

City Council Regular Meeting Transcript – 09/17/2015

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[10:32:24 AM]

>> Mayor Adler: Good morning. Are we about ready to get started? Today is Thursday, September 17th of the year 2015. We are in the Austin city council chamber, which is 301 west second street in Austin, Texas. It is 10:33 and we're going to go ahead and begin this meeting, a quorum being present. And we're going to begin with the invocation from reverend Tony roebuck. Is the reverend here? In the absence of an invocation and only because these meetings start better I think when we have a moment to yourselves, we'll just take a moment just to pause before we begin. Okay. Thank you. All right. Council we have changes and corrections today. Item number 8 was reviewed by the public utilities commission on September 16th of 2015. Items number 29 and 89 have been withdrawn. Items 68, 69, 70 and 71 have four sponsors, me,.

[10:34:31 AM]

>> Mayor Adler:, councilmember Casar, councilmember kitchen, councilmember pool. And then also item number 79 is postponed to October 15th of 2015. We have at this point set zoning and neighborhood plan amendments at 10:00. Citizens communication at noon. We have set the str hearing to start no earlier than 2:00. And we can discuss specifics of that. We have item number 77, which is the solar generation request for a 6:00 P.M. Time certain. Won't start any earlier than 6:00. This afternoon. We have public hearings at 4:00. We have the live music and proclamation at 5:30 and we have the singing waiters with us this evening. We're now going to go through the consent agenda items to see which items have been pulled. I'll read through the ones that I see as being pulled and then council, you can add to this list and clerk. I have item number 8 being pulled by citizens. 18 being pulled by Garza. 20, 21 and 22 pulled by Mr. Zimmerman. 25 and 26 pulled by Ms. Gallo. 29 as we said earlier is withdrawn. 33 is pulled by Mr. Zimmerman as is 35 and 39, which also is pulled by citizens. We also have item 50 pulled by Mr. Zimmerman. Item 54 by Mr. Zimmerman. Items 56, 57, 58 and 59 pulled by Ms. Gallo.

[10:36:33 AM]

We also have 67 pulled by Mr. Zimmerman, 68 by Ms. Gallo. 69, 70 and 71 pulled by Ms. Gallo.

69 also pulled by Mr. Zimmerman. Those are what I see on the consent agenda. Are there any other items to be pulled? Ms. Tovo?

>> Tovo: Would you mind running through those quickly again?

>> Mayor Adler: The items being pulled or withdrawn are items 8, 18, 20, 21, 22, 25, 26, 29, 33, 35, 39, 50, 54, 56, 57, 58, 59, 67, 68, 69, 70 and 71.

>> Gallo: And mayor, I mentioned we were going to unpull 71. If that is a word.

>> Mayor Adler: All right. With respect to items 68, 69, 70 and 71, these are the four items on our hires. Last Friday it was pointed out to me by Dr. Washington that we had not addressed the across the board pay raise for city employees for all city employees, that four city employees were not included in what we had done because we did not deal specifically and directly with our four hires. In a conversation that Friday afternoon, because I was not in the office, I was off site, with the manager, we discussed how to handle this issue that had been raised by Dr. Washington.

[10:38:35 AM]

I suggested to the manager that he just post it on the agenda as an item with his posting. He very understandably said that he didn't feel that that was the right thing to do because it also concerned him. We talked about me posting it, but at that late in the afternoon being off site I wasn't going to be able to come up with four sponsors to do that. The decision was made to just post it on the agenda with the understanding that I would then go get four sponsors for it. And with the additional understanding that if anybody on the dais wanted to pull that off and have that heard later, we would go ahead and do that. As a council under our ordinances we have the ability to consider things that comply with the open meetings act, but did not comply with the ordinance requirements but that it also takes four people to post something. But the ordinance begins with procedural directive that says that action taken by the council which is otherwise proper and lawful does not have to comply with those. There may be a time in our future where we have exigent circumstances where we're going to necessarily need that ability. This is probably an item that does not need exigent circumstances, so we could put this off until next week. And in this case I'm going to ask if anyone objects to handling those four items this week and if they are, we'll cost them and bring them up next week. So does anyone prefer that we consider those families next week.

-- Those items next week.

>> Tovo: Mayor, I guess given your explanation I'm comfortable with it moving forward, but I would like to be very clear -- I think we are required to have four sponsors and we need to make sure it doesn't happen again.

[10:40:53 AM]

>> Mayor Adler: Not so much a misunderstanding, but we posted it because it seemed like something that this council might want to consider. Again, if anybody on debit as, because you're absolutely right. All of us have the same responsibility to find four sponsors in order to have something put on the agenda as a matter of right. Ms. Houston?

>> Tovo: I was saying misunderstanding because you thought like the staff might be bringing it

forward, but it was a variety of other things. I know we already have an opportunity of doing an addendum if something happened to the Friday agenda that needed straightened out. I would just ask that we follow up on that going forward.

>> Mayor Adler: Point well taken. Does anybody want those four items to be considered next week as opposed to this week? They'll stay on the agenda. All of them have been pulled except for item number 71. 71 is the one that concerns the clerk. Okay. So the ones that are pulled then are 68, 69, 70. Yes, Ms. Pool?

>> Pool: Mayor, I wanted to speak to item 67. Mr. Zimmerman pulled that and I want to thank him because I think it was in order for me to give an opportunity to offer a little bit of information on it that may have been missing. And then I was going to see if that would be the will of the dais to put that back on consent. But if I may give a little bit of information on item 67. So item 67 relates to the community engagement task force, which was one of the first resolutions that this council passed back in I think our first meeting back in January. And I was honored to have as my three co-sponsors on this item councilmembers Gallo, Renteria and Houston. I believe it passed unanimously. So what we have found since the time of appointing all of the people to this task force, it took longer to get everyone assembled and the six-month time frame that we had originally envisioned to be over by the end of July, actually that was when the task force was assembled with a quorum and started its work.

[10:43:12 AM]

So staff pointed out a coupled of items that we needed to address relating to that and then the task force itself brought one item to us. So the two items that staff pointed to our attention were to extend the timeline, the six-month timeline from July to January of 2016 to give the task force time to complete the charge. And they are meeting every other week, I believe. They're working on a very aggressive timeline. And to dissolve the task force when the council accepts the task force's report, that item had also not be specifically included. And then to the request of the task force, they were looking for greater flexibility to accomplish their goals while still remaining open and accessible to the public so what the -- the solution that was offered by our legal staff was to relieve the task force of strict compliance with the open meetings act, meaning that they still post and still conduct the meetings in open, but they will be able to conduct breakout discussions during the meetings to maximize their time. They will break into smaller groups to talk about issues. Operate on a consensus-based process. And to include the kind of engagement tools that we were hoping to highlight and bring into broader use by the city, which would be alternative communications and engagement tools like virtual participation, online message boards and resource sharing. Those were the reasons that we have this back in front of us. And I would be happy to answer any questions or legal staff is here.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: I'm okay with dealing with this item now if we'd like to do that. I guess the reason I pulled that is because we have a little opportunity to talk about the four-member committees that we have and our obligations under open meetings and there have been a couple of instances where there's been some confusion about our ability to meet and discuss things outside of public meetings.

[10:45:24 AM]

Let me give you a great example. The public utility commission, when we were dealing with the watershed changes for the drainage fee and talking about impervious cover, we had some very detailed technical discussions about how we would -- how we would do the formula, how we would do the math. And I'm not alleging at all -- there were no special interests involved, but the public was not there and we did have some very detailed discussions that led to some policy decisions. So -- there's a lot of flexibility you can get in not having to strictly have every meeting comply with open meetings act. A lot of flexibility and our committees to a point seem like they're taking advantage of that with staff, but when it comes to the general public, then we can't have those kind of meetings. So that's to me the kind of confusion is we are having some meetings even on our committees that are not posted and open to the public where we're discussing policy with staff, but then there's a feeling we couldn't do the same thing with people who aren't staff.

>> Mayor Adler: I think that we had conversations -- let's keep this item pulled so we can come back because obviously this is a longer conversation. So we're going to keep that one continue to be pulled. We have some speakers that have signed up to speak on the consent agenda and I'm going to recognize them now. Lisa rose? Is Lisa rose here? David king, you can speak on the consent agenda. Lisa rose had been signed up on number 7.

>> Mayor, is item 67 on consent also or are we going to have a separate discussion?

>> Mayor Adler: 67 has been pulled. There will be a separate discussion.

[10:47:26 AM]

>> Then I'm speaking on items 74 and 75, which I believe are on consent, is that correct?

>> Mayor Adler: 74 and 75 are both on consent.

>> I realize these are both to set a public hearing, which I have no objection to setting a public hearing, but I want to speak to item 74 --

>> Mayor Adler: The ones that I have you noticed on are different than that. I have you on 79.

>> I'll be very brief. 74 is an important item. It closes a loophole that was creating problems for homeowners who purchase McMansions and then would do what every homeowner would want to do, put a garage door on their carport and then they get caught in this loop or this problem where now they're violating the ordinance. So I think this is important to fix that problem. I hope that gets approved, number 74. Number 75 about waiving the requirement for 300 feet between businesses that sell alcohol and school. I just think that we should again draw a line in the sand and say that we're not going to do this. I don't understand why we have this rule if we're going to allow variances from it. What's more important than our children and to set a good high expectation and goal for them. So I think this is the wrong thing to do. And although this is not the public hearing itself, I think we shouldn't be doing -- granting these variances. Thank you very much.

>> Mayor Adler: Mr. Pena?

>> [Inaudible]. Is this item number 2?

>> Mayor Adler: This is speaking on the consent agenda? I have you on item 34, which is

Westgate ridge.

>> I thought I had number 2 also.

>> Mayor Adler: Number 2 is not on the consent agenda.

[10:49:28 AM]

It is part of the discussion.

>> Thank you. Mr. Mayor, Gus Pena, proud native east Austin and proud United States Marine Corps veteran and proud uncle to jasmine. Say hi. She's better looking than me. Anyway, I just wanted to say, you know, we have a lot of the homeless population is growing. I think this is about housing and credits. We're giving too much and we're not receiving enough. Mayor, I'll be honest with you, I know what's going on in my community. I've been in Washington. I just spoke to the secretary of veterans affairs today. Secretary of hud Castro is a good friend of mine, San Antonio. I apologize for them not correlating with a meeting that you and Watson, senator Watson had regarding the housing of the veteran that was homeless with his family. The concerns that we have, and I bring these from veterans, veterans from progress, I'm the co-founder, is that we're giving away too much and not receiving enough. We have a lot of units allegedly credits going to housing. It is our tax money, our tax money. Not just y'all's, not just you, the rich people, but the poor people also, they pay taxes. Let'sing more wise and prudent and in what direction we give money too. Another thing also, Mr. Mayor, I'll say it very, very professionally because he's here. I'm a former eeo discrimination complaints investigator. I heard there was a complaint about me last week. I speak the truth. I don't slander, I don't defame anybody. That's illegal. But I tell you something, I don't apologize for my words when I stand for the people who will not come and speak to y'all about the issues and the hurts and lack of values and lack of support. So having said that, like my dad said, [speaking in Spanish], throw a stone, hit our head, guilty as charged. So what I say is this I have veterans who will support my statements and my comments and also the secretary of veteran affairs McDonald and hud and also the chief of staff Barack Obama, we met personally. Anybody have a problem with Gus Pena, let's go talk.

[10:51:31 AM]

And if you want to I'll take legal action. Nothing illegal was stated. I am for the people. I've been doing this for 42 years. Way before Roy butler was appointed mayor. He was the first elected mayor of the city of Austin. I want to thank y'all very much. I know sometimes I get out of hand, but I do it for her and anybody else that's in poverty. And Mr. Ott, thank you very much for hearing my comments, but other issues, you're a good guy, I appreciate you very much and I appreciate each and every one of y'all, even though sometimes I don't agree with y'all. And Mr. Lee comes forward with some issues and sometimes I support him, but anyway, we need housing, we need responsible housing, affordable housing, this town is too expensive. Thank you very much and thank you for saying hi to jasmine. Say bye. Have a good day. Thank you.

>> Mayor Adler: Those are all the speakers we have speaking on the consent agenda. Is there a motion to approve the consent agenda?

>> Casar: Mayor, quick question. Did you say number 16 was pulled or on consent.

>> Mayor Adler: I'll go through one last time for the consent so we know the items that are pulled.

[] The consent agenda goes from items 1 through 76. The items that are being pulled are number 8, 18, 20, 21, 22, 25, 26, 29, 33, 35, 39, 50, 54, 56, 57, 58, 59, 67, 68, 69 and 70. Okay?

>> Zimmerman: Mr. Mayor, I made up a list of a few things I want to abstain from.

>> Tovo: Mayor, I think item 2 was pulled for speakers. There were three speakers.

>> Mayor Adler: Yes, yes. Sorry. Item number 2 is also pulled for speakers.

[10:53:32 AM]

>> Casar: Mayor, it's three speakers that pulls an item or two?

>> Mayor Adler: Two speakers pull an item.

>> Casar: So 16 is pulled for speakers because there's two.

>> Mayor Adler: Number two is pulled by citizens. I guess people are coming in and signing up and the Numbers are increasing. So number 2 and number 16.

>> Casar: My understanding was that we could probably dispense with 16 quickly and that's why I thought we were going to run it on consent and have a speaker and get it done with. But if it's pulled by speakers, then it's pulled by speakers.

>> Mayor Adler: That sounds good. It's been pulled by-- were you telling me it was pulled by speakers. So that also is being added to the the pulled list.

>> Casar: I had seen just one speaker on it so I thought it would be on consent, but it's not.

>> Mayor Adler: Is there a motion to approve the consent agenda? Did you want to say something?

>> Troxclair: I just want to be shown as voting no on items 3, 45:00.

>> Mayor Adler: I want to get a motion and a second and then I'll read in Mr. Zimmerman's -- a motion to approve, is there a second? Mr. Zimmerman. For the record, Mr. Zimmerman should be shown -- let me do this real fast.

[10:55:41 AM]

Mr. Zimmerman should be shown as voting against 3, 4, 5, 6 and 7 -- 6. Abstaining on number 7. Abstaining on 10, 11, 12, 13, 14, 15 and 17. Voting against 19. Abstaining on 23 and 24. Abstaining -- voting against 27. Abstaining 28. 29 is withdrawn. Abstaining on 30, 31. Abstaining on 34, 36 and 37. Abstaining on 40, 43 and 44. Abstaining on 52, 53. Abstaining on 60, 61 and 62.

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

>> Mayor Adler: Thank you. It's been moved and seconded to pass the consent agenda.

Discussion? Those in favor please raise your hand. Those opposed? And it's unanimous on the dais. That is the consent agenda. Now let's see. We were having luck doing this before in terms of calling up pulled items that we thought we might be able to handle quickly. So let's try our -- let's try that. Ms. Gallo?

>> Gallo: I just wanted to address the reason for setting the short-term rental conversation to not start before 2:00. I want to say when we have a time certain it doesn't mean that it will start at that time, but it won't start before that time. It's obviously a topic that we have lots of

the community that wants to be present for and we just figured rather than that community have to sit here through the entire council meeting today, if there was a narrower amount of time that they could be present for, that would be helpful for their daily schedules.

[10:57:54 AM]

There was some conversation about making it at 4:00. My guess is that even if we were to start at 2:00, which usually we don't even on the time certain start at the times they're set for, that the conversation would easily last for a good two hours so that the people that could not be here until 4:00 would be able to get here during the conversation. And the citizens communication is limited because it is already been to a council committee meeting, so the opportunity for citizen communication is part of this is very limited to begin with. So just to explain why the 2:00 time was requested. I think it is going to be a long conversation and the goal also with setting it close to 2:00 is hopefully we could get through the entire conversation on that agenda item before we break at 5:30 to citizen proclamation and not have to divide the conversation up and delay it for an additional hour as we break for music and proclamations.

>> Mayor Adler: So let's have that conversation now, if we can, with respect to public hearing on a couple of these matters so that people can know. We have one item that's on our agenda that went to committee. It was the solar item. It was item number 77. Add R. As the council will you will recall we considered that in committee. We considered that in the Austin energy committee, but since we were pressed in the Austin energy committee meeting because we were also trying to take care of budget things I asked those folks if they would forebear from discussing it at that meeting. So they did not get the chance to debate at that point. I appreciated that forbearance, but it's my intent to call all 11 people who have signed up and give them the opportunity to speak on the solar energy item when that comes up tonight because they didn't get a chance to speak at the committee hearing. And I appreciated that accommodation. On the str issue that's gone to a committee, the default would be four people on each side as limited in the ordinance.

[11:00:00 AM]

So unless the council changes that, that's what we'll be doing there. No comments, we'll then proceed. Let's see quick things that we might be able to knock off on our agenda. If anybody has pulled something that they were thinking that they just had a quick question on or wanted to make a statement on, now would be the time to do that. Does anybody have any of those? Ms. Gallo.

>> Gallo: Items number 25 and 26, it really is more of a question on the budget funding since we just got finished with the budget. And my question of staff, and it's the same question for both agenda items. So in these two particular items, it does say that the fund -- the initial -- the funding is contingency on the funding for 2015 and 2016. That implies it actually was not approved as a budget line item, so if that is not correct, could you help me understand why that comment is different from a lot of the others where it is already in the funding for the fiscal year.

>> Stephanie Hayden, health and human services. When we are preparing requests for council

action items, if we are in the current fiscal year of that item and the budget has already been approved, then the language states that it has been approved. When we launched this rca, we were going through the budget process, staff has about a four to five-week out process before we're able to launch.

[11:02:11 AM]

So therefore the budget had not approved. As you know, the budget was approved last week so that is why that language is there.

>> Gallo: So these -- these two items were actually approved within the budget that we just passed.

>> Yes, ma'am.

>> Gallo: Okay, as line items within that budget.

>> Yes, ma'am.

>> Gallo: Thank you very much for that.

>> Mayor Adler: Those answer your questions? Is there a motion to approve items 25 and 26 on the agenda in Ms. Gallo makes that motion. Is there a second? Ms. Houston seconds those. Any discussion? Those in favor of approving items 25 and 26, please raise your hand. Those opposed? And Mr. Zimmerman abstains. The others voting aye. Anybody else have anything on this agenda they think they pulled that's going to go quick? Ms. Gallo.

>> Gallo: 56, 57, 58 and 59, also questions of staff and also a question of mayor pro tem tovo because I think

[inaudible] Go through her committee.

>> Mayor Adler: These are contract items.

>> Gallo: All four of these are looks like I.T. Contract items and I'm trying to understand with such a large amount -- I think my math, I'm not sure where my math is at this point, but I think it's close to \$100 million for the four. So my question is that is such a large amount, I'm curious if the department reached out to the committee chair of audit and finance to -- to see if those items should have perhaps been put on the committee agenda first before coming to council. And so I just wanted to once again understand kind of the process that we look to as a council as using the committee structure with the departments when we're looking at such large expenditures.

[11:04:21 AM]

>> Councilmember Gallo, mayor, councilmembers, James Scarborough, purchasing. The items in question are annual dir authorize or aggregate authorizationss that's department of information resourcing. These are cooperative contracts created by the state of Texas and made available to all state departments and Texas local governments. We use these contracts very extensively to cover the preponderance of our I.T. Contracting needs throughout the year. When we develop the estimates upon which to bring forward the items for authorization, we need to look at the past year's consumption to determine what their correct amounts are. And so if we start too early, we're having to look back at the prior fiscal year. If we start too late, then we run into timing issues associated with when the items come forward. So there's a

sweet spot where we start requesting information from the departments that occurs in the mid-to-late spring, which is what happened this year. We gathered up the information from the departments in terms of what their anticipated spend would be for software, for hardware and for I.T. Services. When we receive the Numbers and in reviewing the dir contracts, we thought it would be more prudent to go back to the departments and request their consideration to reduce the Numbers. In reflecting upon past years' consumption and what the -- what our trend has been in terms of pulling out the very large items and having them authorized separately by council, we thought it would be safe and prudent to bring forward a lower number than last year. So we went back to the departments in the late may, June period to request their reconsideration of the Numbers. They reduced the -- the amount of their request. From last year it was a 14% reduction from the amount that was requested and authorized last year.

[11:06:24 AM]

So when we had the Numbers ready, we took them through a series of -- of advisory committees including the electric utilities advisory committee and the -- the -- was it wastewater? Excuse me?

>> [Inaudible].

>> Water commission. And the latest of which occurred last week. So having gone through these committees, it contributed to the timing of this -- these items.

>> Gallo: Okay. Thank you pore the description of that and I always appreciate reductions in the budget. I think we all did this year. But once again, I think the basis of my question was to pull mayor pro tem tovo into the discussion. I understand you went before two commissions, but it doesn't appear that this went through the council committee that might have been appropriate to go through before coming to the council because your description I think would have been very valid going through that committee so they can make a recommendation. We're still trying to understand the process and when there is a gap, I just want to understand if there's a particular reason why and just wanted to give mayor pro tem tovo the chance to speak about this.

>> Mayor Adler: Do you want to respond?

>> Tovo: Sure. Early on we had conversations at council and committees about what kinds of items would be appropriate to go through and I know there was some interest in having contracts of a certain size go through the audit and finance committee. At this point that has not been our practice and I'll wait for a majority of the -- of my committee to tell me otherwise, but we have so many issues on our agenda each month at audit and finance that really require our significant deliberation that at this point I've offered some guidance to the staff that they don't need to bring contracts through our committee. I think that given the conversations at council it seems appropriate if there's a new contract method or new purchasing method that they feel could raise questions it should go through audit and finance.

[11:08:40 AM]

Unless there is something really out of the ordinary, I've offered them the suggestion they just proceed on to council. Again, unless the majority of the council committee tells me otherwise,

that's going to be my guidance. The contracts that seem to raise questions at the council are -- a few having -- I think we would have questions anyway at council so it didn't seem a productive use of committee time. I hope that helps.

>> Gallo: Thank you. I just wanted to make sure that there was a purposeful reason for it coming straight to council.

>> Tovo: No, I really appreciate that question. It's not something we've had an opportunity to cycle back around to at full council. If it's a strange contracting, a new method, a new kind of proposal that the council hasn't considered before as a policy that's more of a policy-related question, they should come to audit and finance. Otherwise they should proceed on to council.

>> Mayor Adler: Okay. Is there a phog to approve -- Zimmerman Mr. Mayor? I wanted to have a discussion about asking the council to put this to committee. I wanted to move that we consider moving these four items to the next committee that might hear it. Might be economic opportunity, might be audit and finance, but -- my motion is to consider moving these items to committee.

>> Mayor Adler: Mr. Zimmerman moves to take items 56, 57, 58, 59 and send them to committee. Is there a second to that motion? I'm sorry, Ms. Troxclair, do you have a question?

>> Troxclair: I was just going to -- first of all I was going to say since these are technology related, I don't think we've had a chance to discuss any items from staff that have to do with our large technology purchases and economic opportunity committee. So I know being a member of the audit and finance committee the schedule is always packed, but maybe this is something we could have on our next committee so we could talk about the large upcoming technology purchases.

[11:10:51 AM]

But these items in particular, can you tell us what -- if we were to hear these specific items at our next hearing which I think is three weeks, if that would cause any problems?

>> Sure. Mayor and council, Steven

[inaudible], the chief information officer, communications and technology management. This contract gives us the authority to -- this is not saying we're going to go out and make purchases right away, but some of the things on the list need to acquire -- need to happen right away. So we have maintenance contracts that are due to expire at the October time frame and we need to renew those contracts, otherwise we're going to put the city at risk of having equipment that is not supported, out of warranty and I don't think that's a position we need to be in.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Quick question. Of those ones expiring, it's not tens of millions of dollars of contracts expiring in a couple weeks, is it? Is it tens of millions or millions of dollars or hundreds of thousands of dollars?

>> No, I'm pretty sure we're talking about in the millions of dollars. Because a lot of our contracts they start -- we put them on our fiscal year cycle so that they are due to expire at the time the money becomes available. And so I would have to go back and pull the Numbers, but we do have some systems that are going to go out of warranty, out of support, out of maintenance at that September 30th date.

>> Zimmerman: We've been in a situation many, many times where we get something that's

tens of millions of dollars that we haven't had a chance to look at. And this may be the best deal for office 360, cloud -- might be the best deal that we've ever seen, we just don't know. We haven't had a chance to look at it.

>> Not all the items on the list would actually -- would bypass the council. There's things -- I think we could go to the -- the commission that you are recommending and talk about some of the items on here, but I think it would be an issue for us to delay approving this and put us at risk of not renewing some critical systems.

[11:12:59 AM]

>> Zimmerman: I appreciate that, but I have an issue with these things coming to us with a short time fuse, oh, something is getting ready to expire in a couple weeks, you've got to approve this huge amount of money today. I've got a huge problem with that. I think it needs to go to the committee.

>> Houston: Well, I just wanted to ask a question. Didn't you come before us during the budget process and give us an overviewen a kind of talk about some of the systems that we're going to require at the end of the fiscal year?

>> We talked about some applications. I did talk about that when I did the budget briefing. The applications that were

[inaudible] That were end of warranty. But there are things I did not talk about such as servers. I didn't talk about those things, but those things are also things that are on the list that we could a I inquire or procure through the dir contract. It's citywide. Also Austin energy contracts, just a cycle that we've been on for a long time. We are on an October to September cycle.

>> Mayor Adler: Mr. Zimmerman has moved to postpone this item. Is there a second to that? Zimmerman was to refer to committee.

>> Mayor Adler: I'm sorry, to refer to committee. Is there a second? Seeing none, is there a motion to approve these four items? Ms. Houston moves, Ms. Tovo seconds. Any discussion? Those in favor please raise your hand. Those opposed? Mr. Zimmerman abstaining. Those were items 56, 57, 58 and 59 are all approved.

>> Zimmerman: Mr. Mayor, I think I have a quick item on number 50. It's just questions. I think officer manly was here. There he is. This regards the interlocal agreement for U.T.

[11:15:12 AM]

Thank you, Mr. Manly. I just wanted to get your testimony on this again. I think I wanted to offer an at a boy because it looks like you've brought the interlocal agreement itself. This looks like it is the agreement.

>> Yes, sir, it is.

>> Zimmerman: That's a lot better than a blank check that says authorize and negotiate. This looks like the agreement and it calls out how we're going to get reimbursed for APD services that we

[inaudible].

>> Yes, good morning mayor, this is the interlocal between the Austin police department and the university of Texas on an annual basis. We provide a lot of security services for them

normally for the home U.T. Football games that impede their capacity as -- exceed their capacity as police department. What we're doing is entering into an interlocal agreement with them formalizing the agreement that's been in place for many years. This will expedite their ability to actually pay the city for the services that we render.

>> Zimmerman: And it looks like it's an annual agreement, right, that goes from September 1 through August 21, 2016.

>> Yes, it's on the state cycle.

>> Zimmerman: Terrific. Thank you for bringing this forward.

>> Mayor Adler: Is there a motion? Mr. Zimmerman moves, seconded by Ms. Tovo. Discussion? Those in favor raise your hand. Those opposed? 50 is approved. There was also another I.T. Thing that I think you pulled which is the tri-tex software. Number that [inaudible]

[11:17:23 AM]

>> Zimmerman: We've got two weeks before all the switches are turned off that we have to do this medley or else police cars don't know where to go to be dispatched.

>> This is another system we are on an October period for a renewal for a maintenance contract. This is a tool we've had in place for several years now. It is a police computer aid dispatching system. There's nothing out of the ordinary, just a renewal of the maintenance and support from tri--tech. The tool itself is an industry leader. It's being used in San Antonio and Dallas well as the city of Austin.

>> Zimmerman: Okay. So if the spending of 8.6 million, the vote for 8.6 million, if we didn't approve the 8.6 million right now, today, what would happen?

>> So if we had any issues, we would -- we wouldn't be under support so I imagine we would have to pay time and material at a greater cost. We would not be a priority if the systems do go down.

>> Zimmerman: And that problem would start on October 1? As of October 1 we wouldn't maybe get support on our --

>> Yeah, theoretically. Hopefully we are a good enough customer that wouldn't be the case but that's what could happen. We would not be a priority.

>> Zimmerman: Well then I expect the vote would be the same as it was last time. I would move that we need to scrutinize expenses of this size but there's no time to do it and I won't get a second so I'm done.

>> Mayor Adler: The item then before us is -- I think this was.

>> 54.

>> Mayor Adler: Which number?

>> 54.

>> Mayor Adler: Is there a motion to approve 54? Ms. Houston. Seconded by Ms. Pool. Discussion? Those in favor of approving 54 please raise your hand. Opposed.

[11:19:25 AM]

Abstentions? 10-0-1 with Mr. Zimmerman. Thank you very much. Ms. Guard is -- Ms. Glairs is a.

>> Garza: I think 18 will be quick but --

>> Hi, thank you for being here. I'm story I didn't pull this during work sessions to ask more questions but it's an observation and point looking over the budget and seeing such a small allocation of it to the music and film part of it. And the cover of your marketing plan there's a guitar which we use that a lot that we're the live music capital of the world to get so much tourism. So I'm just -- I'd like to see somehow, there was a music report recently that had some suggestions on how we can better support our music industry and so I'm just wondering if you can maybe come back to us later with the report on if there's any way to include some of those suggestions.

>> Absolutely. I would like to mention that rear pretty robust in our music offerings. We use music in every promotion that we do. I'm bob lander, by the way, with accb. Thank you all this morning. Everything that we do --

>> Mayor Adler: That's the Austin convention and visitor bureau.

>> Yes. Everything we do to promote conventions, particularly visitors come to Austin we take music. Actually we've been lucky knew of this year to sign a three-year agreement where the local corporation to fund all of our music expenses for the next three years. So we hire a lot of musicians.

[11:21:28 AM]

We hire, refer or book 450 music acts a year. So I would like to come back because we have a pretty robust -- also some offerings that we're considering that would be in line to your thinking. Music is integral to what we do. It's a small percentage but a big part of who we are.

>> Garza: Absolutely. In future budgets I would like to see maybe what we give to that section maybe go a little higher because I notice that your budget is going up about \$2 million.

>> It's a accumulated result of kind of the three years. There's a lag in how our funds get collected so it's not a year over year growth, but it is a result of the last three years' growth which has been pretty good.

>> Garza: Okay. So I don't know if I need to make a motion to ask this be sent to committee so they can give us a briefing on -- with the music census report that was done.

>> Mayor Adler: How about -- I don't know if you want to hold up the budget, that would refer the policy committee to a question. Is there a motion to approve the budget? Mr. Zimmerman.

Is there a second? Ms. Troxclair. While you are at the dais, I just to remark

[inaudible] In ways that we haven't been before. I'm sorry to see you go.

>> Thank you, mayor. It's been an honor to represent this city.

[11:23:29 AM]

Thank you also.

>> Mayor Adler: Ms. Tovo, then Ms. Houston.

>> Tovo: Thanks very much. I'll just add my thanks to the mayor's for all the fine work you do. But I want to concur with councilmember Garza and say looking at the latest visitors study, it looks like 60% of the visitors come specifically for live music. I want to be -- I think this was implicit what councilmember Garza said, but I want to be -- I would really like to see when you come back with some of the ideas. I hope they respond to the music census report and

recommendations and that there may be some way that the accb can work with the city to see forward some of those recommendations identified in the music census.

>> We would be delighted to.

>> Tovo: Super. Thanks very much, Mr. Lander.

>> Mayor Adler: And I'll refer that issue to committee. Councilmember Houston.

>> Houston: Thank you, mayor. Good morning. I'm down here. Thank you so much for coming back and one of the other components of that that I would like to ensure someone takes a look at is the demographics of the musicians that we're using so that we know we've got a very inclusive representative group of musicians who are going out talking about how wonderful Austin is.

>> We're very sensitive to that as well and we really are very proactive in mixing up the MIX of the type of music, the ethnicity of our music from Latin to hip-hop to everything that our -- the main thing we try to do is present Austin as a multifaceted music scene. And that's something one of our biggest competitors we don't think does. You know who they are. They are on the east coast, something about country music. We're very proactive in trying to do that.

>> Houston: Thank you.

>> Mayor Adler: Anything else here? It's been moved I think and seconded. Those in favor of approving the budget please raise your hand.

[11:25:32 AM]

Those opposed? That is unanimous on the dais. That was item number 18 which is now approved. What about number 33? This is the intervention pilot pulled by Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, these are inquiry questions as well. There was nothing in the backup material that spoke to what had happened in the early years with this program. And it mentioned that there was a pilot program in place and it appears that there's just kind of perpetual funding following a pilot program with no report and no status on the effectiveness of the expenditures.

>> Mayor Adler: This is number 33, an interlocal local agreement with Travis county, juvenile class C cases.

>> Good morning, mayor and council. Last year it came to my attention when I was asked to pay an invoice related to that that we did not and had not received performance data. Apparently in the first year of the funding there was some issues with the Travis county employees getting access to the school district information. That report is due to us this month. I did receive a followup on September 9th from the school district indicating that they were working on the final formatting to pull the data requested out of their system.

>> Zimmerman: I'm sorry, Mr. Mayor, I'd like to move we refer this item to committee so this report could be received and considered before we approve funding.

>> Mayor Adler: Okay. Do you want to speak to any practical issues associated with delaying this item?

[11:27:33 AM]

>> This comes from -- the funding comes from the juvenile case manager fund which is assessed

by the court. So this is something that comes out of the city's general budget. This was I believe originally signed in 2013, and what you are looking at today is actually the extension for 2014. It does not appear that we're going to continue this for 2015. But Ms. Chadwick and her analysis of this situation found out that the extension of the interlocal had been signed by judge Biscoe and by Ms. Stark but had never been brought to council. So before we pay the final owed money to Travis county, we wanted to do this correctly and bring it to you.

>> Zimmerman: So we're paying in arrears, it sounds like.

>> That's correct.

>> Mayor Adler: Good that you caught that.

>> Zimmerman: Would you have any objection to our audit committee kind of looking at it and making sure something like this didn't happen again?

>> Of course not and we fully support that.

>> Mayor Adler: Let's go ahead and approve this item and we'll ask the audit and finance committee --

>> Zimmerman: I thought we would send the item to the committee to look at what we paid for.

>> Mayor Adler: We could do it -- the council could do it either way. It's been moved by Mr. Zimmerman to refer this matter to a committee. Is there a second to that motion? Seeing none. Is there any further discussion on this item? Has it been moved and seconded? I'm not sure I asked for aing month. Ms. Pool moves to approve this item, Ms. Tovo seconds. Any further discussion? Those in favor please raise your hand? Those opposed? 10-1, Mr. Zimmerman voting no.

>> Houston: Mayor, I would like to see the results of the performance even though we're not going to renew this agreement.

>> We'll be happy to provide that when we receive it and although we're not proceeding with this program we have other programs that are proceeding.

[11:29:43 AM]

>> Houston: But I think councilmember Zimmerman is correct, we need to have some performance data.

>> Yes, ma'am. We'll get that to you as soon as we get it.

>> Mayor Adler: Thank you. That's item number 33. It was approved. Finishes.

>> Casar: Mayor, while number 16 has two speakers, I've spoken with one of them and I think I have my head wrapped it and I think we could dispense with it quickly.

>> Mayor Adler: No, we are now to that rank of items. So let's go ahead and call up item number 16. Do you want to address this issue or call up the speakers? We have two items. Staff, do you want to set out just real briefly what 16 is. Thank you, sir.

>> Good morning, Howard,, Mr. [Inaudible] For construction installation of a chilled water loop extension on behalf of Austin energy. The request is necessary to address some work that was done where the piping that was put in the ground was -- did not meet performance specs or the specs of the contract for the welds. In entering discussions with both the contractor and the inspection firm, both parties agreed to a \$3 million cost to repair. Half of which would be borne by the contractor, the other half at the time to be borne by the inspection firm. So the million

and a half dollars is necessary because the inspection firm has not agreed to their -- to their share and that matter now is part of a dispute resolution process that's currently underway.

[11:31:48 AM]

In our, in order to maintain the project's momentum and to complete this work, the city is in a position of having to bridge the gap until that resolution process comes to its conclusion. It is our intent as a result of the disputes resolution process to be made whole and recover that mean.

-- Money.

>> Mayor Adler: Thank you. We have two speakers. Thank you, sir. We have two speakers for this item 16. First Sylvia roscoe. And then Thomas Dodd is up next. Is Sylvia roscoe here? Is Thomas Dodd here? Mr. Dodd. You have three minutes.

>> Thank you, mayor, council. I'm pretty sure Mr. Lazarus just answered all my questions. I was wondering why the city was paying for somebody's faulty work and then in turn taking the same contractor that did the faulty work and having them redo it and the same inspection company that did the bad inspections redo the inspections. But if they think they are going to get all that money back, then they've answered my questions.

>> Mayor Adler: Is there a motion to approve item number 16? Mr. Casar. Second, Mr. Zimmerman.

>> Casar: Mayor, I have one or two questions quickly for staff and I think it's contract management. So while we do expect to be made whole by the end of this process, I understand that it's taken some staff time and probably some work to deal with the issue. I want to pass this because obviously I want to complete the project and open back up the street, but can you talk us through very, very briefly the -- our potential for sanctions or for considering this sort of problem when we consider contracting with any of these companies in the future?

>> Sure. Rosy truelove, director of contract management department. For all of our contracts that we have, whether professional services contracts or construction contracts, we do look at the performance of the firms that have been doing the work at the end of the contract and in cases where contracts have been executed after February of last year, the construction contracts include a formal evaluation process.

[11:34:04 AM]

And through that formal evaluation process we can make a determination on whether or not we need to pursue sanctions in accordance with the process.

>> Casar: Thank you.

>> Mayor Adler: Okay. Any further discussion? Mr. Zimmerman.

>> Zimmerman: Just a quick question here, Mr. Lazarus. I did second Thissen a I'm looking at the second page of the material here. It says that there was a meeting, a mediation was September 16th, yesterday.

>> That is correct.

>> Zimmerman: And there is also a statement here that says the matter is time sensitive due to health and safety risks. Could you go over again what was -- what was discovered at the

mediation yesterday and what are the health and safety risks?

>> Councilmember, discussions that occur during a mediation are confidential to give my details of that would probably be required during executive session. We have a rather large -- two large holes on one of the arterials due to amount of traffic, both pedestrian and vehicular traffic. It was in the city's interest to make sure we don't expose the traveling public to hazards. I would also add although not related to safety and health, there is also an economic cost to Austin energy by delays in completing this project so that to the extent we can get I have done quickly, they are able enlist for customers for the chilled water loop which provides more revenue to them.

>> Zimmerman: Okay. Thank you.

>> Mayor Adler: All right, it's been moved and seconded. Any further discussion on this item 16? Those in favor of 16 please raise your hand. Those opposed? I think that is unanimous on the dais. So 16 is approved. Let's do one that we have citizens communication that may take us up to our noon -- I mean enough citizens to speak that may take us up to our noon citizens communication.

[11:36:06 AM]

I'm going to pull up item number 39. Which deals with cemeteries. We have some people that have signed up to speak both for and against this item. Is Sharon Blythe here? You have three minutes.

>> My name is Sharon Blythe. I'm here to speak on the cemetery master plan. Just a couple of things. I think it's a good plan. There's just two things at Austin memorial park that possibly needs adjusting today. I've got a little presentation we're bringing up here. Where is my clicker? If we can get this to work. We went through an extensive boards and commission process during all this and we were able to implement a lot of things. One of the big things that I want to bring to your attention today is the visitor parking lot supposed to be reduced from 30 spaces to 10 spaces because a 30-space parking lot was not needed and it would be not an appropriate size for that cemetery. Anyway, it was implemented in a chart in the plan, but then when you read the latest edition that was not run by the citizens, there is a footnote that -- that says the master team originally recommended a 30 car parking lot to meet anticipated visitor needs. The size was reduced to 10 based on citizen request and direction from the planning commission that also was discussed in the open space committee and agreed with the boards and commissions.

[11:38:13 AM]

In the last sentence it's future construction plans should be based on needs calculated at that time which basically negates that recommendation for boards and commission and open space committee. So we need to understand that this was not brought before the citizens. It's just something that popped up on the final version and it certainly needs to be -- that last sentence needs to be deleted from the plan because it makes it where the parks department can make a decision at some point in the future of how parking should be. So they can do whatever they want to do basically if that sentence stays in there. So I would appreciate you amending the

plan to eliminate that last sentence because it's not in accordance with what the boards and commissions or the open space committee agreed to. Also, we have an issue with a proposal of north access to north [inaudible] From the cemetery. The only access that should be there, it should be no access to northwest [inaudible] Center and I'm really here to talk for the northwest rec center. The children around the families that visit that center, if this plan is put into -- if this access is put into place, those big trucks and tractor-trailers and things like that will have to run through their parking lot right in front of the rec center and possibly hit a child or a family member. This is inappropriate access to -- to northland from the cemetery.

[Buzzer sounding] I appreciate you removing that north access from the plan too. Thanks.

>> Mayor Adler: And we'll have staff talk about this in a little bit, but I was handed a note that said park staff was fine with an amendment that said up to 10. I think they were looking for flexibility to go under 10, not over 10, which I think was the community concern.

[11:40:14 AM]

This has gone to committee so we're going to continue on. We have less than eight speakers, but we will go with the two per speaker. Zola Vega. And is David king here? You have four minutes combined time.

>> I'm Dr. Vega with the Austin heritage [inaudible]. This is what Sharon was talking about. The note in the upper rectangle is what the recommendation from the boards and commissions was. What you have highlighted in yellow is what the parks department has added. Future construction plans should be based on expected needs as calculated at that time. So basically what telling you yes, we understand, we concur with the boards and commissions. We will reduce it to 10 except when we want. And you need to clarify that. It either is or it is not. If you look at the size of the parking space, it's pretty large. It should be really not based on public feedback, it should be based on what's applicable to the cemetery. What's applicable to the cemetery are activities that are small [indiscernible]. Now back to the trees. The problem -- have died off due to lack of water. If there was a development that had a developer that had removed 500 heritage trees, everybody would be really, really upset. These trees are dying due to neglect and lack of water and nobody is doing anything about it. I've been working on it for years and I don't get anything in response. At the bottom solution from the master plan [indiscernible] But they are really down grading it because they are proposing to change from a semi-automatic system that's existing to manual with ground level hose bibs. So they want people to go and water the trees as needed. That's not going to happen at oak wood. At oak wood there's not many stakeholders at the cemetery.

[11:42:15 AM]

So the recommendations for the boards and commissions were to have an outside -- hire a consultant, that has been put on the master plan but it needs to happen. A consideration to say we're consider we're not doing it. Not only does it need to happen, but the recommendations need to be implemented. Those trees or some of the historic trees need to be irrigated during the drought. I'm not sure every tree every day, only as needed. There's another issue impact to all the trees. The recommendation from the planning commission was that, minimizing

[inaudible] To heritage trees. The master plan says that will ensure -- but the plans should impact the trees. For example, at the new maintenance here will be right where the trees are. The new road will be for the north entrance will be right where the trees are. The [indiscernible] Parking lot will be where the trees are. So, you know, they are saying they will do it, but when they show the maps they are not doing it. Not only at a and P but also at evergreen. There's beautiful -- that's where they have to put the [indiscernible]. What happens in the scatter gardens, beautiful to throw the ashes under a tree, but if you have hundreds of people under a tree it impacts the soil and the roots cannot get air or water. It can be done but you -- the best way is not to do it. Leave some -- give some room for the trees. Thank you.

>> Mayor Adler: Thank you. The next speaker is Dale Flat. Julian Reed. Is up next.

>> Good morning mayor, councilmembers. Dale Flat. I'm here in support of the cemetery master plan and it's important to remember that this is just a proposal.

[11:44:21 AM]

There's nothing in there that's written in stone. It's a road map on how we're going to proceed in the future. None of these things that these ladies have been talking about have been written in stone. They all have to be proposed and done again. This is just the best practices brought together by people in the industry to tell us how we need to move forward. So it has no price tag to it. If you approve the master plan today, you are not approving X amount of parking spaces or anything else. The cemeteries are going through a lot of changes with cremation taking a large portion of the market. And so over the next couple of years we're going to need to take a hard look at how we operate our cemeteries. The areas where there were trees, where the new proposed north part, those trees would disappear anyway if this was going to be turned into cemetery property. Your cemeteries are the last service that you provide your citizens. And as such we need to take a close look at it and this master plan is the first step on how we're going to move forward and address the infrastructure needs and then also look forward and look at the operational aspect of the cemeteries as well. Thank you for your time.

>> Mayor Adler: Thank you. Julian Reed. I'm sorry. Mr. Zimmerman.

>> Zimmerman: Quick question for Mr. Flat. You've been involved in this many years, right?

>> Yes, sir.

>> Zimmerman: When was the last master plan of this magnitude done?

>> We've never had a master plan for the city of Austin cemeteries.

>> Zimmerman: Then I don't need to ask the next question, I was looking for what's been done in the past if something was proposed that disagreed with the master plan. That was the question but we don't know because we didn't have a prior master plan.

>> Right. In the past -- the city has been in the cemetery business since 1856 when we required the property for Oak Wood. Then it went to public works, got dumped in the parks department.

[11:46:23 AM]

>> Zimmerman: It just seems like a long time to go without a master plan.

>> Again, the term master plan is a relatively new term as is the preservation of historic spaces

like cemeteries. You know, that's all within the last 10 or 15 years.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Julian reed and then Katherine bullock is next.

>> Good morning, mayor, members of council. I'm Julian reed, a past president of the preservation Austin organization. I think all of are familiar with. As that I've been very interested in what's going on on this cemetery. First of all, I want to say it's one of the most commendable projects I think our city has undertaken and long past due. I've been very impressed. I've been at two meetings where all the input has come from citizens. I've been very impressed with the thoroughness of this project. Kim Mcknight and her team have worked at it. I'm telling you the detail I've listened to sometimes is just been staggering. So I hope you will move forward on this plan as he just said, this is not written in stone, but I think it's an important step forward. The only thing I have to say about the parking thing is that I think we need to remember this needs to service all of the people who have loved ones there. And I'd err on the side of having more parking than less. We have to rather that staff members themselves who have to operate this themselves are going to take some of these parking places. I urge you to move forward and I appreciate it. Thank you.

>> Mayor Adler: Thank you. Next speaker we have is Katherine bullock. Is Katherine here? James Douglas. Is James Douglas here?

[11:48:24 AM]

Maureen methhower. Maureen methhower. Those were all the speakers we have. We're now back up to the dais. Ms. Pool.

>> Pool: Would it be useful to ask Ms. Mcknight to address a couple of the questions that both Ms. Blythe and Ms. Vega had raised?

>> Mayor Adler: Yes.

>> Hi, Kim Mcknight and I am a preservation planner and culture resource specialist at the parks and recreation department. Marty stump is assistant director. There were a few issues raised. Would you like me to address what I was hearing? One of the issues had to do with the parking lot we are recommending. We are recommending to repurpose the historic outbuilding for visitor space. In doing so we would move a maintenance yard from the back of the facility and away from the front entrance. Because we would like to have a space for bathrooms and a multipurpose room that families can hold services in and possibly receptions after funerals, we will need some

[inaudible]. We thought to be totally honest with you, this is a concept plan. I would really defer to Mattie. There's a whole process we have to go through in determining parking spaces so it was really this idea that we will have parking, you know, we were surprised to be discussing the number of spaces when it was really just a concept at that time, but I do nod it's important to folks. We do have to follow the land development code so we follow the heritage tree ordinance, we go through the entire site development process. Marty, do you have anything to add to that?

>> Matter stump here today on behalf of director Hensley who is out of town. Kim is correct, the master plan is conceptual in nature, it does provide some vision, it's a guiding document for

future processes, parking lots as we know are driven by the building type and calculated occupancy and those sorts of things. So as we drill down in the future on what type of buildings and what types of facilities are provided on site, that begins to suggest the size of the parking lot.

[11:50:32 AM]

Oftentimes this department, pard, has the opportunity to negotiate those parking quantities up or down according to the specifics of the site, but there's a very robust process that goes along with the final design, boards, commissions process, obviously building permits and so forth. Those decisions will grow out of future conversations and there will be opportunities for citizen input as well.

>> There were two other issues, one was the north entrance but essentially this has one -- used both by visitors and maintenance staff and vendors. We have a lot of heavy equipment and machinery for all five cemeteries, trailers, excavation equipment, vendors bringing vaults, headstones. We feel it's a need of the cemetery to explore a secondary entrance. The proposal was to look at, you know, working with the recreation center to find some opportunities. We're recommending a controlled access with a key pad very much like we would have at a water treatment plant plant to ensure this doesn't become a cut-through, so to speak. We're very sensitive to the needs or concerns of the cemetery community about having this kind of a neighborhood street. That's not our intention. It's simply to provide additional access. We've had a couple of issues where we needed to do a road paving project and it was very complicated, not having a second entrance, very difficult to plan because we don't know when we're going to have funerals. We also have issues where we have emergency services that come to our cemeteries. Again, it's not uncommon. You get older people often in the heat and having one entrance is a concern for us. I also just wanted to speak to tree care irrigation. We're proud to say this plan has done more to address the tree issues in our cemeteries that really any plan I've seen. We did a \$76,000 tree survey as part of the plan. Irrigation upgrades are recommended as a priority one.

[11:52:34 AM]

We do have issues that -- and we do have forestry staff that could speak better to this, but we typically don't irrelevant mature trees in our cemeteries. We have dealing with a system we've made operable through bond funding the 2012, we have prioritized continuous upgrades and through the board and commission process we have put into the plan the suggestion that we have a multi-disciplinary team address irrigation looking at monument care, tree care, archaeological issues. As a city we have a lot of issues to balance. Right now we have some serious issues with accessibility of bathrooms in evergreen. We as a city staff are going to be looking at how we prioritize irrigation versus accessibility at some of our other cemeteries. To say the irrigation is a top priority, it is a -- we have many top priorities. Accessibility, tree care, preservation, we're going to be balancing these things and we'll be in constant contact with the community as we work through these things. I hope that answers your questions. There's so many other staff that need to weigh in and so many issues we have to look at like availability of

funding and overall city priorities and all of these are weighed together so say which of our top priorities is going to be the first of our top priorities.

>> Ms. Mcknight. Thanks for the answers. It occurs to me and maybe you or Mr. Stump can speak to this that the type of traffic you are talking about coming in from the north back side of the cemetery, in the controlled access, would these be the kind of vehicles that might -- well, they are utility vehicles. Is that correct?

>> Trucks that will be towing trailers carrying large equipment typically. Maybe five to ten times a day depending on the day.

[11:54:38 AM]

>> Pool: And this would be the kind of traffic you actually might want for serenity reasons to keep from coming in the main entrance of the cemetery?

>> That's correct. Our maintenance yard at this time is the first thing you see. You come into the cemetery and there's a large maintenance yard. We think that outbuilding may be better purposed for the visitors that come to the cemetery. It's common for us to put our messier operations in an area that's a little more discreet and that's what the attention of the plan is to do. So given that we will have the relocation of the maintenance yard, it simply makes sense to look for some opportunities. Again, there is a lot of details to work out. We're simply not there, but this is a concept plan for five cemeteries. And so we've tried our best to provide a blueprint or a road map for how we would move forward.

>> Pool: And to assuage some of the concerns voiced about the access, the controlled access you are talking about, that specifically would be like with our water treatment plants so that is not unimpeded, it's not a public access, it would be strictly only for the use of the utility trucks and emergency vehicles?

>> That is correct.

>> Pool: Okay.

>> At this time. There may be a time in the future where, you know, we do have city owned spaces that abutt each other with no access that our charge was the cemeteries and that's what we focused on and we focused on the needs of the cemetery.

>> Pool: Thanks. I don't know if there's any other questions, but mayor, would it be appropriate to make a motion to approve this item?

>> Mayor Adler: Let me come back to you in a second. Ms. Houston.

>> Houston: Thank you, mayor. Thank you, Ms. Mcknight. As I said in the work session, you all have done a masterful job in engaging the community. And because I have four of the five cemeteries in district 1, I wanted to just read into the record something that was in the 1928 master plan.

[11:56:40 AM]

You all got this earlier today from Fred McGee, but it's important that we place a lot of value on our elders and those who are deceased. And so he -- he says that unlike in the imagine Austin where cemeteries are not even mentioned, the 1928 master plan did. Just this final paragraph, we would like to see a cemetery laid with ample driveways and spacious lots so that in the

future it could be maintained and would continue to be a beautiful park, to be admired by posterity rather than a series of graves and tombstones to be fenced in, abandoned and forgotten after the space has been filled. And so even in the 1928 we were paying careful attention to where our elders were laid to rest and I think you all are doing a great job and I will second councilmember pool's motion when she makes it.

>> Mayor Adler: Ms. Pool, do you want to make that motion to approve this item 39?

>> Pool: Yes, I would be real happy to do that and not part of the motion I want to mention my parents are buried at Austin memorial cemetery and I may be some day too.

>> Mayor Adler: And on that happy note.

[Laughter]

>> Always thinkings of the future.

>> Mayor Adler: It's been moved by Ms. Pool, seconded by Ms. Houston. Further discussion?

>> Tovo: Just briefly I just want to also commend the staff and our tireless advocates of the cemeteries. You have done an outstanding job on this plan and just really looking forward to this next phase of cemetery stewardship. I think it puts us on a great path. There's been a lot of questions, as you know, among those who are particularly interested in the grave ornamentation issue and you and I have had an opportunity to talk about the next steps, but could you summarize in a couple sentences what those next steps are in terms of the additional -- the supplemental report that will be prepared on grave ornamentation best practices in other cemeteries and then the additional public process that will follow that.

[11:58:56 AM]

>> Great. Well, in late 2013 the council passed a resolution asking our department to kind of put a hold on enforcing strictly the rules that we've had since the 1970s that -- address a lot of things but grave ornamentation being one of them. Subsequently we started an engagement process and it was in -- I believe it was summer of 2000 -- I want to say 14 that our director when being briefed on the master plan and the different things that we were touching on which is the concept text and the growth of the different cultures and traditions in our community that we really take -- really try to think about the sequencing of how we were doing things. Very wisely our director asked that we address the master plan. At the very minimum concurrently if not before bringing forward a new set of rules and regulations. One of the things that the master plan does address is looking at ways to improve governance of cemeteries. We're going to be looking at some kind of a citizen advisory committee that will help us work through some of those issues. We've asked our cemetery master plan team to take a closer look at this issue specifically and provide a report looking at things like the traditions and cultures, how they commemorate and express grief and how we can be sensitive in implementing rules that don't - - quite frankly, I would say be disrespectful to different belief systems. There's some really interesting information in the master plan about how different cultures in our community express their grief. And so our plan is to move forward slowly, carefully. We don't see a need to move forward quickly with this at all. So you can expect there to be some progress, but there's a lot of things we need to do to sort of get our framework set with the community, get some things working with the implementation of the plan before we address that.

[12:00:58 PM]

I hope that answers your question.

>> Tovo: It does.

>> Really have some things we need to do and to put a time line on it would be premature.

>> Tovo: I really appreciate that and what I've heard from individuals engaged in this issue is just assurance that there will be a public process and that they will have an opportunity to continue to participate in order to continue their participation in that process of working out would those eventual rules look like.

>> Absolutely. I think that some of the governance recommendations that we're making are going to help us have a better sounding board for some of the things we deal with in our cemeteries and we're looking forward to figuring out the shape of that. We've had these rules since the '70s. We made attempts to do some -- it's an important issue. We have a lot of different cultures in our community and we need to understand all of these things before we jump into a process.

>> Tovo: I great lie appreciate your thoughtful and sensitive approach to that.

>> Thank you.

>> Mayor Adler: Any further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, mayor. I want to add my congratulations because I've got the master plan for people that are watching you can see how huge it is. It's bigger than the Houston phone book, but it's very impressive.

>> Thank you.

>> Zimmerman: I spent several hours going through this and I got overwhelmed and gave up. This is not my expertise, but it's amazing the volume of information in here. I think -- would you agree with the comment that was made earlier this might be precedent setting, that we haven't had a master plan of this volume and detail and complexity before, right?

>> I would say that certainly not in the city of Austin, but I'm looking around the country for precedents so we could kind of see what other communities were doing. We learned there were very few communities that have been able to tackle this yet there's a lot of need. And subsequent to this plan I think I shared with you on Tuesday that we've had several national articles published and here we are with not even having the plan adopted and we do plan to be submitting this plan for awards.

[12:03:05 PM]

We're really proud of it. We think we've done a lot to set a model for other communities that are grappling with issues related to historic cemeteries.

>> Zimmerman: I think some of the concerns people are wondering since something of this scope hasn't been done before, they are wondering the significance. Some people suggest it's just a blueprint, others are saying no, this is very serious. Forward decisions are going to be based on this. So I want to draw your attention to page -- what is it, page -- item 39, historic cemetery. There's a map that I think you know has been under some dispute. You know, it was an old map when the cemetery was first purchased. And one of the requests I got -- so there's two maps on this page. I'm sorry if you can't see this, but it shows the level of contention and

concern about what's going to happen to the cemetery going forward. Including what the boundaries are. There's even some dispute about what the boundaries are compared to the original 1941 plat and then some later drawings and some later decisions by council. So this -- it is amazing to me the contention going on here. And if it weren't that important, would there be an objection to striking one of these maps that says figure 434, undated map of the Austin memorial park cemetery? And why I think that's important is that it shows some different boundaries compared to what the original deed showed in 1941. Is there any objection to removing that?

>> Yeah, councilmember Zimmerman, one of the great things about a public process is that you have a lot of input from the community, you balance their input with your goals as a city and other plans and ensure neighborhood plans are respected. You put together a draft plan, the community sees that, they provide more input, you go through a board and commission process. The addition of the map on the top left was something that the historic landmark commission recommended at the urging of a citizen.

[12:05:13 PM]

We concurred with that recommendation, we added the map. The process I think has been very successful. I'm confident and comfortable we've been through an extremely extensive process. I would say I support the plan as is. It's certainly your right to make whatever changes you would like to do.

>> Zimmerman: This is a final question. Going back to the issue of the heavy equipment, so, you know, I'm an engineer, I'm a practical guy, I'm not that sentimental about the cemeteries, I'm more practical. For me it makes a lot of sense to have digging equipment right there at the cemetery so I don't have to truck it across town. There's some efficiency there. But I'm also thinking how does it make sense to use the cemeteries as kind of a staging equipment area for heavy backhoes and trucks and diggers. I'm confused. This is where the policy of the cemetery meets with business decisions. If the equipment is there, now there's an argument for having a second entrance as you pointed out to the north. And I think councilmember pool mentioned this, some people would say it's nicer to have heavy equipment and backhoes going out a separate entrance and exit. But then for other people they say, well, why do we have heavy equipment at this memorial resting place. So to me it's a mess and I think the precedent question about the north entrance is if that gate starts to be open for heavy equipment, it's a shorter leap to open it for pedestrian traffic. Okay, and so what frustrates me about this, it's a city cemetery. I'm out in northwest Austin and a lot of my constituents, they drive by this place when they go on mopac, but other than that they don't have anybody buried there, it's not in their backyard, it's not really an issue, but it is still a citywide cemetery. So I'm a little frustrated with this issue and what to do with it.

[12:07:16 PM]

So I guess I want to ask my colleagues for a little more discussion about that north entrance and as a policy do we want the cemetery to be the place for staging heavy equipment and having, you know, trucks and backhoes stored on the cemetery property. Is that something we're all in

agreement on?

>> Mayor Adler: Ms. Tovo.

>> Tovo: I guess I would say, councilmember Zimmerman, I think you've raised some interesting questions. I would say I thought I understood Ms. Mcknight's comments before to suggest this is conceptual plan and we're not approving that level of detail at this point. Ms. Mcknight, is that --

>> We have a landscape architecture team that is part of the master plan and they look at the different needs not only of the community but of staff. And in responding to what they see are the variety of needs, they are recommending and I think the language is consider an access here. Because what the staff said was that we have a lot of equipment, we're hearing complaints about this from the visitors and so the team is responding to that. We have made a lot of concessions in the plan based on visitor and community member input. This is one issue that we feel is both in the interest of not just the visitors but also the staff that use the cemetery. Because we would have to go through a site development process, we would have to engage the rec center, we would have to look at so many factors. To say it's a concept is true. It may be we start down this path and find there is a better solution or a different solution, but we haven't gone through design development which would be the next logical process. We don't even have the funding to pursue any of these recommendations at this time. So what it simply is doing is saying here's where we think that you should consider, move the maintenance yard here, repurpose this here, you'll probably need to look at a second entrance, this might be a good place.

[12:09:16 PM]

But it's not -- this is a team that we've hired for the city. Ultimately it's the city's decision on how we want to move forward. As you all know, we engage the community constantly and will continue to be in constant conversation with the cemetery community and also the neighborhood about issues that will affect them. And so this would be no different. And we've made similar recommendations at other cemeteries about relocating entrances. We've had requests for pedestrian Gates so neighbors can get into cemeteries, so we're trying to respond to what we think are community needs and what we think is in the best interest. It does say consider a north entrance because we've asked them to provide us with feedback, but it's utility meatly our plan to implement.

>> If I might add to Ms. Mcknight's response there, councilmember, the operation center there at Austin memorial park, it is the operation center for outline five cemeteries. The I want request, it's mowers, topsoil, sod, that stage in and out of Austin memorial park. So a secondary entrance obviously takes that entrance off the main entrance. So the Austin memorial park is the center for cemetery sales, administration and a close relationship to operations and so that's why it's there and that's pretty traditional for a sizable cemetery the size of Austin memorial park where burials are conducted --

>> Mayor Adler: We're getting close to 10 minutes past with citizens communication.

>> We're calling the question.

>> Mayor Adler: Any further discussion on this? Those in favor raise your hand. Those opposed? Mr. Zimmerman a abstaining, the other voting aye. Thank you very much.

>> Congratulations.

>> Mayor Adler: Item number 39 passes. We're now going to go to citizens communication.

[12:11:17 PM]

By the way, council, we have

[inaudible] Items remaining on our agenda. Yes. The first speaker is George wortell. Is Mr. Wortell here? George wortell? The second speaker is Paul Robbins. Andrew brown is on deck, up next.

>> Council, council, you have a year to fix it. I've spoken to you several times in the last year about the need to fix Austin energy's customer assistance program, and one of the things that I warned you about was that the program was supporting too many people given the funds that have been provided. And that funding would begin to fall short. Last week I received the documentation to prove it. Now, first I'll offer some good news. In the spring of last year, Austin energy tightened its screening and 3400 customers that did not need assistance were removed from this program. Judging by the average discount in 2014, this amounted to about \$1.5 million a year that was saved. These funds were spent giving discounts to low-income customers who actually needed it. While I cannot say with 100% certainty that this change was entirely the result of my investigation, it certainly came about after my investigation was made public. But documentation recently received also states that the program which was only designed for [inaudible] Customers was serving 42,000 customers because overcollection of the program money allowed for it.

[12:13:24 PM]

These overcollected funds will start to erode at the end of fiscal year 2016. So again you have a year to fix it. If you have to increase the customer benefit charge to continue this larger enrollment and you do it with the current structure, you will have to raise the average bill by about four or five dollars in fiscal year 2017 and four or five dollars a year in the next fiscal year. And while this may not seem outrageous, you may have to do this at the same time you are increasing overall electric rates. Your options for extending this money include income qualifications, asset screening, and removing the top two tiers of electric use from being eligible for a 10% discount. You can also stop giving customer assistance money for free weatherization program which saves very little energy or money for the poor and use this money for the intended purpose of rate relief. Again, you could literally give the money away and do better than free weatherization. Even if you implement all of these, it may not be enough to off set some kind of bill increase; however, you are more likely to succeed at forestalling this increase if you try them than if you don't. Thank you.

[Buzzer sounding]

>> Mayor Adler: Thank you. Andrew brown. Is Andrew brown here?

>> I have copies to be able to pass out but I'm not sure where to pass them out.

>> Mayor Adler: Do you want to give those to the clerk? She will pass them out for you. You have three minutes.

[12:15:25 PM]

>> I wanted to talk about data security. It's a giant problem and I actually have part of the solution. Essentially a solution funnels everything through a single data point or single point to the data base. So that it can be secured and monitored. Makes out for easier to write, cost savings 30% or more. There are no limitation and it's been in production for about 10 years. I am proposing this as a standard to the data base manufacturers, to Microsoft, or Cal as a standard application. Consists of three lines of code. Essentially tell the data base what to do. You say data base store this, data base delete this, data base -- used to be rocket science but almost trivial today with good sound standards. Right now it's like the wild west. Software developers are using whatever they want and there's no accountability and it's very difficult to secure. So too much trust is placed in I.T. And the complexity prevents good oversight. So my question to you is who can I speak to about -- as a standard for the entire state of Texas. I think it would build a billion dollar industry here so -- that's where it's at.

>> Mayor Adler: Can't direct you on the state level, but within the city the person to talk to is Steven Elkins.

>> Steven?

>> Mayor Adler: Elkins. He's in charge of all things I.T. In the city.

[12:17:34 PM]

He was here earlier. And Mr. Baray will give you his information.

>> That's all I had to say.

>> Mayor Adler: Thank you. Councilmembers, those are who we have for citizen communication today. It is 12:15. Do we want to break for lunch and come back at 1:00 or 1:15?

>> 1:15.

>> Mayor Adler: 1:15. All right, let's come back at 1:15 and work quick because we have lots of things left still to do. We'll stand recessed until 1:15.

[1:35:52 PM]

>> Mayor Adler: Are we ready to go ahead and get started? If you are on the dais, you're on time and ready to get started on time, would you please raise your star? A hand. We're going to go ahead and convene our council meeting. It continues to be September 17th. It is 1:35.

[♪Music playing♪]. We have a quorum present. Let's go ahead and do -- there's animal services item. There are two citizens, and that's why this item was pulled on animal services. Is Gus Pena here? Is John Lambert here? Is Jay Little here? Those are the people that were signed up in public speaking that was pulled for citizen speakers. Is there a motion to approve item number 2? Ms. Tovo, second Ms. Pool. Any discussion? Those in favor of item 2 please raise your hand? Those opposed? All in favor? Ms. Gallo off the dais. Number 2 is approved. That gets us to whisper valley. We have six citizens to speak on this item number 8.

[1:37:57 PM]

Is Doug Gillog here? Yes. Why don't you come up. If you want to address the council is Tally Williams here and will Herring here? Then you have 15 minutes, sir.

>> Thank you,.

>> Mayor Adler:, members of the council. My name is Douglas Gilleland and I'm here to speak in favor of the item that you have on your agenda. I'd like to also take just a moment and thank you, each of you, and your staffs. You've given me the opportunity over the last few weeks to sit and share our story and to express our ideas and hopefully to educate the issue that we're discussing is a very important one. It's a long-term issue. It's one that we've been collaborating on with the city all the way back to 2004. So it was important to us to meet with you and to introduce ourselves and to get to know you better. We believe that we will be working with you hand in hand in a collaborative spirit just as we have previous councils going out way back to 2004. The other reason this is an important issue is because it's in east Austin. It's in councilwoman Houston's district 1 and it's an exciting area.

[1:39:58 PM]

It's really what we all have been talking about, which is really the future of east Austin. And it's our belief that really the time for east Austin has arrived. We had a wonderful opportunity this last weekend to meet with you and lots of the folks that live in east Austin and we're talking about economic development. And when you attend a meeting like that you truly get the sense that the time has arrived for east Austin to have wonderful things. And I particularly respected the presentations that councilwoman Houston made and Mayor Adler, councilmember Renteria, excuse me. So that was very meaningful for us. So today I -- I've worked with you, I've talked with your staff. I'm going to give you a brief summary of the things that we've shared with you and then be available to answer questions and hopefully find a way to move forward together. So to tell this story briefly again we have to go back to when the story began. There's a slide up here that shows 2004. It shows east Austin and what really stands out to me in this photo is, number one, there is no SH 130 and in east Austin you see lots of vacant ground, lots of landowners, and what you essentially see is land in the county. And when you look west and north and south you see lots of development. So it didn't take long for all of us to understand that the real future of Austin is going east. I'll take you to a time lapse from 2004 to today. Clearly the city established a priority in east Austin and they established a desired development zone that is shown in the light green. So going back to 2004 when we were first introduced to the council.

[1:42:12 PM]

The city leaders said we really need to have a vision out there. We need to do two things, one expand our boundaries and we need to annex that boundary so we can have good development out there that meets the city's standards and visions and creates a great tax space. But to do that we have to extend utilities. A massive amount of utilities. And there was no budget at that time to do it. So you fast forward to 2005 and reality is becoming real. You look and you see SH 130 is under construction. So from 2005 to 2007 the city began to develop

a solution. And the solution was, number one, to introduce state legislation to create assessment power. They wanted to work with the landowners in a collaborative effort to create a way to get infrastructure out there working with the landowners. With the exception of ourselves, and I attended many meetings at that time with the landowners who had property in the county, no one except ourselves really wanted to embrace the vision and wanted to be annexed by the city. There was a lot of opposition to that legislation and ultimately that legislation failed. The other item that was happening at that time is the city was trying to create a wastewater treatment plant in those areas and those negotiations with the landowner previous to us had failed and there was a lawsuit between the lander and the city over the terms of getting that wastewater treatment plant built. So moving forward to 2008 through 2010 we purchased the property, we worked with the city and we helped negotiate a settlement to that lawsuit and we created a very unique cost reimbursement agreement. And we joined in with the city to collaborate on how to create a financing mechanism to get infrastructure to the east side, so taurus and the city developed a P.I.D. Policy for the city. It was a brand new program, we spent two years working with the city to develop that property.

[1:44:14 PM]

Taurus also worked to bring the water district from Mansfield, the CNN -- CC in from Mansfield into the city of Austin, which was one of their big goals. And we created a reimbursement agreement that was -- had a great vision of extending six major water lines to the east side. Not just for whisper valley and not just for Indian hills, but for thousands of acres on the east side and we created a very unique 24 and a half-million-dollar cost reimbursement agreement. So fast forward those things were put into place between 2006 and 2009 and 10. In 2009 you look at this area now and you see the completion of sh 130. It's there, it's in the ground, so it's time to begin moving forward with this plan. So in 2011 we began with the first of these number of projects, and the city issued the first \$40 million in bonds and taurus began designing and building four major projects, two water lines, a wastewater line, wastewater Fremont plant. A total of 23-point \$2 million in infrastructure projects. So when you look at the total of what was envisioned in that 24 and a half million reimbursement agreement you see six major water lines. You see a sewer treatment plant and you see a sewer line extension. And these lines again were oversized, they were designed. The sewer treatment plant has the capacity to serve a huge amount of the east Austin growth area. So this is really what the result of the visioning was together. We created a mechanism to get all those blue lines or water lines, almost 10 lines of water lines, some of which are 48 inches in diameter. We found a way to build roads, we found a way to build sewer treatment plants, wastewater lines, and in the process we created a planned unit development that's very unique.

[1:46:17 PM]

We worked with the city closely to create land use that was within the vision that they wanted to see. A trued planned unit development with great housing opportunities and great businesses, retail, commercial opportunities for the residents along sh 130. So looking at today what we've accomplished so far is the two water lines you see on this screen, water line 1 and

water line 2, as well as the sewer interceptor line, and we're in the process of finishing the design on the wastewater treatment plant. So this is what the planned unit development looks like. This is a concept plan and it's a really truly unique community. It's a benefit to certainly east Austin. We think it's a benefit to this city in general. Some of the characteristics of the community are that affords affordable housing, with homes from 150,000 up to 270,000. We've had 207 acres after the open space and parks and we in our first phase have a 6,000 square foot community center. It's the first community that every home will have the Google fiber and Google nest service and it's the first community to meet the very lofty goals of Austin energy, which is the zero energy policy. Every home will be served by geo thermal energy and solar power so that we can really reduce energy consumption and create fixed energy payments for the residents out there. We dedicated two school sites. There's a library site. There are transit stops, fire stations. So this is the type of development that they did the future tax base and really became the template as we envisioned and collaborate the with the type of development that the city wanted to have along the sh 130 corridor. And this is the only project going back to 2004. It's the first project that really is following the vision that follows the infrastructure that is designed to go to this side of town.

[1:48:20 PM]

But it's very important to all of us that this project succeed. So looking at how the deal was structured between ourselves and the city and the collaboration, the collaboration agreement to repay the P.I.D. Bonds with water cost reimbursement funds -- so it started with P.I.D. Bonds and then it involved 24 and a half million dollars in reimbursement agreements. The idea was to issue the bonds, the idea was to take the funds from those bonds and build improvements, and then when those improvements that we both wanted -- and these are all off site improvements. None of these are on site improvements to whisper valley. But when these improvements were completed then the plan was for the city to reimburse the cost of those projects and the funds would not go to the developer. The funds would be pledged and have been pledged to the payment of the P.I.D. Bonds. So there was a total initially of 40,000 -- \$40 million issued. The plan was that the construction for those four projects would be complete, the original plan was that the construction would be complete by the end of 2013. And that's really an important part of this story because there were construction delays. If the construction had been completed [indiscernible], then there would have been a total of \$23.2 million that would be available to make payments to the bond holders on November 1, 2015, which is when the first scheduled payment to the bond trustee was scheduled. It was envisioned that a portion of those proceeds would be paid in 2015 and a portion would be paid in 2016. And the really wonderful part of this story that really worked well with the long-term vision was that that 24 and a half million dollars that was used to build those off site infrastructures would be repaid to the city, all 24 and a half million. And it was envisioned that a third of it would be paid through land sales by the developer in 2020, a third in 2025 and a third in 2030.

[1:50:31 PM]

So what went wrong and why are we here today? We look at this, if you will, when you're looking at a long-term vision, sometimes a vision requires a course correction. Our visioning is not always perfect and circumstances don't always happen exactly as we plan them. So we had two major problems. First of all, bond payments were set up on a fixed payment schedule. They were fixed at first with what was thought to be a very conservative date with construction ending in 2013. The first bond payment wasn't scheduled until November -- December 2016. So the bond dates were fixed, but the construction schedules, while they were thought to be realistic and would end in 2013, didn't. For a series of reasons, construction has taken longer and so that's really where the problem as far as the payment is concerned because those payments of bonds were envisioned to be made with reimbursement -- payments from the reimbursement agreements. The second major thing that went wrong is there was a decision made to move the bond payment date from December 1 to July 1. And when that date was moved it was moved really not at our suggestion, it was moved over our objection and it was in the best interest of the city, the data, to give them the flexibility to deal with unexpected issues and certainly that's what we're dealing right now. And that's what we're trying to resolve today with this action on your part. So if you look at the construction schedules of the four different projects, the original completion dates as you can see the longest one was at the end of 2013 and what has actually happened in reality is that the conditional acceptance dates, which we're proposing to change the language in the cost reimbursement from final completion to conditional acceptance, right now we have the water line 1 estimated to be this month or certainly no later than next month.

[1:52:34 PM]

Water line 2 has already been conditionally accepted. The interceptor line is already accepted and the funds have been placed into the bond account with the trustee, \$1.9 million. The wastewater treatment plant is not on your agenda today, but it's an important part of the story. It has not gone into construction, and has gone through four different revisions. While I'm happy to answer questions on that today, that would be a separate action we would want to discuss with you. The original wastewater treatment plant was envisioned to be half a million gallons. Because of budget issues and bidding issues. Now we're on our fourth design. If the new design is agreed to by the city then the schedule up here will be the first phase 1 a in December of this year, 1 B in March of 16. Phase 2 in 2016, which is a temporary plant. In phase 3 a permanent 250,000-gallon plant would be in February of '17. So looking at the payment date of bonds -- I'm about to stop myself. This is the payment date of bonds.

[Buzzer sounds] Coincides with yours.

-- Coincides with yours.

>> Mayor Adler: You can finish your thought. You can finish your thought.

>> Okay, thank you. So this is the payment date. And this really again focuses the attention on the issue that we have. The original payment date -- the payments happen in two steps. One to a bond trustee that holds the bonds in preparation of payment to the bondholders. The original date for the payment was November 1, 2015. And it was for 7.4 million. That date was revised to July 1, 2015. There was a payment also in 16. And the payment to the actual bondholders is December 1 so the payment is not yet due, the 7.4-million-dollar payment is not yet due. And

December of 2016 there's a 16.3-million-dollar payment that is due.

[1:54:38 PM]

If these projects are completed with three of the four being substantially complete or conditionally accepted now, and with the wastewater yet to be done, I am very confident that these payments will be paid to the bond trustee. I am confident that the payments will be made to the bondholders and I am here to tell you today that under no circumstances would taurus default on these bonds. There is a discussion that we're having with staff that has to do with why did the payment not get made on July 1st. I'm happy to address that question and also happy to address the question on water line 1, there's a lawsuit with the contractor that exists. I'm happy to discuss that as well. I'm here available hopefully to work with you. And again I want to thank each of you for the time you've spent with me. I hope we can work together in the future to solve this and work forward together. Thank you.

>> Mayor Adler: I understand that the city is recommending to conditionally accept the lines that have yet to be completed insofar as they don't have landscaping and trees and the like.

>> Yes, sir.

>> Mayor Adler: My understanding is you will bond around that if you fail to perform that would happen.

>> That's correct.

>> Mayor Adler: And then the second part of that was that we obviously need to make sure that the city gets clean title and because of the court action one of the other requirements for funding even under a conditionally complete one would be that that's been resolved or bonded around or some such, such that the city is not put in the position where it's taking something other than something that has in effect clean title. Is that correct?

>> Absolutely correct on both counts.

>> Mayor Adler: Ms. Garza?

>> Garza: Can you address -- you said you could speak to the reason why the July payment wasn't made.

[1:56:41 PM]

>> Yes, ma'am. This particular issue again, it starts with the fact that the date was moved. And if we go back again in the fall of 2014 a meeting was called with the finance department, the water department, Austin utility water, ourselves, and it was headed up by -- the meeting was led by the cfo for the city. And the discussion was that there was an assessment payment -- there's two payments actually that were discussed. One is an annual assessment of payment, which is due in January of each year. The other was the first principal bond assessment payment. Under our original agreement with the city, the assessments were due in January. The principal payment to the tree was due November 1 with a payment to the bondholders on December 1. The discussion was they would like to move that date up to January of 2015. And I'm sure they were doing the thing that they thought was in the best interest of the city except that they were not necessarily aware or overly concerned about the fact that construction was moving very slow. And that at that meeting and every meeting since then both in written

communication and verbal communication we've said to the staff, we've said to the finance department, we've said to Austin water, these contracts are moving slower for lots of reasons that we could talk about, but the fact of the matter is we're moving slower. We ask that that date not be made and so staff essentially said what we would like to do is get this on the council agenda for December. It's the last meeting of the old council. Let's don't burden the new council with this issue. So we really want to make a decision by that final council date. We said we would appreciate it if you don't do this. And they said let's do this. We're going to put it on that date and let's look at the situation again in January and February and see how construction is going because the payment is not going to be due. They've settled on July one instead of January.

[1:58:42 PM]

They settled on July 1. Let's revisit the issue in January and if it looks like the construction still moving slowly we will go to council, staff will go to council and ask down to move the date. And they said why didn't you show up in December? We didn't show up at December council meeting because we were told if construction wasn't moving faster that it would go back on the agenda and the date would be moved of the starting in January I met frequently every month, January, February, March, with the Austin utility district. I met with the finance department and I shared updates on construction and I explained to them the construction was still not moving fast enough and it was going to be very close. We were thinking that things -- if we worked closely together that there would be a chance it would be finished by July 1, but that it looked to me like it wasn't going to be finished July 1 in particular on water line 1 and water line 2. The wastewater line was done. Water line 1 and water line 2 were lagging behind. So in March and April and May all three of those months I came to the staff and I said get us on the council. Get us on the agenda. We have to talk about this. Let's avoid a crisis. And if for whatever reason, and I don't have that answer and I'm sure staff does, a decision was made not to put it on the agenda. So in June we started having different kinds of meetings with the staff and trying to come up with ways that we could solve the reimbursement issue before July one. And in fact, working with the director of Austin utility came up with a recommendation that we work together on that was supported by the director of Austin utility as well as the assistant director, as well as the manager that we were working with. And everybody understood the situation. I think at that point legal took a look and said the documents don't allow us to make this decision so the reality is July 1 came, the decision was and is to do was should have been a bilateral decision not a unilateral decision, number 2 it should have been brought back to council long before and should never have taken off.

[2:00:57 PM]

Our view is simple. We believe it would have been wonderful to have that payment made. We still believe our obligation is make payment to trustee on November 1 and we're perfect capable and ready to make that payment. So our goal would be since those funds were never intended to come from the developer that we would work with staff and complete the projects. With the assistance of this vote today and changing the language from final completion to

conditional acceptance, then we in effect have a mechanism to complete three of the projects which will result in over \$16 million in reimbursement and the crisis will go away. These will happen before payment is due to the trustee in November. It's been our position. We've listened to staff reports to you. Certainly it's important to have both perspectives. We want to work with staff, we want to work with the council. At this point staff has recommended that council intervene into the process and to help solve the problem by amending the cost reimbursement agreement. We're in support of that. We have a joint support between staff and ourselves that would be a solution if council feels that this is appropriate.

>> And the statement that the payment was never intended to come from you is something that I would like maybe our finance or staff to speak to. I understand others might have questions.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I appreciate the question asking you to clarify because in your initial comments you did say that the staff changed the date over your objection so I appreciate that you addressed the fact that you did not actually come and object when the council was taking the vote. I -- you've provided some further contacts but the time you didn't come and object at the time council was taking the vote. I want to talk about the November 1st. You've said that you could meet your financial obligations to the trustee holder by November 1st.

[2:02:57 PM]

But that -- is that contingent on our changing the nature of the acceptance? I mean could you make -- it seems to me you still can't achieve final acceptance of those lines by November 1st.

>> We will make that payment November 1, period. Our goal would be, and this is really where I'm asking you for your help, the goal would be to create a solution that allows the reimbursement agreements to do what they were intended to do. Again this project goes all the way back to 2006 so we're talking a fairly small adjustment. If we go with the spirit originally intended, then by this [inaudible] Intended to happen. A question somewhere along the way has arisen as to capability of making this payment. I want to assure everybody here today this project will not default. We have a very significant investment out there. The company has been around since 1978. It's an extremely strong global real estate firm and so that payment will get made. It's our belief that we should work together to get the reimbursement agreements to do what they were intended to do. If November 1 comes and that payment is due to -- is paid to the trustee, we will make that payment. We've not missed one payment that is involved with this project. So -- so I would say to you with all the confidence that I can say to you that that payment will be made on November 1.

>> Tovo: On November 1. Thank you for making that commitment and I look forward to hearing from staff how we can make that a part of the agreement. Can you let me -- when are you intending to pay the 600,000, I believe it's \$600,000 in late fees and fines for -- for not making that payment back when it was due?

>> It's our feeling that the penalty that is being assessed because of the technical default, we would like to see that waived.

[2:05:06 PM]

And our proposal to you would be that if we make the payment, if the payment is made on November 1, then that penalty would be waived. If the payment is not made on November 1, I feel it's appropriate there would be a penalty and interest that would begin on July 1 and we would be responsible. Under the original documents, the payment was not due till November 1.

>> Tovo: I understand that and I don't want to go round and round about that again, but the fact remains it's council's discretion to set the payment schedule, they set it and at the time you had an ability to weigh in and say we're not going to make it, you elected not to do that. That is the payment schedule in place and as a city we have a city of enforcing the commitments we made and the contracts on this deal. So I guess I would just respectfully disagree with you on that point. But I appreciate the candor. It sounds as if you don't have the intent of paying it, you intend to ask for a waiver.

>> We feel like that's a fair approach and I certainly understand council's position relative to why a penalty is in place. There may be some reasonable mechanism that we could look, for example, at the costs actually incurred by the city, their legal department and staff, there may be a way to recover that cost. I'm looking at this in the spirit of fairness. I'm looking at this in the spirit of mutual collaboration. I'm looking at this as something that we're trying to work together on. So --

>> Tovo: And I'll say -- I'm sorry, I don't mean to cut you off but I know other colleagues have questions and I would say I think the city has entered into this agreement because they believe there's value to the community of your project and I certainly -- I as a councilmember -- as one councilmember up here want to see your project be successful, but I hope you understand we need to ask you hard questions at this point about the viability of the project.

>> Sure.

>> Tovo: I had one more question for you. Let me think if I can recount what it was.

>> Was it the lawsuit?

>> Tovo: No, although I have questions about that as well.

[2:07:08 PM]

It had to do with the payment -- when the payment was due. In essence you've also asked us to escalate the payment to you by allowing -- I mean we had a payment, we had a reimbursement that would have come to you next year and you are asking for that to be fast tracked into this year, a lump sum versus in two.

>> Actually working together with staff, the original two-year payment was based on the cip in plays with the utility department at that time and so we -- we were accommodating their budget at that time. Since then in working with them, they've indicated that those funds are available and I think that everybody is interested in getting as much money in the bond account. It's security knowing the funds are there for the next year's payment because there's a \$16.3 million payment next year. By moving those funds into the reimbursement process this year there's certainty those funds are with the bond trustee. From our perspective, we're okay, agreeable to leaving it the way it is. If it's half of the funds in '15 and half in '16, there's still sufficient improvements that will be finished with these three projects that there will be more than enough money to make the payment. I'm happy to work with staff and council on that

record.

>> Tovo: I would be interested in hearing staff feedback on that if that was a better -- that was my thought that was one of the changes we were being asked to contemplate. If it's better from the city's perspective to leave it as is, I would ask respond to respond to that in a bit. Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I've been harping on this issue of that payment being moved from November to July. I still think that was a bad idea. I never would have supported that. And it's my contention based on the information I have now that that was done -- it was basically brought by staff to the former city council in a package that says here vote for this.

[2:09:19 PM]

And I've got a book in front of me right now. This is the agenda right now that the council is dealing with today and I abstained from a lot of these issues because it is physically impossible, it's impossible for this council to be informed on all the complexity of all these decisions we're being asked to make and I think this was a bad decision that was brought to the former council. They were not informed of the complexity of this deal and the problems that this would cause. I guess I'm kind of resent full of the 600,000 being charged for a date that was arbitrarily moved and I think that's trouble for our council. And I don't want this council to simply accept that should have been done, that it was the right thing to do, but that's probably not what's on the table today. What's on the table today is something else but I just wanted to make that remark and I do [inaudible] Solution but I guess chance to go back and visit that change date when we talk about the water treatment, the wastewater treatment plant later. But right now I don't think -- the 600,000 has nothing to do with what we're talking about now.

>> Mayor Adler: We have additional speakers from the public. Do we want to go to them yet or leave it -- someone trying to get my attention?

>> Tovo: Mayor, I appreciate that's not the decision before us, councilmember Zimmerman. The reason I raised it is because we have the applicant here talking about his ability and intent to pay all of the financial costs to which he is obligated. And in my opinion that's one -- I understand we differ in that viewpoint, but that's why I felt it was an appropriate question to ask him.

>> Zimmerman: Fair enough and it is and it's my viewpoint he's not obligated to pay so that's my opinion. Thank you.

>> Mayor Adler: Any other questions? Thank you, sir.

[2:11:24 PM]

>> Thank you, mayor, councilmembers. Testify Metcalf. I've -- Steve Metcalf. I've been working on this project since 2006. It's been a long road and we have always been collaborative with the city. It's always been a hand in hand trying to get this infrastructure built because there's no way we could do it ourselves or the city could do it themselves so we've been working together to get this done. So to clear up a couple questions that came up, and that's part of the reason for the decision in 2014 in December not to show the council and argue that point. We argued

it with staff, we had told staff we didn't want to do it, but through the history of the project starting in 2005, everything we had done had been together. And so we didn't want to get in the situation where we were arguing a point in front of council. Partially because we had been told that if the date wasn't going to be hit and it just looked like, wow, July 1st isn't going to happen, that we would come back to council and adjust it. So we made the decision to not show up at council and fight it, but we certainly and I think you guys have probably gotten copies of it, throughout the process were telling staff, wow, that date is not going to work. It's an interesting thing also about that July 1 date and the way the reimbursements actually work. The reimbursements -- if an improvement is completed the way it's drafted today, not what's in front of you, but the way it's currently drafted without the amendment being requested, it's a immaterial -- if an improvement was done on or before October 1, the city wasn't obligated to make the reimbursement payment until October 31, 2015. Even if a waterline got down in 2014, the city didn't have to make that reimbursement payment until October 31, 2015. So by moving that date to July 1, we almost insured there was going to be a problem unless the city went ahead and reimbursed it before they had to.

[2:13:31 PM]

But legally they did not have to make it until October 31, 2015. I believe that's the way documents read and if staff feels differently, they can tell you, but I think that's what they said. Another thing to clarify about this July 1st date, part of the reason we couldn't make that payment on July 1st is because all of the funds that come from the reimbursement payment have been pledged to the bond trustee. So if we were to come out of pocket on July 1st and made that payment, we had no way to get the money reimbursed back to us that should come back to us. So if we had to temporarily float the money, there was no way for it to come back to us. And so part of our request is that if you guys approve what's -- what we're asking, and again I think we can live with only the half payment. We don't have to have the full reimbursement. If staff wants that for security, great. We don't need it.

[Buzzer sounding] Do you want me to finish?

>> Mayor Adler: Finish up.

>> We don't need it, but we would make part of that request. So we can live with just changing it to -- from

[inaudible] What that means, that just means the grass is growing.

[Inaudible] Means that everything is done except grass isn't growing. And then so we would make any payment that's due on November 1st that doesn't come from these reimbursements as long as you guys also agree as part of that that you will support that the reimbursement payment comes back to us that we had to come out of pocket for instead of the bond trustee.

>> Mayor Adler: Is that part of what staff is recommending day?

>> I don't think that's part of staff's recommendation because this has kind of evolved as we've gone along. If the decision is going to be just to do conditional acceptance instead of make it 100% payment, that brings that into question.

[2:15:35 PM]

Waterline 2 is fine so that 4.4 million would be there or half of it is two. I am concerned waterline 1 will be conditionally accepted in time given the status of this litigation with our contractor and we've got to get city staff comfortable that you have no liability for that and I could see that taking a little bit of time. So we probably or could have to come out of pocket for that waterline 1. Again as Doug said, no matter what, we're going to make sure that money is paid by November 1st.

>> Mayor Adler: I'm now confused.

>> Okay.

>> Mayor Adler: And maybe that's a question to be directed toward staff ultimately. Have you discussed this with them? We may -- a recommendation to us that we're about to --

>> Obviously there's lots of different staff so we've talked to different people about it. We have suggested it to -- to a few councilmembers at meetings we've been having over the past few days because, again, this has really been evolving over the past few days. We've been trying to come up with solutions to get you guys more comfortable we're doing the right thing.

>> Mayor Adler: So the staff's recommendation is pay up the money all at once rather than over two payments?

>> Yes.

>> Mayor Adler: If they pay it all at once, do R. Does that obviate the need for the change you were sucking? Q.it -- suggesting?

>> It's possible waterline 1 is not going to get conditionally accepted so if waterline 2 is 4 million -- we're still going to have to come out of pocket a million and a half.

>> Mayor Adler: The title issue is \$685,000 liability?

>> The -- you are asking the amount of money in dispute?

>> Mayor Adler: Yes, with the title action that was -- can't you bond around that?

>> We believe we can bond around it. We've been working with city legal to figure out a solution. I think city legal could probably answer the question better. We may have to use a letter of credit instead of a bond is what we're hearing but we believe there's a way to get around it, but I would have to defer to city legal.

[2:17:39 PM]

We're going to work with them to do whatever it takes.

>> Mayor Adler: But either of those two secures the city around that liability. You ought to be able to perform for that in a timely basis where we don't have to change what it is the city is recommending, no?

>> We absolutely should, yes, sir.

>> Mayor? May I ask a question.

>> Mayor Adler: Yes.

>> Houston: Is there a reason we have to do this today and instead of talking to councilmembers to talk to the people, legal and staff to come up with a solid recommendation that we can vote on?

>> Mayor Adler: Let's get staff up to see whether we have that or not. They may ultimately be where you are.

>> Given the timing of bond payments due obviously it's time sensitive because, again, we

won't let it to happen and you don't want it to happen for these bonds to go into default.

>> Mayor Adler: That's true. People are uncomfortable because people don't want a project partially completed. A lots of levels this is tough.

>> I understand.

>> Mayor Adler: I want to get the legal as quickly as we can. We have a couple more people that have indicated a desire to speak. The next speaker is Tom Johnston.

>> [Inaudible]?

>> Mayor Adler: No longer here, good. We've gotten all the speakers. The staff may come up. You talked to us at length at our work session and I thought I understood this next immediate component. Now I'm trying to -- not trying to decide any of the issues downstream but the most immediate did we want to take -- do we want to do -- you were recommending we do at the moment what was necessary to get the waterline done.

[2:19:46 PM]

And the security that you were getting [inaudible] Additional acceptance with the bond or security being put up to ensure that the grass and trees would be planted and ensuring that title was cleared provided sufficient security to say it was prudent to go do the next step in terms of the money movement in order to ensure that those lines were done. Is that still your recommendation?

>> [Inaudible]

>> Mayor Adler: Then -- when Mr. Metcalf was up it seemed there was a suggestion of adding something. Is that a adding something and is that adding something consistent with what it is that you are recommending? Or do you understand that well enough?

>> I believe what he was offering to add was some additional security on the warranties for waterline 1. Elaine hart, cfo. Additional securities to cover the questions about the clear lane and the warranty coverage for waterline 1 that is not yet complete and we had not proposed that with this rca.

>> Mayor Adler: Is that something that's been official to the city or presents additional risk?

>> That is something that's been official to the city. We would accept that change.

>> Mayor Adler: Okay.

>> Or recommend that change.

>> Mayor Adler: And then there was the issue about the -- whether the payment goes to them or whether the payment goes to the bondholders. Did you hear that aspect of what it was?

>> The way the reimbursement agreement is structured in the financing documents, the payments, the reimbursement payments are scheduled to go straight to the trustee. In addition to the proposed action council is being asked to make today, we have to take this amendment to the reimbursement agreement to the trustee for approval, and I don't think that that approval will be unreasonably withheld because this benefits the bondholders so there's another step.

[2:21:58 PM]

>> Mayor Adler: Mr. Metcalf was saying in order for it to work from his perspective, and I could

have understood him, he wanted the payment to be made to them as reimbursement rather than to the bondholder. And what I want to do is -- because I don't think this is the place for us to discuss it. What I would propose to do at this point for people to ask additional questions if they wanted to, but I would go on to the next item on the agenda and let you talk to Mr. Metcalf and make sure that there's not a disconnect that just happened there. Does that work?

>> It works.

>> Mayor Adler: Is that okay with the dais? Okay. So -- is that okay? I'm going to stop this right now. I just want to make sure that everybody is still on the same page. I want to make sure everybody is still on the same page if that gets considered. So I'm going to advise I'm going to now move on to the next item.

>> Houston: And we understand the page the page they are on.

>> Mayor Adler: Right. I'm now going to move to the next item. Thank you.

>> Mayor?

>> Mayor Adler: Yes. Ms. Gallo.

>> Gallo: I happened to be off the dais when we voted for item 2. I was right behind coming up and if the minutes could reflect I would have voted in support of that, please.

>> Mayor Adler: So noted and it will be done. Okay, the next item that I have is the cultural arts contract, which is item 20. Mr. Zimmerman, you pulled this one.

>> Zimmerman: Mr. Mayor, we talked about this in the work session and my only question on this was regarding the precedent it might set because there were some questions about whether the money could be used in that fashion. I think the answer came back, you know, yes, it could, but I just wanted a little more discussion on that.

[2:24:00 PM]

Does this represent a change in precedent for how those hotel taxes have been used in the past and what might happen in the future if this is approved. As far as precedent setting goes.

>> Mayor Adler: Do you understand the question?

>> I do, but I think I'm going to defer to legal. It's about the hotel occupancy tax.

>> Zimmerman: I think that is a good question for legal.

>> Mayor Adler: Legal is coming. Take your time.

>> Good afternoon, mayor and city council, Cindy Crosby, assistant city attorney. I apologize, Mr. Zimmerman, I did not hear the question.

>> Zimmerman: So the question is we already talked about this briefly in our work session on Tuesday and we did receive assurance that it was legal to use the money in this fashion, the hotel tax money.

>> Yes, in accordance with the Texas tax code it is permissible and the Zach Scott theater is supposed to be reporting to the board staff on how they are using the funds.

>> Zimmerman: Okay, but is there any change in precedent that you could see that this might represent? In other words, would we may be getting new requests for money similar to this that we haven't had in the past now that we're doing this maintenance for the Zach Scott center?

>> On other projects or same project?

>> Zimmerman: Potentially other buildings, other projects, other venues, other fill in the blank

other something.

>> It's certainly possible that other nonprofits would try to structure their proposals in the same manner; however, it would ultimately be up to the city council on how they would want to structure any proposals or management agreements.

>> Zimmerman: That's correct, but the question still is that if we do this particular arrangement when people come back asking for money, we'll have more and more and more people asking for funding for maintenance for their facilities.

[2:26:10 PM]

And we didn't have that in the past, right?

>> I don't know that we've had it on other nonprofit agreements or other maintenance agreements, but it's certainly a possibility.

>> Zimmerman: Okay, so I guess my -- I'm not sure, that's why I'm asking the questions. It seems to me this is precedent setting and I don't think it's a direction we want to go, but the information seems to be incomplete on this.

>> Mayor Adler: Do you see this as establishing a new precedent?

>> This agreement has been in place since 1987. I can't say how many since then have followed the same arrangement. I can think of other park projects which I've personally worked on and they are not based on this same organization. They are long-term agreements in which the nonprofit will have a capital campaign, et cetera, and will manage the facilities for the city. So we can just go back and look at what other agreements have been in place since '87.

>> Mayor Adler: But you don't see this as a change in precedent with --

>> No, Mr. Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: The interesting thing would be to find out how many other nonprofits knew about this opportunity in 1987 and how many were organized and formed and incorporated in 1987. So I'm talking about the carver, Mr. Renteria talked about the Mexican-American cultural center. They could use \$20,000 to do maintenance and administrative kinds of things, but nobody knew about that. And so it's -- it's interesting that some people knew about it but others don't have the opportunity to structure their agreement so that they can benefit from those funds. So that's the issue is how do we make sure that the people who could use those funds legally know about them so that they can use them in a way that is appropriate for their facilities.

>> Mayor Adler: I'd add at that work session in response to Mr. Renteria's question, the manager leaned over and said he would be looking at that specific question in terms of the maintenance of those facilities.

[2:28:19 PM]

Any other further questions on this item? Is there a motion to approve item number 20? Ms. Pool. Seconded -- for a second? Is there a second to this item? Ms. Kitchen. Any further discussion?

>> Tovo: I would like to record to reflect I'm recusing myself on the portion of this item that

refers to creative action and I have an affidavit on file with the clerk.

>> Mayor Adler: Okay. Ms. Pool is recusing herself. Further discussion? Ms. Tovo. Yes, Ms. Troxclair.

>> Troxclair: I would like

[inaudible] Because of my connection with ballet Austin.

>> Mayor Adler: Okay. All those in favor please raise your hand. Those opposed?

>> Houston: I'm abstaining on the Zachary Scott portion.

>> Mayor Adler: Okay. So I think what we have is --

>> Renteria: Mayor, I'll also abstain.

>> Mayor Adler: I have Ms. Tovo recusing herself. I have --

>> Tovo: Mayor, just on the portion -- as I understand it my obligation is just to recuse on the portion related to creative action, theater action project. I'm voting on the other contracts.

>> Mayor Adler: And you are voting aye as to the others. And then Mr. Renteria is abstaining on the Zachary Scott portion. And Ms. Houston [inaudible] And Mr. Zimmerman was voting no. And Ms. Troxclair was abstaining on the entire item. Okay. So -- as to the Zachary Scott, I have one no vote.

[2:30:29 PM]

I have one, two, three abstentions, which means I have seven votes in favor. As to creative action, I have --

>> Tovo: I think it may be listed as theater action project.

>> Mayor Adler: I have one vote no. I have one recusal by Ms. Tovo. And I have then nine votes -- no. And I also have Ms. Troxclair abstaining. Also I have eight votes in favor. As to ballet Austin, I have one vote no. I have one abstention. Or recusal, and I have nine votes in favor. Okay? That's it for number 20. Let's call up 21 and 22, which are the lobby lists.

>> Zimmerman: Thank you, Mr. Mayor. I posted something on the council message board that I intended to ask for postponement. And I wanted to start I guess with 22, the state lobby. I think that was 860,000.

>> Mayor Adler: That's fine.

>> Zimmerman: Everybody get a chance to look, I think councilmember Kitchen had -- as the only former state representative, she kind of offered to lead an effort for us to get a written statement. Maybe she could speak to that briefly.

>> Kitchen: Well, I put this on the council message. I know there's a number of us that are interested in working on these legislative issues both updating the list of issues and also thinking in terms of what kind of guidelines we can provide to staff.

[2:32:32 PM]

And I know that the -- councilmember pool had suggested that we might convene the -- that the mayor might convene an ad hoc committee on legislative matters, a government relations matters. And so I'd defer to the mayor to see if that's something he wants to do and then we can go forward as a group and I'm happy to participate and help lead that.

>> Mayor Adler: And consistent with the conversations that we had on the dais, I'm going to go

ahead and form up that committee, ad hoc committee on legislative affairs. I'll post something so that people can add additional scope that they want that group to deal with, but at the very least I heard that we wanted a group that would come back and make recommendations to the full council as to what should be on our legislative agenda or what is on our legislative agenda. Recommended protocol for how councilmembers testify or interact with other governmental bodies in their official capacity as councilmembers. Recommend a process for timely and periodically updating that legislative agenda. And also a process for how we would be ever modifying or updating our lobby teams. I'll post that so that people can add to that, but I'll form up that committee, probably primarily drawing from members here that have served in and around the legislature. And with that I'm probably going -- I'm going to vote for these two lobby contracts so that those people are in place pending that work and instruction that would come from the council after getting the ad hoc committee's report.

>> Kitchen: Mr. Mayor? I'll also support going forward. I think that with the action that you're taking that we will be moving pretty quickly and bringing suggested recommendations back to the full council so I don't see a need to postpone the contract at this point.

[2:34:38 PM]

>> Mayor Adler: We'll move quickly. Mr. Zimmerman.

>> Zimmerman: Planned order so I made the motion so maybe is there a second -- I made a motion to postpone. If there's no second we'll go on.

>> Mayor Adler: Mr. Zimmerman has made a motion to postpone item 22. Is there a second to that? Seconded by Ms. Troxclair. Discussion on that item? Mr. Zimmerman.

>> Zimmerman: I appreciate the fact that we're going to move quickly, but I just urge and I ask my colleagues here, councilmembers, we're talking about \$860,000. The other item that I guess will come up next is another 270,000 so it's over a million dollars of taxpayer money that if we go ahead and vote for this we're basically saying prior to any council direction we're already approving over a million dollars of taxpayer money for lobbying for the entire city. And I can assure my colleagues that a lot of my district 6 constituents are not going to be in favor of the majority vote on things like annexation. I think that the city was fighting against annexation reform in the prior session and my constituents were strongly in favor of the annexation reform as an example. So I would urge my colleagues to please postpone the award of this money until the task force comes back.

>> Mayor Adler: Any further discussion? Ms. Troxclair, then Ms. Houston.

>> Troxclair: Do we know if we did postpone this until we were able to have our discussion about legislative priorities, are the contracts for people list understand the backup, do they only go through the end of this month? Or --.

>> Chief of staff, that is correct. So the contracts expire at the end of this month, September 30th. For all the contracts. Both the federal and state contracts.

>> Troxclair: And you don't expect the interim charges from the legislature to be out any earlier than probably December at the earliest?

[2:36:46 PM]

>> What we've heard is, typically as you know, the legislature releases both on the house and senate sides in January, but we've heard the lieutenant governor wants to release those even earlier. And we heard as early as October. But we're not sure. That's what we've been hearing so far.

>> Troxclair: Thanks.

>> Mayor Adler: Okay. Ms. Houston. Ms. Houston. I was just checking.

[Laughter]

>> Houston: Thank you.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Could you speak to our options to make changes to these contracts should we decide through our process that we might want to make some changes?

>> You as a council because these are contracts are supposed to -- you get to approve these contracts so you as a council decide you want to take some of these contractors off, you can certainly do that.

>> Kitchen: Okay.

>> But our recommendation is what you see there are the contracts both on the federal and state side.

>> Kitchen: No, no, I meant going forward. We can always terminate these contracts.

>> Correct.

>> Kitchen: Terminate or change or amend.

>> That's correct.

>> Kitchen: Okay.

>> Mayor Adler: Ms. Casar.

>> Casar: Mayor, I'll be voting not to postpone them and to get them going because even my understanding is it's important for us to be shaping those interim charges and if these are the best folks for us to work with at the legislature, they have been working with us for some time, for them not to get scooped up by folks that may have the opposite interest of the city.

>> That would be a concern, that's correct.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I just wanted to assure councilmember Casar there is no shortage of lobbyist who would be happy to take a contract from the city of Austin. That aside, I also questioned at the work session about the text municipal league because we also are -- pay dues to tml to advocate on behalf of the interest of our city and that total thank you forgiving me that information, we also pay about \$40,000 a year to Texas municipal league in addition to our contract lobbyists.

[2:39:03 PM]

>> That's correct.

>> Mayor Adler: Any further discussion? Those in favor of item number -- all those in favor of the motion to postpone, this is the motion to postpone item 22, please raise your hand. Two votes. Troxclair and Zimmerman. Those opposed? The balance of the dais. There's no further conversation, we'll take a vote on number 22. Those in favor and 21 and 22.

>> Did somebody move approval?

>> Mayor Adler: Did somebody move approval? Mistovo. Second Ms. Pool. Those in favor of 21 and 22 please raise your hands. Those opposed, troxclair and Zimmerman no, balance voting yes on 21 and 22 are approved. That gets us up to item number 35. Mr. Zimmerman, I think you pulled this one.

>> Zimmerman: Thank you, Mr. Mayor. This will be quick too. So the issue on this I believe is the -- it's connected to the metal detector at the front. It's my understanding that if there were not a court being periodically held here, I believe we have about seven -- have we had seven court hearings in 2015? Is that correct?

>> No, we have seven court hearings in 2015, four of them for the remainder of this year, yes. It will be a total of seven.

>> Zimmerman: You will have a total of seven for the year. Okay. So the reason I pulled this, I wanted to get a commitment if possible from you or whoever makes these administrative decisions, maybe it's the city manager's office, that this court go ahead and be consolidated. Let's take that court out of city hall and put it into the location where on sixth street that we're voting on today. So is there any technical reason why that court couldn't be consolidated, just moved out of city hall and put where the other court hearings are happening?

[2:41:10 PM]

>> As I said in the work session, the directive has come from the city manager's office, so I'll be happy to have that conversation with him.

>> Zimmerman: Okay, so it's feasible and entirely possible and may even make sense to go ahead and have all the court hearings at one place and not have periodic hearings here at the city hall. This is not a courtroom, this is a city hall and we have other spaces dedicated for court hearings.

>> We do have some capacity issues and having them here does help with that.

>> Zimmerman: That's not what the information I got so you have given me different information. I heard there's plenty of capacity and plenty of room in the facility we're voting on today. So is that not the case?

>> You heard that in the questions that I responded to?

>> Zimmerman: No, there's a lot of staff people communicating with us. Sorry about that. But I've been told there's plenty of space in the current facility we're asking to vote on, that we're being asked to vote on.

>> Our courtroom can only accommodate 26 people at a time. When you set several trials on one day on one docket, that -- that can be many more than 26 people to include police officers, attorneys, defendants. So it just really depends on how many settings we have on that docket.

>> Mayor Adler: Ms. Tovo, then Ms. Houston.

>> Tovo: For weighing in on this issue I want to express strong interest in seeing the city hall continue to be used. To resolve some of the capacity issues at our municipal court. I think it's very appropriate to continue to use this building for hearings and in fact I'm sorry that I think because of our new schedule it meant that some of those meetings had to be rescheduled which is why you have so few scheduled for this year.

[2:43:10 PM]

I would certainly support continuing that and expanding it if necessary. So to the extent we're offering the city manager feedback to use in his consideration, I vote in different view than councilmember Zimmerman.

>> Mayor Adler: Ms. Houston.

>> Houston: As a member of the public safety committee, we've heard the judge say that they are tight in municipal court, and so this is traditionally been the overflow use that we've had and I would like to see that continue. And we're sorry that we're so many of you have so many meetings that you've not been able to use it as frequently as you have in the past, but we hope to clear that up pretty soon.

>> Mayor Adler: Okay. Councilmember pool.

>> Pool: The staff had also offered that any of us who wanted to take a tour of the municipal court to see what the situation is like that she would be -- she would welcome us to come by and take a tour. I'll probably do that in December when I have more time. But I look forward to seeing it and maybe there's some things in the future we might be able to do to alleviate the tight quarters and make sure that our halls of justice are sufficiently secure and welcoming.

>> I do want to make sure that you understand that municipal court and community court are not housed in the same building. Okay.

>> Pool: I do.

>> Mayor Adler: Okay. Mr. Renteria.

>> Renteria: My wife serves on the community court, she's been serving there for years and she's also asked me to support this item that's before us. I'll be voting yes on this.

>> Mayor Adler: Thank you. Any further discussion on this item with the court? Seeing none, is there a motion?

>> Zimmerman: Final question if I could. I guess if there's inadequate space in this facility that we're voting on and it can't handle our needs, I'm going to be voting no.

[2:45:11 PM]

We need to be voting on a building that can handle the needs that we have so sale be voting no.

>> Mayor Adler: I understand. Is there a motion to approve 35? Mr. Casar, seconded by Ms. Garza. Those in favor of 35 please raise your hand. Those opposed? It is 10-1, Mr. Zimmerman voting no. I'm working my way through this agenda. I know we have people waiting for some of the zoning and platting items that are set. I think there's been an agreement on at least some of these if you could let the clerk know, I'm going to call those up so that people can leave. Do you have some that are in agreement?

>> I have one item that's a postponement, item number 82. I can read that into the record.

>> Greg Guernsey, planning and zoning. Item number 82, C 14-2014-0186, property located at 2500 south heatherwild boulevard. The applicant has requested an indefinite postponement of this case. When this case would come back, we would have to renotify in order to bring this item back for council consideration. I'd offer number 82 as indefinite postponement. I see Mr. Rusthoven is behind me. I might let him introduce item 84, which I understand we have an agreement between the applicant and the adjoining property owner and we could offer this for

consent approval on three readings.

>> Mayor Adler: Okay.

>> Jerry rusthoven.

[2:47:13 PM]

We have an agreement between the property owner of this project, 614-618 blanco, and the adjoining property owner. If I could I could read into the record. It says the new added portion to the castle hill

[indiscernible] Requirements in code, that's in the ordinance. The new part says the property located at 614 blanco may be constructed in accordance with SP 2015-0166 C as revised extended or resubmitted, forward certificate of appropriate innocence approved by the city. Compatibility requirements do not apply to the property located at 614 blanco provided however building C shall have a front setback of 25 feet, a side yard setback of 10 feet, and 20 inches of screening trees installed between building C and the side lot line. That is the agreement reached a little while ago.

>> Mayor Adler: Okay. We have two items on the consent calendar. 82 and 84. There is a motion to approve? Ms. Tovo seconded Mr. Zimmerman. Any discussion in those in favor of the consent please raise your --

>> Tovo: I just wanted to thank the staff and all the parties for working so hard to craft that agreement.

>> Mayor Adler: Those in favor raise your hand. Opposed? It's unanimous on the dais. Thank you. We're working our way through. Number 8 is not back yet. Let's go ahead and do item number 67. Mr. Zimmerman, you pulled this. This is the open meeting question.

[2:49:15 PM]

>> Zimmerman: Thank you, mayor. This was just to address maybe the larger policy. I'm not opposed to the task force proposal. I just wanted to talk for a few minutes about what this means in setting precedents for other task force -- other task forces we might put together and whether we want to make a policy, a brief policy discussion because we may be setting precedents here.

>> Mayor Adler: I think that is germane for you to talk about what we're about to vote on.

>> Zimmerman: Maybe we could talk to or ask legal staff about how putting or relaxing strict adherence to all the meetings, how that might affect our task forces or committees.

>> John steiner, law department. Generally speaking the open meetings act applies to governmental bodies. Governmental bodies in the act are bodies that exercise government authority. A body that is purely add advisory, that is to say it has no ability to actually take governmental action, is not a governmental body within the meaning of the act. So a task force would not be a governmental body within the meaning of the act. The city has permanent boards and commissions that basically break down into two types. What we call sovereign boards, which are boards that actually exercise governmental authority such as the planning commission or the board of adjustment. And boards that are purely advisory, which can take no action by themselves but are merely advisory to council. The first type, the sovereign boards,

are subject to the open meetings act directly. They are governmental bodies within the meaning of the act. The second type of city board, the ones that are purely advisory, are -- comply with the act because we have an ordinance that says they will. So they are subject to compliance with the act because we have an ordinance in the city code that says that our advisory boards will do that.

[2:51:22 PM]

That is chapter 21 of the city code. Chapter 21 of the city code generally does not apply to temporary task forces, which are unlike our temporary boards, they are -- they are bodies that are advisory to the council that you create and that have an expiration date on them. And so they generally go away when they have fulfilled their tasks. Those boards are not subject to the chapter of the city code that requires open meetings compliance. So the only reason that they would be subject to open meeting compliance is if in the resolution by which you create the task force you say it will. In the case of this one, the case of the community engagement task force, the original resolution that created it said it would. It didn't have to say that. And so essentially now council is saying, well, we want it to be open, but it doesn't have to actually comply with the act. That is something that's permissible and would be permissible to any temporary task force that the council creates. If you don't say in the resolution that creates the task force that it must comply with the act, by default it would not. Traitorss are create by -- temporary task force are created by -- they are codified in chapter 2-1, when is where the compliance provision lies.

>> Zimmerman: Okay. I think that was terrific. That was very well explained and based on that explanation I'm going to be voting in favor of this. But while you are still up here, how does that conversation apply again to our four-member council committees? You know, because we're not a quorum and we never take final action. We're only advisory, so --

>> The idea there, the reason that the ordinance very carefully says that those bodies are only advisory to you is for that reason.

[2:53:22 PM]

Then the ordinance goes on to explain under what circumstances the meetings of those bodies will be made open.

>> Zimmerman: Appreciate that.

>> That's really a different subject.

>> Zimmerman: Thank you.

>> Mayor Adler: Further discussion on this item? Item number 67.

>> I'll move.

>> Mayor Adler: Ms. Pool moves adoption of item 67. Seconded by Ms. Gallo. No further conversation, those in favor raise your hand. Those opposed? Ms. Tovo voting yes as well. Unanimous --

>> [Inaudible]

>> Mayor Adler: All voting in favor of this item, number 67. So that item, number 67, is approved. The manager and I were asked to attend the inauguration of the U.T. President. I'm

staying here to stay with you guys given what we have on the agenda. The manager, all of us on the dais probably were invited to go, we're staying here but I asked the manager to go so I'm going to skip over the compensation issues until he has the ability -- until he makes it back to us. I think that gets us through all of the consent items except for number 8, but we don't have those folks back in the room yet. I think that got us everything but number 8. So we're going to then proceed, number 77 is going to be -- it was set for 6:00 time certain. That gets us now at this point then to the str matter. Str matter, we have four people speaking on each side for two minutes each.

[2:55:23 PM]

This is -- since it's already gone to committee, this is item number 78. I don't know if the groups have decided who among them will be speaking.

>> [Inaudible]

>> Mayor Adler: Okay.

>> [Inaudible] Someone just handed me a list. We're not discussing any of the merits. We're going to have four speakers on each side. We're going to alternate on people speaking for and against or however they speak. The first speaker will be Kristen hotop.

>> Mayor, if I could

[inaudible]

>> Mayor Adler: Why don't you --

>> Thank you. I would like to hand you a petition online petition with 571 signatures and growing, a little over two weeks we've had this petition online and we're still getting signatures. There's a handwritten petition for 71 signatures in district 3, which is additive to that 571.

[2:57:30 PM]

And then there's an editorial in there as well in the documentation, a copy for each of the members. There's only one copy of the petition though. Thank you very much.

>> Mayor Adler: Thank you. Kristen.

>> Hi, council, thank you for having us --

>> Mayor Adler: you have your two minutes.

>> I have donated time so I have four.

>> Mayor Adler: You have four minutes. That's right. Is --

>> Let me know when they start. Right now? Thank you for hearing us out today. I'm here in support of the amendments on behalf of councilmember Gallo and councilmember tovo. Since 2012 the str industry has operated centers in an anything goes climate. We know industry and their supporters are trying to persuade you to maintain the current lacks leg areer to framework arguing center's will go underground if these amendments are passed. Even with the current lacks regulatory framework, the str industry is already operating underground. Sir, please. Case in point, independent research demonstrates Austin has anywhere from 5,000 to 8,000 active str listings alone or 69.5 or 3,608 of these are for an entire house or apartment. Consistent with the str 2 model. Yet we only have 1200 permitted operators on the books and only 400 of those are commercial str 2s. There is no way there are 3,692 people testing the

waters. Many of these folks are obviously operating nonpermitted strs and there are many more str 2s than people realize. Proponents of the 2012 str ordinance argued light regulations would bring str operators out of the sad dose and into compliance but these Numbers demonstrate the 2012 ordinance failed to do so. The str listing data also helps to illustrate 2 large number of residential housing nuns that are no longer on the housing market or available to long-term Austin residents as residents or homeowners.

[2:59:39 PM]

This is a huge hit given the scarcity of our housing market. Scare time sensitivity in our housing market and at a time affordable housing is even more illusive. Anyone concerned about affordable housing, loss of public school funding, density is a mechanism for reducing traffic and urban sprawl and other critical issues should be concerned about the proliferation of commercial str 2s which have negatively impacted our neighborhoods and housing supply. This time around industry is again dodging responsibility for promoting illegal and noncompliant listings for their own profit while trying to pervade thaw a lacks regulatory framework is still the way to go. Industry data cannot be trusted. The 311 complaints report and survey produced by Ara lobbyist mark Littlefield are blatantly biased toward industry. Neither meet widely accepted statistical analysis. The complaints compiled is questionable because it relies on incomplete and inaccurate 311 reports. Let's look at the facts. Hotel occupancy taxes are paid voluntarily if at all on the honor system. In str 2 operators including those that are here to vocal oppose reform are running noncompliant and are nonpermitted center's defrauding the city of permit fees. Yet these same people argue in favor of maintaining the status quo citing false information to bolster these self-serving arguments. Ara's false claim regarding the 15 million short-term okay pan time sensitivity tax, they say only 11 problem properties in the city. Responses to Ara's surveys, question number 7 and 9 indicate 18 and 20% of respondents believe that regulations need to be increased. Using the stats from this survey, that's 91,000 and 101,000 registered voters.

[3:01:44 PM]

Ara's biased survey shows 20% of Austin wants tighter str regulations. The str industry behaves as if the right to operate in Austin's lucrative market is an entitlement, but it's not, it's a privilege. It shouldn't come at the expense of our sit Renteria Sitzman.

[Buzzer sounding]

>> Mayor Adler: You can finish your thought.

>> The 2012 survey

[indiscernible] It does not benefit Austin's families, residents or compliant str 2s host for operating responsibly. It's time for industry to stop, quit protecting and enabling bad actors whose listing they are profiting from. Big business is trampling our property rights and residential zoning protections.

>> Mayor Adler: Thank you.

>> It's time for home away, brbo, arbab to assume their fair share. May I have one more person's minute?

>> Mayor Adler: From who are you getting it from? From rich sleigh lick Luna or --

>> Mayor Adler: Richard sleigh or tecia bright shop. I'm sorry.

>> Tecia will donate. The legal listings that don't have active permit Numbers. Let's have them remove advertising parties and events. Let's have them collect and remit hotel occupancy taxes to the city. Let's have them share str listing and booking data with city and code compliance. It's time for this fraud to be over. Bless vote for our homes and families. Please vote in favor of the str amendments before you. Str commercial businesses are income pat able with our neighborhoods and some of them create chronic nuisances that destroy the fabric and livability of our neighborhoods. We ask you vote for Austin residents and families who need and deserve these basic protections.

[3:03:44 PM]

We are fighting to preserve our homes and neighborhoods. Please vote to initiate a faced in process to limit to commercially zoned areas where they belong and require additional use permits for continued operation of existing type 2 center's in our single-family zone neighborhoods. To prevent includesserring --

[buzzer sounding]

-- Within 1,000 feet of each other. I live in the middle he three right now and my block is.

>> Nightmare.

[Applause]

>> Mayor Adler: The next speaker is --

>> I live in district 3. All of these people are here from all over Austin. Many cannot take time to hang ought outline -- hang out all day to wait for this to come up on the agenda.

>> Mayor Adler: Thank you. Sharon walker.

>> I'm Sharon.

>> Mayor Adler: Yes, it will be your turn to talk. That's okay. When you start, you'll have two minutes as well.

>> I have four. Someone had donated to me.

>> Mayor Adler: Well, I have Sharon walker, jay Reynolds, Alan bell and --

>> I'll speak quickly. My name is Sharon walker. I am an str owner, an austinite and I have a company called den luxury short-term rentals. I plan to go over some of the things you've heard before. Not only are str owners impacted by your decisions here today, but thousands of housekeepers, landscapers, account ants and real estate professionals, this came to everyone's attention because of 12 bad 5:00 -- bad actors. City code those who those people are. What we want to know is why the city want enforcing he registration and not renewing the registration of these bad actors.

[3:05:48 PM]

We had someone who just had renewed registration. Now at the same time there are 1200 registered and compliant centers. I would like to read a letter with permission from the constituent. Dear Kathy, my name is Diego Mendez. I'm shocked at the consideration of the use of any language that excludes anyone who may have a Earth so of nontraditional blood

marriage relation. The city of Austin is about to give different rights to different people who come to Austin for tourism and work. I'm a proud gay man involved in many years civil rights and will not tolerate city of Austin defining family or what someone might receive in rights based on outdated definition of family. I do not believe a city councilmember in Austin, Texas has a place in the community to define what family and related or unrelated means today. I support what we have which is a well formed STR program so the city can -- city and controlled manner renting out their space. What I do not support is a set of regulations that favor some and eliminates others. Nor a set of regulations that will -- negatively affecting our city. While I follow the rules and pay the price for it. A concerned citizen of Austin and civil rights warrior wrote that letter.

[Buzzer sounding] My last line is what will the headline be tomorrow. Austin city council takes a stand on defining family for Austin tourists. Thank you for your time.

[Applause]

>> Mayor Adler: The next speaker is Richard Schlay.

>> Thank you for your time. For months now everybody has heard the arguments back and forth on centers. The previous -- STR -Z.

[3:07:50 PM]

The previous city council did a great injustice to Austin. They passed an ordinance very gig, almost unenforceable and really poorly written. The thing nouns to your -- falls to your task to correct the situation. If you have a bad ordinance, it needs to be enforced properly and it needs to be strengthened properly. The quality of life of citizens of this town have been greatly affected. Real estate values of these people have been greatly affected. That will return to lower tax dollars for the city of Austin. It is your responsibility to strengthen the regulations, make them enforceable and and in the key deal is make sure they are enforced. The amount of incompetent he knows ignoring the existing regulation is just phenomenal. If it was a business, there would be a lot of people on the street. We need to run the city as a business. If the city's employees and the city manager cannot enforce your regulations, they need to be replaced.

[Applause] I ask that the city council do its duty, protect its citizens, protect its voters, the people who put you in office.

[Applause]

>> Mayor Adler: The next speaker is Jay Reynolds.

>> I'm from district 10 and I applaud Sherry on her strength and motivation to get this thing handled.

[Applause]

>> Mayor Adler: Jay Reynolds.

>> Thanks for having us all and dealing with all this for so long.

>> Mayor Adler: You have two minutes.

>> We have a lot of people here and the people that are here are the good apples.

[3:09:54 PM]

We are the homeowners, we are the property managers, we play by the rules, we collect and

pay taxes voluntarily or not but we do it. And furthermore we help within our community to help educate and take care of the added actors as -- bad actors as best as we can. We're here to protect our neighborhoods and property rights just like everyone else is. These people behind me have done more in the last four years than code enforcement has done and that's plain and simple. They've helped make Austin's current ordinance one of the most successful in the entire country. According to the city of Austin auditor, we boast a 72% registration rate and our peer cities such as Portland and San Francisco, they are only getting 10%. So we're blowing them out of the water on this deal. In New York City they've banned them. And in New York City since 2011 when that ban was in place, they've had a 12-fold increase in short-term rental activity. You ban them here, you can do the math. This success is something that everyone in this room should be proud of and I'd like to give us all a round of applause that code has not done.

[Applause] Even though we differ on opinion, we stand side by side with our neighbors against these bad apple properties. We think we want them -- I know we want them to shape up or be shut down and there needs to be something in place that can make that happen. Whether unintended or intended, the proposal sitting in front of you right now today is directly aimed at these good actors. And I'd like to also point out councilmember tovo has added several confounding items behind closed doors and without public input.

[Cheers and applause]

>> Mayor Adler: We need to be able to have the people speak to please, don't cheer.

>> You've seen the affordability studies that have shown our rental properties have no impact whatsoever.

[3:11:58 PM]

[Buzzer sounding] These are facts.

>> Mayor Adler: I'm going to let you go ahead and finish your thought.

>> I'm almost done anyway. I think we're okay. Mr. Mayor, last month you said don't bring me something that we can't vote on. But I think you have something we can unequivocally vote no on. Thank you.

>> Mayor Adler: Thank you. The next speaker --

[applause]

-- Is Ellen bell. Ellen bell.

>> Tovo: The last speaker made an allegation that these amendments were added behind closed doors out of the public process. I want to make everybody aware they have been posted on the council message board since August 19. That's available --

[cheers and applause]

>> Mayor Adler: Please.

>> Tovo: Several of them were items I addressed in June and for that matter I've been talking about some of these issues for the last couple of years. There's.

>> Editorial I'll be talking about in a little bit that was published back in 2012. I appreciate your feedback. I appreciate you being here, but I have to take issue with that characterization. It simply isn't true.

>> Mayor Adler: That's fine. Ms. Bell, you have two minutes to speak.

>> Thank you, mayor. As I testified in August, I'm a retired Austin I.S.D. Elementary principal and

my husband a retirement architect. We lived in district 10 for 18 years and in Austin over 40 years. We have been str hosts for the last 18 months. 90% of the time we are in the house. We have breakfast with our guests, we greet them for the weekend. They become our friends sometimes, they park in our carport. We have no complaints from our long-standing neighbors. We pay our fees and our taxes to the city, the state, the federal government and we are listed. Our typical renters come for two or three nights.

[3:13:59 PM]

They spend their days and evenings eating in Austin restaurants, shopping, relaxing. We do not consider ourselves a hotel. We do not have a laundry, or any other amenities. We consider ourselves ambassadors for Austin, a city we have loved for over 40 years. Austin is expensive, as councilmember Renteria said on Tuesday, especially for those on a fixed income. We made \$6,000 last year of which we kept about \$3,000 after paying all of our taxes and fees and extra breakfasts

>> There are three items that I question from the neighborhood planning meeting on Tuesday. Number one, why should the city spend time inspecting water systems that have a low number of renters when it was fine for a family of five when we lived there. Does the city even have the staff to conduct such inspections. My understanding is the fee would be added to our cost and there's really no gain. For those of us who are already environmentally conscious and do not want to do anything to the Austin supply by having two or three renters two or three times a month. Second question --

[buzzer sounds]

>> Mayor Adler: You can go ahead and finish your thought. I don't think you have time to go through the list.

>> Before I run out of time I want to thank you for your service. I know this is taking a lot of time and a lot of energy and I do thank you. Let me make one last point about liability insurance. I believe it is my responsibility as a host to have insurance. We already provide insurance to our offices. I don't see a need to provide liability insurance since it is my responsibility and not the city's if something happens. Thank you.

[Applause]. The next speaker is Tisha Brightshaw.

[3:16:01 PM]

And you have one minute.

>> I'll be quick. My name is Maria

[indiscernible]. I live across from a commercial short-term rental in the Zilker neighborhood and have since 2012. It's three stories, seven bedrooms, three people advertised as sleeping there. Since the initial str regular passed in 2012 we've had noise, trash, occupancy limit, parking, public urination, trespassing, parties sponsored by liquor companies, photography classes held there and oh the bachelor parties. The owner threatened us to slander while we videotaped renters from our own property. And this owner thinks she's a good actor. I know you've heard these stories. Type 2 str's have personally been a problem for my family and the families of the other people you see here today, I believe they are also a problem for Austin on

a macro level. Type two str contribute to affordability issues in Austin by driving up rental and home prices without increasing density. Investors pay top dollars for these properties which drives up property taxes.

[Buzzer sounds] Please support Gallo and mayor pro tem tovo's amendments. Thank you so much.

>> Mayor Adler: The final speaker we have is sandif nanda. The last speaker. And you have two minutes.

>> Bobby Easter is donating time to me.

>> Mayor Adler: You still have two minutes. Everybody you had four speakers, two minutes each.

>> No be. I didn't understand. Thank you, mayor, mayor pro tem and all the councilmembers for hearing me out. My name is sandy nanda. I hope it's obvious I'm not some big out of town investor. This is my sole means of support for myself and my family.

[3:18:04 PM]

And some of these regulations are really going to make it difficult for me to do that. And I very much sympathize with all the issues that have been brought up around noise and public indecency and drunkenness. Nobody wants that. And I speak for all -- or very, very many of the short-term rental operators in saying that we need crack down on those and get rid of them. They give us a bad name. But I think that we need to give code the tools to enforce the existing regulations instead of creating a lot of new ones. A couple that I'll focus on, first is occupancy. I would urge the council to carefully consider the wording of any changes because one specific wording would limit it to four adults. And basically in the entire city. And I don't think it's the council's intention to prevent a married couple and three of their adult children from coming to Austin or any one of the other number of configurations that you could dream up that would be disallowed under that new occupancy rule. And six just seems too low for families. And we already have regulations in place around occupancy and code needs to enforce the existing regulations. I'm also concerned about the inspection requirement. It seems -- the inspection ability for code to go in at will seems very big brotherish and I can imagine situations where anybody in khakis with a clipboard could go in and claim they're with code and I think it would bring up a lot of safety issues. Finally, as I think has been brought up before, and I think it's a very valid point, is that the harsh,er the regulations are the more you drive this activity underground.

[Buzzer sounds]

>> Mayor Adler: You can finish your thought.

>> That's pretty much all I was going to say. Just that we need to keep it above ground with reasonable regulations to enforce the health, safety and welfare inspections and the renewals and collect hotel occupancy taxes.

[3:20:09 PM]

Thank you very much. I appreciate it. Norse.

>> Mayor Adler: So this has come from the committee. Is the best way for us to proceed to put

on to the table the Gallo amendments and then work off of that? How would you propose we approach this subject? Should we pick the topics individually and run through them? What would you propose?

>> Casar: Mayor, it seems the committee has had two meetings to deal with a pretty long list of recommendations on short-term rental reforms. The first meeting we had lots of public input and did not have very much time to get to too many votes, much less to the amendments that were brought up by the mayor pro tem at that meeting that evening. So as the mayor pro tem stated she did post those on the message board. They were made public. That evening in open meeting we scheduled a special called meeting just for this week, and we tried to do our best to vote through as many of those as possible. I ran the meeting asking for two of councilmember Gallo's proposals to be discussed followed by two of the mayor pro tem's, but it took us long enough to go through this many potential amendments, land development code, that the meeting was pretty much over by the time we got through those two and had not yet gotten to mayor pro tem tovo's amendments. In my view I think that the items that have already been discussed by the committee and recommended are critical for dealing with some of the issues that have been brought up and that everybody can agree to. In my view those things, if there are quick questions about them, I think dispensing with those and getting them through the land development code rewrite process as quickly as possible is huge and is important.

[3:22:13 PM]

And whether or not people agree with some of the mayor pro tem tovo's amendments or not, I think as folks have stated, no matter what with we do as far as regulation goes, there will be people that are most likely that are renting their places out short-term and some of those places may have issues. So cracking down on this level of enforcement I think is something that both sides of this debate have agreed on that the whole committee unanimously has agreed on. If we can dispense with some of that first I think it's critical and then I think it's important for us to have a conversation, if we have time, on the mayor pro tem's amendments because we have not had a chance to discuss them yet at committee because of our time constraints. And it seems like there was a lot of desire on the committee to discuss them. So I want to respect the mayor pro tem having made these amendments a couple of months ago -- or I guess just over a month ago, have a chance at discussing those. I know there's been some conversation about whether there should have been public testimony on those amendments, but just like with anything else, we have a public hearing, councilmembers are free to make amendments and we do not have a rule that says once a councilmember makes an amendment we have to open up a public hearing again, but of course that right is reserved by the council that if we feel like we need to have more conversation and let the public bring input to a new item that is of course the council's prerogative. But we proceeded with the committee to just discuss the amendments and the resolution to get as much in front of this council as quickly as possible because I think we hear loud and clear that there are folks that are not having the current rules enforced well who need that relief. So the short answer to your question is I'll defer to the panel, but moving forward on some of these enforcement mechanisms today and then getting to discussion on the other items as the council sees fit.

>> Mayor Adler: Okay.

[3:24:17 PM]

>> Zimmerman: That's the point of inquiry here. I have quite a few pieces of paper in front of me. Is the yellow piece here, and to your point, councilmember Casar, I think I agree with you, but I was thinking about making a motion to limit us to try to resolve today the items that your committee passed out. So I see item 1 on this yellow piece of paper -- there are several items that were voted out of the committee. Could we deliberate on those and it will probably take us an hour to get through just those without digging any deeper?

>> Ms. Tovo.

>> Tovo: I would like to respectfully ask that my colleagues address these issues today and let me offer some context for that. I've now been in seven and a half hours of short-term rental discussion. I missed the last piece of the meeting because I had an unavoidable conflict and had to leave. The actual short-term rental discussion we had at the committee was longer than that, but I've been present for seven and a half hours. I've yet to have the opportunity to lay out and discuss these amendments and it is very clear that when we have that discussion, wherever we have it, there will be disagreement on it and these will be issues we have to talk about at the council regardless of what happens at the committee. And so I would ask that these be taken up today. In answer to the public concerns about not having public testimony on these amendments, part of the reason we have public testimony so the council can look at the decisions before us and make revisions and adjustments to respond to the concerns we heard. Every one of those amendments that I have presented here today was brought forward by members of the community, many of them in that very public testimony that we're talking about. So these are issues that have been addressed in public forums. They were brought to us by the community and I'm responding by offering them as amendments. So I believe that it is long past time to have these conversations about these amendments. I'll also say I've talked about the seven and a half hours. That does not include our suggestion asks in June, it does not include the work session discussions, it does not include the council discussions we've already had on this issue.

[3:26:24 PM]

Those are strictly looking at the time spent at the committee meeting in August and in September. Many of these issues have been discussed before in June, for example, and I'm happy to provide the citation. One of my colleagues on that committee said we need to look at -- I believe it was you, councilmember Renteria, who said at the 91 minute mark that we need to reconsider type 2 short-term rentals and I agreed with you and said I would like to look at a code change to reconsider. That was back in June. These are not new issues, that is my point. I would like to have that discussion and some action on that today.

[Cheers and applause]

>> Mayor Adler: We'll go ahead and proceed then with the items that came through the committee. Which I think are six items of Ms. Gallo's resolution, which is attached in backup and then we will continue on with Ms. Tovo's suggestions. Giving her a chance to lay those out and then we can decide how to proceed at that point as we move through these. So let's begin

then. I think we'll just hit these in turn one after another. The first one of these as I see it is adding short-term rentals to section 2512213 of the city code. The inspection requirements in chapter 13 of the local amendments.

>> Renteria: I make a motion to approve.

>> Zimmerman: Where are we?

>> Mayor Adler: This is the -- in the backup materials that we have as well as the yellow page, they're in two different places. There's a draft resolution in the backup materials. It also corresponds I think to the yellow sheet that was handed out that were the minutes of the planning committee.

[3:28:26 PM]

The first one of these is item number one. This is adding short-term rentals to the inspection requirements of chapter 13. Mr. Renteria moves adoption of 1. Is it seconded? By Ms. Gallo. So we're going to have discussion now on that aspect.

>> Renteria: Mayor? I would like to have legal come up here and -- or staff to give us an explanation of what we would be doing by supporting item 1?

>> Gallo: Mayor, if I could make a recommendation, that Trish do that with legal because I know she's here. I will take this opportunity and over and over again to say what a valued asset she has been during this process because as we have tried to remove some of the gray areas of the language to make the language more enforceable, Tricia has had lots of good suggestions and has really stayed very involved. So thank you for this. I think the question was if you could explain

[indiscernible], which is why the city feels it's important to add this to the ordinance, please.

>> The current section, Patricia rankon. City attorney. Short-term rentals are not in that list, they are in the other requirements for regulated lodging. They are not for the inspections. Staff has -- the code staff is interested in adding short-term rentals into that so that it is clear that they have inspection authority under this particular section of city code.

>> Mayor Adler: Ms. Garza?

>> Garza: I don't know if it would be you or code that could speak to this, but what does that inspection involve?

>> I'll actually let the code director answer that.

[3:30:28 PM]

>> Garza: Is there a fee would be another question?

>> Good afternoon, mayor and council, Carl smart, director of Austin code department. In response to councilmember Casar's question, an inspection may involve checking on a complaint that we received in reference to a short-term rental. If we have a complaint that the property is overoccupied, that there is too many people occupying the property, then we would knock on the door and ask for permission to enter and talk with the occupants there to see if we can confirm if it's overoccupied or not. There could be other problems going on. There may be property maintenance type issues going on. There may be noise. We may have some fire safety issues, egress issues that we could also inspect for. So there are a number of things that

could be checked. If we were allowed to do that type of inspection.

>> Casar: Mayor, my understanding is that this amendment is primarily clarifying and sends a message is what we heard in the committee. So I think that folks should feel comfortable with this one.

>> Yes, sir, that's correct. We still could be denied entry even with the authorization provided in this section of the code. The occupant or the owner could deny us entry into the property and by fourth amendment rights we would not go in. The only other option -- well, the only other option would be a search warrant in Normal circumstances, however the attorney will reflect that state law does not necessarily allow search warrants to be issued for zoning code violations.

[3:32:33 PM]

>> Mayor Adler: Are you allowed to make presumptions? We have a condition in our neighborhoods that we need to fix and if you live next to one of these it appears to be pretty horrendous, the condition in some of these homes. My understanding is one of the problems in the past is when you get there to do -- to enforce the ordinances you can't because you couldn't inspect. If there is cause to have you come such that you would knock on the door-- which means you're hearing noise or seeing something that would lend you to believe at that point or to create the impression at that point that there's behavior that is violating standards, and you knock on the door and say I want to come in and inspect and you're told you can't, can you issue a ticket and do a violation at that point based on whatever it was that made you knock on the door in the first place coupled with any presumption that might arise from not being able to complete the inspection? Maybe that's a legal question.

>> I think it is a legal question, Mr. Mayor.

>> If I'm to be clear, I think your question was if code receives a complaint and they got to the property and they're denied entry can they go with the fact that they've received a complaint and been denied entry as sufficient evidence that a violation exists?

>> Mayor Adler: To issue a ticket or whatever it does when they believe there's a violation?

>> Not for being refused entry into a property. We would not be able to cite someone for that. If there is owe the way the code is right now we prosecute these cases generally speaking in municipal court where we carry the burden of proof. Staff needs to see a violation before they can issue a citation.

[3:34:37 PM]

If they cannot see the violation we have a challenge there.

>> Mayor Adler: So there's another provision of this that I think we're getting to that allows for an administrative hearing as opposed to a criminal or penal hearing and they seem to -- or misdemeanor hearing. They seem to be related to me. And I hate to jump ahead, but I need to context to better understand the full weight of that it is that this part does. Ms. Gallo, can you speak to that? Sorry.

>> Gallo: No. I think -- do you want to jump to number six?

>> Mayor Adler: I think so only because I need a better understanding so I can understand what

the benefit of being able to do an inspection is.

>> Gallo: Because number two also deals with the inspection, inspection process, which is an inspection process at the beginning of an application. I just wanted to say there's two. Let me take a step back. My concern is we've been listening to residents neighbors that were having all of these really problems with the bad actors in different neighborhoods was the frustration of code walking up to our front door and seeing that there were Numbers of people there that exceeded the occupancy limits of our code here in Austin and not being able to do anything at that point. And I think one of the things that we have done with this process that legal has helped with is to change the process from a municipal court process to the administrative hearing process. And Trish, I think it would be really important at this point if you could talk about the current process and the difficulties in taking cases to municipal court and the burden of proof and the effectiveness of that or an effectiveness of that and then talk a little bit about how the administrative hearing process would work, particularly as it relates to the number of unrelated occupants.

[3:36:45 PM]

But I think it would be helpful for us to understand how substantial of a difference it will make in citing properties for overoccupancy and moving from a municipal court process to the admin process, but I think those of us that haven't been hearing this for the last couple of months I think it would be really important to talk about the current process with municipal court and talk about how that differs and helps the city prove the case much more quickly and thoroughly with the admin hearing.

>> In municipal court it is a criminal court so the state -- in municipal court is the city of Austin, has to prove the case I don't understand a reasonable doubt so staff has to be able to prove every element that someone has violated our city code and using the occupancy limit, which has been the primary focus of most of the discussions we have to prove that more than six unrelated individuals were using the house at the time. And what the resolution -- councilmember Gallo's resolution, the ditches it would make, if we go through an administrative hearing process, we can also have a presumption that once you hit a certain threshold, using the six unrelated, once staff seeing seven individuals, they can make a presumption that they are unrelated and they can issue the administrative citation and then the individual would have the right to request a hearing in front of a hearing officer. It's very much like the parking citation process that we have. So the burden of proof is different from administrative and municipal court. The -- in the administrative hearing context we can include a presumption once you see a certain number of individuals that they have violated the occupancy limit. 10 it would be on the individual of the owner of the property to prove at a hearing that they did not violate the code.

>> Mayor Adler: So now I'll go back to the original question that I asked. If the council were to go ahead and give the ability of the city to bring those both in municipal court as a criminal matter or an administrative hearing where the burden of proof and the presumptions are different, if the inspector code folks go there because they've heard enough noise that they believe that there's more than six people or whatever it was that was giving rise to them being called out or start with a complaint, if they come to the front door and say I'd like to come in,

I'd like to inspect the property, they are denied that right to do the inspection, is that something they can be considered in the administrative proceeding?

[3:39:32 PM]

>> It would not be a basis for staff to issue a citation, but the individuals in the house, if they can see enough individuals to trigger the presumption, they would be able to issue a citation based on what they were able to see during that conversation.

>> Mayor Adler: Ms. Garza?

>> I understand the administrative criminal and I wonder if that's tied to this inspection -- ability of this inspection because my -- generally what I'm asking is how is this different than what was before? Office the person can say -- if the person can say you can't come in how is that different than what is currently the rule?

>> The way the code is written for this particular regulated almosting establishments, all other lodging establishments code has the authority from city council to do inspections. As it concerns those properties to determine the condition and to ensure compliance with the chapter and other applicable laws. By adding short-term rental to this particular section they're putting it on parity with the other regulated lodging establishments we have in the city. If code receives a complaint about a violation they can still go to the door, they can knock because they can do that now as part of the road official's authority. But this particular section does not put short-term rentals on the same footing as moments, rooming houses and boarding houses. And so it's a -- it's part of the licensing and regulations for lodging establishments versus a standard code violation.

>> Casar: Moisture, I asked the same -- mayor, I asked the same questions this in the committee hearing. The answer is not much changes, but that it's clarified and helpful for our staff.

[3:41:37 PM]

>> Gallo: I think that one of the things that legal mentioned is that what it does also is it gives the authority so that if the owner does give permission for the inspection to be done that the code department actually has the authority to be able to do that. That because this was left out of the initial ordinance they don't actually have the authority to do an inspection even if an owner gives permission. Did I kind of say that right? She's looking at me like not really.

>> If code receives a complaint or the city receives a complaint and code is sent to investigate, they can go knock on the door currently to determine whether or not there's a violation. If they're giving consent to enter they may do so. This particular section of the code is specific to our regulated lodging establishments and really is part of the licensing scheme as opposed to the authorities that the code official has in other parts of the city code to do inspections.

>> Tovo: Director smart, could you clarify for us what the current occupancy limits are for short-term rentals?

>> Mayor pro tem, there is no definite occupancy limit included in the short-term rental ordinance itself. However it is subject to the zoning code, the land development code, which indicates there's no more than six unrelated persons should be occupying that single-family residential property. And the mcmansion other, no more than four unrelated. So that's been

the -- that's been the section that's been applied.

>> Tovo: I wanted you to make that point because I know I've been getting a lot of questions about the changes we're making to the occupancy requirements and it was a specific point of discussion that those occupancy limits that are currently in place for single-family residential areas would be applied to short-term rentals.

[3:43:49 PM]

We are not making a change to the occupancy limits for short-term rentals if we adopt this passage. They're going to be exactly what's currently in place. I think you're saying that you're now putting them within the short-term rental code, but in essence that's exactly the provisions that they've been subject to right now. They've always been held to the same limitations that other single-family properties have. If you're in mcmansion it's four, if you're out of mcmansion it's six.

>> That's correct. That would be -- it would just be adding it to the short-term rental ordinance itself.

>> Tovo: Right, but it should not -- that part should not be a meaningful change because it's exactly what we have right now. The change that's been proposed is the administrative hearing portion, not the Numbers. And the change that you proposed was to add the word unrelated in there. That was a recommendation from staff. To take the word unrelated out. That was the recommendation from staff.

>> But also this change as section C that says not more than two adults per bedroom and that is new. Let me also add hopefully without confusing that short-term rentals like other residential properties are subject to the international maintenance property code and that has limitations based on area, based on the habitable and sleeping space within the residence.

>> Tovo: Director smart could I ask one more question or make one more point? You had -- again you had suggested, seemed taking the word unrelated out. And I understand the reasons why. I'll allow my colleagues to ask questions if they have them. But we have heard concerns and I appreciate the concerns that have come from the public about not wanting the city to be in the business of defining what is a family. And it would seem to me that taking the word unrelated out reserves that concern because then we're not asking the city staff to determine whether or not the adults in a particular short-term rental are related or not.

[3:45:57 PM]

So I want to say to Mr. Mendez and my staff have been talking with him today and I've gotten the other concerns. I think we do better in terms of steering away from defining as a city trying to define what a family is, which is not a direction I'm going to go in. I think we steer clear of that by removing the word unrelated.

>> Mayor Adler: So we'll keep our conversation at this point focused on the issue of adding short-term rentals to section 1301 of the city code as concerns the inspection requirement. Any further discussion on that issue? Are we ready to vote on this provision? Those in favor of this provision to increase the inspection -- to put in the inspection category please raise your hand? Those opposed? Mr. Zimmerman voting no, Ms. Garza off the dais. Others voting yes. That gets

us then to the second provision. This is a provision that requires inspections during the application and renewal process. Do you want to describe this one for us?

>> Gallo: So if director smart can come back up, please, what number two does is require an inspection and septic system inspection during the process, for all type two short-term rentals. That's the first part of it. And renewal inspections as recommended by Austin code department. So basically at this point the process when an application is submitted for a license is an applicant can provide either a certificate of occupancy or an inspection which is typically done by a third-party inspector and those are licensed by the state and I think we had a copy of what one of those inspections like like for our committee meeting, work session.

[3:48:06 PM]

I'm not sure if we have one here today. So there was -- if director smart could address the reason that they would like to remove the

[indiscernible] For the certificate of occupancy for the short-term rental type two applications we would be leaving the type one exactly like it is now.

>> Mayor, councilmembers, Carl smart with Austin code. Certainly we think it would be important to have the properties inspected when they are applying for a permit, particularly those properties, type two properties that are constantly, repeatedly used for special event occupancy and changing occupancies. We are concerned too that we talked to Austin water. Austin water has indicated that some of the properties -- particularly older properties that were designed had a septic tank system designed at a certain level and now being used at a higher level and it may be problematic and they would like to do an assessment, which is not necessarily what we learned at the planning and neighborhoods committee that that is not necessarily at the -- not necessarily an inspection, but certainly an assessment of the system itself. So we would support number two. We have -- I think this part of the -- of the process has worked pretty well with those persons making sure they either have a certificate of occupancy or they obtained an inspection. If nothing else having the option that of course city staff could go out and do that initial inspection I think would be helpful. If we require it for each and every type two of course then we would certainly do that inspection.

[3:50:08 PM]

We would make sure that they're in compliance with the code before issuing that license. So that would be the advantage is making sure, confirming that they comply with the code.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: Okay. I just have a question or two about this. So can -- maybe someone can help me understand why -- tell me again why the certificate of occupancy is not sufficient? Is it a timing issue or is it because of when the certificate of occupancy is obtained? Why do you need an inspection in addition to the certificate of occupancy?

>> I think getting the certificate of occupancy is important. It really has helped folks to focus in on whether that property has a certificate of occupancy. A lot of them can't find it any longer and have to go into development services, planning and zoning. So we're not saying that it's not sufficient any longer. We're saying things from our standpoint there should be an option. The

certificate of occupancy, inspection by city staff.

>> I'm confused at this point. So the resolution that we brought forward was a combination of the recommendations by the code department and also recommendations that we heard from the neighbors and recommendations that we put together. This request for eliminating the certificate of occupancy from the requirement I think came from your department actually because what you were indicating to us is that often the certificate of occupancies that are brought in are quite old. So if someone was allowed to bring in a certificate of occupancy that was 20 or 25 years old it might not properly indicate the condition, the present condition.

[3:52:15 PM]

So that was added to this to eliminate the certificate of occupancy because of what your recommendation was, which was to have a current inspection instead of perhaps a certificate of occupancy that was very old. So I just want to make it clear that it's actually something that you felt would help y'all do your job in making sure the properties were safe.

>> I guess my staff felt strongly about it. I'll let my division manager respond to that. He actually processes the license applications on a daily basis.

>> Marcus Elliott, Austin code division. You are correct, councilmember Gallo, that's originally what the request was for, for the short-term inspection in lieu of the certificate of occupancy for the type two strs. We want to make sure that they're operating up to code. That we can look at any kind of egress or fire hazardous, make sure they're decent, sanitary. Look at substandard conditions, if there are dangerous conditions that the neighbor and council has said could be problematic in the type two strs. But that is the goal for the short-term rental inspection.

>> It would give us a step to go in there and look at those concerns, address them before they get to point where we've got several complaints and we haven't been actually able to go in and do the inspection prior to issuing a license so that we can address it in the beginning as opposed to being reactive to what's going on with the type two strs.

[3:54:28 PM]

>> And the concern you have?

>> The concern we have is the type two changing, that they have egress, substandard, dangerous conditions that we haven't been able to go in and identify. Sometimes we do get the ability to go in based on a complaint and we've gone in and cited those type two properties for substandard or dangerous conditions and sent out the notice of violation, but that's after the fact. That's after we've already issued the license. And what we want to do is be proactive about it, look at those conditions before we actually issue those licenses so that we don't have a situation happen where we haven't identified the property as being something that was a hazard before we actually issued the license.

>> Mayor Adler: Do you have a reason that the hazard is greater with type two than type one or is the hazard the same?

>> Yes, sir, we do. We actually have cases where we've seen type two's that have changed since the certificate of occupancy was issued and based on a complaint that was filled called in to 311

we actually saw that we needed to cite the owner and come in and take the enforcement actions to correct the problem.

>> Mayor Adler: Is that risk greater for type two locations than it is for type one locations?

>> Yes, sir, it is. And it is because they're commercial. You have a home that is -- [applause].

>> Mayor Adler: Hang on, hang on. Hey, come on.

>> It's greater for the type two's because you have a home that specifically is being rented out on a commercial establishment. You don't have an owner that's living there that has -- an owner that's thereof that has a vested interest in the property to make sure they're addressing those concerns.

[Applause].

>> Mayor Adler: Further discussion? Ms. Troxclair?

>> Troxclair: So do we have this same inspection requirement for long-term rentals?

[Applause].

[3:56:29 PM]

>> Only -- no, we don't. But only in the respect of the repeat offenders program do we do any kind of -- that kind of a program, licensing and inspection of long-term rentals. But otherwise there is no registration program for long-term rentals.

>> Troxclair: I guess I have hesitation about -- long-term renters are in the same position as short-term or the owners, I guess, of long-term and short-term renters are in the same position of not actually living in the property. But I guess I have hesitation about holding type two short-term rentals to a different standard when -- I guess I have the same question that the mayor had. I haven't heard -- we clearly have a problem with making sure that the bad actors in the city are taken care of. And I don't want to take this -- this in particular seems like it would take a lot of time and resources and I don't know that the -- I don't know that there's a problem that we would be -- a significant problem that we would be addressing with this. I want to make sure that the time and resources that we do devote to our responsible short-term rental regulations go to the things with the biggest problems, which is occupancy and noise and a lot of other things that don't really have to do with safety. Those aren't the complaints that I've heard.

[Applause].

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, I'd like to -- what's frustrated me about this is we seem to be zeroing in and getting really detailed about adding new regulations, inspections, requirements. Don't we have two code officers that are dealing with strs? And we have thousands -- that's what I'm hearing from people is that we have 1200 or something on the books, but we have a bunch that are off the books. So we have two people, say, you two, and you're going to cover thousands of properties with all these new regulations added?

[3:58:38 PM]

I'm having an Alice in wonderland moment.

[Applause]. We can't even begin -- we can't even begin to take care of the ordinances already on the books. We're not enforcing what's on the books and we're going to start adding stuff that has tremendous administrative burden and we're not taking care of what's already on the books.

>> Houston: Yes. Director smart, do we license bed and breakfasts? Do we do inspections on B and B's?

>> Yes, ma'am, we do. We license bed and breakfasts, we license hotel-motel, rooming houses, boarding houses.

>> Houston: What about fraternity, sorority.

>> We license and inspect.

>> Houston: Thank you.

>> Gallo: If I could make a point of clarification here to the councilmembers. The existing ordinance already requires either an inspection or a certificate of occupancy with the license application. So we're not adding anything to the current process. I don't know -- at least I would be very hesitant to remove anything from the current ordinance. I think the enforcement component of it is what we're having issues with, but just to make that clear, we already have those. The concern was that with the certificate of occupancy as an option that if those are old then they might not reflect the current conditions. So one option might be that we put a limit on the age of the certificate of occupancy and still allow an owner to be able to present that, but at least make sure it's relative current enough so that it reflects the condition of the property. And the other thing about the inspections is the owner has the ability to get a third-party inspection.

[4:00:43 PM]

The inspections would not necessarily be done with staff. The third-party inspectors are licensed by the state of Texas either by trec or icc and they are inspectors that are independent of the city and the city code department and are also licensed and educated in doing what they do with inspections.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: So let me follow up and ask a question then. So did I understand that the third-party inspections is something that's in place right now and it would remain in place? Okay. Is there -- are those third-party inspections good for a certain amount of time or is it required every time there's a renewal?

>> It's a one-time situation, councilmember. Once they're inspected and licensed then there's no need for further inspection unless of course we get a complaint or information that there's a problem in the property.

>> Kitchen: Okay. And how often are the renewals?

>> Annually. Annually.

>> Kitchen: So am I understanding they don't do a third-party they don't have to redo that every year?

>> That's correct.

>> Kitchen: And that's not being changed by this?

>> Gallo: This does -- would add a renewal inspection as recommended by the Austin code

department, but if the code department -- so this is part of the conversation that would happen over the next two to three months that if the code department were to recommend that they did not feel like it was necessary to do annual -- I think that's a stakeholder and department-council conversation that would happen over the next two to three months.

[4:02:44 PM]

>> Zimmerman: Mr. Mayor, if I could --

>> Mayor Adler: Ms. Troxclair is next.

>> Troxclair: I was just going to suggest if I'm understanding the conversation correctly, councilmember Gallo is saying that a valid certificate of occupancy addresses the same concern that a potential inspection would address. So if it's just a matter of wording, then I would just suggest that we add to the end of this number two renewal inspections as recommended by the Austin code department unless the owner maintains a valid certificate of occupancy to make it really clear that we're not trying to change that.

>> Mayor Adler: Amended to say you need an inspection unless there's a valid Co? That's existing law.

>> Gallo: That's right, that's existing. The question would be what's considered valid. How long is the Co good for? And that would probably be a building inspection, zoning -- who would answer that question? When a Co is issued how long would --

>> Mayor Adler: It remains valid. It doesn't go away.

>> Zimmerman: It doesn't expire. Thank god.

>> Mayor Adler: Unless you're suggesting a different measure of validity. Ms. Gallo suggested a time period or something, but legally it's valid indefinitely.

>> That's correct, mayor.

>> Troxclair: I think if we don't reference the certificate of occupancy, if we leave it as it is and with he just say that we're requiring an inspection and a septic evaluation during initial process that that is -- that then we're implying that we are wanting to change what's on the books. We're not referencing a certified of occupancy.

>> Mayor Adler: And this does. What is proposed -- so you're suggesting to amend this to return it back to what existing law is.

[4:04:48 PM]

The other way to get there would be just to vote against this and it would keep -- because as I understand it, there is a current requirement for an initial inspection or valid Co at the time of application.

>> Troxclair: But I think what we're hearing from staff is their concern is mostly when the certificate of occupancy is very old or if there's something else going on. I feel like if we don't make a reference to that somewhere in here then we're going to make the assumption or we're directing staff that regardless of any certificate of occupancy, even if one was issued last month that we're still going to require an inspection. So maybe that's not the right language, but I think that we should add something that referenced, you know, a recent -- or some kind of certificate of occupancy.

>> Mayor Adler: Mr. Smart, I hate to have you keep getting up and down and keep going back. I would say stay at the podium or stay there to save you this because you will be coming back and forth here. If the council wanted to say an inspection or a more recent Co, what year would you fill in to that sentence? Qualifying as a Co that might be more recent and still informative.

>> Mr. Mayor, I would probably suggest a 10-year time period. Those certificates of occupancy that are beyond 10 years that inspection be permitted by staff.

>> Mayor Adler: Okay. Do you want to make that amendment?

>> Troxclair: I guess my preference would be to -- instead of deciding on a year limit right now would just say -- you know, unless the owner maintains or presents a valid certificate of occupancy within a reasonable -- that was issued within a reasonable time period or something.

[4:06:54 PM]

That would give staff and stakeholders the time if they're going in that direction what the appropriate time period would be.

>> Mayor Adler: Okay. Ms. Troxclair moves to amend number two so as to say that it requires either a certificate of occupancy issued within a reasonable period prior or an inspection. Is there a second to Ms. Troxclair's amendment? Ms. Gallo?

>> Zimmerman: I'll second that, I guess, for discussion.

>> Gallo: Just a question of clarification. So that language, the certificate of occupancy issued within a reasonable amount of time, could be added to the language that is already in the ordinance, which would then cover both type one and type two, or is your intention to only add the recent to just type two's? I just want to make sure -- this is so confusing. Thank you all for --

>> Troxclair: Thanks for asking. I was intending to specific to type two.

>> Mayor Adler: It's taking your language to type two, but instead of just requiring a reasonable inspection, it would also require or in the alternative a Co that had been issued within a reasonable period prior. So what this would be doing for type two's is it would be limiting the number of Co's that would qualify to only those Co's that have been issued within a reasonable time prior to. Is there a second to that? Mr. Zimmerman seconds that. Any further discussion on the amendment itself, which is to allow for a Co and qualify?

[4:08:55 PM]

Ms. Pool?

>> Pool: How do we define a reasonable period?

>> Mayor Adler: I think the thought is while the ordinance is being drafted by staff they would be coming back with language that would do that absent getting direction from the council more specific than that.

>> Pool: I was wondering maybe staff could answer is there a time frame currently in statute for the inspections? I'm thinking we might align our language with that or mimic it.

>> Councilmember, there's no time period in the ordinance. Basically the inspection must be done and prior to the license being issued. So we either need to see proof of a certificate of occupancy or the inspection and that the property pass the inspection.

>> Pool: So you don't get your certificate of occupancy unless and until all the required boxes

are checked and one of those boxes includes the inspection and the certificate of occupancy.

>> That's for properties that don't have a certificate of occupancy. I think the majority of them are able to locate or find a certificate of occupancy for the property.

>> Pool: Okay, that's fine, thanks.

>> Mayor Adler: Ms. Tovo.

>> Tovo: So we're contemplating initiating the code changes today so I'm happy to support reasonable with the understanding that as it moves through the planning commission and others they'll come up with a clear year -- clear time period for that.

>> Mayor Adler: Ms. Troxclair's amendment is before us. Any further discussion. Those in favor of Ms. Troxclair's amendment please raise your hand? Those opposed?

>> Zimmerman: Abstaining.

>> Mayor Adler: 10-0-1, Mr. Zimmerman abstaining. We're now back to number two, which would require for type two's either a certificate of occupancy issued within a reasonable period prior to or the inspection. Any further conversation on this issue?

[4:10:55 PM]

Those in favor please raise your hand? Those opposed? 10-0-1, -- 10-1, Mr. Zimmerman voting no. That gets us to number 3. This is the issue about requiring all short-term rentals to have and provide proof of liability coverage during the application process and the failure to maintain coverage could lead to suspension or revocation of the license. Do you want to lay this out?

>> Gallo: So the current ordinance requires that the owner provide property insurance but doesn't address the liability component of that insurance. Often liability insurance is included with property insurance, but occasionally it could not be, and be actually a separate policy. We were approached by neighbors next to properties that are concerned with actions of some of the occupants that could possibly affect their safety, particularly from a fire standpoint. I think there were possibly behaviors that were going on that could easily set a fire and the fire could move quickly to the neighboring properties. So there was some concern about liability. I mean, I appreciate the short-term rental owners that are here that are responsible owners. I know that's why you're here and you're concerned about this. And I do appreciate that you operate your properties well and are good neighbors. And I would imagine that all of you as responsible owners have liability insurance, but I think there is a part of the community that might not, number one, even be aware that they needed liability insurance or as we found out, as we had meetings with the state board of insurance and also with the association members that represented the five major carriers that actually it's the owner-occupied properties that may not actually have liability coverage that covers them for rentals because their policies may include the word occasional rental.

[4:13:11 PM]

And so our hope is that by requiring this it will help all of the owners, particularly the type one's, whose policies they may think that they have liability coverage under their homeowner's policy, but actually might not, that that would give them the opportunity to talk to their insurance carriers each year just to make sure that they are properly -- because we were

surprised that actually that was the place that there might be gaps in the coverage and there's no

[indiscernible] There's really no law that addresses court cases that have actually addressed the occasional phrase in the homeowner's policy and I think we're looking to an industry that will be addressing that, but that is a conversation that I think that all the owner-opened type one owe owners need to have with their insurance company to make sure that they are actually covered for that occasional rental.

>> Mayor Adler: It's been moved to add this number three, this insurance coverage. Is there a second to that? Second to adding this requirement? Ms. Tovo seconds that? Discussion? Mr. Casar?

>> Casar: Mayor, I abstain from this vote still pending more information about how much it would cost for sort of an everyday homeowner to move from their Normal homeowner's insurance to get rid of the optional part and. Some folks told me between 15 and \$50 depending upon your insurance company. First I said 15 to 50 bucks sounds like somebody that's renting their place for a week during, you know, the fall break or the spring break could do, but then when I actually realize that's 15 to \$50 a month it could be a 500-dollar a year thing. I don't know if that's the number or not. I just -- it's 15 to \$50 a year is what I'm hearing? So it seems to me that I just want some information about exactly how much it is.

[4:15:13 PM]

I don't know if there's somebody here who is expert in that who could answer that question. But I would [indiscernible]. Primarily talking about type one rentals as opposed to type two and my hope with the type two -- with the type one short-term rentals is to really limit -- not to limit the people's ability to protect folks' interests, but at the same time I think that a lot of people who would just rent out their place for a weekend or two may not want to -- may end up just not registering if we add on lots of layers. So anyways, if anybody on the dais has any information or if there are experts in the audience, I would take that testimony today to sort of determine my vote, but I had to abstain during our committee meeting.

>> Mayor Adler: That puts us in an awkward place where we're casting for information. Do we know what this added cost is?

>> Gallo: You know, I see Mr. Easter in the audience and I'm just thinking maybe some of the association members that represent short-term rental owners, because I would imagine that the conversation of appropriate insurance comes up within your association.

>> Constantly.

>> Gallo: Perhaps you could help us with that.

>> Thank you. Sharon walker. We are constantly trying to find insurance providers that can provide at a reasonable cost the coverage that is necessary. Our median cost is over \$1,500 per year. I'll be happy to email you quotes -- I would be more than happy to email you quotes that we've received from major insurance carriers.

>> Gallo: I just have a question. So could you explain that a little bit. Is that a landlord's policy for a non-owner-occupied property?

>> We've looked into many different types of policies and one of our biggest -- one of our biggest rejections of using our services or becoming a type one short-term rental and one of the

biggest reasons why we lose a lot of clients is because the homeowner's that live in their homes are not willing to incur the expense.

[4:17:26 PM]

So I'm not 100% sure on what types of policy it is per each -- because I think it differs per each company what they call it. But I am sure that we have had many people choose not to str their home because it's been cost prohibitive to get the proper insurance.

>> Gallo: But you're speaking to the type one, the owner occupied.

>> Only type one. So all of our short-terms that are type two have that insurance. And can pay for it because it's not a seasonal or atypical thing for them.

>> Gallo: Okay. Thank you.

>> Mayor Adler: Is there current-- owe is there currently an insurance requirement for type two str?

>> Casar: Mayor, I had suggested during the committee meeting to be comfortable voting for type two, but councilmember Gallo who had worked so hard on this, I believe if I recollect, said this is primarily an issue responding to type one's, who are much less likely to have this type of coverage based on their Normal homeowners' policy.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I would like to speak against this item. Someone had testified earlier that they didn't understand why the city would demand this kind of insurance because it wasn't clear that the city had any kind of liability if something went wrong. And if it did, what would be the limit of liability? How much money are we talking about? What would be the terms -- what would be covered under the liability provisions? There's just a myriad of details that would go into this kind of one simple statement. You have one simple statement that says, you know, property insurance, provides liability coverage. That sounds really simple, but the details of that could be incredibly complicated. And it could be cost prohibitive or it could be relative inexpensive, but I'm questioning whether we have the right to do this, whether we should be doing it.

[4:19:26 PM]

And finally, it says here grounds to suspend or revoke the license is at the end of the statement. To me there's a joke in there somewhere because we have horrible str bad actors and we can't get their licenses revoked. And still we're adding more provisions for revoking licenses when we don't revoke the licenses already for the bad actors.

[Applause]. So that's why I'm opting this.

-- Opposing this.

>> Mayor Adler: Ms. Pool.

>> Pool: It would seem to me as a homeowner and someone who might rent out my house occasionally, I would want to have sufficient insurance coverage, especially if I have to be away on a weekend and something happened to my home and it was determined by my insurance company that the occasional rental wasn't covered, and there goes my -- the largest personal investment that I probably have ever made. So it seems just a prudent action for the city to

require the insurance coverage.

[Applause]. And in case of a fire, which might not be -- there's different kinds of things that can happen in a house, but fire can certainly spread. I understand why this item number three is included in here and I think it's a prudent measure.

>> Mayor Adler: Did it make sense, Mr. Casar, given the concerns you had to put in the provision for a type two, but not for a type one? Or there was no issue with type two, so the only question was whether you required it or not for type one?

>> Casar: I believe that might be a question for councilmember Gallo. I asked that question and her response was this really has more to do with type one's, but I don't want to answer for her.

[4:21:33 PM]

My concern throughout most of this conversation has been enforcement on -- enforcement against the party house issues on type one and type two and then proper regulation of type two's. So that's why I was a little bit uncomfortable with it unless the price was something that I thought would make it easy for type one folks to participate. And ma'am, you were the one that approached me in the lobby to tell me it was actually 15 to \$50. 15 to \$50 a year or did you mean 15 to \$50 a month? A year. So I'm interpreting interpret -- getting pretty different quotes and it's hard when I have different insurance quotes from different insurance sales citizens. Thanks for your help, though. I genuinely appreciate that y'all are trying to give honest responses. It's just hard to initiate a code amendment based on such a divergence in Numbers.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Can I ask our city staff if there have been any instances of property damage that wasn't covered by a type one rental? Or type two, I guess?

>> Councilmember, I think that's something we do not know.

[Applause]. We really don't check for liability insurance, and there was -- the one that stands out in my mind, there was one -- I think it was type 2 str that burned, had quite a bit of fire damage and basically is being rebuilt. But we don't know what kind of liability insurance might have been included. We do check on every license that's issued to make sure there's valid property insurance that's been issued on the property. So I really can't answer your question unfortunately.

>> Mayor Adler: My sense on this as this is developing, one, I think we need to do everything we can to hit these party houses, which is driving I think a lot of the conversation.

[4:23:37 PM]

I'm not convinced that we're going to be able to craft as we sit here at the dais the overall str policy in this city. I don't think that we're going to have the time to be able to be real thoughtful and deliberative on that. I'm probably going to vote against this one not because I don't think it's right, but because I don't have enough information to know. I'm going to put in in the list of things that still have to be decided on this topic for me. Any further conversation on this item number three with respect to insurance? It's been moved and seconded. Those in favor of this item number 3 please raise your hand? Tovo and Renteria, gal and pool. Those opposed raise your hand? The balance of the dais, with Mr. Casar off. So three does not pass.

[Applause]. That gets us to number four. This is to prohibit clustering of type two short-term rentals. Go ahead. Real quick and then we'll go to Ms. Kitchen.

>> Kitchen: I want to start this conversation reminding that everything we do today is just the beginning of a process that will last three to four months which will allow additional stakeholder input, additional staff input, additional council input because you talk about these things going into an ordinance format, then going before the planning commission subcommittee, going before the planning commission for public conversation will be accepted, allowed, encouraged and also coming back before the council. So making these real specific doesn't necessarily need to happen now, but this just gets the process started for the conversation so that over the next three or four months the detailed can be worked out.

[4:25:39 PM]

Feeling like we have to get all the details worked out now is probably not the right process. That we need to get the concepts rolled out and let that process occur over the next three to four months until it comes back to us again. The clustering is-- there's areas, particularly in Pio's district, where some of the lots are smaller and some of the short-term rentals are occupied close together and it is a huge impact to the neighborhood. When we talked about this is inc. There needs to be some type of way to keep that from happening because it is such an impact to the surrounding neighbors. I think part of the process is a process that will occur over the next three to four months whereas the code department can begin to get the [indiscernible] Short-term rental license so we have them in the system, we're able to put them on maps, we're able to see what kind of distances we have between the short-term rentals that are operating out there. Then we can come back and look at how we would want to structure that. Do we want to structure it with distances, do we want to structure it by blocks. I think that is a future conversation that can happen, but I think we want to address the component of clustering within our short-term rental community.

>> Mayor Adler: It's helpful. Ms. Kitchen?

>> Kitchen: I was going to say I support that approach because I think it's important to address clustering, but I'm not certain what the best measure is at the moment. So this will allow for that process.

>> Mayor Adler: For me clustering seems to be one of the recurrent themes and some of the most horrific anecdotal stuff that we hear. I'm going to support this and have that stakeholder process try to figure out how you define that and what that is.

>> Tovo: And when there was a stakeholder process in 2011-2012, the planning commission subgroup did recommend an approach to clustering that I hope they'll look back at because it was a thousand foot measure, I understand people have concerns about that.

[4:27:47 PM]

But it has -- this has been a consistent recommendation.

>> Mayor Adler: Mr. Zimmerman P.

>> Zimmerman: I would like to vote in favor of this because I think this underscores kind of how the city set up a problem with this in first approving zoning that would define a neighborhood

that was supposed to be residential --

[applause].

-- And come back in and establish an str ordinance which provides for a commercial business. This is one -- the str thing, the type two was a bad thing in the first place, but it's already been done. So I'm going to vote yes.

[Applause].

>> Mayor Adler: Is there a motion to approve the clustering component of this? Mr. Casar, seconded by Mr. Renteria? Any further discussion? Those in favor of this please raise your hand? Those opposed? It's unanimous on the dais. That gets us to the next one.

[Applause]. Which is the occupancy limit for strs at the lesser of, six unrelated adults, four unrelated adults in the mcmansion area or not more than two adults per bedroom.

>> Gallo: And I first want to say hi to Bradley down there. He's asleep.

[Laughter]. Sorry, Bradley. I would recommend that we take up 5 and 6 together because they've ended up being very related. As mayor pro tem tovo pointed out earlier, we already have in the city an occupancy code regulation that says not more than six unrelated and then in certain areas of town we have not more than four unrelated. So that's already in place.

[4:29:47 PM]

So anyone that is not complying with that, is not complying with our basic zoning ordinance, that complies with occupancy in all the properties. We wanted to address the difficulties that code has over and over again when they show up at someone's front door and there are 15 people occupying that property. And I think we had a news station that actually followed code to a door, they answered and there were obviously more than six adults in the property. And then the people all professed to be cousins. How difficult it is for code to take that ordinance and issue a violation on it. Parallel to that we've moved towards the administrative hearing process that we talked about a little bit earlier, so instead of the burden of proof being on the code department to determine or to believe what people are telling them is they are all claiming to be married or cousins or whatever they are when they have a bachelor party and seem to all be related, the move to the administrative hearing now allows code to be able to walk up to a house, visually be able to see a number of occupants that would be over the limit so it would either be seven or five depending on the area of town, and issue the citation and then the process, if the owner wanted to appeal that decision, they would have the administrative hearing process to be able to prove that the over six occupants were truly related. Code and city legal would need to determine what that proof would be. But it does, it does now put the burden of proof on the owner of the property to really prove that those 15 gentlemen that are at a bachelor party are truly related and cousins. So I think the two really have to be determined and voted on together, because I think they both really relate to each other.

[4:31:55 PM]

So we are still, if we leave it like it is throughout the city, we still would allow the family gatherings, and the senior members of this dais who have adult children have talked about, you

know, when we travel with our adult children, you know, it really is nice to be able to take seven of us, we're all adults at this point because we're both old enough, and the -- be able to rent a house together. So I want to make sure that we still have the ability for families to come to Austin and have a family gathering and be able to rent properties here for a short term basis. Now layered on top of that, I think we have an issue that even if it's a family gathering and it's more than six people, that the number of adults needs to be limited by bedrooms. So if you have a four bedroom house, then your limit would be four people, four adults. So even if you had six adults that were related, they could not be in a two-bedroom house >>

Mayor Adler: You are saying two adults per bedroom?

>> Two adults per bedroom. That would be layered on top of all this. Even if a family of seven adults or eight adults were to come in to rent and they would be legal, because it would be not more than six unrelated adults, they would not be able to rent a property that would house less than two per bedroom.

>> They would only have three bedrooms?

>> They would have to rent a four bedroom house if there were seven adults, even if they were related. I think that addresses some of the concerns where we have the smaller houses. Where there's a two bedroom house and they are being occupied by eight people. We saw the picture of the bedroom where it was worse than a college dorm with 15 bunk beds in it. I think not more than two adults per bedroom helps limit the appropriate Numbers to the appropriate sized house.

>> Ms. Gallo moves 5 and 6.

[4:33:59 PM]

Is there a second to 5 and 6? Mr. Renteria.

>> Does a motion need to be made to join them or do I need to make a motion to divide them? I would like to consider them separately.

>> Mayor Adler: She specifically wanted to bring them together but we'll bring it to a vote to divide the question. Mr. Casar.

>> I wanted to speak to other reasons why I think it's important to put this in the short-term rental code. One, if we just leave it in the typical land development code that occupancy limit is set to expire during our terms and I don't want to have to come back and fix the short-term rental issue. So that is one important point. Secondly I think it clarifies that staying in a short-term rental occupancy means you are there for a night. Right now if we are trying to enforce this based on the Normal code then we are sort of condemning, if you live in a duplex in central Austin and two people live on the other side, you can't have somebody over for a night without breaking our zoning code. Moving this over into the short-term rental code clarifies that there's a difference between occupancy and a short-term rental as opposed to occupancy and a long-term rental so we aren't, by our implications, saying that some people aren't breaking the law when they have someone come over to stay just a night at their place. And then third, I think that we did have a split vote on this at the committee where we had two votes saying that we wanted to keep the word unrelated in the recommendation and two votes to take it out. The difference there is pretty small. I think the reasoning that we had the difference is because -- and this is -- people can correct me if you think the difference was for a different reason.

[4:36:04 PM]

But I believe that with the administrative hearing, council member Gallo and I thought that code would be able to put the burden of proof on the property owner and that we would fix our occupancy -- the difficult enforcing the occupancy limit. I believe the other two votes thought that this has been a consistent issue we have heard and that we should do the administrative hearing and cut down related. Ultimately that is something I think will get worked out and hopefully stakeholders will figure out what will work while we do the land development code -- not the whole rewrite. I talked about that so much. While we do the code -- while we initiate this code through the planning commission, I hope everybody gets to the place where we know how this will be enforced. Because this is one of the turnkey issues. If it's a one bedroom house and you go it's going to be two adults. If it's a two bedroom house, it's four adults no matter which way people go on the related versus unrelated vote. There's a difference if you're in a urban core and it's a three bedroom house if you think it should be four adults if they are related or not or if you would allow six related. In a three bedroom house do you only want to allow four adults or only allow four adults but let at least two more adults stay if they're all a family. That's basically what the contention was. Pretty small contention. I think we're going to come out okay on either side. I know I talked a lot but the split vote was over three bedroom in the urban core. Whether we want to let three or six.

>> Mayor Adler: Before we get there, in response to Mr. Zimmerman's request to divide the question, I think we're going to achieve what you want to achieve, Ms. Gallo. I'm going to put us to a vote on no. 6 first.

[4:38:05 PM]

It's been moved to also enable administrative remedy as a tool. I'm calling 6 first. Any discussion on that. Those in favor? Go ahead. Go ahead.

>> I want to speak against this administrative hearing process. What this does, I think it turns the whole idea of the justice system, which is innocent until proven guilty to guilty, unless you are able to prove your innocence.

[Applause]

>> That's the short version of it. I'm also concerned that the easier it becomes to issue citations, we could get into some weird situations where we have people making false accusations against certain property ordinance. We could even have str competitors turning each other in. Hey, that guy's violating the rules. Go investigate him. I think there could be a lot of bad and unintended consequences coming out of this and I'm going to vote against it.

[Applause]

>> Mayor Adler: Okay. Ms. Tovo.

>> I want to ask our legal staff, we had a discussion about this the other day, I want to make sure this passage would not preclude our staff from taking something to municipal court if it seemed like the more appropriate thing. And I think our discussion the other day suggested that it would not. I just wanted to be clear that for me I would like to preserve that option of taking things directly to municipal court including possible occupancy if it rose to a higher level

or you had multiple issues and it made better sense to go to municipal court.

>> If the council adds a presumption to the ordinance that says once you hit a certain threshold we presume that you are violating the occupancy limit, those cases have to go to the administrative hearing. Otherwise if there's not a presumption applied then we would be able to go through municipal court.

[4:40:06 PM]

>> Mayor Adler: Could we put the presumption in only with regard to administrative hearings? Let's say the presumption does not apply if it goes to municipal court?

>> Yes.

>> Mayor Adler: Okay. And ultimately I'm going to recommend that we do that so we have both tools available. Further conversation on this? Ms. Pool.

>> I just wanted to add that I think this is one of the most important aspects of what we're doing here today is to strengthen our ability to have some justice in these matters.

[Applause]

>> And it occurs to me that there is more ground to plow. I think we talked about it a little bit at the committee hearing that I was appreciated being able to sit in on that meeting. But it will be for sure digging. But I do want to look at what happens once a case hits the municipal court or the administrative hearing to make sure that we do actually have sufficient levels of penalties and that they are applied. That we really do have the tools that our prosecutors need in order to successfully prosecute these issues when they get to this point. It doesn't stop at the door of the hearing or the municipal court. In other words there's a whole lot more that goes on. I did want to make that statement that we will be digging into that additionally.

[Applause]

>> Mayor Adler: Okay. Further conversation on the administrative tool? Those in favor please raise your hand. Those opposed. 10-1. Zimmerman voting no. That now gets us to no. 5 on the language as set, which is the lesser of 6 unrelated, four unrelated adults in the mcmansion area, or not more than two adults per bedroom.

[4:42:08 PM]

Continuing conversation on this. Ms. Kitchen.

>> My question is -- so if I'm understanding correctly, A and B are the same is what we have right now for single family homes, depending on where they are located. So the new addition is not more than two adults per bedroom. That's the new addition. Okay. So I have a couple of questions, and I'm sure that the committee talked through this. I'm concerned about the defining a bedroom. It just seems like a slippery slope to me in terms of what a bedroom is. And so I have a question about that. How did y'all -- well how did you arrive at no more than two adults per bedroom? Because I'm just concerned that this may be overaddressing the problem.

>> So we did -- with zoning, who would address how a bedroom is determined? Is that code or zoning or legal? Any of the above? The -- all of the above.

>> In a previous life I was a planning developer so I'll give it a stab at this. It's very difficult to say what a bedroom is. Right now when we have requirements for duplexes, they have to identify a

certain number of bedrooms and it might trigger additional landscaping or parking. Although you might see studies, offices, play rooms, an extra dining room, game rooms, they're not uncommon that you'll see in many households. It's extremely difficult, I think, for code to go in and make that determination. Bedrooms are supposed to have two exits that you can easily get out of.

[4:44:11 PM]

It may be to doors, it may be a door and a window. Window being adequate size and close enough to the ground that you can get in and out. Going into a house, many of those that might be turned into a short-term rental, for Carl's staff to actually go in and make a determination, well that's a bedroom and that isn't is going to be very difficult because that nuance really hasn't been discussed, only in the last ten years or so about requiring additional things for certain Numbers of bedrooms in duplex units, let alone single family homes. I can't give you a definitive answer if it's going to be easy for code to go in and say that's a bedroom and that isn't. People will change the purpose of some of those rooms through time and there's not an easy way to get to that except to say that that appears to be a bedroom, it has two exits, it would qualify as a bedroom, and by default you might end up calling it a bedroom.

>> I think one of the things we talked about at committee was that director smart has indicated that as part of the application process, one of the questions would be the number of bedrooms in the house. So that actually would be on the application. And I think if there was a concern with the appropriate number being indicated, then that could be addressed with either the Co or the inspection that was done initially. But that information would actually be part of the application and be part of the records on the license of that property.

>> So let me just make sure I'm understanding. So the purpose of adding C is to actually allow more than six in a large home. Pardon?

>> If they are related. So you still can't have more than six unrelated adults in a house. But if they were related, you could have more, as long as you did not have more than two adults per bedroom.

[4:46:12 PM]

>> Oh, it's the lesser of. Mayor.

>> Mayor Adler: Ms. Houston.

>> I'm not going to weigh in on C, but I do need to weigh in on unrelated adults. I'm not sure why I care whether there are six people who are over 21 in the house or not.

[Applause]

>> And I actually don't care whether there are four adults in the house. I do care if it's 15. And I do care if it's 14. But I don't think I care about six and four, and what their relationship to one another is. So I would be willing to amend this to say 5a, six adults. 5b, four adults. Did you all have that conversation?

>> Mayor Adler: I think what -- this is to pick up to differentiate between a family of eight and eight college kids on a bachelor party.

>> Right, but if it's a family of eight, then that would go down to C, I guess. That's why you put

in C?

>> Mayor Adler: It's the lesser of. So if you had the lesser of six unrelated adults, then there would only be six in the event of a bachelor party. Regardless of how many bedrooms there were in the house. We're saying we're just not going to let six guys -- more than six guys at a bachelor party regardless of how many rooms in the house. If it says unrelated, if you had four rooms in the house you could have more than six people, if they were one family.

[4:48:22 PM]

>> And why would we want to try to figure their relationships out?

[Applause]

>> I'm just asking a question. Because if I have two adult children, which I have. And we go and rent a short-term rental, which we have never done. And they, and my son brings his children and one of those is an adult. You know, I don't know what those relationships have to do with the total number of people in a home and what they do in that home. Now, again, the lesser of six is not a problem because that's not where we are having the problem. It's when you get over six, whether they're related or not.

[Applause]

>> So you could have some fairly large reunions, family reunions with adults and they are a nuisance in our neighborhoods. I don't know why it makes any difference. I'm still not understanding. So maybe somebody can explain it to me.

>> Mayor Adler: Mr. Renteria.

>> Yes. And I would propose six, whether it's related or unrelated. That was my -- that's what I wanted to do. But the compromise was two per bedroom. But when it comes down to it, I believe there should be six per house. I mean, like my garage apartment where I stay at, it's one big room with just a private restroom in it. My kitchen is there, my living room and bedroom is in the middle. It's one big room. It's just the two of us. I don't have any partitions or walls.

[4:50:22 PM]

That's the way we decided to fix up our apartment, our garage apartment. So I was -- I wasn't comfortable with saying bedrooms. But that was like a compromise. I voted for just six. But it was a tie.

[Applause]

>> Mayor Adler: Mr. Zimmerman.

>> Thank you, Mr. Mayor. So let me go back to the idea of a public disturbance, right? So a lot has been said about whether somebody is related or unrelated. And I agree completely with council member Houston that you could have 15 related people and they're drinking and raising hell and causing a lot of trouble. And they could be in their own home. Has nothing to do with str.

[Applause]

>> So I want to get back to the point of what the real problem is is ordinances are not being enforced. That's the real problem. It's not nothing to do with whether it's str or whether it's a property that somebody owns. We have to enforce ordinances against drunkenness and noise

and disorderly conduct. That's the root of the problem we are not addressing.

>> So Mr. Zimmerman. Thank you for that last example. The difference, I think, is that if it's your house, I can come over there and say, don, you need to stop. If it's a short-term rental, I don't know who to call except the police. That's the difference. You are in our neighborhood and I have more expectation of you as a neighbor than I would of somebody who is not there. So that's the difference.

>> Mayor Adler: You know, it's important that we all talk to me, I think rather than each other. But let me go down to this side of the table next. Ms. Kitchen.

>> So, I wanted to go back -- and I apologize, I'm just trying to wrap my mind about it.

[4:52:25 PM]

I wanted to go back to the example you gave a minute ago, that the mayor gave a minute ago. I think, if I heard you correctly, you were saying because this is a lesser of you could have no more than six adults in a four-bedroom home. Is that right? So you couldn't use one of the bedrooms.

>> Mayor Adler: Unless they were related and you had the unrelated.

>> So if you have a large home, you're limiting who it can be used for to families. Under this scenario?

>> Mayor Adler: Yes.

>> And, mayor, just to clarify. We keep saying six, but the vast majority of short-term rentals are in the mcmansion area and it's really four. So it's really four, which is fine, I just think that there's been a lot of conversation.

>> So a three bedroom home in one of those areas, you could only rent it -- you could only rent two of the bedrooms, essentially.

>> Mayor Adler: For four people. If you took out the --

>> I know, unless they are related. But really what you're saying is you could only use -- you could only fully use that home for families.

>> Mayor Adler: Correct. And the reason that that is an important distinction for me is when I hear people describing what it is that is the problem that we are failing to address. What I don't hear a lot of anecdotes about the family of six that is keeping the neighborhood up. It's a bachelor party or it's a party house, or it's the event. So to me, at some level, that's a difference.

>> But my concern is -- I'm not quite sure this is getting at the problem. Because -- and we definitely need to address the problem. You know, absolutely must.

[4:54:26 PM]

But I'm not sure if I have a three bedroom home, that, you know, in one of these areas, that six friends would be a problem. You know, to me that's a little bit -- I'm not sure it's -- that's very different than 15 or 10. It's a very knotty problem and I appreciate the work the committee has been doing and I appreciate them bringing this forward. And it's not like I'm offering an alternative. I'm just very troubled by this

>> Mayor Adler: From what I understand from what they said earlier is the existing zoning for

that home would not allow six unrelated people to be in that home. Because that's what existing zoning is. So I would say, Ms. Kitchen, if that was a concern, let's hold off on this until we can address the underlying zoning question. Because that's set by zoning. Ms. Tovo.

>> So I would like to propose -- we already have a motion, is that right, for this amendment?

>> Mayor Adler: We do.

>> I would like to proposed the amendment that we remove the word unrelated from a and B. And then I think we should have a discussion about -- I have to think through how C works in that. But here's my rational. I think that our code officers recommended that we remove the word unrelated so they don't have to be in the business of trying to figure out who is related to one another. I agree with the comments, though they were expressed by somebody with a different viewpoint, but I agree with the comments that have been made that we should not be in the business of trying to figure out family relationships. And we're talking about places that are operating as hotels. As I mentioned in our planning and neighborhoods meeting, when I call a hotel, they ask me how many people are staying in that room.

[4:56:29 PM]

They don't ask me the relationships. They ask me how many adults and how many children and either the room has the capacity for that or it doesn't. I would propose we remove unrelated and stick with the occupancy limits that are currently in the code for single family to simplify things for our code compliance. So we are using the same occupancy limits for single family properties as we are for short-term rentals. I would ask my colleagues to think through if we need to think through that scenario if we're removing unrelated. Again, that changes our relationship with C in that provision.

>> Mayor Adler: I'm confused. If we are not changing what it is undersong code, we would keep the word unrelated in. Or does the current code have unrelated?

>> I'm not proposing a change to the Numbers that are in the code for single family.

>> Mayor Adler: You're just trying to change the current code as to the relationship?

>> That's right. I want our code compliance officers to have the ability to go in there and see if there are eight adults, they're out of compliance with the short-term rental agreement. I want to make their job easier and that's one of the changes they suggested. I understand that the administrative hearing will improve things, because it will shift the burden of proof. But I would still want the ability for our code compliance officers to be able to issue citations there on the spot if they see more than the allowable number of adults, without having to try to determine whether there's a family relationship.

>> Mayor Adler: Ms. Tovo moves to amend no. 5 so as to strike the words unrelated in both a and B. Ms. Pool seconds that proposed amendment. Further discussion on that amendment, Ms. Gallo.

>> Could I ask Marcus to come up? Because mayor pro tem tovo talked about the point at which the department suggested that we remove the unrelated -- or director smart, remove the unrelated.

[4:58:30 PM]

That was several months ago when we first started this discussion and prior to us moving to -- or the department being able to move to an administrative hearing process. So I guess I'm just wondering, to address her question about that initially being a recommendation. If you feel like with the ability to move to the administrative process and be able to cite, if you see more than five people or if you see more than six people at the doorstep outside loading up on to a party bus or whatever, that that then addresses the difficulty you had earlier when you were having to do the burden of proof before you could do anything.

>> Council member, and I'll let Mr. Elliot chime in also, since he's so intimately involved in enforcement of this ordinance. But we were recommending removing the unrelated section because it has been a problem for code officers to make that charge. We really don't know whether they are related or not related when we go out. And we have taken cases -- Mr. Elliot has taken cases all the way through municipal court himself. And the burden of proof, of course, was on the city. And city could not prove beyond a reasonable doubt that the persons who were occupying it were related or not. So the case was basically dismissed. And in cases where we did get a penalty it was a very minor penalty that really didn't make much of a difference. So we recommend that we take the unrelated out. Since that time, of course, legal has given us the interpretation that we can use administrative hearing versus municipal court with a different burden of proof. So that's really going to help things a lot. I still feel a little bit uncomfortable with having to enforce the -- with the unrelated term.

[5:00:33 PM]

Even though we will be using presumption, I don't know how the hearing officer is going to respond to that. But still there is a -- how do we determine related versus unrelated? Still there's some difficulty involved. We're not sure how much difficulty going through an administrative leave hearing with that presumption. We know it would be better than having to go through the municipal court process, but there's still some uncertainty there. We are still supporting removing the unrelated language.

[Applause]

>> So I have a question, director smart. Because city wide the unrelated is part of the code enforcement and parted -- part of the code in long term rental.

>> It's not easy to prove, but it's a lot less problematic with long-term than short-term. Long-term they have a lease arrangement. The tenants, the occupants will be there away. We have opportunity for surveillance and talking with the tenants and property owner, going back to the property, they're still there. It's different. It's still not easy but it's less problematic than with short-term.

>> That wasn't my question. My question was if you have determined in your mind you feel like there are more than six unrelated living in a property and you cite them for that violation, what proof would you expect them to provide to show that they were not related, or that they were related, I should say?

>> Well, the burden of proof is still on the city going through municipal court, because we haven't had the opportunity to go to administrative hearing. We would talk to the tenants. We would talk to the property owner. We would ask for copies of the lease, if they would provide us copies of that lease.

[5:02:40 PM]

We would check vehicle records. If there's a parking situation, vehicles being parked there regularly overnight. We would check those and check the names and registration for those vehicles. We would use a number of avenues to try to come up with the proof that we needed to move that case forward.

>> Mayor Adler: Further conversation on the amendment to strike the word unrelated in a and B. Ms. Kitchen.

>> I just want to make sure we're all clear on what we're doing. I want to make sure I'm clear. So a and B with the unrelated in it right now is the same as the existing requirements that we have in these areas. That's right. So if we strike unrelated we would be changing this so that it is different than we have for single family homes. That's correct, right?

>> Mayor Adler: That's correct.

>> I'm sorry. So homeowners, right? We're talking about homeowners. Not renters but homeowners.

>> Homeowners.

>> Thank you for clarifying that.

>> Mayor Adler: Is that true? I thought it was any residential dwelling. I thought it was occupant. I could be wrong.

>> Could you repeat the question?

>> Mayor Adler: The requirement under existing zoning that has a limitation of no more than six unrelated adults, does that apply just to homeowners? Or does it also apply to renters?

>> It applies to the occupants that are residing in the property.

>> Mayor Adler: So it would be both the homeowners and occupants.

>> Thanks.

>> What has been proposed in both resolutions would actually take the str out of our zoning occupancy limit and put it in with the str regulation so it would be specific to str regulations.

[5:04:50 PM]

So it would be clear that we have an occupancy limit specific

to str >> Mayor Adler: The amendment is to strike both a and B.

>> In this situation we would actually strike short-term rentalles from the existing occupancy limit in the zoning code and place it into strs and we would have unrelated or not unrelated, however the council decides to go.

>> Mayor Adler: I understand. Thank you.

>> Would you repeat that for all of us.

>> Mayor Adler: Right now current zoning code says that any residential dwelling can't have more than six unrelated adults, except in the mcmansion area where it's four unrelated adults. The amendment proposed by mayor pro tem tovo is to strike the word unrelated.

>> Okay.

>> Mayor Adler: So it becomes more restrictive than what is the code. Current code.

>> Right. Okay.

>> Mayor Adler: Is there further conversation on this?
>> I'll just say as per director smart's recommendation.
>> Mayor.

>> Mayor Adler: Yes, Mr. Casar.

>> I voted to keep unrelated at the committee hearing but considering the continued recommendation from the code department and also considering that if we go forward with the administrative hearings I could actually see folks that are having the family reunions under this getting cited and property ordinance having to go and explain it consistently because we're just taking the presumption under the strategy to just ticket them and assume that they are unrelated, but then they are, it puts us in a tricky spot. So I'll vote for the amendment for it to be clean. If I had my way I think that maybe just two per bedroom all the way through makes sense but I don't want to open that can of worms.

[5:06:57 PM]

So I'm going to, I think four in mcmansion and six outside of mcmansion and not considering whether people are related are not. And str's is the best option that's on the table now. So I'll vote for that.

>> Mayor Adler: Ms. Troxclair.

>> I guess there's no point in asking -- yeah, will you come up again? I'm a little bit frustrated with your response to council member Gallo's questions. Because the things that you identified that are the current problems is exactly why we have gone through this entire process. And specifically why we are now giving you the power to put the burden of proof on the renters, the short term renters. And so, I mean, I'm really concerned that, number one, if we take the word unrelated out of this, we are holding this group of property ordinance -- owners to a completely different standard than the entire city. I don't want to throw the baby out with the bath water. We are all saying there's a problem. We all want to fix it. We are giving you, I think, a very effective tool with the administrative hearing process to shift the burden of proof. And I think that's what council member Gallo was trying to get to when she was asking you about how you would -- right now I think her intent is if you show up at the door, the burden of proof -- and you see more than six people there and you think they're unrelated you ask to see their driver's license, you ask them to prove if they're related or not, right there on the spot. And if they don't do that they're going to have to -- then they go back home and we have an administrative hearing process and they don't show up it was their responsibility to show that they were related, so they would lose the case.

[5:09:08 PM]

So I am really worried that this one word not only is holding this group of property owners to a different standard but we want to give you the tools to address the problem and I think we need to be careful about focusing on what the right tools are instead of enacting broad reaching requirements that we don't know what the impacts of these things are going to be.

>> Mayor Adler: Why this one is troublesome for me is I want to -- we have a problem we need to fix. And we need an ordinance that we can enforce that fixes these things. If allowing for the

administrative hearing and the presumption fixes this, then that's all we need to do. If the administrative process doesn't fix this because we run into the same problems that we ran into in municipal court. I'm uncomfortable, as I sit here assuming that the administrative process won't work. But if that's what the council does and it doesn't work then I would be the one making to motion to change it. Because we need something that works. Ms. Kitchen and Mr. Zimmerman.

>> At this point I'm going to have to stay with the existing requirement because I'm thinking that the administrative process should work. I'm also thinking that the other kinds of tools that we're putting in place really need to work. And so we really need to make sure our enforcement process works. I'm concerned with the whole occupancy requirements. And I'm not ready to make that change yet because I'm not convinced yet that we can't fix the problem with the kinds of enforcement tools that we're bringing in.

[5:11:09 PM]

I do think we need to keep a close eye on this because if it doesn't work, we need to immediately address it. But this isn't the only section that we'll need to address if we have difficulties with enforcement.

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

>> Thank you, Mr. Mayor. I'm going to be voting against the amendment to strike unrelated for basically the reasons that have already been mentioned. I don't have much to add to that.

>> Mayor Adler: Ms. Garza.

>> I'm having a hard time with this one because I'm trying to decide if I should open the can of worms about the two per bedroom. Because this would be if you have a one bedroom outside of the mcmansion you could have six people in a one bedroom. And even if you have a four-bedroom home and there were eight people -- you know if it was the two per bedroom and you have eight people in there, that I feel like that still addresses this issue. You can't have 27 people. And that seems to be the bigger thing -- the bigger problem we're trying to solve is those bad actors, those ones that are having 15 to 27 people in there. So I'm having a hard time with this one. It seems like it doesn't address what we're trying to get at.

>> Mayor Adler: Mr. Renteria.

>> Thank you. You know, that's just part of the problem that we're facing. In east Austin I'm seeing this happening and I'm sure it's happening in other neighborhoods. You know, these people are seeing the opportunity to make some money. They're coming in to our neighborhoods, are buying our houses down, tearing them down, paying \$400,000 or more, and they're saying the tax appraisal district is saying these people are buying these single family homes and they're not buying it for the house, they're buying it for the land.

[5:13:13 PM]

So they increase our land value. They increase it so high that there's no way we can pay the taxes so we're having to sell those out again and someone else is coming in and buying that house and setting up another short-term rental too in there. I have examples that people have been buying our houses down and just tearing them down for no other reason but to put short-

term rentals in our single family houses. And if you're going to vote and keep unrelated in there, you're just compounding the problem that we're facing in our neighborhood. If you put that in there, I'm going to in the future, support with doing away with all of it.

>> Mr. Mayor. I would like to suggest that we come back to this item. Obviously everybody is having difficulty with it. We have other motions from council member tovo. I personally would like to take up some of those before we take up this occupancy issue.

>> Mayor Adler: Ms. Kitchen moves to postpone consideration. Is there a second to that? Ms. Garza.

>> I just mean -- not to a different day, just -- >> Mayor

Adler: No, no. We're just going to set it aside. Subject is being called back. Those in favor of postponing this please raise your hand. Tovo, Houston, Adler, Garza, Renteria, kitchen. Those opposed. And pool as well. Zimmerman, Gallo, Casar, troxclair. All right. It's postponed. We'll pick this one back up.

>> When you say postponed. You mean tabled.

>> Mayor Adler: We're just not going to vote on this one now, okay? Ms. Tovo you want to introduce another topic for us?

[5:15:17 PM]

>> Given the time, I'm going to start with no. 5. And I have distributed these on the dais. These are the same points -- let me back up and say I have distributed a motion sheet with seven amendments on it. Six of which appeared on the message board on August 19, but were addressed -- were introduced at the planning and neighborhoods meeting earlier that week. The additional one that is -- that I have added to this conversation is no. 7. But let me start with no. 5 because I think that may be something we can do between now and 5:30. And this would prohibit the use of large gatherings for short term. This would prohibit the short term of ten or more such as weddings, bachelor parties, and corporate events. The one that's labeled motion sheet, short-term rentals. Advertising of large gathers or corporate events shall result in penalties and probable forfeiture of the license. We have all heard documented examples of corporate parties taking place in short-term rentals. Shopping events -- all kinds of other uses. And so this would prohibit those. I believe we had some discussion from our code department that these are not activities that should be taking place in short-term rentals already under our existing code, but this would make it abundantly clear, I hope. I guess I'll invite our code department up or whoever would like to address that. Again, is my memory from these conversations is these are activities that are currently not allowed. But we have all heard of.

[5:17:19 PM]

[Inaudible] Various other events or large gatherings taking place in large rentals.

>> We have experienced situations where there have been large gatherings going on. With str's, we have seen corporate parties, we have seen bachelor parties, and similar types of events going on in str's. Some very handled properly and others are in situations where there's been nuisances, problem calls for the neighborhood. Noise problems, open container-type situations. Alcoholic beverages, and the kinds of things that disturb the quiet peaceful enjoyment of the

neighborhood. So we are certainly in support of this item.

>> Mayor Adler: Ms. Tovo moves no. 5, which is the prohibition against large gatherings of ten or more. Is there a second for that? Ms. Garza seconds that. Is there discussion on this? Ms. Garza.

>> Yeah, I just think that this gets to the meat of the big problem that's being had. More than maybe anything else. I really do think that addresses the problem that neighborhoods are having. So I think this is a great amendment.

>> Mayor Adler: I think it's a great amendment too. I think the administrative stuff seems to be the most possible game changers in what we're doing. Ms. Kitchen.

>> I support this also. I have a question. You have the language probable forfeiture of the short-term rental license. I would like to emphasize that it should result in forfeiture. I'm not sure if you were trying to -- I'm not sure why the word probable is in there and I would just suggest that we might want to make it send a signal that it should be clearer than that.

[5:19:24 PM]

That if there's a violation there should be penalties and there should be a forfeiture.

>> That's fine with me. And, again, that is a clause about advertising. And so, you know, as long as we are on strong legal grounds using advertising for such an event as evidence that they were in violation, that's fine with me to remove probable. So I'm happy to accept that as a friendly amendment.

>> Mayor Adler: It's been moved to amend so as to strike probable in front of forfeiture in the instruction. Is there any legal issues associated with doing that? No legal issues. It's been moved to strike that. Ms. Kitchen is our second. Mr. Casar. Any discussion on that, Mr. Casar.

>> I had a quick question, just because we haven't seen the forfeiture of the license in many code amendments. Mayor pro tem is there a reason you want the forfeiture of the short-term rental license for advertising of large gatherings? Is there a reason for it to be in the clause about hosting the large gatherings themselves?

>> I think I see your point. I think you're wanting, if I understand the direction of your question, you want to be sure that the forfeiture of the license also applies to the actual having of large gatherings.

>> It seems like it's as egregious.

>> It's going to take me a minute to word Smith that but if we pass that with the intent I can work out the language. The clause about advertising is just making sure that our staff have the ability to use advertising as examples and as evidence of those rules being broken. They don't need to show up to an event.

[5:21:24 PM]

If they see an event being advertised out there, that is, in and of itself, evidence of a violation. So but I'm happy with the forfeiture piece.

>> Mayor Adler: So if I understand the amendment being proposed is the one contained initially the prohibition and say that advertising and large gatherings shall be evidence of a violation. And that use or such advertising shall result in penalty and forfeiture of the short-term rental

license.

>> I'm very happy with that language and I would be happy to accept those amendments as friendly.

>> Mayor Adler: Is there a second to those amendments? Pool seconds. Any discussion on these amendments, Ms. Gallo?

>> I thank you for bringing this forward because I do think this is an area that we just need to continue to address. What I find interesting, and I want to point out, is it is already a violation in code section 25-2-791-f which says an advertisement promoting the availability of a short-term rental property in violation of city code is prima facie evidence may be grounds for denial, suspension, or revocation of a license. So renting out a residential property for corporate events and wedding venues is a violation of zoning and thus the advertising already allows the directors to suspend licenses. So I'm glad that we're reemphasizing that point. I think that's important. But I would say to code it appears that you have already had the ability to do this and I'm not quite understanding why these events that we know that's going on and all the eyes and ears that we have out in the neighborhood -- and thank you for those of you who are doing that. Once again, it's one of those situations where codes have the ability to do it and hasn't been doing it and I think this will just fine tune it even more so that it's very apparent that this is the ability and so I look forward to having those cited as violations.

[5:23:43 PM]

>> Mayor Adler: Ms. Gallo, does this go a step farther to include any gathering of ten or more, whether it's a wedding or a corporate event or a for hire event?

>> I think it does. And I think that's really important to expand it. But we already know and the neighbors already know that there have been wedding venues and corporate events that are commercial uses in a residential zoning that is already prohibited. So I do think it does go further and I think that's really important and I think mayor pro tem tovo for extending it even more.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Mr. Mayor, I would like to raise a point of inquiry on this. How many short-term rental licenses have been applied for now that have at least five bedrooms -- whatever a bedroom is. Are there properties that are already licensed that have five or six bedrooms that are recognized? Yeah, can I ask that? Somebody probably has those statistics. Recognizing that not everybody is registering their str, but of the ones that are registered.

>> I would ask Mr. Elliot to respond to that.

>> Currently we have to go into our data base to get those Numbers for you. I don't have them available for you right now, but I can get those for you and get them to you at a later date.

>> If I don't have these Numbers I'm voting against this.

>> We do see properties -- I wouldn't say a large number, that have five or more bedrooms. That's a smaller percentage of what we see. The majority are from one to three bedrooms.

>> Mayor Adler: I'm real comfortable having a policy that has short-term rentals that doesn't have this kind of activity. Ms. Troxclair.

>> I certainly agree with the advertising part of this and I agree with the spirit of the first part of this because we're trying to get to the heart of the matter.

[5:25:46 PM]

But my concern is the way that it's written -- and I don't know what council member Zimmerman was trying to ask about or not, is this would essentially put a hard cap of ten people. If you have a family of ten people you are no longer allowed to have a short-term rental. So I do think -- again, I support advertising -- the second part of this advertising a large gathering corporate event. That means that the owner is knowingly violating existing codes. Absolutely I have no problem with the second part of this. The first part of this I just worry that we are maybe going -- doing something different than just simply prohibiting weddings and bachelor parties. And I guess the second part of my concern, or actually my original question before council member Zimmerman asked his question is if an owner, if a short-term rental owner is knowingly catering and agreeing to have large gatherings, that's a reason to revoke the license. But if a owner rents to someone and unbeknownst to the owner the person invites ten of their friends over. No question that shouldn't happen and if there's a noise complaint we should go over there and not have the gathering anymore, but adding the language for immediate forfeiture of short-term rental license, that activity may have been a one-time activity that was done unbeknownst to the actual owner that we are penalizing. I think there's a difference between advertising and having a renter that does this. So I don't know what the solution is. I just wanted -- before we voted I just wanted to bring those couple of concerns up.

[5:27:51 PM]

[Applause]

>> Mayor.

>> Mayor Adler: Ms. Tovo.

>> If I may, I want to just address the point about occupancy. We're going to make a decision here today, I hope, about occupancy. And this isn't really intended to get at an occupancy issue with this. It's really about gatherings. I would remind everyone all we're doing is to at this point initiating a code amendment. So my comment about this is I'm trying to get at gatherings where that would take place as a short-term rental. And so the staff can address how this would interface with our occupancy as it goes through the codes and ordinance process.

>> Can I go next?

>> Because I understand -- I mean I think I understand your point that if we ended up with a higher occupancy, which I hope we don't, but if we do, then this could trump it. And that's not my intent. My intent is to really get at people who book a short-term rental and then have a party.

>> Mr. Mayor. I guess what confuses me about those, if I have a six bedroom short-term rental I would be able to sleep, what, 12 people there. But the gathering, quote, unquote, whatever that means, would be nine. No more than nine? I can't reconcile this with the number of bedrooms and -- I guess I'm still confused >>

Mayor Adler: With respect to existing ordinances it goes to the related and unrelated issue again. If you have a five-bedroom house and you're living in it with your family you can have ten people there. It goes back to that other issue. Does this get what you want, Ms. Tovo, just to

have that first paragraph that says prohibited use and advertising of short-term rentals? In other words --

>> Could you repeat your question?

[5:29:54 PM]

>> Mayor Adler: I'm trying to figure out whether the second paragraph was part of what you wanted no. 5 to read or if that was directions to the writer. I'm trying to figure out is there a difference between the -- what is 5 and what is indented I

>> Tovo: Sort of, yes, I would say there is a difference, keeping them from corporate events.

>> And advertising.

>> Tovo: And that our staff is empowered to use it as corporate events as part of their evidence in saying a violation has happened. So I guess it is advice to the scribes, but it is also allowing them to use that as evidence. And I would say at the end of the day occupants are those who are sleeping there and are empowered to do so within the limits of whatever we adopt as code. A gathering is something separate. So we -- yeah.

>> Mayor Adler: So number 5 should read, or could read, prohibit the use of short-term rentals from large gatherings or more such as weddings, bachelor parties, special events, and advertising could be evidence of such a violation.

>> Tovo: Right. And violations shall result in penalties and forfeiture of the short-term rental license.

>> Mayor Adler: Okay. So that makes then the actual violation the use and the advertising evidence of the violation.

>> Tovo: Yeah.

>> Mayor Adler: Okay. Ms. Troxclair.

>> Troxclair: I guess my preference would be to have advertising be proof of a -- advertising itself be a violation. There's no reason that anybody needs to be advertising for weddings, bachelor parties and corporate events.

>> Tovo: I completely agree, but I also don't want -- yeah, advertising is a violation, having the event is a violation.

[5:32:00 PM]

Both of those activities are violations.

>> Troxclair: But I guess what I'm saying is I think we could all get to the place that we're trying to get to if we voted on the advertising piece as a separate piece and not require -- you know, not then require them the actual gathering to happen for it to be a violation. Just advertising alone would take care of the problem.

>> Mayor Adler: But someone could be having that use without having advertised for it and what your concern is that -- what I understand -- hear you saying is if the owner of the property advertises for that use, then he knows or she knows what she's doing and that a violation seems to be something that could result in an automatic forfeiture. Your having trouble with the use part of it because the person who is losing it might not have had the same requisite intent to do that. And I think that's where you're struggling on that issue.

>> Troxclair: I see what you're saying. Can we say leave the advertising portion as is except for striking probable as I think is what is before us? And then on just say prohibit the use of short-term rentals for large gatherings such as weddings, bachelor parties and corporate events.

>> Mayor Adler: I think the question for you, Ms. Tovo is should the actual use result in automatic license forfeiture I think is the question.

>> Tovo: Yes.

>> Mayor Adler: I think Ms. Tovo's intent is to do exactly what you find troublesome.

>> Tovo: Right. And if we need to go back to probable to get a majority I'm okay with that to allow for some wiggle room there. But absolutely I want the execution of those events to be a violation and I want the advertising for those events to be a violation, both.

[Applause].

>> Troxclair: Can I say one more thing?

[5:34:02 PM]

But you did say that you're not trying -- what you're not trying to get to is occupancy limits. And by putting the word 10 or more in there we are addressing occupancy limits. So I think we would get to what you want to do by just saying prohibit the use of short-term rentals for large gatherings. And not put a number in there that speaks to occupancy if that's not what you're trying to accomplish.

>> Tovo: I'm not trying to get to occupancy in there. Here's why we need to have a number because single-family homes can have gatherings up to 50 people, and I do not want short-term rentals to have that same right.

[Applause]. So I did need to have -- I did need -- I do believe that we need to have a limitation there. So I'm sorry, I thought this would going to be a quick one before 5:30. Maybe we should carry it over the break.

>> Mayor Adler: Let's do that. We passed 5:30. Everybody can think about it and we'll come back. 5:30. Do we want to come back at 6:30, 6:45? They seem to be going long. Let's say 6:45 we'll be back.

>> Houston: How many proclamations?

>> Mayor Adler: I don't know the answer to that. We'll come back at 6:45.

>> Troxclair: I know that we had postponed the -- or tabled the whisper valley conversation and I'm assuming that our financial staff is going to stay until we take that up? Do we think that that would be quick enough that we could dispense with that at 6:45 when we came back so our financial staff could come home?

>> Mayor Adler: I think there's a chance when we come back we will actually let the 11 people here to talk about solar, so it could easily be that we owe since we're now back to the dais and no longer with the public -- so the -- let's talk about this before we go because I'm fine doing the will of the council here. When we come back we have pending for us item number 8, which was the whisper valley deal.

[5:36:06 PM]

Where's our staff on that? Are they back here? Have you worked out that deal?

>> Yes.

>> Mayor Adler: So you've worked that out. So we'll hit that first just so that that group can go. Then we have a 6:00 P.M. Time certain with respect to solar. Do we want to finish the str before we go to the solar? That seems to be the preference. We'll finish str and then get to the solar. And then we have 81, eminent domain that we can quickly get through as well. And we also have 90 that we can close out and let our finance people go as well.

>> Pool: Do you think that the solution on whisper valley is something that we could do quickly now? Before dinner?

>> Zimmerman: Before the proclamations you mean?

>> Mayor Adler: We're 10 minutes late for that. We'll pull them right back. Anything else?

>> Zimmerman: Mr. Mayor, quickly item 84 there's a zoning issue, item 84 on ranch road 620. Is Mr. Robinson -- is Mr. Robinson here? He may not be here.

>> [Inaudible].

>> Zimmerman: He's in Utah, but you're here. So we have item 84. I believe Mr. Guernsey, you're waiting for item 84 as well? Okay. Thank you. Just wanted to make you aware.

>> Mayor Adler: Thank you. 6:45 we'll be back. Thank you.

[5:49:31 PM]

>> Mayor Adler: All right. So now we get to my most favorite part of council meeting days. For those of you that have sat here for the last three hours you know why. We're doing music now. And -- and again, I tell people that are here, the fact that the Austin city council stops its meeting at virtually every meeting to take a music break is one of the reasons why I love this city. So joining us today are the singing waiters. The singing waiters began their musical journey in the year 2004. They are dressed in black trousers and white shirts, black bow ties. The waiters performed throughout central New York, likening their program to the famous barn storming southern gospel quartet of the 80's and 90's, the cathedrals. New York audiences fell in love with their southern gospel and their spirit-lifting enthusiasm. The group's leader, bill Eckhardt, relocated to the Austin area in 2012 and today's waiters consist of five very ordinary Austin men who love to sing southern gospel. Their one hour program entitled down memory lane, is a collage of those great blockbuster gospel hits of yes, sister year, and the song their performing today is an original poem sung to the tune of the battle hymn of the republic paying tribute to the victims of the 9-11 attacks in New York in the year 2001. Please help me welcome the singing waiters.

[Applause].

[5:51:36 PM]

♪♪. >>

[5:54:27 PM]

[Applause].

>> Mayor Adler: Thank you so much. So if people are watching on TV or listening, do you guys perform?

>> We perform in churches and civil locations, anyplace that people would want to hear southern gospel music. Our program is an hour long. It consists of audience participation, good natured humor and rock-n-roll southern gospel.

>> Mayor Adler: Great. And do the singing waiters have like a website?

>> Do you have it?

>> Right now Facebook is our primary outlet. So you can just search for singing waiters on Facebook. And I should get some information about the group and that's about it right now. Thank you.

>> And we're looking for places to have us come and sing. We've only been formed for a couple of years and it took us a year just to get to know one another and to practice.

>> And the price is right.

[Laughter].

>> Mayor Adler: Let me read a proclamation that I am honored to be able to read. Be it known that whereas the city of Austin, Texas is blessed with many creative musicians whose talent extends to virtually every musical genre. And whereas our music scene thrives because Austin audiences support good music, produced by legends, our local favorites and newcomers alike. And whereas we are pleased to showcase and support our local air activities, now therefore I -- artists, now therefore I, Steve Adler, mayor of the live music capitol, do here by proclaim September 17th of the year 2015 as the singing waiters day.

[Applause].

[5:56:31 PM]

>>

>> Gallo: This is really the fun part of the evening. Not that everything else is fun, but this is really fun. I am so honored to be here tonight to honor Bettie himmelblau. And I'm going to read a proclamation, but I'm first going to say a few things. Standing with me is Bettie's daughter Margaret Kneller and her husband don. And Margaret and I actually grew up together. So I knew Bettie originally as the mom.

>> Carpool mom.

>> Gallo: And carpool mom and horse show mom and major mom as she tried to keep all of us behaving, which was probably a bigger challenge than serving on the city council. But it's -- Bettie passed recently and she was such an instrumental part of my life growing up and also the life of the city and also the lives of many of the women in Austin. Betty was the perfect mom who raised two children and both children are a great example of what a great woman she was because they're both kind, committed to the community, intelligent, intelligent people, so I'm pressure Betty is really proud of the job she did as a mom.

[5:58:45 PM]

I know she's proud of the job she did as a councilmember. Betty ran for city council in 1975, prior to that she served on the Austin planning commission. And Betty served three terms on

the city council. She was really a woman leader in this community. She was interested in health care issues, but she also created the commission for women and the arts commission that we still have right now. And I'm pleased to have Karen timboreus, who is on the commission of women, who is standing before us and it is because of Betty himmelblau that she is able to serve on a commission still operating in the city of Austin. I could read so many things about her. She obviously was interested in health care issues. She was chair of the Brackenridge hospital board. She was the first woman in Texas to chair a major regulatory agency, and that was the Texas health facilities commission. She was very active in the community with civic organizations and with organizations that supported women. She was involved with ballet Austin. She was involved with the chamber of commerce, the Austin symphony, the Austin settlement club, junior helping hand, but I remember Betty as being an avid UT supporter. Avid. As I think a lot of our parents were back then. She served on the athletics council for UT women's athletic program and was a member of the longhorn foundation. So it is such a pleasure to read a proclamation with the family of Betty himmelblau and the mayor of Austin, city council, proclaiming be it known whereas Betty himmelblau has a long and distinguished career in public service, including serving as a U.S. Naval wave officer during World War II. How appropriate for the singers that we just had. Sitting on the planning commission and serving three terms on the Austin city council from 1975 to 1981.

[6:00:50 PM]

And whereas during her time on the city council she established the medical assistance program and shepherded ordinances creating the Austin commission for women and the Austin arts commission. She was a member of the Austin chamber of commerce, vice-president of the Austin symphony society and a member of the Austin settlement club. And whereas Ms. Himmelblau died on September the 3rd, 2015 and this council honors her for being an exemplary efforts as a leader in the city of Austin. Now therefore Steve Adler, the mayor of the city of Austin, Texas, do here by proclaim September 17th, 2015 as Betty himmelblau day. [Applause].

>> Thank you. Thank you very much.

[6:03:22 PM]

>> Mayor Adler: We have a proclamation. Be it known that whereas dyslexia occurs on a continuum of severity affecting up to 20% of the population according to the national institutes of health. And whereas the city of Austin honors the duplex I can't parent network, the friends of dyslexia and the friends of the international dyslexia organization and all organizations that provide services for learners who struggle with dyslexia and associated learning difficulties. These non-profit organizations render support to families experiencing significant literacy issues as a result of dyslexia. A specific learning dyslexia that is neurological in origin and is characterized by difficulties with accurate and/or fluent word recognition. And by poor spelling and decoding abilities. And whereas it is a local goal to raise awareness and understanding of dyslexia within the Austin community, to seek support for dyslexic services and to ensure that individuals with dyslexia are accurately identified and provided with appropriate services. Now

therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim October of 2015 as dyslexia awareness month.

[Applause]. Heather, do you want to say something? This is a proclamation that is important for me to give not only on behalf of the city, but on behalf of my daughter Susan, who has dyslexia. >> Excellent, thank you, thank you. Hi. My name is heather Hardman and I am a co-founder of the dyslexia parent network with Ann O'Connell and a founder of the friends of dyslexia with Robbie cooper who is here, and also Ann O'Connell.

[6:05:35 PM]

And we work in partnership with many different groups, the Austin independent school district, the karnack institute, Ross and Saunders and many other groups. It's not commonly known that dyslexia affects as many as one in five individuals. And it's important to not only have the awareness out there and the understanding of what it is and what it is not honestly, but then also to get the funding and support that our children need. And both of my sons are actually dyslexic and go to doss elementary and have had a good experience, but we have a lot of growth and a lot more to do. So I would like to introduce -- well, first thank you very much, really appreciate the acknowledgment. Also Dr. Paul Cruz has been a big supporter, amber elenz from the school board we appreciate. Dr. Robalard from the school board and Austin independent school district office who has been huge. And Beth shepherd and well. I will introduce John Horton from congressman Lamar Smith's office who is part of the -- he's the chair of the dyslexia caucus and the science and technology committee.

[Applause].

>> Thanks, heather. I won't take up too much of your time. I'm John Horton with congress Lamar Smith's office. He regrets he can't be here today. He is the chairman of the technology committee up in DC and also the founder of the congressional dyslexia caucus and it's something he feels very passionately about. And he's since founding it earlier this year recruited over 100 of his house colleagues to join him in the caucus and also back in July introduced legislation called the rains act, which injects around five million dollars of federal funds into the national science foundation to further the study of dyslexia to professional -- increase funding for professional development to dyslexia and to also help increase the sounds of early detection and dyslexia.

[6:07:49 PM]

I want to thank the mayor for the proclamation and again thank heather and everybody for everything that they do. And again send congressman's regrets for not being able to come out tonight. Thank you.

[Applause].

>> And I would just like to thank Dr. Cruz also and the entire board of trustees. I would like to let you know that this year literacy for all students is our top priority and Dr. Cruz has committed to helping us get a true academic language therapist into every one of our elementary schools. It's the first time I've done this and could not be more proud of our district and leadership. Thank you. :>> Tovo:ing good evening, I'm mayor pro tem tovo representing

district 9 and it's my pleasure to present the following proclamation on behalf of welcoming week and peace week in Austin, Texas.

[6:10:27 PM]

Welcoming week is a series of events throughout Austin that are designed to highlight the contribution of international visitors and immigrants to our community here in Austin. And welcoming week coincides with peace week and many organizations come together to celebrate these two important events. So on behalf of the city of Austin it's pleasure to present the following proclamation. Be it known that whereas the city of Austin is a welcoming and compassionate city noted for its leadership, innovation and its vibrant arts and cultural community and whereas peace day Austin is a collaborative initiative to explore, express, share and celebrate what peace means to each of us as we travel from 9-11, a day of remembrance and service, to 9-21, the United Nations International Day of Peace. And whereas global Austin's mission is promoting cross-cultural understanding and through understanding peace and whereas global Austin and peace day Austin reflect the United Nations' Day of Peace 2015, partnerships for peace, dignity for all. Now therefore I on behalf of Steve Adler, the mayor of the city of Austin, Texas, I do hereby proclaim September 11th through the 21st 2015 as welcoming week, peace day in Austin. And it's now my pleasure to welcome Margie Kidd of global Austin to say a few words.

>> Thank you very much, mayor pro tem Kathie Tovo. I'm Margie Kidd, executive director of global Austin. We're a non-profit in the city. We promote peace through global understanding. We provide programs and services for about 300 international visitors that are sent to us by the U.S. State Department per year. In addition to doing a number of other things for the international community here in Austin.

[6:12:32 PM]

National welcoming week is to welcome new immigrants to the communities in which they are. Welcoming week in Austin is to celebrate the diversity that immigrants and non-immigrants bring to our city. So we're very proud to be here today, receiving this, and we've partnered with the peace day Austin people because our weeks seem to coincide. And our missions are very similar. So this is a gift. I would like for you to welcome her.

>> Thank you very much. Peace day Austin is a sort of spontaneous collaboration that happened this year. The seed of it began last year and it really came out of a program that my organization, the

[indiscernible] International Cultural Organization or Seica did, and is still doing every year in honor of peace day, which is the poems that Robert Farris puts together. And out of doing poems for peace, I started to think, well, what else is happening for peace? Aren't there other people in our city that would like to also do something? So we created a website last year, peace day Austin, and said if you're doing something let us know and we'll put it on our website. And a lot of people were doing things, so this year starting in the spring we started to talk together and work together. How could we build a citywide initiative and how could we use the global platform of peace day for meaningful local action here in our own community? So

that's why we decided it would be about exploring what does peace mean to us? And in fact, the U.N. Gives us this challenge every year because peace day happens every year on the 21st of September. And it is a challenge to each of us to ask ourselves how is it that we wish to live together as one human family?

[6:14:42 PM]

How do we make that happen? And our own organization has -- our own organization has felt for a long time that peace really begins inside ourselves. And then I met the other people on our team is the compassionate cities Austin, who are working for the purpose of developing compassion, kindness, respect. And that's certainly the values we all are looking for. How do we make that happen really? We were also inspired globally by people like Nelson Mandela who made a choice coming out of prison not to seek vengeance. He chose not to hate but to love because that was more effective. So could we make those choices in our own community, in our own families? Can we bring this as something that is something belongs to Austin? What is our Austin way of celebrating peace? So that is what we hope we will continue year after year to grow in Austin. Thank you.

[Applause].

>> Houston: My name is Ora Houston and I'm proud to represent the good people of district 1, and I have a proclamation to read.

[6:17:00 PM]

Be it known that whereas a serious health gap exists between racial and ethnic minority populations and the general public, showing that they are more apt to suffer from such problems as heart disease, stroke, cancer, diabetes, sudden infant death syndrome, infant mortality and human immunodeficiency virus and acquired immunodeficiency syndrome. And whereas early detection of disease prompt referral to qualified health care against disease are essential steps toward reducing such health disparities, and whereas the nation -- the national take a loved one for a checkup day campaign is aimed at encouraging individuals, especially those most in need, to live healthier lives -- to live healthier lives and to visit a health care professional. Now therefore, Steve Adler, mayor of the city of Austin, proclaims September 19th, 2015 as take a loved one for a checkup day. In Austin, Texas. But I would like to ask Stephanie Heyden, assistant director of health and human services to come forward and accept this proclamation.

>> Good afternoon, Stephanie Heyden, director of health and human services. Our director Shannon Jones was unable to be with us this evening so I am accepting this proclamation on behalf of him. And really, really in honor to have such wonderful staff in our partners. I am going to call up Adrian Stirrup, she is the manager of the African-American quality of life and she is going to provide a few remarks.

[6:19:07 PM]

And we thank you so much, councilmember Houston, and also our mayor for this great honor.

>> Thank you. Stephanie. As Stephanie mentioned by name is Adrian stirrup and I am privileged to be the program director for the African-American quality of life unit. That unit focuses on providing public health education and promotion services not only to African-Americans, but to other vulnerable populations in Austin and Travis county. In 2002 the office of minority health began the take a loved one for a checkup campaign.

[Indiscernible] And it was really to direct those who are most vulnerable to programs and much needed services so that they would have the same opportunity to live healthy lives. In 2005 we started take a loved one in Austin and this makes it our 10th year, and this event is special in that not only can people come and get information, but you can get actual services. We will have doctors and nurses on hand to provide we will checks, blood pressure screenings, HIV screenings, anything -- any question that anyone has on that day and they need a doctor, they will be able to see a doctor and everything is free. I think the most endearing and best part of this event is that it exemplifies that it takes a community to solve a problem such as this. And this is represented by our partners that are here today, and I'm just going to read off some of our co-sponsors of this event. Austin independent school district, H.E.B., the smile center dental, united health care, top ladies of distinction, American association of critical care nurses, elmundo newspaper.

[6:21:12 PM]

Sendero health plans, doctors on wheels, Travis county coming of a age, little engine health care, community care, other departments within the health and human services division, and of course our city of Austin partners. I'd just like to thank again our leadership for supporting these efforts and I'm going to say where it is. If I remember.

[Laughter]. It will be this Saturday, September 19th, from 11:00 A.M. To three P.M. At the Delco activity center, 4061 pecan Brooke drive. They taught me well. Thank you.

[Applause].

[6:23:22 PM]

>> Renteria: Hell mow. I'm Sabino Pio Renteria. And this is a real problem, movement in my life and, we have a high school that we have been struggling for years in east Austin and even had to change their name from Johnston high school to eastside memorial. But I'm here to read a proclamation for an accomplishment that, you know, has been a long time in the making. And I want to read a proclamation, be it known that whereas eastside memorial high school has a rich and noteworthy history of providing invaluable education to east Austin students and whereas with the help of a determined student body, devoted staff and faculty and a caring community, eastside memorial high school has overcome great adversity and for the first time since 2002 has met the accountability standards set by the state of Texas. And whereas in recent years eastside memorial high schools that increased their graduation rate to 99.4. Now therefore on behalf I, Steve Adler, mayor of the city of Austin, Texas, do proclaim September 17, 2015 as eastside memorial academic achievement day. And I would like to ask the principal, Bryan Miller, and I want to thank you for all that you are doing for our eastside high school.

>> Thank you. We had a really good run over the last four years of academic achievement and

it's thanks to our community as the proclamation said, has rallied around our school, our faculty and staff who really committed to making things better.

[6:25:38 PM]

Our board of trustees who supported us through it all, Dr. Cruz and administration for their help in what we did and just know choose your neighborhood school. We're in heart of east Austin. We have plenty of come. Come, sign up and we'll take care of your kids. Thank you, councilmember Renteria and mayor Adler. Appreciate it.

>> Renteria: Thank you. And there were some other groups that helped also, John Hopkins university that was hired on at 2013 and with the help of Austin voices, Gabriel Estrada, down to say a couple of words?

>> Sure. It takes a community. And I think eastside is a perfect example of the great things that occur when a community wraps their arms around a school and shows that great things can be accomplished when we work together. Thanks.

[Applause].

[6:28:24 PM]

>> Mayor Adler: I am both honored and humbled to be part of this momentous occasion, paying tribute to our purple heart recipient, those that are wounded or killed in action. The purple heart medal is a very solemn reminder of service and of sacrifice. It reminds us to reflect and to give thanks to those that have made our nation strong. You know, today we enjoy freedoms and privileges that are not found anywhere else in the world. We enjoy the opportunity to pursue our dreams, to move freely throughout the country and and the freedoms and the worship any way you choose. These are freedoms that are sometimes taken for granted at home while around the world our service members remain forward where they're sent into harm's way to protect us for those that are actively trying to threaten those opportunities and our way of life. We are forever grateful to the brave men and women who voluntarily stand up, who raise a hand and take an oath to defend the constitution of the united States against all enemies. This oath comes with a price and our service members understand the stakes, they understand that it is more about sacrificing time away from family and friends that they will never get back. Birthdays and anniversaries and other major family milestones that are missed. These unwritten stakes are much higher and the cost is sometimes greater than most of us will ever know.

[6:30:33 PM]

However, or service members fully understand that when they put -- that they put their lives at risk in defense of our nation with each deployment. This risk turns real when they are badly injured or worse when lives are lost. The purple heart medal is the department of defense's formal recognition of those veterans who are killed and wounded in combat. It is one of the very few medals that are awarded in the name of the president of the United States. It represents the reality of the risk that our service members face. The purple heart recipients

come from all walks of life and background, from around our nation and more specifically from the Austin area. They were either born and raised here or now located to our great city. Several purple heart recipients and some of their family members are with us today. While they do not seek our thanks and recognition, we owe this to them. They were awarded the purple heart medal for their sacrifice and with this comes our eternal gratitude. As you thank them for their service I ask you to include them in your thoughts and prayers and never forget their legacy and what it means to our country. From our nation's Independence to both world wars, Korea, Vietnam, Iraq, Afghanistan and the many other wars and conflicts in between our freedom and our way of life remain intact. It did not come without a price those that wear the purple heart pay a significant price for the rest of us. As a way for us as a city to honor our purple heart recipients, today I will declare Austin, Texas as a purple heart capitol city.

[6:32:49 PM]

And I will also announce the installation and unveiling of the purple heart trail on I-35 in Austin. These two signs will be installed by txdot and the city of Austin transportation department on both north and southbound I-35, one south near onion creek, the other northbound near Parmer lane. Millions of motorists will see these two signs by the end of next week. They will serve as a reminder to never forget the service and sacrifice of so many American heroes. And on behalf of the city of Austin, I thank you for your service.

[Applause]. I know I am joined in this sentiment by txdot executive director general Joe weber. Thank you, sir. I also want to recognize one of the city of Austin veterans, commissioner Pete Salazar. Thank you for being here, sir.

[Applause]. And we also have John Horton in the office of Lamar Smith, congressman Lamar Smith. We also have a little treat. We have an opportunity to look at a two-minute video if you would go ahead and play that.

[6:34:49 PM]

>> If it wasn't for the order of the purple heart reaching out to myself or guys like me, I wouldn't be here today.

>> I was in a convey of about six to seven vehicles.

>> July 18th, 2005, was doing what we call a cleanup mission and a response. We were on the trail after some bad guys and we was right on top of them.

>> I've served twice overseas, Iraq and Afghanistan. I was wounded September 11th of 2010.

>> I remember that I was actually able just to lift my kevlar helmet off my head.

>> The next thing I know I just sat on top of it.

>> The strap of my helmet had actually been completely severed because I had a piece of shrapnel that went into my jaw. I had shrapnel in hi left leg and hand. I wasn't concerned about it, it wasn't a concern. But the big injury was my right leg.

>> It looked like everything was going downhill. I could see me losing me. That was the only thing about killing me, you know. And as I tell guys, it's the war, after the war that you can't fight by yourself.

>> The purple heart means so much. It symbolizes a soldier who either shed their blood or in a

lot of cases shed their lives for our country.

>> It's a recognition of the fact that they sacrificed without thought for their own safety.

Nobody wants it, but they very are proud that they wear it.

>> Received the purple heart. It took me to a new height in life from that injury.

>> The mission is really to help those who have received, who are purple heart recipients, help them to recover and think help their families as well.

>> We're at the convention this week in Denver and we have hundreds of members in attendance, meeting and bonding and sharing those moments.

[6:36:53 PM]

>> We actually began the canines for veterans program in 2005. The purple heart foundation has seen something in us that they can support and believe in.

>> They fight for all of those things and they take care of each other and it really is an extension of that same camaraderie that they developed as soldiers no matter what the branch.

>> They do a lot of good things for veterans rights, specifically on capitol hill.

>> It gives purple heart recipients, whether they will continue with their military service, whether it's over, it gives them another opportunity to serve.

>> We couldn't do what we do without their support. So it does matter quite an awful lot.

>> It's a great network of veterans, seasoned veterans. For a young guy like myself it's a great way to network and find some mentorship at the senior level.

>> For me to have something to look forward to and to be part of an organization where I knew I have a scholarship committee meeting coming up, that meant the world to me. It really gave me a sense of purpose. >>

>> We should be forever thankful for their service and sacrifice.

>> I support it because I believe in their mission so strongly.

>> This is an organization that's absolutely helping our veterans and especially our combat wounded veterans in making sure that they're recognized, making sure that they're protected and taken care.

>> It's tradition. It's a legacy of help. I always said for those who help me, I will always be there for them.

>> Mayor Adler: I have a proclamation. Be it known that whereas the purple heart is our nation's oldest military medal in present use.

[6:39:00 PM]

Created by general George Washington in 1782 as the badge of military merit. It is awarded to the brave service members who were wounded in combat or killed in action. And whereas on this day we pay tribute to the men and women who have been awarded the purple heart medal and to remember those who paid the ultimate sacrifice. And whereas in honor of our purple heart recipients we are designating I-35 in Austin, Texas as the purple heart trail and designating the city of Austin as an official purple heart city. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do hashtag proclaim September 17th, 2015 as purple heart trail day. Gentlemen, thank you.

[Applause].

>> Thank you, mayor Adler. I'm Danny baker and I am a past master of Texas capital chapter 1919 of the middle order of purple hearts. It is my pleasure to represent our chapter tonight with a couple of words. I think the mayor covered everything that you need to know about the purple heart. I'm just going to take a moment and tell you about our mission statement. And this is basically it, so foster an environment of goodwill and camaraderie among combat wounded veterans. But we here in chapter 19, we take that a step further. It's all veterans. We have a lot of veterans here.

[6:41:03 PM]

Some that were injured or lost a lot in the floods we had this spring. We are taking care of them as they rely on us. To promote patriotism, there's probably not too much that goes on around this city when it comes to honoring veterans with different ceremonies that you will not see one of us present there. Support necessary legislative initiatives. I know for a fact because I've been part of it and my junior vice-commander when I was a commander spent a lot of time down here trying to he everyone in the legislature know what it takes to be a military soldier and we can help them in any way we can. And we we want to provide service to all veterans. The reason I read that is because when I was looking through it I couldn't help but think what a wonderful city this is. And I'm glad to be here when they proclaimed that this is a capital purple heart city. There's only -- this is the fifth purple heart capitol city in the nation. There's a number of cities, but only five that are purple heart capital cities. But the best thing I can say, is that you, mayor, members of the council and you the citizens, you parallel our mission statement.

[6:43:05 PM]

And you have -- these are just examples -- the best veterans day parade there is.

[Applause]. Also, we've been a part -- at least I have the last three years -- of your yearly luncheon for all your employees who are veterans who are still military active. You do a great job with that. But the real big thing that happened this year is your involvement with honor flight Austin. And thanks to Allen Bergeron, we as Vietnam veterans, I'm speaking for right now, were able to go as purple heart recipients on December the fifth to D.C. -- June. And I want you to know that I've talked with members of our unit and it was the first time I really felt that I was welcomed home from Vietnam. Big contrast to what we had to go through when we came back, couldn't even wear the uniform. But now thanks to Allen and the veterans associations that he has here, I want to thank him personally. Thank you, Allen. So with that I would like to present to you, mayor, a token of our appreciation with this plaque that reads "The city of Austin, Texas for your dedication and support honoring America's combat wounded veterans, becoming the purple heart capitol city".

[6:45:08 PM]

As presented by the patriot members of the Texas capital chapter 1919.

[Applause].

>> Mayor Adler: That's beautiful. Before we take a picture -- this means a lot to me. My father was a disabled vet and -- disabled vet and I had the opportunity this spring to take the honor flight to Washington with 50 of our World War II vets, four of whom happened to be women. And it was an incredible experience. And I would point out to anybody that's watching this that this city has set a goal to try to house all of our homeless vets by veterans day of this year.

[Applause]. That's a big lift. We're getting a lot of people volunteering to help out, but we still need some others that have a place that they can rent, an apartment, want to help with the project, please find us if that's something you want to do. I want to give one copy of this proclamation to the general for enabling this sign. It's beautiful, back behind us. Thank you, sir. And I have a couple of other copies of this if we could step over to take a picture, I think that would be great.

[6:47:48 PM]

>> >>

[Applause]. >>

[6:53:35 PM]

>> >>>

[7:10:33 PM]

>> All right.

[7:15:21 PM]

We're going to go ahead and gear this thing back up.

>> Mayor Adler: All right. We talked about getting back here together to see if we could let some staff members and other people go. Let's see what things we can do that on. Um ... I'm going to call up item number 90.

>> And mayor, we might be able to get through 8 fairly quickly.

>> Mayor Adler: We'll do that one, too. That is a public hearing that we have no public to testify on. We're going to take up agenda number 90 to conduct a second and last of two public hearings to receive comments on the proposed maximum property tax rate of \$46.09 per \$100 valuation for 2015-16. The actual property rate will be adopted here in city council chambers on September 22, 2015, 9:00 A.M. I would note, by the way, that the tax rate that supports the budget that the council passed is lower than that rate. The tax rate that would support what the council passed is \$45.89 per 100 valuation. I'm not looking at folks that have signed up to speak, and we have no one that has signed up to speak. So is there a motion to close this second and final public hearing on the city's proposed maximum property tax rate.

[7:17:24 PM]

Mr. Zimmerman moves. Is there a second? I have a second from Ms. Troxclair. All in favor of ending -- all in favor of the motion, please raise your hand. Those opposed. It is unanimous on the dais. The final public hearing on the proposed maximum tax rate is closed. Council will vote to adopt the actual property tax rate for years 2015-2016 on September 22, 2015, at 9:00 A.M. In these council chambers, 301 west second street, Austin, Texas. Let's call up then, item number 8. Tell us where we are on item number 8.

>> Chief financial officer. Yes, mayor, and councilmembers, we have met offline with the developer and his representatives and come up with some changed language for your proposed ordinance. They've been passed out to you on a yellow sheet. And I'll summarize those. We are still recommending approval of this rca action that would provide for conditional acceptance of the water improvements. It would remain at the 100% reimbursement. It would not change to 50%, 50%. It would still call for us being satisfied that water line 1 is free and clear of liens and incumbrances and the warranties are intact and full effect. We have an option there, in the document that we've added that says "Or the water department director is satisfied that the city's interests are protected as to the liens and encumbrances as well as the warranties." We've also added a section that says prior to conditional acceptance of the water line, the developer will provide all final record drawings for the lines, from his engineering firm.

[7:19:33 PM]

And that performance bonds, acceptable to the city would be available to address outstanding issues like revegetation. The other change that we added was part 6 to the ordinance. It says subject to the trustee's approval -- so the bond trustee has to approve -- that any assessment payment that would be made -- developer that was intended to be repaid by the reimbursements would be refunded to the developer when the subordinate bonds were paid off, which would be

[indiscernible] Of 2016. In the event that we're able to get to conditional acceptance of water line one, we believe that there would be no need for the developer to make this payment. He if he did not get to conditional acceptance on number one on water line one, we believe there would be slightly over a \$2 million payment due from the developer. And those are the proposed changes that we've agreed upon.

>> Mayor Adler: Ok.

>> Zimmerman: Mr. Mayor.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I would like to move approval.

>> Mayor Adler: It is moved and seconded by Mr. Renteria. Ms. Garza? I'm sorry.

>> Garza: I have so many concerns about this project. I realize what we're voting on doesn't address a lot of my concerns that I spoke to in work session. Because this is not a matter of -- you know, we all absolutely support affordable housing and understand the importance of building a great development in this part of east Austin. But I have concerns about the precedent this sets for rescheduling payments this way. And I'm just concerned about, you know, basically the precedent that this sets.

[7:21:36 PM]

I do believe nathis project has the potential -- that this project has the potential to be good, but when I hear parties saying, well, we were never really supposed to make that payment anyway. That just concerns me when it seems like there was a payment due and somebody is saying -- I'm not saying staff did anything wrong, maybe there was misinterpretation of what the deal was, but I'm going to abstain on this because I think it sets bad precedent going forward.

>> Houston: Mayor?

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you all for coming out to the complicated situation we find ourselves in. Thank you for such lofty ideals for east Austin, and the need to do -- spur development in that area. I, too, have some concerns about the precedent that we're setting. This public improvement district was something -- a tool that you all used to help spur growth and provide infrastructure in an area that so desperately needed some attention. But again, as councilmember Garza said, the next time this comes up, the next person will want us to go ahead and reformat their agreement. Regardless of what the issues may be. We have done it once, and so they'll ask us to do it again. So I'm still not sure. I'm torn about this vote because I think that we have an opportunity to do something different, and good. I'm not sure that the claim of affordable housing is one that's real.

[7:23:39 PM]

Of course, we can't guarantee that. I think there will be housing at some point, and I think the market will decide what those costs per units are. So I'm not putting my hat on the affordability piece. Because there is no way to ensure that they're going to come in at \$150,000 a unit. So I'm going to really -- as more people on the dais kind of consider how they're going to vote, I'm going to consider how I'm going to vote, but my main concern is that once the council does something like this, the next developer will come and ask for the same favor.

>> [Indiscernible].

>> Tovo: I share all the concerns that have been voiced. I had an opportunity to express them earlier. And on Tuesday. I have real concerns generally about the viability. I am very hopeful that Mr. Gilland and others will be successful. We wish them every success. I hope this does allow them to move forward and clear the other obstacles. But I do plan to support this today, based on our financial staff's advice that this is a reasonable option for the city to consider. It sounds to me, after weighing all the other alternatives, that it is the best decision at this stage, because it allows us to get the water lines finished, completed. I want to say, though, that in no way does my vote in support indicate a willingness to contemplate pump and haul out there on that site. I am extremely concerned about that possibility. I also am not pleased to hear that there is going to be a request to waive the fees to which I believe the developer is obligated, but again, with what's before us I feel comfortable based on our financial staff's real thorough and careful work on behalf of the city to support it.

[7:25:58 PM]

>> Casar: It is your understanding there will be penalty and interest owed.

>> That's correct. The penalties accrue until the special assessment payment is made. Currently it is through September, \$600,000 and change.

>> Casar: Because I expect that with the city that it is owed money, it will usually pursue that. That money, I'm just interested that if we do end up collecting that money, if we can hear a report from staff where you're considering putting that. Because I would be interested in potentially appropriating that to the affordable housing trust fund or finding other ways to make sure that we get affordable housing whenever and however we can, because that's a real community need. So if that ends up being collected, if y'all would let us know, and that's it. I want to let me colleagues know that would be something that I would be potentially interested in.

>> We'll be glad to keep you informed as to the payment status.

>> Casar: Thanks.

>> Mayor Adler: Moved and seconded. Ms. Pool.

>> Pool: Thanks, mayor. I had a number of meetings with the developer and have been carefully sifting through all the various complexities, this situation which has evidently layer upon layer of change over a fairly significant period of time, and agree with the mayor pro tem in that we have gone to a point with the project that we can't abandon it. If indeed those housing units come in at 150,000 to 250,000 that would be a huge win for our community, even if it is two to three years from now or whenever they're all completely built. I will say, it was the market price point for the homes that are being promised in this development that were really important for me.

[7:27:58 PM]

We're not talking about a half a million dollar homes. These really are at a good price point. And I look forward to additional work with the developer in that side of town as part of the east Austin effort that we have engaged. And I know that Mr. Gilland came Saturday to the meeting that the mayor and councilmember Houston hosted on our east Austin spirit initiative. I will be voting to move forward on this with the recommendation that is in our backup here. Thanks.

>> Mayor Adler: No more discussion, we'll take a vote. Those in favor of item number 80, raise your hand. Those in favor, those opposed. Those abstaining. One member abstaining. Item 9 is a postponement until October 15, 2015. Mr. King, you signed up to speak, are you planning on speaking since we're postponing? Is there a motion to postpone to October 15, '15. Ms. Garza makes the motion, seconded by Ms. Kitchen. Postpone the motion. All those in favor of postponing raise your hand, opposed. The matter is postponed to the 15th. That takes care of 79. 80 is authorizing the city manager to release 17 lots from paying the city wastewater impact fees. I know I'm skipping around here. Can you give --

[7:29:59 PM]

>> [Indiscernible] Jennings, Austin water utility. Travis vista water and sewer supply corporation is located west of ranch road 620 and just east of the edge of lake Travis. There are 17 lots that are served by that wastewater treatment plant. It is the last remaining discharge point of

wastewater affluent into lake Travis. The recommendation from water control and improvement district number 17, who will provide retail wastewater service to those 17 lots and make it more affordable and provide an incentive for that treatment plant to be decommissioned is to waive the city of Austin capital recovery fees. Number 17 has waived their capital recovery fees. They're in the process of constructing the frass -- infrastructure. Based upon the interest, we recommend this item. It went to the public utility commission and actually the ordinance was sponsored and driven by councilmember Zimmerman.

>> Mayor Adler: We will move adoption of number eighty. Seconded. Any discussion? Those in favor raise your hand. Those opposed. It is unanimous with the mayor pro tem off the dais.

>> Thank you, sir.

>> Mayor Adler: Thank you. What about -- we're on a roll here. How about item number 81? Item 81 is eminent domain matter.

[7:32:02 PM]

>> Mr. Mayor, the one question we had here, maybe staff can answer it was -- we talked about this briefly, didn't we, in the meeting on Tuesday.

>> Mayor Adler: Beef.

>> Zimmerman: Briefly. I wanted a little more information as to how or why the property owner didn't agree to sell and why we're doing eminent domain.

>> Lorraine riser, real estate. Councilmember, the reason the property owner didn't want to sell the property is because there are several liens on the property. There are five property tax liens, clearance liens and they were more than the amount of the offer. And so if we don't take this property through eminent domain, the county will be taking it for back taxes.

>> Mayor Adler: Is there a motion -- I'm sorry? Is there a motion that the city council authorize the use of power of eminent domain to aware the property through the described. And for the purpose uses described therein? Is there a motion? Ms. Garza, seconded by Mr. Casar. Any discussion? Everyone in favor of the motion, please raise your hand. Did you want to discuss this?

>> Zimmerman: I have one more question. You talked about the liens and the amount of the liens. So if the property is condemned then Travis county is not going to get their back taxes? How does that work?

>> No. Councilmember, taxes is a priority lien. So taxes will be paid first. So likely, what won't get paid in full is the city of Austin liens for clearing the trash off the property.

>> Zimmerman: Ok.

>> Mayor Adler: Those in favor of the motion raise your hand. Those opposed. 10-0-1 with Mr. Zimmerman abstaining.

[7:34:03 PM]

Thank you.

>> Zimmerman: Mr. Mayor I might have another fast one.

>> Mayor Adler: Which one is that?

>> Zimmerman: 83.

>> Mayor Adler: Ok. 83 is ranch road six 20.

>> Zimmerman: Thank you.

>> [Indiscernible] For the property located 11200 north ranch road 620. The request of zoning is Dr and grco to commercial services zoning. The applicant has submitted a request to cs zoning, with storage being the only use and all other crs. The request was for grco. It was recommended grco. The reason for the staff recommendation is that it is in the grco zoning would be more appropriate for the existing land uses in the area and because it is not located at an intersection. So with that, I'm available for any questions.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Yes?

>> Zimmerman: I would like to move we approve item 83 with the conditional use for single purpose for the single storage.

>> We have to have a public hearing.

>> Mayor Adler: We will have a public hearing. The motion I think, is still in order. The motion was to approve cs zoning with the single use allowed.

>> That would be what the applicant is requesting.

>> Mayor Adler: That is what the applicant is requesting. It has been moved. Is there a second to that? Mr. Casar has a second on that. Let's have a public hearing. I didn't realize when we called this up, there are four people to testify. Let's do that. Karen watch.

[7:36:06 PM]

>> Thank you, mayor and city council members. My name is Karen watch. I'm one of the representatives of the applicant. This is the tract and staff's exhibit showed it as well. It is the pinpoint, it is surrounded on three sides, no zoning and full purpose city limits up above. As staff mentioned, we are requesting a change in zoning to cs, with the conditional overlay to allow for convenience storage use. The proposed conditional overlay will eliminate all other cs uses, except for convenience storage. And the list of uses, that is already allowed within the existing gr district. We feel like the proposed use of convenience storage is compatible with the intent of the gr district. So it would be easy to fold that in as an additional allowed use, gr district is intended to serve the neighborhood and the community needs as well as be accessible from a major trafficway. So we feel like it would fit in and not be a conflict with that intent. Of course, zoning is not just about allowed uses. There is also development standards. In this case, interestingly enough, the site development standards are limited much more by the watersheds that the property falls within, about half the properties within the lake Travis watershed, which has a maximum impervious cover of 20% and the other half is in the bull creek watershed with a maximum impervious cover of 40%. And you can see the existing gr district allows for 90%, the proposed cs. The 95%. But really those are not applicable because we're limited by the watershed and not by the zoning in this case.

[7:38:12 PM]

Similar limitations for building coverage and far. We understand -- we recognize that staff's main concern -- at least the way I understood it from how it was explained to me, but their

main concern with the zoning change is about setting precedence for cs zoning in the area. And for that reason, we're using the conditional overlay as a tool to limit all the other cs uses. So the cs would be the label on the zoning map but we feel like as in other areas of the city, the Co designation serves as a signal to other property owners in the area. Other developers and even staff when they'll making future recommendations for zoning changes that the Co designation is an indication that you should look further that there are additional zoning regulations in place.

[Beep] Only other thing I could add -- I could add many other things -- I will wrap it up. But I guess I just want to point out that I think in the past, you know, maybe 20, 30 years ago, storage -- the storage business is very different from how it is today. It was an eyesore back then. It was relegated to districts of the city intended for heavy commercial or industrial uses. Today, the industry has evolved quite a bit. Today's storage customer is more of a retail customer, primarily women and within a 1 to 3 mile radius and going to a heavy commercial or industrial district.

>> Mayor Adler: Thank you.

>> It is not something that they're comfortable with. It behaves more like a commercial or office.

>> Mayor Adler: Got you. Thank you. The next person speaking is Scott Crossley.

[7:40:15 PM]

>> Scott was here earlier. Unfortunately he had a family obligation and was not able to stay. He -- do you mind if I explain? He owns the property across the street. He's a business owner in the area. He's in support of the zoning change.

>> Mayor Adler: Ok. Thank you. Peter torgenson. Are there two peter torgenson?

>> My name is peter torgenson. We represent the homeowner association and neighborhood associations in this area of town along the 2222 and 622 corridors and primarily work in the area of land use and transportation issues. We request that you deny cs zoning of this property and support the grco owning recommended by the staff and zoning an planning commission. Gr zoning is the most appropriate zoning for this tract. Our experience is establishing cs zoning on a piece of property open the door and a later on it is easier to expand the uses within the cs zoning to be more intensive industrial-type uses and harder to keep track of those requests of changing of a conditional overlay than it is for a rezoning itself. So we would respectfully request that you establish gr zoning with a conditional overlay as requested by both the city staff and the zoning and planning commission.

>> Mayor Adler: Do you have a concern with the particular use that's being proposed here? Other than the precedential value or the concern that it would be expanded in the future?

[7:42:21 PM]

>> The particular -- the particular use is not an immediate concern necessarily. There is a variety of other storage unit facilities in the area. They were all county properties. So I don't believe there is a city property that's zoned for that use currently.

>> Mayor Adler: But your concern isn't so much this particular use as much as it is what could

happen in the future if this happened.

>> Yes.

>> Mayor Adler: Thank you, sir.

>> Thank you.

>> Mayor Adler: Is it your son, also, peter torgenson.

>> Pardon me.

>> I have your name here twice. That is the anomaly of signing up on the kiosk. I signed up originally only for this issue. But I signed up for another issue. And previously we had problems if you sign up a second time and don't include all of the issues you were going to sign up for those other issues disappeared.

>> Mayor Adler: Got you.

>> Apparently that's been fixed. I don't know.

>> Mayor Adler: We're ok now. Thank you, sir. Is staff here? Jerry, come up. Other than the precedential value, do you have a problem with this particular use in this location.

>> No.

>> Mayor Adler: Is there a way for us to make real clear if we did this, that we're doing this and the only precedent we're setting is if someone came in that wanted to do cs but limited to this one particular use, one lot off of the corner, that it would follow. But anything other than that this wasn't to be taken as precedential y'all.

>> We could make note in the file so when someone is doing research.

>> Mayor Adler: Can you say that again.

>> We can stick a memo in the file stating that that is the council's wish, but that would be the extent of it.

>> Mayor Adler: Ok. Do you lose those things when that happens?

[7:44:23 PM]

[Laughter]

>> We try not to, but I think we've been accused of it, yes.

>> Mayor Adler: Any other discussion on this item?

>> This is available for first reading.

>> Zimmerman: Quick note if I could. There is a storage unit, a you -- U-Haul, that is in the county, in the etj.

>> This city was in the city at one time. Legislation was passed and people were able to deannex the tract and did not exercise the option available to them. That is why you have this one piece surrounded by county.

>> Zimmerman: The U-Haul a couple of lots down, that is county.

>> They would be subject.

>> Zimmerman: There is another one down south on 620 by the apartment complex, right, the mansions? It is kind of between bolder and Boulder.

>> Yes.

>> Zimmerman: Another storage one there, is that etj or in the city, too.

>> I have to look into that.

>> Zimmerman: That is recently built.

>> Probably the city.
>> Zimmerman: Six or eight years ago, if I remember. I live right there.
>> That area has been in the city for a while.
>> Tovo: I'm looking over the staff report, Mr. Ruston. It looks like the applicant's revision to their -- their revision to the rezoning request happened prior to the zoning and planning commission.
>> Happened five days beforehand.
>> Tovo: Yet the joining and planning commission still recommended grco. Still supported the staff's recommendation versus the applicant's request.
>> That is correct.
>> Tovo: And it was overwhelming 9-3.
>> I think they agree with the staff. Generally cs zoning is an intense zoning category. Even though there is a long arterial roadway we would prefer to see cs on the intersections and gr on the mid block, if you will.

[7:46:28 PM]

I think they disagree with us that most of the existing uses in the area were gr-type uses because it wasn't at a corner, they felt the gr was more appropriate. It is true though, the difference we're talking about is the convenience storage or not. Because that is the one use that is proposed in the cs.

>> Mayor Adler: It sounds like to me this is a problem with the zoning ordinance, not with the application.

>> Sometimes --

>> Mayor Adler: If this is a use that you think is appropriate here, then I don't know why we wouldn't put the appropriate use there, except for the fear that someone might misuse this precedent or that the owner of this property would come in and say now that I've gotten cs we should move forward. If we make it clear, I don't see how someone can use that precedence. Is there a way to get the future use of the property in the place?

>> Only way to do it.

>> Mayor Adler: The only way to get the otherwise appropriate use in this location is to get this cs limited use.

>> That's right. It is the nature of the use. That was put into the intense zoning category because of what it is.

>> Mayor Adler: One of the planning commissioners looked at the other ones and said I hope they fix this as part of the next code process; is that right.

>> I hear that very often.

>> Mayor Adler: All right. Is there further discussion? Ms. Pool.

>> Pool: I'm looking at slide 8 in the staff report. It is an aerial of the site. It is between two lots. It's Lyndon yellow and to the left looks like a low building there and then the site here. And a heavily wooded site to the right. And there is some -- it looks like significant trees --

>> To the north you have a golf driving range.

>> Pool: Yeah, I'm curious, when it gets to -- depending on what happens here tonight and it gets to the next stage and we find there may be heritage trees on this site, what kind of impact

will that have on the hopes and dreams of this particular applicant?

[7:48:46 PM]

>> Hopes and dreams, I like that. They have to comply with the code, unless they prove they're grand father period. I'm not aware of any grandfathering, that follows the zoning process.

>> Pool: Would it be appropriate to ask for a conditional overlay before any work is considered on this site. I know that is how things are supposed to happen, but I also know in actual fact, oftentimes an owner will go in and do work on the trees before submitting the survey.

>> The law department prefers that we not add provisions. So the existing code would be that they're required to do that prior to any site plan work.

>> Pool: Very good. Thank you.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I'm still confused with the process here. It seems like if staff agrees with the proposed use and it sounded like the neighborhood represent from 2222 con agreed with the proposed use, but the concern was the future execution, can't that be handled with the overlay? If the overlay specifically says this is the only use allowed within that zoning category, doesn't that in itself send a very clear message?

>> It does.

>> Gallo: It addresses that issue.

>> It does. I'm not saying the staff is in agreement with the proposed zoning change. We are not. I'm letting you know in the bigger picture of things this is not one we will lose sleep over if the convenient storage was allowed at this site. We generally speaking do not support cs zoning. Cs zoning is the only -- the first category that allows convenient storage.

[7:50:46 PM]

What a lot of people are concerned about is what shows up on the map. If this would pass tonight you see on the map cs. You have to do work and look at the ordinance and maybe case files to see that it is cs with gr uses. There is concern that people will look at the map and oh, well you should do cs next-door. Of course we do the background work. That is generally the concern. We do not support the cs zoning, but given that is only one use, it is not for us --

>> Gallo: So the issue is also how the maps indicate the correct use under a zoning.

>> It would show cscl.

>> It would show there is a conditional overlay. There would be a trigger that someone would see on the map that would indicate there is some type of conditional requirement?

>> Yes.

>> Gallo: Ok.

>> Mayor Adler: Ok. Any further discussion on this? It has been moved that we approve the cs zoning limited to one use on first reading only. It has been seconded. Those in favor, please raise your hand. Those opposed. It is unanimous on the dais. Passed on first reading. Let's go back and finish the conversation we were having on the gathering element. Did you --

>> I'm sorry. Before we move on can we take up item 88 really quickly.

>> Mayor Adler: Is it quick.

>> Troxclair: It is quick.
>> Mayor Adler: Bring up 88 then.
>> Troxclair: This is the floodplain various.

[7:52:47 PM]

I'm 88. I'm sorry. 87. 87. I saw you back there. I was wondering why you were looking at me like that. We heard this a few weeks ago. It was a constituent in my district looking for a variance. I asked for a few weeks to work out a solution with him. I met with our city staff, our real estate services department, our legal department. Everybody was very helpful in trying to offer some options. We did present a few different options to the landowner, but he did not want to take us up on any of the options that we presented. So I think we're just going to move forward with voting on the variance tonight.

>> Mayor Adler: Ok. Did we already have the public hearing on this matter?

>> Thank you, Mr. Mayor, Kevin shunt. I know we started the public hearing. The way it looks like it's posted tonight is that it still has to have a public hearing.

>> Troxclair: Oh.

>> Did we not close it?

>> Mayor Adler: We have two speakers, David king and storrid Hersh.

>> My name is David king. I'm here to say please don't approve any more floodplain variances. Thank you.

>> Mayor Adler: Stewart hershc.

>> My name is harry Hersch. I still rent. I can't believe David king and I agree on something. You have a policy that you have been following all year on full-purpose annexation property where you have not been allowing any new construction or expansion of existing footprints in the 125-year floodplain.

[7:55:03 PM]

I'm asking you tonight to continue that policy. You have a second policy that I'm asking you to discontinue, but it's not an item on your agenda. You had a case in limited purpose annexation where you granted a variance without asking the departments that are other than city departments as to what the impact of that risk-wise was for county people who would be having to do rescue because it was in limited purpose. So I ask you if you ever have one of those again, before you get your task force recommendation, that you not make a decision on limited purpose annexation without the feedback from the relevant county rescue people on that particular thing. I'm not -- I'm not in a position to talk about the merits of an individual case because that's not what's before you, but I think you have a policy -- and I can tell you that from 1981 to 1998, when you forced both building inspection and watershed to appear before you, we consistently recommended against every single housing variance because that's where people sleep, and every single council between 1981 and 1998 rejected every one of those variances. And so the universe of acquisition that you might have to be doing in the future was reduced by what those councils did. We walked away from that, beginning in 1998 because we no longer required both building inspection and watershed to appear before you jointly on

those safety issues. And I would suggest, humbly that that would be a step in the right direction. So please reject this tonight and not postpone.

>> Mayor Adler: If I ask -- I'm sorry. If I ask for a motion to approve a variance and no one makes that motion is it tantamount to denial?

>> Yes.

>> Mayor Adler: Yes. Is there a motion to grant a variance on this item number 87?

[7:57:06 PM]

Ms. Tovo.

>> Tovo: I'm not making a motion. I wanted to ask for clarification. It does mean, unlike if we made a motion and voted it down -- if we moved disapproval of the floodplain, the applicant can't come back within a year. If we don't make a motion at all, I assume they can bring it back for consideration?

>> Mayor Adler: Is that true. Is there a motion to disapprove the variance. Ms. Troxclair makes the motion, any second.

>> Troxclair: Can I say really quickly, I appreciate that the constituent had originally been issued a permit and the city realized that the property was in the floodplain and didn't then -- I guess took the permit back, but I want to say this neighborhood has major flooding issues. I wanted to help him, but I can't put his other neighbors at risk by allowing him to build on this property.

>> Mayor Adler: I understand. Thank you for taking that for the rest of us, the laboring oar.

Those in favor of denying the variance, raise your hand. Those opposed. The variance is opposed. One abstention. 10, 0, 1, Zimmerman abstaining.

>> Mayor, can I make an observation? This is the first time this year that Mr. Shunk has been before us and not the last item on the agenda.

>> Mayor Adler: The problem with that is there is still another floodplain variance.

>> Don't count your chickens yet.

[Laughter]

[7:59:07 PM]

>> Mayor Adler: Do we want to try and pick up the other floodplain variance now. We have two speakers to speak on this. The same two speakers last time. Mr. King, do you want to speak on this? Ditto, he says. Mr. Hersch, do you want to speak again? Ditto. Number 89. You want to set that up for us? And we'll let you out early tonight.

>> Mr. Mayor, number 89 was withdrawn with changes and corrections.

>> Mayor Adler: Then you can go home.

>> Thank you.

>> Mayor Adler: Um ... We have probably what could be a long time left to go on str. And we also have the solar generation. We have one, two, three, four, five, six, seven items till to go. One of them is solar generation. I need for -- there are on the solar generation, which by the way, again, is [audio skipping] It is a motion to request a report on October 1. Which is when I think the gift gist of the conversation will be. I told people I will let them speak. I still will. I will not call the people to speak for that until we hand the other items that were set on the agenda

before that. If it was the decision of the group that they wanted to speak more succinctly, then I will call that earlier and let that take place. Otherwise, we'll open it up for people to speak. There are 33 citizens signed up to speak. All of them are in favor of us requesting the report.

[8:01:08 PM]

With the exception of one person, who is neutral. So you all can visit for a second, while I go into the gathering item that we were in the middle of on the short term rental. Ms. Garza.

>> There has been discussion, there has been agreement for 30 minutes of testimony.

>> Mayor Adler: Ok. Let's go with the gathering. We'll come back. So we were in the short term rental. The question was gathering element. How does something like this work if we pass it with respect to the short term rentals that exist now that have six bedrooms in them? Does this take someone that had an existing use and take it away from them, or are they grandfathered? I guess that would be a legal question.

>> Mayor counsel, assistant city attorney. We wouldn't be prohibiting the use. We would just be regulating how they're operating.

>> Mayor Adler: If we have an existing one with six bedrooms that has 12 people in it, if we pass something that prevented a gathering with more than 10 people in a short-term rental, what happens to that unit?

>> Based on the bedrooms? The bedrooms -- we have a dwelling unit occupancy limit, and then we would have -- we have the 50 person limit for a single-family home.

[8:03:12 PM]

For a gathering.

>> So if someone has a short term rental right now with six bedrooms, can they rent that out to 12 people.

>> They would be able to rent it out to 12 family members. People that are all related. We still have the unrelated limitation.

>> Mayor Adler: And if we had it rented out to 12 family members and we passed a gathering provision that limited gatherings to 10, could they still rent it out to 12? Would they be grandfathered or just able to rent it out to 10 people.

>> They would be able to rent it out to 10 people.

>> Mayor Adler: Thank you. Further discussion on the dais about -- where we are right now, it's been moved and seconded. That an additional short term rental item be adopted that limits gatherings from the current 50 person limit, I guess, down to 10 people. Mr. Casar.

>> Casar: So mayor, I know that we tabled the occupancy discussion but it seems to me that they're sort of one discussion, at this point. The reason for that is that currently, my understanding of what we're doing is that we're interpreting occupancy differently on long-term rentals an owner occupied properties than we are on short term rentals in our city in the zoning code. Because if I stay at a duplex in central Austin that already has four people in it, I will not get -- they will not get ticketed by code for having a fifth person there. But if it is a short term rental, what we're hearing is that is not allowed. Somebody staying one night. So what we're doing, my understanding is, creating an occupancy restriction for short term rentals that

would apply to staying there one night or being there.

[8:05:20 PM]

We're deciding, it seems to me how many people can stand on a piece of property when they're short term rental licenses active and it is being licensed as a short term rental. So occupancy and gatherings, sort of combine right now in our conversation about short term rentals. We're talking about how many people we're comfortable withstanding, being seen on a piece of property by a code officer when it is being used as a short term rental. So I think, my understanding from talking to legal and code, during the break is that this is one conversation. So we should just decide how many human beings -- if we want to set a limit, what is the limit of human beings we want to be able to be seen by a code officer on a piece of property. Because my understanding is that we're no longer talking about them staying there overnight, we're just talking about them being there. If we pass the administrative hearing process, which I'm in favor of, it will be much easier for code. They won't be asking people are you staying here overnight, their intention, the intention of the code amendment is to give people a citation when they see a certain number of people on a property. If the intention on council is to do differently, I'm very open to having that conversation, but my understanding is that's what we're doing so we might as well do it all at once. How many property can code see on a property before they give a citation.

>> Mayor Adler: Ms. Garza.

>> Garza: Yeah, I'm trying to see how this would be practically applied. So for me, this amendment is separate and apart from at this time occupancy. It is separate from who can spend the night there. This is trying to prohibit the party, basically. Just that. So I'm -- I'm wondering about the interpretation that this would change the fact if it is a six bedroom because only 10 are allowed.

[8:07:25 PM]

I don't interpret that way, you can still have the 12 people spending the night there and those 12 people can stay in the house and do whatever they want. And when I think of the practicality of enforcement, this comes down to someone calling 311 or 911. So if you have 12 people staying in the house and -- my assumption would be hanging out, you know, quiet. I can't see someone calling 311 or 911 for that. But if you have loud music, you know, it's a party, then you would have someone call, and then at that point, you know, the code person can make the count. But I see -- I wonder if there is a way to word this in the code that says this specific clause is separate and apart from the occupancy. This is just specific to if it's a party. To make that clear.

[Applause]

>> Mayor Adler: Ms. Pool, Ms. Tovo and then Mr. Casar.

>> Pool: The distinction is people are paying to stay here. It is not like I have a party and invite all of y'all with your significant others to my house, because I'm not paying to have the party there. Is that correct? So one of the distinctions that -- one of the sorting mechanisms that we're using here is that people are paying to be at this particular residence or location.

>> Casar: You're looking at me, are you asking me that question?

>> Pool: I think so because you were --

>> Casar: What I was trying to clarify, I think I hear both of you what your reasoning is, I'm not sure that is what we're doing with this vote. My understanding of how the departments intend to implement and write those code amendments that we're going to initiate is occupancy is defined -- with an administrative hearing process, just being seen on the property.

[8:09:27 PM]

>> Pool: Just in the str portion of the ordinance of our code.

>> Casar: Correct. Correct me by staff if I am wrong. Pop on up if I am saying anything funny here. But my understanding is the difficulty for code has been, one, being able to identify if people are related or unrelated because the zoning code talks about families in that way. And two, whether or not people are staying the night. Just because you see somebody there, it could be 4:00 A.M., they're awake and not staying the night. And finally, finally, you know, how many people are there occupying the property one night, if it's a long-term rental does not mean you're occupying the property. But in short-term rental land we want it to mean you're occupying the property for one night. Obviously, the example where I stay at my friend's house and it is a duplex and somebody is staying there in central Austin, nobody thinks that is a code violation. So we have the three issues. So my understanding of the way that staff has taken -- staff a discussion with the committee and up to this point is that we are going to redefine occupancy in short term rental code to mean how many humans can be on a piece of grass or concrete or whatever that is working as their short-term rental. That way when code sees, if we decide that the most people that can be on the property, then, if code knows there is a short term rental and counts 11 people, they can give them a ticket. They don't have to ask if they're related, not related, staying the night, not staying the night. So generally, it seems to me gatherings, in the schema we're working in now -- we can always change that -- my understanding of the way this is all supposed to work, to make enforcement easier, is just how many people is code allowed to see on the property and not give them a ticket and what's the number of people they do see on the property to give them a ticket.

[8:11:27 PM]

It is kind of one conversation. If our intent is for it to be different. We should express that intend and figure out how to make it work. My understanding is regardless of our intend, if we pass it this way, that is what talking about. I want to make sure we're all on the same page.

>> Mayor Adler: I think I recognize Ms. Tovo next, if you want to speak now or should I go on? Ms. Troxclair.

>> Troxclair: So I think in order to make this less convoluted, I think to councilmember Garza's point we need to make them two separate issues. The thing that is muddying the waters right now is the fact that there is a number in this. So I would move to strike 10 or more from councilmember -- mayor pro tem tovo's motion so we're prohibiting large gatherings such as weddings bachelor parties an corporate events and we're also prohibiting advertising of large gatherings or corporate events.

>> Zimmerman: I think I heard a motion. I would like to second that motion.

>> Troxclair: And we can have the occupancy decision.

>> Mayor Adler: It is moved to strike the number 10. Move to amend Ms. Tovo's motion by striking the number 10. It has been seconded. Ms. Tovo.

>> Tovo: Now I would like to speak. I think the way the rules governing gatherings work, that would allow for gatherings, up to whatever our code considers large, which are beyond 50. So what that change would do in essence is allow for activities to take place, you can have a wedding at a short term rental as long as you don't have more than 50 guests. I think that what we have heard is a strong request from the community that we prohibit these activities.

[Applause]

[8:13:29 PM]

I would suggest if law is in accordance, I think they understand what we're trying to achieve here? Do you understand what we're trying to achieve here and in the code amendment process can you help distinguish the issue we're trying to describe here from the occupancy issue? I'm not sure we need to write the ordinance here tonight, this language is just directive to staff as they go forward. I will ask --

>> A possible way to clarify this would be to prohibit the events themselves as opposed to looking at the number of individuals on the property. That would distinguish it from the occupancy limit. So if you have [applause] A wedding, you say no wedding, it doesn't matter the size, it would be no weddings. If you prohibited concerts or anything of that nature, it would be strictly -- didn't matter how many people there are, wouldn't be able to be one. That would be one way to distinguish between gatherings at the property versus how many people are staying at the properties.

>> Mayor?

>> Mayor Adler: I understand that to be the amendment that Ms. Troxclair has offered. Mr. Casar.

>> Casar: What that would say is no weddings, even if you have got five or less people, but a sick-person wedding would already be something we would get an administrative violation for. Because the point being the 10 or eight or seven doesn't matter, because if we set the occupancy at six, then 6 is the most number of people, my understanding, would be if we went through with this the way it has been suggested, six would be the most number of adults allowed on the property anyway.

>> So the distinction I'm describing now, based on councilmember troxclair's motion would be to take "Large" out of the phrase.

[8:15:30 PM]

No weddings, no concerts, it doesn't matter how many people there would be. It would be stopping the activity itself.

>> Casar: If we pass an occupancy restriction at six and you pass that, you couldn't have an event with more than six people without getting an administrative violation. Essentially what this would do is prohibit weddings of five people or less.

>> It would be to prohibit all weddings all concerts cases can with an occupancy limit of six you wouldn't be allowed with seven people on the property anyway.

>> You are correct that you wouldn't be able to have this many people. But if council wants to stop the activity, we could amend the code to prohibit the activity in and of itself regardless of the number of individual it is on the property. There are a couple of ways to do this. You can have an all-over occupancy. You can technically have an occupancy for overnight guests versus gatherings. The other alternative would be to have an occupancy limit for individuals staying overnight and stopping certain activities.

>> Casar: I will be quiet. I promise. What I'm trying to say is that if the concern is events that have more than six people -- if the intention is to set the occupancy limit at six, then the events thing is not anything unless the concern from the community is there will be weddings and concerts that have three and four people in them. That is all I'm saying. I'm getting blank stares on the dais. But my understanding is if there is a good reason to have the occupancy discussion and this discussion at the same time, unless we intend occupancy to mean overnight only. If the occupancy discussion is overnight only, then we're going into a whole other world than what it is we discussed during the committee.

[8:17:33 PM]

Because my understanding was we would redefine occupancy to mean just being seen on the property by the code department. If we want to step back from doing that, that's fine. It is just difficult for the code department to determine if somebody is staying overnight or not.

>> Mayor Adler: Mr. Rent -- Mr. Renteria.

>> Renteria: This is not something happening every so often. This is happening every weekend. The people that have parties every weekend next to you. That's what we're talking about. We're talking about people that are having it is ruining their whole weekend. Every weekend, they have no peace and quiet. This is what we're trying to do. We're not worried about this one person that has a wedding party over at his house once a year or once every two years. That's totally different. This is just like a hotel -- mini hotel that has parties after parties after parties after party all year long. Right next-door to you.

[Applause]

>> Mayor Adler: My sense on this is that maybe, one, I'm getting concern that this isn't cooked enough for us to be doing on the dais. At the same time, if we can give general instruction and have staff go away and write an ordinance, then I'm in favor of doing that. If we're going to do that, then my sense is in hearing councilmember Renteria and others speak, it is the event thing that we're trying to actually hit here. It's not the number of people, it's what the people are doing when they're there. And we need an ordinance that addresses what it is that is keeping people up.

[8:19:36 PM]

And creating the problems. So -- so not knowing how it would be drafted, but willing to venture into a process where someone would go away and staff with stakeholders would try to figure it out, I think I would be inclined to support something that prohibited gatherings, which is other

than the people who are staying there, staying there. But gatherings and events. Which would be parties or bachelor parties. If people want to come into town, stay at one of these and have a gathering or event, they need to make arrangements to do it at a place that was made for gatherings and events.

[Applause] And I wouldn't, in this, speak to the number of people, I would speak to exactly what it is that is bothering us. Ms. Kitchen, I think you had your hand up.

>> Kitchen: I think you said what I was going to say. And I'm ready to vote on this item with that direction to staff.

>> Mayor Adler: I think it is -- I will interpret Ms. Troxclair's amendment to take number five to prohibit the use in advertising of short term rentals for gatherings such as weddings, bachelor parties, corporate events. And then let staff and the stakeholders try to flesh out what it is that we're actually trying to stop?

>> Kitchen: I would also -- keep the second part of it, which is that advertising is evidence of a violation -- the rest of that.

>> Mayor Adler: If I left that out, I left that out inadvertently. Ms. Gallo and Ms. Tovo.

>> Gallo: I think because we have specifics. I think we should add concerts, because it is a noisy operation. Certainly not exclusive to those, but that is one we would certainly include.

>> Mayor Adler: With that list I don't think staff would imply it is exclusive of anything else.

[8:21:42 PM]

It is such as those things.

>> Tovo: I included similar language. Short term rentals. I keep gatherings. For gatherings and activities that could include or that do include weddings, bachelor parties corporate events concerts and parties. Concerts, parties and other like activities and I would ask staff come back with the ordinance that we have I discussion about gatherings at that point and hopefully we will have direction on occupancy. I think it is important to name those particular activities and also say "And other like activities." I want to be clear because we talked a lot about stakeholders. There will continue to be a public process as is said. If we pass this, we're initiating a public process that will happen at the codes an ordinance committee, at the planning commission and at council here again. I want to be clear that I'm suggesting we initiate these changes but not that we have a stakeholder process again. Which happened a couple years ago. I want this to move forward. And the stakeholders you participating at that those points of public process.

>> Mayor Adler: It is smufed and seconded. The language that Ms. Tovo had and Ms. Troxclair had. Similar, added detail to it. To include Ms. Tovo's language, the reference Ms. Kitchen mentioned about advertising as well.

>> Tovo: And the violation, the last line about violation shall result in penalties and forfeiture.

>> Can I get a clarification. In the last round -- the first round of initiated items, council asked for a bad actors clause. Do you want this violation to be a part of that bad actors clause or treated differently? Or would you like ugs to consider that in the process?

>> Mayor Adler: I say consider that in the process. Ms. Gallo?

>> Gallo: I was going -- I was reminded by staff that I think that -- I can't remember what your last comment was, but if we say bachelor parties we should probably include bachelorette

parties, also, not to be sexist in this whole conversation.

[8:23:56 PM]

>> Mayor Adler: Those darn bachelorette parties. You know. It is moved and seconded. Any further discussion. Those in favor of that amendment, raise your hand. Those opposed. That was -- obtained. 10-0-1, Zimmerman abstaining. That was an amendment to the item. We will approve the item as amended. Those in favor raise your hand. Those opposed. 10-0-1, Zimmerman abstaining. All right. Is it -- is it the pleasure of the dais to go to a different matter and come back to the additional one of these? Ms. Tovo, what I want to do, I would like for you to have the opportunity in the meeting to lay out all of these things and explain what they are. And we can decide whether we stay with this right now and go to another place on the agenda and then come back. But my perception is you have gone through two meetings without having had the opportunity to do that. And I want to afford you that opportunity.

>> Tovo: I appreciate that, mayor. After looking at these, I think there are some priorities here. So I will layout, if you would like me to do that now, I would be happy to. I would say on this list I think the items important to discuss tonight are 1, 2, 3, and then 6. I believe that if we had to make choices about what not to discuss tonight, number 4 and number 7 would be among those. 4 because really, any public accommodation is already required to comply with Ada. I believe that there is -- that that is an area of real vulnerability for the city and we should address it. And 7 is another one, but I think that we can -- as I see it, the real critical one to address is number 1. Would you like me to lay those out now.

[8:25:58 PM]

>> Mayor Adler: Lay them out. And I may move in and out of this item on the agenda to discuss some and other people can move on the meeting.

>> Tovo: I appreciate councilmember Gallo and others that brought forward suggestion says for improvement and enforcement. I think those are important and will make a difference. I want to say as a broad comment that I am in support of type one short term rentals. I think they offer homeowners a good way of achieving income by renting out houses on an occasional basis within the requirements.

[Applause] Within the program requirements and within the requirement that you submit -- you remit your motel, hotel taxes to the city. None of these are aimed at making that an impossibility for homeowners. I think that there is ample evidence in short term rentals in introducing the commercial use into our residential neighborhoods have had negative effects [applause] And this is a use apart from the bad actors. Again, we have enforcement, regulation improvements going forward that will be helpful. Apart from that, we have an incompatible use when we allow commercial residences to operate in our residential areas without the appropriate zoning. I will quote one austinite that wrote to us. It is hard to understand how residential Zones doesn't prevent our family from having a hotel with no on-site proprietor. There is discussions about it. I handed out some items a little earlier, I will address in a minute. Certainly, I think that is a key part. The second issue for me, an issue that is a constant concern and one we need to take really seriously.

[8:28:00 PM]

This allowing commercial short term rentals to continue to operate in our neighborhoods removes some of our housing stock. It is an issue as we talk about the affordability of our neighborhoods and the potential enrollment on schools impacts, this is a critical issue. There is so much discussion in our community and on council about the housing ability, and allowing our housing stock to be converted to mini hotels is not in the community interest and does not support that.

[Applause] I would like to say in restoring this, we have the potential of really converting some of that housing stock back into possibilities for long-term renters. I have handed out a couple -- I would ask our folks over there, just to flash this up for the public. Just a smattering of relevant newspaper articles talking about the -- talking about the migration of families with children out of some of our neighborhoods in central city. This is a trend that the council back when Jennifer Kim served on it has been monitoring. It is a disturbing trend for the city of Austin. It is one that the council has taken action in the past to adopt goals to try to reverse this trend of families with children moving out of the central city neighborhoods. Yet we have on the books, again, an ordinance to allow housing stock to be converted into hotels for Austin visitors. You see some of the relevant articles, where have Austin's children gone? Our central city schools continue to lose enrollment, including and especially in areas where there are high Numbers of short-term rentals and increasing number of short-term rentals. And I've included on the back an editorial from June 20, 2012, that councilmember Morrison and I wrote.

[8:30:03 PM]

I want to call your attention to some points. In 2012, there are similar concerns to those raised here. I think the difference in that time we were hearing concerns from neighborhoods really within district 9. And we made a reference in here to -- and district 5 I should say, Barton hills and zel Kerr were very much impacted. But we talked about significant short term
>> Tovo: We talked about neighborhoods moving to the north. That's what we see now. We've allowed short-term rentals throughout the city, now we see, councilmember Renteria, lots more of them in your district, councilmember Gallo, lots more of them in district 10. So this is going to continue to be an issue if we allow these -- if we allow commercial short-term rentals, type 2's, to continue to be licensed and operated within the city of Austin, I think we can expect to see them in lots of our council districts and they will continue to do what they have done in some of our neighborhoods in district 9 and district 5, which is to hollow out some of our neighborhoods.

[Applause]

>> Tovo: The point I wanted to draw your attention to is the last paragraph on that first page of the editorial, talking about a comment our city demographer made about the clustering effect of short-term rentals as one factor in the declining populations in our central city. This is going to have a continued effect, continued impact on our neighborhoods and on our schools, and it's of real concern, and on housing affordability. So number one suggests that we suspend all new type 2 short-term rental license, and it asks --

[applause]

>> Tovo: You know, we have some new things going into place with the resolutions that were passed earlier this summer, and that are passed tonight and initiated tonight. We can come back in six months, in a years, and evaluate, look at the evidence, look at the discussion, and really have a conversation about it.

[8:32:06 PM]

But I would move that -- well, I guess I can't move now, I'm laying them out, but I would move that we suspend -- from here on, that we suspend new type 2 short-term rentals and take the opportunity to evaluate it. In 2012 when this was passed, there was a measure appended to the discussion, and it became part of the first ordinance; it got deleted in the second, but in the first ordinance there was language that I was able to add saying that this was going to be a pilot program, we were going to ask our demographer to take a look at some of the Numbers and to really come back and make a report on what impact this had had. And we really have not ever had that conversation and really looked at the data carefully, and I think that it's long past time to do that. Number two would initiate a fades-in process to limit type 2 short-term rentals. This is for those that are already out there. There clear are lots of short-term rentals out there, type 2's again, and we will begin a phased-in process that would -- if you have commercial zoning, you can continue to operate your short-term -- your type 2 short-term rental. If you're operating within a residential area, you would go through a conditional use permit to see whether -- whether your contacts, your neighborhood, is appropriate for that kind of use.

[Applause]

>> Tovo: Now, there was a long, a year or so work group that the planning commission, or some length of period of time where the planning commission looked at this before it got to council. That was one of the recommendations that short-term rental insist residential zoning communities be handled as conditional use permit. It allows for broader discussion about whether that's the right location, so that's what we would do with it. I've also included in there, and/or consider options for A.M. Orization of existing type 2. So there may be a better answer out there, as it goes through the codes and ordinance process, perhaps another suggestion whether present itself other than a conditional use permit for really evaluating and considering those existing type 2 short-term rentals that are within our neighborhoods and single-family zoning.

[8:34:10 PM]

Third is actually important, and it gets back really to the issue I was talking about about having a provision on the books that converts housing stock, potential housing stock into hotel rooms. We have allowed 25%, up to 25% of multifamily units in a commercially zoned property to be used as short-term rentals. Again, I've heard several of you on the dais talk about the housing crisis, about the interest in seeing tens of thousands of more housing units become available to renters, to Austin renters to Austin families. Having a provision that allows 25% of a commercial property to be used as a commercial short-term rentals does not support that goal. And I will suggest that we also move quickly and rapidly in repealing that and doing what we do for the

other housing stock, which is 3%. Accessibility, as I said, I think that's less of a priority than items 1, 2, and 3. Item 6 would get back to some of the bad actor provisions that we already have considered, but this would require that a potential short-term rental operator certify that they have no existing code violations or Austin police department violations, but also would allow the code operators -- code -- our code staff to look and make sure that there are no significant verified complaints. So if you've got a significant verified complaint within the last two years, you likely will not get a short-term rental license.

[Applause]

>> Tovo: And that would apply to type 1 or type 2. And then lastly, this is an idea, actually, that a short-term rental owner, at least one short-term rental owner e-mailed and asked that, why aren't we doing this, why isn't Austin doing this, and requiring B and B, the rbo, other short-term rental advertising services to correct those taxes so we are making sure that those advertising through those services are registered, are in compliance with our requirement for hotels.

[8:36:22 PM]

[Applause] And again, since there was some concerns about the transparency of these amendments, I will mention this was not one I presented back in August, but again it came to us through the community and has been out there on the message board.

>> Mayor Adler: Okay. Do you want to pick one of these now and move forward with one, and then I'll go to the room and then come back? What would your pleasure be?

>> Tovo: I'm happy to move approval of this. When you say go to the room --

>> Mayor Adler: I mean, I was going to hit some of the other items on the agenda.

>> Tovo: So you'd like me to move approval of them but then we're going to shift to another issue or --

>> Mayor Adler: I'd think maybe you'd want to pick one of them.

>> Tovo: I'm happy to I'd like to move approval of item one to suspend all new type 2 short-term rental licenses.

>> Mayor Adler: Ms. Tovo moves to move for the suspension. Seconded by Ms. Pool. Discussion on this motion. Ms. Kitchen.

>> Kitchen: I'm wanting to confirm, just so that everyone knows what we're talking about, confirming that what you're talking about is within six months after the date of the new code enforcement amendments, we would come back and gauge the effectiveness of those code enforcement amendments and consider -- and consider -- in other words, this is a suspension while we determine whether the new code enforcement amendments are working.

>> Tovo: Yes, it is. I think probably a year is -- I had initially said six months. I think probably a year is a more reasonable time period, but I want to be clear, it's not a six-month suspension or a year suspension. I'm suggesting that we suspend all new type 2 short-term rentals, that we allow the regulations to take effect, that we have some very thorough conversations about what the impact of that has been, and that there be a proactive -- if there is an interest in restarting those short-term rental type 2 licenses, that there be a proactive measure to begin reissuing those again.

[8:38:32 PM]

So it doesn't have a sunset.

>> Kitchen: Okay. But it does have a trigger for it coming back. I'm just trying to determine what we're voting on, because what I'm reading here -- the language I'm reading here is six months, is to schedule a public hearing six months after the date of adoption. So I'm just wanting to make sure that's your intention, to include this language that's here.

>> Tovo: It is, but when I say to -- to schedule a public hearing six months after the date of the new code enforcement amendments, I'm talking about the body of them, the ones we've passed, the ones we're considering today, all of them. I mean, in some ways that could be and maybe should be regarded as a separate issue.

>> Mayor Adler: So I read that that we're going to be sending this back to staff; staff is going to be working on an ordinance for us to consider to come back. One of the things that would be in what the staff would bring back to us would be did the one of the elements of it would be a six-month moratorium, or at least a six-month moratorium, and then six months out, we would do an evaluation of how the new restrictions were -- were doing.

>> Tovo: And, mayor, perhaps it's better expressed as the first is a directive to suspend all new type 2 short-term rental licenses. The rest is really more or less formal direction to staff that we want to evaluate this in six months and perhaps again in a year. And when I say -- I mean the totality of what we're doing here in the last couple months with regard to short-term rentals.

>> Mayor Adler: The suspension would begin with the adoption of the new ordinances?

>> Tovo: I would propose that the suspension begin as soon as staff return to us with an ordinance that we could consider.

>> Mayor Adler: I understand.

>> Tovo: And I would ask them to expedite that. We've had multiple requests for an immediate suspension. Unfortunately, it appears after going back and forth with staff for a week that that's not possible to effect today.

[8:40:33 PM]

And so I would ask that staff bring us back that ordinance as rapidly as possible.

>> Mayor Adler: Okay. It's been moved and seconded. We'll continue with the discussion. Mr. Zimmerman.

>> Zimmerman: I want an inquiry here, maybe a clarification. I don't understand at all how you couldn't suspend it immediately. I'd like a little more explanation of that. And why couldn't this just be changed, if it's your intention to do it for six months, why wouldn't it say suspend all type 2 short-term rental licenses for six months? Why wouldn't it just say that in the --

>> Tovo: I'm sorry, coming up Zimmerman, for the confusion. I've been trying to stick to the original language, but frankly, it probably would have been better to have those in two separate measures. So I've left it as it was in August. But if it's easier to consider, it is really two different matters. It's not my intention to suspend them for six months, it's my intention to suspend them.

>> Zimmerman: Suspend them indefinitely.

>> Tovo: That's right. And we can continue -- but I want to assure everybody that we're going to

monitor this and evaluate it and we're going to direct staff to come back in six months and report on what the impact has been of that and many of the other regulations, and we can continue to evaluate whether to keep that suspension in place or to lift it and continue --

>> Zimmerman: Okay. I'm not yet convinced if I'm for or against, but I'd like to know, what would stop us from suspending them immediately, I guess legally, why could we not do that as council?

>> Because this is a resolution, and the code says that the director shall issue a license with a new application. The resolution cannot do that, additionally because it's part of the zoning; it would have to go to the planning commission.

>> Zimmerman: So the ordinance would have to be changed to have the immediate effect.

>> The ordinance has to be changed.

>> Zimmerman: Yeah. Okay.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: And then Ms. Link, could you maybe describe the process that this goes through, and this -- the reason I'm asking is because this is why we don't want to suspend and then restate -- restart, and then suspend again.

[8:42:35 PM]

This is why we're looking at an indefinite suspension because of the process that's involved with the various subcommittees and commissions. Correct?

>> So traditionally, with a zoning ordinance, if the item is initiated by council, it goes to the codes and ordinances subcommittee of the planning commission for analysis and discussion. And then it will go to the planning commission, and then it would come to the council. That can take more than one visit to each body prior to coming back to council.

>> Kitchen: So we want to limit how often this reappears in that process. And I had just one observation to make on this it occurred to me, listening to the proposal and the fact that we're grandfathering existing type 2 short-term rentals, what that does, actually is increase the value of the license that you currently hold, because if we put a moratorium on no one else can add to the number, which makes the fact that you have that license that much more valuable, and hopefully it would also -- a spinoff of that would also be that maybe the folks who are not complying with our regulations would begin to understand how important it is for the community to regulate itself, and that you all with the commercial type short-term rentals maybe help us with the bad actors who are in the community. And I think -- I think that's something that you all may be are willing to do, and -- but the biggest thing that I -- the biggest take-away that I have on this is, all of a sudden, the value of the property that you currently own and its status as a commercial short-term rental type 2 has -- has increased appreciably, because we are now limiting the supply of them for additional ones.

[8:44:47 PM]

>> Mayor Adler: Anybody else? Ms. Troxclair then Ms. Tovo.

>> Troxclair: So, I just want to make sure that if we -- your motion is more -- is basically to ban type 2 rentals.

>> Tovo: It is to suspend new ones. This motion is to suspend new ones.

>> Mayor Adler: Okay. Ms. Tovo.

>> Tovo: And I just want to comment on councilmember pool's point. I think, you know, because number 2 is right behind it, I'll talk about type 1's. I think it does do that, it does do exactly what you said, 1 and 2 both, for type 1. If you are a homeowner and you want to rent out your home on an occasional basis a couple times a year, we are actually making it more likely that you'll be successful in doing that because we're going to -- if we do 1 and we do 2, there are going to be fewer out there that are a hundred percent commercial short-term rentals. So you, as a homeowner, if you're living in that community, contributing to that community, you're part of the fabric of that community, you are more likely to have visitors who are going to stay in your home when you rent it out because there will hopefully be fewer on the market.

[Applause]

>> Mayor Adler: Ms. Gallo.

>> Gallo: So as we've been thinking about the whole process, and obviously my focus has been on trying to increase enforcement, and get rid of the bad actors that are out there, the concern that I have with this, putting any type of a stop or a moratorium on the type 2, is what I've heard over and over again, is that we have lots -- we have many, many, many unlicensed short-term rental properties that are out there operating. So if we don't allow code to be able to find those unlicensed properties and bring them in to compliance and get them to get a license, then I don't think we're being proactive about getting that undercurrent of properties that are out there now that are operating without a license into compliance.

[8:47:01 PM]

And I'm just concerned that that's sending the wrong message to the community because we know, from what we've heard, there's lots of properties out there operating without licenses. I think we want them licensed. I think we want them in compliance. I think we want our code department out there figuring out how to make them both licensed and operating within compliance.

[Applause]

>> Mayor Adler: Ms. Garza.

>> Garza: I don't know who to ask this to, but is there a mechanism -- what is the mechanism now when there is a str-2 that isn't licensed?

>> Good evening, mayor and council. Marcus Elliott, Austin code. Right now when we find a property owner that isn't licensed, we actually site them, give them a notice of violation, give them a certain amount of time to come in and go through the licensing process and make sure that they pay their required city hotel taxes before they actually are issued a license. If they aren't in violation of some type of advertisement which would deny the license at this point.

>> Garza: So I guess my general question is, I keep hearing if you do this, if you do this, you're going to send all these underground did you understand, all these str-2's underground, but isn't there a mechanism now to fix that, to regulate that if you do find one that gets cited and find?

>> Yes. We do have a research -- research team that actually tries to identify all the unlicensed properties out there, and we're real indicating resources to help with those identifications of

the unlicensed short-term rentals. But when they're advertised and we don't actually know that they're type 1 or type 2, that's based on after we bring them in, then they let us kind of know what they're interested in. Another point, director smart pointed out we have a waiting list for type 2 short-term rental properties.

[8:49:14 PM]

Some of these people -- I'm sorry, some of the owners have been on the waiting list for over a year. So if this is passed, every one that thought they were going to get a license at some point is now out there with no hope. And as you mentioned, our goal is not to drive them underground. Our goal is to get them compliant, paying their hotel taxes and operate as good, licensed property owners.

[Applause]

>> Garza: I'd just like to know staff's perspective on a review process. Do you think six months is enough time to review it, or do you think eight months would be better? I'm just curious what your thoughts on that are.

>> Councilmember, we think that we can certainly do a good review in six months and come back to council with the results of that review. So we are okay with six months, if that's acceptable to council.

>> Garza: Okay. Thank you.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Well, I think this is a simple question. If not, I don't want to wade into a lot of time, but you mentioned that there's a waiting list. And I just wanted to know why there's a waiting list. Does that have to do with the -- does that have to do with the limitations that we have right now in certain census tracts and they're on the waiting list because where they want to be located, they already have met the max, or is it a waiting list that relates to the time it takes to actually go through the process of getting a license?

>> Councilmember, the waiting list is because of the three percent tax.

>> Kitchen: Okay. That's all I needed to know. Thank you.

>> Mayor Adler: Mr. Casar.

>> Casar: So at first a lot of this conversation began around enforcements of the issues, but now we've gotten to the point in the conversation where we talk about philosophically and land use planningwise whether or not absentee-owned, whether they live up the street or not in the city of Austin, but absentee-owned type 2 short-term rentals are something that we want in Austin.

[8:51:40 PM]

The difficulty with that question for me is that, one, as the mayor pro tem has noted, I'm someone who's been talking about wanting as much housing stock, whether it be rentals in multifamily or single-family housing stock, as we can get in the city, considering the crunch that we're in. And if an investor buys a couple of properties, I would like to steer the market towards them putting hopefully once that codenext thing happens, a row house down there so that six families can live there, as opposed to one big house that is used on weekends for tourists. That

would be my preference.

[Applause] But the difficulty, though, is that while I have that preference, the data that I've seen and the experiences that I've seen, including this long report from the New York attorney general's office, is that in cities where they have just outright tried to abandon them, that these cities have not been successful. And so even though my -- even though I want to reduce the amounts of short-term rental type 2's in my own vision of land use and planning, the question is, how do we actually go about doing that. And, you know, in some cities where they have tens of thousands of dollars worth of fines, if you operate without a license, you can still get on home away and air B and B, and just type it in, and I see 8,000 listings tonight for New York City where it's illegal. So it seems to me, at least for me, I am open to and supportive of trying things out so that we can perhaps try to steer the market towards str type 1's and to have less str type 2's, but I'm not sure if I know how to do that yet. I don't -- and it seems to me that other cities that have tried just saying let's fine like crazy every str type 2 that is -- that is operating without a license and operating illegally, that it hasn't worked for them.

[8:53:42 PM]

So I would be interested in hearing what the experience in many of the cities have been that have been listed by some of the advocates that talk about there are no str type 2's allowed in those cities. And how successful they've been. Somebody cited some data today from the same report that said that even with a ban over a certain set of years, the number of str type 2's in New York City went up over a thousand percent. I don't know if it hadn't been banned if it wouldn't have gone up 2,000 percent. I don't know if that ban reduced the amount -- most likely it reduced it some, but the fact of the matter, I don't think it had the intended effect, and I don't want to dump tons of resources constantly into enforcing something that we can't enforce because I would prefer to did you tell

-- prefer to put that into parks or affordable housing. So right now I'm at a place where I am very open to trying things out, hearing folks' ideas, perhaps putting a cap on the number of licenses that we put out, and then track what our non-compliance rate is and how successfully we are actually reducing the number of type 2 short-term rentals. But what I'm weary of is telling folks that we're banning type 2 short-term rentals and -- and then actually having very little effect in the neighborhoods. So, again, my -- I'm there on the -- on the philosophy of let's create more opportunities for type 1 operators, and let's reduce type 2's, but I just want to do my very best to pass policy that will accomplish those goals without wasting tons of our valuable resources because, you know, every dollar that we spend on code enforcement is a dollar that we're not spending on something else. And I'm willing to spend some money on code enforcement to try to achieve our goals, but I'm not willing to spend all of it.

[8:55:49 PM]

[Applause]

>> Yeah. I would say we have a program that I think is pretty accessible right now and we have short-term rentals that are underground. I don't think passing a suspension of short-term -- of new type 2 is going to drive more underground, but we certainly could keep an eye on it. But I

do think we've also adopted new and enhanced penalties. We have invested in code enforcement and put new officers out there, or just passed a budget that will, so I think we're going to have a more robust enforcement. But I just want to get back to the point that our code compliance staff brought up. Back in 2012, when this ordinance was being -- when the first short-term rental ordinance was being contemplated, we asked legal staff directly, will we have an opportunity to stop this program at some point in the future, and we were told we would. So there may be people on a waiting list in areas that are maxed out, but we have every legal right to stop issuing permits and I would ask our legal staff to weigh in on that. But we are -- we're talking about areas that are maxed out at three percent for type 2. That does not include people who have homes and may have an accessory in it in the back that is rented out a hundred percent of the time as a commercial short-term rental because that counts as a type 1. So, you know, that three percent in those areas doesn't even include the short-term rental units that are in the back of the house. So those are additional rental opportunities that are long-term rental opportunities that are off the market. So I hope that we can keep that in mind as we're talking about areas, especially areas that have reached that cap. But I would ask Ms. Thomas or Ms. Link, can you please verify that my understanding is correct? We have every right to stop issuing permits if this council chooses to do so. And, in fact, as I mentioned, the original ordinance had that language in there. This is a pilot program. We reserve the right to look at it. I mean, I'm paraphrasing so it wasn't exactly that language, but I believe it did include the phrase "Pilot program."

[8:57:54 PM]

>> With new licenses, yes, I believe that you can stop issuing licenses.

>> Including -- including to those folks who are on a waiting list.

>> They are not entitled a license because they're on the waiting list, they just would be next in line. So the way I understand the waiting list to work is, as -- if other owners fall off the list, so the cap basically comes down, because we're not at the max, then somebody could get -- be in a position to get a license. But you could assume, for the sake of discussion, that that never, ever, happens, then they would potentially stay on that waiting list forever, regardless of whether the council puts a cap or stops licenses. So I think that they don't have any other right above -- you know, they would just be next in line, but if council --

>> Tovo: If and when anything becomes available. Okay. Thank you.

>> Mayor Adler: Ms. Kitchen then Ms. Garza.

>> Kitchen: I am going to support this item, and the reason is that I think that we have an enforcement issue. I think we need to not make the problem worse while we're trying to make sure that our enforcement -- the things that we're putting in place to do our best to make sure they work. From my perspective, I don't -- I don't -- from my perspective, and I have been involved in enforcement when I was at the attorney general's office, I don't subscribe to not putting out requirements because it might drive people underground.

[Applause] From my perspective -- from my perspective, it's just, you know, you need to set what the requirements are based on the policy. And people need to comply. So --

[applause] And with regard to the waiting list, I'm not concerned about that because we set -- the previous council set a limit for census tracts so people are simply on the waiting list because

the limit has already been met in those neighborhoods.

[9:00:03 PM]

The waiting list is not the type of waiting list that implies any kind of -- any kind of right or ability to have that str, and we -- the previous council set limits because of the kinds of concerns that the mayor pro tem has raised, in an attempt to set a balance between -- you know, protecting the character of the neighborhood for all the reasons that have been cited before. So I'm going to go ahead and support this.

[Applause]

>> Mayor Adler: Ms. Garza.

>> Garza: Yeah. I feel like with the new York City example -- I don't know enough about what they did, and they could have very well decided we're not going to -- we're not going to set any -- you know, we're going to ban these, but they could have also said but we're not really going to enforce it. And I keep going back to the goal of why this came back to us, and the goal is to give our code the teeth it needs to enforce -- to use that enforcement. And I don't propose, you know, funding -- giving a ton of funding -- sorry, code -- to enforce these things, but again, I go back to the practicality of our goal, and that would be, the bad actors will rise to the top. We can't fix everything, but even if there are underground ones, and I'm not saying this is right, but they're quiet and they don't cause any problems, then there's nothing we can do with that. We can't solve every single underground one, but the underground ones that's right bad actors, they will rise to the top. And we need to give our code the ability and give the teeth to enforce those. So I will be supporting this resolution.

>> Mayor Adler: Ms. Pool.

>> Pool: Yeah, I think the conversation at the dais has really kind of helped to clarify some of where the specifics are and the idea that we shouldn't regulate for fear that people will go underground, I mean taken to its furthest extreme means we wouldn't have any laws at all, so that there's nothing for anybody to break.

[9:02:25 PM]

So I will be absolutely supporting the moratorium. I think that the two percent cap is put in place for a reason, and it showed in a pilot how the -- how our neighborhoods will change to accommodate some of the commercial properties and it's a different use for a neighborhood to have a commercial entity in the middle of it.

[Applause] I also recognize that we are working really hard to give code the tools that they need in order to actively and proactively enforce this. That's really what we're talking about here with the community, is the community wants enforcement of our existing regulations, and further, we don't want to expand the stock of type 2 str's because we haven't yet gotten to a place with our enforcement where we can manage what we already have on the ground. So I will be voting in favor of the mayor pro tem's --

[applause] Mr. Zimmerma N.

>> Zimmerman: Thank you, Mr. Mayor. I was inclined to vote in favor of this, but after listening to some of my colleagues, especially councilmember Casar, about the underground risk, I see

two bad choices here. I can vote yes on this and contribute to the problem of more properties going underground like they do in New York City. If I were to vote no, then I would be contributing to a problem of more and more type 2 strs with the problems not being there, the noise, the drunkenness, all the problems we've heard testimony about, not being enforced. So as the supply of that type 2 commercial grows, the risk of more bad actors grows. So if I vote no, I'm contributing to the problem we've heard testimony about.

[9:04:27 PM]

So I'm going to have to abstain from this, and I'm going to go back -- because I've said it over and over again, but I need to say it again. We're not focusing on the core problem. The core problem is drunkenness, it's parties, people up late at night, and that's where we have to focus resources. And we're not doing that. So whether I vote yes or vote no, I'm not solving the problem in this.

[Applause]

>> Mayor Adler: It is a hard one for me, too. You know, there are two big problems we're trying to solve here. One of them is the nuisance issue, people living next to these properties that they shouldn't have to live next to in the neighborhood. I wouldn't want to live next to one of those, and I think that the city has zoning ordinances and rules and it needs to be able to provide relief to people. I think with what -- I think with what we've done tonight with respect to the -- providing an administrative remedy and in looking at the uses that are being made of the property to focus on the nuisance itself, or the situations that give rise to the nuisances, the way we hit those, and frankly, I like those two things and I hope that they help. We have to find something that helps, and I think those are two real significant changes. On the housing stock side, you know, I think we address that by hitting the three percent area where we don't let them grow within a certain area and provide some ability for need, where we limit them being able to cluster, you know, that kind of thing, so that they're not all around with new ones. I would support that kind of stuff. And I think that goes to the -- to preserving the housing stock issue.

[9:06:30 PM]

And I think that I hear that it's kind of done that where we have now a waiting list for people to get on. Tissue with respect to a suspension of all type 2 short-term rental licenses gives rise to a question that we're about to vote on and I think we're going to vote on it without adequate information. Because I don't know what the impact of that's going to be. I don't know if, when we adopt that, all we do is exacerbate the problem. We have code out now that's finding a place that is unlicensed, what I would want -- on one hand, what code said that they wanted to be able to do is be able to fine them for that, and then bring them into compliance so they have to abide by the rules. And if they can't bring them in, then there's no mechanism to be able to do that. At the same time, I don't feel like I have enough knowledge of what's happened in other cities with people being -- we haven't developed that we're about to vote on this and I'm not ready to vote on this because I don't think we have the information and data ready to vote on it. I'm probably going to vote for this, but I'm going to vote for this, in my mind, and look at

this as a moratorium, as opposed to a suspension. And the difference in that, I think, is that I want to see what happens over the next few months, and I want to see what happens with respect to how the market responds to what it is that's -- that's happening. So I'm going to vote for this, but that is no guarantee that six months and one day out of this, it's where I think that we should -- we should be. I think this gives us a pause to be able to see whether the tools we have are, in fact, providing a remedy for neighbors that desperately need one. It'll give us time to be able to see what happens in the marketplace.

[9:08:41 PM]

If there's not data in other cities, let's at least develop the data in our city that tells us that, and in six months, I think we sit down here again and address that -- that future. That's where I am. Ms. Troxclair.

>> Troxclair: Mayor, based on you're comments, I guess I would like to make an amendment to say to suspend all type -- all new type 2 short-term rental licenses for six months, so that this is not an indefinite ban. I think that sends a more accurate message to the community about the issue that we're trying to address here, and will provide us, like you said, after six months and one day, an opportunity to evaluate the information and make the best decision going forward.

>> I'll second that motion.

>> Mayor Adler: Ms. Troxclair moves to take suspension for six months, seconded by Mr. Zimmerman. Is there a discussion? Mr. Casar, then Ms. Pool.

>> Casar: I would like to suggest in reference to the mayor pro tem's motion that we take a year to -- to evaluate this because by six months -- we know how government and data works. I think we need -- I think we need more time. So if we're going to consider it, I would prefer -- regardless of whether it's a moratorium or an indefinite suspension, I think the year-long review is -- is warranted, so I would just make that suggestion.

[Applause]

>> Mayor Adler: Ms. Pool?

>> Pool: Yeah. I was going to say six months is -- six months -- it's getting late -- will hardly give us enough time even to deal with the situation that's on the ground currently, and as we've talked about earlier, there's a fairly protracted review that's required every time we go in and out of a moratorium or suspension on the ordinance, so that the boards and commissions would be engaged again, and they probably -- the timing just isn't sufficient.

[9:10:54 PM]

I prefer an indefinite suspension, but if it's the desire on the dais to go for a year, at least a year, I would continue to support that.

>> Houston: Mr. Mayor?

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. My preference would be for an indefinite suspension as well.

[Applause] And I've been listening to all the sides, and I just want to say something, is that in district 1 where many of my elders live, they don't complain because they want to be good neighbors. They have the same kind of issues of people being disrespectful and loud and trash

that every other district is talking about. And when they call and complain, I say, well, why don't you call 3-1-1? And their voices tremble and say, because we don't want to make them mad. So they're living fearfully because they can't get the kind of support that they thought the city was going to give to them when we said this was going to be a pilot. And here we are in 2015 just getting back around to what are the implications on neighbors who have been living there for a long time. So my thing is, let's suspend them indefinitely until we get more data to see how we can manage it. Because they're underground already. So I understand when councilmember Casar says they may go -- they're already underground. They're already underground. And so we have -- they'll have the tools at this point to be able to bring them into compliance. So let's try to bring them into compliance because we know where they are. I know where they are in my district, and I don't want to get my neighbors and my elders anxious about somebody being reported and then they feel like they're being retaliated against. And that does happen. That does happen.

[Applause] So I would prefer an indefinite suspension until we can get some more data and try to make it work.

[9:12:55 PM]

>> Mayor Adler: Further conversation? Mr. Casar moved to amend the six months to be one year. Seconded by Ms. Pool? No, is there a second to moving to the one-year period of time?

>> Pool: Yeah, I prefer the indefinite and said that I would only go to a one-year if we didn't pass the indefinite, so maybe we should go with the motion on indefinite, which I think was the original motion.

>> Mayor Adler: Okay. Let's have the vote on the indefinite first, and if it doesn't, then we'll come back and pick a time. So we're going to --

>> Zimmerman: I thought we had the six-month on --

>> Mayor Adler: We do, and it's been moved to make it so we can either vote first -- okay --

>> Zimmerman: Well, yeah, we can vote either way. We can vote on the six-month first.

>> Mayor Adler: We could, but there's been a motion on the 12 months.

>> Zimmerman: So if we vote down the six-month, we could go to 12, and if not that then we could go to indefinite. Is that make innocence.

>> I'd like to vote the original motion.

>> Mayor Adler: I know you would. We're going to street this strict. I have a motion, I have an amendment at six months, I have an amendment to the amendment, which is as far as we can go to go to a year. Is there a second on the amendment to the amendment to make it to a year? I'm going to second that. Is there any discussion on going from six months to a year?

>> Tovo: Mayor, also I'm going to support this because I think it's better than six months and I'm going to vote against six months because I think the indefinite is what we need.

>> Mayor Adler: Got you. Those in favor of spending it to one-year moratorium, as opposed to six months, that's the change, going six months to a year, please raise your hand. Those opposed. Houston and Zimmerman voting yes, it's at one year.

[9:14:58 PM]

That is now the amendment to Ms. Tovo's motion.

>> [Inaudible].

>> Mayor Adler: I'm sorry? Amendment to the six months. Okay. So now we are voting on the amendment to Ms. Tovo's proposal. Ms. Tovo's proposal is indefinite. The amendment is one-year moratorium. Those in favor of the one-year moratorium amendment?

>> I have a question, mayor, for the maker of the motion that's become amended, is this going to require an affirmative vote of the council? Well, let me make that amendment. I would like it to require an affirmative vote, if this one-year -- if it's limited to one year, I would amend that motion to require an affirmative vote of council, as in not a sunset provision.

>> Could somebody translate that, please?

>> Mayor Adler: I'm trying to figure out if we have a one-year moratorium, that means it expires at the end of one year. So the motion is to have it expire at the end of one year, and your motion is to --

>> Tovo: You know what never mind, I'm going to withdraw my motion and I'll make it as a separate issue if it becomes relevant.

>> Mayor Adler: Okay. So there's an amendment to amend was tovo's indefinite to make it a one-year moratorium. Those in favor of moving to a one-year moratorium, please raise your hand. Those opposed? Tovo, Houston, and pool. We now are considering Ms. Tovo's motion as amended. Mr. Casar.

>> Casar: Mayor, I'm going to vote for this, and when I spoke about the properties going underground, I did not mean to say that we shouldn't have rules because then nobody will be underground, nor did I mean to say that we don't have a problem with underground properties already.

[9:17:03 PM]

The reason that properties going underground is an issue is that we have limited enforcement tools, and we can choose whether to enforce against just underground properties because they're underground, or whether we choose to use those limited enforcement tools against properties that are a problem. So that is, for me, the reason why we should be measured in the regulations that we -- that we put forth because there are lot of things that, of course, we regulating people going underground on, but at the same time, if putting this regulation in place doesn't actually reduce the number of short-term recommendations, unless we dump lots of resources into it, the question is whether or not that is worth it or not. So with that prologue, I'm going to vote for this, and I would like, because I think we'll have to vote for it again when it comes back as an ordinance change, I'm going to put together some data that I hope the council will consider so that we can measure and get our best estimate on how many short-term rentals there are on the ground at the time that we instate the moratorium so that when we approach the year-long point, we also, I think, should get some sort of guess as to how many shower or thunderstorm recommendations there are on the ground, so we can see whether or not it worked. And if it did, then I would be inclined to having it continue. But if we have lots and lots of folks who are underground and we're spending lots of resources going after them instead of going after the party houses, and we have people here still with party house problems, then, you know, that's a different conversation. So like I said at the committee

hearing, I want to preserve housing stock, I want to steer investment away from str-2s's, I want to steer investment toward str 1's and recommendation and it gets me applause from neither side to sort of hold this position that I want to -- I want to constrain the number of str-2's, but I don't know if we can get rid of them, so I just want to come up with the subpartist policy we can come up with, and I'm not sure any cities have figured that out yet.

[9:19:11 PM]

But I hope that alongside you all we can do our very best. So thanks for all the time on this and the compromise, and for patiently waiting through multiple committee member -- multiple committee meetings, mayor pro tem. It was a lot of land development code changes to consider at once, and I was always supportive of trying something, so I'm glad we came up with something that I think the council liability evaluate soon.

>> Mayor Adler: Okay. Ms. Gallo?

>> Gallo: Thank you for those comments. The -- the issue that I have is, we go back to the enforcement of the bad actors, and I think we see those properties in both type 1 and type 2. I am willing to --

[applause] I'm willing to support the moratorium for one year. I would not have supported it if it was indefinite. There were not the votes -- there are not the votes on the council to do anything but that, but I want to say very clearly that I think my vote to do the moratorium is not to eventually get to the end of one year and eliminate a type of rental property ownership, but it's to give code compliance the ability to have the time with the tools that we have given them to start getting properties into compliance so that all of the short-term rental properties, both 1 and 2, are in compliance -- in compliance with our current zoning codes and ordinances so they all become good neighbors. Ms. Troxclair R.

>> Troxclair: I have to say I'm really shocked that we're sitting here having this conversation because when I, you know, signed on though councilmember Gallo's resolution to address the problems with short-term rentals, we -- the conversation has clearly all along been about enforcement. And giving code the tools that they need to proposal enforce, not only what's already on the books, but whatever else we can do to make sure that we have responsible, you know, short-term rental owners.

[9:21:20 PM]

So, you know, I'm -- I think it's -- honestly, I think it's unfair to the short-term rental owners who are here who thought this entire time that --

[applause]

-- That that's what they were engaging with us in order to do. I felt like we were really all on the same page --

>> Mayor Adler: Excuse me. Excuse me.

>> Troxclair: I felt like we had the same goal, not just people on the dice but people in the audience too, that having these bad actors is not good for anyone, it's not good for the neighbors who have to live next to them, it's not good for the responsible short-term rental owners who get a bad rap for it. It's not good for anyone, so I'm just disheartened that we

started out with this common goal and we've ended up, I think, you know, alienating or turning our backs on people who thought that they were following the rules that have been put in place. And I guess I'll say to those of you who have short-term rentals next to you, the problems next to you, a moratorium is not going to help you. The people are not going to stop coming to Austin. It's not going to reduce the demand. All it's going to do is, if your -- if the short-term rental next to you that's operating irresponsibly, if it's not booked every single weekend and every single day right now, it's going to be in the future. So I don't think that this is a good solution for you, either, and I just really wish that we would take the time to put our trust and our money and our faith into -- and our resources into the people who we've been working with at our code department and let them utilize the tools that we are giving them and have this conversation -- well, let them crack down on the bad owners and let the 99% of good owners continue to operate responsibly in our city, so I can't --

[9:23:24 PM]

[applause]

>> Mayor Adler: Any further discussion? Further discussion? Mr. Casar?

>> Casar: Mayor, two last points. One, when the ordinance comes back, I do think it would be appropriate to consider having 30 minutes of testimony on each side or potentially more so that folks can discuss this particular provision. I think that that would be thoughtful. I know we had so much testimony on short-term rentals in the past but it would be something I would be willing to endure with other councilmembers --

>> Mayor Adler: Let's see what the ordinance looks like.

>> Casar: The second thing I would say, I'm also interested in considering a cap on the total number of licenses as a potential, whether it be when we take a vote on the ordinance or perhaps at the end of the year. It's something else that -- I just want to put it on councilmembers' minds as a potential idea.

>> Mayor Adler: Okay. We're going to take a vote right now. Ms. Tovo.

>> Can I ask a point of clarification? I just want to make sure the language that says all new type 10 short-term licenses is applying to new licenses and not renewals. I just want to make sure that we have that clarification from the dais on that.

>> Mayor Adler: That's my understanding. That there will be no new licenses. This doesn't impact renewals, it's new licenses, and it has no new licenses granted in this next year.

>> Gallo: I just wanted to make the renewal -- that the renewal was not included in this.

>> Mayor Adler: We're not impact current operators, we're trying to -- where we're impacting the current operators are by changing the administrative policy, the administrative enforcement, and the rules that we'll have with respect to the uses that can be made of short-term rentals. Okay? Are we ready to take a vote? Ms. Tovo.

>> Tovo: -- Mayor, I would like to propose an amendment that the ordinance would include a provision for our consideration that would require an affirmative vote of council at the end of that one year.

[9:25:38 PM]

It is similar, really, to what we've done with our concrete pouring ordinance, I mean, that's had to come back. It was set in place with an expiration date, but it has come back. I want a provision basically so that it doesn't expire without our having had a discussion about it. So whether that's a provision for it to come back and be placed on the council agenda, or auto a position provision for there -- I think there needs to be an affirmative conversation and action to continue it.

>> Mayor Adler: There are a couple of different ways. Are you comfortable with saying this will come back on the council's agenda within that one-year period of time? Fauve for council action?

>> Mayor Adler: Yes.

>> Tovo: Yes.

>> Mayor Adler: Okay. So moved that this be placed back on the council agenda for action within that one-year period of time. Is there a second to that motion? Ms. Garza seconds that motion. Is there any discussion? Ms. Houston?

>> Houston: Just a question. You said before the year is up.

>> Mayor Adler: To coincide with that year as best we can.

>> Houston: Okay.

>> Mayor Adler: Given -- whatever the calendar is, that it comes back before us on the council agenda, noticed on the council agenda for action. That doesn't require the council to take an action, but it means that it'll be set on the agenda at that point in time, noticed for action. It's been seconded. Any further discussion on this? Those in favor of Ms. Tovo's amendment, please raise your hand. We have kitchen, Renteria, Garza, Adler, pool, Houston, tovo.

[9:27:38 PM]

Those opposed? Who are remaining on the dais, 7-4. We are now to number one, as amended twice. No further discussion, those in favor of number one, please raise your hand. Those opposed? Tovo, Zimmerman, troxclair, otherwise passes 9-2. All right. We're going to --

>> Zimmerman: I need an abstention. Sorry.

>> Mayor Adler: Mr. Zimmerman is an abstention. 10-9-1-1, on that matter. Okay. I'm now going to -- I'm now going to move off of short-term rental and try to pick up some of the other business that we -- that we have on --

>> Zimmerman: Mr. Mayor, point of privilege before we get off this, just a quick note, I've been a little tough on code compliance. I've been critical of the management but code compliance has done a good job of outreach. As an example, hears a code compliance bag that one of my constituents gave me, and we have code compliance coasters here I'd like to share with all my colleagues. We have a code compliance little necklace thing here. And best of all -- oh, we have code compliance rulers. I'm sorry.

>> Mayor Adler: I tell you what --

>> Zimmerman: One more. There are two badges, code compliance junior officer badges and I'd like to award those to councilmember -- mayor pro tem, and also to councilmember Gallo.

>> Mayor Adler: Okay.

>> Zimmerman: Junior officers. Thank you. Thank you very much.

>> Mayor Adler: All right. We're now going to move --

>> Thank you. I have an eight and nine-year-old who will fight over that.
>> Mayor Adler: Okay. We're now going to move --
>> Gallo: I would be happy to donate mine to your other child so there's not a fight.
>> Tovo: Thank you, councilmember Gallo.
>> Mayor Adler: We're now going to move to the solar issue, which is item number 77. I understand that the speakers have limited themselves to 30 minutes, so we'll call -- I don't know if there's a list of speakers that -- that you have that you want to give to me.

[9:29:51 PM]

We'll come back and --
>> [Inaudible].
>> Mayor Adler: My belief is, we're going to try to get through the other things on the agenda and then we'll go back to the str issue for the degree to which members on the dais want to continue with str issues. But right now we're going to do the solar issue.
>> Mayor Adler, I am neutral so --
>> Mayor Adler: You're going to get a chance to speak. And remember, everybody who's speaking, we're speaking for or against whether or not the council should order a study from Austin energy.
>> Did you want this list?
>> Mayor Adler: Please.
>> Okay.
>> Mayor Adler: If not a time noted, three minutes.
>> My name is [inaudible] White. I want to thank all the sponsors and their staff who have worked hard on this resolution and thanks to the rest of you who have taken time to really educate you and dig in on this issue. I appreciate that. Most of our discussion about solar over the past couple months has been about cost. Solar energy is finally cost competitive with fossil fuels.

[9:31:57 PM]

It will provide us with energy at a fixed cost of 3-8 cents per kilowatt hour for the next two decades. The solar deals will save the utility and, therefore, its customers. That's all of us. Money. And that's great. But I don't think that's the most important factor. These solar proposals offer our city a great opportunity to address the defining issue of our time, climate change. Investing in solar energy is an opportunity to turn our commitments into action. As affordable carbon free renewable energy is added to the grid, sources will be pushed off and out of the market. Setting goals and joining coalitions is great but they're only meaningful if they're followed by concrete action. Choosing renewable energy sources will literally put our money where our mouths are. Climate change isn't just about species extinction around ecosystems, it's about people suffering and dying around the world and right here at home. The latest research shows that climate change is accelerating quicker than previously projected and swift action to end use of fossil fuels is needed to end impacts. You don't need to read the climate research to see these impacts. They are already happening. You can see it in the

reporting of each new natural disaster. We go from record drought to record wildfires to record flooding. The predictions about climate change are increasing in severity, and these disasters are already being seen around the world, including here. And they're taking lives and they're racking up huge bills in our community as well. And we see who suffers the most in these situations. It's people who do not have the resources to get out of the way or to recover from these disasters. It's forcing people around the world to migrate in search of livable environments. It has been cited as a cause of wars in other places. This is a real issue for real people, and it's something that we are contributing to.

[9:34:01 PM]

But we can still prevent the worst disasters if we take definitive action now. This is part of that action. Right now, you, as councilmembers, can direct Austin energy to take advantage of these affordable solar proposals, or you can wait for prices to maybe go lower in a few years. No one knows exactly what year they will be lower than they are now, or exactly how low they will be. We know we have what's in front of us, though. We know that we still will need more solar after this 600 megawatts. This is not the complete pie of solar that we will ever eat. This is just a good start. There's no time to waste in transitioning from fossil fuels. Austin cannot solve this problem by itself, but we can reduce our impact, and we can act as a positive example for others. I urge you to vote in support. Thank you.

[Applause]

>> Mayor Adler: And then dale Bula will be next at this podium.

>> I thank [inaudible] For my presentation, they'll be fine in there. And I have few slides if you could bring those up. I want to share a couple of facts that I put together over the last 12 months that we've been working on this solar plan, and I wanted to share it with you because I think it's relevant for your decision making. If we approach 600 megawatts of solar at a price that we're seeing, that will be 20 to 25% below our current average total cost of generation. If you do that, your cost of total generation will go down. So this is affordable. Next, please. It's more than affordable. Austin energy calls it affordable about generating it and selling it, and what I'm showing you here is that we will save 40 to \$60 million a year on top of that because we will be using our gas plants less when the sun is shining, and we're going to take this power from these plants.

[9:36:14 PM]

It's based on Austin energy's own information. We've worked on hard to get, they're actually losing money on their gas plants. So if we lose less, we'll two actually save money, 40 to \$60 million a year, on top of the Numbers they're sharing with you. Next, please. The sunshines when the summer is the hottest. When we use ac, it produces on peak. It's the most valuable resource that we can have. It will help us meet peak. It will help us prevent that we have to pay really high prices because we'll be able to generate when the market is really high so it's an excellent resource to have. Next, please. There's no risk associated with signing a purchase power agreement. There's no risk for environment regulation compliant costs, no fluctuation of fuel costs, no surprise maintenance costs, no hedging for fuel costs needed. You know exactly

what you're paying for, and is guaranteed for a long period of time. That's hedging strategy, and it's nice to have. Next, please. 600 megawatts of solar reduces green gas emissions. If you look at the actions you can take to lower our emissions in the city, this is the easiest one you can make. It's the impactful one and the most economical decision in front of you. If you want to change a million cars to vehicle electric, talk to vehicle owners, you own Austin energy, we own Austin energy, it's the easiest to implement as well. We talk about 600 megawatts of solar as a lot. It's a lot of power, a lot of energy, but it's not the end. If we take our net zero climate goal seriously, this is just a slice of the pie. If the prices are right that we see now and it's really on sale, then it's a good step to take. It will not be our last step.

[9:38:15 PM]

So when you think about going slow, you know you have to catch up later. Next, please. 600 megawatts of solar is timely. We expect the EPA to lead to additional 1500 megawatts. There's a merge selling to the market. They think they can make money that way. Next, please.

>> Mayor Adler: Okay. You can go ahead and wrap up.

>> Yes. Next, please. Okay. And the last one, what I'm asking you to do tonight -- next, please -- is request council action, authorization of Austin energy to negotiate contracts for 600 megawatts of solar so you can make a decision on October 1st and hope that you do that tonight.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Dale Buehler, then Thad Crouch is at the podium here. Mr. Buehler.

>> Good evening, mayor and council. My name is Dale Bula. I'm a strong supporter of clean and affordable energy for our publicly owned electric utility. As you read in the media, Austin is close to signing the cheapest solar deal ever seen and we look to you to make the choices to protect our city's future in the generations to come. The city has been a leader in energy in the past, but others are now surpassing us to give a few examples, Aspen, Colorado will be 100 percent renewable by the end of this year, Copenhagen by 2025, San Francisco by 2035, San Jose, California, by 2022. Georgetown by next year. Lapaz, Mexico by the end of this year. Kodiak, Alaska, huge fossil fuel state, is 98% of today. It was the state in the union to commit to a hundred percent by 2045, and 42 of the 50 largest U.S. cities now have solar power that's cheaper than electricity from the grid.

[9:40:18 PM]

Businesses are also moving forward with green power, such as Apple, IKEA, Intel, Kohl's department stores, and many others. They're not doing it for the planet, they're doing it because it saves shareholders money. Our city is on record committing to electric utility to be zero carbon by 2030, so any investment in fossil fuel generation at this point would actually derail that commitment of multibillion-dollar fossil fuel investment cannot be paid off in just 15 years. We need to move toward cheap, clean, affordable solar power by purchasing at least 600 megawatts while these tax credits are in effect. So we are at the time of change to a more sustainable world in Austin and Austin must continue to play a major role. We hope you will expand

the efforts of the past and move us forward because I have a dream that one day all of our energy will be clean, affordable, and abundant. Our water and air will be clean, and the future of our children will be filled with optimism. We need you to support this matter now, no matter how you look at it, it's a win all the way around. So let's do 600 megawatts before we run out of capacity on our lines. Other utilities are going to use that capacity if we don't. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Richard Halpin at this next podium, sir.

>> My name is Thad Crouch. I'm respect life ministry coordinator at the Catholic church. I have two Catholic concerns. I really want to acknowledge the city for its commitment to sustainability, for the zero waste initiative, for working to create partnership with the Rocky Mountain Institute, and for the mayor's climate protection center. So I already know you share our concern for the environment. We Catholics call it care for creation. We believe that we have an obligation to future generations, so more than the turtles that I love in Barton Creek, I'm concerned that the great grandchildren of Texas have water.

[9:42:30 PM]

And that said, it's my understanding that an average frac uses seven million gallons of water to push out some methane, that if any escapes, it exacerbates climate change multiple times more than the same amount of carbon dioxide, which it will create if it's burned. You know, there's many things we don't do anymore in Austin. We don't sell unleaded gasoline. We don't use things -- we know better, we have alternatives and we can do better. My second concern is for the life and dignity of all human persons, and I've seen the city share that concern by having fair trade uniform for city employees, and that's fantastic. Catholic relief services is already seeing now people in Africa unable to grow their crops. Climate scientists are predicting hellish conditions that could displace and kill hundreds of millions of people. Climate change is where our concern for the planet and the lives now living and the generations yet unborn intersect. It's the greatest opportunity in history for humanity to really understand what Dr. King said about our inescapable mutual destiny, and to work together in ways we never have before. So as you move forward on energy issues, please consider your own values for creation, life, and dignity. Think of the world's grace -- great grandchildren. All of these lives are priceless.

[9:44:31 PM]

Unlike solar panels, they're priceless now and they will always remain at the same level of pricelessness. Do what you know to be better for the common good. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Paul Robbins, you'll be at this microphone. Mr. Halpin.

>> Hello, fellow Austin residents, mayor, councilmembers, and city staff. My name is Richard Halpin. I'm part of a faith-based community working on affordability and climate survival issues. I visit with you tonight to speak about this historic moment of responsibility, that is, choices with profound consequences. One of those responsibility choices you will make is to authorize

a major affordability break through for our community, through the purchase of cheaper, smarter, and cleaner energy generation opportunity. You, we, are being offered a applies for solar power never seen before, mayor. In a March 2014 states man article, which I think has been distributed to you, there is this quote: I think they're willing to take a haircut on price to have that steady income coming from us. He said prices probably won't fall much further in the near future, partly because federal subsidies are scheduled to become less generous in 2016. We've been told that we have a choice to purchase a healthy, clean power at 3.8 cents a kilowatt hour. It is a good time -- is it a good time to buy solar? Warren buffet, the article of Omaha is investing tens of billions in solar. Our Austin energy folks have attracted spectacular bids. While you have the bids, say yes. Create affordability and breathability. Thank you, sponsor and co-sponsors, for this item 77 resolution. The burning of fossil fuels is a practice whose time as come.

[9:46:34 PM]

It continues to poison us and we can only work very hard to bring this ongoing environmental catastrophe to an end. Health effects are irrefutably coming to the forefront. Central Texas and other parts of the state are showing dramatic coincidental increases in allergies, autism, diseases in children, and the elderly, coincidental increases in large Numbers to industrial pollution from power plants and other environmental fossil fuels burning -- burning poisoners. Item 77 is a legacy choice. I've known at least four of you on the council for decades. The rest of you councilmembers and mayor are new. And I've just had the pleasure to meet you over your campaigns and affordability climate survival issues like this one. It is clear that you are people of integrity and intelligence, and compassion. I know that you will look not only at the purchase, the financial cost of potential rate relief, but also the exponential health costs. Replacing potential toxicity at this scale is historic. The full cost of things is one evaluation of what makes a good choice into a profound decision. As a year-long member of the low-income task force consumer advocacy, I've learned tens of thousands of austinities are unable or desperately struggling to pay their utility bill.

>> Mayor Adler: Thank you.

>> Buying clean, smart energy is a step in comprehensive relief our rate payers must have. You can have affordability promises come through.

>> Mayor Adler: Thank you.

>> I'm sorry, a question.

>> Mayor Adler: Mr. Zimmerman Mr. Zimmerma N.

>> Zimmerman: I believe we met in bible study at the late great speaker Clayton's office at Westgate.

>> Yes, we did.

>> Zimmerman: I'm a man of faith myself, as you are. Unfortunately, in this case, I know you're passionate about this, but if you believe your faith supports solar, my math, engineering, and science does not, so I'm going to be voting against this, with all due respect.

[9:48:43 PM]

>> That's very unfortunate.

>> Mayor Adler: The next we'll be right back we have is Paul Robbins at this dais, and, Karen, you'll be at the next podium.

>> Do you want to let the proponents all speak at once?

>> Mayor Adler: No, no. Go ahead.

>> Council, I am really torn because I have been a proponent of solar since I began this life of crime in 1977, and I am partially responsible for the city being 90% green choice. I was in the lead for many, many things, but I am here being neutral because I guess I'm a little offended that this issue is being distilled to something that is black and white, and so I'm going to ask you, all of you, to consider eight things when you think about the 600 megawatts of solar. And I know this is just for a study, but consider these items.

One: Will this stop a gas plant? Because people have been led here tonight saying this is for or against a gas plant. It is not. We're talking about solar.

Two: Will solar come down in price? I have a story here that it is a forward-looking statement but it is a credible source that says solar is going to come down about 30% in the next five years. Third, will the tax credits be renewed? They've been renewed for wind eight times since 1992.

[9:50:45 PM]

Four: Will other utilities like Georgetown, that have large amounts of power -- well, shall I say -- can a city like Georgetown which has large amounts of power be compared to Austin since Georgetown has not generated power since 1945?

Five: Can Austin use the savings from a solar purchase several years from now to buy storage because we're going to need it with all the wind being put on the system. There is a company trying to get Austin to be a partner in storage. Maybe we should consider that.

Six: Is it possible that this purchase might affect Austin's stature with the clean power plant?

Seven: Is this going to cause Austin any more expense with backup or reserve power, and if so, how much? Maybe we should do it, but we need to know the full cost. That -- that's going to conclude my remarks. Again, I feel very torn about being here tonight, but I just gave my time.

>> Mayor Adler: Thank you. Drana at this podium.

>> Good evening, mayor and council. I strongly support the resolution in front of you tonight, and I thank all of you that are sponsors and that have worked so hard on this issue. I think it's a great step forward. I'm the vice chair of the electric utility commission. I'm speaking tonight as an individual. I want you to know that we had a special called meeting of the electric utility commission on August 3rd, and we passed a resolution that's very similar to what you're doing tonight, and what you're looking at.

[9:52:56 PM]

On August 17th, we followed up. We had a working group, four of us, I was on that working group, and we spent a lot of time diving into the questions. Paul Robbins raised some good questions. They're valid points. We looked at a lot of those questions. We looked at what we think is going to happen in terms of prices. And it's hard to know the best route. We're looking

ahead. But in my own opinion, I think that we're looking at a huge opportunity right now with the investment tax credit. It's a 30% tax credit, and it's going to go away at the end of 2016, and I think we should take advantage of it just in the same way that we would take advantage of a great sale. Let's go for it. Let's do it. Let's get on it. CEO Larry Weiss told us with our last purchase at 4.8 cents a kilowatt hour, that the price was good enough that our bills might come down slightly. I think what we're talking about now at four cents instead of 4.8, that we stand an extended opportunity to potentially lower bills, and I think we should go for it. I think it's in our best interest as a city. I want you to know that del valle independent school district voted on Tuesday night a resolution that you have received by e-mail in support of 600 megawatts of solar. They raised concerns about pollution issues in their community. They support clean energy because it's better for health, and they have students out there with asthma rates twice that of the surrounding region. So they are supporting clean energy. Austin should be a leader, not a follower. We've historically been a leader. I think we should resume that role. We are not at the leading edge anymore. Many other cities are moving ahead of us. We need to do our part to deal with global warming, our share. We can't afford things happening, the intensified climate effects of things like the flooding in dove springs that cost Travis county 14-4 million and also loss of lives and loss of homes.

[9:55:05 PM]

We should do everything in our power to deal with global warming, which is truly in effect global, and affecting people around our planet. Thank you and I hope you move strong -- forward in a strong manner and do not weaken the resolution. Thank you.

[Applause]

>> Mayor Adler: Bob murry will be at this podium. You have two minutes.

>> Thank you, and I would like to thank all the councilmembers for continuing to listen to your constituents in regards to the opportunity presented to our city's energy future. I'm here on behalf of native local energy company and specifically a constituent of councilmember Pio. The resolution I offer is a unique environmental and economic opportunity. I've lived in southeast Austin district 3 since I moved here in 2013 and thanks to the Austin city council and keeping Austin weird that year, we became the first city in the U.S. To establish a value of solar tariff. It's a program set up to more fairly reward solar system homeowners for the energy they produce. In the developing corridor of east Riverside where I live, the debate of economic growth versus affordability continues to concern every native homeowner and renter. I received my energy bill yesterday, and in total over the past three months of summer, we paid over \$600, simply surviving 103-degree solar-ready weather. The question -- the question of solar in the investment for affordability can better be compared to nothing. There's nothing our city can invest in that will reduce the cost of energy for the constituents than the first thing they signed for solar.

[9:57:07 PM]

We will continue to protect our municipality powered grid in harnessing free energy. 600 megawatts is the tip of the iceberg in a market where prices are projected to decrease, but we

will sustain a profitable future for both the consumer and energy supplier. If we choose the future now, let our city not be a victim of climate change, but one that leads the U.S., as we did in 2013, to establish long-term sustainability that puts money back in everyone's pocket. Thank you.

>> Mayor Adler: Thank you.

[Applause] Scott Burden will be at this podium.

>> Say it again?

>> Mayor Adler: Scott Burden will come to that podium. Mr. Murry, you have three minutes.

>> Councilmembers, my name is Bob Murry. I have a couple of degrees in engineering at a university so I can speak very clearly to councilmember Zimmerman and I would like to do that. He's also an economist and I've had a chance to learn a little bit about that along the way. I was a consultant in the energy industry in the Pacific Northwest during some very exciting times and as a result was asked to head the utility. So I was a general manager of Seattle City Lights at that time, larger than Austin Energy. Not anymore. But I had a chance to learn what it's like to deal with a council. We also had a city council as the board of directors so I'm really addressing you as the board of directors of our municipal utility. On this issue, the numbers are clean. You've seen them. That part is a slam dunk. We actually would make money on this 600 megawatts of solar, so that's straightforward. What may not be straightforward to you is, you think maybe that's going to mess up our deliberations about a gas plant, about changing our fossil fuel fleet. It does not, because the grid, which is possibly the finest example of a free market system that we know, we actually can separate the decisions, and so anything we do with a 600 megawatts of solar will not change in any way what we do with respect to the fossil fuel fleet closer to home.

[9:59:23 PM]

So I can relieve you of that concern, and I will also say that there is a time factor on the 600 megawatts of solar. There is no hurry on the combined cycle gas plant. We do have a real hurry on the solar plant. So I ask you to move forward, with great, decisive action, and follow through. There are people in Austin Energy that probably would just as soon wait as long as they can and hope that this thing will go away. You cannot let that happen. That would be a decision about another decision. So that would be the role of a board of directors, which you are. The board of directors decides and you direct the staff to execute. That's the way it's supposed to work, but sometimes here it's gotten a little backwards. So I would like to see you act decisively and I would also like to see you immediately after, then get to work on the new business model so we can begin to run this as a business. And I think we would agree on that, that this has not always been run as a business and it really needs to be that. We need to have a business model you can pull out of the file, lay on the table, there it is. It's not understood, it's not interpreted differently by different people. There is one business model for this utility. It's the most important of the city. We need to act like it is. And if we do I think the legislature will let us keep running it. But if we don't run it as a business I'm awfully afraid that they may not might not be willing to go along. Thank you very much.

[Applause].

>> Mayor Adler: Thank you.

>> I'd like to yield some of my time to Frances McEntire of the league of women voters.
>> Hi. Thanks for the opportunity to speak. The Austin league of women voters enthusiastically supports the resolution contracting for 600 megawatts of solar energy and we urge you to order the study post haste.

[10:01:31 PM]

Thank you.

[Applause].

>> My name is Scott Burton, vice-president of solar Austin. And I wanted to share some context with you about about this solar decision. I've gotten here an example of the situation that Austin is in in terms of being able to tap in to the amazing solar resource that our places around the country do not have the opportunity to have such a rich resource. It's located to the west of Austin, which is an advantage in and of itself. But even though we have this opportunity we haven't made the most of the opportunity today. Here's June of 2015, U.S. Solar generation by state. It's New Jersey, number five. Texas does half of new Jersey. New Jersey on the prior map is very blue in color. They do not have the asset that we have. We have a tremendous opportunity to take advantage of this and so far we haven't done it. So here we are making a decision that can impact this kind of graph. As we're here at this moment in time we don't have five cents, I've learned we have not just four cents, we have the opportunity to get less than four cents for this energy. For a fixed price for more than 20 years. And this is only possible because there's a whole series of things that are coming together right at this rfp, which has driven the price of this purchase down to what was a world record low, the lowest price for solar for any large solar bid anywhere in the world and that's Austin. Why is that? First of all, 30% of the expense is taken care of by the feds from the investment tax credit that is going away at the end of 2016 but you have to get started now.

[10:03:33 PM]

If you don't get started on your project by November or December, you're not going to have any product to install come October of next year. We also get 20% discount under the ppa structure from the accelerated depreciation, the net present value of the multi-year accelerated depreciation is worth about 20% of the cost. It's only available from a ppa structure if a non-tax paying entity builds it itself they don't have that opportunity. There's 50% of the cost. If we delay the cost will immediately rise by 20% over a few months time when they can no longer complete it by December 2016. Right now there are very low interest rates.

[Buzzer sounds] They almost rose this morning. And six other factors that are unique that all come together to make the answer as to why we have the opportunity to have the lowest price solar of anyone in the world.

>> Mayor Adler: Thank you.

>> Zimmerman: Mr. Mayor, I would like to make a motion that we extend our meeting by 10:00 P.M.

>> Mayor Adler: It's been moved that we extend past past '10, seconded by Ms. Garza. Those in favor raise your hand.

>> No.

[Laughter]

>> Mayor Adler: Those opposed? I see it being unanimous on the dais. Ms. Tovo off.

>> Gallo: We have lots of painful votes, but that is truly one of the most painful we have to make.

>> Mayor Adler: Ms. Pool off the dais.

>> Pool: I'm right here.

>> The pain extends out here too.

>> Mayor Adler: The next speaker we have is Ann Clarke. Three more. You have a minute and a half. David foster, a minute and a half at the other podium.

>> Thank you. Hello, my name is a Annie Clarke and I'm speaking on behalf of environment Texas. First I really want to thank the city council for allowing constituents voices to be heard on this incredibly important issue.

[10:05:40 PM]

I'm here today in strong support of resolution 77 and with the purchase of 600 megawatts of solar energy. Austin is facing a tremendous opportunity. We can take advantage of the historically low cost solar proposals that we have received, lock in affordable prices and pass those savings to energy rate payers and we can accomplish all of this while simultaneously cutting harmful emissions that cause pollution and accelerate climate change. Last year Austin passed a plan that said Austin energy will purchase up to 600 megawatts of solar by 2015 if it's affordable and available. After receiving proposals for more than -- for 8,000 megawatts of solar at historically competitive prices it's clearly effort that 600 magazine Watts is currently affordable and available. When being environmentally responsible and economically responsible coincides to purposefully -- so perfectly we must act immediately. Right now we can sign a smart solar contract that will benefit our utility, our rate payers, our public health and our future. If we wait like

[indiscernible] Said earlier, who knows how long before we will see a solar deal as good as those that we have already received. Thus I urge you to act now and take full advantage of this tremendous opportunity.

[Buzzer sounds]

>> Mayor Adler: Mr. Foster, you also have a minute and a half and then jerry lock closes at this podium with one minute.

>> Thank you, mayor and councilmembers. My name is David foster here to speak on behalf of clean water action in support of this resolution. I want to mention very quickly the importance of this decision to water. We know that solar doesn't use any water to produce energy. I want to spend a quick minute talking a bit more about the decision that I will human gnat made signing a contract for 115 megawatts with sun Edison about 10 days ago.

[10:07:42 PM]

It is the same entity that about a dozen years ago wanted to build 11 new coal burning power plants in Texas. They get about 70% of their energy from coal. They're not doing this because

they care about the climate as we do or water conservation or pollution or the health impacts. They're doing this strictly from an economic point of view. And when they invest in solar on that scale that means they believe that solar can do tow to tow with other sources of electrical generation. That's a break through moment in my opinion. Another point I want to make quickly is whatever Austin energy comes back with in the way of options for you on October the 1st that you put yourself in a position to act quickly so we don't lose the opportunity that this federal tax credit provides. So I hope that you're able to vote perhaps as early as October 1st. If not as soon after that as you can so we can get this 30% discount before we lose that opportunity. Finally I would suggest that whatever options Austin energy does bring, and I have full confidence that they'll bring you good options, that you not necessarily view them as mutually exclusive.

[Buzzer sounds] I'll say more about that later when the decision comes. I thank you for your work.

>> Mayor Adler: Thank you.

>> Mayor Adler: One minute, Mr. Locke.

>> Sure. For me this is really personal. It's about the future of my granddaughters. They're four and one. If you look at the science that's been released just recently, it's really dire and they're going to live in something, a horror by the time they're 20. That's likely. I think at this point. Wind scientists are telling us there will be a methane burp that's 1.5 times total yearly emissions, 1.5 times total yearly emissions. That seems to be in the cards. I'm not sure we can head that off.

[10:09:45 PM]

So it's really imperative that we do everything that we can do in this city, our part of the problem, and that means urgent action. I've heard that this might be put off until 2025 or -- from now to 2025.

[Buzzer sounds] That isn't visible.

-- Advisable. Thank you.

>> Mayor Adler: Thank you, sir.

[Applause].

>> Mayor Adler: We're now back up to the dais, the resolution number 77 came to us from the Austin energy committee. Is there a motion to approve item number 77? Ms. Tovo does. Is there a second? Ms. Garza?

>> Garza: I was --

>> Tovo: Councilmember Garza was the lead sponsor.

>> Mayor Adler: Ms. Garza makes the motion. Ms. Tovo seconds. Any discussion?

>> Garza: Yeah. I want to make sure that we're capturing the intent of what every speaker but one asked for, and that is that there is an actionable item, not just a briefing, on October 1st, an actionable item for this council to vote on. Again, this is just moving this along in the process. There's been extensive stakeholders involvement in this from the gen plan from the recommendations from the iuc, and as the gentleman stated, we're a board of directors up here and we need to be responsive to our stakeholders, which are the people that came and voiced their concerns about getting us to this solar goal. There's concerns about the

affordability factor and my understanding is the rfp that came back, the bids we did in June, the bids came in about 20% lower than the previous solar purchase that we made which was revered then as an incredible price then, and these are lower.

[10:11:55 PM]

Now now my understanding is the average cost of generating for our overall portfolio is about \$48 a megawatt hour, and the recent responses for the solar rfp are below \$40 per megawatt hour and that was I believe in a presentation that Austin energy gave us. So I just want it to be clear that the intent is an actionable item moving this along at that time on October 1st, we can make the decision if we should go forward with that 600, but I believe we heard loud and clear what the community and advocates are asking for with this item. So I would urge approval from my colleagues.

[Applause].

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

>> Pool: Thanks, mayor. And I just want to say to all the advocates who -- and frankly the huge part of the Austin community for all the work and the effort that has gone in to bring us to this place, including the climate protection plan that we passed earlier this year and the goals that were set by previous councils with the good input and work of folks who are largely volunteering on this issue in the community. This is an easy, easy vote for me. It is so clear that this is the proper course to go, just simply looking at the economics, I appreciate the kind words of the gentleman sitting here next to

[indiscernible] Meyer. It was pretty clear to me that the assessment that he was bringing from his professional background was pretty clear, it was a clear call for us to continue to move forward with speed and I agree that we are expecting an actionable item from Austin energy for us to vote on on October 1st for an additional 600 megawatts of solar energy.

[10:14:06 PM]

Thanks.

[Applause].

>> Mayor Adler: Ms. Tovo?

>> Tovo: I concur and I agree and I just want to thank councilmember Garza and the other sponsors for ought hard work on this, but especially councilmember Garza for taking the lead. I'd like to confirm with our Austin energy staff that they regard this as direction to bring forward an actionable plan, something we could actually take a vote on.

>> I'm Sheryl mealy, chief operating officer of Austin energy. As I read the resolution before us it says to bring back a plan by October 1st. It really looks like it's adopt a policy goal or bring back a plan. So we were anticipating bringing back our recommendations to you on options that you could take and how we would view those differences, if you will. Our current course of action as we discussed last month was to bring back an item for you to consider later this month to look at a 200 to 275-megawatt purchase on rca of solar. I think you're asking will we bring you back an rca, is that what you're expecting on October 1st from this resolution? And if so I think the language would need to be cleared up. This current resolution is directing us to

bring back information to you that tells you the risks and the differences between the two directions. And actionable plan perhaps, but if you're expecting an rca that wouldn't be what I would see written in the resolution.

>> Mayor Adler: You're going to bring back as I understand it multiple options. You will bring back something that shows us 250, 300-megawatt purchase now and a plan that shows a 600-megawatt purchase now. And then potentially also a 250, 300-megawatt purchase now with a build of 300-megawatts in another year or two.

[10:16:15 PM]

>> Right. So we would bring back a -- the scenarios you just laid out for comparison.

>> Mayor Adler: Neither one of those would be 600 in the real short-term future. They would both be 600 megawatts in the short-term future?

>> Yes, we would bring it back for the goal of the 600 megawatts in the short-term future.

>> Mayor Adler: I want to make sure whatever you bring back to us if the decision is made to go and do 600 megawatts now that there will be time for us able to to do that. That we won't have missed the opportunity because of the timing of what we're doing.

[Applause].

>> The expectation is that we would bring something back, yes. We believe that we still have options that we could bring back 600 megawatts in.

>> Mayor Adler: So we could execute it if that's what the decision of the council was.

>> If that's the direction of the council, that's right, we would hope we would first look at the risks and the differences between taking action now and what the true cost of that is to the customers in the short-term because while I think that we have gotten outstanding pricing, I think that we're all aware of that and we're all happy with that. It's also significantly lower than the last batch and we do think prices will continue to decline, but it's not for a reduced cost. There will be a cost to our customers above the current cost.

>> Mayor Adler: I understand you're going to present that to us and we're going to need time to be able to consider that. I just want to make sure that the timing we've set up after the presentation should the council decide to go ahead and make the 600-megawatt purchase that there will be sufficient time in October for us to execute that plan.

>> Absolutely. That is the intent is to bring back something that still gives you time to pick which direction is best to take at this time.

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

>> Pool: I just need a little bit of clarity because the first thing that she said was that the plan that was coming back not in fact six hundred megawatts and it was only after your prompting that she said that.

[10:18:24 PM]

And so I'm a little concerned that in fact that is not what we'll see.

>> I was talking about what we've already presented to the resource management commission this week, which was an rca for council consideration to purchase between two hundred and 275 megawatts. So I wanted to make sure that we understood that that's what's on course now

and we will be providing the additional optionality of the six hundred.

>> Pool: There's been real interest and direction from the dais in the six hundred. So I look forward to seeing the actual plan.

>> We understand.

>> Pool: For six hundred megawatts on October 1st. I would also ask further will the documentation be provided in our backup the Friday before the Thursday meeting, which is the Normal process for the submission of all of the documentation that we get for our agenda.

>> You're speaking to the 1st? Let's talk a little bit about the timing. That would be next Friday, if I'm following your question.

>> Pool: Which is correct. That's when we generally from all the other departments, when we have agenda items, we get substantial backup by 3:00 in the afternoon for posting for the public to see as well. And given the high level of interest in looking at the document, I would hope that we would have the weekend and a few days as well to look through the document and be prepared for Thursday? Because this won't be the only thing on the agenda. There will be a lot of other things and we may not be able to spend a protracted period of time for a long briefing, which we may want to have personally in our offices, we may be able to set up those kinds of meetings but if it's part of our agenda we might not have time for a long briefing.

>> And we confirm that we can have a lot of the background I think that if we wanted to say we have an rca in route that says one thing and if we wanted to have a draft one that kind of indicated to you the additional cost type things for the full six hundred, that level of information will certainly be available in the backup options.

[10:20:40 PM]

I don't see a problem with that. But whether we would have our complete written recommendation, it might not be ready at that time, but I think we would be ready to have some conversation, but Khalil will add anything that I think is relevant.

>> Staff is working quite hard on getting everything --
[indiscernible].

>> Mayor Adler: Excuse me.

>> We'll try to get you as much as possible, the backup that we can for both plans that we're going to bring forward.

>> It just won't be final and complete by next Friday, I'm sure.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I heard you saying that there's going to be an increase in rates. Can we go into this deal with the 600? Are y'all going to come back with how much it's going to cost? I have a lot of concerns about how much we're already paying for our rates and they're pretty high. And I don't want to get into another deal where we're going to be hurting our rate payers. So I have concerns when we try to rush something through without having a complete study done and made a complete presentation. And this happens and if you come back a forth with a report that's not complete I will not be able to support that. I hope that we can work it out so the staff will have enough time to give us a complete true cost study of how is it going to affect us and our rate payers.

>> Yes, that piece of action

[indiscernible] Based on the responses we've got we will be able to very easily provide that piece of information. I think that the challenge was coming up with the options and how it might look different if we approached it from a different method. That is a little more detailed work.

>> Mayor Adler: I'm hoping that you will be able to give us and the community both of those so that we have the comparison.

[10:22:41 PM]

And my understanding is that both of the proposals you will give us will be 600-megawatt proposals. And I think it would be helpful to know what the costs were and the comparisons were of both those plans. I'm less concerned about having something that we can vote on on October 1st than I am in having the information to make a reasoned and thoughtful decision, but on a timing that will allow us to execute six hundred megawatts before we lose the rebates if that's the way that council decides to go. And my understanding is that you understand that and that's the timing that you indicate you're going to be able to meet.

>> That's right.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Zimmerman: Thank you. Thank you, Mr. Mayor. So I'm going to be voting against this. I expect that I'll lose the vote, but ironically I think this is going to help me keep a campaign promise I made to breakup Austin energy. We've had -- honestly I don't think this solar deal is going to be nearly as catastrophic as the bio mass plant which looks like it's going to cost us about a billion dollars for absolutely nothing. And I don't think this solar deal is as bad as the sale of our nuclear production. We sold off our nuclear energy production capacity. So those two deals together were a lot more catastrophic than this current solar deal that I'm convinced this is going to drive Austin energy in the direction of being unsustainable and unaffordable and the Texas legislature is going to step in, as somebody pointed out, and they're going to break up the party. So I think I'm going to come out ahead no matter what the vote is.

>> I would like to clarify we do still own our young clear interest. What we did do was pass on capacity several years ago.

>> Zimmerman: We should have bought that extra capacity because we're really suffering from not getting that.

[10:24:44 PM]

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

>> Kitchen: A quick question. I think I'm understanding what will be coming back to us. I wanted to ask a question because you mentioned at the beginning that you would not be bringing back an rca. So I just want to understand the difference in the information that will be coming back to us. I understand -- in your mind what is the difference between bringing us back an rca and the information that we've just talked about?

>> I think what -- just looking at the resolution is that you want a plan. That's why if on the 1st we want something that's actionable and can be voted on and then we would go negotiate a contract, that would look more to me like an rca, not a plan. So we can combine the two and I

think that's what the mayor was clarifying, the optionality if we want to begin the direction on October 1st and not lose out on the opportunity for the responses that we've already received, that is something that Khalil's team can certainly do. We can have that there as something that you could look at the total cost.

>> Mayor Adler: Okay. No further debate we'll go ahead and vote on this. Those in favor of the resolution 77 please raise your hand. Those opposed? It passes 10-1. Mr. Zimmerman voting no. Thank you very much.

[Applause]. I'm now going to call item number 86, the mega bus issue.

>> Tovo: While that issue is coming up, I appreciate the opportunity to lay out my amendments. It's clear the hour is growing late and we have some big issues ahead of us if we tackle the rest of my short-term rental amendments and I would propose unless my colleagues disagree I'm happy to postpone those unless our next council meeting if that's the will of the group. I'm not addressing the occupancy issue because that came forward as part of councilmember Gallo's and that may be something given our discussion earlier that we could resolve here tonight.

[10:26:45 PM]

But again, I'm going to propose that the rest of the items on my motion sheet we take up at our next meeting. If the rest of the council is agreeable.

>> Mayor Adler: Okay. Ms. Tovo proposes to postpone to the next council meeting the balance of her str proposals. If there's no objection then we'll just go ahead and do that. So while do that, Ms. Tovo. Let's go to the mega bus issue. Do we have staff here? In the back? So this is item number 86. We have 13 people signed up to speak. Eric Goff is the first speaker.

>> Good evening, mayor, mayor pro tem, council. My name is Eric Goff, which is not just 2014 grassroots in Austin, but 2015 as well.

>> Mayor Adler: Before you start, is jelly Blanton here?

>> I don't need the extra time.

>> Mayor Adler: Three minutes.

>> We support mega bus and therefore oppose the appeal before you tonight. Mega bus provides great intercity connection options for austinites, especially students, and it's important that the station therefore be in central Austin near downtown, near campus. I personally use mega bus frequently.

[10:28:47 PM]

My boss is in Houston, Texas and I'm in Austin, Texas, and so I have to go visit him on a regular basis. My preferred way to do that is mega bus. I can get on the bus, work on their wi-fi and do it cheaper than a car. It actually costs me more to get a taxi from the bus station to the office than it does to get to Houston in the first place. We think that the -- in particular one of the things to focus on is the hours that mega bus is allowed to operate. It's important that someone who wants to get to another city in Texas can get there early in the morning so they can have a full day in their destination and it's just as important that they can arrive back in Austin late at night so they can have a full day in the city that they went to to travel for pleasure or for business. So we want to make sure that there are a wide variety of hours and there aren't

increased restrictions on the use of this important civic resource that requires no public subsidy. Thank you so much.

>> Mayor Adler: Thank you. The next speaker would be Libby burnheart. As she is coming to the microphone, with respect to the postponement, mayor pro tem tovo, the postponement, it's my understanding, and it will be my interpretation that we have had public debate on those issues and when they come back up, postponed next week, we won't be reopening public debate on the str. So if people want that handled differently, they're going to have to raise that issue. But in the default scenario will be we'll pick up on those issues that we had been discussing here. So the next speaker is Libby burnheart. Is Gary burnheart here? All right. You have six minutes.

>> Thank you, mayor, councilmembers. You have expanded my world or today listening to all your concerns.

[10:30:49 PM]

But I hope after all this you can focus on mine. My name is Libby burnheart and I filed the appeal on mega bus's conditional use permit passed last June. It passed around three A.M. With conditions added at the last minute that changed staff's position from not recommended to neutral. I was stunned. The business was really coming and I had not questioned the hours of operation, the six A.M. To midnight. So I appealed. My other concerns about parking in our lot and loitering got stronger as I studied its complaints of the neighbors of the Whiteis site, the other site of the mega bus. So I've come up to amendments to four of the conditions. Are y'all looking at your backup file for this agenda? That has the staff's -- you are. The summary -- the 16 listed conditions. On the first one I'd like to add. The facility will be staffed during operational hours with licensed security personnel who will secure their sight and the adjacent property to prevent loitering and prevent illegal parking. This is done at Whiteis with off duty Travis county deputies right now. It's part of the conditional use permit there. The other condition I would like you to amend is number three, there's wording about signage in our area, but I would like to add if loitering and illegal parking still occur mega bus will help neighbor install a fence or gate or both.

[10:33:05 PM]

The third condition I would really like you all, I really need your ability to decide things, study, is that the hours of operation are six A.M. To midnight. The staff report that was presented for that planning commission night actually had it right there the hours of operation will -- could be an item of interest at this meeting. And I completely like an idiot never brought it up. However, I've studied since I made this appeal that the hours at Whiteis are somewhat ambiguous. The cop there says it's to coincide with dobie mall and it says seven to midnight. But dobie mall says they're open to the public from 8:00 to 11:00. And for the last two Summers whatever the hour actually was, there's been a bus that leaves Austin at 12 H 20 in the morning. Let's not do that here. I would like to see -- right now on their website the first bus is 8:15 in Austin. We're lucky because they're coming either from Dallas or from San Antone so our time is sort of in the middle and the last bus except one comes in at 10:20. And there's one that leaves at 11:40 at

night. Maybe that replaces the one that was at 12:20 in the morning the last couple of years. And the neat thing is it looks like they already carved out the four to six, which is one of the conditions they agreed to.

[10:35:05 PM]

So that's good. For us peace and quiet and location was really all we had to offer at our little old place and now that part is going to be gone. It's going to be a huge change from 9:00 to 5:00. I would like you to think of us if you can come up with something way better than -- least a minimum of eight hours. And you need to consider that buses run -- they get delayed, they run late. So I've asked for eight A.M. To 10:30 I think is nine and a half and if there was an hour delay that puts us back closer to 8:00 and that's a lot less than what we have now, but I think we could do this. And as long as it doesn't -- okay, I'm going to run out of time. Anyway, lastly is the number 16, the one that was added from the days when I just stood there and said how are these conditions going to be -- how do we know they're going to be done and they told me, well, just call code. And I called 311 and I thought this is not a good solution. But if you were to include us, the other interested parties, with mega bus in the annual review, maybe code wouldn't have to be called. Maybe mega bus would just do its best. It looks like it's trying, headed that way. And I could come back and say we're a great neighbor.

[Buzzer sounds] Anyway, I really -- that's what I'm hoping. Thank you.

>> Mayor Adler: Thank you. Julia Montgomery.

[10:37:08 PM]

Timothy bray.

>> Hi. My name is timothy. I'm also with aura. I'm speaking against this just because I think mega bus is a very vital public service. It is one of the -- a great way to get to other cities, central part of other cities without needing a car, which is critical for many students who don't have cars, working class people, people with disabilities, also people who just want to work like Eric on the bus or want to save gas. It also helps to take cars off of I-35 because people can find another way to go between cities. I would hope that we can not put any -- like unreasonable regulations on this that would hurt the viability of this site or hurt the service that mega bus is able to provide. Not for mega bus's sake, but for the people who use it. I've used it to get to the Houston airport. And the hours of operation I think flexibility is very important for people that use this service, especially if they need -- they're doing something in the day in another city and they need to be in Austin that night, it takes a couple of hours. I think a bus getting in at 11:00 when leaving other cities like Houston at 8:00, is an important option for people to have. Also central location is very important, close to the university, close to transit lines, something that people can then arrive in Austin and then use public transit or have someone be able to pick them up in a central location instead of on the outskirts of town. I understand the neighbors' concerns, but we also need to remember that this is in the center of central Austin and not have quiet suburban neighborhood. And this is a site that's zoned commercial and could be used for a 24-hour diner or some other much -- something much more intrusive to the neighbors. I think this is a great service for the community and I hope that we can keep that in

mind. Thank you.

[10:39:10 PM]

Mayor Adler next speaker is Phillip parker. Then Kathleen Rutledge if you would come to the other podium. Go ahead. You have three minutes.

>> Mr. Mayor and members of the council, my name is Phillip parker and I'm speaking on behalf of the appeal and against the approval of the site. And kind of to defer to something that the mayor said before, how nothing good happens after midnight, well, the decision when the planning commission made this was after four A.M. So I'm not sure how well considered it was at that point. And one of the things that I recall from there, we're not really arguing against the merit of mega bus, but I don't think this is a good location for them. A I think mega bus agrees with that because of the restrictions they've already agreed to. And one issue I don't think has been brought up that was brought up last time, but how many times 15th and San Jacinto is closed down, like a weekend on a football game. And then there's any number of marathons, bicycle ride from Houston, and that's also contemplated by mega bus in an alternative site, which is out on kind of a -- not in the central city. They're at Reagan high school. That at this location they don't have the shelter, they don't have the bathrooms there. And they could be out there a dozen times a year between the football games and the events. Now, given mega bus implicitly recognized this by agreeing not to oppose any street closures in the neighborhood.

[10:41:15 PM]

So it's not so much that arguing about mega bus' service, but it's that I think that particular location will not be conducive to serve the kind of folks -- the folks that use it so that -- one thing that I'm glad on, we were the last thing that the previous planning commission heard, is that they recognized that mega bus had made commitments in the past that they didn't meet. And I think that the requirement that this be reviewed at the end of the term was something not necessarily agreed to by mega bus, but was actually a member of the commission's add to. And at this point, you know, I urge to keep that and as Libby said, we would like to be included in that review. So that we can be part of making a determination to see how good of neighbors everything is. I live there and I do want to -- kind of a personal thing.

[Buzzer sounds] We talk about affordability, but the burnhearts provide a very affordable place for me to live. I don't think I otherwise could live in downtown. Thank you.

>> Mayor Adler: Thank you.

[Applause].

>> Mayor Adler: Is Rebecca mckeifer here. Ms. Rutledge you will have six minutes and Michelle Hausman should move to this podium.

>> I'm Katherine Rutledge and I'm speaking in opposition to the appeal. I do use mega bus. I have ridden mega bus when I've been there in very cold weather waiting for my bus. I've been there in very hot weather. I've been there when it has been pouring down rain.

[10:43:17 PM]

And there is a shelter but the shelter does not do a lot of good when it is crowded with people who are either waiting for their ride to come pick them up or waiting for their bus to come and you may be standing very close to the edge of the shelter. So I very much am in favor of moving the location where there will be an inside waiting. And if I lived in that area, I would much rather have a business going in there than to have a derelict building, which would attract vagrants and vermin, which would definitely not have any respect for their property lines. And I do not approve of changing the hours of operation. It would be very limiting. And when you could catch the bus and when you could get in. And so I think to try to limit it within eight hours is just too much restriction on it. And so I ask that you not approve any restrictions now, any new restrictions on the hours of operation and that you will continue to allow mega bus to move to the new location where there will be protection from the weather and when you're waiting or something and then I use special transit and so that's how I depend on getting me to the location and also to be picked up to take me home from there. And as you probably know, there's 30 minute window with special transit and so that means that even if the bus arrives light on time I may have to wait another 30 minutes. And so I just ask that you not put any further restrictions on what mega bus can do, when they can operate, and that you do continue to allow us to move to the new location. Thank you.

>> Mayor Adler: Thank you, ma'am. Next speaker is Michelle Hausman. Is Keyland Robinson here?

[10:45:23 PM]

Is Lee Boho here? Okay. Thank you. And is [indiscernible]? Is Tammy Begee here? How do you pronounce your last name. You have up to 12 minutes.

>> Thank you. Good evening, Mayor and Council. I'm Michelle Hausman representing Mega Bus and we are here to oppose the appeal that's been filed by Ms. Barnhart. The property itself is in Council District 1. The location is at 15th and San Jacinto, which is the old gas station that used to be owned by the state of Texas. Ms. Barnhart filed her appeal to overturn the planning commission's unanimous approval of the mega bus conditional use permit and mega bus and community organizations and citizens that you're hearing speak today in opposition respectfully request that you deny the appeal. We have community support from the historic preservation office, Steve Sandusky, downtown neighborhood association, downtown transportation and aura, they've all submitted letters in your backup with the details of their support. The community benefits for mega bus being in Austin, and this is the only mega bus site that will be in Austin if this appeal is denied and it continues, it's an affordable low cost inner city transportation, it's a central location and improves affordability for travel to the CBD and to the University of Texas. Quality amenities for affordable price. They do have air conditioning, restrooms on site, central location and wi-fi provided. It is an active use for currently vacant site so it will bring activity to this part of the urban core. The appellate has to prove the burden that the planning commission made a decision that was contrary to the applicable law regulations and what we're asking you to do is uphold the planning commission's unanimous decision, which is to continue to approve the conditional use permit.

[10:47:37 PM]

And in Ms. Barnhart's appeal, the item that she listed, which one of them that she mentioned tonight was the hours of operation and listed that this site had previously been a Monday through Friday, 9:00 to 5:00 business. That was when it was a taco place for a short period of time. Again this was previously owned by the state of Texas, it was auctioned off by the general land office and now it is owned by a private property owner so their uses that could be built on this site that are not Monday through Friday, 9:00 to 5:00 type businesses. And again, the proof is to say that the planning commission did not approve their -- that they made -- what they approved was against applicable law regulations. The surrounding land uses as you will see here, the blue rectangle with the red is the mega bus site, the adjacent site is Ms. Barnhart's property in the Orange, which is a multi-family property. And around it you see the pink and the gray. Those are all state office buildings and parking garages. This is not a single-family area. Again, it's more in the city urban core commercial area. Ms. Barnhart's property, as well as the mega bus is zoned cs commercial services so currently the multi-family building is a nonconforming use. You see the distance between the multi-family structure and where the bus is going to be located. It's 90 feet between the two. The history of this conditional use permit back in June of '14, mega bus went to what they called the Whiteis site where it's operating currently. The planning commission gave them some direction to -- they had to provide restrooms, security on-site, which is mentioned earlier, shaded seating, buffered trees and they heard from the commission that it would be better if they had a site that had restrooms on-site and all these amenities for the riders. Within a few days after that commission decision, which was June 26th of '14, they submitted this conditional use permit to relocate their business.

[10:49:39 PM]

So the last 14 months they've been in this process attempting to honor those planning commission recommendations and move to this new location. The conditions of approval for a conditional use permit, it cannot more adversely affect an adjoining site than a permitted use. The conditions of approval, so the conditions, the 16 conditions that we'll go over in a minute are the conditions that commission approved and then their opinion. Since those conditions were added this does not affect -- adversely affect the adjacent property. And one of those, number five, is including hours of operation. And that measures that the land use commission determines are required for compatibility with surrounding uses of the preservation of public health, waste, welfare. So again here are the 16 conditions. Several were raised tonight about the hours of operation. No buses between 4:00 and 6:00 have already been deleted by the planning commission and then the planning commission that mega bus would report to them in one year. Staff access, Ms. Barnhart brought up the fact that staff did not recommend or they were neutral at the planning commission. We worked with staff three weeks prior to the commission hearing to come up with access through the site to where there would be no cars going through 15th and San Jacinto as well as the bus would pull off to the site, would not maneuver into the right-of-way. We addressed all of those issues prior to the commission meeting. You will see conditions in that 1 through 16 that there's controlled access. There are

ballards as well as the car lane directions and prohibition or there's a planter in the driveway so none of the cars will be accessing through that intersection. And those were the staff issues that we addressed. There is a buffer screening that you see here between the two sites. Again, cs zoning allows a lot of permitted uses such as could be a restaurant open until 2:00 in the morning.

[10:51:41 PM]

It could be a 7-11 open 24 hours. Permitted uses don't have limitations on hours of operation. Where we are recommending some limitations on hours. Automotive repair stores, recycling facilities, pawn shops, those types of things. So it's not the case that this is only a 9:00 to 5:00 type of business today that's permitted. A lot of other uses could be constructed. So we request that you deny the appeal and I would like to address one more issue that was raised this evening about the hours if you go to number three. 33. Thank you. So the one reason that mega bus can't agree to a limitation on 11:00 P.M. Or anything prior to midnight is they do have a bus from 7:00-30 to 11:40 P.M. From Dallas to Austin. That is the last trip of the day. That is four hours and 10 minutes on what they see through their gps if they're traffic, weather, construction, they can have delays. And so when you have a six A.M. To midnight hours of operation, that means that a mega bus employee will be on-site turning on the lights at 6:00 and turning them off at midnight and ensuring that there's someone there on-site when the bus comes in, even if it's late. So that is the very reason why there's a difference in hours of operation and scheduled trips. And so what we proposed was again six to midnight to ensure somebody is there when the people come in and the start of this trip is not Dallas. The start is in Chicago and so this goes all the way back to how mega bus operates their entire business from 6:05 P.M. In Chicago and departs that is at 7:03 and it goes through riders will be from Atlanta, Alabama, Memphis and new Orleans and their job is to provide connectivity between large metropolitan areas as well as through the 13 city bus system.

[10:54:00 PM]

And so we also have a list that I'm going to hand out to the council that we did add some additional conditions to address some of the issues raised by Ms. Barnhart. The first is we do have a list of specific signage we would like to add to the site. There are already no parking and tow away signs, but we would like to add be respectful of our neighbors, be quiet after 10:00 P.M., no smoking at all times. We will put three of those signs on the site to encourage people to go inside. Again, there will be a mega bus employee on-site at all times. So having a person there available if any issues come up so we will have the signs as well as the person on-site. And number 11, the condition talking about hours of operation from six A.M. To midnight. We would also add with no buses scheduled before seven A.M., but again we do have that one bus that comes in at 11:40 P.M. So we can agree to reduce the midnight hour. And then number 16 to address Ms. Barnhart's concern about making sure they know that the stakeholders know that the planning commission one year report is coming so the city will send public notification, schedule planning commission meeting to ensure that the stakeholders have that information and know the meeting is being scheduled. So I'll pass this out to you and the the city clerk so

you have those. The one thing that Ms. Barnhart mentioned about the licensed peace officer, whether it's Travis county or city of Austin, again in our opinion we don't think these people that ride mega bus will be any different than somebody going to a restaurant, somebody coming to city hall. We don't really feel there would be a need to have a peace officer on site at all times. The mega bus employee will be there to help anybody that has an issue. Thank you very much for your consideration.

>> Mayor Adler: Thank you.

[10:56:04 PM]

Is frank anora here? Mr. Anora you have three minutes and you're our last speaker.

>> Sure. All right. Thank you all on the dais for carefully considering this hugely important issue. And I'm glad to be here to share my critical input on this. I'm one of the students who doesn't use mega bus, but I do use it enough to realize how important it is to thousands of students who use it to get back home and back on campus after, say, a summer break and that said and also drawing from my experiences as a daily capital metro rider I'm here to express my opposition to Ms. Barnhart's appeal to mega bus's conditional use permit. This is merely a company searching for a better spot to continue their services in town that is solving their present issues with no shade, no restrooms and type vehicle or access in their present stop outside of dobie. And their perspective address on San Jacinto is fronted by a busy arterial that is 15th street and in the heart of an urban dead zone that's just comprised of office buildings and state parking garages, which pretty much everyday nothing happens out there. And things the alegal lat is filing opposition to like loitering, trespass and other sorts of mischief comes from college students and other austinites who would more likely than not mind their own business as they wait for a ride than -- speaking sarcastically, I'd be shocked to see how well behaved cap metro riders are in my eight years of riding the bus service, than mega bus riders. And absolutely no disrespect to any cap metro riders, mind you. But this is unrealistic, I think.

[10:58:06 PM]

And the proposed site is well separated from the apartment building by an alley ramp that's complete with trees sitting on the setback, separating from the front apartments from 15th. So it would be stretching it, I would think, to prevent a public good for much of the Austin community because of non-existing concerns of vagrancy and vehicular noise that's not over the top and in an area typically populated by both moving and parked vehicles. With that as a representative of UT and pretty soon to regularly -- regularly who rely on their services to get to where they need to be, especially if they're not from Austin, and speaking also as an urbanist from aura, I again formally oppose the appeal to -- the appeal against the [indiscernible] For mega bus. And that's just about it. Thank y'all for your time.

>> Mayor Adler: Thank you. We are now back up to the dais on this issue. Ms. Houston?

>> Houston: Yes, mayor. I'd like to say a couple of things first before -- no, I can't say that and make my motion. I'll make my motion first.

>> Mayor Adler: Make a motion and then I'll let you talk about it.

>> Houston: I move to deny the appeal and modify the conditions of the conditional use permit

as handed out on the dais.

>> Mayor Adler: Ms. Houston moves to deny the appeal and modify the conditions of the conditional use permit. Is there a second to Ms. Houston's motion? Ms. Garza seconds that motion. Ms. Houston.

>> Houston: So first of all let me thank everybody for staying here so late. I know for the members of the -- of both sides I think it's -- thank you. Thank you for staying here. A couple of comments were made about the kind of folks that use the mega bus.

[11:00:07 PM]

I'm one of those kinds of people. I take it from here to Houston. I take it from here to San Antonio. And I find it to be reliable. I find it to be much better than using greyhound. And I've tried to use greyhound on occasion. So I'm supportive of this use. I think it's the right place. I think for people who use the bus like I do, I can catch the number 18 and go right there, get off the bus and get on a bus and go straight to San Antonio or to Houston, or to Dallas. So I think that some of the agreements that have been made is because megabus wants to be a good neighbor. They've been trying to work with the owners of the apartments for a while. I think the conditions they've outlined on page 1 and you can see on page 2 speaks to that. I too am concerned about no buses before 7:00, but, you know, I can live with that because sometimes if I need to be at a meeting in Houston at 10:00, I'm going to not make that meeting if the bus leaves at 7:00, but I'm able to -- I'll try to live with that if that's the agreement that everybody has made, and I want to make sure that we keep our promise in what we do. So I -- that's really all I have to say. I move that -- you know, I've already said what my motion is, so ...

>> Mayor Adler: Okay. Mr. Renteria? It's already been seconded by Ms. Garza so it is before us. The signage -- is this the signage -- have you seen this, Ms. Houseman?

[11:02:10 PM]

>> Yes, sir, that is the -- I represent the applicant megabus and we drafted this language, so yes, we absolutely agreed to the signage language.

>> Mayor Adler: And you agree with the modification number two and modification number three.

>> Yes, sir.

>> Mayor Adler: Okay. Thank you. Is there further discussion on the dais? Ms. Pool.

>> Pool: I just wanted to add that I think that the megabus adds an option for transportation in our city, and we've talked a lot about our support for a multimodal transportation system in this stickers and I think that helps forward that policy position for this council, so -- and this is an odd one. We're voting to my the appeal, which is a vote for megabus, so that will be how I will vote.

>> Mayor Adler: Any further discussion on the dais? Ms. Garza.

>> Garza: I have a question about number 16. I think if I heard -- is it Ms. Bernhard directly? The intent was that you be included in the review? Okay, so I just want to make sure that that's -- I guess I'm just wondering what will send public notification of the public scheduled planning meeting -- what exactly that means because is that just posting is like we're legally supposed to

post, or is that -- I just want to make sure it's getting at the intent of contacting Ms. Bernhard so she can be part of that process.

>> Mayor Adler: Is staff here on this issue? Hi.

>> Hi. I'm from staff, from development review. The notification involved sending it out to and you felt interested parties and any of the residents or property owners within 500 feet.

>> Okay. Thank you.

[11:04:10 PM]

>> Mayor Adler: What is the import of having a hearing in front of the planning commission a year after the conditional use permit is granted?

>> The planning commissioners requested that, that they wanted to just have a backup to have a report as to how things were going, that how all of that -- the big, long list of conditions, they wanted to find out from both sides how -- how everything worked.

>> Mayor Adler: And if things aren't going well, what happens? What happens after a public hearing like that if things aren't going well? The planning commission can't withdraw the conditional use permit, can they?

>> No.

>> Mayor Adler: What can they do? Report it to code enforcement? Are these enforceable provisions, these 16 things?

>> I don't know, actually. The -- the conditions are part of the conditional use permit, including the report back to commission. I don't know if that -- it's possible -- I don't know if the conditional use permit could be reopened or if it would take a new conditional use permit to change the conditions.

>> Mayor Adler: I guess they would just be in violation of their use. They would be in non-compliance of their use?

>> Hi. I'm with development services. The 16 conditions are actually included on the permit are 100% inform enforceable. The planning commission could not rescind it, but they could analyze they're enforceable and go through code. They are enforceable.

>> Mayor Adler: And if they're in violation, they would be a non-conforming use and subject to whatever non-conforming use enforcement provisions we have at the city.

>> Yes. It would be a code violation at that point.

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

[11:06:13 PM]

Mr. Casar?

>> Casar: I sympathize and understand the be concerns about the hours but it is convincing to me the appeal should be denied, because a lot of other uses that would be permitted there in downtown in that area, if it was a convenience store which is a permitted use, we could have a lot of noisier traffic going on to the -- onto the site, and so while I sympathize and appreciate that there's an apartment complex there, Ms. Bernhard, I know some of your tenants that love you over there, so I appreciate the work that you're doing there, I think it's -- it's convincing to me that other uses, we could actually have more noise and more traffic to later hours so that's

why I'll be supporting councilmember Houston's motion.

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

>> Mayor Adler: Any further discussion? Seeing no further discussion, we'll just go to a vote.

We're voting on Ms. Houston's motion to deny the appeal and to modify the cannot conditional use permit. Those in favor, please raise your hand. Those opposed? It's unanimous on the dais.

Next item we're going to get is the parkland dedication issue, item number 88.

>> Mr. Mayor? I guess it's late in here but I'd like to move to postpone this but we can go ahead and hear about it, but I don't want to have to debate and vote on it. I'd like to make a motion to postpone after we hear from staff.

>> Mayor Adler: Okay. Ms. Gallo?

>> Makers council, good evening. I'm Randi Scott, park development coordinator. Thank you, with the city of Austin marks and reaction department. With me today is ricardoery Solis --

>> Mayor Adler: Hold on.

[11:08:14 PM]

Mr. Zimmerman was moving to postpone this item. Ms. Gallo wanted to second it. Ms. Pool was also okay with this matter being postponed.

>> Zimmerman: Can I ask how long the presentation here is? Because they've waited to give this to us, so I'd kind of like to hear the information, but I don't want to have to vote on it today, is all, but I'd be good hearing the information, if that's okay.

>> It's 13 slides. It's less than five minutes. It's pretty quick.

>> Mayor Adler: Okay. Go for it.

>> On the timer. Again, I'm Randy Scott with the parks development department, with me are others, principal planner, and assistant director. To start out with I'd like to go over some of the past council actions just to bring you all, that weren't on council at the time. On August 14th, 2014, council directed the city manager to revise the parkland dedication ordinance. In 2014 the staff submitted fee methodology to mayor and council. December 2014 council adopted the fee methodology and initiated a parkland dedication code amendment and directed staff an ordinance. On August 6th, 2015, city council set a public hearing for today. What is parkland dedication? Parkland dedication is local government requirement that is imposed on residential development. The purpose of this requirement is to ensure that new development accounts for its impact on the existing park system. City of Austin's current dedication fees outlined in red, \$650 per unit and ranks among the lowest in the state and in the country.

[11:10:21 PM]

\$650 Mary unit does not cover the cost of land acquisition nor development. The inadequacy of the current parkland dedication fee has led to the rapid decline in park acres per 1,000 residents. The demand of new residents is not being met by the current ordinance. The city of Austin will have a 5,000 deficit of parkland by the year 2020. There are three possible ways to pay for demand created by new residents. You can increase taxes to pay for the new demand, do nothing, lower Austin's quality of life, or have new development pay for the demand generated, maintaining Austin's quality of life. The proposed code establishes a land

requirement of 9.4 acres per 1,000 residents, based on the current level of service with the city of Austin parks department. It establishes a formula for a fee in lieu of land and park development. It will become part of the city's annual fee schedule process and it increases flexibility by allowing a combination of land fees and amenities on public and private lands. Staff held a series of round table discussions, public meetings started in October 2014 through our last round table discussion which occurred last month, on August 28th. Included -- invitees includes the real estate council of Austin, greater Austin builders association, downtown Austin alliance, Austin board of realtors, Austin neighborhood council, executive board, private developers, D. R. Horton, psw, new castle homes, brick field residential, engineers, pape-dawson, thrower design, Austin contractors and engineer associations. The benefits of the new proposed code amendment, the code amendment includes a sound methodology that is proportionate to the need created by new development.

[11:12:31 PM]

It's based on the current level of service. This makes the methodology defensible in a court of law. It meets imagine Austin goals of increased recreation and open space. The existing level of service of parkland and park amenities will be maintained as the city grows. It will provide for more parks throughout the city's deficient areas. It gives more flexibility for developers in meeting parkland dedication requirement. It better clarifies the parkland dedication code process, and the formulas are included in the ordinance and the fees are included in the annual fee schedule. The next steps today, council is considering the parkland dedication code amendment. Staff recommends approval of an ordinance with a few minor changes, which have been distributed to you. If necessary, Brent Lloyd can address some of those changes. And that concludes the presentation. I hope I made it under five.

>> Mayor Adler: You did a good job. That .PDF that you just went through, that's not in the supporting materials, is it?

>> No, it is not.

>> Mayor Adler: Can you e-mail that to all the council offices?

>> I can.

>> Mayor Adler: Thank you very much. This is a public hearing. There are some people in the public that have signed up to speak. I need to know if they still do. It looks like we may be postponing this item. David king is here. Down payment to speak to this?

>> [Inaudible].

>> Mayor Adler: Yes.

>> Are we going to have a discussion about this?

>> Mayor Adler: We will. If it's not going to get postponed, I will come back to the speakers and give him a chance to speak.

>> Tovo: I'm ready to hear the speakers.

[11:14:33 PM]

>> Mayor Adler: Okay. David, why don't you come up and speak. We're here, we'll open it up, we'll close the public hearing, then we can either postpone it or not.

>> Thank you, mayor. I'm going to be very brief. I'm here to say this is the right thing to do. We need to pass this ordinance. It's been, I guess, eight years since it's been updated and we're behind the curve. You know, with the growth that we've had, particularly in central Austin, there's not enough parkland to go around, and the parks we do have are becoming very crowded and overused. So we really need to make this investment to make this a good place for folks who are already here and those who are going to move here in the next ten, twenty years from now. This is the right step to take in the right direction. I hope that you will all support this. One suggestion I have, let's not wait another eight years before we update the fees. Let's build in some mechanism to recalibrate these through time so that we can keep up with the demand. Thank you very much.

>> Mayor Adler: Thank you. Eric Goff. Heidi. You'll be up next.

>> Eric Goff. We are encourage ago careful review of this policy because it's complicated so we appreciate either just a motion on first reading or motion to defer it as was the motion on the table. I want to raise a few issues why it's complicated. One, you can't use this money to implement your park master plan. You can't use it for maintenance of existing parks. And as you know, it's tough to find parks. You just went through the budget session. And so we have some existing parks that need funding. So I encourage you to have a policy discussion. There's a fourth option from that presentation, which is to allow higher value development near parks that can keep the same tax base -- higher tax base, same tax rate, and you get more money for parks.

[11:16:41 PM]

The city -- current city policy is to make sure you can get through a park in a 50-minute walk. That's not true yet but should be. Therefore we should encourage density where it's possible and waive the park dedication fee, wave the goal for parkland accessibility. Another issue is that the fee per household, although it's low for high density development, at scale that doesn't matter. For example on a five acre development the fees for low, amended medium and high density would be 54,000, 122,000 and 282,000 respectively. This assumes seven, 20, and 60 units respectively. I'll send this to a spreadsheet next week. That spreadsheet is not done yet, or you'd already have it in your inboxes. I apologize. Instead of a fee per household, it would be good to have per acre of development. That way you treat all of them equally and that the land that's in that walk shed or not in that walk shed could all pay a role and you don't encourage the development that you need in the city. We still haven't gotten to on-site park dedication, which is why that spreadsheet is not done. That part's complicated. The staff apparently can require on-site dedication fees or possibly both and how they determine that isn't clear in the ordinance, and that's important to understand because if a potential developer doesn't know what the costs are going to be, it's not going to happen. So, therefore, I encourage you to either defer this action or only pass it in first reading, and at your discretion, to not close the public hearing because, hopefully, we'll see changes to this ordinance in the future that you might want to get additional public testimony on on whether that's a good idea or bad idea. The -- to sort of recap, this can't be used for maintenance, of the park master plan, according to the 2014 budget, could create unfunded mandate as you add parks but don't have a way to pay for them.

[11:18:44 PM]

We encourage you to waive the fees in the walk shed to meet current city policy and to make sure that staff is clear about what they can do with the fees or parkland dedication. Thank you so much. We really appreciate it.

>> Mayor Adler: Thank you, Mr. Goff. Then Jeffrey trhah, you're on deck.

>> Good evening, mayor and council, thank you forever the opportunity to be here. I'm Heidi, with the real estate council of Austin. I'm here to ask you to please postpone the vote on this proposal for parkland dedication fees. I've personally been at the table with staff since December on this issue. Staff has presented their professional opinion to you, but the development community's legitimate concerns really remain unaddressed. I've passed out some materials, the documents, some of those concerns, and I don't want to spend your time going through them right now. There are quite a few. But I do urge you to postpone this item and request -- also, more specifically, that one or two of your offices work with us and some of the other stakeholders to develop a formula for a moderate fee increase, as well as renal criteria about land donations that are manageable and don't have such a significant impact on affordability, rather than sending us back for more meetings with staff when we're clearly at an impasse. We're already -- we're ready to provide expertise and hammer out a reasonable solution that gets what we need without the negative impact to affordability. This is not a postponement request that's meant to derail the possibility of a new ordinance and a fee increase. It's genuine request for a decision-maker to collaborate was the community who will be impacted on a proposal that we can all support. Thanks to all of you and to your staff for your public service.

[11:20:45 PM]

>> Good evening, Mr. Mayor, councilmembers. My name is Jeffrey, I'm the vice president of public policy for the home builders association of greater Austin, and respect for your time and other items on the agenda, I'll keep my remarks short. I agree with the remarks shared by Ara and our friends at Rico. I want to point out it's really imperative for council to evaluate every fee increase before it actually votes on it to consider the unintentional consequences that the increase waive and long-term effects of affordability. The current fee is set at \$650 per unit and the new one would increase the fee to over a thousand dollars per single-family home. And while that may not seem like a huge increase, consider this. For every-thousand-dollar increase in the median price home in Austin msa, 1,286 families are priced out of the market. That means they cannot afford to purchase that home, and the goal of home ownership is that much further. You add that fee increase on top of the \$3.3 million of fee increases over at planning and development services you just approved, add that to the water tap funds an those fees, the costs in complying with other ordinances and it's a little too much all at once. The other concern for our home builders as well as developers is predictability. If you vote to increase this fee, it would go into effect on January 1st, 2016. Many of our builders and developers end their fiscal years in August and September and budgets for next year have already been planned and money has be been allocated. We recommend that city and stakeholders can have more time

to work out issues for proposed resolution. Thank you for your time and I'm happy to answer any questions you may have.

>> Mayor Adler: Thank you very much. Thank you. Mr. Zimmerman moved to postpone this item. It was seconded by Mr. Renteria. Debate on the question of postponing this matter.

[11:22:52 PM]

Ms. Kitchen.

>> Kitchen: I just have a quick question. I was wondering the extent to which the committee may have -- I don't know if this was an item, since it was started a while back, if it was an item that the committee had a discussion on or -- or not.

>> Thanks for the question. Yeah, the parks & rec department staff came and briefed us on May 27th, and I will say that one of the objections that we're hearing tonight were aired at that committee meeting, so we passed it without objection and it's here at council now.

>> Zimmerman: I'm a member of that committee, Mr. Mayor, and I wasn't able to attend that. I believe councilmember Garza was also absent so there were only two members present on that committee when this was presented, so I don't think it really got a fair consideration. There weren't a quorum of members available at the committee hearing. That's why I'd like it to come back and get some more scrutiny. The presentation that you just saw, as you pointed out, wasn't even included in the backup material, so I think it needs some more scrutiny.

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

>> Tovo: Mayor, you know, I just feel I need to come to staff's defense here. There's a lot of material in the backup about this item, what they presented us today was a summary. And so you have the longer versions of that information in your backup. You know, I'll respect the will of this group. I think this has been an issue that's been in progress for years, and I'm, for one, really anxious to see us move forward and increase the fees. We are -- I don't believe we're going to get to a point where everybody is satisfied with that level. It is an increase, and when there's an increase, we very rarely have unanimity and lots of people down here who are going to be paying that fee who are really excited about that increase.

[11:25:01 PM]

But it is a community value, it's an adopted council policy to have parks within walking distance of every resident in the city and we need to make sure that the development that's coming online is -- is developing in accordance with those goals. So, again, I'm really pleased and appreciative of all of the staff's work. We did discuss when this came up to schedule the public hearing, we did have an opportunity to talk. I think there were concerns there hadn't been enough stakeholder outreach. The staff provided us with a very extensive list of very extensive meetings with stakeholders who have consensus among awful those stakeholders this is the best option. I believe our staff have done very extensive public process on this issue and that we've got a very good ordinance in front of us.

>> Mayor Adler: Mr. Casar.

>> Casar: I -- I certainly want to take some time on this issue, so I'm open to first reading or postponement, but if we are going to talk about it tonight, I do have some questions of staff.

But, you know, I'm happy to see if folks want to postpone this first before I ask those questions. I do think that adjusting the fees and making the fees updated over the passage of time make sense. My questions will be more directed toward what development we're incentivizing and how we use heightened fees and dedication of land to drive development in direction in places where we want them, and to make sure what it is we're passing here meets our goals in imagine Austin as far as open spaces and parks goes, but then also making sure that it leads us towards the desired -- the development that we desire and that we see in imagine Austin. So that piece -- I don't think it's just about updating the fees so that they are higher, it's -- we're deciding different kinds of fees in different amounts of parkland dedication of land, based on certain types of development, and I want to understand that, because that's that's sort of a deeper level of complication analysis that I haven't done yet and sounds like there's some disagreements about it.

[11:27:18 PM]

I'm not so interested in aligning with private businesses' fiscal years, but I'm interested in developing the way the council wants.

>> Mayor Adler: My sense, I'm ultimately voting for an increase in fees and restructuring of how we do this. At 11:30 here, I just don't feel competent to do this. There's a lot more information that I want to have, so I'm going to be supporting the motion to postpone. Ms. Pool.

>> Pool: May I offer a substitution manner a postponement and go ahead and vote on first reading and then we can continue it and have the additional time to dig into it, but that we will continue moving forward with -- with the ordinance?

>> Mayor Adler: Let's have the motion to postpone. If the motion to postpone is defeated, then we'll take a motion on the item itself. Any further discussion on the motion to postpone? Those in favor of postponing this item, please raise your hand. Houston, Zimmerman, troxclair, Adler, Renteria, Gallo, Garza. Seven. Those opposed? Pool, the mayor pro tem, Casar, and kitchen. Seven to postpone so we'll pull it back.

>> Casar: Just to clarify, is the public hearing closed?

>> Mayor Adler: We didn't close the public hearing and it made sense to me not to close it only because I don't think we developed a record on this.

>> Casar: I agree. I was just checking.

>> Mayor Adler: So I would say not closed.

>> And to what date will we postpone this?

>> Mayor Adler: I don't know. It's subject to call, so I mean, let's talk about whether it should go back to your committee or not. I don't know if that makes sense to do, but we can set this -- do we need a time certain on something like this? Or can we just set it once we figure out what's the best way to do that?

[11:29:19 PM]

>> While Brian is coming up here --

>> Mayor Adler: This is not something where neighbors are noticed, it doesn't have that kind of thing, so we can put this back on the agenda whenever it was appropriate to.

>> Brent Lloyd, assistant city attorney I believe you don't have to do a time certain but there will have to be reidentification if you don't set it for a time certain. Since this is a text amendment, it's not as -- I think it's published notification so it's not mailed the way a zoning notice is, but it would have to be renotified unless you set it for a time certain.

>> Mayor Adler: Then let's set it for a time certain so we don't have to renotify it and see if we can catch up. If we reset it for four weeks from today, that might -- we can talk, Leslie, Ms. Pool, back to your committee? I don't know if that makes sense or not.

>> Pool: I just had a point of clarification if I could, and maybe, Mr. Lloyd, you can answer. What is the procedural difference if we were to have voted this on first reading and then having it come back second and third? What is -- and then, as opposed to trying to find a date for time certain? What is the --

>> I think --

>> Pool: -- Substantive difference am that?

>> Correct me if I'm wrong, but I think the answer is that it's functionally the same. I mean, if you passed it on first reading, you know, we would bring back an ordinance that had any changes that you made. Sometimes that's what happens on first reading, is, there's some changes, staff changes that are made. But we would not have to renotify, just like with a postponement to time certain. So I think postponement to time certain or passing on first reading are functionally very similar.

>> Pool: Okay. So as long as we give a time certain, then we don't have to go through the cost and the effort of the additional notification.

>> That's correct.

>> Pool: Okay. That's what I was trying to establish.

>> Mayor Adler: Suggestion for when it is, what's the meeting about four weeks out from today?

[11:31:20 PM]

>> A month from now. That would be October either 15 or 22.

>> Are either of those a special meeting? 22 is probably Austin energy? What do you think we should do?

>> October 15th is four weeks from today.

>> Mayor Adler: Okay. Is that a regular meeting?

>> It's a zoning, I think.

>> Mayor Adler: It's a zoning meeting?

>> Is it zoning?

>> Let me double-check real quick.

>> Mayor Adler: It's late for all of us.

>> It is a regular meeting.

>> Mayor Adler: Okay. So I understand the prior motion to have it put back on our agenda for October 15th. Is there any objection to that understanding? Then it's put back to then. Thank you. The next item we have, last item we have are the personnel matters, 68, 69, and 70.

>> Mayor?

>> Mayor Adler: Yes.

>> Tovo: I had one last comment on the parkland dedication fee. There was a resolution passed about a year ago that, in addition to some of these other issues, asked staff to look at the feasibility of included parkland dedication for hotel-motel uses, and given that we were moving forward with it, I decided to take those questions up with staff as a separate matter, and perhaps come back to council and ask them to revisit that issue. But given that we have some more time, I would like to work with staff and better understand -- I know you recommended against it and asked us to look at using hotel-motel taxes for that purpose. It's my understanding there hasn't been a conversation with law about whether that would even be an allowable use under hotel-motel tax use, but I just want to signal my intent to the council, I think it was good measure to ask staff to look into. I think it still makes sense to consider having hotel-motel taxes -- excuse me -- to having hotel-motel -- hotel-motels contribute toward parkland dedication, and so I intend to continue to explore that with this additional time.

[11:33:26 PM]

>> Mayor Adler: Okay. Thank you.

>> Casar: And mayor I'd like to second my interest in that because one of my concerns is disadvantaging residential development at a time that we need more units, and that may be a way to level out if possible.

>> Mayor Adler: Ms. Pool in.

>> Pool: Mayor, I'll work with my collection on that as well. Maybe we can have a small work group with our staff included to kind of get ahead of the curve on this and be able to answer all the questions that may arise, and also address some of the concerns that were raised here tonight. Thanks for that suggestion, mayor pro tem.

>> Mayor Adler: Okay. Thank you very much. Last three items, we have 68, 69, and 70. These are the items, as you all know, about whether or not our appointees receive the same cost of living adjustment that the rest of the city employees make. One of the positions, we've already dealt with, I guess, the court clerk? Number 71. The city clerk has already been approved on consent. That leaves the other three positions. Ms. Houston?

>> Houston: Did we forget about short-term rentals?

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

>> Houston: Short-term rentals.

>> Mayor Adler: Well, we -- I think that we postponed the short-term rental issues that Ms. Tovo had till next week?

>> Houston: Okay. I just still see people sitting here so I didn't know if they could go home if they wanted to.

>> Mayor Adler: I guess the only outstanding issue that we had not ruled on was the question of whether or not we wanted to take out unrelated on the occupancy issue.

>> Yeah, mayor, we have a motion that was tabled, we had a motion and amendment that was tabled, and my suggestion that we postpone my items did not include discussion of that, and I think that's why -- I believe that's the -- why we still have community members here, expecting that we will take that, unable that and take that.

[11:35:45 PM]

>> Mayor Adler: Let's do the employee question and see if that's a fast determination or not.

>> Mayor, I was assuming that that part of the discussion would also move to next week, too, so that's fine with me if we want to do that also.

>> Mayor Adler: Okay. Is there objection to moving to next week that other outstanding issue about the --

>> No objection.

>> Mayor Adler: About the issue of the occupancy? Any objection in moving it to next week?

>> Casar: Mayor, I have no objection to that but I did get work from staff that talked to the clerk that some of our votes were voiced as amendments to a resolution and that we perhaps did not clarify whether that resolution passed as a whole, so it makes sense we could ask the clerk what her understanding was, but I just want to make sure we have that --

>> Mayor Adler: We had that conversation here just a moment ago, and I think that how we treated each one of those were self-contained motions, as opposed to --

>> Casar: That's fine. I was just checking.

>> Mayor Adler: Hang on. So for the record, all the things that we approved were self-contained motions -- sorry -- providing staff direction.

>> Get some water.

>> Mayor Adler: All right. So we're going to push that off then till next week as well. In the Garza.

>> Garza: Yeah, I just want to make sure that -- I wonder if it's necessary to vote on the resolution as amended, the many ones that we did, because I guess I'm concerned --

>> Mayor Adler: The problem is, we never --

>> Garza: I don't want to have discussion over the ones we just did again. So I want to make sure, from legal, are we --

>> Mayor Adler: I never called up a resolution. What we ended up doing was picking up issues. And we had motions with respect to individual issues, and we identified the issue we brought up. We had a discussion on it.

[11:37:46 PM]

Sometimes we had amendments to that issue. We even had an amendment to an amendment on that issue, which we couldn't do if it was an amendment to a resolution.

>> Garza: Okay.

>> Mayor Adler: So that's how we have interpreted those and counsel is okay with us having done it that way. All right. So then we're going to put off the occupancy issue to next week to get picked up. That leaves us then just the compensation issues. I put these on the agenda, and the council has agreed to let it move forward. It makes sense to me that we would give the same three percent cost of living adjustment to these three city employees that we give to all other city employees. We are going to have a discussion over the next couple weeks about what is the criteria for our evaluations in February of these folks to discuss performance. At that time we can discuss merit raises, but the employees just got three percent by the vote we took last week are all getting that without regard to merit or performance, it's a cost of living, and so I thought it made sense to treat these employees the same way. Does anybody want to

make a motion with respect to 68, 69, 70? Ms. Houston?

>> Houston: I'd like to move that items 69 -- is it 68?

>> Mayor Adler: 68, 69, and 70, auditor, city manager, and municipal court.

>> Houston: That those positions be treated just as any other city employee and receive a three percent raise.

>> Mayor Adler: Okay. There's the motion. Is there a second to that motion? Mr. Casar. Discussion? Ms. Pool?

>> Pool: When we talked about this at work session, we removed the raise for the municipal court clerk this time only because the person, if we approve the one we're going to hire, won't be hired in time for this, so does this pay raise -- could somebody just answer how that would be handled for a person who actually isn't encumbering that position at this time?

[11:40:13 PM]

And I'm sorry, it's so late, I apologize for asking that question.

>> That's okay. Mark Washington. The resolution proposes to just address the acting pay for the current municipal court clerk.

>> Pool: I see. I understand.

>> At which time she no longer acts, she will no longer receive that level of pay.

>> Pool: Very good. That helps a lot. Thanks so much.

>> Mayor Adler: It's been moved and seconded to approve these three. Any further discussion? Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I did pull these, and it was my suggestion to tie these raises to the evaluation as scheduled, so I didn't get a chance to make that motion, so I probably have to abstain from the investment I don't think it's appropriate to do this evaluation. So I can't vote in favor.

>> Mayor Adler: I understand. Any further debate? Those in favor of approving these, please raise your hands. Those opposed? Those abstaining? Mr. Zimmerman, Ms. Troxclair, Ms. Gallo abstain, the other voting aye, they three pass. That's all the business that we have. Anybody have anything else? Then we stand adjourned.