

City Council Regular Meeting Transcript –6/15/2017

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[10:05:16 AM]

>> We come together before you today with heavy hearts from all the violence and disasters that have come to pass in these last few days. We ask you to receive the dead into your loving arms, to heal those who are injured, and to comfort those who mourn. But we still have work to do today, and so we ask for your grace and presence and blessing upon this meeting. Give everyone empathy and compassion and patience. Help us to hear one another and help this, your city council, to make wise decisions and take right actions for the welfare and dignity of every person who lives in this wonderful and weird city that we love so much. All this we ask in Thanksgiving for all you have given us, amen.

>> Mayor Adler: Thank you, sir. Today is Thursday, June 15th, 2017. It is 10:05. We are in the city council chambers here at city hall, 301 west second street in Austin. We're going to take a look at today's agenda. We have some changes and corrections. Item number 11, this is the plan update for the year 2018, not '17. Item number 16 is going to be postponed to August 17th. Item number 22, this was recommended by the planning commission 12-0 with a commissioner absent.

[10:07:27 AM]

Item number 24 is withdrawn. Item number 62, the mayor pro tem should be listed as a sponsor. Item number 87 you should know that at the 4:00 P.M. Time certain or no earlier than 4:00 P.M. Call, councilmember Houston is going to request a 7:00 P.M., no early early than time for item number 87. , We have some items that have been pulled from our consent agenda. The consent agenda goes through item number 79. We have item number 15 being pulled by councilmember alter. We have 24 and 40, by the way, were withdrawn. We have item number 62 being pulled by alter, Casar, troxclair and Flannigan. We have item number 68. I'm pulling that and I want to discuss that in executive session. We have item number 69, that's going to be pulled so it can be pulled together with item 99 later in the day. Item number 71 is being pulled by councilmember Garza. And item number 72 is being pulled by Ms.

Houston. So again on the items being pulled, I have 15, 62, 68, 69, 71 and 72. And I have 24 and 40 being pulled.

[10:09:27 AM]

We have some speakers to speak on the consent agenda.

>> Kitchen: Mr. Mayor, I would like to ask for a time certain on number 71, which is the gsi one, a time certain for 2:00 P.M. The point being that I think this is one we could take this afternoon. The speakers could come this afternoon and it wouldn't have to be pushed until evening. So if you're looking for one to do this afternoon, this is one that I would suggest.

>> Mayor Adler: Okay. If we're able to, you don't want to take that up earlier than 2:00 P.M.?

>> Kitchen: We could, yeah.

>> Mayor Adler: So let's not set it for a time certain and see how we do.

>> Kitchen: I just wanted to give the folks who are here for speaking --

>> Mayor Adler: Let's see how many things we have. Let's hold off on setting a time for that. Yes, Ms. Houston?

>> Houston: I have a couple more to pull, and they're pretty quick. 14, 32, 38, 45 and 62.

>> Mayor Adler: 45 and 62 has already been pulled.

>> Houston: Okay. Thank you.

>> Mayor Adler: Okay. Yes, mayor pro tem?

>> Tovo: Mayor, I have a really rapid or really quick, I should say, amendment to make to item 34.

>> Mayor Adler: Okay. So let's pull that and go to that first. Of anything else to be pulled. Let's go to the speakers on the consent agenda.

[10:11:29 AM]

Mr. King. David king here? 61, 67. 69 has been pulled. It will be considered later in the day. So 61, 67.

>> Thank you, mayor, mayor pro tem and councilmembers. Item 61, I think this is an important item to require staff reports for zoning cases and site plans to include information regarding the impacts on public transit from new development and redevelopment. I think it's important that we have that information to inform us as -- I'm not speaking as a member of the zoning and platting commission, but I can tell you when those items come before the commission that information will be very helpful to us, so I really appreciate this resolution. I think it's going to help inform our commissions and the council in making these decisions. Item number 67 regarding private activity bonds, I think this is really essential for equity. You know, I'm glad that this issue is being brought up and we have this resolution to help inhibit the acquisition -- the use of these funds, the bonds, to acquire residential properties and then displace low income families and then replace them with high income families. That is a misuse of those bonds and I'm glad in a this issue has been brought up and we're going to do something about it to inhibit and prohibit that. Thank you very much.

>> Mayor Adler: Thank you. Bob nix? Is Bob nix here? Do you want to speak to item 64?

>> Yes. Item 64 is the audit of the Austin fire department. I sent a letter to council earlier this week saying that we don't think it's a bad idea. I think it needs to be limited in scope and validate the answers the fire department has already given on the budget.

[10:13:30 AM]

I don't think you will find anything new, but I think if it instills any level of additional confidence in those answers and how we operate the fire department, I think it's a good endeavor. And I hope the end result will be that we realize that it's really very simple what's happening with the budget. The accident decree is -- is causing us to be in a very inefficient spending model and the delta for that model, a fully staffed department and one running at a very inefficient rate is about \$46 million. It's not a crisis, it's a problem. And I'm ready with the fire chief to find belt tightening measures, but let's keep cool heads and realize it's not a crisis, it's a problem. And we're very happy to try to work and return some of that money through cost saving measures, council. Thank you.

>> Mayor Adler: Thank you.

>> Pool: Mayor, on that item, I thought when we talked at work session we were trying to find a different way of going about achieving answers to some of the questions here so we would not be voting on this.

>> We made a slight change in the backup that would allow us to do a special request relating to the bargaining agreement and the remainder as an amendment to the item.

>> Pool: But we need to pull it so we can substitute out a different version of it?

>> Flannigan: No, it was included in late backup.

>> Mayor Adler: So what is before us is the late backup item.

>> Pool: So has Mr. Nix seen the late backup? Obviously I haven't. I would like to pull this from consent.

>> Mayor Adler: So let's pull item number 64.

[10:15:35 AM]

>> Pool: And could somebody please get a copy of that to Mr. Nix.

>> [Inaudible].

>> Pool: Excellent. Thank you.

>> Mayor Adler: Okay. Mayor pro tem?

>> Tovo: Mayor, I apologize for not mentioning this earlier. I did want to request a postponement for item number 22. I don't know if you want me to pull it and explain why, I don't think there's a concern from applicant other than it would come back next week and be an item next week. This is an encroachment and the four seasons homeowners are meeting on behind at their association meeting with some of our city staff. I guess I better just end there.

[Laughter] But anyway, this would give them time to have that meeting and some of the concerns and questions with city staff. And it's my understanding that Mr. Suttle is okay with moving forward next Thursday.

>> Mayor Adler: So we'll move forward with this on next Monday? Next Thursday.

>> The applicant is fine with the one week. Next creek is critical to us -- next week is critical to us because then you go on break but we're fine with the one week.

>> Tovo: So that would be postponed.

>> Mayor Adler: We'll postpone item number 22 to next week with the caveat that it actually has to be heard next week.

>> Tovo: And mayor, I have two very quick comments on the consent agenda. I want to just note on 56, which I don't believe has been pulled, we've had ongoing conversations about parking meter extensions each time, but there's been a day, a proposal from staff to extend the day. There have been concerns raised about employee parking, those who work in our service industry, musicians downtown. And I really just wanted to thank our city staff. In the course of one of those conversations we talked about setting up some parking -- reduced parking opportunities for our downtown employees and they have

done so. And I just wanted to mention this because it's my understanding that the garage at ninth and red river, which has a 35-dollar monthly charge, is not at capacity.

[10:17:41 AM]

And in fact they have only 14 parking passes down there being used. And they do have the possibility of expanding to one Texas center as well for -- with some additional employee parking. So I just wanted to make -- to make that announcement that this is a program that our transportation department has put in place for those who work downtown and need parking and need it at a more affordable rate. So I really appreciate the transportation staff for expanding to those concerns that have come up over the last couple of years and for making this opportunity possible to our-- the folks who work downtown and spread the word. There are spots that await filling. And thank you to Mr. King for talking about the private activity bond. I appreciate you recognizing the importance of it. There was a time where the council approved the private activity bond and it was being used to renovate an apartment complex and it did have some concerns for the displacement of the tenants there. So I think it is important to ask our staff when they're providing us with information to evaluate whether or not we're going to support a private activity bond that we have a little bit more information at our disposal that we're really clear on what those rents will be post renovation and that in the case they have tenants living on-site that there's a plan for how to accommodate them during the renovation and after the renovation so there's not displacement of renters. Again, thanks to the staff who helped advise us on that one.

>> Mayor Adler: Mayor pro tem, in the break we've been working on item 72 and we have an amendment that I want you to take a look at.

[10:19:41 AM]

So we can take a look at that. There was Christmas passed out on the dais, an earlier draft, so let's talk about that issue.

>> Tovo: I did look at the amendments on our dais this morning. Are you saying there's another draft of those amendments?

>> Mayor Adler: There's something called item 702, change from mayor's office, but I didn't hand that out on the dais. So I don't know.

>> Tovo: I have taken a look at the ones that arrived on the dais.

>> Houston: Excuse me, can we pull those?

>> Mayor Adler: Item 72 has been pulled. We're going to get a different draft. So 72 has been pulled. So the items that I have pulled are 14, 15, 32, 34, 38, 45, 62, 64, 68, 69, 71 and 72.

>> [Inaudible].

>> Mayor Adler: Number 17 has not been pulled. It's going to pass. Is there someone here that wishes to speak on item 17?

>> Yeah, me.

>> Mayor Adler: Come on down. I don't have you signed up.

>> I signed up at the kiosk yesterday.

>> Mayor Adler: For whatever reason it just didn't make it, but come on down.

>> I will have to have some witnesses witness my signing up. I did sign up, mayor.

>> Mayor Adler: I believe you.

>> I hope you do. Number 17 is having to do with -- let me get my glasses out.

>> Mayor Adler: It's the regional assessment of fair housing.

>> That's correct. I can read English, thank you. One of the things that I want to say about this item number 17, mayor, is that I've been in contact -- actually, I was in Washington, spoke with the chief of staff of the secretary of veterans affairs, and he is still willing to come over here.

[10:21:44 AM]

This is having to do with a study about housing. April the 11th, 2013, council approved a resolution authorizing negotiation, execution of integral local agreement with Travis county, city of Austin to develop and manage, slit a contract, conduct a housing study and impediments to fair housing choice study. Mayor, we haven't seen any kind of backup on this report. One of the things that I want to make sure that each and every one of y'all, it sets on your mind, there are still a lot of homeless veterans here in Austin, Travis county. I don't want to hear any of this garbage saying oh, no more homeless veterans here. That was a and a half few on the part of former secretary of hud Castro. I spoke to his brother and mom also and they were totally incredulous and said this is not correct. One of the things I want to make sure about this market study, mayor, and it's April 11, 2013. And now we're just getting the regionals together, but I want to say this and it's germane to this issue, the city of Austin housing authority, Michael Gerber president, Lisa Garcia, vice-president, I'll tell you something, there's only one group here that is is being criticized as echo. They have a group of two people from the veterans administration -- veterans affairs department and other groups, social workers, they rank homeless

individuals by whatever date they have stated their homeless. We need to have a better process, mayor, and I'm looking you in the eye right now. I'm going to tell you something there are a lot of veterans in Travis county that are angry at you and everybody else very to do with housing. We have to do a better assessment with this study, I know more or less what's in it. Study of how many homeless veterans we have. We have a lot of female veterans that are single with kids that are homeless.

[10:23:44 AM]

So I don't want to hear this garbage any more about there are no more homeless veterans in Austin, Travis county. I will say this much, Andrew Miller of the veterans affairs clinic, he's the head of the social worker program. They're not doing a good job of selecting who should be or -- let's say, for example -- let's say, for example, I'm 66. I'm homeless. They're getting younger homeless individuals out there. It should be the ones that are older, it should be the ones that are critically ill and they're not being given preference. So I don't want you to -- listen to my words. I want you to take some sort of action in how they deal with ranking veterans to be housed. It's not a fair and equitable process. One of the things I want to mention to you along with this study it's not included and I don't think -- it ended. Is back in mayor Bruce Todd's time they had transitional housing. It would be great if we had that. We have two dead already at the arch that people are not -- the newspaper didn't catch. I'm getting sick and tired of my veterans not being housed and not being, you know, helped. We put up with Vietnam, with Iraq and Afghanistan, first world War, second World War. Mayor, I'm homing you accountable. We need a better study than this. Action speaks louder than words. Thank you.

>> Casar: Mayor, control item 24 is being withdrawn I want to -- although item 24 is being withdrawn, I want the dais to know what's going on with it. Item 24 is the republic square park could closures. And I and the mayor pro tem and some other folks had questions about what kinds of events and what kinds of days the park would be closed for.

[10:25:44 AM]

Our contract with the daa, the downtown Austin alliance, requires that the daa bring forward their programming plan, which would have the dates of the events and which events are in them. That's in our contract with them. It was a bit of an awkward situation for us to be voting to approve the days and later having to approve the plan. So after talking with the staff and with the daa about that issue it sounds like what they will do is bring those back together to us, what's required by then the plan, generally which days they're looking at and the events that they're planning to do. In the out years, most likely that plan would actually tell us specifically which events it will be. On this day X food and wine festival will be held here. But since this is the first time they're going to bring that programming plan to

us, they'll have to work on that to figure out how to get as specific as they can, not knowing exactly which events will be there since it will be the first year. But my hope is that with that plan they can give us information clearly about how many days the park will be closed, more or less which days of the year they're targeting, how many executive weekends, for example, and then how often those events will be low cost versus high cost versus exclusive to guest list only. And of course I think it's in the public interest that those exclusive to guest list only or high cost events be minimized as much as possible. But that will be brought to us all at once instead of voting on the days and the actual events in separate votes which I think gets complicated. So they will bring that back altogether.

>> Mayor Adler: Any other comments on the consent agenda before we vote? Mayor pro tem.

>> Tovo: I apologize for not mentioning this one before. So we have several items on the agenda, one of which we just postponed. But item 21 is an encroachment agreement. I've asked some questions about real estate. So this subject has come up longer than I've been on council about the prices we charge for encroachment agreements, alley vacations and other things.

[10:27:53 AM]

I was reminded that there was a resolution that our real estate staff was looking at to provide us with some information about how they currently do appraisals on that. If you see on 21, the subsurface encroachment the total amount due to the city is \$83,000. And so there have been concerns that have surfaced over the years, again, longer than I've been on council, about those fees, because if you look at downtown real estate prices it's hard to imagine that an almost 800 square foot space would only be \$83,000 and the alley vacations look the same. So I just wanted to remind my colleagues of that ongoing work that real estate is doing. I'm going to vote for this today, but with the understanding that we're really going to look at those and see whether -- see whether those are realistic fees being set for that level of right-of-way vacation, encroachment agreements and the like.

>> Mayor Adler: Okay. Is there a motion to approve the consent agenda? Ms. Garza makes that motion. Is there a second to that motion? Ms. Houston seconds that. Any other discussion on the consent agenda? Ms. Pool -- better one.

>> Flannigan: I just want to be recorded voting no on 23.

>> Mayor Adler: No on 23.

>> Pool: And mayor, on 64, I've talked with the two lead councilmembers on the resolution number 64. Have we pulled that?

>> Mayor Adler: We did pull that. Okay. Ms. Troxclair?

>> Troxclair: I want to be shown voting no on items number 3, 27, 38, 41, 56, and abstaining from item number 59, 28, 66, 67 and 73, please. And sorry, I repeated some that have been pulled.

>> Mayor Adler: The consent agenda has been moved and seconded. Is there any Kurth further discussion?

[10:29:57 AM]

Those in favor of the satisfied, raise your hand? Those opposed? It's unanimous on the dais. Let's see if we can work our way through some of these consent items. Item number 14? And as people exit the chamber if they could please be quiet as they do that so we could keep working. All right. Ms. Houston, you pulled item number 14.

>> Houston: Yes, mayor, and it's a quick question. Exactly where does the \$90,000 come from and what is the public benefit for the art project?

>> Good morning, synovia holt-rabb --

>> Mayor Adler: If everyone could please be quiet as you exit so we could hear each other. We appreciate it, thank you. Go ahead.

>> Good morning. Synovia holt-rabb. The funding comes from general obligation bonds. It's parts of the two percent art in public places project.

>> Houston: I'm sorry, would you say that again? I was distracted.

>> The funding comes from general obligation bonds and it's part of our two percent art in art in public places process.

>> Houston: So that \$90,000 could not be used in any other way except for art in public places?

>> Exactly, per the ordinance.

>> Houston: And it's going to be enclosed in the parking structure of the fire station?

>> That is correct.

>> Houston: Okay. It's part of the ordinance, but you know, I think \$90,000 could be better spent on the fire station and to do some improvements that fire stations say they need. So rather than an art project - I'm not sure that the public just goes by a fire station to look at the art. But if that's the ordinance, then I will accept that.

>> And it's going to be the exterior around the parking lot, and I'm sure as people pass by, as kids visit the fire station, they will have an opportunity to observe the art.

[10:32:05 AM]

>> Houston: Thank you.

>> Mayor Adler: Is there a motion to approve item number 34? Ms. Kitchen. Is there a second?

-- 14, rather. 14. Ms. Kitchen makes that motion. Seconded by Ms. Pool. Any further discussion on 14? Those in favor please raise your hand? Those opposed? Ms. Houston, Ms. Troxclair. The others voting aye. Passes. This will get to item number 15, this is esd number 4. Item number 15. S this was pulled by alter and troxclair. We have three people to speak for it. Do you want to lay your thing out first?

>> Sure.

>> Alter:

>> Alter: So the motion that I'm going to make is to pass the contract with section 13 with respect to the coordinating committee, substituting with the sheet that I handed out. It says 13.0 coordinating committee. This is for item number 15 for my colleagues. Do I need a second and then I can explain it?

>> Mayor Adler: This amendment by alter has been seconded by pool. Do you want to address it?

>> Alter: Sure. What we have before us is a landmark approach to contracting with esd 4 and the fire department and -- I first of all want to thank all the parties that have been involved, the Austin fire department, esd 4's leadership and commissioners as well as the community members who have engaged in this process and the various unions who have been involved. I think we have come to a solution that addresses many of the concerns involved, fiscal and in terms of the personnel involved. So I really appreciate everyone's hard work on that. What I have before you substituted is for the coordinating committee.

[10:34:09 AM]

It adds two additional council appointed esd 4 community representatives that in the initial go around will be from district 1 and district 10. It allows all of the members of the coordinating committee to be substituted with alternates so there would be two alternates, which in all likelihood would be coming from district 6 and 7. Then it also does add an additional esd 4 representative from their commission as well as enshrines an amendment that they made to the contract when they approved it of having an appointed community representative. And most of this document is just dealing with the appointments specific to clarify where those people should be coming from and that this -- it should be also noted that this coordinating committee will be making its decisions by consensus.

>> Mayor Adler: Okay. Any objection to this being included?

>> Garza: I have a question.

>> Mayor Adler: Yes, Ms. Garza.

>> Garza: It says must reside or do business in the neighborhoods. We have a similar thing for our contact teams, but it's own a business. So I'm just wondering if that's going to be a little gray area of who does business. If I go purchase something in the area does that mean I'm doing business?

>> Alter: Um, I think that's a good question, but the way that the esd 4 is funded is from sales tax and property taxes, so the idea was to allow for folks who are paying the sales taxes to also be among those who could be chosen by the council to be represented. This has been agreed to by AFD and esd 4, and approved by legal as part of the contract negotiations. I don't know if someone from legal or from AFD or esd 4 wants to speak to that concern.

[10:36:13 AM]

I'm not a lawyer, so I don't want to venture there.

>> Garza: Okay.

>> Mayor Adler: Let's leave that --

>> Garza: I think the clarification might be important, but I don't know if there have been negotiations that would make a difference for. I think the point is well taken, though we could clarify the one word.

>> Garza: It could mean that somebody could go in there and buy something from a convenience store, pay a sales tax and then be appointed by the board, right?

>> Kerry gridge with the law department. I don't think there's any problem with that legal distinction. It really is sort of a policy decision that -- that could be redrafted or passed as written.

>> Mayor Adler: Okay. I'm going to let you think about that question for a second or two. Let's call the public speakers. And then we'll come back and then you can tell us how you want to handle that. Ms. Troxclair?

>> Troxclair: I also pulled this item. And just for -- I guess to daylight my question, I had put a budget question in about whether or not the people that live in these current esds will end up paying a double tax. And the answer was yes. So I just want to better understand how we reconcile that in the long-term. If we have residents of the city of Austin who are receiving the same service as other people, but are paying both an esd tax and a -- a regular city tax.

>> Mayor, council and councilmember troxclair, I think that the information that you received is incorrect. There is no double tax.

[10:38:18 AM]

I think that answers the question.

>> Troxclair: I'll find the budget question in the meantime and then if I have a follow-up question.

>> Mayor Adler: So we have the speakers here to speak publicly. Is Linda Bailey here? Followed by Bob nix and then Andrew Garcia.

>> Mayor, councilmembers, I'm from the Glen lake neighborhood association and board. Excuse me. And I'd like to say that we are in support of this proposed merger and contract. We've been involved intimately for the last four years in this discussion and in the esd 4 activities. We are very pleased with our esd 4 firefighters. They provide a great service and we'd like to thank them for their service. The reason why we're supporting this contract is bigger than the esd 4 firefighters and that activity. It's because we believe this will provide fiscal responsibility. It will provide a template for regional fire service that eliminates duplication of services and it will provide a positive career path for our excellent firefighters. We do ask that you support councilmember alter's amendment.

>> Mayor Adler: Thank you very much.

>> Thank you. And we would like to thank the esd 4 commissioners, the local 4848, chief nix and chief Kerr. Thank you.

>> Mayor Adler: Thank you.

>> Mayor and councilmembers, I've had trouble hearing your question and now I understand a little bit better. In order to clarify the point that you made, this 13.01.01 could just say must reside or owner or operate a business in and I think that would make it clear.

[10:40:20 AM]

>> Mayor Adler: Okay. Is there any objection to changing those words to say owner or operate? Is that something you would like to do, Ms. Alter?

>> Alter: I would just like to check because it's my understanding this has been already passed by esd 4. I would like to confirm if that change would not create undue problems on the other end? I am totally fine with the sentiment there, but this has been an ongoing process.

>> Thank you, council. David Bailey, the fire chief for esd 4. Thank you for the clarification. We passed an internal resolution amongst our board that said we wanted to create this position and we opened it up to certainly residents of esd 4 or business owners to perhaps sit on this. So our language says owns a business in our district. So if we change that simply to own a business, we're fine with that.

>> Alter: So could you repeat that language that you're recommending?

>> Yes.

>> One option for you is "Must reside or own or operate." Or it could just be "Must reside or own a business." And I think chief Bailey's leaning towards own.

>> I get your concern. Our bylaws say you have to own property, you have a voice in this, and own a business. So let's word it that way.

>> Alter: So it would say must reside or own a business in the neighborhoods.

>> Correct.

>> And we can make that change easily.

>> Alter: Okay. Thank you.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: Okay. So I just want to follow up on the tax question. So how -- is there -- I don't know who I'm talking to. Is there a tax associated with funding the esd? And if so, does that tax dissolve with the merger?

[10:42:24 AM]

>> Mayor Adler: I haven't forgotten the speakers. We'll get back to the speakers momentarily.

>> Ed van eenoo, deputy cfo. This doesn't change anything from the residents taxation basis. They currently pay a property tax. For the esd they currently pay a sales tax that goes to the esd, and that won't change. When the city starts providing service to this area they will continue to pay that, but they're not going to start paying any city taxes. They're still not part of the city. They won't pay any city taxes so there's no double taxation.

>> Troxclair: Do you mind putting this up on the screen? There are -- so we asked for a map that overlaid the esd boundaries with the city boundaries, and from the response it looks like there are several parts of at least this E district. I'll wait until he puts it up so you can see. But it looks like there are several areas that overlay each other?

>> All of the esd areas, I believe they all fall within the city boundaries, but they're not part of the city's tax base. They're not part of the city's full purpose area.

>> Troxclair: So if you zoom in on that E -- is there something --

>> Yeah. So we have parts of the area that are in esd 4 that are in just the etj and some that are in limited purpose. And so they have different rights with respect to councils, so some of them are in the council district, but that doesn't make them fully taxed by the city for all the services. So they have voting rights in council elections, but they don't have to pay all of the city taxes.

>> That's right. They're not full purpose so they're not paying the taxes that would pay for the full purpose services such as libraries and police and fire services.

>> Troxclair: Okay. I guess I was confused because the question was can staff overlay those boundaries with the city of Austin boundaries.

[10:44:28 AM]

And that was the response. So it looked to me like there was some overlaying, but if you're telling me that nobody in the esd is in the city of Austin, they're not paying city of Austin --

>> They're not. And that is right, the city boundary, but it is a matter of limited purpose city boundaries versus full purpose. And that area that shows the boundaries within E are limited purpose.

>> Alter: But they nonetheless get to vote in council elections. So that's why the lines are there for part of it and not part of it.

>> Troxclair: Thank you.

>> Mayor Adler: Thank you. Mr. Nix?

>> Thank you, council. The Austin firefighters association is in support of the esd 4 contract for service. Just to give you a little bit of history, it goes back several years, we went through a very large project to bring this to the bargaining table. We five or six subcommittees, member subcommittees. And just so you know, and you may not be aware, this is the only place in the state of Texas where major cities are allowing this sort of merger to occur. And we did it. We wrote it in a way that it can be done by the pleasure of the city manager and council, if they made a couple of guidelines or set up in a contract. I don't think any of those are particularly onerous. And this is a big deal. And we're very much in support

of it. Not only for esd 4, but what it could mean for the future of other esds. If it makes sense to the city manager and council they're free to do these in the future if they have agreements with the esd boards and the other concerned parties. But I just want to say we are in support of it. We do thank you for going through the process of learning about it, and hopefully approving it. Thank you.

>> Mayor Adler: Thank you. Yes, councilmember alter.

>> Alter: Mr. Nix, I just wanted to thank you and your union as well as the local one esd 4 side again for your support and working out the details over a long period of time to make this a possibility.

[10:46:39 AM]

>> Thank you very much. Appreciate it.

>> Mayor Adler: Thank you. Andrew Garcia.

>> Good morning, council and mayor. Andrew Garcia, president of local 4848. I'd like to echo what.

>> Alter: Is saying. Since the conception of this thing -- I've been in the fire service going on eight years now. And we have been talking about this amongst Travis county esds for many years. And to see it come to fruition is something that we've been trying to achieve for -- since my tenure for the past two years. So collaborating with local 9705 among many stakeholders. And I want to publicly recognize those stakeholders and tell them thank you. Those stakeholders are the Austin fire department and their staff, chief Kerr, thank you. The esd 4 board of commissioners. Esd 4 fire chief David Bailey. The Austin African-American firefighters association. The Glen lake association. Specifically Linda Bailey and Carol Lee. They have been huge advocates to what we've been trying to achieve throughout this process. I really want to give a special thank you to them. Our brothers and sisters over at the Austin firefighters association. And of course, I cannot forget our membership as well, the Travis county firefighters association local 4848. So we just want to say thank you and we are in full support and we hope that this gets approved today. Thank you.

>> Mayor Adler: Thank you. Do you want to make an amendment, councilmember alter, to the language?

>> Alter: To the --

>> Mayor Adler: Yes. To say own businesses or something like that?

>> Alter: Sure, I'll be happy to make an amendment that says must reside or own a business, that would be 13.01.01, so it would read council appointed representatives must reside or own a business in the neighborhoods.

[10:48:46 AM]

>> Mayor Adler: Is there a second to that? Councilmember Garza seconds that. Any objection then to the amendment being added? Hearing none, it's added. Are we ready to take a vote on this item number 15? Those in favor raise your hands? Those opposed? It's unanimous on the dais. Thank you.

[Applause]. A lot of work on that one. Let's go G.O. To number 32.

-- Let's go to number 32. Ms. Houston, you pulled this, about techline lighting.

>> Houston: Is anybody here from staff? It's a staff question.

>> Mayor Adler: Okay. Let's bring staff on this. By the way, item number 22 was postponed until next week. It's showing up on my thing here as still being alive. It's gone now.

>> Dan Smith, vice-president of electric service delivery with Austin energy.

>> Houston: Thank you. It's just a couple of questions. Talk to me about decorative lighting and what's the difference between decorative lighting and just regular street lighting that's on the streets?

>> Sure. Yeah, decorative lighting is an option that is afforded to some of the developers and the people doing the neighborhood work. It is lighting that has a different type of structure to the pole, can have different coloring and have different I will luminaries and all. Some developers may be in their area when they develop out a neighborhood may choose to do something that's different than the standard steel type luminere. When the neighborhood goes in, then the developer pays the fees for us to actually install and pay for the material and the installation of the lumineres.

>> Houston: And it's at cost?

>> That's correct. Plus our standard markup.

[10:50:46 AM]

>> Houston: And how many of -- can you tell me where I could find some of those so I could see what they look like?

>> Sure. I can actually provide you some pictures that --

>> Houston: I mean to go and see.

>> As far as some neighborhoods that may have some of it? Yes, ma'am. I can do that. >>

>> Houston: That would be helpful. In the prior years what amount was spent?

>> Hi, Yolanda Miller, deputy purchasing officer. Previously the line item were 51 and we added about 49 more line items. So under the current contract that's in place, the annual spend is about \$731,000 per year.

>> Houston: Okay, thanks.

>> Mayor Adler: Mr. Flannigan.

>> Flannigan: So help me understand this again. You said when a developer is building out a neighborhood, if they choose to use more than the standard street lights, then they work with Austin energy to purchase and install them?

>> Correct. So actually it's that -- that's true for really any street lighting. So when a developer builds out a neighborhood, they do have the option to use our standard luminere and that's still a cost borne by the developer or they could choose to use the decorative options that we have available and then they pay for that as well, which is obviously -- it's an additional cost just based on the nature of the luminere.

>> Flannigan: So how does that work 20 years later when the developer is gone?

>> I'm sorry, sir?

>> Flannigan: When the developer leaves and 20 years later somebody takes their car and runs into a street light, who pays for replacement?

>> In that particular case the luminere is replaced -- let's say the pole is damaged and had to be replaced. It would be replaced in kind. At that point that cost is -- meaning it's a similar type -- it could be if it's our standard luminere or if it's decorative. So we replace it and then the cost is usually borne quite honestly by the person who hit it.

[10:52:53 AM]

It's actually something that ends up becoming like an insurance type case at that point.

>> Flannigan: Okay. That's great if the person who hit it is still there. So who holds -- who is responsible for holding the insurance on these decorative lights? On an ongoing basis?

>> So we do operate and maintain them, and that's part of what we cover per the street lighting costs that are in our rates. So that's something that we still maintain. So if there's problems with them, then we actually take care of those type of problems.

>> Flannigan: So neighborhood has decorative streets lights, the developer is long gone. Somebody let's and run on a decorative street line and Austin energy comes in and replaces it and that's how it works?

>> And then back charges the person that actually caused the damage.

>> Flannigan: If they can be found. But the liability and all that effort is on Austin energy.

>> That's correct.

>> Flannigan: Thank you.

>> Council, Cindy Houston, I need to correct the information I gave you on annual cost. I gave you total cost. The annual cost is 4,001 per year.

>> Mayor Adler: Okay. Is there a motion then to approve this item 32? Motion to approve, mayor pro tem. Is there a second to this motion? Ms. Kitchen. Any discussion? Those in favor please raise your hands? Those opposed? Those abstaining? It's unanimous on the dais. Did anybody not vote yes on that?

>> [Inaudible].

>> Mayor Adler: All right. I think everyone voted for this. And with that -- and with councilmember alter off the dais.

[10:54:53 AM]

Let's go then to item number 34. Mayor pro tem, I think you have an amendment to make on this?

>> Tovo: I do, mayor. And we talked about this on Tuesday, so I won't recap unless somebody wants to hear my rationale. But 34 I would propose, one, I guess I would ask our staff just to weigh in on this. I'm not sure if they've been able to weigh in on it. But I would propose stripping out the three -- the three 12-month extensions and leaving it at the 24-month contract. Do you have any concerns about that?

>> Of course, Yolanda Miller, deputy purchasing officer. And what we would -- as an alternative, would be to award today the base amount and then to allow us to come back to you after the initial period and ask for authorization if possible for the remaining amounts.

>> Tovo: So if I strip out with three 12-month extension and then the rest of that line, does that afford you the option that you're -- to which you're referring?

>> What we would probably recommend is if we could -- if we could award the initial contract today, but not -- not -- not have the other two. Not just qualify the other one.

>> Tovo: And I think that is the intent. If I understand what you're saying, that is the intent. I apologize --

>> The extension option wouldn't go away.

>> Tovo: I see. Then probably the language does need to be altered from what I have here. So maybe just keep it as it is and say with three -- where it says with three 12 month extension options and an estimated amount of et cetera, et cetera, that would return for council approval or something of that sort.

>> Andrea Lloyd, assistant city attorney.

[10:56:54 AM]

I would recommend that we award the extension options, but not have authorization to execute, and we can add language that says that it has to come back to council.

>> Tovo: Okay. I'm satisfied with that. And I guess I would say since this continues to come up as a philosophical question or as a policy matter, it would be great to work with several of you on, you know, seeing what's possible here. So if you're interested, I say this to my colleagues, let me know and maybe we can pull together the bandwidth to get some suggestions here for our staff. Thank you. I'm satisfied with that solution and with that I'll -- I'll have a walking motion. Approximate.

>> Mayor Adler: That's okay. Without objection, with that caveat, mayor pro tem moves passage of item number 34. Is there a second to that? Ms. Houston seconds that. All those in favor please raise your hand? Those opposed? It's unanimous on the dais with councilmember alter off. That then handles 34. 38, Ms. Houston, you pulled that one.

>> Houston: Thank you, mayor. And I just needed someone from staff to come and talk to me just a minute about the urban forest plan from 2014. And how -- how the decisions are made regarding the locations that the trees are given away in.

>> Emily king, urban Forrester with development services department. What specifically was your question?

>> Houston: How are the decisions made about where to give away the trees? Because it says public and I understand that's public, but it says private. So where are the private -- how do you decide where the private trees are given away?

>> Okay. So this is for the tree distribution program called neighbor woods. The city has a planting priority map that we --

[10:58:54 AM]

>> Houston: Can you come down a little closer. You can pull it down a little bit.

>> Okay. We have a planting priority map that we use as a guiding place for where to begin offering trees through the neighbor woods program. Trees are offered to area residents that are within the Austin energy service area, and it's largely dependent on residents accepting the trees that are offered as to where exactly those trees get distributed to. Again, a lot of the initial offerings are based on a planting priority map that was developed that takes in over 30 different indicators across the city, such as how much shade is currently in an area, environmental justice and other equity distribution factors. So we actually have this map up on our website that is -- it's somewhat it can be easily viewed. So that's the starting place for how trees are offered.

>> Houston: Thank you. I've been the recipient of a beautiful rosebud tree in my front yard, so I appreciate that. And then the other part of the question that I posted on the q&a that didn't a process to ensure diversity in the urban forest steward's program? And the answer said it's open to all interested austinites. That's a good response, but it's not -- I was asking about diversity. And how we intentionally ensure people who live in different communities know that this opportunity is there.

>> Sure. So the forest stewards class is an education program for -- geared towards residents and part of the contract includes a media marketing campaign to alert area residents of this offering, and we make efforts to reach as broad an audience as possible through different marketing platforms.

[11:01:00 AM]

>> Houston: And so in the history of the program, have you had a very diverse class of individuals that represent the diversity found in the city? And I only ask that because sometimes our marketing tools are marketed for the -- a specific population set and we're not doing it in Spanish, we're not doing it in Chinese, we're not going out into communities where people immediate to understand about the importance of trees and what trees bring to a city and a community.

>> I'm not sure if demographic information has been collected for participants. So I'm not sure that I could answer that. This class has been offered over ten years in our area and, again, I'm not sure that we've collected demographic information on the participants. It's -- it is largely geared towards people that are active in neighborhood parks that are interested in doing more environmental stewardship through their neighborhood parks and I do see your point about ensuring diversity there. I'm just not sure I could look towards any data we've collected in the past to demonstrate one way or the other.

>> Houston: I think it would be helpful to start that and try to target some of your media. Because the communities that I'm talking about don't get that emphasis about how important environmental justice is and inequities that sometimes people live in in different parts of the community. So if we're not trying

to educate that demographic then we're just depending upon people that already understand how important it is, just like composting and recycling. If we're not intentionally reaching those communities, then they -- they suffer. They suffer. So I would hope that y'all would begin to look at demographic data and try to target some of your media to specific areas of town where this would be helpful to have the education.

[11:03:08 AM]

>> Sure. I appreciate that. We are making an effort to tailor all prep materials, all media, social media, other platforms in dual language, English, Spanish, but at this point I'm not aware of actually offering classes in additional languages. So that is a starting place for that.

>> Houston: Well, it's not just -- first, we've got to get the information out to the population before we can offer the classes. So I'm just trying to get the information further out than the usual suspects. Okay? Thank you so much. I appreciate all the work you're doing.

>> Mayor Adler: Okay. Is there a motion to approve this item number 38? Ms. Houston makes that motion. Is there a second? Ms. Pool. Discussion? Those in favor please raise your hand. Those opposed. Ms. Troxclair is opposed. The others voting aye, Ms. Alter off the dais. It passes. That gets us then to item 45. You pulled this one, Ms. Houston.

>> Houston: This is a question for ems month so than the fire department.

>> Good morning, James holly, assistant chief of ems.

>> Houston: Nice to meet you. We did get some specific information about the bunker gear for the fire department, but in the backup information it says that ems has to buy their shoes and their utility belt, I believe. Do y'all also get uniforms or some other kind of gear from the city?

>> Yes, ma'am. We also have -- we also purchase off the tackaberry contract as well but we spec a different type of bunker gear, it's a tech bunker gear, not fire rated, we want some layer of protection when we're working with the fire department on those type of rescue calls.

[11:05:13 AM]

For the most part our bunker gear is a one time purchase. Our gear is not under a warranty like the fire department and we purchase bunker gear for our new employees, roughly 30 to 60 new employees a year at a cost of about \$1,600 per set of bunker gear, pretty much extends their life career with our department.

>> Houston: Okay. That was going to be my next question, how much per --

>> And also, when possible, because it is measured, we do recycle that bunker gear to other employees if it fits them appropriately.

>> Houston: Thank you so much. You answered all my questions. I move adoption.

>> Mayor Adler: Ms. Houston moves adoption of item 45. Without objection we'll let her do that. Is there a second? Mayor pro tem seconds that. Any discussion? Those in favor please raise your hand. Those opposed. Unanimous with Ms. Alter off the dais. Thank you. That gets us, I think, to item 62. Ms. Pool, this is yours.

>> Pool: And I think I win the award for most pulls. Well, I don't win it, actually. The item wins it.

>> Tovo: Oh, yes, yes.

>> Pool: This is the charter review commission. I can say a couple of things and then maybe give a little bit of scoping for folks and then make a recommendation. I first want to thank mayor Adler -- is that all right?

>> Mayor Adler: Why don't you tell us first what your recommendation is going to be and then you can decide how much of a discussion you want to have about the issue in addition to your recommendation.

>> Pool: Great. That sounds great. So I wanted to thank my cosponsors mayor Adler, mayor pro tem tovo video and councilmembers Garza and kitchen.

[11:07:15 AM]

I had asked both councilmembers impairs and kitchen to be on this because they had served on the last charter will have commission that the city did. The primary reason for the resolution is to do some -- to provide an opportunity for cleanup and to give the community an opportunity to bring forth items that they may have concerns about and so that we can seek some creative and reasonable solutions to what those may be. We've heard some input from various members of the dais that are leading me to recommend that we postpone have some time to craft some language to cover the various issues that people have raised, and so I'd love to get them surfaced today, to the extent that we can. Otherwise, we'll -- I just ask that this be postponed to next week.

>> Mayor Adler: Okay. Rather than having us crafting language on the dais, I would support a postponement until next week to let people take a look at that, exchange things, even post things on the board. Ms. Kitchen.

>> Kitchen: If it's acceptable to councilmember kitchen pool -- councilmember pool, I'd move to postpone it.

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

>> Pool: Okay. I thought I had, but --

>> Kitchen: Oh, did you?

>> Mayor Adler: That's all right. Let's do it that way.

>> Pool: And I'd love a second. Ms. Pool moves to postpone, Ms. Kitchen seconds that motion. Is there a discussion on the motion to postpone? Those in favor of postponing please raise your hand. Those opposed? It is postponed until next week. Let's go on then to the next item. That gets us to item number 64.

[11:09:16 AM]

Ms. Pool, you pulled this one because you wanted to have a chance to take a look at the item that was in backup.

>> Pool: Right. I was hoping to hear from Mr. Nix as far as any lingering concerns that he or the Austin fire association had with it. The one thing that I would ask of councilmembers Flannigan and alter, if they would allow me to delete a phrase that is at the bottom of page 1 and the bottom whereas so that the phrase "Thus leaving the city council with a diminished funding capacity for necessary expenditures in a 2017-18 budget would be removed." It feels a little heavier handed than perhaps the authors were intending.

>> Flannigan: It's not heavier handed than I intended but I am willing to support removing it.

>> Mayor Adler: Any objection to that being removed? Then that clause is removed.

>> Pool: Thanks.

>> Mayor Adler: I have a question on the last one, be it further resolved, update by August 18 for use during negotiations and the annual budget process. How does the timing work on this? What will have been done by then or not done by then?

>> Good morning, mayor, council, mark Washington, assistant city manager. Significant discussions on the contract would have entailed by then. I did speak to our chief negotiator this morning. He indicated that there certainly would wait to discuss compensation and economics last. However, in order for it to be information that would inform both sides, it would preferably need to have been completed in July. So August would certainly be absolutely too late at that time in August, we're running the risk of it being too late.

[11:11:20 AM]

>> Kitchen: I would like to add to that that the audit results, if they came in mid-august, would be useful to the council's consideration of the contracts that we bring to you, although we wouldn't have it in time for the negotiations.

>> Mayor Adler: So is there a way for us to get this work done earlier so that it could benefit also the manager? In addition to us after the negotiations are concluded.

>> Corey Stokes, city auditor. We are talking about separating this into two pieces of work. You'll see there's a special request and that would be designed to look at the agreement itself and the provisions in those agreements and how they drive costs, as well as other cities and how those provisions compare. So that special request work I believe we could finish. I think the end of July as probably the most realistic time line for that. The audit itself, looking at the -- answering the two questions here I think is a larger project. I think what we were envisioning is an August report back on where we were, what risks we were seeing, but not necessarily having a final product at that point.

>> Mayor Adler: Okay. So it's, like, it -- is it -- can we change it so we get the update at least on the first section by the end of July? I'm looking at the last be it resolved.

>> Correct.

>> Mayor Adler: Does that work?

>> Flannigan: Well, is it appropriate to put in the resolution a request or details around the special request, which I understand happens outside of resolution?

>> So the special -- I mean, we can do a report at the end of July or the -- be the end of July, beginning of August, on where we are. I don't know that we would have as much information as we would have by mid-august. For the special request, I think that's a separate --

>> Mayor Adler: That's not associated with this.

>> Right.

>> Mayor Adler: So the special request is looking at the stuff, I'm sorry, now I'm catching up, I apologize.

[11:13:24 AM]

So the special request is going to be handled to the information as it relates to the contract levers is being handled by special and Q and will be done more quickly so the staff and manager have that during negotiations and the parties have that during negotiations.

>> Correct.

>> Mayor Adler: Beyond that this is the longer issue and that will be coming back in mid-august.

>> Flannigan: So whatever additional information can be gleaned informs our vote on the final contract to the manager's point.

>> Mayor Adler: Okay. Now I understand. Thank you. Councilmember alter.

>> Alter: Mayor, I know that you can share the concern that councilmember Flannigan and I have about making sure that this information is available for the contract negotiations. If you would like to join us in developing that special request so that we can make sure that we address all of your timing and other concerns, we'd be more than happy to have you join with us in framing that moving forward.

>> Mayor Adler: I'd love to participate. Thank you. Councilmember Garza.

>> Garza: At work session you mentioned that there are some audits going on right now but that they're at a stopping point so that -- but are there audits that won't be started because of this?

>> I don't believe so. Well, I guess I would say we're in very early stages of our public information request audit and that is one of the audits that I envision tabling kind of temporarily. So we barely started it. And would stop it now rather than move forward with it and move forward once we free up resources again, whether that's the teams that working on this project or whether that's a team -- whether that's other team members on different audits, but that's the project. I guess I would say it is not formally started and so we would just keep not starting that. The other ones that are two projects we added in may, one related to neighborhood centers and one related to programs at neighborhood housing, the match saving program and down payment assistance program, I envision those getting started and then one other project that would be affected, we have an on-call utilization audit, that's citywide look right now, primarily focused on the three public safety departments, Austin energy, Austin water and watershed, and I envision taking the on-call utilization for the fire department and working that into the overtime audit, but the rest of those we would pause.

[11:16:03 AM]

>> Garza: Okay. I -- I'm gonna support this audit, but I'm -- I have a couple of concerns. I'm concerned about the precedent this sets in basically asking the auditor to do the work that we're supposed to do as we look through the budget and try to find ways to save money and if this is going to cause us -- councilmembers now asking the auditor to audit every single department, I mean, if we're going to

move in that direction that might be a budget item that we need to talk about, increasing the staff for the auditor if we're going to be auditing every single department because I feel that this puts a focus on one department and sheds, in a way, a little bit of a negative light on this department, saying that this department is causing this -- you know, such a huge increase in our budget when really any department -- you could look at any of our departments and make the same argument about any of the departments. But if this answers questions that I believe many have been answered already, then -- and the auditor feels that this is within her ability to do this, then I'm fine supporting it.

>> Mayor Adler: Okay. Mr. Flannigan and then councilmember alter. Your clarification on how the process will move forward. I think that sounds like a good plan. I share councilmember Garza's concern that we don't want to set a bad precedent, but I think if we see departments having \$3 million plus budget amendments pulling from budget stabilization in a year, it would be appropriate to audit them whenever that happens. But beyond that, it's a department that has some very unique staffing rules and scheduling rules that you don't see in nearly any other department with the 24 hour shifts and that kind of stuff.

[11:18:04 AM]

So as several of us have tried to dig into the numbers on our own, as we will on all departments for the budget, this one is in many ways uniquely complicated that I think benefits from the expertise in the auditor's office. So I don't want to set that precedent either, but I think this one makes sense.

>> Mayor Adler: Okay.

>> Alter: I want to say as originally framed this was for public safety as a whole and then it kind of got sharper in that our special request may be for public safety, which is three departments that make up 67%. I think we still have to decide the exact parameters for our special request part. I think that over time, trying to meet some concerns, things morphed in particular ways. I just want to be clear that my concern is about all three public safety departments and the cost drivers and the levers and I have been asking questions since March and I do not yet feel like I have answers that I need to do my job when it comes to choosing whether to support a contract or not.

>> Mayor Adler: Okay. Yes, Ms. Pool.

>> Pool: This one is real difficult for me for reasons that I think I've talked about already in work session, but primarily it goes to the fact that the overtime that was incurred is because of previous actions on council with consent decrees and the fact that our fire department wasn't able to engage in hiring that they needed in order to staff up to the levels that would have made the overtime unnecessary. I have a hard time -- it feels like they're being targeted for concerns beyond their control. I think in the end a one -- if I were to vote against it it really wouldn't matter because I think it will pass but I think I'm going to abstain from this vote, mayor, for those reasons.

[11:20:18 AM]

I have some concerns about the statements that this is making and maybe not making and a trust and a belief in the fire department and our fire association, that they are in fact doing their business appropriately with the paramount concerns of safety for the firefighters who are on the apparatus and our citizens. Thanks.

>> Mayor Adler: Okay. Ready to take a vote? Mayor pro tem.

>> Tovo: I'm going to support this but I concur with my colleague. I have great faith in our fire department and I understand the reasons that we need this extra expenditure and I'm supporting this because I assume that it is, you know, like our other audits, an attempt to offer additional information if additional information is available there. I do want to say too though that the budget stabilization reserve exists to fund just these kinds of exigent situations so I think it's an appropriate use and I would support the use of it in other circumstances where -- like this one. So thanks.

>> Mayor Adler: Okay. Yes, Ms. Kitchen.

>> Kitchen: I'll just briefly add that I will also support it going forward, but I have the same kind of concerns that my colleagues have expressed, in that I am comfortable with what our fire department is doing. I understand the need for the overtime out of the budget stabilization, which I think is appropriate. So the only reason I'm supporting this going forward is it does provide us additional information.

>> Mayor Adler: I'm supporting this because I think everybody has agreed we have a \$6 million expenditure here that we wouldn't need to have if we could figure out how to get to a more equalized place. I think we've all agreed on that, and that's not a bad reflection on anybody. That's just saying there's something here it looks like we could do something about.

[11:22:20 AM]

If the auditor can help us, see us -- I see us all on the same team trying to figure out how to get from here tow there. I think this information would be good for us all to have, everybody to have. Yes?

>> Houston: I'm supporting it because I don't think any department in the city is exempt from an audit. I think there's something that should be done on a regular basis, in fact, so every five years, every -- you know, on a rotating basis every department should have that opportunity to try to see how they can improve some things from an outside view. So I'm supporting it.

>> Mayor Adler: Okay. We have two speakers. Let's go ahead and recognize them. Mr. King and Mr. Nix both signed up. Mr. Nix. What?

>> He spoke already.

>> Mayor Adler: He spoke on esd -- on this?

>> I spoke on this earlier.

>> Mayor Adler: What?

>> So I'll be brief. If I'm allowed to speak again.

>> Mayor Adler: Oh, because we called -- I see. We did call the speakers on this one I really. Thank you. All right. So we're back up -- yes, councilmember alter.

>> Alter: I just wanted to --

>> Mayor Adler: I called both speakers on this issue during the discussion we had prior to the vote on the consent agenda. I didn't see that there were two people signed up. My mistake. Councilmember alter.

>> Alter: I just wanted to remind my colleagues what the city website says the auditor's office charges. So the Austin city charter created the office of the city auditor to assist the Austin city council, citizens and city management in establishing accountability, transparency and a culture of continuous improvement in city operations and delivery we conduct performance audits, investigate complaints of fraud, waste or abuse. I am not looking for abuse. That is not the purpose of this audit. I just want to be very clear we're trying to figure out to make sure we as a city have the right solutions for a problem that has become a recurring one.

[11:24:29 AM]

So the budget stabilization reserve is supposed to be used for one-time situations and the overtime requests have become repeated, and so we need to make sure that we don't put ourselves in a situation to have to continue to have these requests year after year. And I am trying to balance our very important public safety needs with the needs of the rest of the city. All other departments were asked to cut 1%, and so there are trade-offs involved, and we owe it to our community to understand how we solve these problems so that we do have funding for other things or if we have a broader vision of public safety beyond these departments that there is funding available to be able to provide that. And so for me, I feel like we are relying on the auditors to provide us additional information, independent of the department, to make sure that we are going after really how to solve the root of the problem.

>> Mayor Adler: Okay. Yes, councilmember Garza.

>> Garza: I -- we all are aware what the auditor's job is, and I think I just want to reiterate, everybody else is reiterating their points, I think the questions have been answered and I think we're at -- we're basically asking the auditor to bring us back the exact same answers we've already been given, and that is what is affecting this is the consent did he characterization people retiring early, and four person staffing. If we want to have a policy discussion on four person staffing that's a whole other can of worms but I just think this is asking our auditor to commit significant resources to bring us back the answers that we already know.

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

>> Renteria: Mayor, I feel the same way. You know, we can always just look back on the history of the fire department and see that, you know, it's totally comes down to the fact that, you know, there's -- they have a problem hiring people of color, that's what it comes down to.

[11:26:45 AM]

And we're paying the price for that.

>> Alter: I'd like to -- if I might add. One of the reasons I'm trying to understand what's going on with the contracts and this process, there is a part of the contract which restricts how we get to higher people that interacts with the consent decree to create a situation where they are not able to meet the diversity goals. Part of the what the auditor can shed light on is what role that is playing. And so this is -- I do think that there are things in here that we do not have full information about, and I really do think it's important that we have an independent view that helps us understand that. And if the audit comes back and it is all of that, exactly what we've been told, then that's fine. Then we will have confirmed that and we will know that we were going after the problem in the correct way.

>> Renteria: I have no problem if we reach -- if it does come back and say how to fix this problem. But I think we pretty much know what the problem is, but, yes, maybe -- let's hope they do come and say this is how we're going to fix it.

>> Mayor Adler: Let's go ahead and take a vote. Those in favor of this item number 64 please raise your hand. Those opposed? Those abstaining? Ms. Pool abstains, others voting aye. It passes. Okay. That gets us then to item number 68. Thank you.

>> Mr. Mayor, I thought you said that was for executive session.

>> Mayor Adler: Yes, we're going to discuss that in executive session so we've pulled that. Let's hold that. Thank you. That gets us to item number 69. But we're going to pull that and hold that one later tonight when we get the other one. That gets us to item number 71.

[11:28:47 AM]

Do we want to take this up now.

>> Kitchen: Yes.

>> Mayor Adler: Okay.

>> Kitchen: This is the item related to green infrastructure. I'm not going to go into detail because we had some discussion about it previously. I do have an amendment, and I think councilmember Garza may have one also. The amendment that I passed out is on this yellow sheet and it simply relates to adding language that makes it clear that the city manager will also coordinate with the efforts of the Austin water forward task force. So it's just to make sure that when the actions are taken -- or when the evaluation, consideration, and work that's taken with regard to green infrastructure occurs, that it's also done in coordination with the Austin water forward. So it's simply a recognition that we have other efforts going on that are related and so they should be -- talk to each other when they're doing that.

>> Mayor Adler: Is there any objection to adding the amendment offered by councilmember kitchen? To -- I'm looking here. You have -- there are two -- the first one is to --

>> Kitchen: Well, they both do the same thing. The first one specify coordinating with the Austin water forward efforts.

>> Mayor Adler: Okay.

>> Kitchen: The second one just takes out the list of departments because instead of listing them all, because if you're going to add coordination with the Austin water forward you'd have to add additional departments.

>> Mayor Adler: Is there any objection to these amendments being included? Seeing none, they're included. Ms. Garza, did you have an amendment?

>> Garza: I do. I passed them out. I also have questions for staff on it. But mine are basically --

>> Mayor Adler: We need staff up here.

>> Garza: I just wanted to -- my amendments are -- say Garza on the top of them.

[11:30:51 AM]

It's mostly to also -- ask also for a cost analysis. Because -- can I ask staff questions first before I go into my amendments to give some department of to what my concerns are.

>> Mayor Adler: I'm sorry, what.

>> Garza: Can I ask staff some questions.

>> Mayor Adler: Yes, yes. If staff can come up here, please.

>> Garza: My question was, I know there's already work being done with green infrastructure 2 and how we're adding that to codenext. So how is this different from what's already -- what does this add to what's already being done? Because I support green infrastructure so I want to know how this changes it.

>> Assistant director, watershed. I'm going to hand this off to Matt in our policy and planning group.

>> Thank you, good morning. I guess it adds clarity to what -- or some clarification to what we're doing. This is exactly what we do plan to do to prepare for the codenext ordinance for beneficial use and for the functional green components. So we want -- we always look at how effective is this to meet our environmental goals, how implementable it is, and also, you know, when we have an affordability component, we do a formal affordability impact statement in conjunction with the housing department.

>> Garza: So I see how parts of this say -- it gets to the implementable part of it, but then at the end it says that it's bringing forward this plan. Is that the plan that you were bringing forward anyway that includes --

>> I think the plan is referred in this is -- has more to do with the imagine Austin -- one of the imagine Austin work program elements. As opposed to the -- this other -- as opposed to functional green and on-site beneficial reuse.

>> Garza: And that's what I was -- so the last be it resolved says city manager directed to bring the work plan for the development of the gr to relevant boards.

[11:32:53 AM]

That's more of something in a -- included in imagine Austin.

>> That's correct.

>> Garza: And less about codenext.

>> That's correct. It's kind of a larger city initiative. We're looking at city lands and properties and how we best implement our own green infrastructure program as a city. As opposed to -- I mean I suppose that our development -- land development code could be considered part of that but I think imagine Austin looks at it a little differently.

>> Garza: And so it was hard to -- there seemed like different parts of this, how it gets included in imagine Austin, how it gets included as we have discussions of codenext. So I was trying to understand, for the part that gets included in codenext, that's where my cost concerns come into play, and how -- is part of what you're doing and this allowing you or asking you to do -- going to require some of the this -- some of this in commercial and residential? Is that what staff could bring back? Like --

>> Yes.

>> Garza: -- Part of the code will say if you are a single-family home and you are doing a remodel, you -- that will trigger some implementation of green infrastructure?

>> Yes. The codenext -- the codenext -- the staff draft -- before the community -- before the community now proposes that beneficial reuse be part of the -- be a reimbursement for new site plans and new subdivisions. It does not affect single family structures, anything with a building permit, like a duplex or a single-family home.

>> Garza: Repeat that first part?

>> Okay. So the staff draft that has been -- you know, consultants' draft out in the community now says thou shall beneficially reuse water in these ways and the affected parties would be anything with a site plan, commercial, multi-family, et cetera, or anything with a subdivision plan. And so not an individual -- so somebody that wanted to put another unit on -- in their backyard or what have you, that would not trigger the codenext provisions that we've put forward.

[11:35:01 AM]

>> Garza: And you are comfortable that nothing in this resolution now changes that?

>> That's correct.

>> Garza: That's what I want --

>> Yeah.

>> Garza: That's what I wanted to make sure, that we're not going to ask for single family owners to -- if they remodel, if they decide to add an Adu, does not trigger some costly additional requirement.

>> Right. As -- exactly. As we're addressing what we've put forward in codenext, we would be looking at the site plan and subdivision pieces.

>> Garza: And so one of my amendments -- there's a -- in the be it resolved it says to focus on three denying unit developments, and was that part of what you were doing anyway? Or is that something new? Because that's actually one of my amendments that I would be asking to take out, because I have

concerns about focusing on a specific type of development, the very specific type of development that we're trying to add to add affordability and then adding on requirements to that type of development.

>> I see. Our proposal is going to affect anything from three to infinity developments. And so, you know, I mean -- units. So we basically would be looking at three to nine and up.

>> Garza: And up, okay.

>> All right with our work program. So this is a -- this makes sense. I mean, we -- this -- this accurately shows the kind of process we would want to do anyway to bring forward information to boards and commissions and to council to show -- and the community to show the effectiveness, the implementability, and affordability of our proposal.

>> Garza: And when you say affordability, will it be as specific as saying the estimated cost it would add to a three to nine development project?

>> Generally, like in -- with watershed protection ordinance in the past, we try to show -- we try to compare it to current code now and try to see, you know, what types of cost impacts do we see. We work very closely with the housing department staff and then we bring that -- then we actually bring forward a form a is to y'all and to the rest of the community.

[11:37:07 AM]

So I don't know that it would say \$59.06, but it would probably be broader than that, but we would have a -- we would make a formal statement to y'all.

>> Garza: A formal statement saying that, yes, this affects --

>> Yes, that it has these increases or major increase versus minor versus neutral versus cost reduction. In some cases these might actually reduce costs in some cases but we immediate to get there with an analysis before we can conclude that.

>> Garza: Okay. Thank you.

>> All right.

>> Garza: You answered my questions very well. So I would just -- I'll -- I have amendments that I believe councilmember kitchen is okay with, as well as staff.

>> Kitchen: Yeah, the one you passed out? Yes, I'm fine with that.

>> Garza: Okay.

>> Casar: Mayor? I want to catch Mr. Holland before he sat down.

>> Mayor Adler: That's okay.

>> Casar: It's too late.

>> Mayor Adler: We'll come back up.

>> Kitchen: Can I make a statement first?

>> Casar: Sure. I just wanted to ask him a question.

>> Kitchen: Go ahead. You go first.

>> Casar: I would hate to make him sit down a second time. Good not to see you in a creek bed. I feel that's where I run into you. I wanted to key off of one of councilmember Garza's questions. I think this is important work. I appreciate it and support what is being done with this in the code rewrite and by this resolution but just to key off one of her questions, what's important to me and I want to know whether it's contemplated in the current codenext work y'all are doing or contemplated in the current resolution is not just -- it's not just the affordability impact, but we are doing work as a city and a community to get more of those three to eight unit buildings built. And what I'm interested in is not just the affordability impact but what -- how the changes in regulations might help encourage or discourage those forms of housing because having those forms of housing is good for affordability but also for the environment and for flooding as well to have fiduciary -- fewer big house options or big subdivision options.

[11:39:11 AM]

What I'm interested in is not just the cost implications but how we tilt the scales toward one type of housing development or another. So I guess I just want to understand and be clear if that's work y'all are already considering or how if you're reading this resolution to be asking you guys to figure that part out? Because I think that's also a critical way for us to address flooding issues along with traffic and affordability issues. So that's what I'm sort of trying to sort out here. Are we making sure we do everything we can to address green infrastructure and incentivize shall disincentivize that missing housing type.

>> Exactly. We want to make sure it's effective, we want to make sure it can be implemented, it can actually -- we have a process and folks can feasibly get this done and then we also want it to be affordable. And so we're looking at all three of those pieces and we know that the missing middle is going to be one of the most important subtopics within this, maybe the most important subtopic because that's kind of an unknown entity at this point. So we'll be focusing on that as we do this. So this basically calls, you know -- you know, calls outlets get this done, let's make this analysis, these are the kinds of things we want to do anyway, and this makes sense and we add some clarity.

>> Casar: That's helpful, right, because those missing middle housing types are going to have less land to play with, less units to spread any cost over. Of course I understand that some of the costs the builders, the homeowners or professional developers incur could save us money in the long run so I'm supportive of the idea. Just want to make sure that we --

>> Absolutely.

>> Casar: Take a look at any of the --

>> We want to show how you can potentially anymorebly integrate these green practices into that smaller subdivision or smaller project as opposed to something -- as opposed to conventional. So you can do both conventional or these green practices. So this analysis will help us get there and be able to explain that to the community.

>> Casar: Great.

[11:41:11 AM]

And I would just say I appreciate the sponsor and cosponsors for bringing this up. I would ask that our staff be brave with whatever it is you bring back if the best thing to do is to pave less dirt for parking spaces in order to better provide for those housing types and protect the environment, I would like to hear that and best understand that.

>> All right. Thank you.

>> Casar: Thank you.

>> Mayor Adler: Okay. I think we're to Ms. Garza's amendments.

>> Kitchen: Oh, okay.

>> Garza: I want to -- after speaking with my staff, there was another part that -- there was -- in the first be it resolveds there were requests for stuff and then it seems like at the very end in those first -- it didn't match up. So after talking to my staff, I'd also like to add, in the second to last be it resolved, that the testing --

>> Kitchen: The second? What page are you on? I'm sorry.

>> Garza: Six.

>> Kitchen: Okay. Go ahead.

>> Mayor Adler: Let's take these -- you want to take these in pieces, each one of the -- first resolved clause.

>> Garza: So I'll move my -- my first page that everybody has.

>> Mayor Adler: Okay.

>> Kitchen: Could I just make a comment?

>> Mayor Adler: Yes.

>> Kitchen: I support this, and I support what my colleagues, councilmember Garza and councilmember Casar, have said. There is absolutely no attempt to have any impact on affordability or to change in any way with this who this applies to. And I think it's a good analysis to look at affordability, which will also help us understand how green infrastructure can help costs, particularly for individuals. So this doesn't apply to single member homes, as was mentioned, but I just can't resist the opportunity to remind people that for a single member home you can -- if you use green infrastructure, you have the potential to reduce your drainage utility fee because you can reduce impervious cover and you also can take advantage of certain incentives that are city -- our city has to help people put these in place.

[11:43:22 AM]

Anyway, I want to thank you for bringing up the affordability issue and I do support this amendment that councilmember Garza has brought forward.

>> Mayor Adler: Ms. Garza you do not the amendment that we have handed out to us on the yellow paper. Seconded by Ms. Kitchen. Is there any discussion? Those in favor of that amendment please raise your hand. Those opposed. Everybody on the dais. Ms. Garza, you had a second amendment you wanted to discuss.

>> Garza: The second one would be -- what I'm trying to do is pull some of the first be it resolved action into the second to last be it resolved to give them a -- the date of December 27. So where it says the further leverages cost developmental programs and evaluations and testing, this is the part that's added. Evaluations and testing of functional green and on-site beneficial use including the report on the cost implications to different housing types by December 2017.

>> Kitchen: Okay. So I'm sorry. Read that one more time? I think I caught it, but I just want to be sure.

>> Mayor Adler: If the clerk could go ahead and put that on the overhead.

>> Garza: It basically adds -- because in the --

>> Kitchen: I think it works. I just wanted -- I can -- I immediate to see it. I can do that better.

>> Garza: Just to provide context, the first couple be it resolveds talk about the testing that's happening, calibrating the tool.

>> Kitchen: Right.

>> Mayor Adler: It's up now.

>> Kitchen: You're just trying to make it clear.

>> Garza: Yes, that testing that calibrated the tool discussion or report will be also brought back by December 2017.

>> Kitchen: Okay. Let's see.

[11:45:26 AM]

It's okay with me if -- as long as staff doesn't have any concerns about that.

>> Mayor Adler: Staff have concerns about that? No. Thumbs up. Ms. Garza makes this additional amendment. Is there a second to that additional amendment? Ms. Kitchen. Any discussion? Those in favor please raise your hand. Those opposed. Everybody on the dais. That gets us then to a vote on the overall motion. There's some speakers that have signed up. It looks like it's going to pass. Do any of those speakers want to speak? Come on down. We have one more item we're trying to get done by noon so if -- there are five speakers that are signed up, that would be 15 minutes, if everybody took three things, which would mean we'd do that's all we would do this morning.

>> Right. Thank you, mayor. I recognize that there are some questions that have been discussed that I'd like to address.

>> Mayor Adler: Okay.

>> I'm sorry. Should I --

>> Kitchen: I was just going -- as the mayor suggested we're moving pretty fast, we know it's going to pass, it's up to you, of course.

>> Okay. Never mind.

>> Kitchen: Okay.

>> Mayor Adler: Mr. Whaley.

>> Conservation chair for the legal Sierra club. I'll be brief. I want to thank councilmember Garza. We're able to support this with those amendments and we are very concerned about that, and we thank you very much for bringing that forward. I would also like to thank watershed protection and water and wastewater commission who has already been working on these issues and y'all have talked and amended this and brought their input into it, and I think that's -- we're all very grateful for that. When it

comes to watershed and impervious cover and stormwater, I would ask that in codenext we start with enforcing the environmental regulations and let's start with that and then build the land use around it so that when we have the need to set aside stormwater retention areas for the parks space and that conflicts with impervious cover, let's put that -- the impervious cover issues first and then ask the development community to make a lot of money on just a little less so that we save the whole city money and heartache.

[11:47:54 AM]

And I'll thank you for allowing me to speak.

>> Mayor Adler: Thank you. Does anyone else want to address this.

>> Garza: I want to comment --

>> Mayor Adler: Sir?

>> Thank you, mayor, council. I'll be brief. My name is Jeffrey

[indiscernible] And I'm the new advice practices of policy and government affairs for the real estate council of Austin and I just wanted to say we're very supportive of this and really want to thank councilmember kitchen's leadership on this as well as yours, and we're very supportive of councilmember Garza's amendments, as well as appreciate the clarification. The main thing that we wanted to highlight, as you point out, was the importance of making sure that this is handled sort inform parallel with the codenext process because a lot of this stuff is really going to be Wendy throughout that as well as through the environmental criteria manual which we're still waiting on. We look forward to continuing to work council on this as well as throughout the stakeholder process. Thank you.

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

>> Garza: Oh, there's somebody else?

>> Mayor Adler: No, no. Thank you. Next speaker.

>> Brian [indiscernible] From environment Texas. I'll make this really brief. We've been working with -- for months with councilmember kitchen on this because we've been working on a green stormwater project for a long time. We have a canvassing operation right now in Austin this Summers that passing out thousands of fliers on gsi to Austin homes. This is a subject that we know very well and we strongly support this. I just wanted to address some of the questions that were raised. What does this do that the city isn't doing already? The city has a lot of good policies and programs in place for gsi but actual usage of green stormwater in the city still remains lower than it should. Environment Texas is currently

working on a statewide report, a scorecard that is evaluating gsi policies in Austin, dallas/fort worth, Houston, and San Antonio.

[11:49:55 AM]

I can tell you that Austin is by far the best in terms of policies and programs, but as I said, actual use is low. The reason that this matters is that green stormwater infrastructure is a very good way for us to cut urban runoff and urban runoff is becoming an increasing problem in the city as we pave over more of our land with buildings, roads, and parking lots. Codenext in particular would lead to more density in many places. Green stormwater infrastructure is a way to share management of this increased runoff between both the city and with property owners with developments. It will also, too, most importantly help out the city in extending the life of the city's drainage system by -- and thus lowering costs and then, finally, as far as the cost issue to individual property owners, that is definitely one thing that should be addressed in this planning process. It's going to be created by this resolution. We are very aware of this, that this is an issue, and we believe that the city should be looking at financial incentives, such as expanding the water wise rebate program, perhaps making it income adjusted, perhaps increasing stormwater fee discounts to enable -- make this easier for developments. Thank you.

>> Mayor Adler: Thank you. Any further discussion? Yes.

>> Very briefly, I'm Angela Richter, without taking too much time I wanted to make sure all of you were aware that the association recently put out a community viewpoint paper on codenext and specifically on watershed issues and so it actually has some very specific recommendations on green stormwater infrastructure that I can send around to anyone who has not seen it.

[11:51:58 AM]

Thank you.

>> Mayor Adler: Thank you. Any further discussion on this item number 71? Ms. Pool.

>> Pool: Thanks, mayor. I just wanted to check in with councilmember kitchen for just a general understanding for the dais and for the community. Page 4 of 6, it talks about -- toward the bottom, second from the bottom bullet, include the environmental commission as a review board and commission to provide recommendations to council as it relates to aspects of the code with environmental impact. Just wanted to confirm that that does in fact include review of the codenext drafts and text.

>> Kitchen: Do you want me to respond to that?

>> Mayor Adler: Okay.

>> Kitchen: Yes. Code there references the land development code. So yes to your statement.

>> Pool: Great. So that the environmental commission will be one of the review boards that our staff send the draft to, as well as -- which is what we've been talking about for months.

>> Kitchen: Yeah.

>> Pool: I just wanted to make sure that was --

>> Kitchen: Yeah.

>> Mayor Adler: Any further discussion on this item 71? Those in favor please raise your hand. Those opposed. Passes unanimously on the dais. That only gives us one other item. I don't know that we can get it done in the next few minutes, but there's nothing else we can do before noon. It's item number 72. Let's talk through the things we can agree on here real fast just to put people on notice if we can do that.

>> Houston: I was going to say we can welcome all the young people we have in the audience today.

>> Mayor Adler: We were certainly going to do that. We'll take this moment to do that here real fast. Because today we have with us some special guests in attendance. We have 20 high school students from various independent school districts from in and around the city of Austin.

[11:54:02 AM]

They're doing a six-week internship with communications and technology management department as part of the emerging leaders summer internship program. They're here today learning about all the technology that it takes to run and support city departments and the city of Austin. So I want you guys to know that we appreciate you being here today. Probably one of the most exciting mornings you have ever spent in your entire lives.

[Laughter] And Stephen Elkins, ctm director, do you want to talk to us?

>> Sure. I wanted to thank you, mayor, just to allow these new ctm employees to stand up and be acknowledged.

[Applause] So, mayor, this is our contribution to the stem program. We have 20 students. We have 20 - we had 20 students last year. Last year we had them working on apps. This year we have them working on virtual reality, as well as artificial intelligence. We're making sure the experience they get here is

meaningful, hopefully they continue their interest in technology and some day in the near future we're able to hire some of these students back at the city of Austin.

>> Mayor Adler: That would be great. Thanks, you guys, for being here. All right. Let's talk here quickly about item 72. Where do you think we are on this one?

>> Tovo: So, mayor, I have brought forward a resolution that we had an opportunity to talk about a little bit last week, I guess, in the work session. And I'm prepared to move approval of it, and I know you've brought forward some amendments, a few of which I'm comfortable with, a few of which I'm not, but I'm -- I can certainly -- I believe we could certainly start the discussion, perhaps end it. I know we have Kathleen from the Salvation Army and maybe others here today prepared to answer questions if the staff have it, but --

[11:56:10 AM]

>> Mayor Adler: Let's go ahead and tee it up. Mayor pro tem makes a motion to approve item 72. Is there a second to that? Ms. Pool. So that we can lay out all these things I've handed out a list of amendments that's on a single yellow page. It's this. And as I said at the meeting we had last week, I support this program. I'm just concerned about kind of a prebudget budget issue. So I lay out these amendments.

>> Houston: Well, I pulled it so I would like.

>> Mayor Adler: We'll let you go.

>> Houston: I, too, haven't been a single parent and know the importance of having quality child care as an affordable price that's accessible. I certainly appreciate what the passage program does, but I have some concerns about where it's coming in the budget and how we continue to use the budget stabilization fund to meet or address these short falls. And so I'd like to know where that puts us as far as the budget stabilization fund, you know, we keep drawing down on. And to me that's very critical that we keep that at a steady level. So those are the questions that I have, setting a precedent and how many are going to come had in August asking for the same kind of support.

>> Mayor Adler: Okay.

>> Houston: Financial support.

>> Mayor Adler: Let's do this. If I can get a second to the amendment we'll go -- go back to mayor pro tem and say which ones look good and which ones she has issues with. Would that be a good way to tee this up?

>> Tovo: I would take them up separately. There are several I can accept right now and that can be incorporated into the main motion and we can vote on the others.

>> Mayor Adler: Sounds good. Why don't you tell us which ones you can accept.

>> Tovo: Let's see. There is a suggestion for some language change, the city manager should consider ongoing funding in the amount of, and so it's this language.

[11:58:15 AM]

In the amount of 160,000. I'm comfortable with leaving it at ongoing funding and scratching out in the amount of 160. I am also comfortable with the language change in the next sentence that would change it from -- would scratch out, let's say delete, would delete the language and to -- as an item, blah, blah, blah, and would instead say -- would instead read for passages program participants in the budget recommendations. I'm comfortable with that. Then I'm also comfortable with the language -- language being added to the second therefore resolved clause would read further the city manager is standard to consider what could be done to avoid situations where funding for ongoing programs expires during the budget adoption process. That is not exactly accurate to what happened here but I think it's in the spirit of -- I think it actually expired in and was extended so it's not entirely accurate but I think it's -- but I have no issues with the general principle and so I'm happy to accept that.

>> Mayor Adler: Okay.

>> Tovo: I do have concerns --

>> Mayor Adler: Let me see if we can get these done here real fast. So as I understand, is there any objection to including that last sentence underlined in the main motion? Hearing none, that's included. We're going to come back and talk about the date change. Back up to the first paragraph, in that last sentence, what I had was the city manager should consider ongoing funding for childcare service passages in the budget recommendations that come forward for council consideration in July 2017. And were you okay with that last sentence with those changes?

>> Tovo: I am comfortable with a portion of it. I am comfortable with removing in the amount of 160,000 with -- because I assume that our city manager would look at the full need and then recommend up to that full amount.

[12:00:17 PM]

So I'm okay with removing "In the amount of 160,000".

>> Mayor Adler: Any objection to that? Hearing none, that changes.

>> Tovo: And I'm comfortable with the language changes contemplated for the next couple of sentences, which tightens it up so that it reads, for passages, program participants in the budget recommendations.

>> Mayor Adler: So the only thing that you're not agreeing to is directed to identify -- changing "Is directed to identify" to "Should consider."

>> Tovo: I'm not comfortable with that language and with the first ones.

>> Mayor Adler: Without regard to the first sentence yet and without changing directed to identify to should consider, are the other changes in this program okay with everyone on the dais? They are. So they're not incorporated. So it looks like we have three things, the first sentence changing "Is directed to identify" to "Should consider," that's the second one. And the third one is the date change in the second resolved clause. Those seem to be the three things.

>> Alter: Canky clarify what the first line for consideration along with other priorities accepted?

>> Tovo: No.

>> Mayor Adler: Yes. So I would move to amend it to include the language in that first sentence, for consideration, along with the other priorities that are discussed in the council budget work sessions, other priorities expressed by councilmembers. I move to add that change. Is there a second to that? Mr. Renteria seconds that? Any discussion on this?

>> Tovo: I do have discussion. And I understand that some councilmembers are not comfortable identifying priorities at this stage in the budget. It has been typical practice. And let me say, you know, in comparison with the concept menu, I really prefer -- I'd prefer addressing some of these priorities and considering some of these priorities through a resolution because this resolution actually provides information about the program.

[12:02:23 PM]

It allows for having it on the council agenda. In my opinion it allows for a fuller conversation about that need and its priority within our community, and it allows for the councilmembers to ask questions if they need to of stakeholders or other experts in the community who can provide additional information. So for me the concept menu, having these come up just on the concept menu is not preferable to having it be introduced in the form of a resolution as I have today. And I believe that it does allow us to express some sense of our priorities moving into the budget. I would assume that's useful to the city manager and the others who are making budget recommendations and are in the midst of doing those, with the understanding, as it's been clearly expressed each year for, gosh, I don't know, the last five budget

cycles, that sometimes those priorities will be accommodated and will be recognized in the city manager's proposed budget and sometimes they will not be reflected in the city manager's proposed budget. But it's still important, I believe, as a council, to express some priorities and to, again, afford the opportunity to have a more thorough discussion about some of the potential budget needs than we're able to do in the course of the budget adoption process. So I know we had some conversation about the concept menu being the place for those to happen. Again, I don't really believe that that's preferable to having the discussion in a fuller way earlier. And so with regard to this particular program, we had an opportunity to talk about some of the details of it, but it is, I believe, an extremely high priority for this community to provide childcare for parents who are experiencing homelessness. There are many priorities that we'll be talking about, but I believe this rises to the -- certainly rises to the top of my list and I'm completely comfortable today with expressing to the city manager that we as a council, if there are enough votes to do that, that we as a council regard this as a priority.

[12:04:25 PM]

So the language -- I appreciate the mayor, your attempt to kind of come up with some language that might create more consensus across the dais, but the language for consideration along with other priorities that might come from work sessions or actions or other priorities, that to me just does not express. But this is a very high priority, we regard it as such and we would strongly urge the city manager to identify funding within there because again, I believe that it is an absolute critical need for families experiencing homelessness to have access to this childcare funding.

>> Mayor Adler: I would -- I believe this is a critical program too and I would anticipate supporting this later. It's more a process question for me than anything else. If we need to improve, as we do each time of the budget, and I expect we will the budget process as we go through, if there's a desire to have more substantive description of projects as part of the concept menu and there's a way to work that, I certainly don't have a problem with that at all. I'm just concerned about considering individual things as we get into the budget because we lack the context at that point to be able to say this is really good, but there are other things that were good. And I'm concerned about sending a message to stakeholders and others if we were in this practice that looked like something might get funded. But it has nothing to do with this program. It's purely a process thing for me. Yes?

>> Kitchen: Mr. Mayor, I also am going to support the language, the first sentence you're bringing forward. For the same reason. I absolutely support the program that's being discussed, absolutely support and will actually be arguing during our budget -- not arguing, but putting forth ideas during our budget process to really pay -- to look at more resources in support of services for individuals that are experiencing homelessness.

[12:06:33 PM]

It's absolutely critical. But I am -- I am not prepared at this point in time because it's not -- this is not in context. And I would feel even more comfortable if it just said funding childcare services for people experiencing homelessness rather than mentioning a specific program. It's just -- I feel like it's not time to be doing this out of context. But I say that with the understanding that I will be -- I will be and have been a strong proponent for resources for individuals experiencing homelessness, including families with children.

>> Mayor Adler: Okay. Further discussion on this amendment? Ms. Pool?

>> Pool: I support the program. I support trying to help out our homeless citizens, and I also support making a clear gesture to the city manager to indicate that we have these priorities. So I'm supporting the mayor pro tem's original language, thank you.

>> Mayor Adler: Let's take a vote on the amendment. Those in favor of the language I propose, please raise your hands? This is the first one.

>> Kitchen: Just the first sentence, right?

>> Alter: The first sentence making it should consider as well or just --

>> Mayor Adler: It's just the -- [overlapping speakers].

>> Mayor Adler: For consideration along with priorities for council's budget and the work session and other priorities expressed by the councilmembers, that language.

>> Alter: That's the first clause.

>> Mayor Adler: Okay. To the first comma. Those in favor applies raise your hand?

>> Garza: Why are we not considering that with the second one? Because the second is kind of the interim forward changing directed to should consider? Why are we not considering those together?

>> Mayor, I think councilmember Garza raises a good point because if we're just considering it -- if the first sentence passes, clearly the second one won't.

[12:08:33 PM]

You may as well consider them altogether if we're considering this alongside every other priority --

>> Mayor Adler: Let's go ahead and do that.

>> Alter: If I was given an option in this case to have the first clause that way and directed because I think there are families that -- because we have a budget process that is making home this funding shift at a particular time in the process which is so very effective, I would be willing to support the first clause and is directed if that were an option available.

>> As would I.

>> Tovo: Let's do them separately then.

>> Casar: I'm the same place as councilmember alter.

>> Mayor Adler: We're doing the first clause up to the first comma. Those those raise your hand? Those opposed? The mayor pro tem, Garza and pool voting no. The others voting aye. That first clause is in. That gets us to the second one. Are we directing the manager to identify funding where we're asking -- are we going to direct the city manager to identify ongoing funding in the budget recommendations? To identify ongoing funding in the budget recommendations or are we asking the city manager to consider ongoing funding in the budget recommendations? That's the choice. Pitched? Ms. Kitchen?

>> Kitchen: I am going to support the mayor pro tem's original language. I think it works in the sentence. Because the first clause acknowledges that anything that comes to us in the city manager's budget is something that we consider along with other priorities. And so we're simply asking the city manager to consider this funding.

>> Mayor Adler: So I'm confused as to what this language would mean to me.

[12:10:36 PM]

If you have the manager is identified to direct it in her budget, I don't know -- is that different from directing her to include it in her budget? And if we're directing her to include it in the budget.

>> It undoes what the vote does that we just did. And I think it's wrong for us at this point in the process to be directing the manager to be putting things in budget. That's the whole -- in fact, this is the most important clause I think in the sentence unless I'm reading it wrong in terms of whether we're directing the manager to put it in budget or not. Maybe I'm reading it wrong. Yes, Mr. Casar?

>> Casar: My understanding is we cannot direct the city manager what to put in the budget. So I don't think that's anything -- we pass lots of resolutions say we want or really, really want health and human services money, living wage increase, money for the transportation -- in the housing fund, but we can't direct the city manager to do it.

>> Mayor Adler: I meant directed to identify.

>> Casar: Inch wick direct that funding to be identified as in prior cases our budget forecast that's been identified saying this is how much money it is that it would take. Here are some places where you could move things around to identify that priority need, but you might have to cut and here are several different ways

you could do that: It's just asking for that to be priority, asking to consider it, think about it, but if you come up with yes or no, then it goes away. We want to know here are some options for funding in this budget if it's a priority for you. And the city manager still has the transgression and authority to include it or not include it.

>> Mayor Adler: So with the understanding that all this clause is doing is asking for the manager to identify funding that can be used, but we could use that funding on other things if we wanted to. And the manager could use that funding on other things if she wanted to. We're not indicating to her that we want her to both identify and include.

[12:12:39 PM]

We're just saying identify additional monies that we could use on things.

>> Casar: I think it's clear from the resolution that we want, if it's possible, but to identify it if it's in or identify the funding if it's not. The reason we're passing the resolution is because it's a high priority. I mean, otherwise there wouldn't be a resolution about it. But we're not directing saying this is what we need you to do because we never could or would pass a resolution telling the city manager what is in her purview.

>> Mayor Adler: The question is adopting a policy we're out of budget time. We're asking the manager -- we're saying this is a really high priority and we want you to include -- we're expressing the preference. We want you to include it. And for me without context for that, it's a difficult thing for me to do because I really support this project and because that would encourage I think everyone on the dais to bring lots of resolutions for lots of things that they want if that's a practice that we're going to adopt. Ms. Houston?

>> Houston: I want to remind the mayor that it's 12:13. We have citizens that are waiting to communicate with us. And we haven't heard from our staff yet either.

>> Mayor Adler: Okay. Let's pick this one back up after lunch. We said we were going to identify the chief issues. Mayor pro tem?

>> Tovo: Mayor, I just-- while we conclude, I just feel I need to respond to the comment that was just made about this could become the practice that the council adopts. This is the practice the council has had. We have had council resolutions every year expressing priorities so that the city manager has those

to take into consideration as she moves into the budget adoption process and he when it was a he. So it is the current practice. It's not a change of practice.

>> Mayor Adler: Okay. Let's go to citizens and we'll come back and pick this back up after lunch.

[12:14:47 PM]

So our first speaker is Henry Floyd from the del valle -- speaking on the del valle community. And Jill Marshall is on deck. You have three minutes, sir.

>> Okay. How you doing today? I wanted council to -- this is my front door rain of course captures this. I'm in the city of Austin. This happened maybe about 45 minutes after law enforcement had came to my home. We have a gentleman there on the street that has PTSD and I was a bit concerned on his behalf.

>> Mayor Adler: Can you pull up the microphone a little bit?

>> Okay. And I was a bit concerned about how he was feeling. This looks like a war zone. It is an honor to once again stand before this committee and a great privilege to speak on the betterment of my community, del valle, Texas. One of the reasons I bought my home in the bird educational farms section of the city of del valle back in 2002 is because it was a quiet, quaint community with lots of friendly people. The other attractions for me was -- were a low crime rate, well maintained roads, low taxes, and an impressive call response by the sheriff's department. A short couple of years later we the citizens of del valle received word that the city of Austin was strongly considering annexing our subdivision.

[12:16:52 PM]

That was followed by many meetings with city officials, which included the Austin police department. In these meetings, many promises were made by city officials at the del valle district -- that the del valle district would be an even better community under the leadership of the city of Austin. We were given given brochures in these meetings about the advantages. However, since annexing our neighborhood into the city of Austin, taxes have gone up almost double, crime has risen over 20%. Many of the roadways in our communities are in disrepair and the police response to calls is disappointingly long due to what we're told is a law enforcement shortage. My two questions to this committee is why would the city of Austin and its -- and continue to move into its municipalities when it cannot can provide services for lands already annexed. My second question is what is the city council going to do to make promises on to fully service the community.

[Buzzer sounds]

>> Mayor Adler: Thank you, sir. The next speaker is Jill Marshall. And Tony farmer is on deck. Ms. Marshall, you have three minutes.

>> My name is Jill Marshall. I'm a member of the faculty at the university of Texas and a former chair of the oversight committee for the UTPD. My experiences in that role have given me some insight into the needs of police and community here in Austin, but I should make it clear that I'm speaking as a citizen and not as a representative of the university or the UTPD. My first direct experience with the APD was not until about 10 years ago when I returned home alone unexpectedly from a vacation. I arrived after midnight and it took me a minute to realize what was wrong, why our belongings were scattered all over the floor. I saw the broken window and I called the police. It was only about 10 minutes before they arrived and I would like to think I was brave about it.

[12:18:58 PM]

But in reality it was the steady voice of the dispatcher staying with me the entire time that kept me calm. That is one theme I would like to emphasize today, the need for staff to support officers on patrol and allow them to do their jobs effectively. That theme echos in a much more recent and infinitely more tragic incident on the UT campus. On may 1st, officer Eric park happened to be in a patrol car close enough to hear the screams as one student attacked others across the street from the building where I was teaching. Incredibly he responded so quickly that the assailant was in custody literally within minutes and other officers arrived almost immediately to provide first aid. We were so fortunate that they were able to prevent further loss of life. Even with the situations occurred, hours of fear and chaos followed because the two dispatchers on duty at the time were simply unable to field the volume of calls and monitor posts on social media effectively enough to determine whether the attack was still ongoing and whether the attacker acted alone. Police need support staff. We also need more police in the community. That can establish a relationship that prompts citizens to report concerns before they escalate into senseless violence and can help -- get help to those who need it before they become perpetrators or victims. Austin is no longer the small, safe town we thought it was. We are vying for the title of drunkest city and fighting a k2 epidemic. We are remembered for the chaos and death when a car crashed through our beloved south by southwest in 2014. We're a much bigger city, faced with our challenges in the 24th century. Our police force needs to be bigger and modern in response. We need more officers on the streets and more in the neighborhoods. Study after expensive study has reported that, but you as a council have to find a way to make it happen.

[12:21:02 PM]

You gave me three minutes. I'll give you three years. I challenge you to implement the recommendations of the matrix report within that time frame, and I believe you can do it. Thank you.

>> Mayor Adler: Thank you. Tony farmer? Is Elizabeth crcente here? Steve Simon is on deck.

>> Good afternoon. My name is Elizabeth crecente. 11 years ago my daughter Jennifer was murdered by her ex-boyfriend. I am just speaking to you out of my heart today because I understand that there has been a real push for more community officers and I really support that. Some of the things that I think could have happened differently were -- and these may sound somewhat idealistic and I realize that. But I lived in the same neighborhood as the boy who killed my daughter. They were both 18 years old and they had dated for two and a half years. I involved the police fairly early on because I thought he was a really troubled youth and there was a lot of verbal abuse happening. And so I asked the police to become involved. I made a trespassing warning on him so he could not come to my home. And none of these things really landed because there just wasn't enough officers to be able to do that. One officer did come over and I asked him to talk to Jen and they said, you know, he's just a really bad guy. He tried, he really did try, but he just didn't have the training or the ability or the time to do that. Secondly, Justin really, the boy who killed my daughter, really needed someone who was steady and stable and knew what his history was, knew what was happening with him.

[12:23:07 PM]

And so I believe that he was missed as well. Then when the point came where my daughter went missing, and I filed a missing person's report, an officer came to my home and told me that I just needed to understand that my daughter was on a heroin binge with her boyfriend. And I explained to him that I knew that that was not the case, that she was not a drug user, and he said look, lady, you know, you just need to get over it. And that was it. So it took 24 hours to find my daughter, at which point I was notified by seeing a hazmat van on the news, and a report of a dead body in my neighborhood. So I would have hopes that there were more community officers, then something like that would not continue to happen because I know I work with parents who have lost their kids and I know that this happens all the time. You see it on the news and that's how you're notified, and that's pretty awful. The other thing -- and this is sort of inconsequential now, but the notification when the police came to my door, it could have been a lot different if someone knew what was going on. They were suspicious of me and it was a terrifying time. And if there had been somebody who had been consistently there, perhaps that would have helped. Thank you so much for your time.

>> Mayor Adler: Thank you. Is Steve Simon here? Jay Johns is on deck. You have three minutes, sir.

>> Thank you,.

>> Mayor Adler:, council. My name is Steve Simon. I have office on east sixth street for 15 years and have seen it change dramatically over time. I'm an architectural space planner, construction manager and have been on several boards. I'm speaking for myself today as a concerned citizen of this district.

[12:25:10 PM]

The nine-block area of east sixth street roughly between congress to the west and interstate 35 to the east is recognized as a sixth street historic district and is registered in the historic places in 1975. As you all know east sixth street plays host to a wide variety of events I've year ranging from music, film, republic of Texas biker rally, pecan street festival and these events bring in millions of dollars to the economy. Our famous national historic sixth street provider of this events is now known as dirty sixth. Here's one thread from the chronicle several years ago. When you walk west from easy tying other a Friday or Saturday night that's the dirty. It is dirty. The people are trashy and drunk, young drunk girls and boys swaying, sitting on the street corners puking. I've seen people stabbed, jumped, robbed on that part of sixth. That's why it's called dirty sixth. This is from Molly who was on the daa, of course. Sure, there's great places going in all over Austin. Nevertheless, after 9:00, the dirty comes from you. As a 15-year operator on sixth street, I can tell you, yes, it is dirty. I've cleaned up vomit on my doorway more than once, get tired of the urine smells and other smells and am tired of being panhandled constantly if I walk from red river to congress. This type of people's behavior is killing tourism to this area. Going to sixth street is not fun anymore. It's a hassle. And personally this has cost me business. I've had south by southwest parties cancel on me, costing me -- one party I lost 60,000-dollar event. They didn't want to come. Right above coyote ugly. Let's hold this thought for a minute. A few weeks ago, the mayor met with around 50 sixth street property and business owners. As he experienced everyone in the room express to him that our concern is the transient population that has inhabited sixth street. He expressed to us there may be some solutions coming, providing the typical answers we've heard from the other mayors and the city councils. No offense.

[12:27:10 PM]

But furthermore, I've recently heard that the mayor is proudly in making Austin a sanctuary city, an ordinance that everyone will agree will do nothing to help the transient problem and could possibly exacerbate it. Let me ask the council a question, what are you going to do about our problem to help cure historic sixth street? Are we letting one of our most amazing cultural treasures become another San Francisco? Is that what we're aiming for, a city where someone defecating in the street has become a very summon sight? Is this the idea of progress that we're using as a carbon copy for our dear historic

sixth street? I propose that we move on this and move fast and tend to follow through with the sanctuary city concept. We have to save sixth street and give it back to the respect that it deserves.

[Buzzer sounds]

>> Mayor Adler: You can finish your thought.

>> Thank you. I want to mention there's been talk of sixth street becoming a second street. Just so y'all understand, there's 45-foot height limits in this street, there is homework buildings that will never be a second street. It will never be a Rainey street. It's not going to be there. It is what it is.

>> Mayor Adler: Thank you, Mr. Simon. Thank you.

>> Want money for parks? Fix the trancients. We're spending millions of dollars on K 2 and ems and problems --

>> Mayor Adler: Appreciate you coming down today. Jay Johns is the next speaker. Stacy Rodriguez? Jay Johns? Stacy Rodriguez. Travis Wesley? And then Elizabeth Earle is on deck.

>> Thank you, mayor and thank you council. My name is Travis Wesley and I'm a native austinite here in Austin and I live in district 5. I'm also the president of the citizen led Austin safety partnership, clasp, which partners with APD to help set up responsible neighborhood watch programs citywide.

[12:29:19 PM]

This vomit stems from a home burglary attempt done by a juvenile at 3:00 in the morning while my two children and my wife and I slept. I stopped that and actually confronted the individual within about three feet. Clasp has been extremely busy lately because of the current shortage of police officers on our streets. Austin residents know that Austin is short police officers so they are doing what they can to help themselves. I am asking that you direct the city manager to develop a plan to fill the staffing recommendations made by the matrix report that you asked for within the next three years. Chief Manley is doing his part to fulfill the recommendation made by the matrix report but he needs your help to do that with providing him the number of police officers to fill the current shortage and future needs of the police department. A recent poll done by the greater Austin crime commission showed that 84% of likely Austin voters believe that adding more police officers is the key. That was done over all 10 districts. All too often people react after something happens. Let's be proactive with our police department and stay ahead of the game so we're not playing catch-up for the decades to come like we are with our traffic and road issues. When we talk about filling officer positions, we also need to talk about filling support positions like 911 call takers, response and dispatch. Those people are the unsung heros of the police department in my mind. Also, I'd like to thank councilmember Houston for being a part of the citizens police academy several years ago. I really do admire your commitment to that 14-

week program. And you graduated. I also would recommend that every councilmember do a 10-hour ride along with one of the police officers that we have just to see what they go through day in and day out and what kind of challenges they face every single day they're on the streets.

[12:31:20 PM]

Thank you.

>> Mayor Adler: Thank you.

>> Houston: Mayor?

>> Mayor Adler: Ms. Houston, first.

>> Houston: Mr. Wesley, thank you for that shout-out, but they wouldn't give me a gun when I finished.

[Laughter].

>> Me either.

>> Kitchen: Mr. Wesley, thank you for your comments. If you would like to put them in writing for us, that would be great. I've made notes of what you've said, but if you would like to send us an email or put them in writing, that would be great.

>> Okay. Thank you.

>> Garza: I just wanted to add, I've done an APD Rideout, I don't know if they would allow that one.

>> That's the citizens academy, one of the things that we do, because I'm also a graduate of the 81st class; that one of the things that they do to graduate is a 10-hour ride along with one of the APD officers. So it's a 14-week class, one day a week from 5:30 to 9:00.

>> Garza: Is it one shift 10 hour our you can do --

>> Just what the officer does. So we're putting our shoes where their shoes are every single day.

>> Garza: Thanks.

>> Mayor Adler: Elizabeth Earle? Is she here? Those are all the speakers we have on citizen communication. Council, when we come back after lunch -- I have read this language again now and I think that I was reading it wrong. The way I read this now is it says that the manager has asked to find ongoing funding for all the priorities we've discussed in the budget, other work sessions, other councilmembers, other things, and passages, like all those other things. And to the degree we're asking the manager to find additional money for all of these things and we're not setting any out and picking

priorities, which is how I read this language, now I'm going to take another look at it during the break, but I think this language might be okay because as I read it now, it does not set a priority or make this any more important than any of the other things that we're considering. That said, we're now going to go into executive session to take up one item pursuant to 551.071 of the government code we're going to discuss legal matters related to item number 68, which is the mexicarte museum matter.

[12:33:29 PM]

If there's no objections, we will now go into executive session. And I'm not sure -- if we look at the agenda, if there's anything we can pick up before 2:00. 72 is the only item we could pick up. And the central health. So we might be able to come back earlier than 2:00 for those two items. So let's go into executive session and see if we can be back out here at around 1:30.

>> Casar: Mayor, which items are we going into executive session on.

>> Mayor Adler: That's only one item being taken up in executive session, it's the mexicarte.

>> Casar: Mayor, it may be just 30 seconds, but can we also announce the central health one so we can announce a couple of things?

>> Mayor Adler: Yes. So pursuant then to --

>> Houston: Mayor? I'm sorry, but the last speaker has arrived. On the citizens communication, Ms. Earle.

>> Mayor Adler: Okay. Is Ms. Earle? Saved by the bell. If council could find whatever the other clause is. Ms. Earle.

>> Good afternoon. Late. I was stuck in court actually. I'm here to briefly just talk about community policing, and I know that budget is tight. I get that. I've worked in politics all my life pretty much. And -- but I wanted just to mention briefly a situation that happened to me personally back in December of 2011 when after Christmas I took my daughters on a quick trip and our house was burglarized and the people that came into our home and stole pretty much everything that we had, all their Christmas presents and everything from their rooms.

[12:35:37 PM]

The Austin police department did a wonderful job, but of course it takes manpower and it takes resources. They did not -- unfortunately we're not able to locate the perpetrators, the people that broke

into our home. And I went down to -- but after lots of investigation, one of the people was located doing something differently and then they ended up being prosecuted. I had an opportunity to meet with and talk to each of these people that were charged with breaking into my home. There was four altogether. And talking to each one of them, they -- talking about what made my house a house they would want to break into and what would be something that would deter them from breaking into a home. And all four of them mentioned the fact that they had -- if they had seen a police officer on the street or seen more visible police officers they would probably not be breaking into that neighborhood or that home or whatever it might be. I'm just one example. I'm not saying that -- and my case was not given my priority over any other case, but I was able to look, as a victim, to see what it takes for someone to -- for the investigation to happen, to go over there and see all the things they have in APD's storage and the officers that they have limited resources to be able to do the investigation. And it made me feel like I -- I did need to step up today just to mention that personal situation that happened to my family. And that it affected not only myself, but my two daughters, of course. And that's all I had to say today. I do appreciate you letting me jump in. Again, I do apologize for being a little bit tardy. And I will be happy to answer any questions that anyone might have for me.

>> Mayor Adler: Thank you very much.

>> Thank you very much.

>> Mayor Adler: Okay. Council, we're now going to go into executive session pursuant to ..071, item number 68.

[12:37:38 PM]

Also pursuant to 551.071 of the government code and 551.074 of the government code, we're going to discuss both legal issues and personnel issues related to the central health board appointment. Without objection, we will now go into executive session. We're going to try to come back about 1:30.

[12:39:43 PM]

@

[2:14:01 PM]

[♪music playing♪].

>> Mayor Adler: All right. It is 2:14. We are going to continue our meeting. While we were out of closed - while we were out we were in closed session, executive session. While in closed session we discussed items related to item 68 and legal and personnel items related to item number 80. That gets us back to our agenda here. We were in the middle of discussing item number 72. And consistent with what I had said just before the break, I reread the meaning of the second phrase of that first paragraph in light of the changes we made to the first phrase, and I'm okay -- the change I was proposing I no longer think is necessary. I'm trying to find it here where I took change is directed to identify to should consider. Because I think that it would be great for the manager to identify funding sources for this item as well as for all the other things that have surfaced in the budget conversations and other council actions and other priorities. So unless there's an objection, I'm going to withdraw the amendment that I had proposed. So that the language would still remain the city manager is directed to identify. Okay. If no objection, that's done. That gets us then to the date change in section 3 where I was just trying to pull it up earlier to get us past the budget process.

[2:16:12 PM]

Is this needed at this point, mayor pro tem?

>> Tovo: Mayor, I think the easiest thing to do would be to remove that second resolved clause and move your additional sentence up. And here's why. It sounds as if the staff has identified funding that would secure childcare for the participants in this program through January. So I think rather than -- we don't need this paragraph. We'll just talk about -- we'll just talk about identifying funding for the whole year's worth in the regular budget process. So I'm going to just remove the second resolved clause. I'm just going to look at our staff to see if that seems visible.

>> Mayor Adler: You're removing the first two sentences of the second resolved clause, but maintaining the last sentence.

>> Tovo: Sure. Further the city manager, sure. Is staff okay with that change? Is there any reason to keep that second resolved clause? Okay. Yeah.

>> Mayor Adler: Any objection to that? That being the case, that change is made. That gets us then back to the main motion. Are there any other changes, suggestions? Then let's take a vote. Item number 72, those in favor of 72 please raise your hand? Those opposed? It's unanimous on the dais. That takes care of 72. Another item that we passed on was the mexicarte matter. Mr. Renteria, are you okay with postponing this until next week?

>> Yes, if it's only postponed for a week.

>> Mayor Adler: Okay. Any objection to postponing this part for one week, mexicarte? This is number 68. Hearing one, that matter is proposed one week until next week. The only other item that was on our consent agenda is item number 69 related to juvenile cure fees. We'll hold that until we get to the public hearing on that item, so that will come back after 4:00.

[2:18:21 PM]

So now we're at the non-consent items. The first one of those is the central health appointment. Ms. Houston?

>> Thank you, mayor. I'd like to move that Julie Oliver be appointed to the central health board of managers.

>> Mayor Adler: Okay. There's been a motion. Is there a second? Mayor pro tem seconds that motion. Is there any discussion on this item?

>> Houston: I'll repeat for the second time that the health and human services council committee has been working on this since December of 2016 trying to find the kind of individual that would add some expertise and some heart to the central health board of managers. And in this last offering we were able to come to a consensus that Ms. Julie Oliver has both the expertise and the heart, having as she explained the last time she was here, been a recipient of indigent health care. She carries that with her into this role on the board of managers. So I'm confident that she would do a good job and that she would recuse herself if there were ever any conflict of interest.

>> Mayor Adler: Any further discussion on this item? Mr. Renteria?

>> Renteria: I'm sure this person is very well qualified for this position, but I had some concerns that there was a lot of questions brought up about this particular person serving on the hospital district board, and, you know, it concerned me when we have this long of a discussion over a certain person by appointing someone.

[2:20:24 PM]

You know, it's -- I just don't feel like I'll be able to support this person.

>> Mayor Adler: Any further discussion on the dais before we take a vote? Okay. Let's take a vote. Those in favor of this nomination please raise your hand. It is Ms. Houston, Mr. Flannigan, mayor pro tem, Ms. Kitchen, Mars and Ms. Troxclair. Those opposed? It's the balance of the dais. This nomination is

approved 6-5. Let's go to the next item. The executive session things have been handled. That gets us to zoning and planning. Are there any consent items we can do here? Should we wait for Jerry?

>> I can take it and I'll give Jerry the good one. There's one that he wanted to discuss. At 2:00, these are zoning and neighborhood plan amendments, possible action. Item number 86 is case c-14-2016-0090. Staff is requesting a postponement of this item to your August 3rd agenda. Item number 87 I think early today council announced that this would be considered at 7:00 P.M., that's case c-14-2016-0125. Item number 88, case c-14-2017-0002, it's a staff postponement to August 3rd. Item number 89, case c-14--2017-0021, this is ready for consent approval on all 3dings.

[2:22:31 PM]

Item number 90, case c-14--2017-0025, this is for consent approval on all three readings. Item number 91, case c-14-2017-0029, this is a consent for first reading will only. Item number 92 I understand there's a councilmember who would like to discuss item number 92.

>> Mayor Adler: Who pulled that? Okay, plan began.

>> Item number 93, c-14-2017-0035, this is ready for consent approval on all three readings. Item number 94 is case c-14-2017-0043. This is for consent approval on all three readings. Item number 95 is case c-14-2017-0044. This is for consent approval on all three readings. And finally, item number 96 case c-14-2017-0056, this is ready for consent approval on all three readings.

>> Mayor Adler: So the consent items are items 86 through 96. We're pulling 87 and 92. There's one person signed up to speak on 89. It looks like it's going on consent. Mr. King, do you want to speak? Thank you. There is one person signed up on 91, doesn't need to speak if it's on consent. And I think that those are the ones that we had. Yes, mayor pro tem?

>> Tovo: Mayor, I have a few questions associated with item 90.

>> Mayor Adler: Okay. Let's pull 90. 87, 90 and 92 are the ones being pulled.

[2:24:32 PM]

Is there a motion to approve the consent agenda?

>> And mayor, that was closing the public hearing as well?

>> Mayor Adler: And closing the public hearing. Those in favor of the consent agenda please raise your hand? Those opposed? It's instance on the dais. Let's go to the ones that we have pulled. 87 again is coming in at 7:00 P.M. Mayor pro tem, you pulled number 90. Okay.

>> Tovo: I'm just trying to make my way to the Q and a. Thank you. This is the item where we are being asked to remove historic zoning on a portion of the lot -- I'll let Mr. Rusthoven explain. I think it's the driveway and some parking lot, is that right? Is that correct?

>> Yes. I was putting the aerial up.

>> Tovo: You know, one of the things that

-- that I wanted to contemplate with all of you here today is that this is a property that has received historic -- has received tax exemptions on those portions of the property for 17 years. And so I asked some questions in the Q and a about that and that's my understanding that they have received that exemption for the last 17 years. So I had asked in the Q and a about the ability -- do we have the ability to assess taxes retroactively on those pieces of land that were formerly exempted? You know, it's a certain concern to me that we do not want to create a situation where we have an historic preservation opportunity for people that they can get -- they can get a tax exemption or' tax abatement I should say on portions -- on their property if it is declared historic. And then when they decide to redevelop, benefit from that tax exemption for years and then come in and decide to redevelop portions of it.

[2:26:39 PM]

I was glad to see there is a provision that we can retroactively collect taxes, but it's my understanding that we can only do so for the past three years. I wanted to ask city legal if that's correct, if we have the ability only to assess those taxes for three years retroactively, and what is the mechanism by which we would do that.

>> Yes. Lee Simmons on behalf of the law department. That's correct. You can recoup taxes up to three years under the code. And I think the mechanism -- I would probably defer to staff on that, but that would probably require a reappraisal by the Travis county appraisal district in order to assess what those taxes for those particular parts of the property would amount to.

>> Tovo: Is there anything that we would need to do today to set that in motion?

>> I'd have to see what you're posted for.

>> Councilmember, what we would do is if this ordinance were to pass, we would notify the appraisal district. Every year we give them a list of the properties that are subject to the historic exemption. And I think we would forward on to them a letter that stated that this particular piece of property no longer

has historic zoning and needs to be taken off of that list. How it works as far as going back and getting the back three years of taxes I'm not aware, but I know we wouldn't --

>> Tovo: What was the last thing you said?

>> I said I don't know how it would work as far as getting the retroactive three years of taxes, what the mechanism for that would be, but if this passed, we would immediately notify the appraisal district of this property.

>> Tovo: I'm clear that that part will happen, that you will notify them and that will move forward, but I am quite interested in making sure that we are able to collect the retroactive taxes for as many years as we're able to. So what is -- is this something we should just do on first reading today while you go and find out between now and next Thursday whether we would need to have some kind of formal direction for that to take place?

[2:28:48 PM]

>> You could certainly do that. I could look into whether or not this can be handled administratively on the part of staff or if this would require council action. There's nothing in the code that indicates a council requirement for that to happen.

>> Tovo: I saw the passage of state code. It wasn't clear to me what triggers it, who asks for it, how it happens. So that's one reason why I'm thinking maybe first reading today and we revisit this next week. The other thing I'm wondering about is whether -- the other question I would have for city legal is whether we have an option under our city code to extend that back to the three years specified in state code? Probably whoa wouldn't have the opportunity in this case, but do we have an option as the city of Austin to make alterations to that three years so that we make it clear if you come in and you ask for a rezoning on a piece of property that has been zoned historic and getting a tax exemption for years, we have the ability to collect those back taxes?

>> Yes, I'm not aware of an option in the city code that would us to extend that beyond the three year limit.

>> Tovo: It doesn't appear that we have that ability right now. I guess what I'm asking is do we have an opportunity as a city -- I'm interested in the question of whether we have an opportunity in the city to modify that three-year provision?

>> Certainly. It would probably require an ifc, that we would require a code amendment to allow us to extend that time period in the tax abatement part of the code.

>> Tovo: I would be interested in doing that. It's not clear to me in looking at the state law whether we have an opportunity to do that. Okay. So I think then I would support this today on first reading.

>> Mayor Adler: Is there any objection to making this item number 90 first reading only? Hearing none, that's what we will -- it comes back next week.

>> Mayor? The applicant for this case would like to address the issue and the public hearing is still open.

[2:30:50 PM]

>> Mayor Adler: Okay.

>> Sorry, mayor and council. This is Mike Mchone. I anticipated this going on first consent. The owner is happy to pay any fee as much as you would like for back taxes as far as you would like done. It's been operated as a bed and breakfast and paying taxes. It will be modeled again putting in a sprinkler system and have covered parking in the new building that will be adjacent. Our problem with waiting until your August meeting is we have a site plan that is very time critical in going forward in the process. And to get a building permit and site plan to begin construction in August, we need to move as fast as we can, and would appreciate any kind of amendment that council would like to add to this that would state that we would pay the back taxes. I've already been authorized to -- at this meeting to put forward \$20,000 if that's even close. We don't know. We haven't calculated it. More than happy to do that.

>> Tovo: Mr. Mchone --

>> We could do it next week.

>> Tovo: I was just suggesting that we hear it on first reading today and take it up again next week.

>> Approve on first reading only.

>> Next week would be fine. We just have -- it's one of those student housing projects that has a very tight schedule. Thank you so much.

>> Tovo: It sounds like we can probably get resolution to the other issues between now and next week. Again, I move that we do this on first reading.

>> Mayor Adler: Motion to approve this on first reading only, seconded by Ms. Pool. Any discussion? Those in favor please raise your hand? Those opposed? Unanimous on the dais. Thank you. That gets us then to item number 92. Mr. Flannigan, you pulled this one?

>> Flannigan: Yes. On this particular property Mr. Rusthoven, please clarify that there was a slight error in the backup on the use prohibitions that were existing on the property?

>> There was, councilmember. Just real quick, this is case c-14-2017-0032 for the property located at 5210 steiner ranch.

[2:32:53 PM]

The requested zoning is Ir-co to gr-co. This was a previous case approved in 2000 and the staff recommendation was to take the existing co's that were placed on the property in 2000, to carry them over to this current case, which as I said goes from Ir to gr. To take out the prohibition that was put in there in 2000 to prohibit drive-through uses, and to leave in the existing use restrictions as well as the access restriction in the trip limitation and to add four more prohibited uses, which are auto sales, auto washing, auto repair. However, after discussing this with you the other day, you pointed out that we made a mistake and in 2000 those prohibited uses were actually on tract two of this case and this was on tract one of this case. I would like to amend the staff request and take out the prohibited uses from the 2000 case, leave in the access and the trip restrictions, and put back in drive-through as it was originally proposed. And the four auto related uses I believe we're comfortable taking those from four down to two after cousining with chuck Lesniak. So we would still prohibit auto repair and auto washing because of the runoff, but we would be comfortable leaving auto sales and auto rentals in.

>> Flannigan: And is there a reason why this property is uniquely challenging for repair and -- what was it, repair and washing?

>> Repair and washing.

>> Flannigan: Is there something about this property that negates that restriction?

>> This is a water supply rule watershed and those two uses can have rather toxic runoff. So that was our recommendation. It's not something we feel very strongly about, but something that we recommend.

>> Flannigan: Okay. I appreciate you clarifying some of the details and removing two of the four. I do appreciate that. I would still like to move forward with removing all the co's, there's the 2,000 trip limit co that I want to remove because if they wanted to build something with a more than 2,000 trips you would still have to get staff approval.

[2:35:00 PM]

There's no reason to add that in the zone. And there's a co that prohibits direct access to 620 which Mr. Rusthoven, remind me again, this is something that txdot asked originally to include and if the property owner wanted to connect to 620 they would still have to get txdot approval --

>> Yes. We submit roadways to txdot and sometimes they ask us to prohibit access to the major roadway for traffic safety reasons.

>> Flannigan: But my recollection in our conversation was that if they wanted to connect to 620 they would still have to get txdot approval.

>> They would have to still get a driveway permit from txdot.

>> Flannigan: So is there something that the co additionally prohibits?

>> It just makes it so -- it makes it so the city would have to agree to it as well, specifically the city council, if they wanted to add that driveway. If you took off the co, they could convince txdot to get the driveway, then the driveway would be allowed. If we left the co in then they would have to come back to council to get it taken out.

>> Flannigan: So I have a couple of concerns with that. I think my understanding is under future zoning under codenext is there is no way for the city to provide that prohibition, is that right? In terms of the draft that we're working on now?

>> That's correct. It's something you and I talked about the other day that we would have to -- if we wanted to do similar restrictions in the future, we don't have a co restriction and how would we handle that?

>> Flannigan: That is something I want to work on because in this particular property it is so close to the intersection with steiner ranch that I cannot imagine txdot ever approving a driveway here. It would have pretty disruptive impact to the corridor. Other properties on 620, however, I think txdot might allow it and the city would not want to allow it for public safety reasons. The accidents that happen on 620 are legendary in my district. Nearly every square inch of 620 have car accidents that have to do with driveway entrance and exit. So on this property I want to remove it just to keep it as clean as possible, but I think it's something we need to address in codenext and we're talking about how we might prohibit or regulate where properties can have their driveways if they're adjoining multiple roadways.

[2:37:19 PM]

There isn't seem to be -- there doesn't seem to be a way to do that in the draft. Going through this made it clear. On the auto uses I'm concerned because this is a part of town that is nearly impossible to serve with non-auto transportation resources. It's very unlikely it would see a transit facility, which means every resident, be it renter, homeowner, conned dough, whatever it is, everybody owns a car out here. And if the reasoning to prohibit an auto use is simply that there's a risk of runoff into the lake, well, that would apply to every single property between -- nearly between bee cave and 183. And it is a very long distance if you live out there and you own a car and every single person out there has to own a car, that

if you want to get your car repaired or car washed to require them to drive to 183. It seems a little unfair. It's much more land area than you expect, even though it's just a portion of my district. So my intent is to -- that's my intent. I would like to, mayor, I would like to move approval of this without the co's, given the specific details of this particular plot of land, I don't think the access to 620 is of concern, its proximity to steiner ranch means that txdot would never allow the driveway anyway. The 2000 trip limit is something that would have to be approved under a site plan, with staff approval, and the auto use restrictions I think are incompatible with the car dependency that this part of town has and will likely always have. I think that covers it.

>> Mayor Adler: Council has raised a the 2,000 trip. Do you want to explain why?

[2:39:23 PM]

>> Debra Thomas. The application came in with the 2,000 trip limit on it, so when the -- when the notices went out to the public, the public was noticed that there would be -- that there was a request for a 2,000 trip limit. Under the code you cannot -- the council cannot approve a zoning that is less restrictive than the application that came in. At some point the public has to know what -- what the worst is that could happen. And so the worst that could happen -- I say the worst. The least restrictive thing that could happen in it case is the 2,000 trip limit. Okay, I'm not going to come down and fight it because that's the worst it could be and I'm okay with that. So under the code you can't -- you can't approve anything that's less restrictive than the application that came in. And you would be doing, removing a condition that came in with the application, therefore it would be less restrictive.

>> Flannigan: Does that same concern apply to uses?

>> Yes. So for instance --

>> Flannigan: Did we not do that on two cases in my district last week?

>> I can't address that issue, but I can tell you on this case the application that the applicant filed did not include any co's on uses, but did include the 2,000 trip limitation. So when they came in, the use restriction -- San Francisco so the difference is if cpa adds the co -- if zap adds the co.

>> What Ms. Thomas is saying the applicant is asked for the co from the beginning, then taking it out on a problem because you're being less restrictive than requested.

[2:41:23 PM]

>> Flannigan: And in this case, unlike other zoning cases, and of the co's that we're talking about, the trip limit was part of the original application.

>> Yes. Most of the time that is the case.

>> Flannigan: Separate question then. When the notice goes out, is there like a feet radius around the property that gets noticed?

>> 500 feet.

>> Flannigan: So Mr. Rusthoven, do you know just off the top of your head how many people live within 500 feet of this property?

>> I'll have to look at the file. The notice went out to to about 35 people.

>> Flannigan: That's 35 more than I expected based on driving through the area and looking at a map.

>> It also includes all registered associations.

>> Flannigan: There's a fair number of registered associations. I happen to have one of them.

>> You are one of them, as a matter of fact. The associations -- here's you, are probably about eight of those 35. Or maybe even a little more than that because a lot of the hoas in steiner ranch.

>> Flannigan: There is no substantive residence --

>> Councilmember, looking at it more closely, it's almost entirely associations and esds and cell phone companies.

>> Flannigan: Yeah. There's no residents that live anywhere close to this property. I'm nope going to fight you on this. I'm reluctantly ready to move on leaving it on because of the legal issue, but I think the other items stand, although again, the notice requirement is basically zero people living in the area, getting that notice, associations aside. So.

>> Mayor Adler: For what it's worth we look at the statute and it enewman rates the powers that the council has and one of the powers is to make something more restrict active.

[2:43:27 PM]

>> Flannigan: I understand. And I understand the difference that when the applicant -- what's on the application is considered what the notice is about versus changes or restrictions added by commissions or by staff or by council. So I understand that piece. So what I am saying is I'll -- I'm satisfied that the 2,000 trip limit has to stay on, but I would still like to move forward with the other restrictions not asked for by the applicant.

>> Mayor Adler: Mr. Flannigan moves approval on -- how many readings?

>> We can do it on all three readings. So it would be to approve the gr-co zoning with the only co being the 2,000 trip limitation.

>> Mayor Adler: The councilmember motions. Is there a second to that motion? Councilmember Casar? Yes, Ms. Pool?

>> Pool: Can I get some clarification, was the application submitted with the access prohibit on 620.

>> It was put on in 2000, the original zoning case for this property. When we went back and looked at the original zoning case, we asked the applicant do you have an objection to removing that co. They said they were not. So the recommendation was to carry it forward with this new case.

>> Pool: So that was that part of the notice. I'm trying to understand -- what I thought I heard is that the maker was motion was willing to leave on the trip cap because that was part of the notice, but he wanted to continue to move forward with removing some other items that were also included in the original notice.

>> Councilmember, it has to do with the application, not so much the notice, although that figures its way into its way as well. When they filled out the application they went for gr without any use recommendations, but they agreed to the 2,000 trip count because they did not want to do a tia.

>> Mayor Adler: So it was not part of the original application. It was a staff recommendation.

>> Pool: All right, thanks. I will say that I have concerns about removing the access on to fm 620 simply because it is a protected roadway, and if indeed it seems like that access would never happen anyway, then there shouldn't really be any problem with roberthing it -- with prohibiting it.

[2:45:43 PM]

So I would like to keep that prohibition, the prohibition on access to 620 on there as well.

>> Mayor Adler: Okay. Any further discussion? Does someone want to bring an amendment in that regard?

>> Alter: Is it possible to vote on first reading? I'm fairly confused on what we're voting on.

>> Mayor Adler: We're voting on all three readings --

>> Alter: I understand we're voting on all three readings, but the substance of what we're voting on.

>> Mayor Adler: On all three readings to approve this gr-co, but the only co is the one that relates to the 2,000 trip count.

>> Alter: Right. And I'm trying to not fully wrapping my head around what we're giving up. I'm just wondering if we could do it on first reading so that we can --

>> Mayor Adler: Okay.

>> Alter: So we can have the time to digest that change.

>> Mayor Adler: Are you okay with that?

>> Flannigan: Yeah. It's not complicated. It's the access to 620. It's the two auto uses that staff wanted to keep. Those are the only limitations that staff has recommended that I am moving to remove.

>> Alter: I understand that they're not complicated at points, but there are implications --

>> Mayor Adler: I Ms. Alter was just asking if you're okay with approving this on first reading?

>> Flannigan: Oh, I didn't hear that part. Yeah.

>> Mayor Adler: Is there an objection to changing this motion to be first reading only? Hearing none, that change is made. Mayor pro tem?

>> Tovo: I wanted to ask -- I'm going to support councilmember pool's -- continued adherence to the staff's recommendation to not allow access on 620, but can you remind me -- I know you just addressed this, but what was the reason that automotive uses were in here as part of conditional overlay?

>> My staff talked to chuck Lesniak about this. He was not consulted before we did this, but my staff member who worked on the case was concerned because it's the water supply rural watershed, a little more sensitive watershed.

[2:47:49 PM]

It's not over the recharge zone, but he felt that way about the auto related uses.

>> Tovo: That's what I wondered if there was a potential environmental concern here. What about Dr. Lesniak say?

>> He said we originally recommended all four auto uses. He said he had less concern about repairs and rental. But he thought it would be okay to leave in repair and then the washing because --

>> Tovo: So am I assuming that he was in sync with your recommendation to include repair services and automotive washing as prohibitions? So then I'm going to support the staff recommendation on those two as well. I do think environmental concerns are worth our attention.

>> Mayor Adler: Okay. Mr. Flannigan?

>> Flannigan: I don't want to discount the importance of environmental protection. I think the broader question is over how many square miles are people not allowed to have their cars repaired? I mean, we've allowed this development to occur. The people are out there. They have to own cars because we're not going to serve them with transit. And there's no 40 or 50 year plan that would show that we would. And by setting a precedent that says anything near the lake, which is what this water source watershed implies, is that right? Anything near the lake can't have automotive repair, automotive washing would apply to a very large area and have a negative impact of folks who will now have to drive much further or have their cars towed much farther in order to have repair and washing services. That's my concern. It's not about undermining any environmental issues. This is just the realities of living in this part of town.

>> Mayor Adler: Okay. Mayor pro tem?

>> Tovo: And I appreciate you reminding me of your point on that one.

[2:49:50 PM]

And I will -- I think that's one reason why the first reading today is important. I will take a look at the proximity issue that you've raised and see whether in my mind that kind of out-balances the other.

>> Mayor Adler: Okay. Motion in front of us right now is first reading with the only co being 2,000. Ms. Kitchen?

>> Pool: And also the prohibition to 620 access.

>> Mayor Adler: Someone can make that amendment, but no one has. Ms. Kitchen.

>> Kitchen: I have a question that with regard to the prohibition about the auto repair, and I apologize if it's there and I just need to do my homework. You had mentioned what watershed had said. Is there an analysis that they did.

>> No. As I said, we kind of came up with this on our own from zoning staff. I consulted with Mr. Lesniak yesterday.

>> Kitchen: It might be helpful to us since some of us were asking that question. I'm hearing what councilmember Flannigan is saying is a concern, which made sense to me, but I also have concerns about the environmental issues, but if I don't have anything -- any document that explains to me the environmental issues, I don't want to just -- I want to know if there's a real environmental question or not.

>> As I said, I asked Mr. Lesniak to be here if you would like to continue this case next week.

>> Kitchen: Maybe he could provide us some information.

>> I can tell you it came from us, not him.

>> Kitchen: Maybe he could provide us some information too.

>> Mayor Adler: We're trying to figure out if your staff identified the issue or if your staff not only identifies the issue, but also identifies the need. So a little bit bigger look on that I think it would helpful. So do you want to make an amendment?

>> I do. I wanted to -- given that councilmember Flannigan said that he doubted that txdot would ever allow access on this area on to farm to market 620, I want to make that really clear that we on also wouldn't support it since if we take it out we wouldn't ever have a say.

[2:51:57 PM]

I would like to continue to include the prohibition on access to fm 620.

>> Mayor Adler: Okay. Ms. Pool moves to add the co to deny access out to 620, to reinsert that? Is there a second to that motion? Councilmember alter seconds that. Is there a discussion? Mr. Flannigan?

>> Flannigan: My point for removing the co is to keep things as simple as possible. And also it kind of raises a larger point of discussion that we will have to have as we get into some of the codenext text, which doesn't have a provision for this. So I'm reticent to enact a a provision in which we don't know the future of or its sustainability of in an area that's all about to be rezoned anyway. This particular property, unlike others along 620, has some very clear issues with creating driveway access. It's at the corner of steiner ranch boulevard and 620. Is that txdot would and has not to my knowledge allowed driveways so close to other intersections on 620. So I don't think it's an issue on this property since we're in the middle of a zoning case. My intent is to keep this as simple as possible, but to continue this conversation moving forward about how we enact this type of consideration in the future. Now, if we were talking about tract 2 of this property, which is immediately next to it and it doesn't have direct access to steiner ranch boulevard, but still has, I believe, this 620 prohibition, then it would be a much larger concern for me because I could see a scenario in which txdot would allow it out of what else are you going to do? But in this particular case it's this little wedge property right at the corner of steiner and 620, and so I'm just trying to keep these Zones as simple as possible as we move forward in this process over the next year.

[2:54:09 PM]

>> Further discussion on the dais? We have an amendment in front of us to include the traffic co. Yes.

>> Kitchen: I'm just glad we're doing this on first reading because again, we don't have an analysis that explains to us what's needed or not on that road. I respect what councilmember Flannigan is saying about his district, but I haven't heard anything from the traffic folks to tell us whether this is a concern or not. So anyway, I may -- I will vote one way this time and I'm glad it's just on first reading. And I will check into it more.

>> Mayor Adler: Sounds like we need both watershed, environment and transportation to weigh in for our consideration next week.

>> I can assure you that traffic would say no access to 620. But if you would like to see it next week.

>> Mayor Adler: On all right. The motion is to add an amendment to put back in the co about access out to 620. Any further discussion? Those in favor of the amendment please raise your hand? Those opposed? Garza, troxclair, Casar and Flannigan voting no. The others voting aye. That amendment goes in. Any further amendments? Let's vote on this, first reading with the co to 2,000 and the co about access out to 620. Those in favor please raise your hand? Those opposed? It's unanimous on first reading approval. I think that those are then all the things we can take up before 4:00. So at 4:00 we'll be taking up item -- after 4:00 we're going to take up items 97 through 104. We'll blow through those and then at 7:00 we'll take up item number 87. So we are in recess until 4:00. Yes, Mr. Casar?

>> Casar: Before we break for recess, just as a future time-saving note, maybe legal staff can answer it for us, for the plumbing code thing which we had a public hearing on, but we waited to vote on, I don't know if in the future there's ways to point those votes in a way that doesn't give them a 4:00 P.M. Time certain so we could have taken that up.

[2:56:24 PM]

I don't know if that's possible, but just as a note, there's a couple of items on there that -- like I think we've run into this once or twice before. I don't know if there's any way to do it.

>> Mayor Adler: There is, because that's a really good point. We could have set that any time we wanted to. And because the public hearing was already over we could have easily set that earlier than 4:00. Now that it's been set at 4:00 today we're stuck, but the point is well taken.

>> Alter: Mayor, we also have to cover 69. Along with 99.

>> Mayor Adler: Yes. 69 will be covered the same time as 99.

>> Alter: Right. You just didn't mention it.

>> Mayor Adler: All right. We stand adjourned until 4:00.

[3:53:02 PM]

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[4:11:05 PM]

>> Mayor Adler: All right. We have a quorum. It is 4:10 and we will start this meeting. We handled all the items this morning except for item 69, which we're going to call at the same time we call 99. Let's take a couple here that I think we can handle quickly. 97 is center point energy gas rate. That should be relatively quick. Let's do that.

>> Good afternoon, I'm Rondella Hawkins with the regular la offers office. City council is required to do a public hearing before taking any rates of a gas franchise holder. And center point energy made its annual gas reality infrastructure filing with the city and with the other cities it serves in the south Texas division to recover capital investments and utility infrastructure of \$30,316,196 incurred in the 2016 calendar year. The Texas utilities code authorizes gas utilities to recover the incremental cost of new cammie investments through this annual rate adjustment through annual rate filings. Center point energy has customers located in southeast Austin, primarily in the good night ranch area, and it has approximately 141,000 customers in their south Texas division. The proposed interim rate adjustment will increase the average monthly bill for a residential customer who uses 2.3 mcf's by 5.21% or from \$39.18 per month to \$41.22 per month. The average monthly bill for a commercial customer who uses 17.1 mcf -- and these are average amounts -- will increase by 2.77% or from \$149.02 to \$150..03.

[4:13:06 PM]

The city retained a consultant to review the rate filing who determined that it complies with the Texas utilities code. Staff recommends approval of the proposed ordinance and the accompanying rate tariffs which will become effective for meters read on or about July 15th of 2017. Thank you.

>> Okay. Is there a motion to approve this item 97. Motion? Ms. Pool. Is there a second to that. Ms. Garza? Any discussion in all those in favor please raise your hand? Those opposed? It's unanimous on the dais. Thank you very much. It passes. The housing action plan, item number 98, has citizens signed up for that one. As does 99, 100. Let's go ahead and call up the juvenile curfew -- no, housing action plan item, which is item number 98.

>> Staff here for this.

>> Good afternoon, Rebecca giello with the neighborhood housing department. This is a requirement by the United States department of housing and urban development and it is to be submitted in August and I do want to note that you likely received a memorandum from staff yesterday that we had not received our allocations from the federal government, however we did today and the funding is anticipated to be at level funding. And we welcome citizen input.

>> Mayor Adler: Let me go ahead and call the speakers to speak.

[4:15:06 PM]

We have a busy night tonight. Several items to come up. Don't feel like you need to take the full three minutes on something that looks like it's going to pass. I want to give everybody the opportunity. Stuart Hersh. Sir?

>> Mayor, members of the council, my name is stu and I live in district 2. The action plan will be the first time that the city council will consider investment decisions following adoption of the strategic housing plan as an amendment to imagine Austin. Austin's current comprehensive plan. During the needs assessment public hearing, several of us who helped not for profit organizations repair homes owned by low income residents at no cost to the homeowners, highlighted the 600 home repair annual goal, included in the strategic plan. It appears that the proposed level of funding for next year will not result in 600 repairs. It looks like the number is 555 on one page and 507 on the other. Carry guard funding from the current fiscal year or other funding sources will be needed to achieve the 600 homes repaired per year goal, particularly since we were fearful that the federal funding may not be leveled, but we just heard good news that it is, so that's great. Creative solutions such as use of housing trust fund or clean community fees collected by Austin code from our monthly utility bills can enable low income homeowners to live in housing that they can afford and is safe. While this decision does not have to be made part of the action plan adoption that you will do in a couple of months, direction to city staff to include funding for 600 home repairs can be part of the draft city budget for 2017-2018 that the city council will approve in September of 2017. Please align your future budget decisions with the 600 home repair goal so that these families can age safely in place. Creativity can allow homeowners to have repairs performed timely instead of continuing to live in subis the conditions.

[4:17:12 PM]

Our brothers and sisters deserve nothing less. Thank you very much.

>> Mayor Adler: Thank you. The next speaker is David king. Zenobia Joseph is up next.

>> I don't know if this plan will be reviewed by the equity office but I think it would be a good thing to do so I hope you will consider doing that and provide that office with sufficient resources and time to do that review. And in terms of the affordability periods that are in the draft plan, I think they should be increased to a minimum of 40 years. I saw five, 10, 15 and 20 years, and that is insufficient. So I'm hopeful that we can increase that to a minimum of 40 years. And then corollary to this -- the actions proposed in this plan, I think we need to look at opportunities to help folks stay in place and so those policies would help predisplacement of low and middle income families that push them into the situation that they need subsidies, that they need help. So I think if we can do things right now to inhibit that, it will actually be a better strategy. And these are some stay in place policies we could enact. We should stay and increase the enforcement of the rental program for older properties. We should monitor the code violations on those properties to be sure that they're not used to evict low and middle income families and make the way for high income families to take their place. We should require purchasers of distressed residential properties to immediately bring especially up to code and increase funding for no interest forgivable loans and subsidies to help low and middle income families with home repairs, rental and mortgage payments, property taxes, down payments on home purchases and deposits for apartment rentals. We should increase the homestead exemptions for seniors to \$100,000.

[4:19:15 PM]

Austin's current exemption is 80,000. Houston's is 164,000. We should increase the homestead exemption for homeowners to 10%. That will help people who currently are on the edge right now of home ownership from falling over and then needing subsidies and help. So we need to help them now. Austin is six percent, Houston, Dallas, fort Worth exemptions are 20%. We need to require the tenant relocation plans and affordable housing income statements for demolition permits for single and multi-family housing so we can see what impact those decisions are going to have on low income families. And we need to require at least 50% of materials from single and multi-family housing demolitions to be recycled. That pays multiple dividends. It will inhibit the demolition of properties that are affordable right now. And it will decrease landfill trash and increase the supply of lower cost recycled building materials. And I can tell through local non-profits that would love to have more recycled building materials so they can build more affordable single-family homes and multi-family homes. So thank you for listening to my comments. And thank you for your service to our community.

>> Mayor Adler: Thank you. After Ms. Joseph, Julianna Gonzalez is on deck.

>> Thank you, mayor, councilmembers. My name is Zenobia Joseph. My comments are related to specifically there's a provision specifically related to transit. It's not on the screen yet. But its recommendations specifically related to policies, increase housing near transit and for members of protected class.

[4:21:18 PM]

So that draws me to make comments specifically related to title six of the civil rights act of 1964. And in front of you you have actually a copy -- if you'll push the document up you'll see that some of you have in front of you a few of the routes that actually have been moved under connections 2025. Specifically I wanted to draw your attention to colony park routes, and there's 323 for those of you looking at the screen. I just want you to recognize that the new route that was created moves to the west to serve whites that are there. That route actually generates 40,000 less passengers than the 392, which is in northeast Austin, and it costs \$1.42 more per rider. Next slide. And so my purpose in showing you these examples is so that you recognize that there's no language that specifies how to deal with transit when it is next to affordable housing, but then cap metro moves those bus routes. So I know yesterday, mayor, that Terri Mitchell was here, but can you just state on the record was he here discussing this item?

>> Mayor Adler: I didn't --

>> My point in showing you these examples is it's nice to have a plan, but when cap metro is not in the room, then it's just nice words. If you look specifically at route 37, 37 actually will lose approximately 330,000 riders and they will lose \$118,000. And that is the route that is specifically on Loyola lane and it's at decker, and that route will actually be removed as well. If you put up number 37 on the deck.

[4:23:18 PM]

If you look at the colony park map I want you to understand that under connections 2025, the individuals that live in the decker lane area will lose their bus. So if you live in the neighborhood by lbj high school, that bus is being rerouted. And I gave you the money and the figures on the slide. Next slide, if you show number 20, the route that was created under connections 2025, which is councilmember Garza's route 820, will actually impact the writers that are in -- riders that are in district 1. Specifically they will have to be to Springdale shopping center, which means if you live in the Delco center center or the neighborhood in that area or by the Exxon, there is actually 183. If you look on the map or the bus goes down to manor road and that will actually be rerouted as well to serve the west. So I just want you to understand, mayor, that this is pretty significant because we have the riders on these routes and it's being moved from where the affordable housing is.

>> Mayor Adler: Julianna Gonzalez and then Cindy Lee is on deck.

>> Good afternoon, mayor, council. My name is Julianna Gonzalez. I'm the executive director of the Austin tenants' council. So happy to be here in the early part of the evening, late afternoon. And I can be so much more brief now that we've heard that our funding is going to be level. Thank you. So I basically

just wanted to stop by today and let you know some of the programs that we are funded for currently under the cdbg money, let you know what they do. Thank you for this plan to continue that funding. And put a bug in your ear that we're going to be like Stewart, asking for more from different places. We don't have to talk about that today, though. So under the cdbg funds that we get from the city, we administered the renter's rates assistance program.

[4:25:21 PM]

We serve about 500 clients from the city of Austin for counseling services a year and we serve about 100 for repair mediation services a year in this program. Right now, you know, we see a pretty wide variety of people for counseling services, but they come in talking about the kinds of problems that y'all are trying to solve with housing in general. So they come in talking about evictions, they come in talking about needing their security deposits to be able to find stable housing in the future. They talk about violations of their rights in terms of lease violations. They're worried about rent increases. Yeah, sort of the broad spectrum of housing issues that you already know about. We do one on one counseling with them in the office, and we often do follow-up counseling with them by phone or if they need to come back in. We also do repair mediations under this program, the cdbg funds. Which involve one of our staff going out to their home, documenting the repair issue that they've identified. Generally these are tenants who have already tried to get repairs from their landlord and have had trouble getting those repairs accomplished. If these are repairs that are violations of the health and safety of the tenants we can pursue mediation with the landlord to try and get those done. At times we get involved when the tenant has not yet worked with the landlord to get these repairs done. And in those cases, generally we're getting involved because the tenant is fearful of retaliation. So we're excited to be able to continue both those services, the counseling and the repair mediations. We do have some additional funding needs when we're talking about community needs and priorities. And we've already made nhcd aware of these. One of them that I think might interest you is that we're proposing a program to deal with eviction advocacy. So helping clients who are currently being served through our counseling services really walk through the eviction process.

[4:27:24 PM]

A lot of times they're coming to us and they don't even know that they're supposed to show up at eviction corridor with the notice that they've received means, and so we have a proposal for how to make that go better.

[Buzzer sounds] I'll leave it there. Thanks for your time tonight.

>> Mayor Adler: Thank you. And then William Whipple is on deck.

>> Mayor and councilmembers, I'm a data and I'm Cindy Lee, the executive director of rebuilding Austin and I'm here representing the Austin housing repair coalition. We provide home repairs to low income homeowners and are request is that you increase the funding to 600 homes so that we can continue to address all of our homeowners who are on the wait list for the repairs that we provide. This funding allows us to go into the home and it allows the homeowners to use their resources on things like medicine and food instead of repairing a leaky roof or a foundation that doesn't support the home. And these are critical health and human services repairs that we provide to these homeowners. And it changes their lives in ways that we can't imagine. So thank you.

>> Good afternoon, mayor and commissioners. Thank you for taking the time to hear this testimony today. My name is Billy Whipple and I'm the vice-chair of the house repair coalition. I'm the vice-president of construction for Austin habitat for humanity. And I'm here to attest for the need that we see for home repair in our community. In the Austin strategic housing blueprint that's been adopted there is one line that states 600 home repairs per year. Just one little line in the 52 pages. I just want to say it will have such a profound impact on our community.

[4:29:27 PM]

Those 600 repairs would really allow us to reduce the time that it takes us to get to clients after they request repairs because sometimes with our wait list, it takes us a couple of years to get to them. So if we can fund these repairs fully, we can get to these repairs before they get worse. It would also allow us -- allow our neighbors to age comfortably in our homes, reduce health hazards and really bring up the vibrancy of all of our neighborhoods in the city of Austin. I just want to ask you to keep this in mind as you move into the next fiscal year. And thank you for your time.

>> Mayor Adler: We're now back up to the dais. Is there a motion to approve this item 98? Friend makes that motion -- Mr. Renteria makes that motion, is there a second to that motion? Item 98? Mr. Casar? Any discussion?

>> Alter: Yes. I have some questions for staff.

>> Mayor Adler: Staff, please.

>> Rebecca Giello, director of housing and neighborhood development.

>> Thank you for your help putting this together. It was really important to see all the work we're doing and I'm glad the additional appropriation came through. I'm just trying to understand how this plays out and fits in with our strategic blueprint. In particular I'm wondering can we deviate from this plan if it is

adopted, if we decide that there are better uses of these funds that are more appropriate for achieving our goals, but fall under what we're allowed to do under H.U.D.?

>> So the action plan is essentially a grant application. And dictates basically what we are anticipating to do with the federal dollars. So along with where we are anticipating the direction or investment of our dollars, we also state an accomplishment meant that we intend to hit.

[4:31:31 PM]

So we wouldn't want to deviate necessarily to the accomplishments because we -- many of you are aware that we have a consolidated report that we do each year called the evaluation report. And we call that the caper. And we come that to you each year to showcase how we've hit the accomplishments. So hud would expect us to stay on course with our action plan as we have put forward to the community. Now, that said, I will say that where we are not seeing a spend down in a particular program, for example, because of market conditions or something of that nature, there is an opportunity to explain why we did not. And we do have some leeway to move federal dollars around to ensure that they are spent down. So I want to be transparent in saying we're not locked in, but we do stay the course to the extent we can unless there's some reason why we can't. But we honor what we've told the community we are going to do in the action plan.

>> And I would note that the action plan absolutely is in line with helping to achieve the goals in the blueprint. As we noted in the adoption of the blueprint, we know that additional resources are needed but the action plan is absolutely in line with the goals set forth in the blueprint.

>> Thank you very much. We heard from our law department representative Jim. There is not an action from you today, but rather just that we are closing the public hearing. But I know that your questions aren't necessarily related to an action.

>> Alter: And will we have to take an action at some point?

>> Yes. We will be bringing the action plan to you in August to ensure that we meet hud's deadline to submit the action plan by August 15th.

[4:33:35 PM]

>> Alter: Okay. I don't know if it would be possible, but I would ask the chair of the housing and planning if perhaps we could review this before it comes back to us on the 15th, maybe that first day in August, if that's at all possible. Because I'm concerned about whether we are really making sure that we're making

our choices where we're getting the best bang for our buck. We've heard a lot of people talking about the repair programs, which is something that I favor, and it seems like this is locking in a lot of this spending and we've had a lot of conversation about how we need to address our housing needs, but in this report, maybe it's elsewhere, I'm not seeing a lot of evaluation about the effectiveness of one program versus another. I know we have to do everything under the sun, but this is a limited amount of money and we have to make choices within the constraints that we're given from HUD. So for instance, there's I think on page 61 it says we got six jobs for 150,000 at \$25,000 per job. Do we have data on the wages for those jobs? What kind of jobs are we getting? Are they getting benefits?

>> We can certainly provide that information. One of the things that I would want to caution is we would want to be able to bring the action plan back to you all in time for your action before August 15th. I think it's slated for that first week in August to be sure that we can meet that deadline. So we would want to offer opportunities to have those dialogue -- the dialogue with you and/or answer any questions that you have. I just don't know that early August gives us time to submit a council action to ensure that we meet the federal deadline. So I don't know if July would be an opportunity to come to the housing committee or we could meet with your office one on one. We're happy to get you more information on the specific job creation through the community development bank that's through people fund contract.

[4:35:39 PM]

And we can get you specifics on the actual job creation and the scope of work of that contract.

>> Alter: Yeah. I guess it's a broader question of to the degree when we're putting this together how are we evaluating the effectiveness of the programs? We have lots of rules and we're giving a lot of scrutiny to our economic incentives programs and there's a way in which it's taken to that and it seems like we should also be mindful of what we're getting on the other end so that we're putting these scarce dollars to the best effect to address our housing challenges. And I would like to understand more about how this process relates to doing that. And there may be a larger federal context here that I need you to inform me of, and I look forward to that conversation, but I do think we need to pay attention to spending our housing dollars in the most effective ways to help the most people.

>> Mayor Adler: Let's go ahead and note that question because you do accurately point out that all we're noticed here to do is receive citizens communication. Is there a motion to close the public hearing? Mr. Renteria makes that motion. Is there a second? Ms. Houston. Any discussion? All those in favor please raise your hand? Those opposed? Thank you. It's unanimous. We've closed the hearing. We'll now move on to the next item. Moving on to items 69 and 99. We have more than 20 speakers so we will go with three minutes for the first 20 speakers and then a minute for the speakers after that. We have the same speakers signed up for both 99 and for 69. So I'm going to call them and then we can

have a discussion, we'll close the hearing and then have our discussion on both those items. The first speaker to come speak to us is Nicole Hudgins. Second speaker will be Ellen stone.

>> I'm so sorry, did you say the first speak had three minutes?

[4:37:42 PM]

>> Mayor Adler: Three minutes.

>> Wonderful. Good afternoon. My name is Nicole Hudgins, I'm the policy analyst for Texas values. We are speaking against item number 99. And Texas values is the largest statewide organization focusing on faith, family and freedom. And we mostly focus on the state legislature, but we realize that local issues do impact what happens at the state. And I'm personally an Austin resident. So number one, the purpose of government and law is to ensure that the right of individuals are protected. If someone violates someone's god given rights then certainly the government should step in, however what this ordinance does is it gives juveniles class C misdemeanors for simply being outside of their home or property. Certainly if a juvenile is committing a crime that should be addressed, but this allows injim gnat punishment. Two, this type of ordinance punishes and confines homeschoolers in Austin. I grew up as a homeschooler in Texas and one reason we did is because my dad was in the military. His schedule was all over the place. He would sometimes come in from out of the country late at night. Sometimes he would come in and we would be able to see him during the day. So being homeschooled allowed me to get to see my dad a lot more because I had that flexibility of time. At the same time my school wasn't limited to my kitchen table at home. It meant when I was done with school I could go outside and ride my bikes, go play in the field behind my house. But an ordinance like this, if a police stopped me, would have given me a class C misdemeanor. So this needs to be addressed. And finally, you're going to find that there are many diverse groups that are against this ordinance. And I ask that you would hear them. People from [lapse in audio]. Certainly crime should be addressed, but punishing these juveniles with class C misdemeanors and especially really targeting homeschoolers for these three reasons, I urge this council to vote against this ordinance.

[4:39:50 PM]

Thank you.

>> Mayor Adler: Thank you. The next speaker is Ellen stone. Rachel gandy is up next. You will be at the other podium, Ms. Gandy.

>> Hello. Thank you for having me today. My name is Ellen stone, I'm a data scientist at Texas Applebee. And I'm here against the juvenile curfew ordinance. I would like to spend some time with the data surrounding the juvenile curfew. So first I'd like to discuss the issue of causality in this data. APD has stated in their report that the curfew ordinance has caused a decrease in juvenile crime rates, however they cannot claim that the curfew is the cause of the decrease in crime because we see decreases in crime even in places with no juvenile curfew. We know from data that the juvenile crime rates has reduced since the '90s. And even in Texas cities the crime rate has decreased even though cities have implemented curfew ordinance ordinances at different times and some have no curfew ordinance at all. This is because although two issues can be closely linked together, unless we have directly tested the cause and effect of the relationship we cannot say that one caused the other. As an example, sales of ice cream increased as crime rates increase. We could come to the conclusion that ice cream must be the reason why people commit crimes. But it's probably more likely that as temperature increases people are outside more and also they're buying ice cream more. The same mechanism is at play with the Julianna. The decrease in juvenile crime that we see could be caused by many other factors such as greater access to social services or other laws that address juvenile crime specifically. The issue of asialty is important because it has consistently been shown to have negative consequences for youth so we should make sure that the policies don't needlessly send children there. That being said the data that we have is difficult to access and has been difficult to track youth who receive curfew violations. Because of this we have every reason to believe that homeless youth, foster youth and youth with jobs are getting caught newspaper this curfew ordinance.

[4:41:54 PM]

We cannot say that the juvenile curfew ordinance has not caught up those youth because there is no data in the system. In the goal is to protect our most vulnerable youth, those most affected by the occur view violence, we would know who is impacted by the ordinance, but we don't. We do know there are organizations and individuals who are there to support youth in need in ways that are helpful and we want to make sure that rather than criminalizing youth we connect them to those services. Additionally we do know that violations are given to youth in west Austin. We do know that officers have discretion when issuing tickets. We have no data suggesting how many warnings are issued and to whom. Our goal should be to continue to keep youth safe by directing hem to necessary and helpful services instead of funneling them into the criminal justice system.

>> Mayor Adler: Thank you. And Gabrielle la McDonald.

>> My name is Rachel gandy. I'm a policy fellow at disability rights Texas, I'm here to discuss the impacts of the juvenile curfew ordinance on two groups of kids with disabilities, both those with an identified special education need and those who have not yet been identified. It's well documented that children with a known disability are more likely to face harmful disciplinary actions like ticketing or arrests. And each of those actions produces a long-term consequence. For example, police encounters which often

focus on strict compliance, something a child with a disability may not understand, those interactions often decrease the likelihood of graduation by over 70%. That dropout often then leads to justice involvement and increasingly poor relations between police and the disability community.

[4:43:59 PM]

Fortunately there are structures already in place to help deal with behavioral issues for a child who has a known disability. Each child in special education has an admission, review and dismissal committee or IEP committee that is comprised of experts on a child's needs. A referral to an IEP committee can lead to a behavior intervention plan and instructional modifications to lead to success. Those modifications I would add do not appear to be present in the juvenile curfew course that some juveniles are required to take. I'm talking about another group of kids, those without access to that IEP committee because they haven't been identified as having a disability. Districts in Austin contributed to the problem. Last year in Austin ISD alone, an estimated 2500 kids with disabilities were potentially left unidentified and therefore unserved. In essence the ordinance allows us to criminalize behaviors that are connected to a disability that we failed to see and serve in the first place. Kids breaking this rule are communicating something, but the ordinance stands in the way of us actually listening to that. It's time to stop using our law enforcement system as a substitute for our failing disability service system. There are evidence-based options that would allow Austin to better identify disabilities and deal with problematic behaviors. And these are options that districts like AISD are already actively engaged in and they're doing a great job at those too, things like positive behavior interventions and supports and partnerships with education service centers. School personnel are better equipped to deal with the root cause of these behaviors. So let's let them do their job. This curfew ordinance is a vestige of the past. It runs contrary to the reforms that this council has been making for years and it violates our city's value of inclusion.

[4:45:59 PM]

So moving forward I ask you to not renew this particular ordinance and to instead prioritize the success of kids with disabilities, both identified and not. Thank you.

[Buzzer sounds]

>> Mayor Adler: Is Roseio Villalobos here? You have six minutes.

>> Great. Good evening and thank you for allowing me to testify. My name is Gabriel La McDonald and I am the director at Texas Apple Seed. I come to the council today to speak of the effect of Austin's

juvenile curfew on area youth who are experiencing homelessness. This issue -- I've become deeply familiar with it because we've worked at Texas apple seed to create a Texas handbook that addresses rights and responsibilities for youth and we're conducting research for a policy report that will explain what it's like to be young and homeless in Texas. And identify the problems and the solutions that we could come up with to those problems. As I hope many of you know, right now this community is working diligently to end youth homelessness by 2020. Austin is one of 10 communities that has been granted funds by hud to contribute to this effort. And a significant reason why we were given this funding was because during a 100 day effort to house homeless youth in Austin, we were successfully able to do that because community leaders came together and removed many of the barriers that youth were facing dealing with this issue. By simply not renewing the juvenile curfew ordinance, the city council will align the policy and efforts with stakeholders in the community to create a plan and community environment that will allow Austin to end youth homelessness by 2020. Say this first basifier criminalize a child we are guaranteeing that that child's life going to be harder. Criminal history and justice system involvement, even if it's limited, far too opportunities and employment, education and housing. Policies like the juvenile curfew ordinance which criminal eyes youth creates a cycle where a child who is not in school or work at a designated time day or night is criminalized for relatively minor actions.

[4:48:11 PM]

This personalization usually prevents that child from attending school or gaining employment in some form or fashion. It's more productive and effective to have services that address any underlying reasons why children are on the street in the first place. Indeed, part of the reason that why at Texas apple seed started to look at the issue of homelessness is because while we were working on truancy issues we saw so many kids in court who were homeless and weren't in school because they were homeless, including the fact that they couldn't get showers. So we couldn't criminalize schools or criminalize kids for not being able to take a shower and they're not clean enough to be around their classmates. Second, youth experiencing homelessness have so many reasons to hide. Human trafficking or avoiding the foster care system or going back into a home where they are being abused. We don't want them to go back to that necessarily, but we want them to get help. And by crimelizing these kids we force these children to operate in the shadows. If children know they can trust law enforcement to help them there's no ordinance in place that could criminalize them and better able to seek out the help we need. I want to read you all quotes for the interviews we did for the report coming up. One is in Austin, the second one is in Houston. Whenever you don't generally have something to do, just finding somewhere where you can sit down and relax, I think that's the main problem. I have so many countless tickets and community court for just sitting somewhere downtown. If police pull up and give me a ticket. I've never had the money to do it and I always thought it was ridiculous that they were giving me a ticket. I let the warrant come out, spent the night in jail, went to the judge and told him what was going on and went on my way. The second was from a kid in Houston. I didn't like the police, but I love them now because they

help me out. If people put their mind to it the police could be a big help. They care for kids out on the streets. My best friend was out on the streets with their baby and a police officer paid for her a hotel. I didn't know there were police like that out here.

[4:50:12 PM]

So as shown by these two quotes, interactions homeless youth have with adults shape who they reach out to for help and how. We need to create a community where youth experiencing homelessness can trust the systems that are there to serve and protect them including schools, police and service providers to help ensure they have what they need to prosper when traditional avenues fail them. By not renewing Austin's juvenile curfew ordinance and the use of the care taking function that exists in law enforcement, showing youth that officers are not there to get them in trouble, but to point them in the direction of services for help, we are creating a community that has the ability to end youth homelessness. Thank you very much.

>> In 2011 one of my little brothers arrived home scared because he was stopped by the police and given a ticket for crossing the street during lunch to go to the

[indiscernible] Next to Reagan to get some food. He was scared because he felt like he had committed a crime. You see, he had soccer practice until 6:00 P.M. And the school lunch was not enough to keep his energy going all day long. I had to go with my mother to the courtroom to translate for her because she did not speak English. I knew what she was feeling at that time. I was only 19. And we knew that stepping foot in the courtroom, as a family that was undocumented at that time, we were scared. My mom ended up choosing to pay for my brother through community service because we could not afford the fine. Now as a teacher I see how the law affects my brown and black students. I teach at a school where most of my students have parents that can afford to pack their lunch, take their lunch to school or pick them up at any time.

[4:52:15 PM]

But I also have students who stay at home, who stay at school running a fever because they cannot ask their parents to pick them up because school because they're working or they cannot take the bus home because they're going to get arrested. So now with the sb 4 law that is potentially creating a bigger problem for our immigrant community with a student leaving campus to go get lunch, to go to their jobs or because they're sick, now they can be starved for not only violating the law, the curfew, but also ask for the immigration status. So I ask you and I beg you to please as a teacher there is a problem that we need to solve. I see it everyday. Our students need to be in school, get their learning. But criminalizing

our blown and black students is not the solution and we need to address this issue where we can find a solution where our strategies are safe, but also where we don't criminalize schools like Reagan, Lanier and the schools that I work out this doesn't happen. Thank you.

>> Mayor Adler: Thank you. Colleagues, I've gotten notice that item 103, the applicant has agreed to a postponement of that item until August 3rd. I don't know if we want to postpone that item so people can leave here. There are 10 people who have signed up to speak. We won't get to those speakers well after dinner. I wanted to let people know that if this gets postponed and they're here, they can either come back and speak on August 3rd or they can speak tonight instead of speaking on August 3rd, but it's going to be well after dinner before we get to them. We want to get it done so people can leave. Sir, is there someone from planning here?

[4:54:17 PM]

To confirm that? Housing? We agreed to postpone that until August 3rd?

>> We're fine with that, mayor.

>> Mayor Adler: Is there a motion to postpone this? Applicant, are you okay with postponing this to August 3rd?

>> Good afternoon, mayor and council, I'm Michelle Hausman representing the applicant. Yes, we are in agreement to postpone to August 3rd, thank you very much.

>> Mayor Adler: Ms. Houston?

>> Houston: What about the people signed up to speak?

>> Mayor Adler: I will be calling them up later. It will be well after dinner. I wanted them to know that you can either speak tonight or August third. You either get which one you want to speak at.

>> Houston: I was thinking they might have a representative that would come and say what they want to do.

>> Mayor Adler: They could. We're in the middle of something else now. That's why I wanted to give them a head's up. We're not going to get to it later and I didn't want to call it up after I knew for several hours that it was going to be postponed. So anybody here that is called in the regular order to the degree they want to speak tonight instead of August 3rd S there a motion to postpone? Mr. Casar. A second? Ms. Pool. Is there any discussion?

>> Casar: Mayor, I want to let folks know that for the August 3rd meeting I want to direct the staff to get working on how to get higher credit deals moving forward because I think we keep getting stuck in this

situation because partly because we work alongside the state to continue to have these four percent deals, not in high enough opportunity areas.

>> Mayor Adler: Okay. We can have a discussion. Then I need clarity on what's a high opportunity area and how we're measuring that as well. It's been moved and seconded to postpone this to August 3rd. Any discussion? Let's take a vote. Those those please raise your -- all those in favor please raise our your hand?

[4:56:19 PM]

Those opposed? We're going to postpone to August 3rd. If you want to speak tonight, I'll give you a chance later. Let's continue on where we were, discussing this item number 69 -- 99. Mr. King, David king, do you want to speak?

>> Thank you, mayor, mayor pro tem and councilmembers. I'm not going to keep the great ideas that you heard early early as to how we can address the issues with our current ordinance. But I do -- I think we should pass item number 69 to create the stakeholder group and look at this issue and come back with some recommendations that I think can address the concerns here. And the purpose for having this in the first place. So I think there's a way that we can get everything we want by going through this process here. What I would suggest about the other item, which I believe is 99, that we consider suspending the class C misdemeanor citation and the fees and fines for violations of that ordinance. While the stakeholder is doing its work and then coming back with some recommendations. So I think that's one of the key issues right there with the current ordinance, and I won't repeat the other great why did you already heard here tonight, but I think this does need some work and I hope that you will consider making changes to the current ordinance so that we can stop. Young kids are getting class C misdemeanors on their records at such a young age and then having that problem stick with them for the rest of their lives. And not to mention the fees and fines. You know, these families are struggling and they can't afford this. And we've heard before how fees and fines add up. And create burdens for these families. So I think that's important that we take a look at those and try to do something about those tonight.

[4:58:21 PM]

Thank you very much.

>> Mayor Adler: Thank you. Is Chris Harris here? Okay. Hannah baker.

>> Good evening. My name is Chris Harris. I'm in district 1. I'm a data analyst. I just want to bring up a couple other points that haven't been mentioned as much. First, the ordinance clearly defines juveniles subject to citation as someone under 17. According to data from Texas applesseed, Texas 17-year-olds receive 37% of daytime and nighttime curfew -- so those getting them is getting them. The police in courts can't be trusted to properly execute the law. Why should we authorize them to continue to interact with our youth in this context, particularly when that's to unnecessarily criminalize kids they claim to be protecting. Similar to the execution of this ordinance, the a.p.d.'s ordinance is sloppy at best, disingenuous at worst. The police discovered they weren't tracking these curfew violations properly and how long has that been going on without anyone noticing? They attempt to justify the curfew by pointing to significant decreases in juvenile crimes since the curfew's implementation 25-plus years ago. Somehow they completely neglect to mention not just the statewide but national and international crime trends over the same period. For example, in Texas, according to the Texas office of court administration, the number of new juvenile cases fell 40% from 2007 to 2015. Okay? That's statewide. Nationally, according to the fiber arrest statistics, the number of annual juvenile arrests fell 56% from 2006 to 2015. That's nothing to do with this juvenile curfew ordinance. All right? In closing, the police don't know how many curfew citations are being issued, or who the ordinance applies to properly, and we're supposed to take their recommendation that the curfew should be extended?

[5:00:29 PM]

The if community can't trust police to accurately document or represent interactions with our, you're how can we trust them to faithfully interact with them in the best interest at all? We can't. We should limit the interactions to a bare minimum, starting by letting this curfew die. Thank you.

>> Mayor Adler: Thank you. Laws laws.

>> Mayor Adler: Gabriel plumber is on deck. Go ahead.

>> Good afternoon, mayor and councilmembers. My name is Hannah. I'm testifying against the juvenile curfew on behalf of the nasw, national association of social workers in Texas. Criminalizing youth is not the solution to keeping kids safe and in school. We should not be pushing our children to the criminal justice system when there are many practices and programs that can be utilized to help children remain in school. The curfew does more harm than good for several reasons. The curfew disproportionately targets minorities. Hispanic and African American used to are over represented while white and Asian Americans are underrepresented in police interactions. If today's juvenile curfews are enacted, such curfew could affect discriminatory policy. Kids go to different types of schools and lead different lives. Because a kid is not in school between school hours does not make them truant. I have off campus lunch, I could leave wherever I wanted to in high school, and I could have gotten in trouble but I didn't because I was in Houston and this law didn't exist at the time. Data shows tickets are issued to homeless youth, working youth, and home-schooled youth, and for no reason they shouldn't be getting in trouble.

We need effective interventions that ensure the safety and success of children. Interventions can address the underlying causes of truancy and other indiscretions. Thank you.

>> Mayor Adler: Howard griffin will be on deck. Go ahead.

>> Hello and good afternoon.

[5:02:29 PM]

My name is Gabriel, and I'm just another youth that is affected by this ordinance. And I think that it should be ended because, for example, for myself, I am 17, and I do have -- I'm a part -- I'm in college. I have the responsibility of at least a 20-year-old junior. So I have to be outside at events that is held by my college sometimes, and just by doing a responsible thing, I feel I'm basically breaking the law to say so. And, for example, just other people -- other fellow peers of mine that have to work at times, make them go outside later than 11:00 P.M. Can be given a misdemeanor just for going to work and properly providing for their family. So I feel -- if you feel that this is just something that is providing safety, I don't feel that giving a class C misdemeanor to a minor is providing safety. So the best thing for the youth is probably to get rid of this and not have them in a criminal justice system for something that is very minor, I feel. So thank you very much.

>> Mayor Adler: Thank you. Steven houseley will be on did that go ahead.

>> Okay. Hi. I'm Howard griffin. I'm 17 years old. I attend Austin academy in east Austin. I live in district 1. At my school we have three sir, morning, evening and afternoon. And I attend the morning session between 7:45 to 11:54. So when I get out of school at 11:54, I'm free for the next four hours till I have to work, and so in that time, I can be pulled over for broken taillight or anything and given a citation which could fine me up to \$500.

[5:04:39 PM]

I don't have \$500 to pay to anyone, so with that being said, I feel like this -- this ordinance should not be passed. It should be kept where it is, and kept in the past, and with that being said, that's my closing statement. That's all I have to say. Thank you.

>> Mayor Adler: Thank you.

>> Good afternoon, Mr. Mayor and council members. I'm Steven housely, with the Texas home school coalition. This is a statewide organization for home school parental rights in Texas. We advocate on behalf of 150 home schooled families in Texas. We advocate for parental rights because we feel it is the

absolute foundation for why home schooling is even allowed within the state of Texas. TCC has worked with multiple cities and other home school families across the state on juvenile curfews such as this one. Cities such as Magnolia, Bedford, Corsicana, Waco understand and Corsicana. We've worked on these ordinances in many other states -- or cities. Thc opposes juvenile curfew laws because they undermine parental rights and affect home schooled families disproportionately, by requiring the parents should be disallowed from allowing their children to be out during certain hours, during the day, even on school day. Curfew laws often harm home schooled families because home school students do not follow the same schedule as traditional schools and they could be out during different holidays. Their school years often start later and end earlier than their public school counterparts and they often have, like I said, different days off. I have some other information as well, but I'm going to leave myself open to questioning. We definitely agree with some of the past -- past testimony, that this would be definitely negative for home schoolers this if this curfew were to be ended.

[5:06:40 PM]

We're against extending it and strongly urge you not to vote to redo it.

>> Mayor, I have a question. We heard from A.P.D. The other day that they were unable to find any other cities where the curfew had expired or hadn't been renewed in order to collect data, so do you know if the curfew ordinance has expired in any of these other cities?

>> So many of these have -- many of these were worked on before I came on staff with thc, but I do know for a fact that Magnolia was one that was never renewed. I think that we were there and we had some local groups who were there as well, that were testifying against it. So my understanding is that it did -- it did not get renewed. So I think that would mean that it did expire.

>> Alter: Okay.

--

>> Troxclair: Okay. If you come across any additional information --

>> We can get that for your office. I've been talking to Michael and we can get that thousand.

>> Troxclair: Great. I think that would be really helpful in our efforts to make a decision based on data.

>> Atty1: For sure. Thank you.

>> Mayor Adler: Thank you.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I have a question for the gentleman from the Texas home school coalition.

>> Mayor Adler: Would you come back, please?

>> Yes, ma'am. Sorry.

>> Mayor Adler: Thank you, sir. While you were here, I thought I'd ask a question.

>> You do have the handouts --

>> Houston: I have the handout but your name wasn't on it.

>> My name is Steven. Sorry.

>> Houston: That's okay. I've heard a lot of testimony about the number of home school children this affects. Has any of them ever been given a citation here in Austin? Do we have data to support that here in Austin, home school children are being targeted?

>> Right. Definitely, we reached out to quite a few Austin area leaders and ask that same question and we've heard nothing back so far.

>> Houston: So could you keep me in the loop when you hear?

>> We absolutely will. We posted a link to -- basically it was a web form that people can fill out, and we got a few things that you could say they're more like feedback, but nothing that would be a real story as far as people here in Austin.

[5:08:49 PM]

However, we definitely have known people around the state who have been affected, their home schoolers, but not necessarily in Austin.

>> Houston: Thank you so much.

>> Mayor Adler: Thank you. Is Leticia Taylor here in come down an speak. Amanda curry is on deck.

>> I'm a policy fellow and organizer with grass roots leadership. And I think that Austin should not renew its juvenile curfew ordinance. I've heard a lot of individuals talk about those who are presumed as innocent, not being affected, but there are many people -- many youth that are black and brown who do indeed are caught up in an early age within the criminal justice system, and I don't think this helps the situation. There has to be a better solution. If there are other cities who have not come forward to take on that task, why can't Austin be a model? Contact we be the ones brave enough to start and not renew this ordinance and have the workforce -- the work group that's been offered to offer solutions. I have faith in Austin. I have faith in anyone sitting in front of me that we can be brave, and let's come up with

some solutions. Because continually dumping brown and black youth into a pipeline to prison at such an early age, getting such an early start, that's not a slow, and I know, I know, I know that we can do better than that. Thank you.

>> Mayor Adler: Thank you. Is Hannah Ford will be recognized next.

>> I'm Amanda curry, district 1. 17 years old. I go to lbj. I don't feel like this is something that should be classed, class C misdemeanor is something big to me because my record is clean. I don't -- I'm not a bad kid, but I have to work.

[5:10:51 PM]

I have two little brothers. It's just me and my mom, you know what I'm saying? You have people like my friend Howard who lost his father, so now it's just him and his mama working and he has to work a certain job. I don't feel that's something that should be happening because I'm trying to provide for me, so we don't have to go through the struggle of being homeless and all that other kind of stuff. I don't --

>> Mayor Adler: Great. Thank you very much. Ms. Ford?

[Applause] I've been asked to take you out of turn because you have kids here. Happy to see them here with us. You have one minute.

>> Okay I'm home schooling my three little blondies over there now. We go everywhere together but I imagine before they are 17th they'll be moving around the city without me. I don't want them to be stopped and questioned. That would be an inconvenience. I'm here to speak for the city that would be more than inconvenienced by this ordinance going forward. People have given lots of facts and specifics but I just want to add my voice and come down here. Teenagers go out at night, kids skip school, those things shouldn't be the best decisions but they shouldn't be criminalized. I don't want my city to be a place where youth is criminalized or a use to detain or debase or humanize. Let's get rid of this outdated ordinance.

>> Mayor Adler: Thank you very much. Amanda curry and destiny Thornton. Either here? What about Morgan craven? I will say Brendan griffin here? Brendan griffin? Okay. You have six minutes.

>> Thank you. My name is Morgan craven. I'm representing Texas appleseed and I'm testifying against renewal of the juvenile curfew ordinance and for the creation of the stakeholder group.

[5:12:54 PM]

At Texas appleseed, we gather research and collect data and make policies related to the school of prison pipeline including the criminalization of minor and many cases very Normal behaviors of youth. For years now a significant part of our work has involved supporting policies that decrease the use of harmful class C misdemeanors to punish youth behaviors, including the statewide decriminalization of truancy, the very behavior that continues to be criminalized through Austin's general curfew ordinance. I want to focus my testimony on the nighttime portion of the ordinance. I'm sure a portion of the young people who get ticketed at night is because the parents have decided they can be or they have a job, or they have some other totally Normal situation going on. There's absolutely no the reason criminalize these kids. It's also extremely inappropriate to criminalize kids who immediate real help or support, and that's what I want to talk about today. Funneling families into the justice system hurts them, period this puts kids into adult criminal courts and exposes them to the harms of that process. We know that a single court appearance can increase the likelihood that a student will drop out of school, and this is amplified for youth who have had no previous justice system zero. Further, we know that court referrals for minor offenses, like curfew violations, may increase the risk of future juvenile justice system involvement. Research has consistently shown that community based previous divert youth from court are more effective ways to prevent future justice system involvement. This is particularly true for status offenses like curfew violation. And the term status offense describes behaviors that are only criminal because of the age of the accused person, in this case, youth. The national standards for the care of youth charged with status offenses clearly state that youth accused of status offenses should be dealt with outside of the court system whenever possible so that they do not experience a number of negative personal and family outcomes, just increase tension between family members and poor educational and mental health outcomes. And because we know all of this to be true, I really worry about statements that have been made that suggest that this ordinance, which criminalizes children, is a school that can be used to solve some underlying issues youth may be experiencing.

[5:15:04 PM]

To set up a system that relies on criminalization, ensuring school attendance or children at home at a particular time or scaring them to behave the way we want them to is dangerous and compromises the well-being of young people. And we can't continue to do this to youth, especially since we have tools that we know do work. We have a number of youth individuals and organizations, many of which are here this afternoon, who are asking you to end the entire ordinance and make a way for them to come together to share resources and to develop a protocol to address the needs of youth. We've seen similar efforts made to address the needs of people experiencing homelessness and people experiencing mental health crises here in Austin and I know that we are all truly concerned with the well-being of youth so we should focus on offering them health and support when we believe they're in harmful situations. Given what we know about putting children into the criminal justice system, I strongly urge you not to renew the entire ordinance, including the nighttime portion. I do understand there are safety concerns for children who may be out at night and we all care about keeping our children safe from

harm at night, but as we seek to help keep them safe, not criminalizing them. We would see the ordinance apply evenly everywhere, but we don't. We see the vast majority of tickets issued in specific geographical areas with black and brown youth feeling the impacts disproportionately. Related to that issue, I want to share that in addition to being an advocate, I'm also a parent. And I don't think it takes having children to appreciate how harmful the juvenile curfew ordinance is, you just need to review the data and research to know that. But I think that being a parent does add a unique perspective. I have two children, Sammy and Sidney, both are black and Latino boys. Even though they're young, they're part of several groups that would be disproportionately impacted by this ordinance if it were renewed. As parent, particularly as a parent of boys of color, I have some fears, based in experience and reality, that I have to deal with when it comes to my children interact with the criminal justice system. And I certainly cannot imagine wanting to use the criminal justice system to parent Sammy and Sidney, and I know some may believe that one benefit of the nighttime portion of the ordinance is to help parents, but honestly, that's really, really horrifying to me.

[5:17:15 PM]

Like many other parents, my husband and I have spent countless hours worrying and planning how to keep our kids out of the criminal justice system because we know what kind of impact justice system involvement could have on Sammy and Sidney's chances of thriving in this world. Now if my children were out at night and needed assistance, I would expect and hope and pray that I would get a phone call and not a criminal charge, especially since I know that's what parents in west Austin get. I'll wrap by saying as part of my research, I protect with Cameron Johnson, the Travis county juvenile had you been defender. Unfortunately he couldn't be here today but he told me I could share our conversation. Mr. Johnson told me when the curfew ordinance was originally adopted, it was often used and still used now as a way to justify probable cause for other issues and is essentially a pretext stop, often based on racial profiling. We don't want to create a system that weakens the standards of probable cause, especially for young people. This is still happening, and can explain the data that show disproportionate ticketing of black and Latino kids. Mr. Johnson said that curfew ordinances do not help and for the cases that he sees, they're simply a justification for a stop and eventually an arrest. He also reviewed with me the community care taking function of the police which allows officers to help individuals that may need assistance. We see this happening when someone's car breaks down or when they're hurt so there's nothing that would stop an officer from inquiring from a young person out at night needs assistance, then connect them to the appropriate supports. And finally, Mr. Johnson said, again very plainly --

[buzzer sounds]

-- That's the ordinance should not be renewed. We agree with that Texas appleseed agrees with that thank you so much for your time.

>> Mayor Adler: Thank you. Mr. Casar?

>> Casar: I have a question for Ms. Craven. Thanks for coming and working on this remind me of his title.

>> Travis county juvenile public defender.

>> Casar: And in your conversations with him, you said this is oftentimes utilized as a pretext. That is, youth can be stopped because they are perceived to be young and out during these hours, but they could actually be charged with something else.

[5:19:20 PM]

>> Correct. So when he gets youth that are sent to his office for some charge that gets sent to the juvenile court, it is sometimes attached to a curfew ordinance violation, and he says that that is the pretext, and it's often based on racial profiling to plaque and brown children that happens more often to them.

>> Casar: And so we had a conversation during work session about potentially having not a violation on first offense, but having a warning. In that case, though, you would still be able to stop youth and then those charges could still be accelerated. So even with a warning, you still could have the pretextual stuff that Mr. Johnson describes.

>> That's exactly right.

>> Casar: So if we maintain the warning we should still have the pipeline to higher criminal charges that he has said is further charges to the ordinance.

>> I think that's correct.

>> Mayor Adler: Thing. Thank you.>> Thank you.

>> Mayor Adler: Brian mcgovern. Then suki Mcmann.

>> Hi. My name is Brian McGovern. I think I have the legal duty used to work for councilmember Garza, so take note. I'm also an attorney, though, an attorney with fairly substantial acquaintance with the criminal justice system. And I decided to come here to comment on what I thought were a couple of misconceptions that I overheard at the work session on Tuesday, on this topic. Just as a preface, I think we all agree with -- that the goal that chief manly shared with you, to keep children safe and off the street. We all agree with that. The question, though, is whether or not the criminal justice system is the appropriate way to achieve that. As many of the other speakers today have commented on. So unintended impact, let's first talk about the fact that if you're focusing exclusively on the impact of the conviction, then you are only thinking about a narrow sliver of the real impact that these citations have.

[5:21:31 PM]

When a person receives a citation, that is something that when you hand them a citation, you are also handing them a criminal history. Right at that moment. Now, depending on the outcome of that case, that citation is something that could possibly be expunged, but it's not a guarantee. If the case does not resolve in the proper way and you do not put the time and effort into expunging it, that is something that will be on your record that you have to disclose to landlords and ultimately to employers, which is now come, about bee lies policies this council has supported and indeed fought for in the past. Second, I think it's important not to misconstrue having young people go to municipal court as a real opportunity to connect them with social services. That does happen somewhat. And let me be the first to say I hold our municipal court in very high regard. The judges and the city attorneys who are the prosecutors there really care about the defendants. It's easily the most Progressive venue I've ever practiced in Texas. But realistically they don't have the resources to address the underlying reasons why a person might be in violation of this curfew. And nothing about giving a person community service in lieu of a fine does anything whatsoever to address why it may be that they were outside their house in violation of this curfew. So if the criminal justice system isn't the solution, what is? Well, first of all, I support item 69 and I'm really optimistic about what the stakeholders could come up with as a solution. But don't overlook what the city has already done, to do with this issue. If you want children not to fall in with the wrong crowd, continue to fund prime time after school programming. Continue to support health and human services contracts which provide funding to non-profits that supply mentors to children. If you want parents to be in a better position to supervise their children, keep supporting job training so that they don't have to work 80 hours a week in order to support their family, and keep supporting treatment for mental illness and drug treatment so parents in our community are not rudely snatched away from their families.

[5:23:41 PM]

[Buzzer sounds]

>> Mayor Adler: Finish your thought.

>> I apologize, I was getting a little worked up. Even our legislature has had the good sense to decriminalize truancy. And I think that we as a city have the ability to be at least as Progressive as our legislature.

>> Mayor Adler: Thank you. Is suki Mcmann? Got you. And then Courtney Robinson.

>> Hi. I'm suki Mcmann. I am with Austin justice coalition and justice liberty. And speaking in opposition of renewing the ordinance for the juvenile curfew. I recently organized training, there's a young woman

who shared a story. She's in the room, maybe you'll hear from here. We talked about the importance of undoing racism. She brought up a friend of hers, a young black male. He said, well, probably when I finish high school, I'll sell drugs. And she said, why would you say that? You're brilliant. You're smart. Why would you do that? And he said, I'm a young black male. I thought I said better. You have these young people who have -- who just have this defeatist mentality in some ways and soul-crushing mentality. And it's ordinances kind of like this one that causes that to happen. And you have these teens that see their friends being over criminalized and it's their reality that their time is coming, that, you know, they can't be out, and that's -- causes fear and it causes a sense of criminalization, even if they haven't experienced that themselves. You know, they feel that without much wrongdoing, they'll be funneled to the criminal justice system because this law that's so egregiously impacts them, doesn't make any distinction between conduct that's criminal or conduct that's innocent. Their parents don't have the free judgment to permit them to go places without being criminalized themselves. That they have no freedom of movement. Such mundane things as walking, running, idling, wandering, strolling, or driving and aimlessly will catch an unpayable citation or unimaginable diversion program.

[5:25:52 PM]

Ultimately, possibly something on their record that sticks with them, as Mr. McGivern said, through college applications or enlistments or housing. So we have a program called higher learning and teach our kids self-value and self-respect and cultural history and, you know, we come from a social justice slant. And, you know, they own come into our program with this lens of the world where they feel like they're in danger. We have to teach them how to navigate this world that overcriminalizes them already so they can rewrite their narrative. I'm speaking pour those kids today, the other teenagers you've heard from today. Because this ordinance is something that's peelable. We can take it away. And it's something that will give them some faith in what's happening here, they can come here and ask you for this type of help because it's doable. And I think you should do it. Thank you.

>> Mayor Adler: Thank you. Courtney Robinson. Then Lauren rose.

>> Good evening. I'm Courtney Robinson, and I am the founder and executive director for the excellence in advancement foundation. We are dedicated to transforming how communities combat the school to prison pipeline. And we do this and we take an ecosystems approach, through prevention, intervention, and advocacy. I'm here as a professor, as a researcher, but more important, as a mom and an advocate, a mom of a 16-year-old African American boy and 10-year-old African American girl. I'm here because as a researcher, I have looked at 30 years of research that tells us that punishing children doesn't work. I am here because we keep disproportionately affecting children of color. I'm here because we are all haunted by the history of racial inequality. A part of that history includes how we have criminalized children over time, both here in this city and across the nation.

[5:28:02 PM]

We are creating criminals. Children aren't born criminals. We are sending children into a criminal justice system that can negatively impact them for the rest of their lives. I deal with the community who, in their 30s and 40s and 50s, are still dealing with the misbehaviors that happened when they were 17-year-olds, and had to be convicted of a crime at 17, and they're still dealing with it at 50 years old. We are convicting children and criminalizing children before their brains fully develop. We all know that a brain is fully developed at 24 years old. But we are asking children to deal with trauma and homelessness and insecurities before their brains even are formed. There are better ways, and we know that there are better ways. My organization, we take an individualized approach to how we serve children. Our children come from our schools, from our court systems, and we ensure that through our interventions, they receive some counseling, some assessments, their parents receive services. There are all kinds of leadership programs that we provide, both the Austin active leadership camp and the black leadership academy, that provide services for children and their families. We don't have to criminalize children and their families. So I encourage you not to renew this ordinance and I encourage you to keep pushing to understand all of the great things that we can do as a city to serve children, to make them more productive, more healthy, and more happy, because I know that that's our goal. If our goal is safety, I know that we can do that, because we are Austin.

>> Mayor Adler: Thank you very much. Ryana Thomas will be at this mic next.

>> My name is Lauren rose. I'm a resident of district 1. And I'm also here representing my organization, I'm the director of youth justice policy at Texans care for children.

[5:30:06 PM]

We're a statewide non-profit, looking at improving the lives of children through policy change, and I have worked on our juvenile justice policy for the last seven years. So I want to kind of give you a little bit of research on the juvenile justice work that I've done. And first say that when we create ordinances like the curfew ordinance, or other criminal -- criminalization for kids, you should know that consequences of those ordinances do not impact a child's decision on what they were doing. So by having this ordinance in place, we are not stopping kids from being out late at night or from missing school. They're -- they are not thinking about what their consequences are of their behavior. Second, I think it's been mentioned but it's important to reiterate, court -- the first court involvement of a youth, whether it's in municipal court or justice -- juvenile justice court, increases a kid's chance of recidivating. That doesn't mean with curfew, that could be class B misdemeanors or class A misdemeanors. So that first involvement, we want to avoid, if at all possible, particularly things like stopping curfew would be a good start. Also, there's a lot of research around. Kids seeing unfair practices in the justice system then

feeling like they're being treated unfairly increases their chances of recidivating later. If you have a 16 and 17-year-old out late at night, the 17-year-old shouldn't be ticketed. We're hearing they might be, but the 16-year-old, if they get the ticket and they see their friend not getting it, they feel like they're treated unfairly. Youth in east Austin, if they know their friends in west Austin aren't getting ticketed they're going to feel like they're ticketed unfairly. I think it's also important to note that because this is a class C misdemeanor, these kids do not get the protections of the juvenile justice system, they're funneled into municipal court with other adults getting class C misdemeanors, so they're not guaranteed an attorney.

[5:32:07 PM]

Their records aren't treated the same as juvenile records. There's still chances of sealing or expungement but that's a different process. So we want to try to minimize the kids' involvement. And then fines, I know we've talked about this some, but most kids 10 through 16, don't have jobs, they can't afford these fines. But research also tells us that justice involves kids, are more likely to be in poverty or near poverty so their moms and dads can't afford these fines either. So we are making it where they have to make the decision, do I put food on the table, or do I pay this fine, so there's not a warrant later. Or maybe it's healthy food for kids who have a little bit more money. And also, just criminalizing parents in this same process is harmful for the families because of the impact that it has on families as well.

[Buzzer sounds]

>> Mayor Adler: Thank you.

>> And I can end there.

>> Mayor Adler: Thank you. Council, we're past 5:30. But we have about ten more speakers. We're down to a minute each so I would suggest we continue, then we can close the hearing and we can discuss this matter after the break. So thank you for coming down. Is Lewis Conway here? Lewis Conway? Okay. You have one minute.

>> Hello. My name is Brandon Thomas. I live in district 4. And I speak for 69 and against 99. I can relate to this because I walk. I walk everywhere I go. My parents can't afford a car. And giving me a \$500 fine is going to do nothing but add fuel to my fire. If I'm walking, don't you think my parents are walking, too? And they don't have enough money to pay this \$500 fine. I'm going to school now to get them out of district 4. Nothing is wrong with it, but I'm getting them out of it. Putting this class C misdemeanor on my record will harm my success in school, and this will only make me even more upset and you putting us in adult criminal court and you say that we're Austin juvenile curfew?

[5:34:19 PM]

How does that connect together? Yeah. Thank you.

>> Mayor Adler: Thank you very much.

[Applause]

>> Mayor Adler: Is Holly Kirby here? Okay. You have two minutes, Mr. Conway, then Lucina Avias is next. Sir.

>> Oh, okay. I'm sorry.

>> Mayor Adler: No problem. You have two minutes.

>> To the dais and to the councilmembers, I would really love to applaud councilmember Casar and councilmember Troxclair. Thank you for actually thinking about the children. I want to take it out of Austin and I want to take it to Wilmington Delaware. It's a city with 17,000 people but you have a one in 50 chance of being a victim of violent crime. Newsweek called it murder town USA. I have the ranks in the 98 percentile compared to the national statistics when it comes to violent crimes. As a matter of fact, it ranked number one as the most dangerous small city in America. Why is that important? Because the council of police chiefs in Wilmington Delaware decided that a juvenile curfew was utilized. And a city that has deemed itself to be the most violent city in America, amongst youth, they have determined that juvenile curfews have done nothing in regards to crime. And so as somebody who is a father of a teenager, as someone who has been through the criminal justice system, as someone who has had a nephew who dealt with curfews, I realize that the earlier you cause these children to have a contact with the criminal justice system, the more for certain that they're going to continue that contact with the criminal justice system.

[5:36:22 PM]

As a matter of fact, you are allowing these police officers to become familiar with certain classes of kids, brown kids, black kids. Out of the 2,000 tickets that were issued, 70% of those were black and brown kids. Now the problem with that is that there's certain areas that are being targeted. We know that. There's certain kids that are being targeted. We know that. But yet they don't become criminals --

[buzzer sounds]

-- Until they encounter this ordinance. Before this ordinance, they were not criminals.

>> Mayor Adler: Thank you, sir.

>> She asked that I stand with her. Is that okay?

>> Mayor Adler: Yes, that's fine.

>> Hi. My name is Lucina avias. I am here today to ask city council to not renew the juvenile curfew because y'all will never know what's the reason of why the teenagers are in the streets and it can be an emergency, [indiscernible] In its own type of medicine, you go out to get it, but then you get a ticket and then it's in your record as if you're a criminal. And I am against the ordinance. Thank you.

>> Mayor Adler: Thank you. Is --

[applause]

>> Mayor Adler: Is Gerson saliah here? And Kevin Alvarez. You have one minute.

>> Hello. My name is Gerson. I come from youth

[indiscernible] Texas. I ask the council to not renew the juvenile curfew and for -- and go for the resolution.

[5:38:27 PM]

This is why. I had a friend. His name was Christian. He was really the guy. He was one of the nicest people I knew. He was good at school. He had a girlfriend. He was -- he was really smart. He was a very talented person. Very gifted. But one day he was out to the store because he wanted to -- I don't exactly know the details, this is all I was told from my other friends. He just went to the store and he got stopped. Then he had to go through the whole trial thing, and now he's -- he has a stain on his record, and I just don't think that was fair for such a great guy. And when I see things like this, because I live in northeast Austin, and he also did.

[Buzzer sounds] When I see things like this happening for people like him, and not in -- and not in west Austin, I'm like what the fuck

-- what thebleep is this bleep, he was a really good person.

>> Mayor Adler: Thank you for coming down. Kevin Alvarez. Hailey pulman will be up next. Go ahead, sir.

>> Good afternoon, mayor and councilmember. My name is Kevin Alvarez. I come from youth wise Texas. I am against the curfew because it can affect a lot of people, a lot of teenagers like me, hispanic, Latino, before, or other people. We know that we are also being targeted because we look a certain way, different than other people. And we are also very scared because it could stain our record. If somebody wants to be in one of those seats, where you're at right now, they can't be there because

they got a ticket or a -- they got into a problem with the police because they were out at night. So I'm asking you to please be more lenient about teenagers being out at night, and not to pass or renew the curfew.

[5:40:30 PM]

Thank you.

>> Mayor Adler: Thank you very much. Hannah Ford. Hannah Ford. Is -- oh, she just spoke earlier, that's right. Renhana [indiscernible]. Synovia Joseph.

>> Hi. My name is [indiscernible]. By way of affiliation only, I teach the civil rights clinic at the Texas school of law. So far you've heard that the juvenile curfews are ineffective and research shows us that they have no deterrent effect on crime. You've heard that they're harmful in terms of stigma, associated costs of fines, as well as fear and trauma, that it produces in young people without having any kind of positive effect. You've heard it's a distraction from the social supports and services that we need to be providing our most vulnerable youth, and you've heard it's disproportionate racially and ethically. In case that isn't enough, I would add there are legal problems with curfews as well, and there are circuit courts that have rejected curfews because they impose a number of questions regarding rights violations. So I just want to, you know, kind of run through a list of those. So, first, there are questions is to whether curfews, which are status offenses --

[buzzer sounds]

-- Can I finish?

>> Mayor Adler: You can finish your thought.

>> Okay -- impede free movement, which is guaranteed by the protection clause of the 14th amendment. They also impose harms in terms of free speech and free association under the first amendment. There are questions is to when they depend on an officer's belief as to the young American's age, it subjects someone to unreasonable searches and seizures under the 14th amendment. And may, in addition to having all these impacts on minor's rights under the constitution, also have impacts on parents' rights under the constitution to parent and nurture their own children.

[5:42:41 PM]

>> Mayor Adler: Thank you.

>> Casar: Mayor, I'd like to ask her two quick questions. Thank you for coming and sharing those constitutional issues. Would those legal issues still apply even if you weren't being given a citation but you were being detained by a police officer in order to be given a warning?

>> Yes. Because the fourth amendment issues still apply. The first amendment issues still apply. If there's some sort of law enforcement action that's being taken, even the absence of a citation, and you can prove that you've been injured somehow, you would still have standing to sue and the courts could look at whether there was some unconstitutional injury.

>> Casar: That's helpful. I'm against having a citation or a warning but I think it gives us a good reason why the warning is still harmful for those reasons. And I anticipate that those constitutional issues apply whether it's truancy issues in the daytime or being out at night.

>> They make no difference between day and night and what we -- the separate problem, which is when you have a curfew that is this broad, in other words, it applies to everyone, it essentially relies on officer discretion. And so the quick answer from a lot of cities that impose these curfews are that our officers are terrific, and of course the sort of outcomes speak for themselves. And here the racially disproportionate outcomes speak for themselves and the other kind of data speaks for itself. It's not a question of are officers doing a good job or bad job? If you're basically saying it's a free for all, it's not a particularly sort of narrowly tailored law in the first place.

>> Casar: So, in other words, if you have a law -- if you have a law that says people should be stopped based on how they look, which is their perceived age, but not based on your behavior, assault or burglary, but just based on somebody looking a particular way, then that opens up the door for these sorts of results.

>> So you said two things I want to respond to one is, yes, there are problems with status offenses because there's no conduct associated with it. It's just the status. In other words, if I'm 16, I'm ticketed, if I'm 17, I'm not.

[5:44:43 PM]

And really, the encounter starts because you as an officer think I'm 16. The other portion that I want to kind of take us back to is, and the racial disproportionality is itself a possible equal protection clause violation, of course.

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

>> Thank you.

>> Mayor Adler: Is ryana Thomas here? Okay. And then is destiny Thornton here? Is Laura Evans here? You'll be up next.

>> Thank you, mayor and councilmembers. I'm synovia Joseph. I'm actually against the extension of the juvenile curfew ordinance, stowed chapter 9-3. Specifically I want to remind you that one out of three African American males expect to go to prison during his lifetime, according to the sentencing project. I also want to call your attention to the education code, chapter 29. 29.081, which specifies 13 reasons why students are at risk of dropping out of high school. There are actually three provisions that are specifically related to discipline, 6, 7, and 8, which is 37.006, which is the discipline code. 37.007, and also there's a provision 8, which specifies parole and probation. It talks about disciplinary alternative education program and juvenile justice education program. An unintended consequence, however, in 12.111 charter school provision, there's actually language that's discriminatory and it allows a charter school to exclude students that have a disciplinary record.

[Buzzer sounds] So I want you to recognize that these consequences are not just when they become adults but can also affect them now. I want you to recognize the last thing, as it relates to stakeholders, is to include teachers in that stakeholder group and not just to rely on more reports, but to actually, as aid aisd, give you cultural connections to teaching and learning, in 2002 where the recommendations are already stated where it relates to this at-risk population.

[5:46:53 PM]

Thank you so much.

>> Mayor Adler: Thank you. Last two speakers, after Laura Evans, the last speaker we have is Eric Boyd. And then we'll take our break.

>> Hi. I'm Laura Evans. I'm here as a mom. I wanted to tell you about my 16-year-old daughter and the school she attends. The school allows older students to check themselves in and out of school. These kids fulfill internships, they volunteer at non-profits. They hold jobs. And they attend ACC classes. The curfew, both daytime and nighttime, negatively affects their career pursuits through -- through keeping them from holding their jobs and attending their internships. And it negatively affects their ability -- their educational opportunities. And I strongly urge you not to continue ordinance 69. And I want to speak in favor of ordinance -- I'm sorry, I urge you not to --

[buzzer sounds]

-- Consider ordinance 99 and speak in favor of ordinance 69.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Our last speaker here, Eric Byrd, sir.

>> Hi. My name is-e bird, with measure Austin as an advisor. We believe that Austin should not renew the existing curfew ordinance, that police should not cite children during school hours and that we should adopt a community based intervention plan for night hour curfews. Two solutions. We've heard a lot of stories here and we've heard a lot of data, but as far as solutions go, I think in the case of nighttime curfews, our challenges shift our perceptions of young people from seeing them as criminals as seeing the possible indicators of trouble within the home. So we propose that the onus is removed from A.P.D. And placed on existing service organizations.

[5:48:59 PM]

I had a conversation with Kelly white this week, the CEO of safe Austin, and she has agreed to help us form a coalition of other service organizations that already have the assessment tools and the resources in place to go into the homes. And so instead of an officer presenting a citation, the officer can let the family know that they will be contacted by this organization. The organization goes in. They give a referral.

[Buzzer sounds] The organization goes in and provides the needed services. They assess for issues that may point to domestic violence, child abuse, drug use, or anything else that we may find.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Council, is there a motion to close the public hearing? Mr. Casar makes that motion. Seconded, Ms. Houston. Any discussion? Those in favor, please raise your hand. Those opposed? Public hearing is unanimously closed. We're going to take the break. We're late for the 5:30 music. We'll do proclamations. It's ten till 6:00 now. Do we want to come back at -- at -- two proclamations, so it will be relatively quick. Do we want to try to come back at 6:45? Let's try to do that. We will stand in recess --

>> Casar: Just to clarify, at 6:45, we'll take this item up for discussion and a vote.

>> Mayor Adler: That's correct. Thank you to everyone who came. Yeah. Take a recess till 6:45.

[Recess]

[5:57:44 PM]

[♪ Music playing ♪]

[6:00:42 PM]

>> We have the avocados here. So the avocados comprise John branch and Greg roads and Ben Prentice and Johnnie gesnia. These guys were born in a pipeline in an east Austin neighborhood, the avocados were a four piece band with surf rock and get down good times. Welcome again the avocados.

[Applause].

[♪Music playing♪].

[6:04:39 PM]

[Applause].

>> Mayor Adler: That was great. That was great.

>> Thank you.

>> Mayor Adler: If folks are watching on TV, they're out of here and they wanted to find you, you guys have a website?

>> Yeah. We certainly do. Is this thing on?

[Laughter]. Let's pretend it is. There it is. Here we go. Yeah, so we can just check us out on Facebook, the avocados band on Facebook. Should be able to find us. We have all of our shoes posted on there and our photos and everything like that and all our events.

>> Mayor Adler: And if somebody is listening and wants to know where your next gig or two --

>> We have a lot of gigs this month. We do tickky Tuesdays at the stands hotel every Tuesday in the Summers. Residency at 7:00. We are doing the east Austin classic, motorcycle shows. Lester furl this Sunday, 2:00, father's day. That's going to be sweet. A bunch of other shows. Check us out on Facebook. It's all there.

>> Mayor Adler: Sounds great. I have a proclamation. Be it known that whereas the city of Austin, Texas is blessed with many creative musicians whose talents extends to virtually every musical genre. And whereas our musical 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 artists. Now therefore I, Steve Adler, mayor of the live music capitol, do hereby proclaim June 15th of the year 2017 as the avocados day. Congratulations, guys.

[Applause].

[6:11:14 PM]

>> Mayor Adler: You know, it's only because we're given this certificate of congratulations to our homeland security team that I decided to wear camouflage here tonight as I blend right in with the group. But this is important. This is recognizing something that only -- an accreditation that only three cities in the state of Texas have, and this is Austin, the very first city to receive reaccreditation. So the city of Austin, it's a certificate of congratulations on the occasion of being accredited by the emergency management accreditation program or map, the city of Austin and homeland security and emergency management office is deserving of public acclaim and recognition for being in compliance with 64 industry recognized standards by which accreditation is evaluated. And standing among the elite emergency management leaders in the nation, this certificate is issued in acknowledgment of this significant achievement this 15th day of June in the year 2017, awarded by the city council of Austin, Texas. And we have Juan Ortiz the director of the department to accept it. Congratulations. Say something.

>> Mayor and councilmembers thank you very much. This is a great accomplishment not only for our office, our team here, consisting of 14 members, but also a great accomplishment for the city of Austin. We're only one of three cities. And we may be a small group, but we're working to ensure that we are ready for citywide crisis and as well as all our community partners, we are very thankful for their support that they've given us and we will continue to work vigorously to ensure that we're ready for the next emergency that may come our way.

[6:13:14 PM]

Thank you.

[Applause].

>> Pool: Good afternoon, everybody, and welcome to all the folks who have come here, Dorothy Richter's daughter robin is here today to receive this proclamation.

[6:15:19 PM]

Why don't you come on up here with me.

>> Thank you.

>> Pool: And it's really nice to meet you, robin. Proclamation, be it known that whereas Dorothy Richter has been a stalwart advocate for social justice and good public policies in Austin for more than 50 years advocating for the little people and caring for animals and whereas Dorothy swam at Barton springs everyday for several decades. She advocated for the creation of the accuse evacuate tick's board and has been involved in the aquatic's program since its inception. And whereas Dorothy is always quick to respond to calls for action as evidenced by her work to save the Hyde park fire station and her work on the aquatics board and whereas the aquatics board and the Austin recreation department will continue to work together for good common sense aquatics policies to promote physical activity in the young and old in all areas of Austin, now therefore I, Leslie pool, councilmember for district 7, on behalf of Steve Adler, the mayor and mayor pro tem Kathie tovo and the entire city council, do hereby proclaim June 152017 as Dorothy Richter day. Congratulations. Did you want to say anything?

[Applause]. Say a few words.

>> On behalf of my mom, she appreciates this very, very much. She had a stroke a few months ago and is not able to be here, but the aquatics board, the swimming community particularly and all the many city causes she's been involved in she very much appreciates this honor. Thank you so much.

[Applause].

[6:18:32 PM]

>> Mayor Adler: All right. We have another -- we have a proclamation. Be it known that whereas the feedback is a blog and weekly podcast about the Austin scene. And whereas since its inception in 2010 the mission is twofold, to give a voice to the people who make up the Austin scene, artists, musicians, deejays, bar staff, venue owners, patrons, music fans, by providing a platform to express themselves and to share their stories and their experiences. And to help locals navigate the Austin scene through these insightful conversations. Whereas the feedback actively supports the Austin scene by staying on the pulse of the city and keeping local community engaged in a conversation rounded. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim June 15th of the year 2017 as the feedback day. And here accepting the proclamation is beck zumangagi.

>> Thank you, thank you. My dad told us that we're moving to Austin, Texas from Paris France back in 1998 and I didn't know what to expect. And I didn't know about Austin, I only know Dallas, San Antonio, Houston, NBA teams. I didn't know about Austin. My only reference was walker, Texas ranger. We had a different version on TV. But when I landed here I was gladly surprised. It was nothing like what I

imagined, the Lakes, the parks, the trees, the music, the people, the energy, but I've got to admit it was quite hard at first because my English was not as good back then.

[6:20:42 PM]

I spoke differently, I dressed differently and I spent most of my time studying so I wouldn't get behind at school. And didn't have a whole lot of time making friends either. So I had a passion for music and dancing, so where do you do for that, downtown? I was that kid going out everyday, seven nights a week, and I became close friends with deejays and bartenders and artists and musicians, and I was that guy that would sit at an empty bar and talk to bartenders and hear their stories and help the deejay pack their gear late at night. Finally is able to connect with people. I'm a strong believer that everybody has a story to tell. And I realized that the people who make up the Austin scene have a lot to say, but not a place to express themselves. And that's where I built the feedback as a platform to capture and it started as a blog. Now it's turned into a podcast. Now I interview movers and shakers all over town, people like graham Williams, deejay Mel, Jackie Vinson, the list goes on and on. And three years, 130 plus episodes, over 70 guests, \$20,000 later I'm still here, and I love this city. And I'm proud to call Austin my home. And I want to thank city council for the honor, mayor Adler, for our support and look forward to having you on the show. I want to thank my team, my girlfriend, my brothers, my sister, and everybody who supported me in the feedback over the years. And today is also my parents' 39th wedding anniversary. That's why I picked the day. So happy anniversary mom and dad. Thank you so much. Love you all. And check out the feedback. Thank you so much.

[Applause].

[6:55:36 PM]

>> Mayor Adler: All right. Are we ready. It is 6:55. We're back from our break, some great music, and we're at 69 and 99. Back up to the dais. You want to make a motion and then we'll give chief Manley also an opportunity to speak to us.

>> Casar: Certainly. Is it appropriate since the items are together for me to make a motion on both?

>> Mayor Adler: Yes.

>> Casar: So I move that we deny item number 99, that's the extension of the ordinance and that we pass item number 69, which is the creation of the group to begin working on ways to help keep you safe at night and in school without resorting to a criminal violation.

>> Alter: I'll second that, mayor.

>> Mayor Adler: It's been moved to pass item 69 and not pass item 99. In fact, if we just don't take up 99, it just ends. So it would be just a motion to pass --

>> Casar: I would like my motion to be both just so that it's clear.

>> Houston: And I will be making an amendment to that to pass both 69 and 99.

>> Casar: So can I move passage on this and then we can vote on her amendments in that way?

>> Mayor Adler: Sure. I think that gets us to the same place.

>> Casar: Or I can just move to deny 99 if that's more simple.

>> Mayor Adler: Well, someone has to move passage of 99.

>> Houston: Then I'll move passage of 99.

>> Mayor Adler: If there's no passage of 99, then the ordinance ends.

>> Casar: Is there not something appropriate in Robert's to vote to deny a staff item?

[6:57:40 PM]

I believe there is.

>> Mayor Adler: I mean, you could.

>> Casar: Well, that's what I want to do, is deny 99.

>> Mayor Adler: There's been a motion to approve 69 and to vote against 99. Is there a second to that motion? Ms. Garza seconds that motion.

>> Casar: Can I speak to that?

>> Mayor Adler: Why don't you speak and then we'll bring the chief to come up.

>> Casar: So the reasons for my motion, clearly there is been a lot of testimony and explanation from the community, but I think there's three key elements to this. One, I think it's not the best use of our public safety resources. Second, I think the juvenile cure few ordinance actually serves to unintentionally make us less safe. And third, the disproportionate effect. So first I think that if you think about over the course of 27 years, thousands of young people who have been stopped and have been cited, how many people have gone through the court system, how much of our police time and court time have been spent on it. I think that that time and those resources could have better been put towards the violence

situations or dangerous situations that young people face. We've heard today about youth homelessness, we've also talked in the past about food insecurity, family violence, putting resources towards those issues. Or just towards more violent situations that our police may have to deal with to me would be a better use of those resources. And frankly, those resources are lost in a daytime curfew and in a nighttime curfew. And those resources are in my view not being spent properly whether it's a citation or a warning because in both cases our police officers are spending their time detaining a young person. Second, I see how the criminal justice system can create economic and social harm of young people and their families, and that economic and social harm has the effect of increasing the chances that there will be perpetrators of crime or victims of crime in the future.

[6:59:48 PM]

So I believe that in daytime curfew or nighttime occur, you have that challenge, the unintentional creation of that harm and frankly even with warnings we heard testimony today about how that can still send kids into school to prison pipeline because you can be stopped for a warning of the juvenile curfew ordinance and that warning can escalate into higher charges. And then finally we've seen the disproportionate effects geographically and across race and ethnic groups, African-Americans especially according to recent data are being cited at much higher rates than their portion of the population. I think that's our responsibility as a government to take a look at when there's disproportionate impact. It's clear when you have an ordinance structured like this one why that might happen. We have a law that doesn't target harmful behavior, leaves this up to the discretion to stop someone based on what it is they look like, that is their perceived age and ultimately the results do not look good. That applies to daytime or nighttime curfew. We have additional disproportionate effects based on race and geography and it still applies -- that exist where you're getting a citation or warning because it's still. So young people on the street and the results are disproportionate so I don't think that this law makes us more safe, doesn't make us more just. I think it's not the proper use of resources and I think that it actually makes our community less safe. So I hope that council will vote on this motion to stop number 99 and then on item 69 we clearly have a broad swath of folks in the community from various school districts, teachers, social workers, activists, people in the criminal justice world who can help keep kids safe, think about new, better ways for us to have kids and young people in school and safe without having to resort to criminal charges.

[7:01:53 PM]

>> Houston: Mayor --

>> Mayor Adler: Chief, do you want to come down and address us?

>> Houston: I would like to hear from the municipal court. They've been talked about a lot tonight and we've never heard from them regarding their diversion program or any of the process that the young people go through so I would really like to hear that before we take a vote.

>> Mayor Adler: We can certainly do that as well. Do you want to speak to this issue?

>> Good evening, mayor, council, Brian Manley, chief of police. I know I've been before you twice in the past two weeks on this issue and I've been able to listen to all the testimony today and have some individual conversations with many of you on this issue, and although I do appreciate all of the comments, I do feel in my position as your chief that I still need to tell you that it is my opinion that this ordinance does play an important role in our ability to keep our community safe and our children safe at night. I understand the concerns during the daytime. We talked about an ordinance possibly that allows for a nighttime curfew with a warning for the first offense to try and address some of the concerns about criminalization of youth and the fact that 85% of these boys and girls, it is their first-time offense, if we choosing to down the route where we do away with 99 and keep 69, I guess the questions we will then have to address is who will the service provider be that will be out at 2:00 A.M. That's going to be able to come out when we have a 12-year-old out on the streets at 2:00 A.M.? Because if we don't have a curfew, our officers will be left without the legal authority to go and approach this child and to detain them. We can always try and have that consensual encounter and talk to the child but they would be left with the opportunity to simply walk away. We do have a law on the books in the family code that allows for an offer to take possession of a child without a court order on discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent.

[7:04:03 PM]

I can tell you there's some concern in there because what we're doing then is our offers would be expected to determine that this is a situation of danger and is a 12-year-old on the street at 2:00 A.M. In a crime Iden neighborhood considered dangerous? If we were to take action and try and detain that youth and some sort of struggle ensued and there were to be civil litigation, is that officer going to be protected under that law? So these are the things we're going to have talk about and address as we work through what this other potential solution would be. I think it's great that -- and I think we even talked the other day about bringing in other social service partners. I'm glad we had Ms. Craven and appleseed, measure Austin, all of headquarters last week talking about opportunities. For the police department it's not about seeing the young boys and girls face criminal penalties, face fines. It's about getting them off the streets and keeping them safe and so for that purpose, as a community, we're going to have to decide if the police do not have a curfew to enforce, who will be out there to assist during the night when we do have these activities occurring?

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: I just have some clarifying questions. I totally -- I appreciate our department directors and especially the police chief expressing what it is you are -- you think is right, and I believe that entirely. So my questions are just informational. So currently, though, A.P.D. Does have the authority to ask a youth concitizen tule, hey are you okay, can I get you home, it's late at night?

>> Yes.

>> Casar: You would retain that authority.

>> We can always have a consensual authority, absolutely.

>> Casar: What would change, if a young person doesn't want to talk to the police officer you can detain them?

>> That's correct.

[7:06:04 PM]

>> Casar: Now, if that young person still -- let's say it's the same young person, the difference is just yesterday versus Tuesday if this ordinance does not continue, because that's when it would stop, so imagine both scenarios and imagine if the same young salesperson same police officer. So if it's yesterday or today, when the curfew is in effect and the young person doesn't want to talk to the police officer and the police officer says you're detained and they don't want to talk to them and try to walk away, what happens.

>> With the ordinance they're being detained --

>> Casar: I'm saying they don't want to talk to the police officer so they continue walking, what happens.

>> If we believe they're in violation of the curfew ordinance we're going to detain that youth, determine their actual age and determine if any of the defenses that are written into the ordinance are applicable under that circumstance. So we will detain them until we have the opportunity to determine if they're in violation of the ordinance.

>> Casar: So a detention when somebody is saying, no, I actually don't want to talk to you because I don't wanting to home or back to school and they don't want, to then a detention actually constitutes an arrest?

>> We're -- yes, we're talking way their liberty to leave so they're detained at that point if they do not want to speak to the officer. With the ordinance in place we would detain that youth while we investigated whether or not they were in violation of the ordinance. That's multifold, not just their age

but this ordinance has actually several defenses built into it. When we heard testimony earlier about youth being concerned about walking to work or home schooled children being concerned about being stopped on the street or someone going to the store for medicine or something like that, there are defenses within the ordinance that cover all of those circumstances. So on the street what we would --

>> Casar: Right. I understand that, sorry to interrupt. I just mean a young person going to go get a burger which is not covered by the ordinance or go see their friend at 11:00 P.M., which young people do, in that case, what I'm trying to get to is when you say detain, we want the ability to detain them, that means if they don't want to answer questions and try to walk away they would be forcibly detained?

[7:08:12 PM]

>> We will detain them, yes, always we have to determine --

>> Casar: Handcuffs, et cetera. What would be different in this case if there was a young person -- I'm just trying to get to the very heart of what would change because police officers would still be out at night and could still, in my understanding and your understanding, detain a young person if they want help getting home or if they're okay or what they're doing. What would be different is that a police officer, tell me if I'm wrong here, a police officer, if the young person doesn't want to talk to the police officer currently the police officer could handcuff or physically restrain the person to detain them for investigation, whereas without this ordinance the police officer would not be able to do so without some other probable cause.

>> That's correct, councilmember.

>> Casar: I think this really clarifies the point, right, because I think that that is -- that's kind of what's at the core of the disagreement, which I think is an honest disagreement, which is in my view I've made this motion because I think that if a young person hasn't -- there's no other probable cause, of any other crime this person has committed, be they young or old, be they whatever color, background, regardless of age, if there's a person who is in public and hasn't done anything, it doesn't matter time of day, if they -- if a police officer doesn't have other probable cause, besides they're out in public, I don't think the person should be put in handcuffs. And that's the difference between my suggestion and the current -- and the current thing, which I understand from your perspective that deters people from being out in that -- and that helps with crime, and I respect that opinion. I'm just saying that I would rather be in a city where if you are a 15-year-old and you're going to go see your friend at 11:00 P.M., which happens I imagine every 15-year-old in the city virtually has done that, that if a police officer says, hey, you're 15, I don't want you to leave, that that 15-year-old could say, no, I'm just walking here and not be detained.

[7:10:13 PM]

That's what I'm advocating

>> Kitchen: Mr. Mayor.

>> Mayor Adler: Yes.

>> Kitchen: I have a question. Chief Manley, I think it might be helpful if you could give us some examples, if you can. In a situation -- in a situation where maybe there wasn't consent and maybe detaining actually was for the safety of the child or the young adult. I don't know -- I know your officers could give us some significant examples of what they encounter on the streets, so I don't know if you're prepared to give us any examples. If you are, it might be helpful for people to understand. It's not the circumstance that councilmember Casar is talking about, where you need -- you might need to detain someone. So -- I agree with him about the concern that he's raising. The problem with the curfew law as it's written right, it's a blunt instrument and it needs refining. Anyway, I just want the -- to understand from you if there's any -- if you would like to give us any examples.

>> Councilmember, just to make sure I'm understanding your question, are you looking for examples where we would actually take enforcement under the curfew ordinance?

>> Kitchen: Right.

>> Oftentimes what officers will experience during routine patrol, they will observe youth that are out at 1:00 A.M. Or 2:00 A.M. And, again, youth being based on their experience, many police officers have children, we were in the schools, you know, we do a lot of that. We have a general sense of someone's age, although it's absolutely not precise and sometimes we're not accurate. So, again, that would be the circumstances where we would want to stop that young boy or young girl just to ascertain whether or not they were in violation of the curfew. I don't want to rehash but I want to try and give you an example our concern at that point would be if they are 13 or 14 years old out at 1:00 A.M. Or 2:00 A.M., are they out to do something that is in violation of the law other than the curfew or% are they potentially going to be victimized by somebody that's out there doing crime and then oftentimes if we do stop them -- again, this is the opportunity to talk to them and to find out, you know, we're going to return them back to their home or to a responsible adult, so that's actually going to give us a lot of insight of are their parents responsible adults?

[7:12:38 PM]

What's going on at the home? Are the parents even aware that their child is out? So, again, it gives us the opportunity to get a lot of this information on the front end and, as I said earlier, it's not about

getting a citation issued, about having a fine issued. It's about getting the child into the services, and that's why when we talked earlier this week I wouldn't be opposed to having a warning for that first offense. So, you know, the -- obviously, if the police officers on the street could give you a bunch of opportunities. I was on patrol two months ago and went to a call where we had a young boy -- I want to say he was 14 and it was after midnight, I don't remember the exact hour, but I know it was probably 1:00 A.M. And it was up off of Rutherford and he had taken k2. And he was, you know, just in complete - he was in bad shape and had to be transported to the hospital. So, again, the concern is, you know, I understand that sometimes 15-year-olds -- I've got two teenagers, they do go out, want to be with their friends but we have to have an ability to address the 11-year-olds incorporation 12-year-olds, 13-year-olds that are out there for potentially reasons that might get them in harm's way.

>> Kitchen: So the example you're giving us might be an example in which case it might not be consensual and that you would need to detain? Because you don't have any other tool.

>> Correct.

>> Kitchen: Is that the situation?

>> I'm telling you it would not be uncommon for us to go up to a 12, 13, 14, 15-year-old and ask them if we could talk to them for a few minutes about their circumstances and have them walk away. That would not be uncommon so we would be left unable to really take any action at that point. I can't give you any exact numbers, I'm speaking anecdotally letting you know that would not be uncommon. Joshua.

>> Renteria: Thank you, mayor. I do believe I'm probably the only one up here that had a child that got a curfew ticket, and, you know, but when this happened, when the city passed that ordinance it was a different time.

[7:14:50 PM]

We had a lot of gang banging, drive-byes, coming through, young kids out in the street feeding all over the town, we were having a big major problem at that time. We even have two gabbings fighting it out on congress and fifth street and an elder gentlemen trying to prevent them from shooting anybody got shot. So it was a crisis situation we were facing at that time. Now it could be different now. We don't know. Unfortunately we waited until the last month -- and this is gonna expire so it becomes an emergency, you know. If we had known this and y'all would have brought this earlier to us, we could have set up this committee task force to go in there and investigate, you know, what needs to be done. You know, I know back then when we -- our mayor Garcia at that time passed that -- supported this resolution. We were in a crisis. We couldn't handle our juveniles. There was a lot of gang activity going on, but my understanding through that time we were able to take care of that situation where we kind of reduced the numbers of the gang members, arrested their leaders, we did the graffiti abatement,

hired you had professionals that were able to paint over or remove the tag. I'm just wondering -- like I said, again, unfortunately we're at this time of -- stage that, you know, the ordinance is going to expire. I would like to see another in-depth study to see if -- you know, do we really need it. But I just want -- and I'll support that 11 but I'm very concerned if things started changing and reversing and we started seeing more juvenile activity, more juvenile gang activity out there -- and let me explain to you, there is a lot of that going on.

[7:16:59 PM]

We just busted some juveniles with guns and marijuana, you know, last year, and they had robbed somebody's laptop and were playing around with it, taking pictures, without them realizing they were being monitored by the owner the way the software package, she could see what was going on and they posted some picture. Lucky she had GPS and we were able to identify the house that was going on and we did -- a juvenile did get arrested. The next day they were all out there partying like it was a big fun thing going on. So, you know, I'm really concerned that, you know, I don't -- I don't like to see that, you know, especially when, you know, I have a kid that got the curfew but she did her community service and she came out okay.

[Laughter] Yeah. It was some rough passes, you know, young kids how they are, they're rebellious, and all I can tell them, I said, well, if you go outside after 11:00 and you get caught, they will pick you up. And so but, you know -- and I told them that's up to you now. If you think you're grown, you can go out there and do it. But they are out there, and let me tell you, it's -- but I really want to see if there's really -- if there's something we can do. That's one of them I'll support 99 and that's the only reason. But I would like to see where we could -- if we see an uptick and it becomes an emergency, I hope that my colleagues can say, hey, if it does -- this one pass, say listen, this is an emergency, we need to implement it immediately before it gets out of hand.

>> Casar: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, chief. I don't have any questions for you, but I would like to hear from the municipal court folks about the diversion program and how juveniles are handled when they come through the court.

>> Mayor Adler: We'll do that. Any further questions for the chief?

[7:19:01 PM]

>> Casar: I have.

>> Mayor Adler: Mr. Casar.

>> Casar: I am interested in the example you provided related to the drug use, and, actually, I would like you to answer but maybe Mr. Copela can answer from the legal department. In the case where there is a health or safety issue with a person or with a child even if this ordinance is not in place, do we still not have the ability to engage with them on that issue? Help me understand if there is a health issue or safety issue, do we -- if we have an option? I'd like to hear both from legal department and --

>> I would probably go back to my earlier testimony and read that portion that comes out of family code 262.110 that talks about taking temporary possession of a child in a situation that's dangerous to the child's physical health or safety. And so we would fall back on that and, again, that's just not as defined, it's not as direct and it's not as absolute as a curfew. And so it's a little bit more trying for an officer to use.

>> Chris from the legal department and law department. Yes, councilmember, I'd say if somebody is in physical distress, whether a juvenile or adult who is obviously suffering from some sort of physical trauma or some sort, yes, then the police department has the ability to take that person into some sort of custody and make sure that they are cared for by appropriate medical facilities.

>> Casar: Right. Because the curfew does not apply at 9:00 P.M. And so if, for example, you were on that ride out and it was at 9:00 P.M. And that happened you would still want some sort of tool to be able to help that 12-year-old at 9:00 versus at 11:00 versus at midnight. So it seems to me that that example, I understand that there's a difference, but it seems to me that in the example where there is a 11 or 12-year-old that is having that sort of an issue with k2, be it at 9:00 P.M. Or midnight with a curfew or without one, you would still have the option granted to us by state law.

[7:21:04 PM]

Otherwise this would be an issue we'd be talking about all the time during -- you know, when it's summertime and there's not a school day curfew ordinance.

>> If I can clarify, maybe I misspoke. I wasn't trying to imply we needed the ordinance to handle that situation because that was a medical emergency that needed to be handled. I guess my point in making that was if we came across that young boy at 10:00 -- I'm sorry at 11:00 or 12:00 that evening evening and we had taken him into protective custody and got him into a safe place we might have interdictated before he ended up coming in contact with whenever he got those drugs and having a toxic reaction.

>> Casar: I understand. And so -- but I think, councilmember kitchen's question in particular was about -- if I understood it correctly, and I'm sure she will fill me in if I'm not correct, so maybe I should better say

my question I think we were both interested in, what getting rid of this ordinance changes is that if a young person can still be approached by the police, can still have questions standard by them, but if they choose not to have that curfew ordinance does is during those hours they essentially have to otherwise they could face resisting or those other things.

>> That's correct, councilmember.

>> Casar: One more question. A lot of the data that's been brought up and in a.p.d.'s own report you sent on this issue shows between 2014 and 2016 youth in the African-American community are about 8% of the city's population, but 16% of all the curfew violations. So it's a pretty significant amount, you know, disproportionate by a hundred percent. Any insight into what that is.

>> It's interesting because it tracks with other data when we look at other data, when we look at racial profiling, arrest data and traffic citation data. I know we look at the known population of Austin versus the people that come into Austin for entertainment, recreation, employment and things like that.

[7:23:07 PM]

I don't stand in front of you with the answers to explain the disparity. However, it is similar to disparities we see in other reports that we run when we look at racial profiling and I do think it deserves further attention. And I do think that as a police department, although we do collect data on all of the warnings that we issue to anyone, child or adult, the way that we capture the data, since it's just a warning, is not as searchable as it needs to be so that's something we're looking at because we can't give you a complete picture today of who are we giving warnings to? Are there disparities in who gets warnings versus who gets actual citations? I understand the concern and that's something we're going to do better with how we do our data collection, especially when it comes to the warnings. Y'all were presented with two different density maps to show where the citations are being issued. One was a breakdown of the citations issued by aid and one was representative of A.P.D. And I know the aid citations are very clustered and around the schools where they focus. A.p.d.'s data was spread much more spread throughout the city and then, again, realizing that in the northwest quadrant a good portion of that is in Williamson county so although A.P.D. May be, you know, handling some of those issues, Williamson county is not so that could be part of what you're seeing there.

>> Mayor Adler: Ms. Pool.

>> Pool: I have a question for chief Manley. If we let the curfew expire, what happens to our collection of data and the statistics that we have for the detainers and the citation that's we have done in the past?

>> So without a curfew ordinance, we will see a dramatic decrease -- I won't say elimination because we will still come across some young people we would feel like were in some level of immediate harm that we would interact with but it would be significantly reduced.

[7:25:11 PM]

So we would only have data on the children that we stopped and then that would indicate who we stopped, where we stopped them, ask what we did with them. So I would expect a very, very marked decrease in the level of enforcement. We've -- 2,123 citations I believe in in the past three years three years and we would see that decrease significantly.

>> Pool: So if we're going to have a program and you were talking about about this earlier, who would be responsible for who is the department authority for the program, so then what happens to the information that we need to craft a program that gives us data on how effective it is if -- if -- if we don't have the -- if you don't have the authority to be involved.

>> Councilmember, I think that goes back to my earlier point as well as as well of what we're going to have to address, who will be the that agency, that entity that will be out there 2:00 A.M. That will stop and interact with that child because without the curfew ordinance the likelihood is we will not unless we're going to be able to articulate some significant health danger. So the question we will have to address if we do not move forward with a curfew is who will stop and identify these young people that are out, you know, in the middle of the night during curfew hours to introduce them into the diversion systems and the social programs that are being discussed right now? And if that's the solution that we want to design, we're going to have to identify who that person is going to be and under what authority they're going to be. That was -- again, I'm not trying -- my position has been that we can keep the curfew and take away the courts -- and I know that, councilmember Houston, you're going to get a lot of information here from the courts on what they do with diversion. We can be the system that introduces the children into the diversion and then we can set a threshold for if that child has had two previous warnings and they haven't -- and on their third offense we want them to go into a more formal system.

[7:27:26 PM]

I think we can design something like that but specific to your point we would have to identify who is going to have the authority and what is that authority that the interact with that child during those late night morning hours.

>> Pool: Do you think we can do that while we remove the criminalization piece?

>> If we remove the criminalization piece then we will see an immediate -- cease enforcing curfew and we'll see the immediate almost cessation of stopping these children at night outside of the articulable reasons when they're in specific harm's way.

>> Pool: So this is the gap we're not able to leap across?

>> Yes, there will be a gap until we identify whatever system we want to put in place.

>> Pool: And the gap that -- another gap is the gap between -- because I think we are all of a mind to remove the criminal -- the criminalization of the arrest or the detainer, but when we do that, that takes away your authority to do anything in a circumstance unless it looks like there is either a crime being committed or a child is being victimized. So that's -- and that's --

>> Outside of those limited circumstances, I don't know who would be the one to identify that child and link them up with the services.

>> Pool: And as a mom, even though my daughter is now close to 30, I lived through all those years and there are -- there is a time when you really despair, things you work out in the end. In fact they most always do. And in my case it did. As well as councilmember Renteria --

>> Mayor Adler: In case she's watching.

>> Pool: Yes. But it is no less a sense of worry, concern, and sometimes despair. So that's the piece -- that's why I'm having so much difficulty with the total elimination without having a program in place, 16 -- item 69 goes some way in that direction, and that is a good thing, but I think that gap still exists, and I don't know, maybe when our municipal court folks come up and talk to us a little bit, maybe there's a way to get into a diversion that isn't -- doesn't have the overlay of criminality, of the criminal assessment of fines.

[7:29:42 PM]

I realize that our hands are tied under state law, which the kind of -- we don't have much in the way of civil infractions. We mostly have criminal. So I'm just looking for the pathway forward to make both of these things happen and make sure that our -- the children in our community aren't victimized and aren't preyed upon and we also are not arresting them for the wrong reasons.

>> Kitchen: Mr. Mayor.

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

>> Garza: Since everyone is throwing out their parent yesterday, I have a 2-year-old that things she's a teenager. I want to; you mentioned the family code that may allow you to and you said you gave the

scenario of a 12-year-old in a crime ridden neighborhood. Did you say you thought that code would allow you to detain a 12-year-old because of the crime or you didn't think you could?

>> That's the position that every single officer on the street would have to be able to articulate because what we have to be ready for is what if the interaction does not go smoothly and we end up in a use of force situation, however minor that may be, and then the question will become, did the officer even have legal authority to detain that person in the -- detain that person in the first place? I don't stand in front of you here today telling you you can answer that question whether enough probable cause exists or not. It's very circumstance driven. Without the ordinance that gives you absolute authority to stop to determine if the ordinance is being violated, if that is removed, we're placing the officers, the front line men and women in a position where they're going to have to make that decision in each individual circumstance.

>> Garza: I guess I'll just say on one hand I hear -- there's one side that says we need to keep these, you know, teenagers from possibly committing a crime, and I feel in that situation there is a criminal code that will -- you know, that takes care of that if they do.

[7:31:43 PM]

I don't know if we need duplication on the other if it's a curfew that is supposed to keep children safe that are in crime ridden neighborhoods, the systematic solution is to not have crime ridden neighborhoods. I think what councilmember Casar is trying to do with this solution is say there are other solutions to this problem and we're essentially in that instance punishing children that grow up unfortunately in poverty and crime crime ridden areas and they're the ones getting stopped and they're the ones the police officers V to make the call. I guess I want to make the -- that's what we're -- the issue here is it's a specific group of minority children that are getting these offenses, and -- anyway, I'll continue to listen to the discussion.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I agree with what everyone has said here and what councilmember Garza said also. The problem is that we have -- we're -- the problem that I'm having is that we are faced with a -- with a law that needs changing but that expires before we have a chance to change it. That's the difficulty here. So I'm going to offer an amendment and it's not going to get us all the way there in my mind, but I'll just offer it for consideration. And I'll just say -- I guess should I offer it first and then say? I always get confused.

>> Mayor Adler: If you're going to make it, you need to make it first.

>> Kitchen: Okay. Have an amendment to both of them. So my amendment to item 99 is to add at the end of the part one, where it says -- it says readopts and continues in effect, something to the effect that but only with regard to the application of the curfew in the evening hours.

[7:33:45 PM]

So what I'm trying to effect is only moving forward with the curfew at night. So I'm not certain if that's the correct wording for that because I don't have the actual law in front of me, but I would be saying but only with regard to application of the curfew at night, and I'd have to look to our legal counsel to see if that's the right kind of wording for that.

>> Councilmember, that might be the right kind of wording. I'm going to suggest that you're posted tonight to either extend the ordinance or not, although we had actually intended to post it so that you could amend it, we didn't craft the posting language that way. We hadn't gotten any amendments before tonight. If you want to extend the ordinance and bring it -- and we can work on amendments if anybody has any for next week we can do it that way. You've closed the public hearing.

>> Kitchen: Okay.

>> I'd be happy to work with you on that language.

>> Kitchen: Okay. So, Mr. Mayor, I also have an amendment to the other one. Should I say that one now?

>> Mayor Adler: [Off mic]

>> Kitchen: For item 69, I think that I want to add language that includes in our list of stakeholders our public safety personnel, our ems officers, our A.P.D. Officers, as well as echo, because I know that at least with regard to our homeless youth, these three, echo in safety folks, A.P.D. And ems workers have much information to share in terms of what is being -- what is happening on the streets. And I think that with stakeholders bringing forward -- I think it's important for stakeholders to bring forward the -- these noncriminal policies or practices. That's very important. But we're missing a whole part of the picture from very knowledgeable people if we don't also include them.

[7:35:52 PM]

>> Casar: I would second that if that's in the form of an amendment.

>> Mayor Adler: We're going to be amending both these. We could divide the question.

>> Casar: Excuse me, my original motion was to deny 99. The motion we're on is to deny 99. I remember --

>> Mayor Adler: It is. I'm thinking the better way to do this -- we'll have a vote on each of them so one won't go away if we promise to have a vote on each of them can we focus on one and then the other.

>> Casar: Can we go on my original amendment to deny 99.

>> Mayor Adler: We can have that one up first. Let's hold on the motion -- on the amendments to and this we'll focus on 99. We're not ready to vote on anything yet because we still have more people to talk to. Okay. So we have 99 and the problem is that we can't amend 99.

>> Kitchen: We can't even post it for next week.

>> Mayor Adler: We can.

>> Kitchen: We can still?

>> Mayor Adler: We can -- this is what our options are, tell me if I'm right. All right? We could -- we could just say we're not going to extend 99. It just dies. We could say we're not going to extend 99 but we want the ordinance to come back next week so we can amend it. In which case there will be no ordinance in effect between Sunday and Thursday. We could also say we want to extend the ordinance to next Thursday. And we could keep it current and then on Thursday we consider to amend it or to not amend it.

>> Kitchen: Okay.

>> Mayor Adler: Or we could just redo the ordinance for however long we want to do it. I think those are all our

>> Kitchen: Okay.

>> Mayor Adler: Okay? But before we start making choices I really want to hear from some of the other people too.

>> Houston: But you've already made some choices and I have another choice to offer.

>> Mayor Adler: All right.

>> Houston: The other choice is to extend the ordinance until December 31, which will give time for the stakeholders group to come back with recommendations to do all the things that we all agree on but that gives them time to work on it and then come back and then we can reauthorize the ordinance with their recommendations.

[7:38:01 PM]

>> Mayor Adler: Okay. All those things are true. So if there are no more questions I want to bring the court down here because I want to hear some additional work. Yes?

>> Tovo: I have a quick question. If they want to come we can dispense with my question in the meantime. The question I have for legal staff, does the posting language support extending the ordinance for evening hours as posted? Which I think was the substance of councilmember kitchen.

>> The posting language is to consider -- to continue the ordinance, to readopt the ordinance, relating to juvenile day and nighttime curfews.

>> Tovo: Wouldn't that a position I'm going to support, but just as a matter of discussion, can't we always adopt something that's less restrictive than what's posted? So it's posted to extend the daytime and the evening if somebody wanted to extend it just to do the evening, wouldn't they have the ability do that under the posting language?

>> Mayor Adler: In fact, I -- even -- I'm not even sure that the restrictive part pertains to this kind of motion because it's no a zoning case.

>> Tovo: I was following the same logic.

>> Mayor Adler: But I agree with the issue that mayor pro tem is raising. I know it was your intent to put in to continue or amend, and amend is not in there. But if we didn't have an ordinance and someone had said I am posting this ordinance to be adopted we could have amended it a lot if we wanted to. We could amend it in lots of different ways and I'm not sure to say to continue it is any different than putting this subject matter on the table and we do that without limitation to amendments.

>> I think you're probably fine but we didn't have any amendments to work on so if you're going to amend it it would helpful probably to let us have some time to help you craft those amendments.

>> Mayor Adler: Okay.

>> That would be my recommendation.

>> Mayor Adler: Got that.

[7:40:01 PM]

So let's keep talking. You want to have some insight to share with us?

>> Yes, thank you.

>> Mayor Adler: I don't think your microphone is on. Can you pull the microphone closer to you?

>> Is that a little better.

>> Mayor Adler: Much better, thank you.

>> Shorter than chief Manley. First my boring judicial ethics disclaimer. It is not the role of a municipal judge and should not be the role of a municipal judge to advocate for or against a city statute, so we don't have a dog in this hunt. We're here to give you information. Over the last three years, court has greatly expanded our diversion and teen court programs. Both of which result in many dismissals and utilize community service instead of paying monetary fines. I can't take credit for any of the programs because what I did was get out of the way and let some folks with some really good ideas implement them and encouraged them to implement them. So with me is Kim Chadwick, who manages the youth services division and Wes

--they're going to go through once a case comes to the court the way a typical case is handled.

>> Good evening. When a curfew ticket comes in we are forwarding those cases to the prosecutor for review to determine eligibility for the diversion program. Once approved, which most of the cases are eligible -- there are some cases where the child is on probation with the county and we do transfer those to the county and we also have cases where for under their discretion they don't approve, in the about ten to 20 a year. Diversion then is offered to the family as an option. They have a right to contest the charge and filed the case with the court but if they choose doing through diversion there are no fines or fees or costs associated with that program.

[7:42:05 PM]

They typically are ordered to complete a class. They don't interact in the courtroom. They are coming to court but they are not calendared before a judge. They meet with somebody like Wes, a juvenile case manager, and there's a non-clinical assessment conducted, a psychosocial assessment, just to determine -- it's self-reporting by the child and their guardian or parent to determine if there are resource needs. If those resources are identified, they are referred. We do not mark somebody unsuccessful for the program if they choose not to seek those services, but it does connect people who have needs to things that are identified. If they have completed the program, the case is never filed with the court. If they do that successfully. If they're not, then the case is filed with the court, which is a smaller number, and they're often still offered the opportunity to do a deferral, which would result in a dismissal. But for those cases where the child or the family does the requirements, that that's where those smaller numbers with the convictions and the fine amounts that we I think disseminated to all of you earlier over the last couple weeks.

>> Garza: Do you want to say anything about the resource referrals more specifically?

>> Mayor, councilmembers, my name is Wes, one of the juvenile case managers with the municipal court. As she was saying, a vast majority -- again, these are class C non-traffic misdemeanors for juveniles. So all of our traffic cases for juveniles still filter through the traditional court system, but for non-traffic class C misdemeanors, they are -- we do everything that we can to get in touch with these families to give them the opportunity to come in and work with our youth services program.

[7:44:05 PM]

They're matched up with one of us juvenile case managers, and we speak to the family. Ideally, the whole family will come in, but certainly the juvenile and at least one parent or guardian. And we're able to have a conversation that, you know, not only addresses the situation which led to them receiving the ticket, whether it be curfew or another class C misdemeanor, but also any other relevant information, maybe how things are going at home, how things are going at school. And from there, the way that we set up the programs, we certainly don't look at it necessarily as a punitive thing. We do try to match up these juveniles and their families with any resources that they might need. Again, as Ms. Chadwick said, none of these diversion cases are filed as actual criminal charges from the get-go, there's no complaint, no charging instrument. If they do complete the case they never get filed as criminal charges. Even if they do get filed as a criminal charge they would still be given an opportunity to come before the court and possibly get it dismissed. For diversion cases and non-diversion cases there's still a mechanism to have those expunged with some exceptions.

>> Mayor Adler: Ms. Houston.

>> Houston: Could you tell us a little bit about teen court?

>> Yes, ma'am. And with teen court we hold the second and fourth Thursday of every month. Actually just across the hallway in the boards and commissions room. So I guess I can take this opportunity to extend an invitation. Standing invitation to all of you. Teen court at this time is part of our youth diversion program. But individuals who do have their cases filed can also be referred to teen court by a case manager, but the teen court is not a disposition court, it's not to determine if a teen is guilty or not guilty because most of them wouldn't have -- have not been charged with anything or if they have they've entered a plea of no contest but the vast majority of our cases come from the diversion program where they have not been charged.

[7:46:07 PM]

They'll come into teen court and they are -- it's a trial, a jury trial, that is held. We have a teen court judge there, one of our judges from the municipal court with the attorneys, prosecutor and defense attorney are teen volunteers. They're assisted by actual attorneys that come in from the Austin bar association, the Austin -- excuse me, young lawyers association. And the jury is made up of their peers, other 13 through 17-year-olds, some of whom have been previous defendants with teen court, others are volunteers from local high schools. We meet with local high schools, different, you know, debate teams, mock trial teams, things that have nature to try to recruit local teens to come participate but there's a trial and, again, it's not for their peers to determine their guilt or innocence but instead to determine what they'll need to do in order to prevent their case from being filed, which can include community service, but the main aspect is to have them come back for what we call jury returns, where they'll sit on the juries for future trials.

>> I'd like to add I'm very supportive of teen court, having been a graduate of the longview, Texas, teen court. It's a very good, positive program.

>> Mayor Adler: Ms. Garza.

>> Garza: The diversion program you said they have to show up with their parents. How many visits is that?

>> It depends. We can -- our prosecutor from the get-go, whenever they're approving the cases for the diversion program, which is Ms. -- As she said is the vast majority of the non-traffic class C misdemeanors. They'll assign a tier level based on the type of charge and also if there have been any previous offenses by that juvenile. But for, you know, say like a first-time offender, curfew, no other kind of high risk factors going on, it's likely that they might only have to come back for a class or some sort of program.

[7:48:07 PM]

But if we identified some risk factors, you know, we can schedule follow-up visits for them to come back to the court or what we typically do is make school visits to check in on the juveniles for like a face-to-face follow-up. But as far as the amount of time they'd have to come back with the diversion program, could just be the one time. It could be a couple of times, it's the class or program assigned to the juvenile.

>> Garza: The diversion program would at the very least be two.

>> There's an orientation for all families want to go do the diversion program. It gives the families a rundown of the diversion program but also the alternatives. We certainly do explain to them that they still do the right to elect to have their case filed and if they do want to fight it in court enter a plea of not guilty. We explain all of their rights and options and some of the possible outcomes, and that's when we

have them fill out the bulk of the paperwork and they would come back for a follow-up. At minimum two and it could be up to three, yes.

>> Garza: So two to three visits. Okay. And then you said that when they don't show up, what happens when they don't, both for the child and or -- and the parent?

>> So we do spend some time trying to make sure we have the right contact information. So we are using mailers, we contact the family. If we find out that we have erroneous contact information, we have a unit in the court that has access to skip tracing tools to try to get the correct contact information. But eventually, if we cannot contact the family and time goes by or they're just unresponsive if we have the right information, we do file the case with the court.

>> Garza: And does it -- so -- and if they don't show up for court does that lead to a warrant?

>> We are not issuing warrants for juvenile offenses.

[7:50:10 PM]

>> Garza: So if they don't show up for court there's no warrant.

>> It hangs in limbo.

>> Garza: Does anything happen to the parents?

>> No.

>> Garza: With that warrant out there if they get picked up for something else, that could effect --

>> We're not issuing the warrant so the officers --

>> Garza: No, no. I'm saying if they get another offense -- picked up for, say, another curfew violations it will come up that they have a warrant?

>> We show a failure to appear on the court side, but when cases come back in, there's still -- they're still reconsidered for diversion so that wouldn't disqualify them from being diverted still.

>> Garza: Okay. Thanks.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Yeah. Can you -- is there a -- any fees involved when the parents show up? Like, I mean, do -
- is there a cost to the class that's required?

>> With the Austin diversion program, the court does not assess any fees or court costs or fines. All the in-house classes that we provide, there is no fee. Most of the programs are classes that we might refer a juvenile to with community-based agency that's we partnership do not have a fee or any kind of cost. There are I believe two that have a small fee but they are willing to work with us and waive the fee with an order from one of our judges.

>> Renteria: Where would that is it a counselor or something that needs to -- what would generate -- what would -- that fee, small fee.

>> The only agencies we work with where there might be a small fee, one called danger without intentions, they teach choices and consequences classes for juveniles and Travis county counselling and education services teaches a youth misdemeanor class. They have small fees. I believe the choices and consequences is around \$30.

[7:52:10 PM]

The youth misdemeanor through Travis county is \$54 but both agencies are willing to work with us if we have a judge's order asking that they waive the fee for the juvenile. Otherwise, there are no fees or costs assessed by the court with the diversion program.

>> Renteria: Okay. That's including the parents?

>> Yes.

>> Renteria: Okay. Thank you.

>> Mayor Adler: Yes? Councilmember alter.

>> Alter: I know you're focusing on the diversion program, but could you clarify, under what circumstances or give me some examples of when you'd actually be convicting the child of an offense and it would go on their record in a criminal way?

>> So as I mentioned, if the family chooses to have the case filed in the court or if they're unresponsive or if we just can't get ahold of them and time goes by or the prosecutor -- there are a small number of cases where they believe that the case should be filed and not diverted. And they are engaging in a traditional court setting. It is a juvenile's docket, and the case managers are still present in that docket, but at that point if they choose to not go through a deferral or go through a deferral and don't comply with the order or just flat out want to get it over with and request to pay a fine and plea guilty, that that's where that comes into play.

>> Alter: And I have a question that may be a little bit subjective, so I apologize if this is out of line, but from your perspective of seeing these cases in court, is there a value of the curfew for either safety or for the children and where they end up later on?

>> I'm not going to give a personal opinion.

>> That's something that really should be addressed by law enforcement. We -- again, we're here to provide information and we're not to sway you 11 way or the other and that's not our role.

[7:54:12 PM]

>> I will say, though, to maybe answer it a little and -- and Wes is actually more hands on engaged in that role, when we are trying to develop programs because a violation is something we have to deal with with the kids, we are -- we do try to make sure -- that we're developing, if we're developing curriculum ourselves, that it's relevant, that it's hopefully a take-away for somebody so they don't reengage with us and that we're using resources and the case managers work hard to identify resources that are no cost or low cost or meeting the needs of the people that they see and routinely have those issues. And I don't know if you want to add anything to that.

>> And just to add more to your question, councilmember alter, the vast majority, at least that I've seen, cases that -- juvenile cases that do end up with a guilty they come through the court in a traditional manner, for whatever reason, they were unsuccessful in the diversion program or chose to have their case filed for whatever reason. Most would sign up for some kind of program like a deferred disposition in an attempt to get their case dismissed and for those that do not fulfill the requirements, we don't automatically revoke those deferrals. We have them come in to speak to our juvenile judge and from that point she can, you know, choose to extend it and -- or accept the case as is or revoke it right there. The only cases that she'll typically revoke is if someone does not show up for that revocation hearing and even then we'll still make multiple attempts to try to get them to come in before she revokes any deferrals or enters a guilty disposition.

>> Alter: So when you're connecting them up with resources, are these only resources that, you know, extricate them from the court situation or are they resources that potentially help them in a positive way?

[7:56:16 PM]

>> Absolutely. I mean, the majority would be the latter that you speak of. There are a couple of classes that might address, like, I told about the youth misdemeanor class and choices and consequences but

the vast majority of our resources -- we have a couple that are multiweek programs about strengthening family connection that's involve the whole family. We use different, you know, counseling agencies, like life works, the Austin child guidance center. So the vast majority aren't really meant to address any specific behavior that might have led to the ticket but, you know, hopefully any kind of underlying issues that are going on with the juvenile and the family that could help them, you know, not only, you know, take care of that particular ticket, but hopefully avoid getting getting any others in the future.

>> Alter: So what percentage are being connected up with resources in that way? And what percentage then are ending up at the other end, where they're convicted? We've heard a lot of statistics but I'm not really sure that I have a handle on those numbers. I don't know if you could help.

>> A lot of numbers lately. I don't -- off of top of my head -- I know we have percentages for the number that when they are going through the court process, when the case is filed, what percentage are convicted? Do I see Mary Jane?

>> Hi. It's about 95 percent of the case that's come through are either diverted or dismissed so only about 5% result in a conviction.

>> And that was from the last three fiscal years, correct?

>> Yes, last three fiscal years.

>> Alter: So how does that relate to the 15% number that we've heard chief Manley cite that only 15% are actually convicted, if I'm getting my -- I'm just trying to understand with all the different options here.

>> So the numbers that I've been giving, 85% of the citation that's we issue are issued to first-time offenders.

[7:58:20 PM]

So these are young men, young women of that not previously been cited for this. It's not anything with the convictions. Just with who is actually receiving the citations.

>> Alter: Okay. On the other side of the -- out of the hundred percent that receive citation that's you then are having only about 5% that are getting convicted? Is that the way I should --

>> That is correct. 95% of the individuals who receive citations are having them diverted or dismissed.

>> Alter: Then there's others ones who are stopped but they don't get a citation?

>> Say that one more time.

>> Alter: There are also people that the A.P.D. Stops who don't get a citation at all because they're not -- they're satisfying the exceptions?

>> Yes,

>> Yes, our officers do have that. The juvenile may have a reason that makes the officer not want to make an enforcement action and make a citation, but follow the warning path.

>> Alter: And do the disparities also include the children taken in and not given a citation, but is it including --

>> So the numbers that you've been given in the ethnic breakdowns are of the 273 actually given a citation. As I've mentioned earlier we need to do better work in the department with the warning so we can actually break those down further and do that type of analysis. So what you're looking at is the actual young men, young women, the 2,123, that received a citation.

>> Alter: So that's not actual actually a measure of how many have been stopped in town of any racial group?

>> Correct.

>> Alter: Thank you.

>> Mayor Adler: This one is hard as so many that we have. I'm interested in knowing with respect to the study that have been done if there's a way for that study to be done more quickly than the end of December.

[8:00:22 PM]

I recognize that if we let the ordinance pass there's the argument that could be made that we're denying some children intervention that would be helpful to them. I am cognizant of the other argument that the intervention causes a problem in that regard as to whether there's a diversion or whether just the mere act of that nature of interaction. The state law says that the officer can take temporary possession of a child without a court order in the discovery of a child in danger to a child's physical health or safety with the purposes to deliver the child without unnecessary delay and I wonder if it makes sense for us or that group to take a look at that section to see whether there is a different way of interpreting that or a more robust way of determining that or whether that would make sense. I've looked at the studies that were provided and the studies -- even the ones we've gotten from staff both suggest that it's not statistically significant and the research needs to be more robust in order to be able to draw conclusions. I'm going to listen to some more of the debate, but where I'm leaning right now is to let the ordinance expire. To undergo that study as quickly as we can get that study done and then to look at the

data that we pick up or what we see in this intervening time and make that part of whatever that was part of the universe that that group looks at, but I'll listen to more discussion.

>> Kitchen: I have more questions.

>> Mayor Adler: Okay. Ms. Kitchen and then Mr. Casar?

>> Kitchen: I just had a question for you all.

[8:02:29 PM]

Just to understand if the groups that you interact with as the case manager, is this a route to services such as substance abuse services or mental health services or child protective services or those kinds of things?

>> Yes, ma'am, all of the above. Substance abuse. We certainly -- any red flags we would then immediately report something to child protective services, but, you know, we work very closely with austin-travis county integral care with a couple of programs, with lifeworks and their youth counseling program. So yes, ma'am.

>> Kitchen: Do you have any statistics on the percentage of youth that you deal with that -- to my mind that falls in the more serious category in terms of connections that are made for these youth. Do you have any percentage of the kids that come through that fall into a category where you make a connection like that for them?

>> He probably can give you what his -- what your feel for it is. Right now because we do not keep that information in our case management system. It's documented and locked up, it's kept separately from where we keep case information. We would have to go through manually and look at that. I'm sure in your mind you have an idea but we're not sure how accurate it might be because there are other case managers. We have five total.

>> Kitchen: I won't hold you to it. If you feel comfortable sort of giving us a gut check on that.

>> Could you repeat the question, please?

>> Kitchen: My question really is of all the kids that come through I'm just curious about how often it happens that you connect them to a mental health service or a substance abuse service or a child abuse service or a sexual assault service or something like that?

[8:04:38 PM]

>> I hesitate to throw a number out there.

>> Kitchen: If you're not comfortable, that's okay.

>> With these all being class C misdemeanors, if I had to guess, maybe a quarter, but again I don't have any numbers to support that. Again, I'm just one of five case managers.

>> Kitchen: That's fine. Thank you.

>> Casar: The discussion has been helpful and cleared up a lot. I want to make clear what it is that changes once the ordinance expires because it sounds like there are some discussions around thanks don't change. There are sort of three situations that I see. Situation number one is that there is a young person -- we think that there's probable cause that they've done graffiti or something that involves criminal activity. If that's the case with and without the ordinance nothing changes. The police can detain folks based on those probable cause regardless of our votes. The second is when someone is in distress, be they adult or child, if somebody is in distress or nothing changes under this ordinance when someone is in distress, but I hear the mayor's point that potentially the group could find ways to think through how that state law is worded. And if we can add anything to it. If someone is in immediate distress, nothing changes on either side. Then there's a third situation which is when there's a young person that falls in neither category that we have no reason to believe they're committing a crime and we have no reason to believe they're distressed. They are just present during curfew hours. In that case a police officer can still with and without this ordinance interact consensually with that young person that's not in distress or not committing a crime. The only significant change is that if we pass this ordinance we are preserving the police officer's right to arrest to that person against their will if they do not want to continue their time with that police officer.

[8:06:48 PM]

That means restraint, if they don't want to be detained, and potentially sending them to court, which I really appreciate our menu court judge and the programs that we have there, but with the focus that I have spoken with of whom there are several who have received citations for their children. As of late court is not a place that they want to go to get those services and that's why we have the other item up to hopefully provide those services in schools, to provide those services in the community and to have other interventions so that court is a last resort, a later resort, rather than an earlier tool. And I think that that is -- I think that that's the way that this thing should work. So ultimately if somebody is committing a crime, have probable cause for committing a crime or in distress, it changes nothing. If someone is on a street and a young person and the police want to help them, this changes nothing. The main thing that changes is if there's no probable cause and there's none in distress and they don't want to call a police officer this is still about being able to detain and arrest that individual in that case and

give them a criminal citation that would lead them to court. And if I'm wrong and there's another situation, I would be happy to discuss it.

>> Kitchen: Mr. Mayor? I would just respond, in an ideal world that would be the situation. And I would agree W we have a broken system in a lot of ways and we're about trying to fix it, which I think this is great. My only problem is trying to figure out which way I fall during the interim. We have a system where some kids are only going to get help through this route. The criminal justice system is not where these kids should get help. It's not where anyone in our community should get help, but it's the reality.

[8:08:52 PM]

And until we get all of our problems fixed I have to weigh that.

>> Casar: I get that and if you look at the map, the greatest cluster is around Lanier high school where there are some kids that -- plenty of kids that need help, but it is in these low income communities of color where kids are working jobs and going to high school and going to ACC or going to Stanford and there are young people who have shown up here. And I weigh those kids not getting wrapped up in that because of our ordinance over some kids that need that help and we need to figure out how to boost up the resources to get to those kids without this.

>> Kitchen: But the question is -- Houston and then Ms. Garza.

>> Houston: Mayor, I think what we have -- first of all, thank you all for providing us that additional information. The conversation had been unbalanced before you all got up and talked about all that do you to try to work with the children and the families. So I really appreciate you sharing that information and all that you do. I think we're in agreement on this. I don't think any of us want the criminalization of juveniles, but it's that gap period. And so that's why my recommendation would be to extend the ordinance until the work group gets back. It's a process question for me because the process started without input from a lot of communities that care about our children. A lot of communities. Juvenile court wasn't included. Austin independent school district, Williamson county wasn't included. So I think now is an opportunity to all the of those people who care about our children into the same work group and try to come up with what are the options for us the next time this comes up. But I too -- everybody has did given their street creds. I'm a parent. I have a black son who happened to make it through this city unscathed, but there's that gap period.

[8:10:55 PM]

And I also know that when you get in junior high school, my young son started smelling himself. That's in my community talk, testosterone really starts raging. So you have some things that you have to do as a parent, and some of my parents don't have those resources. And again, I'm going to say it again and I know this makes people uncomfortable. Sometimes this is the intervention my parents need and my kids need in order to say, do you know what? I'm going to get this together. And so I just need to have that extension to December 31st when you all come back with some wonderful recommendations about how we can interact with our youth on the street and it not be a criminal interaction. But there's still got to be something in that gap and that's what we can't seem to compromise. I'm not saying don't go ahead with the stakeholders process and come back with the recommendations. What I'm saying is give us some leverage in between times in those in between times to continue to keep kids safe. And also get them some of the help that they need. So that's why I'm asking for an extension to give the work group time to give recommendations and come back with some good ones.

>> Mayor Adler: Ms. Garza.

>> Kitchen: Is that an amendment that she just made?

>> Mayor Adler: It was a discussion.

>> Houston: I've been trying to make an amendment for awhile while, but it doesn't work. I don't have the voice to do it.

>> Mayor Adler: All you have to do is raise your hand and give an amendment to make.

>> Kitchen: She did.

>> Mayor Adler: She talked for a long time and didn't make a motion. Everyone archbishop everybody knows the custom.

>> Houston: When councilmember Casar made it I said I have an amendment to make and that wasn't accepted.

>> Mayor Adler: It wasn't accepted? We were still trying to figure out at that point, Ms. Houston, what we were trying to do. Ms. Garza?

>> Garza: I just want to say to councilmember kitchen, when we say this is the only way that these children have access to services, that makes a huge assumption that --

[8:13:03 PM]

>> [Inaudible].

>> That's my point. Is what I'm hearing is using this process that we have, a great process, thank you for the work that you do, is not the only way. Some of these very children who are using this diversion program have access. There's communities in schools that serve as children. There are good reachers that connect them to services. There are parent support specialists. So this idea that this is the only way these children will get services and this concern how else will I connect these children to services assumes that they either haven't been connected to services or that there's no other way for them. And there are other ways for that. And I had a question regarding the 95%. The 95% -- you said 95% are diverted, so that would leave, I guess, five percent that are convicted?

>> So there's 95% that are either diverted or dismissed. So yes, it leaves five percent that have convictions.

>> Garza: I was just wondering how does that compare to other offenses, even adult offenses. Like -- you know, assault or burglary. Is that the norm? Is that -- do 95% of other kinds of crimes get diverted at that rate?

>> Adult offenses we don't have a diversion program for adult defenses so there's not going to be a good comparison. But in terms of dismissals in general for adult offenses, it's not 95%. It's much lower.

>> So there's a higher rate of conviction for --

>> For adult offenses, yes.

>> Garza: I guess my question is we have this offense that is taken up our officers' time. It is taking up these diversion. It's created these programs. This huge system in place to convict five percent. So these families are put through this program that I don't think it's the only way they have access to services.

[8:15:09 PM]

I think there's other ways that these families can have access to services. There are so many non-profit programs out there. We have this system in place that we funnel them through the criminal justice system and five percent of them get a conviction. It just seems like a large system and in a way waste of resources when there are other ways. And I think that is the exact point of the first item on 69 is to figure out that sweet spot and not divert them through this system.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I would like to make an amendment, and I would like to amend part 1 to say extend until the work group completes its work. And I'm also going to suggest an amendment at the appropriate time to 69 that that work group come back at the end of October.

>> Mayor Adler: Okay. It's been moved to extend the ordinance until the work group comes back. That assumes 69 will pass. Ms. Houston seconds that. Is there any discussion? Yes.

>> Alter: So I do want to point out that the daytime curfew will not be in effect for those school children in the city because there's no school until August unless they have a year long school. So part of the issue that we were talking about at least for that period is not in effect. I am going to support this approach. One of the speakers earlier made a comment that really hit home was a call for Austin to be a model on this. And while I'm all for Austin to be a model and I think that having a curfew is a really uncreative way to deliver services, I do think we need to have some things in place when we make a change of this sort.

[8:17:09 PM]

And so I will support that. I'm also going to support it from a process perspective. We reached out to several school board members and people did not understand that there was a movement to repeal the ordinance. They understood that 69 was on the docket to look at alternative ways to did he criminalize it within the confines of a juvenile curfew, but there was not a clear understanding that the proposal before us would be actually to repeal it. I understand that technically the agenda allowed for that, but I don't think that it was captured and understood by the community. The intergovernmental relations officer, two school boards, communities in schools was not consulted. So I think that having this broader discussion to find that solution before we take this kind of measure is something that we owe to our children and to figuring out the next step. It's also something that we owe to our law enforcement officials who we would be placing in a difficult situation given the current climate to have so much ambiguity about their relationships with the children. I would just feel a lot more comfortable forel ability to -- for our ability to help these children if we do it that way.

>> Mayor Adler: Okay. Mr. Casar?

>> Casar: So I and some of the advocates, and we have not contacted everyone, but we were in touch with the aid superintendent pretty early on in their intergovernmental relations office early on, and we did get some contact back saying well, would this preclude Austin pd from being able to talk to youth and get them the only thing it would keep them from doing is giving criminal citations.

[8:19:10 PM]

And what the superintendent relayed to me is that's not what he wants aid pd to be doing in the first place. I also got contact from school board trustees Ellen, who is the one school board trustee who has

contacted us. And if if parents cannot ensure this for whatever reason, it is up to us to do in whatever ways to provides support instead of punishment, which I think is the goal of repealing this curfew, number 99. Ultimately I think there are two reasons that folks on the dais are considering continuing this, that actually change out there in objective reality. One is being able to arrest a youth if a young person, if they do not want to talk to a police officer because they are not in distress or there's no probable cause. And second is to give threat to services and on the services in -- an email sent to us from a former city prosecutor and I've asked them if I could share this and they said yes. So they said that they were a prosecutor with the city. They were responsible -- I'll read it in the first person exactly from them. "I had the good luck of being responsible for the juvenile trial docket where I met with numerous young people facing curfew charges. I dismissed every single curfew case that came across my desk with the stated reason, in the interest of justice. It was abundantly clear to me that the curfew inflict the not just justice on young people in a racially discriminatory matter. Under state law, defendants under the age of 18 are required to appear in court with a parent or other guardian. This is onerous to people in socioeconomic rho backgrounds and due to the fact that such parents work numerous jobs and would face termination if they were to miss work.

[8:21:14 PM]

Therefore the discrimination of the law is not just the issuance of citations, but also the capacity of young people to resolve their cases. Thank you for your leadership on this issue and I respectfully urge the council and the mayor to repeal the curfew."

>> Mayor Adler: Ms. Houston?

>> Houston: And mayor, I think we got something from the aisd police. I'm looking at a letter from Julie Cowan. I'm writing as an Austin citizen informed by my work on the aisd school board. This is different. I ask that you maintain some provisions of the curfew that allow law enforcement to ensure children are in school during school hours where there's punishment is attached certainly should be considered by city council, but please do not make it easier for children not to be in school. If parents cannot ensure this, then it's the responsibility of a caring community to do so. Thanks for allowing me to share this opinion. And there's another one from another school board member that I can't find at this moment.

>> Alter: I have it.

>> Councilmember Houston, he we did reach out to aid police both under the chief Menendez and the previous one and both are in favor of keeping the ordinance in effect.

>> Alter: I have one that [indiscernible] Was not aware of the action being taken today. While he is not supportive of curfews, he is supportive of allowing time for further discussion prior to repealing the curfew today.

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

>> Pool: Mayor, I think that the amendment that pitched councilmember kitchen has made and that councilmember Houston first articulated is a good promise at this point to allow the curfew to continue until we can get a program in place and work out any of the gaps that might be in it because it's the gaps that we're concerned about.

[8:23:15 PM]

So I don't know how much more debate we need to have, if we want to proceed to a vote. But I think that the amendment that's on -- in front of us right now would be a good compromise.

>> Mayor Adler: Are we ready to vote on the amendment that would extend the ordinance until the study group comes back?

>> Kitchen: May I read it again for people?

>> Mayor Adler: Well, it's just extending it --

>> Kitchen: But I said I had a date also.

>> Renteria: Mayor, I could support that if we include that the first ticket would be a warning ticket.

>> Kitchen: I can -- is that a friendly amendment?

>> Mayor Adler: So does anybody -- well... We'll come back and let you make that amendment. The amendment on right now is the one that extends the time. And it extends the ordinance, but limits its extension to when the panel comes back --

>> Kitchen: But no later than October 31st.

>> Mayor Adler: But no later than October 31st. Are we ready to vote on that?

>> Casar: Mayor, I just have to strenuously object that after the testimony we heard we want to extend for 27 years getting to a point we can finally end it and extend our ability to arrest youth who aren't in distress, who aren't committing any crime, or to send them to the court system, I -- I would just ask that folks reconsider that.

>> Mayor Adler: So when we're done with this are we going to be able to entertain an amendment that sets the policy associated with this that a first warning -- a warning has to be given before a ticket can be given?

>> Chris Coppola from the law department.

[8:25:15 PM]

I think you can. Current code has a section about enforcement procedures which instructs the department to comply with chapter 52 of the family code, which outlines various warnings or various enforcement procedures, including a warning in some circumstances.

>> Mayor Adler: So we'll come back to that in a second. The amendment is to put on there that it's extended to the study, completion no later than October 31st of this year. It's been seconded. Ready to take a vote in those in favor of that amendment please raise your hand? Those opposed? It is Flannigan and the mayor pro tem, Mr. Casar, me and

[indiscernible] And the amendment passes. You said earlier --

>> Could you read the vote count again, who is in favor and against.

>> Mayor Adler: It was 6-5. Those in favor please raise your hand. Ms. Houston, Ms. Pool, Ms. Kitchen,.

>> Alter:, and troxclair. That was just five. How did you vote?

>> [Inaudible].

>> Mayor Adler: I sigh what you're asking. I see what your asking.

>> Pool: My feeling is that it's going to be unanimous on that if we're able to do it. On the warning.

>> Kitchen: Or you could do the amendment first.

>> Mayor Adler: If someone who is voting in favor of this wants to tell Pio that if the other vote does not go the way you wanted you will give the opportunity to reconsider this vote, then we would have that.

[8:27:23 PM]

>> Kitchen: I will give the opportunity to reconsider if the vote on your amendment does not go the way that you want. And I'll be voting with you on your amendment.

>> Renteria: So we're going to take another vote?

>> Mayor Adler: We're going to take a vote. Those in favor of Ms. Kitchen's amendment please raise your hands?

>> Renteria: That's including?

>> Mayor Adler: We're going to do that in a second. If the vote doesn't go the way it is, Ms. Kitchen will give you another chance and she will vote for the reconsideration. In other words, you will give another chance to vote on that.

>> Renteria: I want to abstain on that.

>> Mayor Adler: He wants to abstain until it comes back. With the indulgence of the dais, we're going to go ahead and hold this in abeyance and let's hit the next issue first.

>> Casar: Mayor, can I understand under Robert's rules how you can back up and vote that has already failed? He didn't raise his hand.

>> Mayor Adler: It was a 5-5-1 vote.

>> Alter: Mayor, I'd like to make a motion.

>> Mayor Adler: Hang on a second.

>> [Inaudible].

>> Mayor Adler: We didn't have a vote the first time, 5-5-0 on the first vote. I didn't ask for abstentions. And we went to Pio. I'm trying to think there's a motion to reconsider on a vote. I think that either side could probably vote to reconsider that vote in a 5-5 within 1 vote, either side could ask to reconsider that vote. At this point we have a 5-5-1 vote. That amendment does not go on. Let's handle the next amendment.

>> Alter: Mayor, I would like to make an amendment that --

>> Mayor Adler: Well, I'm going to go to Pio. Pio? What's the amendment that you want to make?

>> Renteria: I would like to make an amendment saying that they should issue a warning instead of --

[8:29:28 PM]

>> Mayor Adler: Okay. It's been moved to prescribe that on the first -- that there has to be a warning before a ticket can be given.

>> I'm sure the law allows a warn to be given, but I think the police officer must have discretion to make that decision. I don't think you can dictate the police officer to make a warning every time. Am I wrong about that?

>> We can make it clear that there need to be arctic cue label reasons to go outside of that warning.

>> Another option would be to allow a citation to be given only if a warning has previously been given to that individual.

>> Kitchen: That would be better.

>> Mayor Adler: I think that's what that was. You said earlier -- so the amendment is to allow for a ticket to be given only after a warning has been given. That's the amendment. Is there a second to that? Councilmember alter seconds that. You said earlier, chief, that you also had entertained the possibility of prescribing that there be two warnings before you gave a ticket. In a conversation. Is that also feasible?

>> It's the will of the council. What we would do is we would implement a policy to where, similar like we do with criminal trespass. If we stop an individual for criminal trespass, 2015 document in the report that the individual has been given a warning on the first occurrence and if we come across that individual again we would check them in the system to see if in fact that warning had been issued. Under these circumstances we would write a report on the first interaction with the juvenile that we had found them in violation of the curfew, and we would return them to the responsible adult. If we came across that juvenile again we would check the system to see if they had a prior. If there was an interest to make that two previous, it would be a clerical issue for us and the dispatchers would have to look a little deeper to see if there's more than one.

[8:31:28 PM]

So I would not tell you it's impossible. It would require a little bit more work from our dispatchers to read into the reports to see how many times an individual had been issued a warning.

>> Mayor Adler: Okay. Mr. Renteria moved to amend it to prescribe the policy that you could not give a ticket until a warning had previously been given. It's been seconded. Is there any discussion? That's the amendment pending on this motion. Do you have an issue? It was a motion to deny, but it was amended to extend it until October 31st. That motion was defeated. That amendment was defeated. So what we have pending now before us is the motion to deny. This goes back to the problem we had earlier when I didn't want to entertain the motion to deny, but we've now entertained a motion to deny. Ann's motion was defeated. So what's in front of us right now is a motion to deny. So you can't amend the motion to deny the extension and do that. So.

>> Pool: What happened to the motion that Pio made?

>> Mayor Adler: The problem is it was a base motion to deny. So I think that what has to happen, Pio -- I think what we need is an amendment to extend to a different date than October 31st together with the change on the policy.

[8:33:32 PM]

>> Alter: Wouldn't that be a substitute motion?

>> Mayor Adler: It would just be an amendment. I guess it would be -- this is --

>> Alter: May I ask the lawyer what she would recommend in this situation.

>> Mayor Adler: It would be a substitute motion.

>> Alter: So I would like to make a substitute motion that includes the -- whatever the appropriate language is for the warning. So that we will not issue a citation unless there's been a warning. With extending the deadline to November 1st.

>> Pool: I'll second that.

>> Alter: Until when?

>> Mayor Adler: Until November 1st. So we have a substitute motion to extend it to November 1st with the policy -- no. Saying that you can't give a ticket until there had been a previous warning given. Is there a stoked that substitute motion? Ms. Kitchen makes that substitute motion. We now have two motions in front of us. We're now going to deal with the second motion first and then we'll deal with the original motion second. And when we have fully amended each of those two motions to the full extent that the panel wants to do that, then we'll vote on the motion to substitute because when you do a motion to substitute, you deal with each of them individually until they're both in the best condition they can be. And then you vote on the motion to substitute. So we're now on councilmember alter's motion to substitute, which contained those two elements. It's been moved and seconded. Is there any further discussion on the substitute motion? Squashed mayor, I would like to--

>> Casar:, I would like to move the amendment to bring the return date up to October 1st and require two warnings.

>> Mayor Adler: Okay.

>> Alter: I would accept as friendly the two warnings. If the work can be done by October 1st I would not sure that it can. And I don't know how we would -- how we would know that, but I would be happy to accept the two warnings as a friendly amendment. The other one I just don't know if it can be done by October 1st.

[8:35:38 PM]

If someone can convince me that it can be done by October 1st, I'd be willing to --

>> Mayor Adler: Let's do this in turn first. We don't have -- once a motion has been made it belongs to all of us, so the question is does anybody on the dais object to changing the date from November 1st to October 1st? Hearing none, the substitute motion is amended that way. The second part of the substitute motion was to change it to two warnings, not just one warning -- no, no. I'm sorry. I did this backwards. I did it backwards. Is there any objection to going to two warnings rather than one warning? The answer to that is in so that's now incorporated into the substitute motion. Now we're looking at the date. Does anybody object to moving the date from November 1st to October 1st? Hearing none, that --

>> Houston: I was just going to say that the original motion says December 31st, so it's going to be tight for the stakeholders to get that done, but if the maker of the original motion wants to put that, if that's his recommendation, then I'm fine.

>> Mayor Adler: He has proposed an amendment. We could vote on it and debate it or we can without objection just add it. Is there any objection? Hearing none, that's added. Are there any other changes to the substitute motion? Okay. Then we'll leave the substitute motion where it sits.

>> Casar: Mayor, I have one more amendment and that would be to not extend the daytime ordinance and only leave the nighttime.

>> Mayor Adler: Okay. It's an amendment that extends it only as to the evening curfew. It does not extend it as concerns the daytime curfew. Is there a second to that amendment?

>> Alter: Can we find out if that's legal? I had asked a question earlier today and I was told it wasn't legal. So I was curious --

>> My preference would be that you come back with an amendment that does that later because of the way we posted it, but I understand that you're going to do it this way.

[8:37:39 PM]

[Laughter].

>> Mayor Adler: So it's a posting issue, if we can make any changes then we can make this change. The issue now has been moved to extend it only as to the evening and not to the daytime. Is there a second to that amendment?

>> Alter: I'm going to --

>> Mayor Adler: Is there a second to that amendment? Yes, it's been seconded by Mr. Renteria. Discussing now the issue of not extending it for the daytime, which is in essence what this is. Do you want to address it first or want me to go to the comments? It was your amendment so you get to address it first if you want to.

>> Casar: So might the legislature bipartisan support ended criminalization of truancy, ended virtually all class a misdemeanors for not being in school, our way of keeping that intact has been by having a curfew, which basically keeps that law even though the legislature has taken that away. So I think that we can do just as well as the legislature did on the daytime one and hopefully the groups can focus their work quickly between now and October on nighttime issues.

>> Mayor Adler: It's been moved and seconded to extend only as to the evening, not the daytime. Further discussion? Ms. Troxclair.

>> Troxclair: I really have appreciated working with councilmember Casar on this issue and you all know from the comments that I've made at work session and otherwise on this issue that I don't -- I don't think that the curfew is the right way to go. And I was happy to support councilmember Casar's efforts on this, but with the division that is happening on council and people's requests to have a little bit more time, I don't think it's unreasonable for us to allow them that time and see what solutions they may come up with in October.

[8:39:41 PM]

Just know going into that time that I'm going to be -- continue to come from a perspective that I'm not sure that this is the right policy approach. I'm open to data that suggests otherwise. And I'm probably going to be there to back you up in October, but I'm going to vote for the extension and against doing away with the daytime ordinance right now just out of deference to my colleagues who would like a little bit more time to gather data on this issue.

>> Mayor Adler: It's been moved and seconded. Ms. Garza?

>> Garza: I was just curious, the ordinance says when school is in. So how do police officers -- there's summer school, there's -- how do you -- I thought the ordinance said while -- for daytime part. Does it specify public school or charter school? It said while school is in session Monday through Friday 9:00 to 2:30.

>> So we enforce this during the school year and in talking with legal could we enforce this in summer school if the student was supposed to be in summer school, by the written law, yes. By our actual application of the law I will tell you that the data, Yolanda it in front of me, will suggest that this is primarily enforced only through the Normal school year, not through summer school.

>> Garza: So if this fails, taking the daytime out, you're saying that you're not really enforcing it right now during the day.

>> I don't have the actual data in front of you, but I can tell you the primary enforcement of this ordinance would be during the traditional school year.

>> Mayor Adler: The motion is to not extend it for the daytime hours. Any further discussion? Let's take a vote. Those in favor of the amendment please raise your hand? Houston, Flannigan, the mayor pro tem, Casar, Pio, Garza and me.

[8:41:42 PM]

Those opposed? Those opposed to the amendment? It is the other four on the dais. So that amendment passes. Continuing on where we are. We have -- any other changes to the substitute motion? The substitute motion at this point in its form would extend it as to the evening through October 1st or the study completion, whichever happens first. We're now going to consider the original motion. With the two warnings. We're now going to consider the first motion.

>> Alter: I just want to clarify. We didn't necessarily say whichever is first because we still have to vote -- we still have to have time to vote on what happens from the study. So if it's not in effect October 1st, then it expires unless we do something else. You just added that -- you just added that -- you just added that as the framing and I'm not sure that's what we voted on. I just want to clarify that --

>> Mayor Adler: Let's see what it was.

>> Alter: The voting was that we extended it until October 1st. And so if the study gets done sooner we can repeal it sooner, but we have to actually implement the study --

>> Mayor Adler: Because your amendment came after Ann's amendment. Yours was just the date. That's correct, so I misspoke. I misspoke.

>> Alter: I want to make sure we're clear on what we have.

>> So the substitute motion was the evening hours extended through October 1st with the two warning provision.

>> Alter: Right. And we haven't actually voted on the study yet.

>> Mayor Adler: That's correct. That's the substitute motion. We have the main motion, the original motion, which is just to deny it. Does anybody have any amendments to that? So I think the two motions then are in their final form, then we'll vote now on whether or not to adopt the substitute motion.

[8:43:44 PM]

Ready to take a vote in those in favor of the substitute motion please raise your hand? It is Houston, Flannigan --

>> Pool: You need to explain what we're voting on.

>> Mayor Adler: What we're voting on now is extending the ordinance, but only as to the evening hours, and only with the condition that there be two warnings given first, through the extension through October 1st. Okay? Those in favor please raise your hands? Ms. Houston, Mr. Flannigan, Ms. Pool, kitchen, alter, Renteria and troxclair. Those opposed? It is the other four. The extension passes. All right. Go to the next thing on our agenda.

>> Kitchen: We're going to do 69 now, right? Do you want to do 69?

>> Pool: And on 69 do we need to change the date on that one to track --

>> Kitchen: Right. And I had an amendment.

>> Mayor Adler: Is there a motion to bring up number 69?

>> Pool: I'll move that we bring it up.

>> Mayor Adler: Mr. Casar, this is your motion. Do you want to move 69?

>> Casar: I'll move 69 with an amended end date of October the 1st.

>> Mayor Adler: Mr. Casar moves 69 with the report back date of --

>> Casar: That's right, a report back date of October the 1st. It would be before that because we would need to extend the ordinance before that. Make it September the 10th. And I would take friendly amendments on additions on the stakeholders, but I'll let other people do that.

>> Mayor Adler: Number 69 has been moved to the back date of September 10. Is there a second to that?

[8:45:44 PM]

Discussion?

>> Kitchen: I had an amendment.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I had an amendment to include in the list of stakeholders, ems, APD and echo.

>> Mayor Adler: Is there an objection to including those entities? Hearing none, that amendment is incorporated.

>> Pool: And mayor, was there another -- did councilmember Houston have some additional folks or were her people that she wanted --

>> Houston: They were included in the backup.

>> Mayor Adler: Mayor pro tem?

>> Tovo: Councilmember Flannigan and I were just looking at the calendar and I just want to be sure before we move forward that this works. Councilmember Casar, I think you amended it to the 10th, a report back date of the 10th. We have just one council meeting in September and that's the 28th. And so does that -- that provides us enough time to review the report before the council meeting, but it's an ordinance. It takes 10 days to go into effect. Let me think about this for a second. So that should probably work. Okay.

>> Mayor Adler: Any other changes to this number 69? Councilmember alter?

>> Alter: I would like to add Austin interfaith to the list of stakeholders, please. And just -- it seems like it's included for representatives and impacted students from school districts that that also includes the school boards.

>> Mayor Adler: It's been -- councilmember alter is adding interfaith, Austin irrelevantter faith. And -- interfaith. And what was the second one?

>> Alter: I think it's included. I just wanted for the record to say school board members. It says representatives and impacted students from school districts, which implies school boards. I just wanted to say that.

>> Mayor Adler: Let's put that in there specifically and then we don't have to worry about it.

[8:47:46 PM]

Any objection to including those elements? Hearing none, those are included. Anything further on number 69? Ms. Garza.

>> Garza: Since there was a lot of talk about services, I don't think we have to call them out specifically because it says should include, but not limited to this list, but I think, you know, organizations like

communities in schools, anyone that provides the services that we're assuming don't get provided. I think should be included.

>> Mayor Adler: Okay. Anything else on number 69? It's been moved and seconded. Let's take a vote. Those in favor of 69, please raise your hand? Those opposed? It's unanimous on the dais, 69 passes. I'm sorry, yes?

>> May I say so the record is clear because there's a question about this. Because item 99 did not pass with an eight member majority with an emergency passage there will be a gap. It will go in effect in 10 days because the curfew will expire on Sunday.

>> Mayor Adler: Okay. We'll continue on. Let's do number 100. Solar ready homes.

>> Good evening, mayor, city council, my name is Jose Roy, what we have before you in item 100 is the ordinance for solar ready. This will be in addition to the energy code that we adopted last year and became effective September 1st. This also is the result of the resolution for city staff to come up with this -- with this ordinance. It's been approved by the electrical commission, the resource management commission and it's been reviewed by the technical boards.

[8:49:53 PM]

What it does basically in a summary, it actually requires for commercial and residential structures to reserve some space in the roof for solar panels. It doesn't mandate installation of solar panels, just the space. And the space on the electrical service. So basically the ordinance will become effective in October 1st and we have staff from Austin energy here if you have any questions.

>> Mayor Adler: Thank you. Is there a motion to approve item 100? Yes?

>> Do we have speakers on this item?

>> Mayor Adler: We do. We have five speakers. Is there a motion to approve this item? Ms. Garza makes that motion. Is there a second? Ms. Houston. Let's listen to the speakers we have. Cyrus Reid, do you want to come on down? Is he here. And then Stuart Hersh would be on deck. Hello.

>> Thank you. Cyrus Reid for the record, lone star Sierra club. I believe a letter was passed out to you from the Sierra club in support of this. If not I have copies here which I can make available. This has been a long and good process. This actually started back last year when we discussed the energy code and the discussion at the resource management commission that I serve on was why isn't Austin doing what the state of California has done, what the city of Houston has done and looking at making new buildings solar ready? That began this process. I do want to thank Austin energy development services, the building code official and many other stakeholders who worked on this ordinance. This ordinance, as was stated, does not require new homes or buildings to have solar in it. It just requires them to be ready

for solar. There are many exceptions that are contained within the ordinance for areas that are too shade order have other physical impediments which would make it hard for them to meet this solar ready requirement.

[8:52:01 PM]

So I think it is -- it is a fairly easy ordinance for developers and builders and architects to meet. The one thing that does need to happen in the meantime obviously is for dsd and Austin energy and the other stakeholders to work on some easy compliance documents. I believe that's already in progress. But we do support the amendment. I would point out one issue that was raised by rmc was a previous version of the ordinance suggested a 35% of roof space on multi-family be the standard. This final ordinance is 25%. The rmc did suggest that 35% was a better standard because that was based on the developments that are already occurring at the Mueller area. So we would -- Sierra club does support the 35% for multi-family buildings would be the one change I would suggest. But other than that we are very happy with the ordinance as is and happy to answer any questions.

>> Mayor Adler: Okay. Thank you. The next speaker we have is Stuart Hersh. And then Glen Coleman. And then kieva white.

>> Members of the council, I'm name is Stewart Harry Hersh and I still live in drew. I oppose the ordinance in its current form. I don't understand why appendix U of the 2015 international residential code that sets the standard that's recognized nationally and internationally for solar access isn't what we're accepting either as the standard or as an alternate method of compliance. There's nothing in the backup that indicates why. And I will tell you as someone who makes buildings solar ready for affordable housing that making the roof ready involves putting a metal roof on it.

[8:54:01 PM]

You cannot -- if you have to privately finance it for affordable housing, the only way you get from here to there if you're actually putting solar panels or planning to, is to put a metal roof on, which means the affordability impact statement may accurately reflect what market rate builders do, but based on what I've been doing since 2011 with not for profits that provide affordable rental for as low as \$350 a month, the actual way that we do this is we put a metal roof, not a shingled roof. So when you're looking at the actual cost impacts of this on a practical basis, they're much higher. I still think -- I still think appendix U and this draft is reasonable, but I don't understand the resistance to using the irc as a tool when applicable given the fact that we've embraced that as part of the Zucker report. So -- and I also think that the affordability impact statement process wasn't followed, but you've heard that from me before.

So I'm urging you to amend this to allow compliance with appendix U of the 2015 irc to be equivalent for one and two family dwellings because it's a simple ordinance, it's available for free. It's the national, international standard. I can't understand why it's not acceptable in Austin. Thank you very much.

>> Mayor Adler: Thank you. Next speaker is Glen Coleman. Is he here? Kieva white is on deck at the other podium.

>> Thank you, mayor. Wow, thank you for your service, council. I'll be super brief, a little refresher on this. Glen Coleman on behalf of the builder association of greater Austin. We are not opposing the solar ready item. A couple of things that we negotiated with senior citizen rate adjustment club months ago, six or seven months ago, are all substantially intact. We asked that there there be a limitation on the minimum square footage amount. It's reasonable. We ask there be an exceptions clause that avoided too much paperwork.

[8:56:03 PM]

It's reasonable and we asked for their support for the international plumbing code, which impacts the way solar is installed. And as far as I know they're still in support of that. So we want to remain in a non-opposition and remind you that while we regret the extra cost that you're adding to the homes with this item, your next item agenda is a chance to adopt the ipc and wipe those -- wipe those costs out with some savings. They're both about the same. So I appreciate your time and will answer any questions you have. Thank you.

>> Mayor Adler: Thank you. Kieva --

>> Garza: Glen, have you seen the amendments that have been handed out?

>> I have not, no, ma'am.

>> Mayor Adler: There was just one amendment on 100? Is there a second one?

>> Is it the -- is that for multi-family?

>> Troxclair: I'm sorry, one amendment. Does councilmember pool want to lay it out to the speakers can respond to it.

>> Is it about multi-family or residential?

>> Mayor Adler: It goes from 25 to 35% on total roof area.

>> Multi-family or residential.

>> Mayor Adler: Multi-family, four stories or fewer, must have a solar ready zone not less than 35% of the total roof area of the building.

>> So one or two family dwellings would not be included? Okay. I'll let reca or the apartment associates speak to that, but one and two family dwellings not included in the amendment, councilmember pool? Correct, thank you, no one -- no, we're not in opposition.

>> Mayor Adler: Is David king here. And the next speaker is --

>> I definitely don't need six months. Kieva can public citizen. Thank you for the opportunity. It's been quite a lengthy process and I do appreciate the work that a Austin energy and development services staff have put into the process. And as you heard, this really does not require anything other than leaving some space on the roof and a little bit of space in the electrical box for future solar installations.

[8:58:10 PM]

And if you happened to be one of those people who has a home with a kind of crazy roof that doesn't allow you to put solar on it, then this is the solution to that problem. And it really can be a zero cost solution. And of course, it does not require actual installation of any solar panels. And I do want to respond to the comment about needing a metal roof for solar. I'm not sure what -- where that information came from, but that is wrong. There are of course many people with not metal roofs that have solar. I happen to be one of them. I will request that -- your support for the amendment to the 35% for multi-family. I do think this is kind of important because multi-family is already a more challenging type of housing to provide meaningful solar installations for simply because there is less roof area per unit. So getting as much space available on those roofs is important to make solar a meaningful contribution to the energy needs of those buildings. And of course there are exceptions for multi-family as well. So if it simply is not physically possible, then they will get an exception. Thank you.

>> Mayor Adler: Thank you. Next speaker is Jeffrey dwella. Is he here? Okay. Our last speaker. Mr. Dwella, three minutes.

>> Good evening, mayor, council. Again my name is Jeffrey dwella. I'm hero behalf of the real estate council of Austin. Together we're comprised of over 900 members of commercial real estate professionals throughout Austin, and we represent premier advocacy association in central Texas. We're here today to speak in favor of this ordinance. However, we'd like to point out just a few specific concerns. Specifically, while there are many instances where existing structures, commercial structures already are applicable and already designed in a way that would automatically comply with these rules, there are still some instances where certain commercial sites cannot comply.

[9:00:16 PM]

And that's really specifically the much smaller sites that we do have an additional concern, where it may be a little a little bit more difficult to have the squat space on the roof. In addition to this request, we would be happy to also sit down with staff to provide feedback is to how this gets implemented from a paperwork standpoint. We've seen in the past there's been certain ordinances where we've had this sort of three-week lull where we've had a delay because there's some confusion, so we'd like to get that addressed ahead of time. And then lastly, we wanted to highlight an issue that will be later on in your agenda, specifically item 104, and that really we are very supportive of this ordinance specifically, if we can get the plumbing code dealt with as well. And so if we can't approve the international code, then we would request that residential be stripped from this ordinance. Lastly, specifically to this one, without having specific knowledge and being able to talk to my multifamily people, I'm not really able to answer at this time, but I've already texted a few of them so hopefully I'll have an answer that I can relay to several of you.

>> Mayor Adler: Thank you. We're now back up to the dais. We have the motion. Do you want to make an amendment, Ms. Pool?

>> Pool: I do. Thanks, mayor. I passed it out, and this tracks with what the club was requesting and also what the resource management and some of the other citizen groups -- it's kind of late. I can't remember which -- all of them, but kaiva mentioned them, and so did Cyrus. New multifamily buildings of four stories or fewer must have a solar ready zone that is not less than 35% of the total roof area of the building.

>> Mayor Adler: Is there an objection to this being included into the motion? Hearing none, it's included.

>> Pool: Thank you.

>> Mayor Adler: We're back to the main motion on number 100.

[9:02:18 PM]

Any further amendments? Ms. Garza.

>> Garza: I have a question. I've not seen it in here, but does this just apply to new and not remodels?

>> That is correct. That's only for new construction.

>> Garza: And would this -- so does that include ads?

>> Well, that's a good question. Yes.

>> Garza: Okay.

>> Brand new construction.

>> Garza: So brand new.

>> Yes.

>> Garza: So I'm just curious --

>> The problem is, they may not have an [indiscernible] On the roof so they may be exempted.

>> Garza: You can do an Adu up to 1100 square feet right now, so that means they would have more than 800-square-foot of roof.

>> That's correct.

>> Garza: So it would apply to ads?

>> That's correct.

>> Garza: I guess I'm just concerned about that because those of us who are supportive of Adu's see them as a tool for affordability and family sustained place, then we're adding a layer to that. So I'm curious, if any of the advocates or industries people would like to chime in on that. And I'm curious to know if my colleagues have any issues with that.

>> Pool: So I just had a question. Are you meaning the multifamily buildings or just the solar ready, generally?

>> Solar ready, generally.

>> Troxclair: Mayor?

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: You were moving kind of quickly. I think you asked if there was any objection to this amendment.

>> Mayor Adler: I'm sorry?

>> Troxclair: Did you ask if there was any objection to this amendment? Okay. I'll object. I just want to be shown voting no.

>> Mayor Adler: Okay. Well, if you object, then it goes as a regular item. There's been an objection then to your amendment, which I didn't see, so I apologize for that. Ms. Pool moves the amendment shown on the page that she handed out.

[9:04:22 PM]

Is there a second to that amendment? Mayor pro tem seconds that. Is there any discussion? 25 to 35. Let's take a vote then. All those in favor, please raise your hand. Those opposed? Ms. Troxclair votes no, aye, it's included. We're now continuing on the main motion, which is item number 100.

>> Pool: And could I add to the question that councilmember Garza was asking? Remember, this is to make the roof ready, doesn't mean to install it. So it's the placement of where those vents would be. And I think --

>> I understand that, but I also understand that there is additional cost, regardless of how -- what we think it is, and we have said that we're using ads as a tool for different reasons, and have concerns if it's adding an additional cost for --

>> Pool: Would Mr. Coleman be able to speak to that?

>> Because I believe he's the one that said there was an additional cost.

>> So ads under 800 square feet would be exempt. You know, most adus are going to be 9,000 square feet. Is there an additional cost? There is a little bit of additional cost. You know, you just have to make a decision. We're not able to tell you exactly what that cost would be. Our builders tell us that it's somewhere between 500 and a thousand dollars. The exact same thing they say about the ipc. But we can't tell you with any credibility what that cost would be. And so I wish we could. I will tell you this. We believe that the initial cost of our architects learning to build this into their plans would add an initial cost and through time, that would fall. But I'm sorry, councilmember, you are adding a little bit of cost. There's an opportunity late in the evening to wipe that cost off the board by wiping the ipc, achieving savings and wiping out the cost of solar.

[9:06:24 PM]

We think they're roughly proportional but we're not able to get sharp on what that really is. No, Ms. Pool, I'm afraid I'm not able.

>> Pool: I'd like Ms. White to respond to that as well.

>> Thanks. So it's possible that in some cases, there's going to be an additional cost, but I would just remind you that in general, this is asking for a more simple design, as opposed to a more complicated design with more different kind of roof design elements. So if you're going for an affordable building, then it's going to have a pretty basic roof design, and it's probably going to be solar ready anyway, or it's going to be shaded and, therefore, be exempt. And then I would just point out that the kind of flip side

of any minor cost on the front end is having the ability to control your electric bills in the future, should that resident or future owners of that property choose to -- you know, want to go after solar as an option there. So I really think that there this is actually a cost-effective measure, even if it cost a very small amount on the front end, which I think, especially in the terms of adus you don't usually see a lot of fancy roof elements there.

>> Garza: Okay. Is there somebody from development services that can answer -- because my next question is, for the exception number 2, it says the building with solar ready zone that is shaded by trees or adjacent structures for more than 50% of annual daylight hours. So if somebody is seeking a permit --

>> Yes.

>> Garza: -- Right now, without this.

>> Yes.

>> Garza: -- My understanding of the way it works, you know, plans are submitted, there's not a visit by, you know, a city official. It's just -- you know, a permit is given, if everything is given. Does this now require -- how would somebody be able to prove that --

>> It will be up to the applicant to prove that on the application. We're not going to verify. That will be an honor system, honestly.

[9:08:25 PM]

>> Garza: So the applicant could say there -- we apply -- or we meet the shaded tree exception to this --

>> The most creditworthy -- where the tree is located on the lot, that would actually be sufficient to demonstrate that exception.

>> Garza: But this will not require now an additional staff to go out and confirm any of these exceptions?

>> No. Will not.

>> Garza: Okay.

>> Mayor Adler: Any further discussion on this item number 100? It's been moved and seconded. Let's take a vote. Those in favor of 100, please raise your hands. Those opposed? Ms. Troxclair voting no, the others voting aye. 100 passes. Gets us to 101, which is an appeal. So we're going to begin item 101. Before I do that, are there any requests for postponement or issues of standing that any parties want to raise? Seeing none, I'll begin with a report from the city staff.

>> Thank you, mayor and city council. My name is Kevin, I'm assistant director for Austin water utility, water resource management program. I have a brief written synopsis of this case so I'll read through that as quickly as I can. I'm here this evening to provide a brief overview regarding item 101, consider appeal filed by Mr. Michael Rooney, related to the mechanical plumbing solar board's decision to deny exception to the plumbing code requirement that 3704 ranch creek drive be connected to the city's public water system and answer any questions that you have. We do have representatives of the development services department in the audience as well. The residents on the property in question is a vacant lot. It was annexed to Austin city limited jurisdiction in 1985. Public water system for the area was installed prior to 1985 and at that time the subdivision plat included a requirement that all properties within the subdivision connect to the public water system.

[9:10:25 PM]

The applicant purchased the vacant lot and subsequently drilled a water well in 2015. The applicant desires to use the water well in a proposed rain water harvesting system to provide drinking water to his residents and plant that he plans to construct on the property. In planning for his new residents, he's requested he be allowed to forgo the water system. The plat for the subdivision and city plumbing code requires that he be connected to the water system if he's within 100 feet of the system, chess. The applicant is requesting an appeal of prior decisions requiring the connection to the public water system under city code 25-12-153, 601.1.1. That specific code states the water system of every house shall be separately and independently connected to a state license public water system. If any part of the lot or tract contains the house or building within 100 feet of the horizontal distance measured from the closest practical access point to the public water system, the connection to the public water system is not required. If any of the following apply, the water property -- excuse me -- the property owner has received a written denial of service from the owner or governing body of the public water system. The property owner has received a written determination from the water utility that is not feasible for the building to be connected to the potable water system. Or the property is served by an existing prior potable water system and the water utility has determined that the private potable water system may continue to be used, based on factors such as type of facility served, age, condition, capacity of the private water system, and the availability of records regarding the system changes, system -- or system demand. Austin water has denied Mr. Rooney's previous appeal because of the exceptions necessary to forgo connection to the water system do not apply. In this case. Particularly, the water well drilled by Mr. Rooney was drilled after the public water system existed.

[9:12:26 PM]

And, therefore, does not qualify for the existing private water well exemption. Austin water officials and city building officials have consistently denied the applicant's request to forgo connection to the water system, in accordance with the plumbing code. On April 25th, the mechanical plumbing and solar board also denied the customer's appeal to forgo connection. And we're available to answer any questions you have.

>> Mayor Adler: Okay. Thank you. Is the appealing party or representative here? Why don't you come on down. We'll give you up to ten minutes if you'd like.

>> Thank you, mayor. I appreciate that. Excuse me. It's been a long night for me, too, listening. I was going to say good afternoon, but it's good evening. I'm Michael Rooney. I live in district 10 on ranch creek drive with the owner of the property. And I'm going to do this on kind of a bullet point because I can't talk that fast, and I don't think you're ready to listen that fast. So we purchased the lot in 19 -- excuse me -- in 2013. We drilled the well in 2015. And going through the process of applying for the building permits, I discovered that in the water system that's in the legacy system that Austin has purchased is may have had asbestos pipe. My partner in this venture, Yvonne, is a cancer survivor. Asbestos is a known carcinogen, and we don't want to go there. Also, I should point out that every lot in the Glenn lake subdivision is currently connected to the system. That was part of the division -- that was part of the plats, that was -- I have a tap on the property. I have a shut-off at the property. I just choose not to use it. It's not -- the terminology that is being used here is I don't want to connect.

[9:14:27 PM]

What I don't want to do is become a client of Austin service. Connecting has already happened. The lot is connected. Every lot is. Whether it's occupied or whether it's vacant, that was part of the subdivision construction. So when I listen to what Mr. Crittenden said, in this first paragraph, the last included a requirement that all properties within the subdivision be connected, they are connected to the public system, already. The applicant desires to use the well. You want to use our well, I've designed to use a system to provide pure water for the household, for Yvonne, and we don't have to worry about the anxiety that goes along with worrying about whether or not the pipes are deteriorating in the street. The Glenn lake subdivision, the history that he gave you was correct. It's a legacy system. It was designed a long time ago. My will does not preexist that. It doesn't say preexist in the code. It says, does a well on the property currently exist. It does. I don't have service yet. I'm not a client of Austin water. And so I'm not subject to some of the things that he was talking about on those sections of the code. But if I choose to apply to become a customer of Austin water, then those things would apply. So what I'm asking from you, as the council, is to allow -- I should say to understand that I'm not asking to not connect, I'm asking to be allowed to use my own water supply. And I think I have the right to do that. It's interesting that if I become a client, I can terminate it at any time. If I'm forced to become a client, I can still terminate it at any time. Everything in the code section that Mr. Crittenden on that section of the code, 25-12, article 6, of the plumbing code, applies to those facilities that are served by Austin water.

[9:16:29 PM]

If you are not a client of Austin water, that section of the code is not applicable. I have no meter on mine. I am not a client of Austin water. They have no say over how I use my well. I have state regulations that I can follow. I met with Mr. Canales, met with Trevor brown and another officer for Austin water protection. They told me there are certain provisions you have to meet if you have your own water system, and certain plumbing codes. They went over this with me. And I fully expect this is exactly what I want to do. What I don't understand is, they also said that, if you aren't a client of Austin water, Austin water has no jurisdiction over you, as far as how you use your well, your rain water capture that you're planning for your house, it's when you become a client that you have the concerns of interconnect problems, that you have the concerns of the code section that deals with water wells. So with that all being said, I also noticed that in the last paragraph, the city's plumbing code requires all customers to connect. That's true. All customers. If you look at the definitions of what a customer is, it's somebody that's receiving this services of Austin water. I have no services from Austin water. The good thing about all this is that it is available at my property, I can request it at any time. If I sell my property, anybody buying it can request services from Austin water. The connection is there. No fault, no foul. I don't -- I don't understand their objections to my using my own water. The remediation that they offered to me at the meeting was, we will allow you to use the tap that's on the property.

[9:18:29 PM]

You can drop an irrigation meter in, put a back flow preventer and use one faucet and never use the water. You can use your own system. So I didn't understand why they can say I can do that if they say everything has to be hooked up to Austin city water. So it just seemed to me that they were requesting that I become a client and fall under all the other regulations when I don't need to. And it doesn't make sense financially to me because at that time, we are trying to build a house that's fairly self-sufficient in our retirement, and it could be passed on to the next generation and they can do whatever they want to do with it. What I don't understand is why they feel that they just need to the ongoing service fees. It doesn't make sense to me. I don't quite understand why that's an interest issue, other than the fact they lose revenue. And I understand they're not supported by tax rolls. It comes from fees and it comes from use fees. We've been on the system for over 16 years that we lived -- that we've lived in that area. So please consider the fact that there is no -- there is no loss here for anybody except the bottom line for Austin water. If I sign up to this, I have to put a back flow in, maintain it, I have all the subjects of 15-1 and 15-12 under the codes for the water wells and also cross-connection problems. So that's -- that being said, I'm open to any questions that you may have, and any concerns that you may have. I did send out documents to each one of the councilmembers, hopefully that I didn't bore you too much with

it, but I just wanted to cite some of the code sections that do apply to the current codes that you have for development of -- in title 30, for subdivisions, it makes the same provisions there that are in my subdivision provisions. The plat note that's on my plat note that they referred to, that I must connect to the community water system, there's also a note on there that says all the mitigation measures or all the remedial measures can be modified with the approval of the city of Austin.

[9:20:43 PM]

So nothing is cut in stone. And so basically I leave it up to you to decide, to tell myself and Ms. Nocu, whether or not this is going to be acceptable. Thank you.

>> Mayor Adler: We have some other people to speak, to ask questions. Do you want to --

>> Alter: My staffs are for the staffs of people.

>> Mayor Adler: Let's let the other people speak first, then we'll get to the dais. Is Christopher heck here?

>> Good evening, Mr. Mayor, councilmembers. I'm here to speak on behalf of him. I am an industry professional. I work for pelaton land solutions, an engineering consultant firm here locally in Austin. What we're looking at here is a building permit that was submitted, that Mr. Rooney had alluded to. The interesting part about all this is in that process, in dealing with Amanda -- and I won't go into the heart aches of this system, but there are checks and balances put into place where every different organization involved with the permitting process has a check box. In that check box, Austin water was the only one that had a comment. There was not a denial of that permit. In fact, Mr. Rooney has that permit right now. And on there, there is no tap fee, that -- meaning that to get the meter set into place, you would pay a fee on his current permit that is live and active in Amanda, it's not there. Now, bearing the system, whatever it is, that's understandable. We are where we are because a comment was made. That comment being said, this was on a structure that is perceived to be built in the near future.

[9:22:48 PM]

Some of the codes that were being quoted were actually for existing structures. Mr. Rooney does not fall under that. Also, the building planning code, he -- it does fall under that. He has to have a potable water system under any code that that meets the criteria of the state of Texas. Even though he would not be in this case under the administration of the Austin water utility, he would actually be under Travis county and the state of Texas. So it's not that he would have an unregulated system. And Mr. Rooney is far more concerned about cost contamination, given circumstances, than I think the city of Austin is, and

Austin water utility for cross-contamination from him going onto our system. So the asbestos line being the key component here, Mr. Rooney is just trying to bypass that. He does not want that. He doesn't want to be part of that system. So everything he's done, he's done it correct. He's not tried to work outside the lines or in any gray areas, and actually, he's actually really tried to work diligently. All of the subcommittees that he met with, they did not deny him. They actually failed to make a decision. So the interesting part about this, he only had one denial for an appeal that was for variance. That's it. That's the only denial that's ever been give in writing. Everything else was -- all the subgroups here that were to make a decision on this kicked the can down the road. That's why we're before you today, is because they didn't feel they had the authority --

[buzzer sounds]

-- To go against Austin water.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Is there anyone else here to speak in favor of the appeal? Is there anyone here other than staff that want to speak against the appeal? Okay. Does the applicant have anything else that he wants to close on?

[9:25:00 PM]

>> I would just like to say in closing that everybody that I dealt with at the city was great. There was a lot of respect. There was a lot of concern and a lot of understanding for what I wanted to do. And I think Mr. Heck was right, there was only one denial I received in writing. The others, Mr. Rann at the development department offered me a chance to submit an alternate form of compliance, and I did, and he said he wasn't able to act on it, that he wished he could, but he couldn't. So everybody was great. But the only denial I received in writing was from Austin water, and everybody else just said we don't think we have the authority to do this, so we need to continue it on. There was a vote 3-5 on the solar board because some of them really understood what I was trying to say, and I think there were those that didn't really feel they could go against what Austin legal was telling them that they had to do. Thank you.

>> Mayor Adler: Thank you. It would be interesting to hear from our staff. I'd like to know what the legal and policy issues are presented here.

>> I'm assistant city attorney. This is an appeal of a requirement out of the plumbing code. It went to the mechanical and solar and plumbing board. That was denied. And the appeal comes to this body. This body sits as Austin water, who is the decision-maker about whether or not there has to be a connection

to the city system. And so the only issue, because what I believe that he -- Mr. Rooney is claiming is that it's an existing system, and so if it's an existing system, then he can utilize the exception and not have to connect to the city's water system. So the question before the council is ultimately, is it an existing system.

[9:27:02 PM]

The water well that he drilled in 2015.

>> Mayor Adler: And tell me again why -- whether it's an existing system or not is relevant?

>> Because the last exception is that if there's an existing system thing -- Austin water can determine whether or not that the property owner has to connect to the city system. So it's one of the exceptions to the requirement that you connect to the city system.

>> Mayor Adler: So if somebody is on a water well, and then they get annexed or brought into the city, the general rule is that they have to connect to the system, to the city system, but if it's a preexisting system, then the city can accept that, an exception, you don't have to because you're already on a different system. Is that right?

>> Correct.

>> Mayor Adler: Then in this case, this is -- it was not preexisting system when Austin water was there, the well was dug, but he's never been a customer? Is that the issue?

>> That's what I understand, and my understanding from Austin water is that this is the way that they have applied existing in the past. So if the water well system was there before the city system came in, then it would be in the preexisting system. It's similar to if you have wastewater and you have an on-site disposal field and you switch, you come into the city system, they may let you stay on your on-site fields instead.

>> Mayor Adler: Okay. Okay. Ms. Garza, then Ms. Troxclair.

>> Garza: I'm just trying to make sure I understood what -- so the water connection existed from the city. It was a vacant lot. He purchased that lot with that connection, but never opened the connection or became a customer. Then created the well? Is that --

>> That is what I understand as well.

[9:29:06 PM]

>> Garza: Okay. Can I ask you a question, sir? So I understand you'd have the well for water, but what are you doing for, I guess, wastewater?

>> We have an approved design system, wastewater system from the Travis county health department, or development department, and the -- what counselor said, you know, is interesting to me because the way the code is actually written and what it actually says, on example 3, exemption 3, is that the property, not the unit, the houses, it doesn't have -- it's the property, which is real property, in the definitions under the code, is served by an existing private potable water system. It is served by an existing -- it doesn't say preexisting, it says existing. We are in limited jurisdiction of the county. We are not annexed. And so we have certain differences between actually being within the city of Austin. So, therefore, I just ask that Austin -- since I'm not a client of Austin water, and under the code section itself, under applicability of regulations on 25-1-2, it specifically says that except as provided in paragraph 5 and subsection B, and paragraph 5 says 25-12, article 6, of the uniform plumbing code applies to a structure that is served by the city's water.

>> Garza: Okay. I'll just say that I'm -- from the information given, I'm inclined to be in favor of the waiver that this gentleman is asking for.

>> Mayor Adler: So that I understand, you're living in the house now?

>> No, there is no house. We have the building permit to build it. It's a vacant lot. It has been since 1981 when it was completed, when the subdivision was completed.

>> Mayor Adler: So the question that you're saying is whether the property has been served with city water.

[9:31:12 PM]

And -- correct? The first question --

>> The property has been served by city water?

>> Mayor Adler: That's the first question you asked, it begins with is the property, not house, but the property served with water.

>> Served with water.

>> Mayor Adler: And the water department interprets that to say it's served if there's a tap, if a line is extended to the property, not if it's turned on or not. Is that the issue?

>> What I was referring to is that it's served by a potable water source, and that is my well. The property has an existing alternate potable water source so that I don't have to hook up -- probably the easiest thing to do is just --

>> Mayor Adler: What's the requirement that you have to hook up? Not the exception. What's the requirement that you have --

>> The requirement itself

states: The water system for every house or building shall be separately and independently connected to a state licensed public potable water system. If any part of that lot or tract contains a house or building is within 100 feet horizontally, horizontal distance, measured to the closest practical access root of the public water system, connection to the public water system is not required if any of the following apply.

And that third one says: The property is served by an existing private potable water system.

>> Mayor Adler: Okay.

>> A well is a private potable water system.

>> Mayor Adler: Ms. Lake, would you come back up for a second? Will you walk through the legal reasoning here for the water department's position?

>> I'm sorry?

>> Mayor Adler: Can you walk through the legal reasoning for the water department's position?

>> So the cases before is before you in part because of the building permit request. So there's going to be a structure built on the property. So as part of that review, staff is looking at whether or not there's a connection to water. And in this scenario, there's not a -- the structure would -- let me start over.

[9:33:20 PM]

The requirement would be to be connected to the city's system, which means the structure would be supplied with city water. And what Mr. Rooney, I understand, is wanting the exception for is because he already has an existing system. And staff's position is that it's not an existing system because the water system that -- the connection that was already on the property at the time predated the well.

>> Mayor Adler: Okay. Further discussion on the dais? Yes, mayor pro tem, and then you all three raised your hand, so mayor pro tem, Mr. Flannigan and --

>> Tovo: I wonder if -- I'm not sure who the best person is from our staff to answer this question. Perhaps Austin water or perhaps our city attorney. I'm really quite interested in what would be the implications of approving this exception, or -- in terms of -- in terms of the precedent we set for others who we want to use, and for whom we have a policy that they hook up to the existing system?

>> Let me step back and say the first -- we believe that it's in the public's interest that we connect as many people as can physically be connected to the system that's available. There's expense associated with existing infrastructure at the ground. So our goal is to try to provide service for as many people as possible to help share the burden and the cost of the system. Because of that, there's a requirement generally in the compliment code that says if you're within 100 feet, you should have to connect to the system. Now, there are exemptions that Mr. Rooney has raised. In this particular case, and through the practice of the utility, what we have done is, if the system, the public water system predated, you know, the private system in this case, then we would say, no, you would have to connect to the public water system because that's in the public interest.

[9:35:23 PM]

The implication would be that by the definition of existing, being just merely the existence of the well, then anybody could go drill a well, say the well exists, so, therefore, I don't have to be connected to the system. So, I mean, I think that's the policy implication, that people couldn't -- you know, could use that exemption to not connect in the future, or potentially could use that exemption to --

>> Tovo: To disconnect?

>> As a disconnect. And there's similar language relative to septic tanks. So kind of in theory, that whole thing could follow about the same logic.

>> Tovo: And I assume when you get to septic tanks, there's also health and safety reasons for having those public connections as well.

>> Yes. There are other requirements and restrictions, so, you know, I don't want to be alarmist. I mean, there are -- you know, there are siting requirements and setbacks and those sorts of things. So the practical reality of all this kind of working together is hard to say, but ...

>> Tovo: And I'm just thinking about the second point that you raised, that there are other people within this -- within the city who have wells that came after the connection to the city. In fact, there was -- there were quite a few being drilled at one point, probably five years ago.

>> It's true. There are situations --

>> Tovo: So this could potentially set a precedent for those individuals.

>> Yeah. I was talking about sort of the whole population, that possibility, but certainly in

[indiscernible] Gloom lake, we serve about 500 connections. In theory, many of them could be in the exact same situation. They could go drill a well, say it was an existing well because it existed after it was drilled, and by that exemption, sort of step off the system. That would be our policy concern.

>> Tovo: Okay. Thank you. So I guess I'm going to support the staff's position on this one. With all due respect, sir.

[9:37:23 PM]

I appreciate you coming down.

>> Can I ask you one question, though?

>> Tovo: I'm not sure I'll be able to answer it, but --

>> Well, are you on Austin water?

>> I certainly am.

>> Yes? Okay. Do you know that you have the right to -- you're under a contract with Austin water when you have service from Austin water? You have a contractual relationship with them, and that contractual relationship can be vacated at any time, either by Austin water or by the customer? And so you are a customer of Austin water?

>> Tovo: Okay. Thank you, sir.

>> Mayor Adler: What I need for you to do is direct your comments --

>> What I'm asking is, if I mandated the hookup, and later I decided I don't want Austin water anymore, I have the right contractually, to terminate the contract. And then what I'm understanding Mr. Crittenden is saying, I wouldn't even have the right to do that then. And I just understand under the unified commercial code, there's certain contractual items that have to be present to form a valid contract. If I'm ordered to do this under duress or without ascent on my part, that it's not a valid contract. So the code says that you form a contract with Austin water when you get service. And so I just don't understand then how all that will fit together by requiring that I -- I'm already connected to the system. I just don't want to use the services of Austin water. They are in the business of selling water, and that's what they do and I understand that. I just want their water because of the reasons that I said. That's the why of it. I was on the system for a long time until, you know, I got cancer, abdominal cancer, and it was horrific. So the anxiety that we would go through on having to use that system again, we just don't want to do it, and we probably wouldn't build. So I just want to understand that I think that there's certain rights in here that they're trampling on, and that the code does make provisions.

[9:39:27 PM]

And if you look at your current code for developing the subdivisions under title 30, there's a very simple statement there when it comes to hooking up to water for waterlines in that title 30. And it says a subdivision within 100 feet of a public water system must connect to the public water system. The director may waive this requirement. So it's not set in stone. The director of the -- not the utility director, just the director of Austin development can waive that requirement.

>> Mayor Adler: I understand.

>> Okay.

>> Mayor Adler: I'm probably going to join the mayor pro tem on this, sir, only because I think that the public policy would say is supported by a rule that city says that when we build out a system, we want everybody to -- to contribute to some degree to that system. And I recognize that in your case, you could still get water from the -- from the well, as I understand it, from the solutions that were offered. And I recognize that the solution seems inappropriate, in opposite here, and I understand that. But I think that it does preserve the longer public policy issue, while still allowing you to do what you individually wish to do. So I'm going to --

>> Okay.

>> Mayor Adler: -- Support the mayor pro tem on that as well. Any further discussion on this? Yes. Councilmember alter.

>> Alter: Hi. Good evening, Mr. Rooney.

>> Good evening.

>> Alter: I actually have a question for Mr. Rinn from development services if I might. Thank you. Mr. Rinn, have you ever seen a case like this before in all your years at the city?

>> Like this one?

>> Alter: Yeah.

>> No, ma'am.

>> Alter: How long have you been here with the city?

>> 29 years.

>> Alter: So in your mind, is this a precedent-setting case, if you've never seen anything like it?

>> I've not seen one. I mean, the water utility may have.

[9:41:30 PM]

But I've not seen one, no, ma'am.

>> Alter: Okay. So there is another issue besides whether the well is existing. It's whether the well was drilled consistent with state and local requirements and whether it's dangerous or unsafe or unsanitary or a nuisance. My understanding, correct me if I'm wrong, is this well is safe, sanitary, and not dangerous. So I'm having trouble understanding what the risk is involved here by not allowing this appeal.

>> There's not a health or safety risk from our perspective. That's not the reason for denial.

>> Alter: Okay. So the reason for denial is the definition about existing -- whether a well existed before it was connected to the system or not? Or is it that he has to somehow contribute financially to a system he's not going to use?

>> That's the question for Austin water. That's not how -- they have different criteria for existing than we do.

>> Alter: And what is your criteria for existing in development --

>> Oh, goodness. I was afraid you were going to ask me that.

>> Alter: Thank you for indulging me. I appreciate it.

>> I'm sorry, ma'am?

>> Alter: Thank you for indulging me. I know the hour is late. You have to look at it differently. We are a technical organization. We're not a policy organization. Our purpose is to ensure that there's health and safety preserved, and that's pretty much it. So our use of "Existing" is defined in the code, and it is pretty much is it existing at the time of application. It's different for us than it is for the water utility, though. 601 is difference than the balance of the plumbing code.

[9:43:33 PM]

>> Alter: But the code that says connection to the public water system is not required if any of the following apply, the third bullet there is the property is served by an existing private potable water system.

>> That's correct. But there are also qualifying statements in number 3 -- and I'm not the authority for number 3.

>> Alter: Right. There are. I'm happy to read them. I was just trying to save my --

>> No, I understand. But if you look at all of the text in 601.1.1, 1, 2, and 3, I'm not the approval authority for those.

>> Alter: Sure. I understand that. I apologize for putting you -- putting you on the spot in that way. Thank you.

>> Yes, ma'am.

>> Alter: So just for that, that clause reads, the property exception can happen if the property is served by an existing private potable water system, may continue to be used based on factors -- sorry -- and the water utility has determined that the private potable water system may continue to be used based on factors such as the type of facility served, age, condition, capacity of the private potable water system, and validity of records to the water system, changes to the system demand. No one is disputing the well is potable, and my understanding, he's basically been told you can connect up to Austin water and just use your well, so there's no restriction on the -- on the factors there. So I'm going to be voting to grant the appeal. Thank you.

>> Mayor Adler: Further discussion?

>> Renteria: Mayor, I'm not going to be able to support the appeal. I'm going to be supporting the staff recommendation.

>> Mayor Adler: Ms. Garza?

>> Garza: I understand the concerns about setting precedent and what the underlying policy is, but with regard to precedent setting, I never feel like we're ever doing that in any of these cases because they're so fact-specific and so different in every single case, nor do I see some influx of people coming and disconnecting from our water system because if that did happen -- that's what happened with kind of the mcmansion ordinance, something happened, and we set something, and we corrected it.

[9:45:41 PM]

There's an opportunity if we get this influx of people disconnecting from our water system, we can always correct that. And nothing stops me, I don't think, from calling Austin water tomorrow and saying cut my service off, I no longer want to be a customer, and building a well. I don't think there's anything that stops me from doing that. The thing that's -- the obstacle for this gentleman is that he's building a

new home so he can't even get his permit. But can somebody answer that? If I called Austin water and wanted to disconnect, does anything stop me from doing that?

>> No, if you're within 100 feet of the system, you have to connect to it.

>> Garza: But if I called and said I no longer want to be a customer of Austin water --

>> Right.

>> Garza: And stopped using that source, is there any legal recourse to that?

>> No.

>> Garza: I never turn on a faucet in my home, somehow --

>> You could simply not use the water, but you couldn't disconnect from the service.

>> I think that's the crux of the issue is, he's building a new house, and if the house is not connected at this time, during this construction process, that you will have -- that that's what the ultimate issue is. Correct?

>> Garza: Okay. Again, I don't see us getting a large amount of people coming and asking to disconnect from their water, so I'm -- I would support his appeal.

>> Mayor Adler: If someone didn't want to participate in the resource recovery program, could they disconnect from that, too? You'd probably still charge them for that. Ms. Houston. I'm sorry -- I'm sorry, hang on. Leslie. Ms. Pool.

>> Pool: Yeah.

[9:47:41 PM]

I'm going to support the staff recommendation on this one, for the same reasons that have already been articulated.

>> Mayor Adler: Ms. Houston.

>> Houston: So I just need to be clear one more time. It's getting late and, you know, I get kind of fuzzy this late at night. So the issue is, he can still use his well, but he just needs to be connected to the water system?

>> That's correct. We've actually discussed several scenarios where Mr. Rooney could use his well and his rain water system as auxiliary water sources in connection with the water utility. So there are ways to do it. A lot of them depend on how he would choose to do that, or plumb that. But there's different

configurations of that that could work. We have tried to find a possible alternative where it would be the least impactful on him from the financial perspective as possible, and that was the one I think he actually described.

>> Houston: But he doesn't have to use the water.

>> We can't compel him to use the water.

>> Houston: You can't compel him because to me it's a public safety -- public health issue for the lady that's living there that has cancer, or used to have cancer. I'm not sure what the current status is. And I would not want the city to impose requirements on her health that she use the water system when they already know that the water system is -- has asbestos in it.

>> And to the extent they wanted to develop an auxiliary water supply like they want to, they can. They could install a point of use treatment system on their side of the system. There's certainly alternatives that they could do and still remain compliant with the plumbing code and our policy direction.

>> Houston: So how much is it just to connect?

>> The actual connection fee, I think for the case that we described to Mr. Rooney where he would actually just do sort of a minimal irrigation, I think it's a \$2800 connection fee.

>> Houston: Ooh. Mercy. Okay. I'm going to support his appeal.

[9:49:45 PM]

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I -- so I was going to ask about the financial impact as well. It's a \$2,800 connection fee, but is there other -- is there additional financial impact that he would undertake?

>> No. I think the \$2,800 fee would be the total fee. There would be monthly fees that he would have to pay. I think depending on use. But assuming that he uses zero or little, it would be like \$10 a month. So that would kind of be the financial extent.

>> Troxclair: Okay. I'll let you answer as well.

>> There are other fees associated with the cross connection back flow that has to be put in and maintained every year and inspected so those are added into it, too. So of I -- and there's ongoing charges for -- that they charge every month on your water bill for having a well now that they're able to do under the -- the section of the code that deals with when you are an Austin client, you have well supervision by Austin water, because they feel that there's a cost connection problem now. So I was just told since I wasn't going to use the water anyway, why create that cross connection problem. Anybody

that wants to come in later on can hook up to the water if they want to. The connection is there and that puts the requirement, I thought, that --

>> Troxclair: Okay. Help me understand that distinction because I thought I understood it but I got confused. So the connection is there, and you can build a house and anybody who moved into that house in 20 years --

>> Apply to Austin water for service, they -- if they're approved by Austin water, it's all depending on whether Austin water will accept them or not, it's all in their ballpark. And then they can drop a meter in and they're connected. They form that contract and they are provided service, but through Austin water.

>> Troxclair: Okay. So it's not a matter of not having some kind of infrastructure. I thought I heard -- I thought I heard one of the other councilmembers say that there needed to be the connection there for future, but --

>> The connection for -- when they define connection under -- in this -- the code that deals with utilities, look in the definitions for connection, it talks about from the facilities of Austin water through the main to the tap line that goes to the property, to the shut-off, that's exactly what's on my property.

[9:52:06 PM]

So that infrastructure to the connection to the Austin public water utility is there. It's just that there's no meter there.

>> Troxclair: Okay.

>> Because I haven't applied for it.

>> Troxclair: And for the city staff, the -- I can't -- I don't know, I lost my question. I mean, to me, it seems the code is pretty clear, that it says contains the house or building. You know, it consistently says a lot that contains a house or building. So I'm not sure if a lot -- I don't know how we can -- oh, I remember my question. If the -- he said earlier that the director could waive the requirement. Right?

>> That has to do with the title 30 now under developments that you do any extraterritorial -- getting ready for subdivisions, when they say a subdivision is going to be within a hundred feet, they need to hook up to the system, the public system, unless the director waives it.

>> Troxclair: Okay. So I just wanted to confirm that that was accurate, if the director wanted to waive that, could he?

>> Under the section 3, so the third exemption that Mr. Rooney has brought up, the director -- how do I say this? The utility has the discretion to, in some cases, grant exemptions. And, in fact, we have granted

an exemption, not in my tenure here, but I've done some research, we did grant an exemption for a water supply system where the house existed, and the well existed before the public water system was available to that customer. Once the water system became available to that customer, we exempted that customer. They did not have to -- they were allowed to forgo connection. But in this case, there's not a house -- the well was drilled in 2015, well after the water system was available.

[9:54:17 PM]

>> Troxclair: Okay.

>> Mayor Adler: Okay.

>> Troxclair: So the short answer was yes.

>> I think, actually, under title 30, we're talking about subdivision regulations, and there may be, during the subdivision process, a waiver on the plat.

>> Troxclair: Okay.

>> But that is a separate process from where we are right now because this is already a platted piece of property.

>> Troxclair: Okay.

>> Troxclair: I was just going to say I'm going to support you and your appeal, and although I think it's important for us to have rules and I understand the reasoning for the city wanting to connect as many people to the water system, you know, this is -- this is one situation where I feel like the benefit to the water system as a whole of having him as a contributor to the system is minuscule compared to the cost -- the expense, the mental anxiety and the damage that it would cause you to be required to connect, so I think it's important for us to have sympathy, as well, in these kinds of cases and be able to evaluate each based on their unique facts.

>> Renteria: Mayor? I'd like to ask staff a question. So if I own a lot that's empty, I can put a well there on my lot. If I lived in east Austin, I have an empty lot, if I drill a well and get a permit, I can appeal to y'all saying I don't want your water, I'm going to just connect my well to my house that I'm building?

>> Under Mr. Rooney's interpretation, I think that would be correct. But under our interpretation, and that we have applied, that would be not correct. I'm assuming the lot you're referencing is currently a hundred feet from the public water system.

>> Renteria: Yeah. I'm just asking you, if we allow on this, can we allow others to do the same thing?

>> Under that interpretation, I think that would be the challenge, yeah.

>> Renteria: Inside the city. Well, that sounds great. I might have to do that.

[9:56:20 PM]

>> Alter: I'd like to make a motion.

>> Mayor Adler: Mr. Casar.

>> Casar: You can go ahead. I was going to make the motion.

>> Alter: I'm going to make the motion to grant the appeal.

>> Casar: Oh.

>> Mayor Adler: That's the motion in front of us, is to grant the appeal. Is there any -- is there a second to the motion to grant the appeal? Ms. Houston seconds it. Any further discussion?

>> Casar: Mayor, I'm going to vote not to grant it because I would like him to be hooked up, and if he doesn't. To be an Austin water customer, he just doesn't have to pay his Austin water bill.

>> Alter: Yeah, he still has to pay the water bill.

>> Casar: I'm just saying he has to get hooked up but not get Austin water if he doesn't want to pay for it.

>> Alter: He's still going to pay for it.

>> Troxclair: He's going to get a bill for at least \$10 a month.

>> Casar: For connecting, that's right.

>> Mayor Adler: Any further discussion? Yes, Mr. Flannigan.

>> Flannigan: Staff, can you help me understand how we're defining the word "Connection"? Because it seems like the property is connected because there's a tap that exists --

>> So a tap exists. The connection itself would be the connection to the private plumbing, and then in Mr. Rooney's case, there's no private plumbing today. And so there is, in this particular case, because we -- we did, in fact, inherit this system from a different utility provider, there were some things that were done differently than we currently do by our practices. But the tap was already made. The service line was extended to the meter the meter is not installed, as I understand it, and the customer cutoff is not installed. So --

>> Flannigan: And the tap existed when the original system was built?

>> I think the developer actually installed the tap, yes.

>> Flannigan: So the purchase of this property, given its surrounding properties, one would assume everybody gets hooked up to the water system.

>> The intent was that everyone would get connected to the water system. Correct. That would get service from the water system.

[9:58:20 PM]

>> Flannigan: And one other thing, I heard someone say etj, this is limited purpose, not etj. So this is -- they're not city property taxpayers, but they are city, full, voting, city residents, got to abide by all the city codes. I know we get a little confused by that sometimes. But I think given that the neighborhood existed, the water system existed, that there's a reasonable expectation that you're going to connect to the water system because the water system is there, I have a very specific technical thing I'd like to work on around this, that there is neither the time nor the willingness to do, that also impacts some neighborhoods in my district that face similar situations, that if my recollection is correct, were the result of annexation processes, where there were neighborhoods that had wells, that then the city came in and had them install the back flow protection and as I met folks over the last four years, they were none too pleased about that, and still remain not pleased about that. But I think that that's one then there's a separate situation where the neighborhood you bought into is clearly part of the water system and that to me is the defining line, that it wasn't a system -- that it wasn't property that -- or a neighborhood that had wells and the water system came in later and even -- and then the city -- I mean the fact that every property this that neighborhood is connected to the water system to me is the defining line. The separate question about this specific case, where you're concerned about the age of the water system and its particular details and the requirement for back flow protection and that you've got your own well, I would love to find a solution to that that didn't require the \$2,800, \$2,500 connection and didn't require the \$10.

[10:00:24 PM]

I'm in a middle space, that there's no way to get to tonight, which is what's frustrating for me. I think there's a reasonable expectation that everybody in the neighborhood connect to the water system. That seems clear to me. It also seems clear there should be an option to have this connection satisfied that is doesn't require usage of the system and the \$10 a month is usage of the system in my opinion. As it stands I'm going to support -- let me say it very carefully. I'm going to deny the appeal, support the staff

recommendation, because the ownership of this property is the reasonable assumption of connection to the water system that has been preexisting. That's where I'm at.

>> Mayor Adler: Okay. Any further discussion before we vote? Those in favor of granting the appeal, please raise your hand. Ms. Houston, kitchen, alter, Garza, troxclair. Those opposed? The remaining people on the dais. The appeal is denied. Is there a motion to extend this meeting past 10:00? Multiply Ms. Garza makes that motion, seconded by Ms. Houston. Any objection? Ms. Alter objects. Let's take a vote. Those in favor of extending the meeting please raise your hand. Those opposed. Alter, troxclair vote no. The others voting aye. Let's see if we can get through this. Number 87, Ms. Houston. You said there's an agreement here? You'll start us off.

>> Jerry rusthoven, planning and zoning, item 87, c142016l145, located at cantarra drive. Just to quickly refresh your memory, equated zoning is from Ir mu co, the only condition requested to be changed was the lifting of the co that limited trips to 2,000 trips a day put on the case when this property was last rezoned.

[10:02:30 PM]

So the applicant came in -- did submit a tia and it was reviewed and approved bit staff for a 3500 square feet convenience store with eight gas pumps, otherwise opposition to the gays, we had a public hearing the last time we heard it, all day today or for a good part of today councilmember Houston's staff has been meeting with neighborhoods in the lobby and they've come to agreement and if it's okay I'll read the conditions into the record. It would be continue the co that prohibits offset accessory parking in the previous case, complete carry over, to prohibit drive-in service as an accessory use to the property, provide a 25-foot wide buffer along the north and west property lines, 8-foot fence measuring 850 linear feet shall be constructed, there is a limitation of 5,000 square feet of building and that the fueling stations be limited to four. So with that, we'd be ready for approval on first reading.

>> Mayor Adler: Is there a motion to approve this agreement on first reading? Ms. Houston. Is there a second? Ms. Pool. Are there speakers that want to speak to this? Okay. Let's call the speakers. Is the applicant here? Is Nash [indiscernible] Here?

>> Houston: He's not here, mayor.

>> I'm Alice Glasco, representing the applicant, unity five investment, LLC, and I will forego my presentation and let the residents speak. I would like to thank councilmember Houston for hosting a meeting at the subdivision with the residents about two weeks ago, and I want to thank councilmember Houston's staff for assisting in facilitating meetings with the residents. We were able to reach a compromise this evening. The residents want to speak to you about some concerns they have since they were annexed, so I will pause here and just thank you for your indulgence and let the citizens speak to you.

[10:04:39 PM]

Thank you.

>> Mayor Adler: So you approve the agreement as it was read into the record by Jerry?

>> Yes, do I.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Yvonne Lopez. And then Peggy Henderson. You have three minutes.

>> Okay. Good evening, councilmembers. Councilwoman Houston, thank you so much for hosting the meeting and expressing the concerns of the residents in your district. As previously mentioned, we did reach a compromise and I'm very happy. However, I would like to ask the council to evaluate the intersection in the interest of public health, safety and welfare. When our subdivision was annexed in 2009 city improvements were not made. There must be adequate infrastructure to accommodate resident activity. Some suggested items include but shouldn't be limited to installing stop signs where yield signs are. There's still yield signs throughout the entire subdivision so some of the residents do come close to getting into accidents because people still treat those yield signs as yield signs. You know, they don't stop. In addition, we need to consider installing a streetlight. It is a very dark intersection. I have even at times almost missed my own subdivision. I've been there for three years. Because there is not adequate lighting at that intersection. We also request that y'all take into consideration a traffic signal at that intersection because with the additional traffic that's going to be coming and going and pulling into the convenience store, it's possible that there's going to be accidents. It's going to be very difficult to get out of that subdivision in the morning, and it already is kind of difficult, so I expect it to be even more so once the -- the convenience store is built.

[10:06:54 PM]

And then putting in an independent turn lane on the westbound side of Howard to allow for safe right turns into the subdivision and those are just a few recommendations to increase residents' safety. I'm sure there's others that I haven't mentioned, and that is all that I have to speak to on that. Thank you very much for your time and consideration in this matter. And, again, thank you to you and your staff for accommodating us. Appreciate it.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Is Peggy Henderson here? This is our last speaker.

>> Thank you, mayor, councilmembers. , For the opportunity to speak. I was at the zoning board meeting, and we had a lot of discussion about this construction. We came to an agreement with the developer, Ms. Glasco was here to represent. And we appreciate their time. We appreciate your time, councilwoman Houston, who has also spent a good amount of time with us on this. I'm going to staunchly echo Ms. Lopez's comments, and I would say that a traffic light at the intersection of cantarra and Howard lane is not suggested, it is a must. We are a couple of miles from a toll road, where there is now a light that is currently working because they had a trip count that -- that caused the light to be functional. We are but a couple miles from there. That traffic is passing our subdivision. So it has to go somewhere. It's passing us already. What I'm trying to say is the traffic is already there. There's already a need for this traffic light. There is no lighting at the intern to our intersection where this store is supposed to go.

[10:08:57 PM]

We're going to have traffic off of Howard lane and exiting the actual convenience store. They're going to be doing this, with no light, and that's whether our kids turn. That's whether we live, and that's where our safety is at risk. So there's a couple of different issues here, because the traffic light and the lighting are separate and apart from the construction that we've already agreed to with this developer. And I've already put in a request for lighting at cantarra and Howard lane. They told me it's not my property, so can't do anything about that. And we need to talk about the trip count and all these other things with that traffic lighting and where that happens with the director of transportation. I'm here to appeal to you, because everyone deserves to have the opportunity for safety and security in their environment, and we have willingly agreed to make concessions even though most of our residents did not want this construction for the convenience store. We were not notified because we were more than 500 feet within our subdivision of this construction. So we're willing to make amendments and work with this developer, but we'd also like our safety and security because we -- because we deserve that, and we're already annexed, and I don't understand why we're making things more difficult for the safety and security of people who pay taxes and do their due diligence to be good citizens. So I think Ms. Rodriguez, she put in her request to speak with the clerk's office, so it was not --

>> Mayor Adler: That's fine. She can come down and speak if she wants to speak.

>> I apologize.

>> Mayor Adler: That's okay.

>> Hi, mayor, councilwoman Houston. How are you doing this afternoon? Thank you for allowing me to speak. I did put my request through the email.

[10:10:58 PM]

I don't know what happened.

>> Mayor Adler: That's okay. What's your name.

>> Stacey Rodriguez.

>> Mayor Adler: When you're done testifying if you can go talk to the clerk when we're done.

>> Sure, not a problem. I've lived in the cantarra subdivision since 2009. The area that the ladies are talking about where -- beside where the convenience store and the gas pumps are gonna be built, it is pitch black. If you go drive down there right now, you will not see the entrance to cantarra drive. It's very dangerous, especially early in the morning, during schooltime, when our children are getting on the buses to go to school. The school buses have a hard time even getting out of that area. At nighttime, especially in the wintertime, when the kids are coming back home from school. The buses even have a hard time making sure they go into the right subdivision, the entranceway. We did come to agreement with the building of the gas station/convenience store. I really didn't want it, but it was already approved. I wasn't notified about this because I don't live within that 500 feet radius. I just want to let y'all know and just have y'all think about other times when a gas station is going to be built by a neighborhood. There is a lot of health risk -- involved in that. It is proven through studies that gas station fumes, the loading and unloading of the fuel, people pumping their gas and droplets going on to the floor causes a lot of health risk in children and women who want to get pregnant. We kind of are surrounded by gas stations. I'm not sure how this got approved, but my main concern my kids. I have an 11 and 8-year-old and 2-year-old. My son has asthma. So us living there at this gas station, it's going to maybe cause flare-ups or other things but I would like for y'all to have that in mind if other things come up, if you see another gas station trying to get zoned close to another neighborhood I'd like for y'all to step back and think, you know, if you lived there, if your children lived there, would you want them breathe these fumes, things like this happening right where y'all live.

[10:13:12 PM]

I would hope not. But, once again, you know, it got approved and we all agreed on that. I just want to duly -- actually ask for help with getting lighting to our entrance or a stoplight around that area. It's very dangerous. If any one of y'all would like to drive in our neighborhood it would be great. That way you

could see it first hand. Thank you all so much for your time. Did you want to say something, Ms. Houston.

>> Houston: Yes, I did. I want to thank you all for coming out. I want to thank Ms. Glasco, who represents the owner, for hosting us having a good conversation. Please thank the developer for letting us use the model home. We had maybe -- what do you think? About 35, 40 people? 35 people there that were concerned. Maybe 25, 30 folks there. But I think that started the conversation so that when y'all arrived here tonight you could sit down and have some additional conversations and come up with a compromise. But based on what I heard that night I've already put in a request to have a traffic count down with the transportation department. That's in region two of the Austin police department. I've asked them to see if they could do more patrols. Part of that is county road and some of it is city road, to see if the county could do some additional patrolling. So that's kind of already in the work, and we'll keep you updated on where we are with the light. And the developer should be putting some lights up at the entrance to cantarra because that's -- they're still working there. They're still -- the yellow stripes that y'all mentioned, that's the developer's responsibility. So but we'll stay in touch, and I want to thank staff, Chris Hutchins for working diligently to make sure y'all came to some compromise this afternoon, so I appreciate all your work.

[10:15:12 PM]

>> Mayor Adler: Okay. It's been moved and seconded to adopt this. Is there any discussion? Let's take a vote. Those in favor of item 87 please raise your hand. Those opposed. Mr. Flannigan votes no. Others voting aye. It passes. Is there some -- I see Ms. Garza there. All right. Let's go to the next item that we have. I'm sorry, what?

>> [Off mic]

>> Mayor Adler: I couldn't see her. I wanted to make sure she was on the dais. Okay. That gets us then to item number -- let's see, 102.

>> Good evening, mayor, council. Chuck Iezniak, city environmental officer. Item 205102 is a settlement of amendments to land development code that are primarily cleanup items from the 2013 watershed protection ordinance. These were recommended unanimously by the planning commission, environmental commission. You also should have in front of you a motion sheet that includes some changes that are -- were recommended by stakeholders, by councilmember pool and other stakeholders in meetings that we've had since the planning commission. Staff also recommends those changes as well. If you would like, we can have a short -- we've got a short presentation if you want to go through these. Most of them are pretty straightforward. If you don't have any questions, we can skip the presentation, whatever your pleasure is.

>> Alter: Is there an extra copy.

[10:17:12 PM]

>> Excuse me?

>> Do you have an extra copy?

>> Of the motion sheet?

>> Alter: I'll just look at hers. Thank you.

>> Mayor Adler: We have two people -- I'm sorry.

>> We do have two people signed up to speak, yes, mayor. Also, this was -- the motion sheet was distributed to you yesterday, to council yesterday, with a cover memo from me. There is one change that was made at the request of Austin energy and agreed to by the stakeholders. We added what was in there yesterday just referenced allowing development associated with power generation in the critical water quality zone at lake long. Austin energy requested that we add to include transformation and distribution, and that is in case if at any time in the future decker were to close as a power generation plant, if they wanted to leave a substation there they would be able to do that.

>> Mayor Adler: Let's add it in part five.

>> Yes. That's included in the motion sheet that's on the dais. It's just different than what was distributed to you yesterday.

>> Mayor Adler: Great. Thank you. Let's call for speakers. Is David king here? Do you want to speak? Okay. Is Lauren ice here?

>> Thank you, mayor. Mayor pro tem, councilmembers. I'm just here to say that I support the amendments and the cover letter that were just spoken about, as long as those are included, I'm supportive of this item. Thank you very much.

>> Mayor Adler: Thank you. Lauren.

>> Thank you for the opportunity to speak. My name is Lauren ice with save our springs alliance. I wanted to take this opportunity to thank the staff actually for working with us on these amendments. The amendments came to us or came to the community, you know, as part of a larger package of wpo amendments, and the staff agreed to break up some of these cleanup items from the -- I think some of the more the Barton springs redevelopment exception, and so we appreciate their willingness to give some more time for us to work with them on those, as I said, more difficult amendments and really make sure that the LE development exception provides us with substantial water quality improvements.

[10:19:32 PM]

Concerning the language that's in front of y'all tonight, you know, we submitted detailed comments on that language. As I said, we met with staff a couple of times. They've been really great about listening to our expenses -- concerns and incorporating that into the language that's there. I'm just here to ask when y'all do adopt these amendments that you adopt all of the language that's in that motion sheet as well. And then that's it.

>> Mayor Adler: Okay.

>> Hopefully that makes a late night decision a little easier.

>> Mayor Adler: Thank you very much. Thank you for your work. Someone want to move passage of 102 with the motion sheet items? Ms. Pool makes that motion. Is there a second to that motion? Councilmember alter seconds that. Is there any discussion?

>> Garza: I have a minor amendment that --

>> Mayor Adler: Go ahead.

>> Garza: My zap commissioner asked me to. It's really minor. It's on page 10. It currently reads -- well, does anybody want to read along? It's basically just saying protect and address an existing threat to public health, so adding protect and address. Is there any problem with that? Okay.

>> Mayor Adler: Say that again?

>> Garza: It's on page 10.

>> Mayor Adler: Right.

>> Garza: Bottom of the page, floodplain modification, one. Right now it's -- protect is redlined out. Protect the is redlined out. I would ask to add "Protect and address."

>> Mayor Adler: So you're adding the phrase "And address."

>> Garza: And bringing protect back in. It's currently red-lined out.

>> Mayor Adler: Okay.

>> Garza: So "Protect and address."

>> Councilmember, just so I'm clear, which section? Page 10 of the draft ordinance?

[10:21:34 PM]

>> Garza: 25a364. Floodplain modification. It says page 10 on mine.

>> Mayor Adler: In which section?

>> Garza: 258364. One --

>> Okay. Where it says b1? Where it says "Is necessary to address any existing threat"?

>> Garza: Yes. Just add protect --

>> I have no objection to that. I think it's fine.

>> Mayor Adler: I'm still not finding it. I apologize.

>> On mine, mayor, it's page 30.

>> Mayor Adler: Page 30. Okay. And we'll also need to make the equivalent change in the related title 30 because they mirror each other. Which applies in the etj to subdivisions. So it's 258364b1 and the analog in title 30.

>> Mayor Adler: Okay. Any objection to that addition being included?

>> Pool: Mayor --

>> Mayor Adler: It's included.

>> Pool: Happy to take that amendment.

>> Mayor Adler: Any further discussion --

>> Mayor, I want to point out that because a dumb of these minor changes include the sos amendment or the sos ordinance, for that section, we will need a super majority and we will need a minimum of nine votes for those sections to pass.

>> Mayor Adler: Okay. Let's take the vote and see how that looks. Those in favor -- Ms. Troxclair?

>> Troxclair: I just have a question. What is the -- I don't understand the interest in the part that has to do with roof top swimming pools not being exempt from impervious cover.

>> Under current code, a swimming pool doesn't count towards your impervious cover.

[10:23:37 PM]

>> Troxclair: Right.

>> We have had a couple of creative engineers who have denied this request. We have a couple of creative engineers with downtown development where impervious cover is very precious and in other areas where it's very precious propose putting swimming pools on a roof top of the building so that that portion of -- that footprint of the building was deducted from their impervious cover calculation. We have not allowed them to do that, but this would clarify in the code that you can't do that.

>> Troxclair: But why -- I mean, what's the reason -- what's the policy rationale if an in-ground swimming pool doesn't impervious cover, why wouldn't the same be applied to -- regardless of where the pool is located?

>> It's primarily to address residential use rather than commercial use, and these are commercial pools. And so, for example, you could have a downtown building where -- have a condo that still generates a lot of runoff, a condo tower that still generates a lot of runoff and cover a large portion of their roof top with a swimming pool area and they'd have very little impervious cover on their lot even though they'd still be generating a lot of runoff because it would overflow from their pool or go to the sanitary sewer system through the overflow system on the pool, which is a -- both of those situations would not be desirable from our standpoint.

>> Troxclair: Okay.

>> So it would cause the pool to fill up and overflow into the storm sewer system or overflow into the sanitary system, and where impervious cover is precious, we could see people maybe doing that.

>> Troxclair: It seems like it would have to rain pretty vigorously -- I don't know. I won't take anymore time. I don't really understand the -- from a practical policy difference why they would be different, but I will let it go.

[10:25:40 PM]

>> Okay.

>> Mayor Adler: Okay. 102 has been moved and seconded. Is there any further discussion? Ms. Pool.

>> Pool: One real quick question. The protect and address I don't -- I just wanted to make sure that that was not protecting and addressing an existing threat. So I have to -- so we don't want to protect the existing threat, right? So this is on page 10 -- is that the same place, councilmember Garza, that you were talking about?

>> Mayor Adler: Floodplain modification outside of critical water quality zone is allowed only if the modification proposed is necessary to address an existing threat. Right now it reads an existing threat to

public health and safety. And the amendment we passed changed it to address an existing threat to protect and address public health and safety. Is that right?

>> Garza: No. I think it is probably supposed to be to protect something and address.

>> Pool: It's protecting public health and safety and addressing the existing threat.

>> Protecting -- I'm sorry. Chad Shaw with the law department. If I can --

>> Pool: Please help us.

>> Perhaps assist a little. We have the -- the language has sort of become a bit confusing. So -- and I believe councilmember pool just mentioned what is necessary to protect. We were once protecting public health and safety. Now we are addressing threats. I don't think we want to protect threats.

>> Pool: Right.

>> I have to admit that is a bit confusing.

>> Garza: Would it be okay it is necessary to protect public health and safety and address an existing threat.

>> Or by addressing existing threats.

>> Garza: Yeah.

>> Because the intent is that it's necessary to address the existing threat.

[10:27:40 PM]

>> Garza: Yes.

>> That you're protecting the public safety by something that exists because there is a potential where the development itself could create the threat and you get to do the floodplain modification. That's not the intent. You only get to do the floodplain modification if there's an existing public safety threat that you're trying to address.

>> Garza: Okay. So I think what the intent behind this amendment is to protect public health and safety by addressing.

>> Yes.

>> Mayor Adler: Any objection to changing the amendment to read that way? Hearing none, that's how it's changed.

>> Pool: Thank you.

>> Thank you.

>> Mayor Adler: Thank you. Councilmember pool. We're back to 102. Any further discussion? Those in favor please raise your hands. Those opposed. Those abstaining. Ms. Troxclair abstains. It is 10-0-1. It passes. Okay. That gets us -- let's go to -- is there anybody here to speak on 103? 103? We postponed that until August. So no one here to speak on that. Okay. Thank you. That gets us then to our last item, which is 104 --

>> Excuse me, mayor. Was that on all three readings?

>> Mayor Adler: Yes.

>> Okay, thank you.

>> Mayor Adler: That was 102 was passed on all three readings. With ten votes. That gets us -- there are no speakers on 103. That gets us to 104. This matter, the public hearing has already been closed. Anyone want to make a motion on 104? I'm sorry?

>> [Off mic]

>> Mayor Adler: Mayor pro tem, you want to ask your questions first? Go ahead.

[10:29:42 PM]

Staff here for this?

>> Maybe.

>> Tovo: So, you know, I'm still trying to figure out -- I'm still weighing the differences between the two different recommendations, and I think one of the things that I'm really still struggling with has to do with some of the amendments that the city has made in the past to the uniform plumbing code. For example, over the past few years we made some amendments with regard to skilley water and back flow prevention, and so what happens to those provisions that were amendments to the uniform plumbing code?

>> Where they're necessary, we've incorporated them into both -- into both of the options before you. They're for water conservation and cross-connection control and I have some other staff here that have some more detailed technical capabilities if you'd rather have more detailed than that.

>> Tovo: I would. I think I would like to hear from the water utility if we've got someone who can address how those -- we had a gray water working group. We've had a lot of staff and community attention to these efforts, and it's not clear to me what happens to those if we adopt the irc.

>> Thank you, mayor pro tem. Daryl Slusher, assistant director Austin water. Under the -- if you would look at r101.2.1 on page 2, that deals with the auxiliary water, and everything accomplished in there and it sends you back to the uniform plumbing code. So, frankly, Austin water does have some concerns about that you would be dealing with two codes at that point, and we would ask if the council does pass the irc that we could come back with local amendments to make sure that these stay in place.

[10:31:49 PM]

I might say for the -- not stay in place, but that where it's more clear, and we think maybe that was caused by the quick time line on the irc. So we're reluctant to endeavor -- to speaker different than another department. Just for the records, auxiliary -- when we talk about auxiliary water, we won't go on too long about it, but these are waters that supplement our potable system but don't come through our pipes. That would be rainwater harvested, gray water, reclaimed water, and so we have to make sure -- so we let people do that. That's a water conservation measure in a lot of instances, and we also have regulations on that cross-connection preventions. I know the mayor pro tem is really familiar with those. Cross-connection preventions also called on to go to the upc.

>> Tovo: So if the council goes with the recommendation to adopt the irc, it actually sends people back to the uniform plumbing code for all of the -- for a whole body of plumbing-related issues?

>> That's correct, mayor pro tem. For everything that's called out in the l101.2.1 on page 2.

>> Tovo: Why not just adopt -- why not just add the local amendments that were adopted into the uniform plumbing code into -- why -- I guess why would we choose that option rather than craft those amendments and have something before us that incorporates it all into one code?

>> I think that would be a question for dsd, but I think it had to do with the amount of time they had to do the irc and not having the time to do the traditional process that is usually done for the plumbing code.

>> Tovo: What is the traditional process.

>> Mayor pro tem, this is Susan marsh, one of our supervisors in inspections. She's really up on this. Let me let her answer you, if you would.

[10:33:52 PM]

>> I'd just like to comment that those provisions would be in the code regardless if it was a upc or the irc plumbing. They're -- Austin water specific local amendments that would occur regardless of what plumbing code is in place.

>> Mayor pro tem, the staff recommendation amends the international code to address the plumbing and to it had to change what council previously adopted and it does send them to the plumbing code for those particular requirements. So they have not changed. It's just put those particular ones into the plumbing code.

>> Tovo: But the -- as I understand it, it's sending them into a -- it's sending them back to the other provisions rather than integrating those provisions into what we're being asked to --

>> Mayor pro tem, if I could, from our perspective, when you put the same text in two, three, four places, it just makes it complicated to fix it later. This way, if they ever do modify those provisions, we don't have to modify them in two or three places. It's just in that one place. We really do want to keep our requirements as succinct as possible so we don't have to keep track of where they're all codified.

>> Tovo: So I'm looking at the exception to r101.2.1, the provisions of the plumbing code apply to back flow prevention and protection, water protection, cross connection control, landscape, alternate and auxiliary water source systems and water conservation and then it talks about back flow prevention shall be provided as required by the plumbing code. What plumbing code is it referring to? The upc?

>> The upc, yes, ma'am.

>> Tovo: That would be the provision we'd be adopting today within the irc?

[10:35:54 PM]

>> There's two options before you. The staff option would adopt the irc plumbing with -- with the changes that the local amendments -- mostly for cross-connection control, for residential. But the upc for commercial. The board recommendation is upc across the board.

>> Tovo: And I guess I was interested in Mr. Slusher, what you were saying about the process. What -- and I think we heard that from some of the speakers and heard some emails about that as well. What would the process normally look like with regard to the adoption of the code?

>> There would just be a longer period of time for -- it goes out to all the different departments that are relevant departments and there just wasn't that amount of time and involvement on this one.

>> Tovo: So from the water utility --

>> No, ma'am.

>> Tovo: I'm sorry. I'm asking Mr. Slusher a follow-up question. So there was not -- the kind of regular amount of time for the water -- for you at the water utility to provide that or the cross-connection?

>> Yes, ma'am, that's the way it seemed -- that's the way we felt about it.

>> Tovo: Okay. Okay. And I'm sorry, Mr. Ruin, I think you had a comment?

>> I was going to expound. We weren't prepared in April, when we set the hearing date, to bring a staff recommendation. It was requested by council, and so we did have to do some work in a relatively short period of time to codify what we had previously taken to the board and were rejected by the board.

>> Mayor Adler: Okay.

[10:37:56 PM]

Ms. Pool, someone want to make a motion?

>> Pool: I'd be happy to make a motion.

>> Mayor Adler: Okay.

>> Pool: I make a motion to pass the board recommendation.

>> Mayor Adler: Is there a second to the motion to pass the board recommendation? Mr. Casar. Ms. Pool.

>> Pool: Mayor, I know that one of the members of the mechanical plumbing and solar board is here, Joe cooper. And is he still here? It is kind of late.

>> Yes, ma'am.

>> Mayor Adler: He's over here on the right.

>> Pool: Was there anything that you wanted to add to the good of the cause? And thanks for hanging out with us so late.

>> Well, thank you all for your time and efforts in this. Your mechanical plumbing solar board, we voted twice to send this to y'all. To adopt the uniform plumbing code. We recommended staff to bring it to you. It never got done. They did bring you a recommendation, they came the exact opposite of the board. I don't know why it never got to water and wastewater. That was -- that's city staff. I've heard affordability. I've heard everything. I try to incorporate everybody and get y'all information I could, all the studies I got, come -- show there's no impact. It's actually cheaper to stay with the code you've got.

Currently the code you have right now is in place for residential and commercial. One set of, you know, ordinances from that. If we deviate you'll be looking at two codes, double ordinances. It's just going to be making that much more money and I'm happy to answer any questions you have.

>> Pool: Thanks.

>> Mayor Adler: It's been moved and seconded to adopt the uniform code. Is there further comment? Mayor pro tem.

>> Tovo: I want to double-check and I'm sure you know this information or I could go back to Mr. Slusher. I want to be clear the body of provisions we were just talking about with regard to auxiliary water and cross-connections and whatnot are all already contained with the uniform plumbing code so they would be in the board recommendation.

[10:39:58 PM]

>> Yes, ma'am.

>> Tovo: We'd be keeping all of those in just the very same place they're in.

>> Yes, ma'am.

>> Tovo: Okay, thanks.

>> Mayor Adler: I just want to say when this came up in the conversation, I asked the staff to put together a recommendation, and I appreciate all the time and work that went into doing that. And it really enabled me to learn a lot. My sense from the discussion of some of the board members and some of the plumbers that were here is that this is something that's evolving over time, the code, the international continues to change so this may be an issue that comes back to us. But even though I'll be voting for uniform code today, I just wanted to thank you and thank your staff for giving us your views on this and it's something I want you to know that we always want. Thank you. Further discussion? Ms. Troxclair.

>> Troxclair: I am -- the motion is to approve the uniform?

>> Mayor Adler: Correct.

>> Troxclair: I'm going to vote against the motion in favor of the international residential code. Today the council had an opportunity to reduce the cost of building in the city by, you know, one to \$2,000, and improve affordability by that margin. And the original stakeholder group of diverse industry interests as well as environmental people, et cetera, had -- had an agreement that if the city wished to pursue the solar ready amendment that it made good common sense to offset the costs that that would impart on new homes by switching to the international plumbing code. And we -- I have not seen any

information that contradicts the staff's recommendation that this is not only a superior code but is also less expensive.

[10:42:04 PM]

So I just -- I'm -- I'm sure that the uniform code will pass, but I just wanted to I guess convey my disappointment at not taking the opportunities that were presented to us today to address affordability.

>> Mayor Adler: Okay. Any further discussion on this item 104? Let's take a vote. Those in favor of the motion from menlo park please raise your hands. Those opposed? Ms. Troxclair voting no, the others voting aye. It passes. I thank everyone for their time. That is all the business we have. It is 10:42. And we stand adjourned.

[Adjourned]