



Austin City Council MINUTES

**SPECIAL CALLED MEETING - SEPTEMBER 16, 1992
1:30 P.M. - TOWN LAKE CENTER
FIRST READING OF THE BUDGET & OTHER ITEMS**

Mayor Todd called to order the special meeting of the Council, noting the presence of all members of the Council.

BUDGET WORKSESSION

Bill Stockton, Director of Public Works and Transportation, reported on the Department of Public Works and the Drainage Utility. His remarks concerning the budget of these entities were illustrated with slides.

PUBLIC HEARING

1. Proposed water and wastewater rates.

The Council, on Councilmember Reynolds' motion, Councilmember Garcia's second, closed the public hearing. 7-0 Vote.

RECESS

Council recessed its meeting from 3:55 to 4:04 P.M.

DISCUSSION

Before Council voted on budget ordinances, there was discussion of items that individual Council members were most interested in having studied before passing Ordinances on second and third readings.

Mayor Pro Tem Urdy discussed pay increases and said he would like to alleviate some disparity in lower paid ranks. He also would like to see home work centers and improvement to the 911 system.

Councilmember Nofziger wanted funding for music loan program for a minimum amount of \$150,000.00 and funding of an air quality position in ECSD. He recommended \$577,000.00 for tree preservation as

requested by the Urban Forestry board. Councilmember Nofziger said there should be a bicycle coordinator position and it could be funded through ATS. He also discussed in-house advertising for the Convention Center.

Councilmember Epstein said there are a number of temporary workers in the Electric Department who should be put on the payroll as regular employees. She said the mounted patrol horses need better stables; Williamson Creek maintenance should be looked at; funding for Pioneer Farms should be increased; and more than the minimum should be done about the Americans with Disabilities Act.

Councilmember Larson said an air quality position should be funded for at least one-half year. Williamson Creek flooding and maintenance should be taken care of, as well as EMS communication equipment. Also, Councilmember Larson recommended an increase in the strength of Parks Police.

Councilmember Reynolds wanted a reduction in tax rate, renovation of parks play scapes for \$120-150,000.00, a summer library program, expansion of Windsor Park Branch Library, keeping open the Spicewood Springs Library on Sundays and, funds for the Police Department.

Councilmember Garcia asked for more Human Service funding, including AIDS funding.

Mayor Todd said there should be funding for AIDS education, specifically for children age 0-8, and particularly in the poverty areas. He also recommended additional forestry funding to save trees.

Councilmember Reynolds said he has trouble with the 50 cent drainage fee and said there should be a plan to cover the City retrofit and monitor all parts of the City. He asked for a review of all fees and asked Council be informed regarding those which have no change.

ORDINANCES

Mayor Todd suggested to Council that the following, #2-7 could be taken in one vote. Councilmember Epstein requested the vote for each ordinance be taken individually.

2. Approve first reading of an Ordinance adopting and approving the Operating Budget for the fiscal year beginning October 1, 1992 and terminating September 30, 1993, and making appropriations for each department, project and account, including the errata.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 6-1 Vote, Councilmember Epstein voted No.

3. Approve first reading of an Ordinance adopting and approving the Capital Budget for the fiscal year beginning October 1, 1992 and terminating September 30, 1993, and making appropriations for each project and account, including the errata.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 7-0 Vote.

4. Approve first reading of an Ordinance fixing and levying Municipal Ad Valorem taxes for the City of Austin, Texas, in the amount of 64.10 cents for fiscal year 1992-93; and for each year thereafter until otherwise provided; directing the assessment and collecting thereof; approval of property tax exemptions for historic property, persons with disabilities and elderly persons; directing the assessment and collecting thereof; validating all prior Ad Valorem taxes.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 6-1 Vote, Councilmember Epstein voted No.

5. Approve first reading of certain ordinances authorizing fees, fines and other charges for City services and use of City facilities.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 6-1 Vote, Councilmember Epstein voted No.

6. Approve first reading of an Ordinance adopting Water and Wastewater rates.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 7-0 Vote.

7. Approve first reading of an Ordinance providing for the number and rank of positions in the classified Civil Service of the Police and Fire Department.

On Councilmember Nofziger's motion, Mayor Pro Tem Urdy's second, 7-0 Vote.

8. RESOLUTIONS

Approve adoption of the Balcones Canyonlands Habitat Conservation Plan, with changes.

COMPLETE TRANSCRIPT OF DISCUSSION ATTACHED.

On Councilmember Garcia's motion, Mayor Todd's second, 5-2 Vote, Councilmembers Epstein and Larson voted No.

RECESS - Council recessed from 5:36 to 6:00 P.M. during discussion of the BCCP, and before final vote.

ADJOURN

Council adjourned its meeting at 6:20 P.M. on Councilmember Garcia's motion, Councilmember Reynolds second, 7-0 Vote.

8. Approve adoption of the Balcones Canyonlands Habitat Conservation Plan.

MAYOR TODD: All right, Item 8 approve the adoption of the Balcones Canyonlands Habitat Conservation Plan. Is there a motion?

COUNCILMEMBER GARCIA: I want to make a statement then I'm going to make a motion. The reason that I was late is that I have been talking to the people involved in getting the approval and specifically the county judge, Bill Aleshire. I think that what he has told you and what he wants everybody to know is that he wants the council to approve this first before the county commissioners consider it. I think it's appropriate. We are the ones who have authorization of the voters and I proposed to Councilmember Reynolds and Jim _____ from The Conservancy the prospect of voting for this plan tomorrow instead of today. In the last discussion, the one that was interrupted by Councilmember Epstein,...

COUNCILMEMBER EPSTEIN: (can't understand)

COUNCILMEMBER GARCIA: The judge expressed to me that the commissioners' court would prefer that at least we would consider it today and I think that it is a reasonable request that the judge made. He wants to make sure that his commissioners have a reading with enough lead time which will be one extra day. With that said I'm going to go ahead and move that we approve the resolution and proceed with the understanding that tomorrow we will have a hearing because this plan is still in formation and probably will be for some time to come. So, with that said I put the motion on the table.

MAYOR TODD: All right, motion by Councilmember Garcia. Is there a second to the motion? I'll second the motion. Is there discussion?

COUNCILMEMBER REYNOLDS: Yes.

MAYOR TODD: Councilmember Reynolds?

COUNCILMEMBER REYNOLDS: Mayor, I told you that I'm supporting you on the BCCP and I'm also going to support the plan but I really do believe that we need to make sure that the public feels like the process is working. We told people that on Thursday there would be the continuation of the public hearing and/or discussion of that if there are any adjustments, allocations or changes that might need to be made. I thought we were going to vote on this on Monday and the county was going to vote on it Tuesday. Obviously, that is not going to take place. In my conversations with Councilmember Garcia, a little while ago, he said, "Well, we could agree to Thursday" and I said, "Well, as long as we have the public hearing and let all those people who want to come and talk about the issue and we have all that input before we take a final vote". I think, taking a vote before we have had a continuation of the public hearing or had that information... I realize that we did continue the public hearing, yesterday, and I thought one of the reasons that we scheduled it for 5:15 or 5:30 was to give those people

the opportunity that were at work and could not come until after work. They were not going to be here, today. They were not able to be here, yesterday, but they will be able to be here Thursday because it will be after five o'clock and I'm in favor of listening to what they have to say. I am going to support the plan. I don't foresee any amendments to make me change. I have not seen any amendments that would make me change anything in that respect but, I think, we owe it to the people to hear from them and I would like to make a substitute motion that we postpone this and vote on it (we will just see where the votes are) Thursday. Thank you.

COUNCILMEMBER EPSTEIN: Second.

MAYOR TODD: All right, there is a motion and a second to postpone this until Thursday. Is there a discussion on the substitute motion?

COUNCILMEMBER EPSTEIN: Yes. I would like to thank Councilmember Reynolds for his comment. We all agree unanimously that we have a public hearing on this and the public hearing has not been closed. As Ronney said we are going to have a public hearing, tomorrow, and it's for after five o'clock so that citizens would have the opportunity to come and speak and I think that if we say that and we didn't really mean it and we don't want a public hearing on this very important issue that we are sending a very bad message about ourselves to the voters. I don't think any of us believe that we are a council that doesn't think a public hearing isn't important. I got a letter from a citizen who said he signed up to speak and he is supposed to speak on Thursday. We don't want to cut anybody off. So, I'm going to support the motion rather the substitute motion. With regard to what my other colleague mentioned about speaking to the judge. The county has made it very clear from the beginning that if the road district issue would resolve satisfactory they didn't mind if we went and spent some money on something. I mean, it's our money not theirs. Their meeting is on Friday so after Thursday's vote they will know what we did with the road district issue. So, I think that we need to remember the City of Austin voters that voted on those bonds. It's those bonds that we are talking about issuing. This still allows the county to take into consideration the city's action before they take their vote on Friday. So, I would prefer the Thursday vote.

MAYOR TODD: Any other comments?

COUNCILMEMBER LARSON: Briefly, mayor. I know that we are just voting on a postponement and I will always be happy to vote for a postponement on the BCCP. I'm not going to pretend to be even supportive, at this time. I have some major concerns and I realize that a lot of people have done a lot of work on this plan but I still have some major concerns that it is not going to work. It is not going to work environmentally and I just don't have a lot of faith that it is going to work financially. I think that it is really fiscally irresponsible for the city to get involved in a plan or scheme, whatever you want to refer to it as, to not only facilitate development outside of our taxpayers in this area but it virtually

mandates it. The whole financial plan relies on the fact that there will be development in the area, in fact, we learned yesterday that 60% of it will have to be developed. About 40% will be set aside on preserves but unless the other 60% is developed the plan falls apart financially. I'm not going to sit here and pretend to be against development but I have to ask the question, "Why are we asking the taxpayers of Austin to get involved in a plan to facilitate development outside of our tax area?". I just have never been able to understand that and in the "hurry up" aspect of this whole thing that, "Hey, we either have to do it now or it goes away so hurry up and sign and worry about filling the fine print later on". This is the kind of sales tactic the Better Business Bureau warns us about and that it encourages people to avoid. Don't sign until you've read all the fine print and don't buy into one of these deals where, "Hey, you have to do it today because the deal goes away tomorrow". So, I guess, maybe I have some philosophical differences with some of the members of the council. (can't understand)

MAYOR TODD: Any other comments?

MAYOR PRO TEM URDY: Yes, mayor. I've gone all through, I guess, this thing since yesterday. It is really an issue on which thing we can vote. Yesterday, I thought it was fairly clear to me that we needed to take action before the county did. So, okay I really thought we were going to vote yesterday and we didn't. So here we are today. Now, there are sort of two competing...

MAYOR TODD: Well, I had pretty strong indications from the councilmembers that the motion had already been _____ and they didn't want to vote, yesterday. So, I didn't want to push them.

MAYOR PRO TEM URDY: I understand that but there seems to be some competing things here. When we should vote on it. To vote on it today, tomorrow or Monday and it has to do with a public hearing, that the public hearing would be a problem. Well, I didn't really know that then. Anyway, then there is the other competing issue of the county and I move to act today because of what Councilmember Garcia said. I thought that was important, yesterday. The problem that I have, you see, is that these are sort of the technical points on a issue that I never even supported from the beginning. Here I am trying to figure this out. It's really... I don't know what part of this is a good deal. I really don't. So, when we vote... I suppose that I've come to the conclusion that because of the way things kept going and mainly because of the election in August that we did need to proceed with what the voters mandated us to do and given that as my basic reason for _____. It really doesn't make any difference to me whether I voted yesterday, today, tomorrow or Monday. That basically has to do with one of those interracial deals, which I am back to again. So, somebody on either side needs to explain why some of the deal or part of deal you do or do not do today, tomorrow, or Monday or any day of the week.

MAYOR TODD: Let me see if I could help you on that.

COUNCILMEMBER GARCIA: Let me see if I could do it with a little explanation since I made one of the motion. He asked that...

MAYOR TODD: Okay.

COUNCILMEMBER GARCIA: When we made the motion, last week, to have a public hearing or a discussion tomorrow or something to that. No I made a motion to close the public hearing and I think Councilmember Epstein requested that we go ahead and keep it so that the people can plan on Thursday or tomorrow to speak and I agreed to it. At that time, I had not heard the mayor say that he was going to be out of town and I didn't think about it to be quite frank with you. This is a initiative that the mayor has carried all the way through. It is all our issue because the people voted for it. I have served on the executive committee and the mayor has led this charge and I wanted him to be allowed to vote on it and if we vote tomorrow he is not going to be there. So, that is the reason I've been doing all this work and trying to touch all the bases with everybody to see if we could move and it looked like, when I talked to Councilmember Reynolds, we could do it Thursday and in talking to the judge. There is some apparent misunderstanding between the judge and Councilmember Reynolds. The judge would want us to move on it as soon as we can so that his commission would have a little more time. A few weeks ago on this... The commissioners' meeting at nine. So, after all the talk and discussion that went on walking back with Councilmember Epstein from back there to over here... Let me just put it on the table and see what the council wants to do. This is one for us to decide. It's not a matter of somebody pushing somebody. Everybody can vote their conscience. You know, I thought that we could just put it on the table and let everybody vote on it and see what happens. If not, if it doesn't happen today, it's on the agenda tomorrow and we can consider it again tomorrow.

MAYOR TODD: Well, my thought is and let me explain my opposition to it. I announced over three months ago or at least two to cancel it that I was going to be out of town on city business tomorrow and needed to follow that commitment and there was, I think, a vote from this council not to cancel that meeting. I consider us finishing that public hearing yesterday by calling out all the names and we posted it Thursday as a contingency in case we didn't finish yesterday because I knew we didn't have a dialogue. I am prepared to move on it. I think, we can do both. I think, we can approve it today. I think we can have dialogue, tomorrow, as part of the public process. It has already been outlined in this motion adoption to continue the process through the remainder of this year and up to the meeting with the EIS and the submittal of the 10a permit. We've already scheduled all of the boards and commission reports as well as our boards and commission actions in terms of that time schedule attentively without basically deciding the months they will occur to be able to deal with the plan. I think, the community is waiting for the council to give the level of expression, in my opinion, of this plan issued on August the 8th knowing, as I said earlier in the paper very publicly, this is not the end

of the plan. It is a 30 year plan. It will be changed in that 30 year period undoubtedly to meet reality and a lot could change through the EIS process and through the public review process and appropriately so. It requires both bodies or all three bodies and if the LCRA is also a member, as I anticipate them to be, to make those changes. I anticipate that will happen in the joint meetings. I am, as a matter of record, going to be out of town tomorrow and will be unable to vote after these four and half years and I would be disappointed if we were not be able to vote today. I think we can vote, today, and still accommodate the public hearing process and making the modifications after that that might take place. I would ask for a public vote today and to vote no on this motion. Councilmember Nofziger you have not spoken.

COUNCILMEMBER NOFZIGER: Well, I'm just ready to vote, today, and the main reason is because we did have a public hearing Thursday, we did continue that public hearing yesterday and I believe you did read through all the cards of the folks who had signed up. So, we have had at least two public hearings on the issues and certainly the folks who, if we are going to continue the public hearing tomorrow, may wish to speak can, I think, their comments will be of value to us and to the plan because as we all agreed, yesterday, in our meeting with the county commissioners this plan and this vote is a step in the process. It's not the final step. It's not the final plan. It's flexible. Some changes will be required. So, I think, any citizens who wish to address us, tomorrow, on this plan should know that their comments will have a impact because this plan is going to evolve and change and that there is still flexibility because of both of these reasons. I am prepared to vote, today.

MAYOR TODD: All right, we have heard from everybody. Let us call the roll for the...

COUNCILMEMBER LARSON: Can I make a brief comment?

MAYOR TODD: Okay but we could be debating back and forth all day long.

COUNCILMEMBER LARSON: Just short statement. Since the voter's mandate has been mentioned, several times. It's clear the voters are impervious that we buy wilderness, buy some of the greenbelt, and buy land and preserve some of that land. That I can support but I can't support it in conjunction with a plan that is actually going to facilitate development of that area. I think, that is what the voters didn't understand. This BCCP will actually facilitate or mandate the development of that area. So, it's much more involved than just some land acquisition which I can support myself. If this plan actually works, I don't have enough faith in it to vote for it at this point in time, if you actually succeed in pulling off a plan in the future that works I will be the first to congratulate you and admit that I was wrong but I simply can't support it.

COUNCILMEMBER EPSTEIN: I've got a quick comment, Mayor, before we do that.

MAYOR TODD: Please.

COUNCILMEMBER EPSTEIN: We were responding to Dr. Urdy's comment and suggestion that perhaps we could be persuaded to vote one way or the other and I would just ask that each of you and especially you mayor, you voted for this, to look back to the February 28th resolution passed by the executive committee. Section 6, on page 2, of the resolution says, "Each of the governmental bodies to ample opportunity for public comment and debate prior to adoption of the plan and approval of a interlocal agreement". So, this is what you said, mayor, and we are all on record for saying that there is a public hearing that is not closed. Now, on no other issues that I have seen have we said, "Well, to heck with the public and to heck with the fact that we have a public hearing. This thing we don't really need public comment on and we can make up our minds. Who cares what the public has to say." By not finishing the public hearing, that every single one of us supported, we are saying to heck with the public, on this issue we really don't care what you have to say. Well, we are going to listen to you but we are going to do what we want and not incorporate your concerns into the resolution because we can't re-adopt what's done the day before. There is no rush. The county will have time to take into consideration our action. This body has a commitment to our constituents. To whom we said, "Show up on Thursday and we will be there to listen to you". That is what we said and every other time we say it we mean it. I think, it is setting a bad precedent for this body to say, "Well, we didn't mean it this time" because I'm going to suggest then that the next time we set a public hearing and continue it that people wonder at that meeting. So, Dr. Urdy, in response to your question to, "Well, what should we do?" there is no reason to do it, today. I don't know if the mayor's plans or the California Chamber of Commerce business trip or some other trip that I would say that. I didn't set his calendar. That it was you working with the city manager to set this calendar and had I known that this would represent a scheduling conflict for you... Perhaps you shouldn't have voted for continuing the public hearing but what I'm struggling with, mayor, is that the public believes and rightly so because it's posted on our agenda that they are going to have the opportunity to speak before we vote. I couldn't keep up with your schedule but if you had said, at that point, no we can't do it because you have to be out of town then we could of closed the public hearing and then I would of been comfortable voting for this but that is not what took place.

MAYOR TODD: Councilmember, I did say that. It was your insistence that we have it on Thursday and when you had voted against the motion to cancel the meeting several months ago but that be as it may... Let me remind you, councilmember, that the motion passed by the executive committee says that there will be adequate discussion and continued discussion until we adopt the interlocal government agreement. The process that we are going to be voting on or the resolution that we are going to be voting on does just that. This is not the interlocal government agreement. This is the motion that provides the legal sufficiency for this plan to go forth in such a way for us to revoke the bonds. That is a...

COUNCILMEMBER EPSTEIN: It is still prior to the adoption of the plan.

MAYOR TODD: or the interlocal agreement. This is not the adoption of the plan itself with the interlocal government agreement attached. That is what is going to be done according to the time table after we go through the process that is outlined as part of the resolution. As to the public hearing, remember the public hearing is set for tomorrow and we are set for action on this tomorrow should there be any amendments. We are also set for action for Monday should there need to be any amendments to it. My suggestion is that we go ahead and we vote, today, on the motion that we have in front of us, and a plan can be explained to us after the public hearings have been completed and then to move on forward through the process of working with the county and LCRA to modify that in the future. I see nothing inconsistent with that. Councilmember Reynolds and then we will move to a vote.

COUNCILMEMBER REYNOLDS: Thank you, Mayor. Mayor, I'm in a qualm because I just assumed and maybe wrongfully so because you weren't going to be there on Thursday that we were going to vote on this Monday and the county will get it on Tuesday. I did ask the judge at that particular time if that was possible and he said yes but he just assumed that we vote on it Thursday and that they will do it on Friday. That is what he told me at one point in time. Now, I understand that these things change.

MAYOR TODD: You told me yesterday that you wanted to vote on it yesterday.

COUNCILMEMBER REYNOLDS: I understand but maybe I just misunderstood but I knew that you were going to be gone and so therefore I thought that we would vote on it Monday. You have worked on it for a long time and I think you rightfully should have the ability to vote on it and that is the reason that I thought we were going to do it on Monday. When Gus pulled me aside and told me well can we vote on this on Thursday and I said that's okay with me as long as it is after the public hearing. That is the only reason that I made this motion and let me just make the record clean and clear it doesn't have anything to do with the BCCP. It doesn't have to do with whether I like it or don't like it. I am going to vote for it and support it and I'm going to try to make this thing work. It only had to do with making sure that the process looked clean and that is the only reason. I understand your predicament and I really am trying to sway a little bit but I think the process needs to be as soon as possible. I would just put it on the table and let people vote. If it doesn't pass then I am going to vote for the plan. If it does pass then I'm going to vote for the plan tomorrow. Whichever way it comes out.

MAYOR TODD: Doc Urdy and then we will move to a vote.

MAYOR PRO TEM URDY: Yes, mayor. I have two concerns. One of them was raised by Councilmember Garcia about the concern on the county judge and part of that misunderstanding might be my fault. I thought we were going

to vote on it, yesterday. The other thing is that I really don't think that as far as tomorrow is concerned for whatever reason the Mayor is out of town and would want _____. If I had an issue on the table I wouldn't want it to be voted on in my absence unless I specifically requested you to do that. I don't think we should do that and so I could very easily abstain on this. Which I'm real tempted to do. But I also _____ because I think that at this point, then again I could talk about this when we get to the plan about the way I feel, I really think that given all of that that is at least as important as the plan. That's why I don't think I'm going to change my basic feeling about this by tomorrow or Monday or whenever so I personally would just as soon go ahead and vote on it today, anyway. But, I think, given those constraints that I'm obligated, in my mind, not to postpone it until tomorrow.

MAYOR TODD: Thank you, doc. All right, the development on the motion is to postpone until tomorrow. Call the roll, please.

ELDEN ALDRIDGE: Mayor Pro Tem Urdy?

MAYOR PRO TEM URDY: No.

ELDEN ALDRIDGE: Councilmember Epstein?

COUNCILMEMBER EPSTEIN: Yes.

ELDEN ALDRIDGE: Councilmember Garcia?

COUNCILMEMBER GARCIA: No.

ELDEN ALDRIDGE: Councilmember Larson?

COUNCILMEMBER LARSON: Yes.

ELDEN ALDRIDGE: Councilmember Nofziger?

COUNCILMEMBER NOFZIGER: No.

ELDEN ALDRIDGE: Councilmember Reynolds?

COUNCILMEMBER REYNOLDS: Yes.

ELDEN ALDRIDGE: Mayor Todd.

MAYOR TODD: No. All right, we are back on the main motion. Call the roll on the motion to adopt the plan as presented.

COUNCILMEMBER EPSTEIN: Wait just a minute, Mayor. We haven't had discussion on the main motion yet.

MAYOR TODD: Okay. You are recognized.

COUNCILMEMBER EPSTEIN: I have some discussion. Questions on the park land. There is a section of the charter, section 4, that says Powers of the Council. Section 4a says that all powers of authority which are expressly or implacably confirmed on or expressed by the city shall have all these powers except the council who shall have no power to and shall not sell, convey, lease, mortgage, or otherwise alienate any land which is now or shall here after be dedicated for park purposes unless the qualified voters of the city shall authorize such acts by adopting a general or special election. A proposition submitting the question and setting forth the terms and conditions under which that sale, convey, lease, mortgage or other alienation is to be made. The plan, as the mayor as proposed it, involves the use of some 2,500 acres of city park land notably the Barton Creek Greenbelt which is heavily used, the Davenport Preserves, the Commons Ford Park, and Emma Long Park, Ullrich Water Treatment Plant Site, Water Treatment Plant Four site, the Barrell Preserve, Bull Creek District Park, Upper Bull Creek District Park, Brazos Springs, Bull Creek Green Belt and Mount Bonnell. So, that is over and we have got the city attorney here that says that we cannot do anything with park lands, in my interpretation, unless the voters have approved specifically the uses of park land for other than park purposes. We heard city staff say, yesterday, that really a preserve is no different than a park except for maybe a little bit and that is utter unmitigated falsehood. First of all the city staff is in no position to make that determination. That is a determination made by U.S. Fish and Wildlife and it is a condition for the 10a permit. So, I would like to ask our city attorney his opinion although I can read the city charter.

CHARLES GRIFFITH: This issue did come up when we were discussing the plan and considering the plan. I initially did have some concerns so we did the research. What the charter says is that we can not alienate park property without referendum from the public. The question is what does alienate mean. What we are doing here is not conveying any illegal interest in the property. We are just simply setting the property aside to either be mandated by the Texas Parks and Wildlife or to simply comply with certain federal regulations. So, we are not conveying any interest in the property. We are not alienating the property. The property still belongs to the city. It is still city park property. So, we based it upon that and a City of Houston decision. The City of Houston leased some property for parking lot purposes under a similar charter provision and the court said that even in that situation whether or not it was an actual lease on the property it was not an alienation because the city kept control of the property. So, councilmember, our conclusion is that this arrangement with Texas Parks and Wildlife and the setting aside of this property, management of this property, is not an alienation and therefore the charter provision doesn't apply.

COUNCILMEMBER EPSTEIN: Well, the only thing that I would add and I appreciate that research, Chuck, is that Texas Parks and Wildlife has already said that they are not interested in participating in any way at this time and a motion to participate in any way was tabled by the Parks

and Wildlife Department. So, you've got to remember we don't have another party here. I think, that is something that you are going to have to ask yourselves since in the last couple of years we have looked at only one park land dedication form, which I believe that Councilmember Larson had worked on. It is a serious question and I would think about the precedence that you would be setting. Second, I've expressed concern as many others have about the two tracts of land that are in the Barton Creek Watershed that are scheduled for purchase under the plan and for that reason I have drawn up a resolution which I believe I can suggest as an amendment to the resolution on the table, today. I want to tell you what it does. You have all received a copy of this in the last couple of days. What this says is that it assures the voters that the land in the Barton Creek property is what we are going to buy and that it is subject to the financial resolution of the concerns in the southwest Travis County Road District. If we can incorporate this resolution into the main motion then I would feel comfortable that, at least, what we are purchasing is what the voters thought we would be purchasing, namely the land in the Barton Creek Watershed. Let me read you the operative portion of this resolution. It says that the City of Austin shall not close on the other six RTC tracts unless and until the Uplands and Sweetwater Ranch can be included in the package which requires the resolution of the financial concerns with the southwest Travis County Road District. In the event that this transaction cannot be completed in 180 days the city will purchase other land in the Barton Creek Watershed provided that such land is in the urban natural area section of the Barton Creek Greenway Study and is suitable for inclusion in the Balcones Canyonland Conservation Preserve System. The mayor all along has referred and many others have as well that these plans overlap and I have endeavored over the last many months to merge the plans and find some compatibility. In terms of compatibility I have not been able to get the mayor's interest in actually seeing them work together. This will do it.

MAYOR TODD: What was that? To do what, councilmember? I missed it. I was listening to it over there.

COUNCILMEMBER EPSTEIN: Oh, well let me encourage you then to take a look at the resolution. Like I said...

MAYOR TODD: We had asked your staff for this, this morning, and they said it wasn't ready.

COUNCILMEMBER EPSTEIN: Mayor, this has been circulating for days and when I've handed you resolutions you say you don't read them when they are in your mailbox. There is one in front of you, right now, and if anybody else doesn't have a resolution I have copies for you.

COUNCILMEMBER LARSON: I think, what you just read is different than the one I received earlier, today.

COUNCILMEMBER EPSTEIN: This resolution. That does not come from my office. That comes from the _____ tracts for public lands.

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(too many people talking)

MAYOR TODD: Can you read it that may help us?

COUNCILMEMBER GARCIA: I just want her to read that part where it talks about included.

COUNCILMEMBER EPSTEIN: Okay, let me read it that slowly. I read it a little too fast. The operative portion and remember we are talking about...

COUNCILMEMBER GARCIA: I don't want to stop you but I want you to do it with a little explanation.

COUNCILMEMBER EPSTEIN: Okay. The idea is that the City of Austin shall not close on the other six RTC Tracts unless and until the Uplands and Sweetwater Ranch can be included in the package.

COUNCILMEMBER GARCIA: Okay. The question I would ask you is what does, "can be included in the package mean"?

COUNCILMEMBER EPSTEIN: In this eight million dollar package that we are forming.

COUNCILMEMBER GARCIA: Well, that is besides the point. You were not on the executive session when the small package, I think, was explained but we can not discuss the executive session here and we all know why. By my definition Sweetwater Ranch and the Uplands is included in this package.

COUNCILMEMBER EPSTEIN: It is not. It is not included in this 8 million dollar purchase.

COUNCILMEMBER GARCIA: By my definition it is.

MAYOR TODD: It is. You should come to executive session, some time.

COUNCILMEMBER EPSTEIN: Oh, I show up. They do get moved around quite a bit and canceled. Then, maybe, we can get a clarification from city staff. Is the 8 million dollars that we are going to issue going to include the purchase of the Uplands and Sweetwater Ranch tracts?

JOE LESSARD: As we outlined in numbers for you, yesterday, the answer is yes. Our intention is to purchase that land. The plan anticipates that if for any reason that we are unable to there is a continuacy but the plan also says that what we are trying to accomplish is that purchase. We have been in discussions with RTC and in each conservancy to accomplish that.

COUNCILMEMBER EPSTEIN: Okay, in that case there should be no objection because it merely clarifies that that purchase is included and that we won't close on the other six tracts unless the purchase of the Barton Creek

Watershed properties is included. So, this clarifies it to my satisfaction. Perhaps you didn't need the clarification. I do need the comfort that we are committed to purchasing in this 8 million dollars those tracts subject to the financial resolution.

COUNCILMEMBER GARCIA: Again, Louise, like I said we discussed all of this in the executive session, it was during the time that we were having council meeting, and all of these issues were discussed by the council and we asked all kinds of questions. Now we are without the ability to go into all of those explanations because those are executive session issues and I think you have put us at a great disadvantage to have us deal with this when in essence we have already dealt with it in a manner in which I consider to be more appropriate than this.

COUNCILMEMBER EPSTEIN: Let me suggest that first of all Gustavo did this yesterday. He could of spoken to an attorney but however we have discussed all of this in public as late as yesterday. We heard very confidently from the mayor and others that the southwest Travis County Road District parcels were going to be resolved and were going to be purchased as part of this assertion.

MAYOR TODD: No, I didn't say that. The statement that we made is that every effort is going to be made. There is no guarantee that that is going to happen. Everyone is working as I understand and the judge explained, yesterday, very diligently toward that. Is the problem solved? I feel confident that the action that we are taking, today, and the voters action have a great deal of merit and possibility for that settlement but it hasn't happened yet and there is no guarantee in life on this issue.

COUNCILMEMBER EPSTEIN: Okay, it is precisely because there is no guarantee. Look we are telling people...

COUNCILMEMBER GARCIA: I told you that I would consider this but I told you what the caveat was. I said talk to the mayor about this.

COUNCILMEMBER EPSTEIN: and I tried to I tried to. Excuse me, look folks, everybody has said we're going off and we are going to buy the Uplands and the Sweetwater tracts and from what we heard from the mayor, yesterday, there was confidence that those financial issues were going to be resolved.

MAYOR TODD: I feel confident but that is not a guarantee.

COUNCILMEMBER EPSTEIN: Okay.

MAYOR TODD: I see you are pressed on this resolution. Councilmember Garcia told me you were proposing something and we sent someone down to your office, today, to get it and your aide said that, "I don't have it. She has it and you can't have it".

COUNCILMEMBER EPSTEIN: Mayor, I will no longer tolerate the lies and

deceit that you use at these public hearings because I have personally been unwilling to respond to the deception that you were raising. You know full well that you don't read your mail. That when I put items in your box you don't read them. This has been available all week. It has been. Unlike the other councilmembers I distribute my resolutions in advance. I don't wait until the days of the meetings and this was distributed far in advance. I think, most of you have been visited by members of the Parks Board or members from the Trust for Public Lands and members from Save Barton Creek Association who have talked about the commitment and stated the goal that you have mayor of purchasing those two properties in the Barton Creek Watershed. My concern is that we need to purchase those properties in the Barton Creek Watershed if we don't purchase them in the Uplands and Sweetwater. If those deals fall through, mayor, I want to make sure that the citizens get some of the Barton Creek Watershed properties and the watershed property that I want to see them get is property that meets your requirements of being in the BCCP.

MAYOR TODD: Well, I concur with that Councilmember Epstein. You and I are on track. Let me ask Joe a sort of real quick question if I could, Joe, because I think it's pertinent to this issue. Were the Uplands and Sweetwater Ranch originally included in the National Park Survey Study?

JOE LESSARD: No.

MAYOR TODD: Okay.

COUNCILMEMBER EPSTEIN: Those are still first on for purchase, mayor. What this says is that it insures if those fall through that the other land that we will buy will be in the Barton Creek Watershed and that it will be compatible with the BCCP.

MAYOR TODD: This one would mean if we are not able to solve the Uplands and Sweetwater tracts it would mean no land purchase what so ever.

COUNCILMEMBER EPSTEIN: No, sir. It means that the 8 million dollars will be used for land purchases in the Barton Creek Watershed that is suitable for inclusion in the BCCP. This is the compromise that you have spoken about.

MAYOR TODD: But this negates the RTC land. It negates the purchase of those other six tracts.

COUNCILMEMBER EPSTEIN: No, mayor.

MAYOR TODD: If this issue can't be resolved it negates the purchase of those other six tracts.

COUNCILMEMBER EPSTEIN: What this says, mayor, and you are partly right I have taken your actual word that you are confident that the financial issues regarding the road district and, I remember, this yesterday you

speaking with great confidence about the resolution of that.

MAYOR TODD: Not a guarantee but of confidence.

COUNCILMEMBER EPSTEIN: Not a guarantee. I think, we all have an obligation because we know what the voters have been telling us for years which they demonstrated at the voting booth. They want to purchase land in the Barton Creek Watershed. What this does is says that hey if you can't close on the Uplands and Sweetwater tracts you only can purchase parcels of land that are in the Barton Creek Watershed that are part of the BCCP. That the funds designated in this year's purchase, the 8 million dollars, to be used to purchase other lands in the Barton Creek Watershed that are suitable for inclusion in the BCCP. So, mayor, it still gives you habitat and it gives the citizens the Barton Creek Watershed purchases that they had asked for.

MAYOR TODD: Do you understand that with the purchase of those lands that the BCCP doesn't cover just the Barton Creek Watershed. It covers Bull Creek Watershed. I think the total of several watersheds. A number of watersheds all of which flow into Town Lake and it covers those also. This does, in fact, run in a valve with the RTC deal.

COUNCILMEMBER EPSTEIN: Well, the RTC deal states...

MAYOR TODD: We do not have the same latitude. The executive session discussed all of that. You did not make that executive session but we discussed this in great detail during that session.

COUNCILMEMBER EPSTEIN: Mayor, the point is and the point that I find curious that you are unwilling to go with is that you seem to be more committed to a contract that was not at the request of the City of Austin but that a private group entered into it with the RTC. I think that they did and that that land is available is great but I think what we promised the voters, mayor, and what you encouraged was that the land that we were going to purchase with the RTC would be Barton Creek Watershed land and I want to make sure that in this 8 million dollar package that we sell on Wall Street on September 22 the voters will be able to obtain Barton Creek Watershed land that is also suitable for the BCCP.

MAYOR TODD: In all of the discussions I have had with the others and in numerous public hearings we outlined the RTC land which includes eight tracts and two of those were the two tracts mentioned in the resolution but the other six are where they are as noted on the map and they are not in the Barton Creek Area. It remains to say if we get to purchase those lands but we haven't solved the road district yet and it hasn't changed one way or the other.

COUNCILMEMBER EPSTEIN: So, you don't feel confident enough, now, to tell the community that they will see the lands in the Barton Creek Watershed.

MAYOR TODD: If you would come to executive session you would not say

that, Louise. We do not have the same latitude with RTC or with the other six that we do on these two and the reason being is that they recognize that we have the ability to follow through on those six. We do not have the ability because of their condition, RTC's condition, not to encourage and participate in sale of their property to anybody, on this tax exempt issue, that would in anyway jeopardize that road district. The LCRA is committed to and certainly I'm committed to not jeopardizing that particular road district but to be able to try to solve the problem. So, there is a great difference in the legal descriptions on these two tracts compared to the remaining six tracts and that is a different phase in reality created in the 1985 when that road district was created in the first place. That is the issue that we are trying to solve but it's not on our main topic that there is a lack of settlement on that issue. There is no guarantee.

COUNCILMEMBER EPSTEIN: Now, I understand but just yesterday you seemed so confident in what you had on the table to purchase was going to include the Barton Creek Watershed and now I'm finding out that really we can't tell voters that when we adopt a plan and when we spend this 8 million dollars that we are going to get those tracts.

MAYOR TODD: I have confidence in that and yes if the Uplands and the Sweetwater Ranch for some reason are not available because we can't solve the road district the 2 million dollars that was outlined for that is still available and still can be used for land in the Barton Creek area and should be as far as I'm concerned. If your resolution requested... If you want to pass a resolution that said, "As a matter of statement this council we are expressing our attempt to use the land that is freed up, should those two not be available, for land in the Barton Creek area designed by the BCCP". I'm supportive of that but that is not what your motion says. Your motion kills the purchase of the six deals if these two specific tracts are not purchased. If you want to rephrase your motion to show this councils intent in using money freed up because the road district can't be resolved within the option periods being negotiated with RTC. That it be used for land in the Barton Creek area I would second your motion. I'm for you.

COUNCILMEMBER EPSTEIN: Okay, mayor, how about if we see if there is support for this friendly amendment and then we can take it from there and I will take it into consideration.

MAYOR TODD: Sure but this motion kills the RTC deal.

COUNCILMEMBER EPSTEIN: Mayor, it only kills the RTC deal if your Sweetwater and Uplands tracts don't materialize and just yesterday you said remember I was the one who said that I think it would take a miracle and a magician for those deals to materialize and you said oh no and you expressed a great deal of confidence.

MAYOR TODD: It will take a major piece of work. You are right about that

and a lot has been going on by a lot of interested parties but as I said there is no guarantee. This motion is absolutely self-defeating to the pursuance of the 10a permit, in my opinion.

COUNCILMEMBER GARCIA: Let me just say, Louise, that I don't think that a second to the motion is expected.

COUNCILMEMBER EPSTEIN: Well, with that being off the table then let me take the mayor's suggestion and ask for a friendly amendment.

MAYOR TODD: Is it off the table?

COUNCILMEMBER EPSTEIN: It was not...

MAYOR TODD: It was seconded by Councilmember Larson. Was it not?

COUNCILMEMBER GARCIA: He offered it as a friendly amendment.

MAYOR TODD: Okay.

COUNCILMEMBER LARSON: If you would like to offer it as a amendment then I'll second it.

MAYOR TODD: What is your purpose?

COUNCILMEMBER LARSON: I'll offer it as a amendment then.

MAYOR TODD: All right, there is a amendment to pass this resolution right here. Is there a second to that amendment?

COUNCILMEMBER LARSON: If I could make a brief statement to council. Although I'm not supportive of the BCCP plan in general as it is written now. I do believe that this amendment would certainly give the voters, that voted on August the 8th, some guarantee that they are going to get what they really voted on, those two tracts. That those two tracts will be a part of the deal. We heard confidence expressed, yesterday, on the part of the judge and Commissioners' Carlson and Bristol that there were efforts going on that bring a resolution for that road district. I think, that with this amendment we encourage them to do everything in their power to make sure that road district situation does get solved and that these two parcels are included. Really, I think, that is what the voters were voting on August 8th those two parcels. So, that's why I would be very supportive and encourage my colleagues to vote for this amendment.

MAYOR TODD: Alright, any other discussion on the amendment?

MAYOR PRO TEM URDY: Mayor, I have a question to whether or not this in fact cancel out the other parcels? If in fact... Where is legal? It need legal to answer or maybe you could answer it.

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MAYOR TODD: That is a problem, Doc, we can't talk about too much because of the legal issues but perhaps I can answer the overall question without jeopardizing the negotiation with RTC.

MAYOR PRO TEM URDY: Before, let me tell you what..

MAYOR TODD: I'm voting for executive session.

COUNCILMEMBER GARCIA: Before executive session what I'm suggesting is recess so that we can talk to the Judge Chuck Griffith.

MAYOR TODD: If you could design that we could try to do it.

COUNCILMEMBER GARCIA: Let's take a five minute recess.

MAYOR PRO TEM URDY: Yes, let's take a five minute recess.

MAYOR TODD: Okay, we will take a five minute recess.

(recess)

MAYOR TODD: Okay, we have had the five minute recess. I believe the council has reconvened. Now, all of us are at least here. Michael is at his table. Michael is right there. We have let the world in on a major piece of news here. Have you been hiding that from the public? But you have been hiding for quite some time. Okay, we need the councilmembers. Okay, we are back on the motion the amendment to the motion. We have had an explanation by the maker of the motion and a second to the motion. Is there other discussion? All right, the vote is on the substitute motion I mean the amendment to interject this language. Call the roll, please?

ELDEN ALDRIDGE: Councilmember Epstein?

COUNCILMEMBER EPSTEIN: Yes.

ELDEN ALDRIDGE: Councilmember Garcia?

COUNCILMEMBER GARCIA: No.

ELDEN ALDRIDGE: Councilmember Larson?

COUNCILMEMBER LARSON: Yes.

ELDEN ALDRIDGE: Councilmember Nofziger?

COUNCILMEMBER NOFZIGER: No.

ELDEN ALDRIDGE: Councilmember Reynolds?

COUNCILMEMBER REYNOLDS: No.

ELDEN ALDRIDGE: Mayor Todd?

MAYOR TODD: No.

ELDEN ALDRIDGE: Mayor Pro Tem Urdy?

MAYOR PRO TEM URDY: No.

MAYOR TODD: All right, that is the vote and it fails 5-2. Is there another amendment?

COUNCILMEMBER EPSTEIN: Yes, mayor. I'm going to take you up on your offer.

MAYOR TODD: Okay. You want me to state it so clearly again.

COUNCILMEMBER EPSTEIN: No, let me try it and then you can help me out.

MAYOR TODD: All right.

COUNCILMEMBER EPSTEIN: Should the Sweetwater Ranch and the Uplands transaction shouldn't with financial issues with respect with those two transactions not be resolved and those lands not be purchased by the city that the funds designated for their purchase be used instead to purchase land in the Barton Creek Watershed in the urban natural area section as identified in the Greenway Study.

MAYOR TODD: Okay, before I second that let me see if there is any difficulty with that motion. Have it pass with the BCCP plan.

COUNCILMEMBER EPSTEIN: I can say that.

COUNCILMEMBER REYNOLDS: The only other question I have is the funds designated. I think we are talking about the balance.

MAYOR TODD: There is the sheet that has it, over there.

COUNCILMEMBER REYNOLDS: Okay.

COUNCILMEMBER EPSTEIN: If any of the amount of the 8 million is not used to purchase land in the Uplands or Sweetwater be used to purchase land in the Barton Creek Watershed area in the urban natural area section that is compatible with the BCCP.

MAYOR TODD: Chuck?

CHUCK: The only thing that is resting on the response is your _____. Is that okay?

UNKNOWN SPEAKER: It won't be the first time.

MAYOR TODD: _____ is that okay?

UNKNOWN SPEAKER: I don't think

COUNCILMEMBER EPSTEIN: Oh, that's right. Well, what is not used for purchase and the other costs of

MAYOR TODD: what is identified which will include the EIS statement and all of those _____.

COUNCILMEMBER EPSTEIN: All we are doing is saying that should the Sweetwater Ranch and the Uplands tract fall through that we will still meet our obligation to the voters by using those funds to purchase land in the Barton Creek Watershed that is in the urban natural area section of the Greenway Study that is compatible with the BCCP.

MAYOR TODD: I'm going to second that amendment.

COUNCILMEMBER GARCIA: I think it need to be a friendly amendment.

MAYOR TODD: Okay, it can be a friendly amendment. I think that we obviously know that nothing that this council does provides future councils. I think that that statement is a very good statement and attempt to what we all want to do consistent with the motion of the plan in the first place and enhances the public perception of what this plan is about.

COUNCILMEMBER GARCIA: It is left to the fact that the plan is flexible,

MAYOR TODD: Absolutely.

COUNCILMEMBER EPSTEIN: Well, this doesn't have to do with the future. This has to do with the 8 million dollars that we are going to need to issue this year.

MAYOR TODD: We understand. The only concern we might have is assuming that we are not accepting the central purchase price. We are not going to box ourselves in and have to pay...

COUNCILMEMBER EPSTEIN: We never do.

MAYOR TODD: We will never pay more than it's assessed value.

JOE LESSARD: Let me make sure I understand the motion was after what is used to purchase the other tracts. What is left?

MAYOR TODD: It doesn't have anything to do with that.

(too many people talking)

MAYOR TODD: That's correct. That's why we went to this motion.

COUNCILMEMBER EPSTEIN: If we happen to find there are costs for the other six tracts including all the other expenses we find there is money left. Those monies would apply to land purchase at the Barton Creek Watershed.

MAYOR TODD: The balance after the identification of all of the costs associated with those six tracts and other costs of implementing the BCCP has already been identified to us.

COUNCILMEMBER EPSTEIN: That's correct.

JOE LESSARD: One other clarification. If retail marks the prices down. There are a few properties that have auctions on them now that we were going to bring forward for you to consider.

COUNCILMEMBER EPSTEIN: Joe, boy I tell you this council has a pact with the voters to buy land in the Barton Creek Watershed and I've never seen staff work so hard to make sure that doesn't happen.

MAYOR TODD: Well, let Joe finish. I don't think that is what he is trying to do. We also have a pact with the voters to make the most cost efficient purchase as possible and those options... Let Joe finish his statement.

JOE LESSARD: What we have discussed with the council previously is that there are other parts of the land...

COUNCILMEMBER EPSTEIN: Why don't you get on the record here. It is real clear what the staff is saying and what we are not saying.

COUNCILMEMBER GARCIA: This has also been discussed at the executive session.

COUNCILMEMBER EPSTEIN: This was also discussed at executive session. Accepted.

MAYOR TODD: What did you say, Louise? Why don't you speak in the microphone when you say those things.

COUNCILMEMBER EPSTEIN: I speak in the microphone at every opportunity. Go ahead Joe.

JOE LESSARD: We have outlined that there are other parcels that have been identified that the Nature Conservancy has been pursuing. That they have auctions on, as well. That they have identified by phone our habitat land and they pointed out their options would expire and have proposed that the City Council consider purchasing those lands, as well, and that it may be possible for us to negotiate in our dealings with the RTC to lower the price for the land that has been identified for you, today. The eight parcels. So, there would be adequate funds that we could go ahead and do those transactions, as well. As I would interpret the motion what you are

saying is that any funds that are a savings because of a reduced price on the eight parcels would go to the area that is in the preserve area, the study area, that the Parks Department conducted rather than those tracts.

COUNCILMEMBER EPSTEIN: That was exactly how the motion was stated. Thank you.

JOE LESSARD: I just have to be clear. Precluding options given on those other transactions you are targeting it for this area.

COUNCILMEMBER EPSTEIN: Joe, thank you for that clarification it was patently clear before hand. Don't worry yourself. Now, we can just completely forget about the Barton Creek Watershed which staff would like to do, mayor.

MAYOR TODD: I understand, Louise. That's not what he wants to do. That's not what anybody wants to do but let me just make sure before we the results. You are still comfortable with the idea that we have to make the most cost efficient decision possible?

COUNCILMEMBER EPSTEIN: Mayor, I have not expressed anything to the alternative but the resolution that we've got on the table, today, that was your idea that I accepted and made. Was that the funds that we... The idea is that we told the voters that we were going to buy land in the Barton Creek Watershed and yesterday everybody was real certain about it, with the land purchases of the Uplands and Sweetwater Ranch, and today people are saying well I don't know if those deals are going to really come true. So, what I want to do is make sure that the funds set aside to purchase the land in the Barton Creek Watershed is used to purchase land in the Barton Creek Watershed.

MAYOR TODD: Every time you make a motion and that is why we always have to think about these things because let me give you a hypothetical. Let's say there is a tract of land in the Barton Creek Watershed for a million bucks. Appraised value one million bucks. Let's say there is another piece of land outside the Barton Creek Watershed that is offered to us at the same time with the objective appraised value at one million but we are offered that land for two hundred thousand dollars. What does your motion do?

COUNCILMEMBER EPSTEIN: Mayor, the council never gets involved in the real estate transactions. That is what the city staff works for and certainly land in the Barton Creek Watershed is going to be more expensive than land outside the Barton Creek Watershed.

MAYOR TODD: Let's say something is brought to us from the Barton Creek Watershed for sale at 100% appraised value and something outside the Barton Creek Watershed is brought to us at 25% of appraised value. Does your motion buy this?

COUNCILMEMBER EPSTEIN: The motion as you know, mayor, this resolution as you introduced it yesterday doesn't mean anything. It can all be changed. It's not an ordinance it's just a resolution. If you are not comfortable with the suggestion you shouldn't have made it.

MAYOR TODD: I am very comfortable the suggestion.

COUNCILMEMBER EPSTEIN: Good.

MAYOR TODD: This statement is about what we intend to do but I'm not going to bend any other principle that I've got.

COUNCILMEMBER EPSTEIN: Well, if there are any left don't abandon them.

MAYOR TODD: Are you having difficulty with it being consistent with sound financial policies?

COUNCILMEMBER EPSTEIN: Absolutely not and, Mayor, the council has never gotten involved in the staff closing negotiations.

MAYOR TODD: Will you accept this as part of the motion? As consistent with sound financial policies, as part of the motion.

COUNCILMEMBER EPSTEIN: It wasn't in your original motion but I'll accept it. Especially since that one would apply to the whole habitat plan.

MAYOR TODD: Absolutely. Okay, that is added as far as our motion. All right, there is a motion there is a second there is a friendly amendment that states what as been offered by Councilmember Epstein with the condition of the sound financial policy which is always our procedure. Is there any other discussion?

COUNCILMEMBER REYNOLDS: This sound financial policy is it related to the BCCP?

MAYOR TODD: Sure. Is there any other discussion?

MAYOR PRO TEM URDY: Yes, mayor. Let me again explain the reason why I'm voting for this plan, at this point in time, and why I did not support the previous resolution. I feel the same way about what you are doing. Number one again like I told you some time ago the reason why I did not support the plan and I also told Judge Aleshire a long time ago that I didn't because I think it is the county's responsibility. I feel it is especially because most of the land is outside the city. So, I never made any kind of an assessment as to whether this land purchase could be used outside Barton Creek Watershed. I thought most of it would be outside of the city. I don't know if that was a promise someone made to the voters but I didn't because I didn't support it. I also told that same story to a Sierra Club group last year during the election. What happened was we put this on the ballot and the people approved it. What they approved was this and this is

what I'm bound by what was on that ballot language and what I understood it to mean. It says the BCCP plan provided that the participating ___ approve that. That's why I think it has come upon us to do that. I think, it is a voter mandate for us since we asked the voters about it and we put that language on there. We should be first to approve their plan and I feel that is what, at this point, motivates me. It is not about a particular process. I did not promise to buy the Uplands or Sweetwater or whatever. I understood that was part of the plan and all of that. But the language of the whole BCCP is what we need to proceed to do for that mandate. I've always done it based on what it is we told the voters and I think I've been consistent with that. I did not support the plans for the extension of Mo-pac but the people voted for it and I have not stood in the way since that time. I'm raising this issue because it still concerns me. I don't know what we are talking about. Some citizens said they didn't trust us and still say that with regard to the SOS and it's a little bit perturbing that the same folks who said they didn't trust us to work with the SOS are some of the same folks that are saying well you are not bound by the voters on this BCCP plan. I'm telling you that at not one point in time did I ever say I supported this plan and I did not. Now, what is governing me is what I perceive to be those amendments and it is on that ballot and it says that if we approved it. We are obligated to proceed to try to develop that plan and I think we are. Again, it was not my message that we had to purchase either the Sweetwater or the Uplands but I understood that was a major part of this plan but we will proceed to try to implement the BCCP plan. It is also in that vein that I felt that we then should not be obstructors in that sense. You know, I would simply say vote on Tuesday when it's too late for the county to vote. Knowing that the county wanted us to vote first and we would kill the plan. I don't think we ought to do that because that is not where my interests lie. My interest lies separate from what the voters have mandated for us to do. Given that though, I think, they also asked us to look at this plan and do the best that we can given that we are going to do it. The same thing as Mo-Pac when they said to extend Mo-Pac but I also think they expected us to do it in the most environmental way we could and I think that is what we did. So, I think, it is the same as this. So, I don't see this as the final action on this and I think that we will have to work from this point on to find financial practices as well as sound practices in our regard in trying to put this plan together until we get the final huge plan that we know we must have and the participating agreements from all the other entities. I for one with the regard to public hearings still consider this to be open and that the public process that we laid out. That we should pursue it and if we want to open the public hearings and we are scheduled to do that and listen to the citizens as far as I'm concerned they will not be just hollow messages. I intend to listen to that and if there is something that I think we should do then I'll pursue it and to try to work that in to the plan. So, I see this as us just getting started on what citizens have told us to do and us trying to do the best we can given the constraints we have at this point in time. Then to supersede the stage to try to work this out into detail and, I think, that is what they expect us to. So, that is where I am and certainly hope we pursue this. This is not the final

adoption of this plan. Not even the final adoption of any of those basic principles but an open plan. We have all the aptitude in the world to subtract the specifics that we want to. Of course, there are obvious things that we will proceed to do that we can't change once we've made the commitment.

MAYOR TODD: I want to thank you for those statements. You have made it clear your opposition of the plan but you are equally clear in your commitment to follow the voter mandate and do so in a way that you thought was in credence with the voters and I appreciate that. There are any number of ways to proceed to kill things and so you appear to be supportive. You have said you'd be supportive and that we could work soundly with the financial principles of the environmental tract that we have and try to make this all happen. I appreciate that very much, councilmember. Any other comments before we vote.

COUNCILMEMBER REYNOLDS: I was going to make a comment but then you sort of stole my comment away. I'll always say that I agree that this is not installed. This is something we are going to continue to work on and listen to the public and try to continue to make it better. Just what you talked about mayor. We are going to have job trying to support the implementation and I do hope and we've got it set out and staff is doing a very good job at working very hard but we have now set out procedures for public input and I want us to follow those procedures of public input and I want people to feel good about the product that we come up with and I think the best way and we've talked many times about the process and the process needs to be good and clean and I think we need to make sure this process is good and clean and people have their input and they have suggestions and we take those things that we think are good and maybe we don't agree with some other things. But this is not installed and we have got a ways to go and let's make sure the public knows that we are going to continue to work toward implementation.

MAYOR TODD: Councilmember, I couldn't agree more. I would like for people to talk about my investment as planned and attach that. Some of that is all true. I don't feel I have any more or less invested in what we are trying to do than any other member that's noted on this body. When land deals get involved I will tell you there are people lobbying out there right now that would like to handle this process to get their tract of land. I'm not going to do it and I'd be damned mad with anybody that tries to do that and will continue that because this is a public plan. It is a mandated public plan. It will be modified by the public through the process. I'm committed to making sure that this is something we can all look back on however difficult it is, this is a moderately difficult plan because of the size of it, that it is something to be proud of. It is easy to criticize. It's hard to get something done when you are subject to those but you do want to try and try to continue doing that and I think making sure the process...

COUNCILMEMBER GARCIA: My brother is in town.

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MAYOR TODD: Your brother is in town. Did he just walk in?

COUNCILMEMBER GARCIA: No. I just got a call from your secretary and I need for you to finish.

MAYOR TODD: You need me to finish, all right. All right, call the roll please.

ELDEN ALDRIDGE: Mayor Todd?

MAYOR TODD: Yes.

ELDEN ALDRIDGE: Mayor Pro Tem Urdy?

MAYOR PRO TEM URDY: Yes.

ELDEN ALDRIDGE: Councilmember Epstein?

COUNCILMEMBER EPSTEIN: No.

ELDEN ALDRIDGE: Councilmember Garcia?

COUNCILMEMBER GARCIA: Yes.

ELDEN ALDRIDGE: Councilmember Larson?

COUNCILMEMBER LARSON: No.

ELDEN ALDRIDGE: Councilmember Nofziger?

COUNCILMEMBER NOFZIGER: Yes.

ELDEN ALDRIDGE: Councilmember Reynolds?

COUNCILMEMBER REYNOLDS: Yes.

MAYOR TODD: Passes 5-2. A motion in favor of adjournment. Councilmember Garcia?

COUNCILMEMBER GARCIA: I motion it.

COUNCILMEMBER REYNOLDS: Second.

MAYOR TODD: Councilmember Reynolds second. All in favor say aye.

Transcribed by:
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