the earliest opportunity.

>> If you could do that, I mean, we do have letters in our backup from last fall, but I don't seem to be seeing one.

>> I will be sure that you have one.

>> Gallo: Thank you.

>> Casar: Councilmember Gallo to catch you up, my preference, I would love to hear y'all's preference is that we need not take action on this item today because I know several committee members weren't expecting to see this on the agenda so quickly. But staff would like it -- for us to take action if we so choose soon so that the consultant can change course if that's the will of the council.

[11:36:20 PM]

If I don't hear from any committee members in the next month that we want to take action, we will take that as de facto staying on course and of course the council does have the prerogative to bring action directly to council with four members if they would like to change course.

>> Gallo: I would really like to hear from stakeholders, we have backup board and commissioner recommendations, seems like everyone that has added their voice to this, have added two or three. I would like to get some input from you will all of the people about 2.5, I would like to get a better description of really what 2.5 is. My question would you or my request would be that that list of boards and commissions -- first we have to figure out what 2.5 is specifically. Then I would like to hear back from the boards and commissions on that as an option and then I would like to hear back from -- in my packet we had letters from aia, cmu, reca, and from abor, all recommending three.

>> Casar: If I may address that correctly, I think, the hope would be in the intervening, the next couple of weeks I think staff would be happy to work with you or any of us on getting that solid understanding of

what 2.5 is and what going up to 2.7 or down to 2.3 or down to 2 would really mean. I would be open take taking any item for the agenda in June to change the approach in that's the will of any committee member. But if I don't, we will just assume that 2.5 will remain the status quo.

>> Gallo: I guess what I'm saying, though, is from last fall we had a lot of organizations and people that wrote to us either for 1 or 2 or 3, but 2.5 wasn't in the process at that point.

[11:38:23 PM]

So I think it would be appropriate to find out exactly what 2.5 means and then ask those people to respond again, whether that would be something they would support or do they still want to just support 2 or just support 3.

>> The 2.5 recommendation, what we were considering is the 2 and then plus the amendments recommended by the previous council. Equated to essentially 2.5. It is an examination of the existing code, pull the good, integrate it into a new code. Leave all of the bad out and reframe the new code with a brand new framework, table of contents, that to us equates to 2.5.

>> Gallo: Is the backup on page 13 that we have your description, your lengthy and detailed description of what 2.5 would be that they would then ask the stakeholders to chime in on?

>> Well, on November 20th, when the council took up this item on code approach, there was actually no resolution passed. So what we have done, is we've listened word by word to the minutes of that, watched the tape, gone through the minutes of that tape, we also have some handwritten notes from various people that occurred during that meeting and that -- from that we have constructed our best understanding of 2.5. I think we sent, from the point of view of direction to the codenext team, we feel like we have what we need. And we've tried do a fair job of summarizing what we understand 2.5 to be. You are correct, though. There was no like, you know, 2.5 wasn't an item that people discussed, you know, leading up to and including November 20th.

>> Gallo: Okay. So once again, on page 13, when you say staff recommendation is 2.5, is that the staff recommendation?

[11:40:26 PM]

I mean, we're being asked to consider something and I want to make sure that we understand fully what we're being asked to consider to evaluate and once again I would like this information to go out to the stakeholders that sent information in to us with the recommendation of either 1 or 2 or 3 to allow them the opportunity to look at what staff is proposing and what we're being asked to vote on and make sure that we've heard from everyone in regards to this particular proposal.

>> I believe on slide 13, if you are referring to that as page 13 of your backup, we put what we regarded as being -- having listened, gone through the minutes, listened to the tape and so forth, the key points that the council wanted to convey to the codenext team. In other words, if we adopt 2, we want these additional things, in addition to the basic recommendation of approach 2. Which was, you know, rewrite it extensively where you regard it as appropriate; when you have the occasion to make a choice, in essence lean towards by right development opportunities as opposed to sort of discretionary or customized approach; where you have -- you know where you deem it appropriate, lean towards a form-based code for selected areas, in other words, let's apply it; and then develop a timeline for applying that code to additional areas of the city as you move forward. Those appeared to be the four key points beyond approach 2, which took it a little towards, I guess, a complete rewrite of the -- of approach 3, hence the nomenclature, 2.5.

>> Gallo: Thank you. May I ask questions -- I think we have a couple -- I know the board is here, reca is here, from my notes both of those organizations recommended 3.

[11:42:29 PM]

So what I'm concerned with and would like to hear about is with this description that we just had, is that specific enough to allow you to weigh in on whether you would support 2.5 or whether 3 is still the option that you would prefer? Do you want to come up and address that just -- I just wants to make sure that we're specific enough talking about 2.5 that we -- that we understand what we're talking about. So

...

>> Good evening, committee members, Heidi

[indiscernible] The vice president of public policy at the real estate council of Austin. We were part of the 2.5 conversation when it was happening at council. I think that we would continue to support an approach 3. You know, we certainly don't have any more information than what we saw happen on the dais that day as well. But I think our interests would continue to be more of a -- of a complete overhaul approach.

>> Even with the items that --

>> Yes, ma'am.

>> Gallo: And possibly we could put 13 back up there, just so that people know what we're talking about. I don't know if we have the ability to do that or not again. Okay. Thank you.

>> Thank you. Does the board want to --

>> Aim happy to look into that a little more and get back with you. I don't have an answer for you off the cuff.

>> Gallo: Okay, thank you.

>> Tovo: So I guess the way that I would describe it -- you know, this was a point of great concern and discussion in the codenext rewrite process and one of the ideas that the previous council thought might be helpful to get us beyond that would be to -- to offer the consultant some guidance. But allow this council to go back and revisit that decision.

[11:44:33 PM]

And so, you know, as you hear you have some organizations that wanted to see a complete rewrite; and we had some organizations that wanted a more -- not a complete rewrite, but a look at the code that also preserved some of the important protection that's had been put in place over the years. And what 2.5 is, is a compromise, among those various positions. And so, you know, I think if we ask stakeholders to weigh in, we're going to get some of the same answers we had before. Some organizations want a complete rewrite and some organizations who don't and we'll hear a very similar conversation to the one that we had last fall. And I guess I would say unless there's a strongly on council -- well, I think that you have summed up our options. And I guess that I would say, you know, I was part of those conversations, so I don't -- you know, I look forward to hearing whether my colleagues want to go back and revisit that, but we might also go back and listen independently to some of those conversations and determine whether there's an

>> Casar: I do have one question. I know y'all have not the consultant but in your best guess or your conversations if we did want to change approach, what would be the appropriate time line for us to communicate that without causing too much disarray?

>> The contract negotiations have been taking place based off of approach 2.5. We finally reached resolution on the contract negotiations with the consultant group. We would need to go back and remodify the negotiated contract. The contract is not signed yet but it's ready to be signed. It's gone through the internal contract committee and is ready to be signed. We would probably need to renegotiate.

[11:46:36 PM]

>> Casar: So the answer is of course -- very soon.

>> Yes, sir.

>> Casar: Okay. So unless there's a -- councilmember Renteria?

>> Renteria: Yes. Seemed like the 2.5, when it was passed, it instructed the consultants that it should go at a slower pace than codenext, that it would involve the -- sort of like a demonstration type plan and it would -- they were -- it would build on that. Is that the way it was set up?

>> As far as the demonstration? Yes, sir. It is going to be a community-involved project. They're going to have several design workshops with the community members, mapping and test driving, as Jim says, of several areas. And we need to go into the community and we had planned on doing walks with several councilmembers in their districts to examine what is working, what's not working, break down those elements of development and integrate those into the code. We believe that, you know, 2.5 achieved that balance approach to allow us to do that so we can integrate the sections of the code that are existing that are good that can be integrated nicely into the new form of the code regardless of the code structure, makeup of those elements are good and therefore, therefore, we're not having to rewrite those elements just because. And so from a staff perspective, we would be comfortable with 3 as well. If that's the will of the council, we would be able to do that. We would still examine the existing code and integrate those elements in as need be so that 2.5 to 3 to 2 is a very close analysis with the additional direction given by the council, the previous council.

>> I think if I could append to that, I think mayor pro tem was absolutely correct when she said functionally the action of the council before was just to guide sort of what the scope of services and so forth for the -- moving forward were.

[11:48:41 PM]

With regard to this item about, you know, develop implement time line for form based code, applying form based code to other areas, the council will have the opportunity. We will bring a draft code to you. If everybody is joining hands around this new code, you may go forth and, you know, apply it to a lot of places. You may say -- you may direct to us take a go slow approach. You'll have that opportunity. In some ways that's a decision that doesn't need to be made today. When you begin to seat products we're putting out there, you'll have the opportunity to say go fast, go slow, do it everywhere, do it in limited areas and so forth.

>> Casar: Committee members, I'd like to try to move this on to the -- us on to density bonus right before 7:00 if possible. My preference still is for us to not take action on this but I will accept certainly items from this committee if we do want to change approach for next month but I think our time is short. We'll make sure to communicate to the council that of course for councilmembers can bring forward an item or this committee will accept items if we want to change course, but I think June is probably kind of the end of the line on changing course before considering the contract negotiations with the consultant.

>> Gallo: We are referring it could council agenda with no recommendation -- from this committee?

>> Casar: Right now my recommendation for us -- considering that no action is just staying encores is for us to not pass anything onto the council agenda as a committee unless we have a particular recommendation.

>> Gallo: Well, I -- I think I would like to see this discussed on the council agenda because I don't necessarily -- what -- as I mentioned before, I think, given -- giving the stakeholders the opportunity to be able to contact and communicate with us on where they are with 2.5 versus 3.0, everything that I

have in my backup is prior to, I guess, the discussion of 2.5 because there's nothing in my backup that addresses 2.5 from the standpoint of letters from the community.

[11:50:58 PM]

So I would like to be able to allow the community members to be able to answer the question of are they still look at 3.5 or is 2.5 a valid negotiated state or do they want to stay at 2, but I don't know that I necessarily would agree with 2.5. So I'm a little confused with what we're doing at this point. I'd like to have this discussion with the full council and the full council to confirm that we either still want to move forward with 2.5 or that we want to look at some other option.

>> Casar: Certainly. We could take a motion to pass this on to council with no recommendation if that's what you chose to do. I would love to hear from the other committee members what their thoughts are. My continued preference is that if -- I guess that motion would be saying that we want to open up that conversation at the full council level and that we think that it's most prudent that the full council reopen sort of the comprises and notion period that mayor pro tem described. Are there any thoughts? Is that a motion?

>> Gallo: Do you want me to make a motion?

>> Casar: My continued preference is for us to which this in June if we want to send anything to full council, since we've just begun the discussion and not had much time to think it through. If you want to make a motion send it now, you don't always have to do what I prefer.

>> Gallo: No, no, no. I just think this is a discussion that the full council is going to want to be a part of. I think if we discuss it again in committee we will still have that same discussion with the full council and I think it's really important and since we have ten new councilmembers, my suggestion would be that at this point we send it to the full council for discussion instead of hearing it before our committee again so that the full council can then determine the action to keep this process moving forward.

[11:52:58 PM]

>> Casar: Okay. Well, I will take that as a motion to send it to the council's agenda. Is there a second? Okay. Well, I don't think you've -- you have a second from either of the committee members, and it looks like they're both apologetic for that. Any action or motion from anyone?

>> Gallo: So at this point is your plan to hear it before our next committee meeting?

>> Casar: If any member of this -- if any committee member would like it here this on the 18th I will gladly put it on the agenda like any other item brought up by the committee members. If there's a desire to revisit this on the 18th, I'll certainly accept that or, of course, council cosponsors two councilmembers can send anything to the committee or four councilmembers to the full council.

>> Gallo: Just to be clear, sorry to belabor this point, just to be clear, so no action at this point is an endorsement of the previous council's 2.5 decision and that's what staff would move forward with, taking that as a positive vote on our part?

>> Yes, if that's the direction of the council, yes, ma'am, that's correct.

>> Casar: Because council has recommended 2.5, no action on our part would essentially leave the contract negotiation where's they currently stand.

>> Gallo: Okay. Then would I like to us take a vote on that.

>> Casar: On 2.5?

>> Gallo: On 2.5 because, once again, my concern is that weaver talking about an alternate plan that I don't know that all of the stakeholders have conveyed their either support or lack of support of the negotiated to .5. I don't see that in the backup that I have. It seems like the conversation ended before it was heard before the council and the 2.5 was talked about and developed and approved or whatever

the process was.

[11:55:08 PM]

So that's my concern, is that I -- I would vote to not continue the process at 2.5 and bring that up for discussion again and ask that the community helps with conversation back to us that updates our October letters that are in our backup and so that we have more current information with the staff's recommendation of 2.5 before I would be comfortable moving forward with that.

>> Casar: So, councilmember, is that a motion for us to vote to -- sorry. A vote to endorse 2.5 right now or to not endorse 2.5 and send the item to council for full consideration? I think if it's the latter that may be what you just motioned a moment ago.

>> Gallo: Okay. What I'm hearing is that no action would be telling the staff to move forward, that we accept the recommendation, and I don't want to send that message.

>> Casar: Certainly.

>> Gallo: So my motion would be that we hear this, since I could not get a second on the motion to hear it before full council, I'd like for it to be placed on our next agenda for our council committee meeting so we give the community an opportunity to be able to give us communication on 2.5, which it sounds like is the staff's recommendation.

>> Casar: I'll support that motion. Is there a second?

>> Renteria: I'll second but, you know, there was a lot of concern about 3 because 3 was just a complete makeover and, you know, the neighbors put -- especially the neighbor associations were concerned about it. But I'm more than willing to go ahead and have it go in for discussion because I think we're going to have to have discussions on it anyway. So . . .

>> Casar: Mayor pro tem?

>> Tovo: So I feel a little strange about this motion because any committee member can put something on the agenda and so I feel I need to vote in favor of the resolution, but I guess I'm -- because that in essence is what we're doing, just putting it back on the agenda for next month.

[11:57:16 PM]

I would say I'm not sure we're going to have a discussion different from today because that in essence is what we did today really to discuss this issue.

>> Casar: Mayor pro tem --

>> Tovo: I'm happy to support further discussion. I would say if there's an interest in really reopening the discussion, probably the most efficient and fastest way to do that at this point would be to bring it to the full council with several other councilmembers because the time is tight.

>> Casar: And, mayor pro tem, the reason I think that it's important to indicate June 18 meeting, if councilmember Gallo so wishes, is because this was posted without very much fanfare or even north of several committee members and so I'm very open to having the conversation once more on June 18 and I may or may not be convinced that we should send an item to council for action for any sort of change. But I do think that some folks did happen to know we were discussing this today but I'm sure many others did not. And so I'm comfortable, rather than what's sort of behind -- just an e-mail, taking an item from councilmember Gallo indicating right now that we certainly intend to hear this on the 18th, to make that a little bit more public.

>> Gallo: Thank you.

>> Casar: All right. Are you trod take a vote?

>> Gallo: Do you want to restate the motion?

>> Casar: Yeah. So the motion is for us to reconsider this item on the 18th. Which is our next planning

and neighborhoods committee meeting -- or how about we will schedule this for the 15th, sorry, I'm getting off. 15th. I don't know what day of the week it is ever.

[Laughter]

>> Casar: So we will do the -- y'all can quote me on that. So we will just hear it how about at our next planning and neighborhoods committee meeting because my staff is going to get together with the committee members staff to see if we need to have two meetings and it seems to me considering the demands of hearing about Zucker and several other items that have been sent to my office that we may have to have either two meetings or all-day marathon meeting on the 15th.

[11:59:21 PM]

So can we have a modified motion just for our next planning and neighborhoods committee meeting? All right. All in favor, aye. Passes unanimously. Thank you, all. And our last item since councilmember Gallo and the mayor pro tem have to leave and this was at the request of the mayor pro tem, my hope would be to begin this item just by quickly detailing what it is that we would like to hear about at the housing committee meeting, if we rediscuss this item as a joint committee or just having brief discretion from the mayor pro tem.

>> Tovo: Sure. I appreciate that. And I'm sorry. There seems to be -- there seem to be a lot of -- I think this is one of the interesting challenges of having two committees that overlap in some ways. I'm interested in having a discussion about our existing density bonus programs and what it would take to convert them to on-site requirements from fee in lieu of requirements. So some of that work I know that you've been doing with regard to the planned unit development under direction from our previous council. There's a previous council resolution asking you to make some changes to the planned unit development ordinance, and I know that that's coming forward. So really that's the substance. I was intending to have a conversation here, prior to bringing forward a resolution to make some of those changes, and so I think the housing -- you've done some presentations at our housing committee about the density programs generally. It looks to me -- I really appreciate this background you've provided about the downtown density bonus program and I apologize that I'm not going to be able to stay very long having requested this presentation but that's really the very narrow interest I have amidst these other -- you know, the other -- beyond kind of a general explanation of the downtown density bonus program or planned unit development density program, all of which I think has been presented to the housing committee.

[12:01:26 AM]

I'm really interested in talking specifically about that issue. Moving toward requirement -- on requirements for on-site housing versus fees in lieu, and I'll recognize that we had a discussion earlier or we had some speakers earlier who seemed to, you know -- a few of whom were suggesting we actually consider moving from an on-site requirement on Rainey to fees in lieu, which just for the record I won't support. But, you know, this is -- that's really the substance of the conversation I wanted to have. And also an update about the planned unit development.

>> Renteria: And, chair, I really want to thank the mayor pro tem for bringing this up because I've been struggling with that issue and trying to figure out how to get this done where we can get some affordable housing there at Rainey, and, I mean, I've just been looking all over, trying to get that information, and I'm glad that you brought it up because I really want to learn a lot more about how we can correct this.

>> Tovo: Good.

>> Casar: Mayor pro tem, I think that in our original communications with city staff we were trying to

make sure that we directed staff about the fee in lieu versus on-site, but with the postponing a month and different issues, I think we're still working on make sure we're clear with what presentations it is we're trying to get. So perhaps our staff could just help fill us in a little bit less on the basics of how the downtown dense any bonus program was established and worked and maybe a little bit, if you have information prepared today, on just generally how many on-site units we've gotten recently versus how much in fees in lieu and on which projects and perhaps any reflections on what sort of action council may take or would be recommended to take to achieve the goals of the density bonus program and achieve, you know, the highest amount of either on-site affordable housing or fee in lieu.

[12:03:27 AM]

I think that sounds to me like the question we may want to continue talking about in this committee, housing, instead of going through your whole powerpoints, since we have folks that have to run, really zeroing in on that point would be very helpful.

>> Mr. Chair, councilmembers, thank you very much. Good evening, Jorge rousselin, I'm joined by my colleagues, Jesse cook.

>> I'm so sorry, I always mess that up and Sylvia

[indiscernible]. Yes, the scope of the presentation we have before you does focus and concentrate on the downtown density bonus program and the Rainey street density program. We're happy to bring you more specifics at a later date. If you wish to reexamine those. We are happy to discuss some figures for you that are also included in your powerpoint presentation related to the amount of affordable housing contribution that's to date are going to be expected, and the reason I give the emphasis on expectations is that the 1.3 -- over \$1.3 million we were expecting in affordable housing contributions will be paid out at the time or right before certificate of occupancies are executed for two projects that are listed in your backup. The third project, a hotel project, they would be paying a zero amount in terms of bonus fees for that particular project. And so to --

>> Casar: Then could we perhaps get that slide up, slide 17 is what we're talking about. That would be very helpful.

>> Thank you.

>> Casar: Thanks, you can go on. Sorry for interrupting.

>> No problem. Further more there's \$333,000 -- over \$333,000 committed to improvements for lower shoal creek that we are expecting also in the near future. Furthermore, the staff has done an extensive analysis of the Rainey density bonus program in terms of doing some modeling for projects that would provide you some information as to the type of developments that we're seeing that are aiming towards providing affordable housing units on Rainey street and also a fee in lieu.

[12:05:43 AM]

That's background information we can provide to you as part of a staff memo that has been prepared for council that will give you some specific information. But my colleagues are leer here to answer any specific questions related to the pud issue if you'd like to take those up at this time. Thank you.

>> Casar: Mayor pro tem, do you have a question?

>> Tovo: I have a quick one. I person it. Sorry to throw you for a loop and ask you to readapt your presentation. So I have some various and sundry pieces of paper here and there. So the question came up environmental about how many units had been created within the Rainey street density bonus program. So the Numbers you're providing us here are under the downtown density bonus program outside of Rainey.

>> That's correct.

>> Tovo: These are not -- I think the question I want to ask you, these are fees that are available to be spent within a certain distance but these are not units?

>> That's correct. None of these projects elected to provide on-site affordable units. The two projects, aspen heights and fifth and west elected to pay a fee in lieu for affordable housing contributions.

>> Tovo: Right. They have that as an option.

>> Correct.

>> Tovo: And chose instead to pay the fee.

>> That's correct.

>> Tovo: So we've create nod affordable units within those three projects as a result of the downtown density bonus program.

>> That's correct.

>> Tovo: And then you had answered a question, I think it was for the housing committee.

Councilmember Renteria had asked a question about the number of units created, and somebody on staff provided the information -- ah, here it is -- that the legacy at the lake has provided nine affordable units.

>> That's correct. So we provided two pieces that speak to the on-site units that have been developed or are in the pipeline to be developed within Rainey street.

[12:07:51 AM]

The two developments that respond to councilmember Renteria's question have been completed and the units are leased. And then overall, units that are completed and units in the pipeline, there are 51 on-site unities through the Rainey street density bonus program. However, all of these units fall under the original Rainey street requirements, not the amended requirements from 2014. So the affordability terms are one year rather than the 40 years that are now required.

>> Tovo: Ah, op okay. The paper I'm looking at says nine units at legacy on the lake, 16 at skyhouse. That would mean there are another 26 in the pipeline. But they all are required to be affordable for just one year?

>> That's correct.

>> Casar: Affordable rental for just one year?

>> Rental or ownership.

>> Casar: Okay.

>> Tovo: Okay.

>> Casar: Mayor pro tem, I think one thing that would be helpful for me, and I know that it's not always apples to apples but having some idea of what the -- given a certain density, and maybe using some of these projects as a case study, how much knee lieu would be required if they chose the knee lieu option versus how many affordable units would be required, that way we can have some -- committee members let me know if that makes sense but I think it's level if we're going to be having a discussion about whether we want to adjust the fee in lieu or remove it, to have some idea what have the number of affordable units would be required on that project for that level of density so that we have something to compare and then also for us to have some idea about why folks are choosing the fee in lieu option rather than the on-site option.

>> Tovo: My guess of why they -- sorry, I should wait to be recognized.

>> Casar: You're recognized.

>> Tovo: My guess about why chair choosing the fee in lieu rather than construct the units is it just is far cheaper.

[12:09:55 AM]

>> Casar: Understood. I think it would be helpful to be able to do the math and find out exactly how much cheaper. If we are choosing to calibrate the fee in lieu or remove it, that we have a little bit more to work with rather than exactly which contributions it is that we got.

>> Tovo: Got it, thanks.

>> Casar: And do we know if there have been more projects developed in Rainey street area that have asked to be constructed in the Rainey street since the 2014 adjustments and it sounds like none have been residential that have taken use of density bonus but have we gotten residential had a has chosen not to take advantage of the density bonus program or non-residential use? N.

>> I'm not aware of. The projects constructed now were in the pipeline before the 2014 amendments, am I correct?

>> As far as I know.

>> Casar: You're right, it's been a small window, just a few months.

>> Right. So to our knowledge, no new projects have come in since your 2014 amendments that you passed last year.

>> Casar: I imagine that we have some good information on downtown construction costs for units so that we can compare them and look at the calibration between the fee in lieu and the on-site options.

>> We, do Mr. Chair. In the staff memo that includes a report from economic planning systems that we hired as a consultant last year to be able to provide you that information, that does address the cost of construction and also the cost of providing on-site affordable units. So we'll be happy to share that with you.

>> Casar: Great. Also I imagine we want to take a look at the cost of building the units that -- using the affordable housing trust fund, the affordable housing fees to construct so that we can make a good value judgment about whether we prefer to use that moneys that fee in lieu that may be outside of the downtown area and really weigh the cost benefit of how much we prefer an on-site unit that's in downtown versus how many more units we could get just outside of downtown so we can make the most reasonable calculation.

[12:12:04 AM]

I think it's a value-based judgment this council has to make about whether we want to see these units occurring downtown or perhaps some greater number happening outside funded by density bonus. So thanks for bringing the item up, mayor pro tem, and I think that, you know, while would I prefer to continue discussing this item if you do have an item in the committee, I completely respect your ability to get four cosponsors and bring it directly to council but I'm glad we got to talk about it a little bit now and I'll be looking for that staff information to make my best judgment call on the changes that you'll propose.

>> Renteria: Can I just --

>> Tovo: Go ahead, whoops, sorry josh you --

>> Renteria: When you amended the resolution you're saying there's been no affordable housing because no one is taking advantage of it?

>> That's since the 2014 amendments, councilmember, in the Rainey street area.

>> Renteria: So is this latest project, are we still ceiling some of those affordable housing coming in?

>> On the two projects that we were talking about?

>> Renteria: Is there a new project that's going in? Are there -- are they providing any affordable housing?

>> They are required to provide certain affordable housing units under the density bonus program that was in place prior to 2014 but it's my understanding that's a one hive year term. Is that correct? So they

are providing affordable units, but only for a term of one year versus the new changes that were made, that is a 40 year for a rental and 99 years for ownership.

>> Renteria: That's a new change?

>> That's correct, as of 2014.

>> Renteria: As of 2014. Has anyone taken advantage of that?

>> Not that I'm aware of on Rainey street.

>> Renteria: Okay. And what would it take to change that?

>> It would be a code amendmnt to remove the option for fee in lieu, and we could provide you specific language that identifies the code sections that you would want to look at and that the council then can take up in terms of discussing which areas you want to move or if you want to specify certain districts for downtown that you only want to apply the affordable units, the provision of the affordable units or you can just do an entire revamping of the program that includes both the downtown and the Rainey street to remove that option for the fee in lieu and require any projects wanting to go through the density bonus program to provide on-site units.

[12:14:39 AM]

>> Renteria: Chair, I wondered if I could request that from staff, to get us that information.

>> Casar: Yes, absolutely. I think that having various options and even a recommendation, if the staff has any recommendations for calibration of those fee in lieu or on-site, both -- is that both for downtown density bonus program and for the Rainey street area?

>> Renteria: Especially in Rainey.

>> Casar: Especially Rainey? I think an important follow-up question to one of the questions you asked, councilmember, is that under the new 2014 guidelines for Rainey street there hasn't been a production of on-site affordable units but there also have been no fee in lieus either, as in no one has taken advantage of the program period.

>> That's correct.

>> I was going to say there is no fee in lieu option on Rainey street.

>> Casar: Okay.

>> They must be on-site units.

>> Correct.

>> Casar: Okay. And so when you suggested removing the fee in lieu option you meant to the downtown density bonus program.

>> That's correct.

>> Casar: Okay. And I would be interested in understanding if there are -- if there's enough incentive for folks to take advantage of that program or not, which is the reason I asked the question are we seeing new residential development in Rainey street since those changes, and I know we only have a short window to really observe that, but I think that would all be helpful. So I think the direction for information from staff is just your recommendations on fees in lieu and on-site affordable units, and I know that y'all have already sent us a memo. If you already sent it to us, send us an e-mail saying check your e-mail boxes, guys.

>> No. We'll be happy to provide that information to you, Mr. Chair, councilmembers. You also see in that report we have from our consultant that there are outside factors that influence into the provision of these affordable units that go beyond the scope what have even the council can do in terms of regulations, that have to do a lot with quite a bit with market dynamics, cost of construction, so on.

[12:16:44 AM]

>> Casar: I understand. That's why I think that having some understanding of whether we're calibrated right for the next few years based on where we see the market going or wrong is -- would just be helpful information so that we can not just be making changes based on our gut for today but, you know, where y'all and we as a council see things going. And, mayor pro tem, I think you had one question and we cut you off.

>> Tovo: No, no. That's fine. So I have two different charts that look like this. And they're both -- this is very helpful, and I think we had an opportunity to talk about it very, very briefly at our last committee meeting, but it's very helpful to see the different density bonus program and whether they allow for fees in lieu or require on-site and cite the specific ordinance. But they don't -- I guess I would ask whether they -- they don't seem to necessarily match some of the other information, and I'll just say the first column is density bonus program and at the end, in the column for fee anticipated and received, it says zero. But that doesn't --

>> Councilmember, I believe that you have an older version. Your full chart is an older version that does not reflect the fees in lieu from downtown that we are now anticipating.

>> Tovo: Great.

>> In your more current version is actually shortened, it doesn't have all of the rows because this smaller chart then summarized the on-site and fees in lieu. We thought it would be easier for -- more readable in the smaller version.

>> Tovo: They both say current as of September 2013, but from what I hear you say, the more recent one is the one that does not have information about units and fees.

>> I believe so. And the version that I have, it doesn't have that 2013 date.

[12:18:48 AM]

So --

>> Tovo: Well, I wonder if I could just ask that you distribute the most recent one to the committee members, and it would be very helpful to have that information about the number of units created and/or the amount of the fees, and I think that information exists in other places that you've provided either the housing committee or our committee or in some other format. So just having that before us as we have that discussion would be super. Thank you.

>> Casar: Thanks. Any other questions? Councilmember? Thanks to each of y'all and we will do our best, if we are going to follow up in committees, to coordinate between housing and planning and neighborhoods so that we don't have y'all doing this so many times, and I definitely take a good chunk of the blame for that. We'll do our best to corral y'all.

>> Thank you, Mr. Chair. Appreciate it.

>> Casar: Thank you. The last item on our agenda is to discuss future committee items. The -- currently, on our agenda, I believe we will have the concrete pouring back on our agenda, we will have the codenext 1, 2 or 3 option changing course on the codenext rewrite on our agenda, P. We will also have the -- final discussion on the cag membership and thousand move it forward past September on our agenda because councilmembers have expressed an interest in getting a recommendation from us on that so that they can make their appointments before it expires in September. We have adus on the agenda, the -- update on Zucker and on Mueller and councilmember Gallo requested a couple more briefings so we're three or four times as crazy as today.

[12:20:55 AM]

So what my staff doll is touch base with each of your offices to see which ones of these items we can move to after the summer break, but I think that several of them are pressing enough that we do need

to hear them so we may either consider one longer meeting that starts earlier in the day. I know that at least one of you have audit and finance, so we will have to sort that out. I personally think I have to get out of here by 8:00 or 9:00 P.M. That day so we may have to start earlier or have two meeting dates considering how much work we have to do. My staff will touch base with y'all on each of those. Is there any item that y'all think is particularly urgent to be added to that list?

>> Renteria: I can tell you one thing. Those two items that -- the concrete and the -- that's going to be enough to fill up probably two hours of our discussion, if not three.

>> Casar: Then we have ads and Zucker.

>> Renteria: It's going to be pretty --

>> Casar: It's going to be fun.

[Laughter]

>> Casar: With that, I assume that y'all will moderate requests for additional items and we will sort out, if we can cut a few of them out, push a few back, and even still we will probably have to have either an elongated meeting or two meetings or both. Okay. Well, thank y'all so much and with that, unless anybody objects, we'll end this committee meeting. Thank you.

[Meeting adjourned]