

City Council Regular Meeting Transcript – 10/15/2015

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[10:18:39 am]

>> mayor adler: we're about ready to start. We're going begin with an invocation. The invocation will be given by reverend chris jimerson of the first unitarian church of austin. Please rise.

>> thank you. Please joint me in a spirit of prayer. Spirit of love and life, breathe into us, into this room, into these city officials a depth of love and an insight into that which is life giving and life enhancing for all who inhabit this great city of ours. Bless all of those gathered here today with the clarity of thought and the ability to listen with intentionality and openness to the thoughts of others. Fill us with the sense of patience and goodwill that lasts throughout the day and the many discussions and the many decisions that lie ahead. Bless each one present today with a sense of profound gratitude for the service and commitment of each of those others who are present here today. We ask all of these things in the name of all that is holy, that is life giving. Amen.

>> mayor adler: amen. Thank you. If the council will indulge me a moment of personal privilege, i want our neighbors in bastrop county who are experiencing disaster in the form of wild fires burning there yet again to know that our thoughts and prayers are with them and especially with those that are on the fire line battling the blaze.

[10:20:56 am]

Central texas is a region that pulls together in tough times. Austin stands ready to assist our neighbors in bastrop in their time of need. I understand that our city manager this morning went out and visited the region. Do you want to say anything?

>> we did attempt to fly out. We got out there and the smoke was too thick. Our helicopter in the air and another so we had to turn around. We will likely go back later in the day as the temperature increases and we hope that that will clear the air better and allow us to get back and see how they're doing out there.

>> mayor adler: okay. Our thoughts are there. I am going to convene today's meeting. It is thursday, october 15, 2015. We are in the city council chamber, 301 west 2nd street, austin, texas. We will begin the city council meeting in the city of austin. I'm looking at the agenda. We have some changes and corrections i'll read into the record. Item number 4, the 13th. It was recommended by the airport advisory commission on a 7-0 vote. Commissioners licate and salomon absent. Item number 6, same day, same action. But on a 6-1 vote, commissioner martin voting against, licate and solomon absent. Number 7, also october 13, 2015, also airport advisory commission 5-0 vote recommended with commissioner rodriguez abstaining, commissioners solomon absent.

[10:22:59 am]

Items 8.27 on october 14, they were recommended by the water and waste water commission on a 9-0 vote with commissioner blanding absent. Items 52 and 87 have been withdrawn. On item number 63, a valid petition has been filed in opposition to the request, the zoning request. Item 83 and 84 at 4:00, time certain that we anticipate postponing items 83 and 84 to november 12. That will be requested at that time. All right, let's figure out what's been pulled. I have items 3 being pulled. I have item number 7 being pulled. I have 10 being pulled. I have 35 being pulled. 53 being pulled. And 38 and 53 look like they will go to a 4:00 p.m. time certain. 50 and 51 look like they will be set for a time certain at 6:00. That means, by the way, that they will be heard no sooner than that time. Item number 56 has been pulled.

[10:25:05 am]

There's opinion a request that it be heard no earlier than 6:30. So we'll go ahead and do that for a time certain 6:30 which again means it won't be entered any earlier than 6:30. And item 61, 62, and 63 are items that will be heard no earlier than 4:00 today. I have item number 48. That's on nonconsent. And 60 is on nonconsent. And then i have some items that have been pulled for speakers. Item 42 has been pulled by speakers, and item 43 pulled by speakers.

>> mr. Mayor?

>> mayor adler: yes.

>> pool: i'm sorry, i didn't quite hear you. What did you sea about 55? Was that a time certain or was it 56?

>> mayor adler: 56 a time certain of 6:30. Okay? Yes.

>> mr. Mayor?

>> mayor adler: i said item 10 was pulled. But did you intend to pull item 10 or item 30.

>> item 10 and also item 30 and 39. Those are the three i had.

>> mayor adler: and 39.

>> 10, 30, and 39.

>> mayor adler: okay, 10, 30, 39 pulled by mr. Zimmerman. Okay. Does anyone else have any other -- there's also yes?

[10:27:12 am]

>> this doesn't necessarily need to be pulled. I wanted to request of the sponsor, member pool that my name be added waiving certain requirements for the association tree planting event at the park on november 7. Ramsey park is in district 10 and the person who's been so instrumental and renovating and restoring that park is our representative from district 10 on the parks board. So i would appreciate councilmember pool allow me to co-sponsor.

>> pool: absolutely happy to have you aboard.

>> gallo: thank you.

>> mayor adler: the ones i show being pulled are 3, 7, 10, 30, 35, 39, 42, 43, 38, let me do this again. I'll start at the beginning. Sorry. 38 is pulled. 39 is pulled. 42 and 43 are pulled. 49's been -- again. Item 3 being pulled, 7 being pulled, 10 being pulled, 30, 35, 38, 39, 42, 43. The others are not being pulled. Ms. Gallo?

>> gallo: i could have done both of these at the same time. But also number 33 approving the resolution directing the city manager to appoint a liaison to local organizations that share the city's goal of ending human trafficking in austin to incorporate information about identifying and responding to human trafficking to existing training for city employees and develop plans and policies to prevent and reduce

human trafficking in austin sponsor council member troxclaire said she would allow me to be listed as a co-sponsor on that.

[10:29:31 am]

I'm involve in the ut social work advisory council and there's several faculty members at ut that are very involved in this issue and have become resource nationwide in this issue. I was not able to join the press conference this morning because we had met quorum or i would have been there. Thank you for bringing this resolution to us.

>> mayor adler: okay. Is there a motion to approve the consent. We have one speaker on the consent agenda, butch lawson. Is mr. Lawson here? Butch lawson? Okay?

>> mayor adler: our consent agenda runs 1 through 46. Yes? 6.

>> i had a few abstentions and some against.

>> mayor adler: have to make sure that there are no -- the consent agenda runs 1 through 46. Okay.

Before we -- first we need a motion to approve the consent agenda. Mr. Zimmerman, is there a second? Councilmember gallo seconded. I will read for the record some votes by mr. Zimmerman on the consent agenda. He is abstaining on items 5 and 6. And item 8. Abstaining on 11 and against 12. Against 14, abstaining on 15, against 16, abstaining on 18, abstaining on items 20, 21, 22, 23, voting against on item 24, abstaining on 27, and 28.

>> zimmerman: that's correct, mr. Mayor, thank you.

>> mayor adler: any further conversation? Discussion?

[10:31:33 am]

Ms. Tovo?

>> tovo: i would like the record to reflect by recusal on item 11 and i filed an affidavit with the city clerk.

>> mayor adler: any other conversation, discussion? All in favor of approving of the consent agenda, please raise your hand. Those opposed. It's unanimous on the dais. With the votes noted and the recusal noted.

>> tovo: i think you addressed -- called one of the speakers on the consent agenda. I had shown that mr. -- had signed up on the consent agenda, number 36. And i don't think that was one that was pulled.

>> mayor adler: it was not pulled. I don't see him signed up on the agenda.

>> tovo: okay. I must be looking at the wrong one. Sorry about that.

>> mayor adler: 6 and 7 are together. And they've been pulled. So -- but i hasn't noticed that. So i did not call item 6 as being pulled. But if we pulled number 7 in there together. Is there a motion to reconsider the vote on item number 6. Ms. Tovo makes that motion. Number 7? Ms. Garza. Any objection to that item being reconsidered. So item number 6 is now reconsidered. There's been no vote on 6 and 6 and 7 as combined have been pulled. Okay? Convention center item is -- item 48 so not on the consent agenda. All right? That then gets us to our agenda. Let's do item number three, which is the austin energy item.

[10:33:42 am]

You want to -- what? Okay, so austin energy, we discussed we were going to do this. We're going to have 15 members, speakers on both sides on this item or 30 minutes total discussion. We have one i think neutral speaker. So that means there's going to be 14 minutes each side. If each side wants to get together to figure out who's going to speak. Have you had a chance do that yet? Okay. I'm going to come back to this item to give the speakers a chance to align themselves. So we're going to come back

to this item number three. The next item that was pulled were items 6 and 7 related to professional services for the airport. We have one citizen waiting to speak on this item. You want to lay it out first and we can bring up the citizen? Let's call the citizen first. You want to come up and talk?

>> thank you mayor, council, i'm dale buela. I'm signed up as neutral because i don't know the detail of this expansion at the airport. It's great to expand the airport. But my concern is the additional emissions that would be caused for this additional air traffic. I sent many of you copies of what other countries are doing around the world in creating massive solar fields off of their airports to offset all emissionings. That's something we should talk about in the future talking about purchasing an additional site to go ahead and put a solar farm.

[10:35:45 am]

To me it would be great to have a solar farm right on the airport ground. We own the property. The panels are low profile so there wouldn't by any obstructions involved and i sent several off photos of the airports around the world with the nonrunway areas are covered with solar panels and native plants. If we're going expand the airport. We need to consider emissionings. We don't need to push austin in nonattainment and this is something that ought to be considered in the planning. Thank you.

F>> mayor adler: this item was pulled by ms. Gallo? Ms. Gallo?

>> gallo: thank you, i wanted to ask a question of i guess economic opportunities, committee would be the committee that looked at this. And i just wanted to make sure that you had an opportunity to tell us about the discussion. And what the recommendation was from that committee -- at that committee.

>> mayor adler: was this discussed at the committee?

>> this was take on the the airport advisory commission?

>> mayor adler: and the airport advisory commission piece recommendation was --

>> to approve it. You just read them in to the record of what the votes were.

>> mayor adler: this was the unanimous vote or -- 6-7, 6-1 on 6 and 5-0 on 7.

>> gallo: my concern was that i don't think it was heard by my council committee was yet. Maybe it should have gone to or maybe it's on the agenda of the council committees. But i think it should be heard by one of the council committees coming before the full council.

>> mr. Mayor?

>> mayor adler: yes?

>> i like to echo those thoughtings. It's a big number. Might be a terrific bargain. I'd like to have it looked at too.

[10:37:46 am]

I don't have objection. I just want to get more information if possible.

>> mayor adler: any particular issue associated with this that you think would send this to committee other than being a contract?

>> just the very large amount from my viewpoint. No particular -- no specific issue. Just a very large amount.

>> mayor adler: you want to make a motion.

>> gallo: i would say the public might not have the records, the amount is up to \$289 million.

>> question, mayor?

>> mayor adler: unless there's a motion, to ask for further debate on this issue? Or discussion. Ms. Pool?

>> pool: i have a question. Mr. Smith can answer this, i'm sorry. The funds for this, does it come from the revenue that comes into the airport?

>> yes, no tax dollars involved in this. It's a combination of bonds in a we sale, faa grants, and cash we have on hand from previous years with the profit at the airport.

>> pool: is part of your presentation going to talk about the competition between the austin airport and the san antonio airport and the effect on economic development in the central part of the city for who gets the additional flights from the airlines.

>> well all of the projects, part of the agenda items designed to take our airport from what it is today the facility that's been exceeded because this year it will have 11.7 million panels to a 15 million airport capacity which would get us through about 2025. To a degree we don't proceed with these improvements, we constrained our airport to not grow beyond where it is today and eventually losing out to other airports and other regions where the air service will go if we can accommodate it.

[10:39:52 am]

>> and is there any -- the cost for the expansion, is that a standard amount of money for the contract that -- the complexity of the contract with the work prescribed, this scope of work?

>> for the scope of work we've added to. We have added to a scope of work. We feel it's a negotiated amount. So between rosie's department, the public works department and the aviation department, we think it's fair and reasonable for this scope of work which has been created. Now, since the last time the council looked at this, we have increased the scope in three primary areas, one is the apron area which is the concrete that the planes park on around the terminal. But that had to be expanded significantly because of the planes coming in to austin these days on international flights are larger than they were previously. And have a safe operating airfield. We need to expand the size of the apron from where we had it previously. So we doubled the size of the apron facility that we're proposing to council for additional discussions. In addition to that by expanding the apron area, we'll have a deicing facility where the planes get deiced when they take off during the cooler weather. That has to be added to the facility. In addition when we looked at all of the new systems put into the nine gate expansion that we're building, it became apparent that the systems in the 20-year-old facility, which is the existing terminal needed to be updated to coordinate well with the expansion facilities. So the scope has a number of projects where we will update all of the facilities in the existing terminal to match the up-to-date and more modern facilities like the security system, fire alarm system, roofing systems, all of the things like that will be updated in the existing terminal as well.

[10:41:54 am]

>> pool: thank you. Mayor. I'm on audit and finance and economic opportunity and we have had presentations from mr. Smith on different changes that are happening out at the airport. I would be comfortable which is why i didn't pull this item myself, comfortable moving forward today on approving this contract.

>> mayor adler: okay, ms. Houston?

>> houston: yes, and thank you so much, mr. Smith, for those explanations. You've been kind of reporting to the whole council on several occasions because this was in conjunction with the opening of the south terminal. You were going to expand the apron and increase the traffic capacity in the barbara jordan terminal and you need to have the south term. I'm comfortable in going ahead and approving this today. Mr. Renteria?

>> renteria: thank you. I'm having a big problem of supporting this item. We're not hearing it. We have airlines at the airport not paying liveable wages. In fact, there has been a incident recently where another contractor for an airline took over and replaced the original contractor that were paying higher wage and took the contract and lowered the wages so that we have people out there that are getting

paid just \$8.50 an hour. It's a big concern to me. And i really want to really look at this and find out what exactly what we're making this huge investment for these airlines out there. And they're turning around and paying our people here in austin, the citizens, you know, wages where people cannot live and support their family.

[applause]

>> renteria: so i have a big concern over that.

>> mayor adler: ms. Gallo?

>> gallo: i just want to reiterate that i didn't pull this to indicate at all that i'm opposed to expanding the airport. I'm in favor. We have a vibrant growing economy. We have a lot of people flying in and out.

[10:43:55 am]

I think the efficiency of our airport was important. It was more of a process question more than anything else. Because i think as things change and you mentioned there were three things that changed on the scope, it just seems like as we try to use our committee structure that those discussions and those questions should be -- should be handled and answered in a committee structure so that the committee can make a recommendation and we don't have to have that discussion on the dais when we have 87 other things to deal with today. It's not indicative with the lack of support. I just -- once again these kind of discussions can be in the committee level and the committee can be in the recommendation. That eliminates the amount of time, reduces the amount of time that we have to talk about this. Thank you.

>> mayor adler: further discussions? Mr. Zimmerman?

>> zimmerman: i want to make a motion to refer it to auto and finance for the next meeting, which is about three weeks. Have it come back to council whether they act or not. Give them a chance to act in three weeks. I would make that motion.

>> mayor adler: moves to go to audit and finance and come back after three weeks whether the committee has reviewed it or not. Is there a second to that motion? Seconded by mr. Renteria. Any discussion on the motion to refer it to the committee, mr. Zimmerman.

>> zimmerman: i want to echo the comments that councilmember gallo said on about 98%, 99% in favor of the project. I'm a big booster of the airport. It's an economic driver and i look forward to getting this back with a little more information and having a chance to vote most likely in favor. So thank you.

>> mayor adler: it's been moved and seconded.

[10:45:56 am]

Referred to committee. Ms. Troxclair.

>> troxclair: i want to know what your timeline is. Hearing the committee in a few weeks, i don't know what would affect your negotiation?

>> the time sensitivity about this request revolves around faa grant funding. In the rca, we tried to explain we've broken up this project to five phases and those phases were designed not because we needed five phases, they were designed to suit the schedule by which the faa makes grant decisions. So we had a lot of cooperation from the faa about trying to get the maximum number of grants applied to this particular project. So the sequencing of those grants could be affected by additional delays. And then we'd be jeopardizing our ability to maximize the potential amount we can get from the faa on an annual basis to help support this facility.

>> what -- do you have a deadline by when the decision needs to be made?

>> if we could do it in three weeks, whatever it is, we can make that work.

>> troxclair: okay. Did you have anything to add?

>> going to be the expert on that. My understanding that there was concern that one of the reasons we discussed bringing this to committee both initially rather than coming straight to the full council but that there was significant timing constraints that we wanted to not delay it to take it to committee. They're the ones that are the experts in this arena. If the month will be sufficient, i trust that the month will be sufficient. It's cutting it close for my level of comfort.

[10:47:57 am]

>> troxclair: the question that i would have had in committee is -- i heard you say this expansion will get us through 2025. I feel like we're going to want to do another expansion in the near future. I was going ask if -- i guess that's the most capacity that is possible to build at this time or why we wouldn't have a goal of getting us through, you now, another couple of decades.

>> the reason we incrementalize improvements is because these are fundamentally speculative building projects. We're landlord. So to the degree we build something and we don't have a tenant for it to give us a revenue stream, then we're on the hook with a lot of expenses with no income. So we try to forecast as best we can what level of service that we can reasonably predict will be available and then build to make sure that we're going to have sufficient revenue streams coming in to accommodate that. And we start going out beyond 5, 7, 8 years. We're just guessing to what's going to happen in the marketplace. We can overbuild which some airports around the country have done. And now they're stuck with some tremendous builds. They have to be bailed out by the communities because the airport isn't generating the sufficient funds to cover their expenses.

>> troxclair: thank you for being prudent with that decision. I think auto and finance meets sooner. The economic opportunity committee meets in three weeks. If mayor pro tem tovo doesn't have room for it on the finance agenda.

>> mayor adler: ms. Tovo?

>> tovo: i'm not sure if audit and finance has room or not. I would just say we should have good, well identified and articulated policy questions before we send something to a committee. And i just haven't heard any here today.

[10:49:58 am]

So i'm just inclined to move forward and not to support the motion to postpone. And i'm concerned about losing potentially putting the staff under pressure, time constraints and pressure by the delay.

>> garza: ms. Mayor, i have a policy question not sure if it relates with this policy question or a particular item. I do have a concern -- i share the concern that councilmember renteria mentioned how we're handling contracts in terms of the workers as we go forward with these kinds of huge contracts. So i would want to understand from a policy standpoint the connection between the contracts that the airport lets out and requirements related to worker pay, etc. Applause mrautz

[applause]

>> all the contracts that the airport lets has to meet the minimum wage requirements and fair wage. There are other contracts at the airport that we are not involved in any way with how they're let. The particular one that renteria is talking about is the contract that the airlines specifically is a consortium bid out to various entities to provide services for the airlines, in support of the airlines operations. And right now we're not in the middle of those contracts.

>> garza: that's the policy question that i think the appropriate time in front of the appropriate committee should be addressed because we have relationships with those airlines and so i would just want to understand what our options are for requiring folks that we have a relationship with to follow certain rules. But that sounds like it might be a different policy issue.

>> mayor adler: i would like to have that question that mr.

[10:51:59 am]

Renteria has asked addressed more broadly. We have now set for our city a certain floor with respect to what we pay our workers. We have policies related to contracts that we set. If this matter continues on, i will refer the larger issue to a committee to see what influence we can have as a contracting or operating party in terms of helping to drive a higher wage base in this city.

>> renteria: mayor, i have no problem supporting this if that's what we were -- if we were going to look into a policy where we are paying our citizens a liveable wages here in austin. And we need to inform the airlines that austin is not going to put up with the -- with the kind of contracts going up. We pay people \$8.50 an hour and expect them to live here in austin. It's just a -- it's a disgrace that we still have this going on here where the city facility and we're paying employees that can barely survive and stay and live here in austin. I hope we can address that>>

Mayor adler: okay, mr. Casar.

>> casar: in economic opportunity, we did address two areas, some may call them loopholes, others may call them missed opportunities for making the living wage requirements be extended and those recommendations were passed and being processed by staff and coming back to council around construction contracts and also around subcontractors around contracts. It seems that if you refer the broader policy area, there -- there is another gap in whether or not we can do this regarding leases or leasees.

[10:54:00 am]

The broader issue was addressed and we took care of -- we passed recommendations in two areas. Construction contracts and sub contractors of our contractors that were here. And perhaps it seems like an area that's one of the few areas a lot to be discussed, leases and leasees.

>> mayor adler: sounds good. I'll refer that to the economic committee to see if there are opportunities we haven't identified yet. Ms. Tovo?

>> tovo: i want to add that is an important concern and by saying i didn't see any policy issues emerging. I didn't mean to suggest that i'm not supportive of the direction councilmember renteria suggests and i'm sure the economic opportunity committee is looking at this but if the contracts are in a model with how these types of contracts can be set up so when they contract are held to the same requirements.

>> renteria: the motion, mr. Zimmerman?

>> zimmerman: can i call the question?

>> mayor adler: yes. No further discussion. There's a motion to refer this matter to committee, it's been seconded. Those in favor of referring, please raise your hands? Mr. Zimmerman, mr. Renteria, ms. Gallo. Those opposed referring to the committee, raise your hand, the balance on the dais. Abstaining. The main motion, the passage of this item number 6 and 7.

>> pool: move approval.

>> seconded.

>> mayor adler: moved and seconded. Moved by ms. Pool, seconded by councilmember zimmerman. No discussion. Those in favor, raise your hand. Those opposed. Passes unanimously. Thank you. My office will refer that matter to committee. That gets us -- double back then to item number 3.

[10:56:02 am]

We have speakers that are signed up for this. We're going 14 minutes available to each side if needed. And then we will have two minutes for neutral. We're going to go ahead and begin with the folks speaking in favor of item number three. Mr. Osborn? Ms. Tovo?

>> tovo: i want to apologize in add vans to the speakers. I'm supportive of this item but i want to remind my colleagues i have an unavoidable conflict and will have to leave the dais at 10:00.

>> mayor adler: you comfortable with us moving forward with this issue.

>> tovo: i would love to vote on it but -- you know, i understand the business of the council has to go on in my absence so -->> mayor adler: okay.

>> tovo: i will be back if that makes a difference in the votes.

>> mayor adler: see what the vote looks like. Mr. Osborn?

>> thank you. I'm michael osborn, the current chairman of the electric utility commission. I'm not here as chairman. I'm the former chairman of the austin resource planning task force. What i want to convey is help all of you concerned about the affordability issue. In my opinion, a 600 meg watt solar purchase is good for our customers from day one. I want to be tell you why i believe that and why austin's residents are wrong. The austin energy projects a 2.6% increase by the full 600. But we were doing six months of research on this at the task force, we came out with a recommendation that said austin energy should return to a planning methodology that compares generation alternatives to actual generation costs, not modal market income alone.

[10:58:19 am]

So austin energy's method was rejected by the generation task force. Why? Because it doesn't consider the cost of the fuel or the cost of running the plant as being replaced by the new energy. Over the last six years, we've watched our gas bills go from \$250 million to \$100 million. And we watched renewables go from \$26 million to \$180 million. So gas has gone down by \$150 million, these are gas purchases and renewables have gone up by \$150 million. And this has been the secret -- the secret sauce we have had here austin that have kept our bills almost flat instead of receiving some sort of big rate shock. So when austin energy says there will be no savings from avoided fuel, it would be counter to what we've seen to the last seven years. Austin energy's method does work if all generation plants run only when they make money or what we call in merit. They do not and they are not in merit. Austin energy's gas generation only ran in the money in 2011, 2012, 2013, 2014. Our gas plants ran in the red. How much in the red? 2012, 12.5 million, 2013, \$7.6 million, 2014, \$11.4 million. This is a document that was given to the electric utility commission earlier in the year. But the actual fuel that is posted in the annual performance report, you will see that the numbers that are in are actually much higher in their actual psa numbers that they charge our customers. And when you use those numbers, you'll see that the losses balloon to \$85 million, \$52 million, and \$50 million.

[11:00:24 am]

A completely different set of numbers. We're not going to settle it today, but i wanted to bring it up. How much 4600 megawatts of solar cost? We have the capability of the euc to know every hour each austin energy is generating on a 15-minute basis. We can go to ERCOT and we know what the prices are and we know exactly what they know. And in our opinion, we believe that assuming 40 megawatt -- megawatt hours -- per megawatt hour, that we'll actually make \$8 million on the psa and another \$16 million on the annual savings of \$24 million. No guarantees in energy forecasts. Gas prices could plummet. Fracking could be illegal. Cold fusion could come back. All kinds of possibilities. In my view, these contracts are affordable and the added benefits. We get green house emission reductions of over 80 metric tons. We reduce the generation now a little bit. And we reduce Decker and Sand Hill. I

appreciate it and thank you for considering the fact that there was another generation group out there of professionals who believe that the methodology that is used by austin energy, which is a simple methodology. They take the \$40 contract, they sell it into the market out in west texas, say it goes in at \$37, they say that's a \$3 loss. And they multiply that by 1.5 kilowatt hours and that's how they come up with all of the charge. We say you sell it in out there, it moves across the system, we buy it back. How many times have we heard austin energy say we buy everything -- everything from our local node. In their methodology, they're not even buying it back. You buy it back, you still have your megawatt hour and compare it with what is not going to run and what won't run will be the gas plants that is about \$75 a megawatt hour.

[11:02:38 am]

So i repeat, it's rare when you can make a decision that is both right and morally right and financially right. But if you think you will be saving your customers money and your constituents money by voting against these contracts, you won't. You'll be costing him money. Voting for these contracts you will make your constituents and all of the rest of us richer. I support urge you to support the decision of 600 megawatts, thank you.

>> mayor adler: next speaker.

>> i want to reiterate what mr. Osborn just said. Speaking of the experience of having worked with austin energy for 12.5 years. Largely responsible on a number of purchases of renewable energy. I want to share the insights we gained over the years that i worked in austin energy and strategic planning and purchasing renewable energy. Important points. Number one, timing, just like in comedy is really important. We had the experience in 2003, very similar to the opportunities we have today, 2003, we had 500 megawatts approximately cumulative bid prices wind energy of prices below \$30 a megawatt hour. The austin energy folks at the time said, let's wait. The prices will go lower in the future. They were wrong. We should have -- we should have bought all 500. At that price, we ended up by delaying, making the mistake of having to purchase in the future 2005, 2006 wind energy at \$50 to \$60 a megawatt hour.

[11:04:49 am]

We could have gotten all of that energy at 25 to 30. The same situation exists today. The same circumstances. The final point i want to make is the reason the council should act today on all 600 megawatts is because the timing is everything. Timing and purchasing renewable energy. Locking in fixed price contracts. The timing is such you want do it when the gas market, natural gas, is very important in texas, the gas market prices are at their lowest. That's today. That's not going to continue. Buy renewable energy, buy solar energy at prices that are offered today. Fixed prices, 25-year contracts. Lock it in. That's the smart thing to do. Thank you.

[applause]

>> mayor adler: thank you. The next speaker. One minute is dale buehler.

>> thank you, count -- council. The majority of the discussion is whether to purchase clean energy now or put it off. However, i want to look at this in a different way. Imagine a huge pipe is extending to lady bird lake and that pipe is discharging toxic waste to the colorado river. There's a proposal before city council to build a waste water treatment plant but the committee says let's postpone the decision because there's new technology on the horizon and perhaps in the future the costs will be less. What should be done? We're pouring toxic chemicals in to the air today from our fossil fuel generation. According to recent reports from the texas department of health, 17% of texas children now suffer with

asthma, that's over half a million kids. The largest number are children 5 to 9 years old and black children the percentage is 17%.

[11:06:54 am]

If costs are a primary benefit in spending public money and not the benefits, there would be no funding for schools, libraries, roads -- or -- there are more important things in life than money. Is our planet and our children worth it?

[applause]

>> mayor adler: next speaker? Sorry the next speaker is elaine benton. You have 10 minutes.

>> i represent san andrews team. I urged the city council to maximize the energy generated. These are moral, duty, and privilege as global citizens and caretakers of this planet to act boldly now to obtain the energy possible for our residents from clean green resources to cause minimal disruption to the land, the earth, and all of the inhabitants. Time to consider the ramifications in the energy policies in terms of the impact on the earth's air and water and the quality of our lives and not merely monetary considerations although this propose sal warrants acceptance based on financial consideration alone. The axel rating evidence of the disastrous effects that our policies have racked on the earth make it clear we can no longer afford to move slowly while further investigations ensue or to make greater economies of scale. It's far more cost effective for us to act now proactively than to do an unbearably high cost in terms of the effect that we will see to property damage and to lives and livelihoods lost and further ecological destruction. We looked to lake travis, wimberly, and bastrop for evidence of this.

[11:08:57 am]

At this point in our history, let this council's legacy be. It took every action possible to halt the upward trajectory and escalating ramifications of global warming. Thank you.

[applause]

>> mayor adler: the next item is -- next speaker, i'm sorry, is leslie libby. Sorry. You have one minute.

>> thank you for this opportunity to speak today. What i wanted to do with my time is to put this in perspective. I recently retired from austin energy after working in solar energy for over 24 years. And i just wanted to let you all know that many councils have supported solar since 1985. This is not new. We're not rushing into it. We have put a lot of energy into solar energy. A lot of money into solar energy. Every time we do a survey, austinites have always supported solar. We have done solar explorer where 1,000 people chose to pay more in their bill to support solar. We have the rebate program where people are willing to wait a number of years to get a payback on their investment from solar. This is not a rush. We have been working hard. We worked with consortium of utilities. Withe worked with the department of energy. We have been on the forefront of solar energy waiting for this day. Please take advantage of these prices. They may not come again.

[applause]

>> mayor adler: bob murray, you have one minute.

[11:10:57 am]

Karen haden is on deck.

>> hello, mayor and council. I wanted to point out for my standpoint of having studied these items very well and looking at the history of austin's positions where a year ago they said they couldn't afford to do solar because it was more expensive than natural gas and always would be so. Ten months later, solar was dropping so fast it would be imprudent to go for solar right now because after all, we should wait

longer. If we do that kind of thinking, we would never do the gas plant at all since it's now no longer competitive. So i would just say to you when you talked about the austin energy professionals, you take that with a grain of salt. Sometimes they do very good work and bad work. The experience has been coming down 10 months. It didn't change. Their perception changed, but the market didn't. Now the real point today is you folks are better than you know. You don't need to depend on austin energy staff or anybody else. Get all of the input you can. I've watched you come up from just walking in and not knowing where the bathrooms are to being a very formidable council. Your diversity is a great strength and i commend you for it. You can make the decision. You can be the board of directors. You have the chops for it now. I was curious whether you'd come up that fast but boy i think you have. So as a person who's dealt with the city councils before, you're doing a great job. You can make your own decisions. So i know you'll do the right thing.

[applause]

>> speaking as an individual today. I served on the working group that went into great depth at looking at these issues. We did determine that it was advisable to go forward looking at 600 megawatts.

[11:13:03 am]

The council recently did prove a resolution for 550 megawatts. That's because this is before it's ever been a better time. It's a financially golden opportunity for solar. It will be good for rate payers. It will help to lower bills. When we've got Warren Buffett who goes out to the whole nation and says -- you know, pronounced with great joy that he had gotten 3.87 on solar, he's now investing \$30 billion in solar, we've gotten better prices than that now. I mean austin energy should be commended. They've got great bids and we should take advantage of this opportunity here and now before it slips away and go for as much solar as we can possibly get as soon as we can get in order to reduce bills. Thank you.

>> Mayor Adler: Caba White. You also have one minute.

>> good morning, Mayor, Councilmembers. Thank you for the opportunity to speak and thank you for bringing this up for a vote today. I appreciate the time you spent on this issue. I hope you are all thinking about what Michael Osborn talked to you about, this makes a fundamental difference on how we approach the issue whether or not these contracts are going to cause a short term bump in costs or whether they may in fact actually be going to do the exact opposite and that's save us money from day one. I trust Michael Ortiz born and i think he has looked into this in depth and he has knowledge that frankly many of us who have not worked in the utility would not have. This is not something that's going to serve us well over the long term only. It's going to be that. It will save us money from day one. This is a path to affordability in this city and we desperately need that.

[11:15:05 am]

We need not only affordable prices now but we need predictable prices and that's what the contracts will offer. I urge you to vote for as much solar as you possibly can. Thank you.

>> Mayor Adler: Thank you.

[applause]

>> Mayor Adler: Those are the speakers that we had speaking in favor. We have Paul Robbins speaking neutrally. Mr. Robbins.

>> Don't forget Cyrus.

>> Mayor Adler: I will.

>> Council, this is not about

Who is pure -->> Mayor Adler: I have four neutral speakers. So i'm going to give you a minute. Speak fast.

>> such a challenge. Would you cue the slide. Council, this is a slide that austin energy gave on a presentation that's in the council backup. The bar on the left is a modelled purchase power agreement and the bar on the right is what would be if austin energy owned it. There is almost no difference why rent when you can own? I'm not asking you to vote against solar. I'm asking you to vote for affordable solar. I have a compromise. I urge you to try to get the second batch of solar down to the price of the first batch of solar that delta is \$126 million -- i can't believe none of you would be against saving that money. If that does not work, then dispatch austin energy to build its own plant in 2017, 2018, and after the plant is paid for the energy will probably be close to free.

[11:17:21 am]

Thank you.

>> mayor adler: thank you.

>> cyrus reed speaking one minute neutrally.

>> yes, thank you. For the record, cyrus reed. I'm signed up neutral. I'm for doing more solar purchases. I want to lay out more options before you. One, do what staff wants, delay until after 2017. They have reasons for thinking that's the best approach. I happen not to agree with him. The second approach is one we took at the resource management commission which is to set an overall cap on rates of we said 1.01%. I don't mean rates, i mean psa rates impact. We look at the analysis we did. Look at the contracts and get 150 megawatts of solar. Third option is one that michael laid out to get 250 megawatts. I don't have a problem with that approach either. That was the best available price. They thought 250 megawatts were the best prices. Fourth option was to do it all. I guess what i'm telling you today i'm not for the first i'm not for the fourth. I hope you look at the best prices or the best rate impact and do what's right. I will say i do agree partially with t-paul that reserving some makes a lot of sense in terms of the numbers. So i think we can do both. That's what matters. We have a handout that goes on the different numbers on that.

[applause]

>> mayor adler: also speaking neutrally for a minute. Luke mets.

>> i'm the director of environment texas and serve on the resource management commission. This past monday was the hottest october 12 on historical record. And this unseasonable temperatures have been fueling the wild fires that we've seen recently.

[11:19:23 am]

We all know that the rising heat and the increase in severe weather are part of a trend that scientists have linked to global warming. My organization supports transitioning to 100% renewable energy as soon as possible. We heard the facts from austin energy and we saw that this is record low prices for solar energy, it will save water, reduce carbon emissions and is a good deal for austin. We also saw that for austin energy a short term rate impact but over the life of the contracts starting within five years we will start saving money. So this is a way that will help to save the utility and help to save customers money over the long haul. But recognizing that concerns about short term rate impacts rnc did recommend having a cap, 1.1% on the psa as a potential alternative for you to consider. That's something i'd like for you to consider. Thank you.

>> mayor adler: thank you.

[applause] those were all of the neutral speakers we have. Is anyone here that wants to speak against - i mean anyone who would want to speak against this? Okay. We're back to the dais? I'm sorry. Come on up. Sorry. Raise your hand. Go ahead.

>> thank you, mr. Mayor. Thank you, council, for giving me the opportunity to speak. I'm led ladsen. And we're opposed to this purchase and the reason we're opposed is by austin energy's own predictions, this will cause a rate increase of up to 2%. And the large industrial payers and the medium industrial payers are going to bear the burden of that price. We're talking millions of dollars. That's not an ideal. That's actually numbers going to come out of this community because of this purchase. It comes at a time when austin energy is one of the most uncompetitive utilities in the state.

[11:21:29 am]

And this would certainly take us further away from being more competitive. On an emotional level, this is a significant issue. I fear we might lose one of our anchor companies because the price analysis would be so high they would want to move to a lower cost site. Our members when they evaluate expansion and growing, they're not looking at austin anymore, they're looking at cedar park, roundrock. Pflugerville, san marcos. It's outside of austin energy delivery zone. So this is not about a particular energy source. Manufactures are the largest participant in green choice with austin energy. I think you'll find a support for sustainable energy. This is about cost. We feel like the council should be looking at affordability as the number one priorities and you have the opportunity to make that decision today. Thank you very much.

>> mayor adler: thank you. Anyone else want to speak at this point? Yes?

>> mayor adler: good morning, i'm mike rawlins. I represent the chamber of commerce. You received communications on our position and i wanted to take a couple of minutes to explain it to you. The chamber is not against solar power or solar energy at all. What we're in a difficult to support this because of the affordability policy the city council adopted. In that policy, i want says that austin energy rates would remain in the lower 50%. So any additional costs as stated previously would take us further away from that policy decision on it. I know councilmember renteria earlier talked about fair wages and fair wages can't keep up with affordability costs as we continue to add costs here in austin. So let me also reiterate that it's not about business not supporting this.

[11:23:30 am]

As i said previously from the austin energy audit that 92% of the usage in the green choice program is business which leaves about 8le% residential who have chosen that and clearly they have chosen not to pay higher rates for their energy. So if it is the will of this council to move forward today with additional purchase, i would ask you to look at one capping that at about 1%. But more importantly to us, it's to make a statement where you have a mandate to the rate review study to add to its work to develop a pathway that will get us back to the affordability goal and that is in the lower 50%. At the same time, it would be good for council also to publicly state that they are interested in terminating and finding a way to terminate a contract on biomass as has been previously reported costing minimally 55 million a year to rate payers while it mainly sits idol. We ask that council please consider these viewpoints. We don't view this as about solar energy or any of the type of energy. But your policy about keeping costs where it's affordable, more affordable. I will send up saying that business, when you hear the average cost will be 2%, that's not -- that's not true on the business side. The businesses are carrying a much higher percentage of that cost. So, again, thank you for your time and in your consideration or authorization.

>> mayor adler: quick question -- mr. Mayor?

>> zimmerman: you said 90% of the green choice was decision. But do they have a choice to revoke that green choice and save money? Is there any way to do that?

>> i would have to defer that to austin energy?

>> zimmerman: it would be interesting to know that green choice is in place. There's conflicting motivation for how it is.

[11:25:32 am]

>> i can speak for the business community trying to be good corporate citizens but imbalanced on the point between business and residential.

>> zimmerman: on the point of that, we lost the mayor. The companies will have a chance to revoke the green choice and get the rates down. That's the question i have. Maybe staff needs to answer that for us. Sorry, mr. Mayor. So the speaker had pointed out that 92% of the green choice election had been made by larger businesses and the question was do they have a choice. If we move ahead with the solar and their rates would go up millions of dollars, would you have the option to revoke the green choice and save on the power increases.

>> with respect to someone opting out of the green choice program once they're in it.

>> zimmerman: yeah.

>> mayor adler: can someone opt out of the green choice program once they're in it.

>> i'm the chief operating officer. People can opt out of the green choice program and it depends on a lot of rules. The new program enlists them for three to five years on the contract. If they were to opt out of that, maybe they can get back to it for a certain period of time.

>> the question was, would they be able to avoid these anticipated increases if they opted out immediately after we make this vote. It's anticipated the rates would go up and they say we can't avoid the green choice anymore. Does that save them?

>> it does not protect anybody. So by being in green choice, you agree to pay the price that we set out there under the program you subscribed to, residential and commercial and business. So if we go forward with these purchases, that goes back in to the psa. So if they were to opt out of green choice, they would go back to the regular psa charge and so they would pay their share with their psa.

[11:27:38 am]

There's no way to opt out of the renewable portfolio at this time.

>> mayor adler: anyone else?

>> we're here as a resource. We want to give our time back to you. We've been on the record many times. But i personally like to say i personally agree with t. Paul robbins with what i just heard.

>> mayor adler: okay. Thank you. I guess those are all of the speakers we have? We're now the dais. You want to make a motion?

>> i would ask -- with all due respect to all of the advocates here if we could -- since we're so close to the lunch break we could wait for the mayor pro tem to come back and she can vote on this.

>> mayor adler: time with me. You know when she anticipates coming back. ?

>> 12:30.

>> mayor adler: 12:30. Okay. Thanks. I had no problem with her doing that. Ms. Gallo?

>> gallo: i have questions of staff.

>> mayor adler: do you want to make your motion, ms. Garza?

>> gallo: so we can start the discussion? I move we authorize the purchase of the additional 250 to be in line with the euc's recommendation.

[applause]

>> mayor adler: it's been moved to -- buy an additional 250,000. Euc recommendations are second to that motion. Ms. Pool seconds that. Now in discussion. You had a question, ms. Gallo?

>> gallo: i did, thank you. The council has already approved the 200 to 300 megawatts in a previous council meeting. And i'm just curious with that decision how do we compare to other cities, large cities in the state.

[11:29:38 am]

>> with that addition, it's 288 megawatts. If you combine that with the 150 that we got under contract, we've got 150 plus the additional 288. So we exceed any other city in the state of texas. San antonio is a utility two times our size. City public service, san antonio. At this point, we committed to about 400. Although not all of that is on the ground at this time. So it puts us truly in a leadership position just with the portfolio we have coming on-line with the contracts we have.

>> okay. Thank you.

>> mayor adler: so we can get everything in the way of discussion. I want to lay out an amendment to this. The amendment is what i handed out to you. I have a copy here for the clerk. One change in it and - it should read move forward with 400 to 450 megawatt of utility scale solar generation. That includes the 288 that we had previously approved two weeks ago. And maintain approximately the 1% cap. I say approximately the numbers reported to us have 1.01%. And timely solicit bids so that we could build or purchase a at least 150 megawatts by the end of 2018 consistent with our values, risks, and revenue impacts. Is there a second to that motion?

>> mr. Mayor.

>> zimmerman: i think i need to make a point of information that's important to the record. The paper we have here, it shows my appointment, mahmid mahmoud has been absent from the meeting but he told me he was there and he voted against.

[11:31:45 am]

So the recorded vote should have been 7-4 with navid mahmoud voting against unless someone can.

>> mayor adler: thank you for that notice. Mr. Casar seconds this. I want to explain the basis for what i've done here. And i hope it's something the council will consider. This debate with respect to energy and these rates is -- is a very challenging task. On this task on this council. It's challenging because the issues are important. A lot of money is at stake and the values as a city and heritage we have is at issue. But it's also difficult for us because it's difficult to find a common set of truths on which we can rely when we're making decisions. We hear different people give us very fundamentally different sets of facts with which we should believe to move forward in discussion. The ultimate answer to a lot of these questions depends on what facts you choose to believe. And it seems as if the facts should be susceptible of objective determination. And thus far, that's alluded us in some pretty crucial elements. My hope is that coming out of this process and figure out how to have some kind of truth finding process where we can take issues where we take controversy in our community and either establish what the truth is or understand what the differences are on those truths. For example, michael osborn today, who i respect, brought up one of those issues.

[11:33:46 am]

And that's why we run our gas plants out of merit. If you believe that we run our gas plants out of merit, then you could believe that there was a link between whether we buy solar and how much we operate our gas plants. One of the reasons you support solar is because of the impact we have on how often we have gas plants. If you don't believe we run our gas plants out of merit and we run our gas plants only in merit, then it's the decision of whether to buy solar is an independent variable and not

associated with the gas plant. We make a decision on whether or not to operate a gas plant based on whether it makes money. And if it makes money, we would run. If it doesn't make money, we wouldn't run it. And whether or not we bought solar would not impact the question at all. I put that on a list of multiple issues that i think we need to figure out a process to be able to find out what are the truths and where the truths are in dispute, we can thoroughly point to why those truths are in dispute. The amendment i put here is i think the amendment that gets us to the best consensus of our minds, our communities' talents with respect to the question that is before us. Adds you recall two weeks ago, we were arguing or debating whether or not we should buy additional solar and we had different scales that said at different solar amounts, there were different risk profiles and different revenue impacts. I argued it at that time a couple of weeks ago that we shouldn't have the conversation about megawatt totals, except aspirationally in terms of goals. Because the amount of megawatts in any specific incident depended on what the contract terms would be.

[11:35:47 am]

We'd focus on the values and on risk and on revenue. In the conversations we had at the time recognizing that solar was a value to the city and recognizing that there was some debate as to whether or not solar would immediately start making money or whether it would be out front in the future, we had our professionals tell us that if we entered in one of these contracts we would be losing revenue an decision until 2 to 5 years and then making money in that. There were different revenue levels and risk levels depending on different groupings of contracts that we would take a look at. And in the conversations that i had, i asked mr. Weis if he was comfortable as our executive director in signing contracts if the impact on revenue did not recede 1% for any other classes of users and he stepped forward and said he was comfortable with that. That started a community conversation. Because people are both sides of that -- of that issue. The conversations then that i had with see care and some of the users, they -- while warning us, you know, to do everything they could to lower rate at every turn, they would not pennsylvania pause going to the 1% limit. Reflecting austin's values. And i hasten to add, that 1% does not mean that bills will go up by 1%. It's entirely possible, in fact, in the next two years that bills would go down because of what's happening with pricing and what's happening in solar. That's a percent increase on whatever would have been. But for this action. I hope it's not discussed or reported as being a 1% increase.

[11:37:53 am]

It very well may not be. 1% over what would happen in this position. We had conversations and started to get wider not at megawatts and looking at the risk and revenue situation. And i was pleased to see that the sierra club has come in looking at the various options recognizing that there were more options that that could be accepted. But there are recommendation that they pointed to as the one that kept us with that same 1% cap. That same 1% cap was also endorsed by the resource management commission in the work that they did as they did as well. That seems to be the number that people on both sides look at and say it is the best working of our values and our potential impacts on risk and this. I was consistent with those discussions two weeks ago. We asked staff to go back. Because two weeks ago, that 1% break fell to the 288 megawatts or whatever that number is. We sent staff back to negotiate and we said see if you can negotiate harder, see if you can do whatever magic you can do. And see how much additional solar you can get and keep us at our below that cap. And by the way, that cap -- i say that cap -- the cap is for certain users but as you look at the materials that were presented last week for -- for most classes of users that fall materially below that 1%. In any event, we sent austin energy back to negotiate.

[11:39:53 am]

And much to our surprise and perhaps to the world's surprise, we were able to get additional contracts on top of the record breaking 288 megawatts. That would keep us at or below that cap. I think consistent with the instruction we had two weeks ago, consistent with the energy, the charge they gave the staff they have gone back in and they successfully increased and found another 150 megawatts more or less that fit that parameter. I'm more comfortable in saying that it's consistent with the conversations we had two weeks ago, consistent with the conversations we have publicly. Consistent with the conversations we have with our staff. That gets us to our number. I do want to talk for a second about what this vote does not impact. What it does not include. I think it's a conflating of issues that can happen on this kind of discussion. That i think pull us off of the narrow decision that we have. The narrow decision we have is - do we buy this plant? There's a potential 1% increase. This does not impact the decision as to whether or not we buy gas plant as is being proposed and is being studied by a navigant. This is an independent variable to that. Whether or not we buy that gas plant will depend as to whether or not it meets our values as a city and whether or not we lose money or make money with the building of a plant. As i sit here now, i tell you that i am suspect based on the numbers i've seen that someone can build a gas plant and capitalize it and make money. I'm not prejudging the question -- [applause]

>> mayor adler: i'll wait to see the report that's coming back and we'll have that conversation. This is also not outside of the question whether or not we use the gas plants out of merit or not.

[11:41:57 am]

Again, not an issue that's in front of us at all. It's not the question of whether or not we're going buy more solar in the future, purchase more solar. Clearly, we are. We are reaching a place where solar is becoming less and less expensive. It's becoming the way of the future, and it is true that mr. Buffet has recognized this and gone out and bought solar. I would point out that mr. Buffet is only buying 1/3 the amount of solar we would be buying if we entered into this contract today. So we're outdoing mr. Buffet. I would like to see mr. Buffet come in and buy three times what we're buying. Would love to see that end kaggs. We're continuing -- would love to see that indication. We're continuing to lead that charge. By the amendment that i'm proposing, we're asking our staff go back in and come back to us timely with bids that would allow us by the end of the year 2018 to either purchase or have bought and constructed our own plant. That would enable us to have the conversation about whether we buy or whether we purchase. I think that's real important if you looked at the chart that i think mr. Robbins gave us with his chart. While those lines were the same, buying right now with the 30% or building our own, it's a very important difference of the three charts. They come out in a different place. The most significant thing if you look at it is if you buy the plant and we own it, the very top part of that bar graph was the money that we had available for transfer or to pay our rate payers as dividends, s citizens, dividends and owners of that plant. I think in the coming years, our ability to be able to have must be that we can use for to pay dividends to the city or pay reimbursed expenses to the staff, the transfers, is critical.

[11:44:00 am]

And when you purchase a purchase agreement, that dividend is something that they pay to them in a they give to those owners. If we buy it ourselves, it's something that we can pay ourselves. I think we're going to find that to be critically important. Then finally i look at how this fits within the context of the

conversation that we're having with our rate payers across the city in all classes. This does not decide that question. This is a potential increase over one component of what is something that we pay in our bills. It's relatively small compared to what we ask our rate payers at all classes to pay. But we have a much larger issue that we're going to have to tackle and it's going to be crucial for us. And that's the whole rate paying, rate-setting issue. We're not deciding that rate-setting issue today. But it is looming large. We have classes of our group here, of ratepayers in the city that can't afford make their electric bills and that is a problem. We have large industrial and commercial users that have indicated to us that by their calculations their rates are going up over 30% last year and the percentage rates they pay relative to similarly placed users are -- are -- are extraordinarily higher in the city and such that we are not meeting our affordability goals of being in the bottom 50% or increasing no more than 2%. We're going to have to address that as part of this year and this rate case and that's going to be a challenge for us to do that which is one of the reasons why i am anticipating -- i am recommending we do the 1% cap at this point, but we're going to have to look at cutting costs, cutting expenses, measuring efficiencies as part of the rate process that we're about to go through that looms large.

[11:46:13 am]

And then finally i think we've gotten a clear indication from the legislature that this is not a question which we are studying ourselves, but it is a question that is being looked at at a larger place. And i think that we need to always be aware that one of the best ways we have to -- to further our city's values is for us to own our electric utility.

[applause] we -- we dodged a bullet this past legislative session in that regard. And it is important that we maintain control over our utility, and i think that by being able to say that we have come in with a resolution that was within the parameters as directed by our professional staff and by not only some in the environmental community but leaders of the business community that we will be able to demonstrate that we are being responsive to the concerns that they raise at the -- at the state level. So far all of those reasons -- so for all of those reasons i make this motion recognizing that i believe that one of the pathways for us to be able to lower rates is to follow our professional staff's advice that while there may be a short-term increase associated with this, that because it's solar power and solar power will become increasingly less expensive than gas power, especially if gas prices increase, that we will be making money from these purchases today and that this is -- the ability, even if we don't make the money in years 2 through 4, in years 4 through 25 this is one of the ways that we will be lowering rates for all of our classes of users.

[11:48:33 am]

And i think that we need to take a second with today's vote, if we even adopt this amendment, to recognize that with the 150 megawatts in the recurrent deal that's yet to be built but approved, with the 288 megawatts that we approved two weeks ago, with the additional 140, 50ish megawatts that we would be approving by amendment, we'll have those three items three times the amount of solar installed by the rest of the date in 2014. Double the installed or capacity in the state at the end of last year and enable austin to lead for sustainability, renewable energy sources in a way that is responsible. Sorry for taking so long.

[laughter]

[applause]

>> mayor adler: further discussion? Further discussion from the dais?

>> houston: mayor, with your amendment, could you tell me what the rate impact to the residential [inaudible] is because my district that's one of the concerns that is always raised so i need to know what

we're looking at because there are going to be other rate increases they are going to have to experience.

>> mayor adler: well, we don't know exactly whether your constituents will be ultimately paying a rate increase on their bills or not because we don't know how much the base level of bills will be going down as they did this year with the drop of energy prices. But what our staff is predicting is that in the year 2017, if we were to go to this level which has the 1% potential impact, impact because of this action for the large users, it was about 65%, .65 cap, .65% for average residential users, .57 for small office users, which would be roughly in the 8 to 12 dollar a year range.

[11:51:03 am]

So 7 5 cents to a dollar a month. But we don't know how that would translate into bills being paid.

>> houston: and please understand that i support solar, but i also have elderly people and people with disabilities. So when people say in five years they will see a benefit, some of my people are not going to live five years in this city if we continue to raise the rates. So i think we need to be very clear about what that rate is going to be in dollars, not in percentages, because we need to be able to say people on fixed incomes, this is what you might see in your electric bill. Because i think it's unfair if we don't and say we don't know but we're going to go ahead and pass this because we're betting on the fact it's going to decrease your rates in the next five years or so. I think we need to be clear about that; otherwise we're being dishonest with the public.

>> mayor adler: it would be about 67 cents a month to a dollar a month for the average residential user over what the bills would have been had we not done this. That would be the impact. And by the way that includes the 288 megawatts that approved two weeks ago so this is inclusive. Ms. Kitchen.

>> kitchen: i absolutely support the point that councilmember houston is saying, i think it would be helpful to avoid confusion if we continue to talk about this in terms of the risk of raising. Because i'm sensitive, we can't just say we don't know, i agree, but i also don't want the public to come away thinking the vote absolutely automatically means a raise on x date. I know it's a little gray, but i would just like to make sure we're talking about the risk that we've got to decide the risk of raising people's rates and the risk is it would be raised by the dollar amount because i think it is important as councilmember houston is asking that we understand what we're talking about in terms of the dollar.

[11:53:04 am]

>> mayor adler: and the percent change that's being risked is a little under 1%. It would be .65% or 65/10,000ths. Ms. Pool.

>> pool: mayor, could you tell us the difference in your amendment from councilmember gallo's? And the reason i'm asking is when you verbalized it, it was different than what was written here. I think you said move forward with 400 to 450 megawatts of utility scale solar generation, and then you inclusive of the 288 and i don't know if her 250 is in addition to the 288. If yours is --

>> mayor adler: and this is all mine, not hers, so no blame to her. So this is my wording. It was my intent to say we move forward with 400 to 450-megawatt of utility scale solar generation inclusive of the 288 that we approved two weeks ago.

>> pool: so what we are looking at is an additional 112 to 162 make watts.

>> mayor adler: it would be within that range, that's correct.

>> pool: okay.

>> and mayor, let me just, a correction, that was actually councilmember garza's motion.

>> mayor adler: her motion.

>> gallo: you mentioned my name instead of hers. I just wanted to be very clear.

>> pool: it's the adler contagion.

>> mayor adler: it's the intermediate stop recommended by the rmc. Mr. Renteria.

>> renteria: you know, i'm for solar, but i have this concern that, you know, when we start negotiating rates, you know, we always come under pressure that the larger companies saying that they want a discount because, you know, the market is up, you know, our rates are a lot higher than the market in texas.

[11:55:28 am]

And then they run to the state and say they are going to threaten us about deregulating our energy, you know, and it comes to the point where we cave in and give it to them under the threat of the state legislators, and then we have to increase the rates on the residential users. And it's -- i mean it's been happening that, you know, we have to compromise so that we end up increasing our rates for the residential users, you know, instead of giving a discount, lowering our rates for them to give them a break. We are always shoving the costs over to residential users. And in my neighborhood, we're struggling paying the utility bills. I mean look, we're already -- we're losing \$20 million a year on our utility by people that cannot pay or refuse to pay. So, you know, i have a lot of concerns. You know, i agree with you on this one here, on the 450 goal, but we need to really look at, you know, when we start looking at -- at these added solar power that we don't go in there and really hammer the low-income people in austin because, you know, it's a struggle out there. We're just talked about people are getting paid 8.50 an hour. People keep on saying oh, this cost is just the cost of a cup of coffee. There's so many -- we can't even buy coffee anymore because we've been buying so many cups of coffee, you know. This is -- this is a big concern and we really need to start looking at the fairness of what the roles we make up here and how it's going to affect our low-income citizens.

[11:57:31 am]

>> mayor adler: further discussion? Mr. Casar.

>> casar: mayor, i recently had submitted an editorial in the statesman when the president's clean power plan was announced talking about how we can't afford the pit the idea of social justice for low-income folks against the environment because doing what we can to push dirty energy off of the grid in texas is good for low-income folks, not just in our city but across the state of texas.

[applause] and -- and i second -- i want to talk a little about why i seconded the motion for your amendment while talking about this point. From the numbers that i have seen on these deals, i think that the euc's recommendation makes sense. I think all of these deals are cheap, are good, cheap deals that will make us most likely based on what our professional staff has reported to us money in the long run and i'm willing to take that risk because we have to make -- i would traditionally be willing to take that risk because i think it's important to make long-term investments and that we aren't determining people's rates right now. We decide people's rates in the rate-making process and we decide those rates during the budget and we can make adjustments as necessary. And low-income folks and their rates -- we aren't voting on that right now. We can fix that if we think there's going to be increases and we want to change that. At the same time, so much of those -- of that rate making and that deal making happens as we do the cost of service study and negotiate with larger customers and talk about the legislative requests that are being made of us and i will admit that there is some level of risk of taking all of those deals right now and if this is the best deal -- this amendment is the best we can get right now, if that's what this dais is willing to do and that that moderation buys us some time so that we can draw a harder line to defend low-income folks and their rates during the rate-making process, then i think that's a prudent step considering that lots of indications show that building our own solar or buying more solar

in the next few years will continue to help us push dirty energy off the grid and still protect our customers.

[12:00:02 pm]

And so i think that it is -- it isn't wise for us to think about this as boosting up people's rates right now by 1%. I don't think that's true. I also don't think that it makes sense to think that this is -- we have to choose between solar energy and proper rates for low-income folks, that those are decisions that are up to us to make and i think we should make the decisions for both solar and for defending the rates for moderate and lower income people and i think that passing this amendment, passing this today is an historic step and a very prudent way for us to achieve both of those goals.

[applause]

>> if i could just get some clarification it would help from a legal perspective. Not only is your amendment adopting a plan with 400 to 450 megawatts of power, but that you are also authorizing the city manager to negotiate and execute contracts that would achieve that. I just want to be sure the authorization is there.

>> mayor adler: yes, both the authorization to negotiate and execute contracts as to allow us to move forward with 400 to 450 megawatts of power inclusive of the 288 approved a few weeks ago of utility solar generation now and maintain the approximate 1% cap, i say approximate because we were at 1.01, and timely solicit bids early enough to build or purchase at least 150 megawatts by the end of 2018 consistent with our values, risk and revenue impacts. Thank you. Ms. Gallo.

>> gallo: i do have a question of staff about the bill and in case anyone has not captured my thought process on this. I really am a proponent of the city building the solar.

[12:02:03 pm]

I think that as we have all said over and over again we all support the movement to acquiring solar. I think that protects my children's generation and the younger members on this council and that's the prudent thing to do, but i get more and more concerned as we reduce the number of megawatts that would be in a build program. And i notice in the mayor's amendment it talks about soliciting bids to purchase by 2018 and i just wanted to make sure that that was -- that was the 2018, and mayor, this may be a question of you, that the 2018 was the point at which we would solicit the bids, not the point at which the projects would be complete.

>> mayor adler: no, the intent was to solicit bids and purchase agreements early enough to have in place by the end of 2018. Because i think that the indications we're getting from staff is it may be in that time frame it works. And i want us to solicit the bids so that we can determine that.

>> gallo: okay, by 2018. You are not saying construction would need to be complete on those contracts by 2018.

>> mayor adler: we are entering into contracts right now that would have things constructed by the end of 2016. So this would require us to -- to -- to authorize it probably by the end of 2017 to be able to do that. The language that i had was and to timely solicit bids early enough to build or purchase at least 118 by the end of 2018. My intent was to have that in place. Just like contracts we're gathering into now would be in place by the end of 2017. It would have us making the determination in 2017 so they could be built out in 2018. I'd like to see those bids.

>> gallo: okay, but bids that would complete the projects --

>> mayor adler: by the end of 2018.

>> gallo: and so that would be my staff question. As we've talked about this, you've indicated that you are beginning to see signs that there have potential cost savings in building because of the market declining after the tax credit is over for the builders.

[12:04:14 pm]

And i just want to make sure that this is a reasonable time frame to capture the competitiveness that we feel like will happen in 2017, that we're not asking for bids for those people bidding would understand the marketing and the supply of the panels and the transmission and all that. I want to make sure this allows an appropriate time frame to be able to get those bids and the bidders be able to evaluate the market in the best way possible to give us the best pricing.

>> right. So i think your question is really is it realistic to have something on the ground by the end of 2018 that we would own, and i would say that would be a challenge for us. So some of the things that we talked about is right now there is because of the itc we've got bid demand, construction demand and supply demand on the panels so we can go back and query the market and i think perhaps we should have some indicators of -- you know, i will assume we're still operating under the generation resource plant if affordable and available. Whether we can get it on the ground for ownership by the end of 2018 at the price that we would desire is something we would still be -- before this -- i guess before the council with is here are the options.

>> gallo: and i guess the other questions i'm asking for your evaluation of the time frame within which contractors will begin to feel comfortable with the market being much more competitive from the standpoint of being able to result in lower bids for us. Is that a time frame you think will happen in 2017, 2018? The tax credit may go away, may not, but if it goes away, then the market is going to adjust substantially because the demand for components of these facilities is going to drop. So at what point would you say that the developers, builders of these type of facilities would be recognizing being able to recognize that market so that we could get the most competitive bid to build?

[12:06:24 pm]

>> i think we definitely would want to wait until later in next year. I think we had originally recommended to solicit in '17, but if there's a desire sooner we can do that and bring pricing back. I think we would want to wait until the spring or summer of next year as people are wrapping up the construction projects they've got on the books for '16 and anything that might hold over into that 10% period of the incentive program.

>> gallo: but my question would be if you are not being responsive to a council's push to move that forward quickly, then what would be the time frame you feel like the market has allowed to settle so that you really allow the contractors to understand where did market is going from the cost of supplies, cost to build, labor, materials that would get us the best project?

>> we're never going to know the best time to do that, right, so staff recommended we clear that market in 2017, that this is just saying bump that up by a year, do that solicitation sooner rather than later such we could either have contracts or a owned project on the ground in 2018. So i don't think there's any predicted ball for us to know that time. All we can do is solicit and see what comes back.

>> mayor adler: and in that regard, it's to solicit the bids, and yes, bumping it up, we're surprised at the rates we're seeing right now. We may be surprised and i want to give us the opportunity to move forward the that's how the market works.

>> we understand that.

>> mayor adler: further discussion from the dais? Mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. Cahllil is here and there's been a lot of discussion, a lot of complexity going on with the e.r. cot market and -- ercot market, where you produce energy, where you take energy out, where you buy it from.

[12:08:35 pm]

And could you just make a couple of comments about whether anybody is looking at austin energy and our push to put more and more renewables on to the grid, how that could fundamentally change the grid itself and how putting more and more renewables because of the way ercot runs is whoever has a zero fuel cost always gets to push into the market. And if the renewables keep increasing and keep increasing, it will fundamentally change the market because no dispatchable fuel --

[applause]

-- like nuclear or coal or gas or biomass with wood chips, no fuel that -- no plant that has to buy fuel can compete with renewables that pay nothing. What can happen we can end up with a surplus of renewable power because it's always going to push into the grid and we can't use all the power that's being pushed into the grid. All these other plants we have to run at nighttime or when the wind is not blowing, they are going to sit idle and that's going to produce costs because they have to sit and produce power while new braunfels run. That makes them less efficient and less likely the market will build power plants because they can't get a return on investment. This is a confusing and complicated policy question we're getting into with renewables and i have to disagree with somebody who flattered us as being experts on energy, we know almost nothing considering the complexity of this market that we're trying to deal with. Could you comment on how the -- the whole energy market could be changing with these renewables?

>> well, that's right, it is and like you are delineating there's some good effects for customers and then there's some effects if you are a generation owner that you feel those effects as well. So we're on both sides of that. We're both, you know, we have customers and we own generation.

[12:10:37 pm]

Austin energy is not the only utility buying renewables. Most of this as pricing is coming from wind not solar. We're upwards of 15,000 and there's no kind of -- there's a lot more wind in the cue. We own about 10% of that. We're 4% of the load. So there's a lot of utilities and actors contributing to this sort of zero bidding into the market which is changing. That's why we're seeing such low market prices in addition to low gas prices. And you see that phenomenon sort of early in the afternoon. And with the advent of solar, we predict that's going to, you know, even crunch even sooner towards noon. So it's good for our customers in that we buy cheaper energy, but if you are a generation owner, you are going to have fewer hours to bid into the market at marginal costs.

>> zimmerman: and where that's going is we could end up with a shortage of dispatchable power. That's where this could be going. The fact that we could be voting on this solar and more wind, more renewables could lead our entire state into a situation where we have a shortage of dispatchable power and we end up with brownouts in the evening hours in the summer.

>> so that's something that ercot deals with on a yearly basis with their studies. We're members of ercot and we participate in all the committees that deal with this type of thing. One thing they've done is increase the prices generators can recoup in the market up to \$9,000. So they will continue to monitor the market and, you know, part of their job is to ensure we don't end newspaper a brownout situation.

>> zimmerman: mr. Mayor, a couple more comments. I'm going to be supporting your amendment because i think it improves the original motion.

[12:12:39 pm]

But i'm going to be voting against the motion as amended or otherwise because this -- this contract is over a billion dollars of commitment, the way i read it. 1.1 billion as written on the page. I think any project over 500 million, a gas plant, some -- something that's a billion dollars, huge commitments, the biomass plant that was put through, i think these things need to go to the voters. Whether it's gas or solar or when, any of these big contracts i think should go to voters. Secondly i'm nervous with the negotiate and execute. I'd rather see this as negotiate and then have the final deal come back before the council and then if we need to in executive session to give it a final readover and check. I would rather see the execute part taken out and let us do that in executive session to approve the final deal as written. For those reasons -- and i guess the final reason is some of my colleagues are talking about how even if it's projected to be a small increase, it's going in the wrong direction. We need to be looking at smaller decreases or even bigger decreases. To say it's only an increase of 1% is moving in the wrong direction to i'm voting against it for that.

>> mayor adler: council, we've past noon. We have citizen communication. I'm going to call that. After citizens communication we could break for lunch and hopefully get back here at 1:00. That would have the mayor pro tem on the dais and then we would be able to finish discussion or vote. So i'm going to call citizen communication at this point. First person to speak is alfonso pena. Is alfonso peen in a here? -- pena here? Next name i have is -- i'm sorry.

[12:14:43 pm]

Thank you. Are we ready? Yes, sir. You have three minutes.

>> good afternoon, city council. My name is alfonso pena. You were handed some handouts, i hope.

>> mayor adler: yes.

>> okay. I know i only have three minutes, but basically i'm here to address two issues that i believe are problems with the code compliance department. On the screen you can see a copy of a notice of violation. I apologize i wasn't able to print everything because my printer ran out of ink. There's a notice of violation for retaining wall and that retaining wall, according to the first item of your handout pages 1 and 2, indicate that code compliance has looked into this and has cleared it. I'm here to tell you that what is in this letter from code compliance is not true and i ask city council to look into this because apparently there's a lot of problems with compliance with the building code and it unfortunately it's been my experience that trying to deal with the people that administer that is a giant maze where you get nowhere.

[12:17:07 pm]

If you look at these dates, this goes back to 2013. The notice of violation is 2006, 2006. The retaining wall is still in violation. The retaining wall covers multiple properties and multiple locations within the subdivision, and i can't get any kind of traction from the people that enforce that. So that's the first thing that i'd like for city council possibly -- i guess this affects the whole city because of the problems with code compliance. So i'm asking -- i'm here to ask you all to look into this because to me as an outsider and not for the lack of trying it kind of seems like something -- something is not going as it should be. These retaining walls are very significant and there are some pictures if you would like to go through them where these permits, as far as i can get from the city, they don't have permits, these walls. They affect multiple dwellings and the people from code compliance want to have nothing to do with it. I have talked to so many people, i've lost track and i don't want to single out any names, but i'm asking city council to appoint someone to look into this. The cost of repair of that retaining wall just on

that one house is \$75,000. And this retaining wall exists on at least 10 to 20 hours on my street and there are other areas in the subdivision where i believe the walls are also unpermitted and nobody wants to know anything about it. Also on that page from the code compliance department, there was an issue of a violation by my homeowners association of a clear cutting of a protected area. [buzzer sounding] and that issue has not been properly addressed and there are some documents there that indicate that there is a violation even though the letter says that there is no violation.

[12:19:15 pm]

And somehow --

>> mayor adler: okay.

>> got a pass on it and i would also like city council to look into it because it looks like code compliance is playing favorites.

>> mayor adler: thank you. Mr. Lumbreras, is this something you could have staff take a look at and someone can meet with you to let us know as council and mr. Pena know as well.

>> zimmerman: quickly, what district are you in?

>> i was told it's ann kitchen's. But based on what i've seen i think this applies citywide based on the conversations i've had with people in the development department. It's every day for them.

>> mayor adler: thank you. Next speaker we have carol ann rose kennedy if she's here. I heard she might not be. The next person is allegiant land roddy. Mr. Roddy, you have three minutes.

>> thank you. These don't start my time yet.

>> mayor adler: that's okay. It hasn't started.

>> a crash that happened on lake austin.

>> metropolitan park around 5:00 a.m. yesterday morning. We're there live and has been covering this story live since it happened. Good morning, sophia.

>> good morning. Investigators are still trying to pinpoint what led up to the fatal crash, but just like you said we do know one of the victims was a prominent businessman from houston.

[12:21:24 pm]

He was board member of kipp charter schools, ceo of the sam houston racing park. His family did send out a statement asking for prayers for all involved. Police say a 911 call came in yesterday and authorities say a boat crashed into a barge on lake austin, the boat started to sink. Five people were on board. Only one person was wearing a life vest. The crash killed one man, shawn hurwitz, and a woman later died. People camping out heard loud music and a crash.

>> the chopper was holding on trying to find a spot to land and was right on top of the tent. It landed right here. Like 60 yards from the tent.

>> police say there are no laws regulating the time people may be out on the water. It's a public area and boaters can be out at any time. Authorities have not released both victims' names. We're waiting to hear who the other victim is. In 30 minutes we're going to go indepth on how shawn hurwitz is and his consideration to u.t.

>> such a sad story sophia. Thank you. Police are still trying to figure out --

>> good afternoon. In order to protect the public safety, the austin city council in august of 2013 instructed the austin city manager to adopt an ordinance to create a 50-foot no wake zone along lake austin shoreline. Lake austin task force members try to to prevent accidents lick this. The task force recommended creating a no wake zone similar to the highland lakes rule which has been enforced by every law enforcement agency on five of the highland lakes for the past 15 years. A few years ago i saw

a ski boat hit a power border. For some reason the city manager staff thinks a ski boat hitting a paddleboater isn't an environmental issue.

[12:23:31 pm]

For the past years deliberately misled city council on the recommendations for this ordinance. Unfortunately this weekend we learned what the cost of the city doing nothing is. Two dead and three injured because city hall bureaucrats did not follow council's instructions two years ago. We didn't need a zucker report to know --

[buzzer sounding]

-- there are major problems in the planning and development department.

>> mayor adler: finish your thought.

>> pardon?

>> mayor adler: finish your thought.

>> these are pictures from what 50 feet from the shoreline look like. Not only did the task force point out problems, last year citizens came forward and warned of a possible boat wreck at this very location when the city legal staff rescinded the legal restrictive covenant had been in place 30 years. We have serious issues out there. We would like to have a meeting with y'all to discuss those issues. Former task force members. So thank you.

>> mayor adler: thank you.

>> and my condolences and prayers go out to the family involved in that wreck.

>> gallo: mayor, this isn't any question, i wanted to make a couple of comments. Since lake austin is predominantly in district 10, we have had multiple meetings. We actually met with mr. Roddy in february. We had a meeting in march with the lake austin task force. Members, that task force basically has been disbanded because their purpose was to produce a report. And we also met with the state lcra and the lake patrol and then again in april. So just to let you know we are having conversations and that wasn't a question for you, i just wanted to let the council know that we have looked in and we have pulled in both city, city representatives and some members from the lake austin task force.

>> mayor adler: thanks for taking that.

>> i was just curious which members you met with in march.

>> mayor adler: we really can't have conversations but you can contact her office and thanks for picking that up. The next speaker is spencer nutting.

[12:25:35 pm]

>> good afternoon. Pardon me for wearing sunglasses here. I had a fire and my glasses were lost and you can get sunglasses in an hour, you can't take -- but regular glasses take a week. If you will bear with me. I can see you. I'm not trying to look like jack nicholson. How many people here remember who leslie was? This is the sculpture -- bob could havey is right there. I'll pass it around for you to take a look at along with my card.

[inaudible]

>> mayor adler: mr. Nutting?

>> does anyone want to look at it closely.

>> put it on the table.

>> mayor adler: that's good. Thank you.

>> all right. Basically i'm going to make a crossroads on this project -- i'm at a major crossroads, like the story of the little red hen, no dough no cookies, no dough, no leslie statue. I'm here because i need your help. On october 31, halloween and halloween weekend, nobody can dispute that that would be a great

fundraising opportunity for us to have people sit in costume with the sculpture itself. We do have it life sized now. It's composed of styrofoam and clay and it's life sized and will be placed at sixth and congress. I ran into various roadblocks from various agencies to try to get permitting and there's insurance requirements and basically it defeats what the purpose is. Between the costs and the obstacles to make it happen, it can't happen. That's why i'm here. I need the city council here to invoke that we can get a waiver. The only way that you can have waivers is if the project was sponsored by the city itself as opposed to this which is being produced by a gift of the people as a gift to the city.

[12:27:45 pm]

And because of that nuance we're not able to get the proper -- incur about \$3,000 of costs to try to raise \$10,000 because i need to raise \$10,000 in order to get the molds cast up. Because every time we take leslie out, it gets damaged and bob has to go back and resculpt it up. And what i want to do is get to the point we get the molds made and then we don't have to worry about what's happening to that sculpture anymore. Every time we take it out, he breaks a toe or something happens and it basically gets wrecked. What i'm asking is that you take some action that will enable me to have a \$100 picture pose with leslie's sculpture and they will get a t-shirt --

[buzzer sounding]

-- and they will get a coffee mug and out of \$100 they will get an \$80 tax write-off. That's what i'm asking you to is enable us to help make this money and take advantage of that weekend. Thank you.

>> mayor adler: next speaker johnette mason. I got an indication that johnette mason is not here.

Edward sledge. Mr. Sledge? Next speaker is jose quintero. Mr. Quintero here? Next speaker is mary owens. Ms. Owens, you have three minutes.

>> thank you for your time. I'll be showing you a short video.

>> the reason why my house floods is two-fold.

>> my house floods. The reasons why my house floods is my downstream neighbor has a wall that prevents water from exiting my property and upstream there's a whole lot of water that comes off kinney water that is diverted by a newly installed adu.

[12:29:58 pm]

Watershed has known about the problem the last two and a half years. I was told there was funding directed to this issue. It hasn't happened. I hired an engineer, we installed a small landscaping wall. A member of the zilker zoning committee called us into code enforcement. Code enforcement asked us to remove the wall so we voluntarily removed the wall until we got things sorted out because we had been given permission to put the wall in. Before we put the wall in. Once the wall is removed, the water is no longer being diverted around our house. The reason is because it goes over a modified and ratified easement, an easement that i granted the city because the city gave the previous owners permits to build over a storm easement. We had the -- the easement changed to add a new easement at the back of the property so should the city ever need to use that for drainage they can. That's why we're trying to divert water to. We asked this time to watershed if we could put the wall back. We couldn't because even though the easement is being used they wanted to maintain surface flow. It doesn't make sense because the downstream neighbor has a wall that goes over the exact pipe. I called their wall into code compliance, was told their wall was not a violation of city code. They got a letter from the city of austin engineer informing me the wall was not causing drainage issues on my property and not a violation of city code. We spent another six months trying to get permission to put our wall back. Our house flooded again on memorial day. We've incurred thousands of additional damages because of this. Spent another six months and \$5,000 in engineering and development expenses to get permission to put our wall back.

It's still somewhere between watershed and legal. They can't decide what to do with this easement because watershed says they want to maintain service flow. That doesn't make sense because our house is in the easement. The problem clearly is water coming off kinney.

[12:32:01 pm]

Either fix the drainage on kinney or let me put my wall back. I could just put the wall back and be out of compliance but i choose not to do that. I would like for my residence to be legal. And this is what -- this is what a 10-foot wall looks like with prd are r.

>> mayor adler: can someone on staff to talk to her?

[audio difficulties].

>> we have tried in the past to help with this. Obviously we've not been successful. And so we want to -- perhaps we can work with you, mr. Lumbreras, and with you and perhaps we can get to a solution for this. I'm so sorry that you've had to deal with this all this time.

>> thank you.

>> zimmerman: is all the area in district 5, mr. Mayor? Thank you.

>> kitchen: it's in district 5 and we've run into the same kind of difficulties. It's a very unusual situation falling between departments and so we need to help -- we need to help her out.

>> thanks.

>> mayor adler: thank you. Those are all the speakers for citizens communication. It's 12:30. Let's try hard to get back by 1:00. We have a long day and we'll pick back up with solar.

>> kitchen: do we have executive session today.

>> mayor adler: we don't have executive session today. No items.

>> kitchen: what time are we coming back?

>> mayor adler: 1:00.

[12:45:55 pm]

>>> >>>

>> test test test this is a test of the city council captioning system. >>> >>>

[1:22:52 pm]

>> we are about ready to pick back up with austin energy. Councilmembers, there was a motion made by councilmember garza, i made an amendment to that. There was a question that was raised about timing in the lunch break i've had the opportunity to visit with -- with austin energy as well as several of the stakeholders, it has been recommended to me by all of them that we change the language a little bit. And i have language here that also incorporates the changes as suggested, recommended by legal. The language now reads: to move forward with the plan to procure 400 to 450-megawatt utility scale of solar generation now and maintain an approximately 1% cap, authorize the city manager to negotiate and execute additional contracts for up to 450-megawatt, inclusive of the 288 megawatt recently authorized and timely solicit bids to build or purchase at least 150-megawatts to be online by the end of 2019. Consistent with our values, risks and revenue impacts. Is there any objection to changing out my amendment to read that language? Ms. Pool?

>> pool: thanks, mayor, if you could just explain the change in the year from 2018 to 19.

>> there was a conversation that arose from my earlier language because it was kind of ambiguous. Some felt as to whether or not we were asking for contracts to be done by 2018 or the plants to be built by 2018. And there was some concern that if we were trying to be operational by the end of 2018 that

would require us to -- to almost start negotiating contracts by the end of next year. And the belief was that would not be the time to do that.

[1:24:52 pm]

There was some suggestion that maybe we set a -- a date, which was a big date, there were other people that wanted to not have a -- a bid date, are not a bid date but an operational date. And the language that was worked out was taking into account all of those, so that it is an operational date, not a bid solicitation date and it is the end of 2019.

>> thank you.

>> mayor adler: okay. Any objection to substituting this for my amendment? Hearing none, it is so substituted. We are now back up to the dais, mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I would like to be recognized for one more potential amendment if that's in order.

>> mayor adler: that's in order.

>> zimmerman: i would like to amend, to go back to the 288-megawatts. My motion would be to not approve any additional solar, but to go back to the 288 megawatts, if i could get a second on that.

>> mayor adler: mr. Zimmerman is moving to hold fast with the 288, which was approved two weeks ago. Is there a second to that motion? Ms. Troxclair seconds that. Any discussion on the amendment? Mr. Zimmerman?

>> zimmerman: thank you, mr. Mayor pro tem. So i know there's some divided opinion on the council and we're also hearing some divided opinion on to what the facts are regarding the cost of the additional solar purchase and considering the fact that what's on the table could be an additional million dollars in -- increases are projected at relatively small numbers, \$12 a year, \$15 a million, potentially millions of dollars of costs to our industrial customers and because of that, i would encourage that we stick with the 288 megawatts at this time.

>> mayor adler: okay. Any further discussion?

[1:26:55 pm]

Ms. Troxclair.

>> i want to reiterate one point that was made earlier. With this additional investment that we have already made last week, the city of austin, despite being half the size of san antonio is already a leader in solar energy and i think it's great that we are that leader and that would be taken those steps, but at the same time we really need to balance the -- the overwhelming cries for some cost of living relief. So i think sticking with the 288 is a good balance of being both looking forward and being responsible with our environment and making sure that we're not going to do anything to increase our -- the -- the energy bills of -- of austinites.

>> mayor adler: okay. Any further discussion? Ms. Gallo.

>> gallo: i'm going to go back to my previous statement that i think if i have two options, my option is always going to be for the city to be in a position to always have the ability to build. If we -- and i appreciate the mayor's amendment, thank you. I think that's moving in the right direction. But even if we pass that, it still means that we will be purchasing 75% and only owning -- having the potential to only own 25%. I would just rather give us the opportunity, if -- if the evaluation that the benefit to the city is better, if we build, i really would rather see us build the 50% and purchase 50%, which would happen if we stuck with the 288 that we have now. The -- the other thing is that i think for future generations and that would be the generations that would be paying electric bills, when this plant, if we built it, would be paid off. Would see substantial savings in their utility bills and i think for us to be able

to offer that next generation the ability to have free fuel and solar and a plant that is paid for and doesn't have a debt service, i think it really would put future generations in the advantage over where we are today.

[1:28:57 pm]

>> mayor adler: further discussion on the amendment from mr. Zimmerman? Ms. Garza?

>> garza: i guess i think if we want to stay where we are right now, you would just vote against any addition. I don't see the point in amending to keep where we are. Since i have the floor, i'm going to make my comments. I want it to be clear that my preference today is to move forward with the 600 megawatts. But i believe that we should honor the work of the electric utility commission and that's why i made that motion for the 550. Solar is affordable now. That was the whole, you know, discussion with the gen plant if it's affordable and it's affordable now. One thing that i gets lost in this conversation, councilmember casar did bring it you, the environmental benefits that are associated with green energy, i think that gets lost in the conversation, i think that has to be part of the conversation. I would argue those are benefits that are immeasural, invaluable, we should consider those when having this discussion today. Which chair osborne showed the chart of the costs -- when the costs associated with our gas is going down, gas plant is going down and renewables cost is going up, that's pretty clear that as we invest more in renewables, we're investing less in our gas plant and i think that's the direction that our community has made it clear -- has made a clear statement of where we want to be headed. And less emissions means less political -- i mean environmental impacts. And so i want to be clear that i, you know, i understand that there's -- i'm okay with the compromise of the 450. Definitely not okay staying with the 288. And i want to emphasize that the projections of the costs associated with this are projections.

[1:31:05 pm]

They are not -- i appreciate councilmember houston asking i would really like some clear information on where these prices are headed. We don't have any clear indication of if they're going to go up or down. It's all forecast. And we've heard, you know, based on this model it's going to go up, but then based on this model it's going to go down. And so i appreciate the comments earlier that the gentleman thinking that we've become experts on energy, but i definitely don't think that i've in any way become an expert on energy. But i've been sent so much information and i've tried to read as much as i could. I was sent the 2014 state of the market report for ERCOT. I'm not going to say that i understood every single part of this. But one of the main things that it says was that there was a 21% increase in energy prices last year and that was primarily driven by higher natural gas prices.

[applause]. So i think that -- again, it's all projections and i really wish we could achieve the full 600 today. But i understand the need for compromise and so i'm okay with the 450 amendment but i'm definitely not okay with and i'm staying at the 28 -- definitely not okay with staying at the 288.

>> mayor adler: any further discussion on mr. Zimmerman's amendment?

>> renteria: mayor, i'm going to vote for keeping it at 288. Just because i want to go and put solar in my house because i can't afford the rates that we are having to pay right now. That's why i'm going to go ahead and put solar on my house because it -- the rates are just too high and i can't be voting for -- to raise rates on people knowing the fact that i'm going to be leaving it and putting my own solar in my house.

>> mayor adler: okay. Further discussion? Those in favor of the amendment to stay at the 288 please raise your hand. Zimmerman, troxclair, renteria and gallo.

[1:33:07 pm]

Those opposed raise your hand. That's the rest of the dais. Now back to the discussion on the amendment as changed, upper right-hand corner it says adler, too. Any further discussion on that.

>> zimmerman: i wanted to call the question if i could.

>> mayor adler: doesn't seem to be any further discussion. Those in favor of adler 2 please raise your hand. Those opposed? Those abstaining? Mr. Renteria abstains, the rest voting aye. Now to the bill as amended. Any further discussion? Those in favor of the -- of the item 3 as amended, please raise your hand. Those opposed? Zimmerman, troxclair voting know. Renteria abstaining, it is rest voting aye, the measure passes. All right. That gets us up to item no. 10. Mr. Zimmerman, i think this is yours.

>> zimmerman: thank you, mr. Mayor pro tem, this won't take long, i've just got to find my notes here.

>> mayor adler: by the way, as you go to that -- i want the record to reflect that the -- in addition to the entities that i said endorsed the up to one percent recommendation, i said the resource management commission. Also environmental -- environment texas also endorsed that -- that position, the one that we passed. Mr. Zimmerman, do you want to continue?

>> zimmerman: thank you, mr. Mayor. On item 10, i want to call attention to, in the subject line, there's a reference to the -- to the 1115 medicaid waiver funded project. That caught my attention because this came up back in 2012 during the election for central health where they were going to raise our property taxes.

[1:35:14 pm]

To help fund the u.t. medical school. And one of the -- of the incentives listed in the campaign material back in 2012 was that it was central health that was going to take advantage of these medicaid waiver funds to get additional money or matching money or what have you. So when i saw that the city is now being asked to spend money for full-time positions, with respect to this project, i said, well, wait a minute. This was part of central health care district advertisement back three years ago. This said that the health care district was already working on this, they had people that were applying for it and they anticipated they were going to get money out of this program. So i'm objecting to that appearing here on the city agenda.

>> mayor?

>> mayor adler: ms. Pool?

>> pool: do we need a motion to approve item no. 10?

>> mayor adler: that would be in order.

>> pool: i move to approve item no. 10.

>> mayor adler: move to approve item no. 10. Is there a second to that? Ms. Kitchen. Discussion on this item? Ms. Troxclair? I just have a quick question for our staff. I have just wondering this is two additional ftes or were these ftes included in the budget?

>> kimberly maddox, director of health and human services. No, they were not, these were funded through the 1115 program, treated much like grant funded ftes so they were not included in the budget.

>> the total amount is 270,000. Does that mean two positions at a salary of 135,000 each?

>> i'm sorry, that must be a misprint. It's total is 130,000 for the two ftes.

>> troxclair: oh, okay. That's all salary?

>> yes, ma'am, that's for a nurse and an assistant nurse.

>> mayor adler: moved and seconded. Adoption of number 10, ms. Kitchen?

>> kitchen: i'm clarifying, you said that's like grant funded. So the 1115 waiver funds will be paying for that.

[1:37:14 pm]

>> yes, ma'am. The --

>> kitchen: it's not coming out of our budget. I just wants to make sure that people -- i just want to make sure that people understand that.

>> is that correct.

>> special revenue fund, yes, sir. It's much like a grant.

>> kitchen: it's the way the 1115 waiver work, it's federal funds, it's a combination of federal and matching funds, it's not city funds.

>> mayor adler: okay. Mr. Zimmerman?

>> zimmerman: i would like to speak in opposition. But i do have inquiry here. How is it that these additional positions, why aren't these things being handled by the county's central health care district? Because the county obviously covers a lot more area than just austin and i know that they are deeply involved in these medicaid waivers, so why aren't these positions consolidated with the county?

>> central health is the anchor entity for 1115 waiver for this region, so there's a certain portion that's of 1115 that's for local health departments, so that's the city's participation is for local health. So this is the function we're providing in the 1115 program and central health is serving as the anchor entity.

>> mayor adler: ms. Kitchen, you --

>> kitchen: if i could also add, of course councilmember zimmerman i see our medical director here, i'm sure that he could answer questions if you had them. But immunizations are a function within the city of austin. A public health function. I know that you are familiar with central health. But central health doesn't do public health functions. And so this is an appropriate function within the city of austin. Health department.

>> zimmerman: are we saying that central health doesn't have a network of clinics around the county where they offer all kinds of services?

>> kitchen: i think that our staff could answer this question, but basically what i'm saying to you is that this -- the comprehensive immunization services fall within the services that the city of austin provides. So --

>> zimmerman: i think my point, the reason i'll be voting against is because there's a duplication. I think there are a duplication and the taxpayers are being taxed twice.

[1:39:16 pm]

The county taxpayers pay for central health care district and then they pay it again for the city. So it's a duplication and i'll be voting against it.

>> i'll call the question.

>> mayor adler: any further discussion? Hearing none, those in favor of item no. 10 please raise your hand. Those opposed. Mr. Zimmerman voting no. The rest voting aye. That gets us past number 10. What about item no. 30, ems contract pulled by you, mr. Zimmerman?

>> zimmerman: that's correct. Again, did this go through -- i can't remember. I think we talked about this before. Did this go through any of our committees? This was the collection for ems, wasn't it, that we talked about briefly on tuesday?

>> pool: mayor? I will go ahead and move approval --

>> mayor adler: let's answer mr. Zimmerman's question, first.

>> zimmerman: looks like they are ready.

>> mayor adler: was this brought before a committee?

>> this was brought up briefly for committee, but there was no questions. We answered any questions that were given. This is carrie lang assistant direct for finance and ems. We answered the questions that

were submitted to us in the council questions earlier this week. But there were no questions that were given at the committee -- at the work session on tuesday.

>> zimmerman: okay. Could i ask the information that was provided, was it provided the history of what's happened with the uncollected bills over the past five years?

>> yes. We explained in our response that the -- that the number of bills that you see that's uncollected is a mixture of our uninsured customers as well as any customers who are -- whose assurance is denied or the claims denied because the transport is not deemed medically necessary.

[1:41:34 pm]

>> zimmerman: okay, so those uncollected amounts have gone from --

>> about 24, \$25 million a year that is moved to collections. >>

>> zimmerman: okay. Our uncollected balance now is about 125 million, is that right?

>> correct.

>> zimmerman: we're planning through this -- this says the estimated revenue is 1.5 million, do i read that correctly?

>> correct.

>> there's 125 million outstanding and we anticipate only getting 1.5 million in return per year?

>> yes, sir.

>> okay. I guess i'm struggling to understand the math on that. Is that -- is that reasonable? I thought when you go to debt collection, you are looking for something a little more reasonable than that percentage-wise. 10% debt collection, reasonable? 20%?

>> well, what we have seen is the -- is about 1% because of the -- because of the number -- there's a number of protections that -- that consumers have once it goes to collection. So if the consumer decides that -- or asks that they are not -- that the funds are not -- the collection agency, excuse me, do not contact them again, the collection agency has to stop. And so there are several different items and reasons why the collections may be lower than what you would assume they would be.

>> zimmerman: fair enough. So final question, i guess. What's going to happen to this uncollected debt eventually? I mean, who is going to pay and where is this going to show up in our budget? You know, 120 million is a lot of money.

>> the department does several things to try to reduce that. We -- on the front end before it goes to collections, the billing unit for the department does a lot of research to try to find insurance companies to pay, make sure that we have the correct addresses. So we do a lot of research on the front end to try to get those funds collected. On the back end, we do rely on the collection agency to collect it and we're also a part of the uncompensated care program, which is funded by the 1115 waiver, the federal program where we are compensated for the expenses, so it doesn't show on the accounts, but the department has received some funds from uncompensated care from the uncompensated items that we've received for those transports.

[1:43:52 pm]

>> zimmerman: so do you have any idea, ballpark, what percentage of medicaid 11115 might cover, 10%, 15%.

>> we've received about \$19 million since 2012.

>> zimmerman: okay. So that's a pretty small percentage compared to 120 million.

>> uh-huh.

>> zimmerman: okay. Well, thank you.

>> mayor adler: okay.

>> mayor?
>> mayor adler: yes, ms. Houston?
>> houston: is this the same vendor that had the contract last time or --
>> current vendor.
>> how many years has this vendor had that contract?
>> i'm not sure. I believe the current contract has been five years. So i believe we've been in the current contract for five years. I'll have to check on that.
>> houston: and we're asking for -- for a 60 month contract with two 12-month extensions?
>> yes, ma'am.
>> houston: could you tell me whether or not you had any other people who bid on this contract? I'm just looking at the rate of return on the collections.
>> councilmember houston, james score -- scarborough purchasing. We received six, representing collection firms across the country. The one being recommended for award is the incumbents and they received the benefit of the local preference program.
>> houston: so how do you measure their success? I mean, why would we continue to, after this many years, go into a very long-term contract with them again? How would you know if they are doing the best job they can do?
>> well, with -- with regard to any multi--term contract. We will manage performance of the contract in accordance with the requirements set forth therein. There's performance standards, minimum standards that -- of performance that are required for all of our contractors.

[1:46:02 pm]

Forgive me i don't have the details of how this particular contract was managed. The requirements are articulated by the department and held up for all of the offerers to propose against and we compare their offer alongside their experience and the percentage of which they propose to collect in the form of their fee.

>> houston: thank you.
>> pool: i'll move to approve item no. 30.
>> mayor adler: moved to approve item no. 30. I think it was seconded already. Moved by ms. Pool, may not have been. Is there a second to that motion? Ms. Kitchen? Any further discussion? Those in favor of item 30, please raise your hand. Those opposed. Houston voting no, zimmerman abstaining, the rest voting aye. 30 is approved. Thank you. That gets us to item no. 35. Ms. Tovo, i think that you pulled that one.
>> tovo: yes, this is the trail of lights item?
>> mayor adler: there are three speakers signed up for this. Do you want to hear the speakers first?
>> tovo: sure.
>> mayor adler: david king on the trail of lights question.
>> thank you mayor, mayor pro tem, councilmembers. My name is david king, i live in the zilker neighborhood. I'm not opposing this -- this item. But i do have some questions about the impact that it's going to have on low income families when this is a city-sponsored event and i'm just concerned that -- that we may be moving in the direction where we're raising the fees and the costs and putting barriers in the way of low income families being able to participate in this event. I just would like that to be discussed so the families can understand what impact this is going to have on our low income families.

[1:48:08 pm]

The other thing that i would like to -- hope that the council would discuss is where are we headed with adding new -- the ferris wheel and other kinds of attractions like this to this event? What is the council's policy on that? Will it be able to morph into more of a different type of event with more rides and more commercial aspects to it? This is a city sponsored holiday family event. And i just get -- i'm concerned as to where we're headed with this. I understand that it's being sponsored and funded by donations, you know, outside of the city budget here and i appreciate that. But i think it's important that we look at that and make sure that we make it easy for those low income families to be able to get to the park and participate in this. They should be getting vouchers for transportation, mass transportation so they can get on the bus and ride to the event. So i'm just concerned about that. And hope that y'all will ask those questions and provide some -- some information to the public about that. Thank you very much.

>> mayor adler: thank you. Gus pena. Jeff frank? We're now back up to the dais. Ms. Tovo, you pulled this.

>> tovo: i did. I had some questions about it, i want to just back up and say, you know, i appreciate the trail of lights foundation for coming forward and taking on operations. I think it was unfortunate when the city stopped having the trail of lights. Because of the cost, so i'm really glad to have it back. Having said that, it was not a decision that i supported last year to allow the charging of fees. I was the only one who didn't support it. But i just felt like this is a community event that's been around for a long time, a lot of people look forward to it and it has a great appeal across the community and -- and it does certainly limit it when there are fees. So i appreciate the -- the balance that's being struck here that at least half of those days will be free.

[1:50:12 pm]

But i did wonder how the five year co-sponsorship agreement will impact that. It was my hope and my memory and it may have been a vague memory or one that i was more like wishful thinking last year, but it was my memory of that conversation that if the sponsorships, if there were sponsor recipients or the fund -- sponsorships or fundraising allowed for it that the admission fee would go away. Mr. Russell is here, maybe he could speak to whether that was wishful thinking or a hope that was actually articulated that if the sponsorships and the fundraising allowed for it, that it would go back to be a free community event as it had been for so very many years.

>> sure, that's my wishful thinking as well. I can tell you our board doesn't like charging any gate admission. The fact of the matter is that the money that we get from that is a very small fraction of what it costs to actually put this on. It is useful and it goes right back into the planning of the event, it's not sitting in an account anywhere. It's fully used for the operation of the event. So we do use everything that we raise, including that gate money.

>> tovo: so i think then my question is if that's our shared hope that your fundraising would get to the point where you could eliminate that gate fee, how does entering into a five-year contract impact that? I don't want to commit -- in other words, what concerns me about a five-year contract is in part that it commits us to having a gate fee for an event that was free for many years and i would really like to get back to the point where it's free. If that's included in the contract, your ability to have a gate fee. I would like at least the ability to review that peace every year.

>> i would be absolutely fine with that, to be quite honest. The purpose of the five-year extension is so that we have several sponsors now that would like to -- to sign up long-term so they can budget now and that's -- that's the whole point of the five-year deal.

[1:52:19 pm]

So -- so each year, if -- if this needs to be revisited every year, i'm totally open to that.

>> tovo: i appreciate that. That's my main concern, my other is, you know, there have been some -- there certainly were concerns expressed about the ferris wheel last year and its proximity to the zilker tree, i know that you are aware of that and working to address that.

>> working hard.

>> tovo: i heard the mayor's comment that the placement superintendent a sure thing. So i appreciate your responsiveness to the community on that. There also have been some calls to maybe having a family night that doesn't include live music to try to reduce the crowds a little with young children might be more inclined to come because they know they're not going to wait in a two-hour line to get in.

>> sure. So we are only doing music on a couple of nights. The music that we have every night are community performances, such as the barton hills choir, kid performance groups. So we have really gotten away from the music, live music kind of thing and gotten back to our historical integrity of what this event was that i used to go to when i was a kid. So --

>> tovo: great.

>> if we can get mr. Maurer to participate in the dancing dolls --

>> tovo: we would bring forward a resolution to that effect. Mr. Russell, what you are saying is that you are fine with revisiting your ability to have an entrance fee each year. That would make me feel better.

>> sure.

>> tovo: and then, also, too, if there are issues that crop up from one year to the next during this five-year period, like the ferris wheel, i think that i want assurance from our pard staff that our five-year contract is not locking the city into an agreement, this kind of consent agreement.

>> i want to be clear about something else. Part of this contract that i would like if there was a clause in it that directly speaks to what the -- what the task force event, park lands event task force comes back with, so that our contract can also adopt those new policies that all of the other events have to abide by.

[1:54:23 pm]

I don't want to be buying futures with the five-year contract. I want to be able to be --

>> tovo: that's great. I appreciate that. I think that's a great suggestion. I appreciate your service on that group as well.

>> absolutely, absolutely.

>> tovo: so i see mr. Mauer behind you.

>> mayor adler: before you leave the podium, i want to say thank you for your service with respect to this. This is a communities activity you jumped in the middle of and probably saved and keeping available to our community and -- and we're all appreciative.

>> to be fair i was drafted into this.

[laughter]. So ...

>> jason mauer, austin parks and recreation department. Mayor pro tem, we do renew the contract annually. So we do incorporate from year to year, items that we hear from stakeholders through neighborhood meetings and then as mr. Russell was alluding to, are any changes from the task force. So we already have that built into the contract to include any changes from year to year.

>> tovo: will those come back to council from year to year or does this resolution absolve you from the responsibility of bringing those back to council each year.

>> the resolution, as i understand it, would be at the city management level.

>> tovo: so the answer words you won't be bringing it back to council each year for the next five years?

>> that is correct.

>> tovo: so i'm going to have to think about that one a little bit. Because i do want the opportunity to have this discussion, especially about looking a little bit more closely at the revenues, whether there's a -- really a need to continue to see those entrance fees. So i guess that i would share that with the

sponsor of this item that -- that i would be more comfortable with some level of check-in, a five-year commitment, but some level of check-in with the council on issues related to entrance fees and more general discussions about activities going on. At the event. I don't know how to accomplish that. This is -
- we're having this discussion kind of quickly here on the dais.

[1:56:24 pm]

>> mayor adler: what kind of time -- i tell you what. I don't know if it makes sense for us to pull this down for right now and to talk about how we could wordsmith this, there's also, i think an issue that ms. Garza wanted to raise and i don't know, james, in terms of timing how important this is to happen now versus happening at our next meeting.

>> well ... I can tell you that we've -- we currently have our -- our press conference scheduled for next wednesday. So ideally, we would do it today. Get it taken care of today.

>> mayor adler: okay. So maybe we'll pull this down and come back to it and let's see if there's a way to put that check into it and then maybe there's an opportunity, ms. Garza, for you to ask your question as well.

>> tovo: mayor, maybe it's even enough to provide some direction to our city manager to bring that back rather than trying to craft the language. I would be comfortable if we could get to a place of direction on those issues.

>> mayor adler: all right. My understanding is that you are okay taking a look at -- at those -- the issues as we go year to year as the contract gets reentered into it?

>> sure. What we could do is some sort of financial report at the end of each event.

>> tovo: it seems to me that's part of it, right, to have the financial report. But that doesn't -- if you have the ability for the next five years, if we're lacking the -- locking the city into an agreement where you have the ability for the next five years to charge gate fees, just having a report is not going to quite accomplish what i'm hoping to.

>> sure, okay.

>> mayor adler: what she's asking for is in addition to the report that there's an eye that looks at it, yours and staff's, to see if given the growing popularity or the growing sponsorship levels, whether we've reached a place to see whether or not this is something that could be provided to the community. And she's asking for a conscious stop on that and for the ability for the manager to be able to -- to make that assessment with the yearly reviews and to incorporate that into the agreement.

[1:58:35 pm]

>> right.

>> mayor adler: my

Question is: is that something that is okay? Something that you want to think about? Is it something that --

>> i mean --

>> mayor adler: did i get that right?

>> tovo: not completely. Mayor, i was really hoping for a council authorization on the gate fees each year. And i'm trying to remember how it happened last year. It seems like it was its own discrete item, but i may be remembering that wrong when you came forward. Anyway ... I'm happy to think about it for the next few minutes and see if i can craft some language that might be acceptable to the sponsors. But it would be -- the matter that i would hope could come back to council would be the gate fees, some kind of report and reauthorization of the allowance to do gate fees.

>> that's fine. Yeah. We can do that.

>> tovo: and to make sure you are hearing all the comments about activities.
>> 200-foot ferris wheel instead of 300.
>> tovo: say that again.
>> 200-foot ferris wheel.
>> tovo: mr. Russell, thanks for all your work on this. I appreciate it too.
>> i'm on sponsor on this but after hearing concerns i -- i like that there's still the option for free nights, but if there is a way to work this where we have all -- i'm sorry, i missed part of the conversation, but if -- what did we expect to get in those fees because i don't know if there's other avenues we can take to, you know, reach out for philanthropic organizations or if i could donate a portion of my office budget, maybe that's an option.
>> so here's one of the kind of commitments and i'm pretty firm on it because i don't want to use taxpayer dollars for this. If people decide they want to come on a night that's charged, that's up to them, but not everybody has to pay for that. So while i do appreciate that offer for the money coming from your office, i'd say no to it.

[2:00:42 pm]

Again, i do appreciate it. I do -- we do have pretty substantial programs that we work with aid and our other nonprofit partners, which there are about 20, and all in all we provide about -- i guess it's about 10,000, 15,000 free tickets on paid nights to aisd, safe place, battered womens shelter, boys and girls club, and we provide the transportation for those folks as well and a safer environment, we don't allow cameras on those nights and things like that. So we do have programs where we are making sure we're getting folks that -- that cost isn't necessarily a barrier to people that want to come and can only come on those paid nights.

>> mayor adler: my understanding is let's pull this down, let's put in a sentence that reflects with the understanding also there's a true-up opportunity with the council and then we'll call it back.

>> real quick question.

>> mayor adler: ms. Garza.

>> garza: if at the 11th somebody came in and said i can cover these fees, a nonprofit, that's possible, that could be done.

>> sure.

>> garza: okay.

>> mayor adler: ms. Houston.

>> houston: thank you, mayor. I have a question about transportation. I remember catching a bus on pleasant valley road with my son and his children and going through the trail of lights.

>> the craig field stop we had we had to discontinue because those buses spent most of the time sitting in traffic. And we had some issues with the turn-around time on those buses. So we would have a the look of people waiting in line to get to the park and then back and because we only have three hours to operate from 7:00 to 10:00, we were unable to accommodate a lot of those folks. So we ended up having angry customers basically. So what we did is we started pushing as many folks as we could to burger center because there, and we're able to move buses completely out of there and to the park.

[2:02:53 pm]

The -- going down ben white was just a -- ben white and cesar chavez were not optimal routes at all.

>> houston: that's unfortunate because the people who we're using the field off pleasant valley were people who are not going to be able to get out to burger so that's unfortunate.

>> so i can -- to talk more about that point, we have talked -- one of our board members is mark williams who is a trust member at acc and we've been looking at possibly using the east view campus. That just becomes a transportation department negotiation with are we going to impact anything negatively over there.

>> houston: i would hope you would look for something east of i-35 that wouldn't cause us to have to drive far southwest to try to get to zilker park.

>> i live on east 12th so i know.

>> mayor adler: councilmember tovo.

>> tovo: our city attorney has provided some potential language, if you would like to hear it.

>> mayor adler: yes.

>> tovo: and this would be to the last sentence in the resolution, so the language ends, wraps up this way, that gate entrance to the events public opening night and for shuttle riders remains free of charge and subject to annual council review and approval prior to each event.

>> mayor adler: ms. Tovo makes that line addition. I'm fine with it. Is there any objection to it being added? Hearing none, it's added to the resolution. Further conversation on the resolution? Those in favor please raise your hand. Those opposed. It's unanimous on the dais. Thank you.

>> thank you.

>> mayor adler: okay. We have time certain on 38.

[2:04:56 pm]

Let's see what things we might be able to handle quickly. I'm not sure if 39 gets handled quickly. We have -- let's see.

>> tovo: mayor, possibly 47 might be quick.

>> mayor adler: we allowed speakers on 39. So 47. Let's call up 47, one we have speaker, david king, on item number 47.

>> thank you, mayor, mayor pro tem, councilmembers. This is an important item. This is about how the city makes investments in companies. And, you know, i'm hopeful that the city considers the policies of those companies when we're going to make investments in them. The policies about equal pay to women for work that's -- the same pay for the same workmen get paid for. The same pay, equal pay. And also for other policies and values that the city has. So i hope that those policies and values are considered in deciding which companies we choose to invest in and those that we choose not to invest in. And the other thing is are some of those companies receiving benefits from the city like density bonus, participating in our density bonus programs are getting incentives, economic development incentives from the city. I think we need to look at that and see if we have that situation occurring. The other thing is some of these companies that get incentives or even those who don't and come to the city and build in the city, commercial businesses particularly, they take advantage of the unfair tax appraisal system and get their appraisals reduced, thereby really reducing the amount of taxes that they really should owe this community, our school districts and this city and the county.

[2:07:05 pm]

So i think we should look and see if any of those companies and corporations are playing that game here in our city and avoid investing in those. I just hope that this council considers those aspects of our investment to be a priority. And i'm not sure. I haven't heard that from this council about whether you consider those aspects when you are making a decision. And we have this big -- this one item that's a big amount of investment. So i hope somebody will -- on the dais will at least ask about those policies of those issues and see what -- how the city makes those decisions. Thank you very much.

>> mayor adler: thank you. Those are all the speakers that we had on item number 47. Is there a motion on 47? Ms. Tovo.

>> tovo: mayor, i would like to move approval on this item. This was an issue heard by the audit and finance and we recommended it unanimously.

>> mayor adler: okay. It's been moved by ms. Tovo, seconded by ms. Pool. Any further discussion on item number 47? Mr. Casar.

>> casar: i'll be supporting the motion and trust the work that my colleagues made on audit and finance. I do just want to indicate because mr. King did bring it up that i have a longer term interest in figuring out how we make sure that we leverage as much social good as possible through our investments. I know we certainly have some policies in place now, but -- but i just want to indicate to my colleagues sort of a longer term interest in this discussion because i know a lot of other cities and pension funds have gotten really creative

[indiscernible]. Just want to indicate to folks my interest.

>> mayor adler: thank you.

>> councilmember, greg canally. Just as a point of clarification, the city's investments are run a little different than the pension funds. We're under the guidance of the public funds investment act. Our city resources are not invested in private companies, they are not invested in the stock market, in equities.

[2:09:06 pm]

Our investments are really in fixed income, government securities, u.s. government bonds, most are overnight bonds to help us meet our cash flow. On the pension side some of those issues may come up, but just to be very clear we're not investing in companies or u.s. stocks, in essence.

>> mayor adler: okay. Thank you. Any further discussion on 47? Those in favor? Mr. Zimmerman.

>> zimmerman: it says staff does not propose changes to the existing city of austin investment policy document, so one part of me says if we're not going to change the policy, why bother with the resolution. The other side says, well, what could be the harm if we're not changing policy. So i guess i'll be voting in favor.

>> mayor adler: okay. No further discussion. Those in favor of item 47 raise your hands. Those opposed. It's unanimous on the dais. 47 passes. Item 48, the convention center, there are questions remaining and some additional work that we ask the convention center to take a look at. I would move to postpone that item to november 12th. Mr. Zimmerman makes that motion, ms. Houston seconds. Those in favor raise your hand. Those opposed. That item is postponed. 50 and 51 have time certain. 53, 54 have a time certain. I'm going to call up at 3:00 the housing and community development matters. Ms. Spencer is here but not feeling well, but we're going -- she wants to stay here long enough to handle those at 3:00 and then we'll let her go home so that's going to happen at 3:00.

[2:11:15 pm]

>> [inaudible]

>> mayor adler: i'm sorry? It's set for a time certain at 3:00 so we can't call it up any earlier than 3:00.

>> item [inaudible]

>> mayor adler: we're looking for things, we also think will be quick.

>> pool: what i was asking was the item we were talking about, is that item 68? Or was it a different item?

>> mayor adler: it's item 68.

>> pool: okay. Thank you. Ms. Tovo.

>> tovo: mayor, i was going to suggest that 57, i believe, may be relatively quick.

>> mayor adler: it's the eminent domain matter. Item number 57, with respect to item 57 being a nonconsent condemnation item is there a motion that the city of austin exercises the use of eminent domain to acquire the properties set forth in the current agenda for the public uses therein described. Is there such a motion? Ms. Garza makes that motion. Seconded by ms. Houston. Thank you. And our city keeps operating. Any discussion on this item 57? Those in favor of 57 please raise your hand.

>> hang on, 60 seconds.

>> mayor adler: that's fine.

>> zimmerman: i'm sorry, ready for vote.

>> mayor adler: those in favor? Those opposed. It's unanimous on the dais. 57 passes. We're on a roll, mayor pro tem.

>> tovo: i have one more to offer and that's 52.

[2:13:24 pm]

I believe this item was withdrawn on changes and corrections because terry mitchell was pointed through item 31.

>> mayor adler: it was 31.

>> tovo: but we didn't officially withdraw that. I would move we withdraw this item unless councilmember kitchen since it came from your committee.

>> kitchen: we withdrew it.

>> mayor adler: mr. King, that was something you had signed up to speak for but his appointment had gone through as part of item 31. You're okay? Cool. So item number 52 is withdrawn. Okay. We have items number -- we have items to set public hearings, to set public hearings on items 41 and 46 we've already done. So i think those were the quick, easy ones. Yes.

>> if i could suggest we go ahead and go with i believe it's 39. I know there are a lot of speakers on here, but i don't believe all of these speakers are here and i'd also -- since it is my item, i would be open to limiting 20 minutes and 20 minutes on each side.

>> mayor adler: ms. Garza moves item 29 -- 39, rather, with a limitation of speakers to 20 minutes on each side. It's been seconded by ms. Pool. Let's first take a vote on the limitation for debate. Ms. Garza moves to limit debate to 20 minutes each side. Is there a second to that?

[2:15:24 pm]

Ms. Pool seconds that. Is there discussion on the limitation of the debate?

>> houston: well, because councilmember garza is the sponsor, the primary sponsor of the resolution, but this hasn't been heard by anybody as far as i know and i'd hate to have people come -- i'm just trying for us to be consistent so if they came and they are here then i think they ought to be allowed to speak. I don't know how we can manage that, but --

>> mayor adler: i think under the circumstances of this case it might make sense. Those who want to speak in opposition to this total about 20 minutes. So the limitation effectively if there is one is for the folks who are proponents of it. And since ms. Garza is a proponent of this and it's not cutting off debate to people opposed to it, i would probably agree with the limitation in debate because of the particular facts of this item.

>> houston: mayor, i just want us to be consistent. When we say it's going to be a hearing, we've not had a committee to hear it, to vet it beforehand, then i think anybody that showed up ought to have an opportunity to speak. If we limit to two minutes, that's fine, but i'm uneasy about us changing the way we do business.

>> mayor adler: ms. Garza.

>> garza: if we limit it to two for everybody here i think we would still be within the 20 and 20 because i don't think a lot of the speakers are here -- have said they are going to speak.

>> mayor adler: let me do this real fast. If you are here against this item number 39 wishing to speak, would you please stand. Thank you. Thank you. If you are in favor of this item and are here wishing to speak, would you please stand? Okay. Thank you. We're going to let everybody -- we're going to let everybody who stood up get a chance to speak.

[2:17:31 pm]

Would someone please come up who would like to speak against it? Is john segul here? Give you three minutes.

>> thank you. Mayor, councilmembers, thank you for the opportunity to speak.

>> mayor adler: let me back up. Was one of the other people standing up emily horn? No. You have three minutes.

>> thank you. I'm a resident of austin. I've been in councilmember kitchen's director and texas legislative for right to life. And i am here speaking against the resolution in item 39. This resolution will add support for planned parenthood to the city's federal and state legislative agendas. My point today is that this resolution is unethical, it's imprudent and misguided. It's unethical because map is an abortion business -- planned parenthood is an abortion business. The business in texas is strafford around selling abortions to texas women and it is unacceptable to the city of austin to lobby on behalf of this industry since elective abortion ask an act of grave injustice in our state and it deprives the voiceless victim of that elected abortion the right to life. It's also imprudent because planned parenthood is currently -- has three clinics in our city and as mentioned in the resolution, and there are actually three state investigations going on on planned parenthood right now in texas and multiple federal investigations. And so the scandal over planned parenthood top executives discussing changing -- altering abortions and selling the bodies of aborted children is being investigated and i think it's imprudent to move forward with support of this organization until those investigations are through. And then lastly this resolution is misguided.

[2:19:33 pm]

Like i mentioned, planned parenthood has three clinics in our city. There are 66 other clinics that the state and federal levels fund and this -- this council would be more prudent in focusing on supporting those 66 clinics that are not controversial and they are not being investigated by state or federal. Also i'll mention that this -- this resolution is imprudent because it has a factual inaccuracy in it. The resolution claims that funding for womens health care has been reduced whereas the biennium, the budget for the biennium that just passed has dedicated \$284 million for womens health care specifically and this is up from \$214 million in the 2014-2015 budget passed by the texas legislature. So this resolution acts as if there is defunding of womens health services when in really the texas legislature has stated their interest is defunding the abortion business, planned parenthood. I'll also mention that this resolution is misguided because the texas health and human services commission has found that planned parenthood is 43% more expensive per client in the state funded programs. So it is misguided for this council to prefer planned parenthood as our health care providers instead of those other 66 clinics we have in our city and that doesn't count the numerous clinics in georgetown, round rock and bastrop.

[buzzer sounding]

>> mayor adler: finish your thought.

>> yes, sir, thank you. And so because this resolution is unevident cal, imprudent and misguided, i would ask you to vote against it and actually focus on supporting those 66 clinics that are doing good care and are not as controversial in our city. I'm available for questions of the council.

>> mayor adler: thank you very much. Mr. Zimmerman.

>> zimmerman: one very quick question. What is the state -- just one instance of a state investigation.

>> there are three separate --

>> zimmerman: what's the most interesting one from your point of view?

[2:21:35 pm]

>> we've had the most public one has been done in the texas senate. The lieutenant governor asked senator schwartzner who chairs the health and human services committee to look into the videos and look into laws relating to possible crimes. And the legislature is currently looking at the legislation, the laws that we have about fetal tissue donations and whether it is illegal to alter the abortion procedure in order to get the organs and the body parts to sell. And that's what the senate committee is looking at right now.

>> zimmerman: and when is that supposed to be done?

>> there has not been public announcement of when the report is going to come out, however, lieutenant governor just reinstated the -- his charge that that same committee do a full interim investigation as how to improve that section of texas law.

>> zimmerman: okay. Thank you.

>> yes, sir.

>> mayor adler: ms. Pool.

>> pool: so if you could just rehearse for me, you said in your remarks that there were clear violations and then you said that there is now -- describe what the clear violation was in answer to councilmember zimmerman's question, you said mr. Swartner is going to do a study, that's very different you, but there are clear violations of law as looking for a study to try to uncover whether there are violations. I also take offense to your calling a resolution that one of my colleagues has offered up as immoral and unethical. I don't view it that way at all.

>> mayor adler: is there any further questions for this witness? Thank you very much.

>> thank you, sir.

>> mayor adler: one of the people wishing to speak in favor of this resolution want to come forward?

>> [inaudible]

>> mayor adler: thank you. Go ahead and identify yourself for the record.

[2:23:35 pm]

>> my name is ann tithe, district 3 trustees for austin independent school district. I am not speaking on behalf of the board, i'm speaking on behalf of myself. I appreciate this opportunity. First of all i would like to thank certain councilmembers for their support for lake view residents and their students and their children who were displaced and we received a lot of support from certain councilmembers about taking care of those kids and their families so really appreciate that a lot and wanted to say thank you. Secondly, i heard the remark about the bastrop fires and how we are keeping that in minds. I have a friend who lives out there whose first friend was burned down and they are in need of garden hoses to wet down their properties. She works for home depot and i think they are out of garden hoses, just fyi. Let me start. I want to let you know this is going to take a lot -- a lot of focus on my part because it's very personal to me. Okay? First of all, i support planned parenthood and have for a number of years. And here's why. In 1979 it was legal to have an abortion in the state of texas. And i had one. And here's why.

I was married. I was 26 years old and about to start my career. I was very sick with my first pregnancy. They are still here. Good. And i did not feel like i could embark on my career, by the way, both of us had to work in order to support both of us because i was a teacher and i made \$800 a month. And my husband was unemployed when we got married, but he had prospects for a job. So to have a child in the first six months was our marriage, you know, emotionally, economically, not a good idea. And by the way that child was a zygote, not a human being, a zygote. So i went to my doctor and it was legal and my insurance paid for it. And i told my doctor -- first i was like what's wrong and the doctor says you are pregnant.

[2:25:41 pm]

Okay, well, i'm going to terminate and you know what? God spoke okay with it i know because i haven't been a christian -- i have been a christian for a number of years and i talk to god every night in prayer and god is perfectly okay with it. All right. Moving on. And i haven't told anybody except my immediate family that piece of information so now the world knows it. By the way, if i get any retribution from anybody, i will remember it and so will god. Moving on. Some of our state legislators and some of our elected officials and some of our very well meaning christian fellow texans have got it in their minds that it's better to protect the unborn, a zygote, or if you want to talk about --

[buzzer sounding]

-- i'll stop.

>> mayor adler: thank you for your comments.

>> mayor, i would like to invite her to complete her thought. If she wishes.

>> i'll take a deep breath. I'll practice mindfulness and trying to get it under control. Some people have decided, usually men, have decided it's okay for them to tell us how to use our bodies and there's a lot of women that think the same thing. It's not your right to tell me how to use my body and decide what i'm going to do with my body. Number one. That's a personal matter. Number two, planned parenthood provides the needed resources for many, many, many of my fellow females in the state of texas who can't afford reproductive services, preventing pregnancy, all that kind of thing. And this business about all the stuff you just quoted, sir, about all this, you know, fetal tissue stuff, you know, i'm sorry, much of that has been debunked already.

[2:27:44 pm]

Okay, so when we get distracted with the unborn and focused on the unborn, that's a major distraction from what we should be about which is the born. We should be focusing on our infrastructure, we should be focusing on supporting those who are born, that's education, that's one of my passions. We should be focused on education, economic benefits for all of our people. All means all not just a few people. And we are pulling time and energy away from focusing on that by focusing on what? A zygote. An unborn. If you want to pull the fetus up in here, the third trimester argument, there's still not -- they are still not born and we have thousands of texas kids who are in foster care, who are reported daily to cps because the adults around them are not taking care of them. And why? You want to connect some dots. I think you all know what the dots are. You know, in this city i'm just going to pull it down to austin. We'll take care of our flora and our fauna till the day comes home. But we are not really good at taking care of our hundred man man -- human beings. We'll talk about money all day long. We'll talk about the bottom line and the roi all day long. But when i ask somebody to give me some more money to educate an english language learner who comes from afghanistan who is over here to make a better life for herself and her four children, i don't get that kind of cooperation. Those are the born. Okay, so i'm done.

>> mayor adler: thank you. Someone to speak against this matter? Yes, sir. Thank you, sir.

>> brian trout, i'm in ms. Troxclair's district.

[2:29:47 pm]

Thank you for allowing us to speak. I'm going to use something that i think mayor adler used some of his words earlier. How do you take a subjective argument and make it this objective decision about it. That's what i'm going to try to attempt here today. So is a property owner in austin, more importantly, a property taxpayer, i would like to express my concern with the plan to continue to subsidize planned parenthood. Unless you are specifically talking about abortion, women have dozens of choices to receive all of the services that planned parenthood provides and a whole lot more. Community care, for example, is a health service provider here in town that has 23 locations in and around austin. They have served over 80,000 women this past year and provide a whole host of womens services including screening and treatment for stds, education prevention of stds, pelvic programs, breast and cervical cancer screening and basic infertility screening. They accepted medicaid as well as having a sliding fee schedule based on income. The less you have the less you pay. Other centers in austin include peoples community clinic, lone star circle of care. In addition to austin lifecare and several other pregnancy resource centers in and around austin. All of these places provide low cost or no cost womens health services. The exact same services that planned parenthood provides yet to my knowledge doesn't receive the same fiscal special treatment that planned parenthood does. This is a tax paying citizen whose property taxes seem to go up every year -- in reality there would still be dozens of place to go for health services for low-income women even if planned parenthood went out of business altogether.

[2:31:48 pm]

Community care, for example, has a location at second and comal, which is close to the planned parenthood on east 7th. This the same planned parenthood location, in case anyone is not aware, that has been paying the city of austin, its landlord, a dollar a year in rent. I called to commercial real estate folks in town, one of which owns a building on that very same corner. He told me that the value of that planned parenthood building would be close to rent would be close to \$50 a foot or approximately \$200,000 a year. Based on the square footage. I believe the city granted planned parenthood a 20-year lease, a 10-year lease with a 10-year option, so that is over \$4 million over the life of the lease in lost revenue to the city of austin for the life of that contract. So i'm here today to just ask when i'm -- my property taxes keep being increased --

[buzzer sounding]

-- i'm sitting in traffic on a daily basis, why do we continue to subsidize an organization when there are many other choices for women in this city.

[applause]

>> mayor adler: thank you.

>> zimmerman: before you go, sir more to your point, what's on the agenda here is -- and you are not proposing that we subsidize any of the other organizations, you are saying as a property tax payer you don't want to be forced to subsidize anyway.

>> my point is either subsidize all of them or don't subsidize any of them.

>> zimmerman: thank you.

>> mayor adler: mr. Casar.

>> casar: just for clarity and the gentleman who just spoke, i believe each of the organizations listed do receive support from either federal taxpayers, local taxpayers, county taxpayers or a combination of them all and that if it weren't for that subsidy, we would have lots of people suffering and so the fact of

the matter is i know in this city there is a serious need for more health clinics that provide all sorts of care and access to abortion services.

[2:33:55 pm]

That's why we're excited people's community clinic is expanding and we supported their expansion, that's why we supported recently bringing on a couple more employees through 1115 waivers. So if the option is to subsidize all of them or none of them, the difference is do we want to have health care or do we want to have no health care except for those very, very few people who are wealthy enough to pay for it all themselves.

>> mayor adler: thank you. Do we have a speaker speaking in support?

>> hi, thank you so much. My name is sara wheat and i too am a city of austin resident. My husband and three children and i are proud to live in austin. I'm here for the vp of community affairs and speak in support of resolution 39 and also to ask that we move forward with the resolution as is, no amendments. And no delay. Let me just tell why we feel that way. Planned parenthood, as some shared earlier, and the city of austin have had a long-time partnership. We're proud of the health care services we have provided consistently including at east 7th and chicon. We have been at that location since 1974. And our first health center here in austin actually opened in 1938. We're incredibly proud of the partnership and the services that we have provided over nearly 80 years here in austin. Let me just mention a little about what those services are. We provide the full range of birth control to help women plan and space their pregnancies, including iuds which have had a huge game changing impact on teen pregnancy prevention rates and helped women to plan and space their pregnancies. We also provide testing and treatment for sexually transmitted infections.

[2:35:57 pm]

We provide h.i.v. tests, wellness exams which can include a breast screening and cervical cancer screening, and we provide award winning health education, treatment for urinary tract infection, vaginal infections and at our south austin location which was built to meet the current state specifications that dictate the width of our janitor's closet, how often air flows through the ventilation system, that's an ambulatory surgery center and that's so we can offer safe legal abortion to local residents who may need that. As many of you are aware, since july there have been a wide ranging series of accusations being made about our organization. Nationally planned parenthood is about to celebrate our 100th year next year. And i think it's no coincidence we've seen such an extreme series of accusations and misinformation about planned parenthood. Since july, while we've been in the news and headlines repeatedly, we've got for at least my planned parenthood we're currently under eight active investigations. Those include federal and state so we've got a lot of folks looking into the allegations that have been made about planned parenthood. So far seven states have completed their investigations and come back to report that there's nothing wrong on the side of planned parenthood. So we -- we are here to say that -- i don't know if you've looked at recent data, our numbers about the public's views on planned parenthood, despite all the headlines and all the misinformation, since july the public has stood with planned parenthood and in fact planned parenthood is more respected --

[buzzer sounding]

-- than the entire u.s. congress, the u.s. president and any presidential candidates currently. Here in austin we feel that support and i just want to address a couple things if i may that were mentioned earlier. Somebody shared there's a lot of great resources for health care in austin and we are so fortunate that that is true. We're proud of all the other health care providers in town, community care, people's community clinic.

[2:38:02 pm]

If you are an uninsured patient or medicaid patient and you have serious symptoms, perhaps you have a u.t. i or symptoms of a u.t. i, perhaps unexplained bleeding and are urgently needing to see a health care provider your choices are to go to the e.r. or if you call planned parenthood, we can tipped get you in within two days. Unfortunately even with the outstanding federally qualified health centers and other phenominal health care providers we have here in our community they cannot always accommodate those visits as quickly. And that's the role that we feel like we're here to provide with a safety net and try to make sure men and women can get that initial preventive care and get on to whatever treatment they need in a time sensitive manner. I'm very grateful for today's resolution. With all the bills that have been filed in congress, i think it's important this address planned parenthood specifically because there are bills penning in the u.s. congress that would address planned parenthood and our health services specifically. Thank you and if there's any questions we're happy to follow up.

>> mayor adler: next speaker speaking against this.

>> hi, my name is nicole hudson. Will we choose life or death? I'll be to the point. Planned parenthood does not care about womens health. As shown in the videos by the center for medical progress and reports from national league groups like

[indiscernible] defending freedom planned parenthood has been making \$750 million in profit and has been tearing apart the limbs of children for the sake of research. On top of that the business has shown time and again that they will fail to report sexual abuse of their clients.

[2:40:07 pm]

The president of planned parenthood recently testified in congress and admitted that there is not one mammogram machine in one of their clinics. Planned parenthood gulf coast had to pay \$4.8 million because of medicaid fraud. Investigations are up to their eyeballs as you all well know. Just this week in congress they added a fifth committee to investigate on planned parenthood. In march the department of health and human services of the united states found medicaid fraud and fraud guy the north texas planned parenthood and with texas womens health waiver. They committed fraud or overbilled them \$129,000. When our state senate having investigation planned parenthood refused to even testify. I'm broken. I'm broken that my city would align with such a barbaric organization that would partake in mass murder of citizens. Our resources should be used for real womens health care like the federally qualified womens health services. And i'll remind you that this council also targeted pro-life pregnancy resource centers. And my boss jonathan signs helped with that case in the case of austin lifecare versus city of austin the council lost and was forced to pay \$480,000 for targeting those pregnancy resource centers. If the city wants to truly help its women, let's help those who aren't going to damage those women who are in the womb. Like myself. I was born two and a half months early. I was three pounds, 13 ounces. There was a whole team, as a matter of fact three nicu teams that were waiting to make sure that i stayed alive. That's the kind of womens health care we need. Womens health care for those outside and inside the womb. Let's keep austin weird, but let's do it in a way that provides whole health.

[2:42:10 pm]

May it be said of austin that we chose real health care and that we chose life. Thank you.

>> mayor adler: thank you.

[applause]

>> mayor adler: do we have anyone left that wants to speak in favor of this? Is there anyone left who is going to be speaking in opposition to this? Please condition.

>> i'm here today as a private citizen, a voter in district 5 and a member of the unruly mob. I hadn't planned to speak on this matter and i want to tell you what year it was, but my undergraduate application to colleges say was about the equal rights amendment and i was certain that in 2015 we would not be having these same conversations, but you know the facts. You've heard them today, you can get them from your policy aides but to review 5% of what planned parenthood does is abortions. Zero federal dollars can be spent on those services. The video that was referred to has been repeatedly debunked. The chart that has made the rounds at the congressional hearing was intentionally misleading. Planned parenthood saves lives through cancer screenings and other services, as you've heard. This resolution simply asks that austin's federal legislative agenda align with existing federal policy and supreme court rulings and that we work with the state to expand funding of a full spectrum of womens services. To frame womens health care and the services that planned parenthood provides as subsidizing abortion is disingenuous, it's intellectually lacy and politically -- lazy and politically cynical. Let me be clear. Abortion is legal.

[2:44:10 pm]

Abortion is legal. Abortion is legal. It is culturally necessary, it is a tool of social and economic justice. It is a fact, it is a right. It has been and will continue to be practiced for millennia. Fight against it if you must, but hiding behind planned parenthood is not the way to do that. Thank you.

[applause]

>> mayor adler: thank you. And i think we have one last speaker in favor of this.

>> thank you for this opportunity to speak. I already sent a long message to council and mayor, full council, as well as my testimony that went before the texas senate committee two years ago. I'm going to tell you part of that. More for the everybody else. When i was in junior high, 12 years old, really didn't know what was going on in the world in terms of sexuality, sexual behavior, i was still very much my daddy's little girl. We were watching a movie, it was about a young college student who sought an abortion in a back street alley. In the end she died because of an infection. She bled to death. My father told me, he said if that ever happens to you, don't be afraid to come to me. He said i don't want to lose my baby. Sorry. I'm lucky. I never had to seek planned parenthood services, but they serve a huge portion of the marginized community. They've already been victimized by institutional racism, classism, they are subjected to conditions that politicians claim to abhor but yet they help create.

[2:46:13 pm]

Many are focused on the unborn, and that's fine. More power to you. But that doesn't mean forget about them as soon as they come out. We have children who are left at churches and fire stations, abandoned on the street and in dumpsters. They may never be seen, they may starve to death, they may be in foster homes and have no business watching children. You need to focus on them. They are the ones who are already here. Thank you.

[applause]

>> mayor adler: thank you. Mr. King.

>> thank you, mayor. I'll be very brief. Mayor pro tem, councilmembers, so know i just think this is -- it's all a one-sided conversation. It's all about women. You know, planned parenthood provides reproductive services for men and women both. So why are we all here beating up on women? Why isn't there an outcry to say men, you've got to be part of this process too. We're not going to fund any health care for you. It seems to be an unfair to me. So i just find it -- i can't believe this, you know. And

talk about immorality. I think it's immoral to try to spin this in a way to make women the bad people here. You know, men are part of this process too. Why aren't they held accountable? Why aren't we cutting off reproductive services for them too? It's because we have a male dominated legislative system here, that's why. I think that's part of the problem here. And i hope we can fix that and at least have a better balance at the state and the national level too. And you know, i think, you know, somehow men were the one who could become pregnant, we wouldn't be having this discussion right now. Look at how -- what many of our laws are, the men get out of jail free.

[2:48:17 pm]

They go off scott free in this stuff. But here we are marginalized and calling women immoral, and i think the women are not immoral here, it's those that are trying to do injustice to the women that are immoral here. It's those that in the legislature and have the power that are trying to push down women. Those are the ones that are immoral. So i applaud you for bringing this resolution forward and i hope you unanimously pass this resolution. Thank you very much.

[applause]

>> mayor adler: thank you. We're now back up to the dais. Any discussion on this item number 39? Someone want to move passage of item 39? Ms. Garza.

>> garza: i'll move passage of item 39.

>> mayor adler: is there a second? Ms. Houston. Any discussion on item 39? Ms. Houston.

>> houston: thank you, mayor, and i want to thank everybody that's come out this afternoon. As you can tell, this subject is very emotional for a lot of people and so we have to be respectful that each person has a different narrative, a different history and a different story to tell and so i thank you for sharing the most intimate details of your life with us. As probably the oldest person sitting on this dais, i want everybody to know that it upsets me when men tell me what i can and cannot do with my body. It's not your right and i don't think it's your responsibility to tell me about what i can do with my body.

[applause] i believe in -- no, because everybody has a different concern. I believe in property rights. I believe people have a property right. And just as though we can agree on property right issues, we should be able to agree on body right issues.

[2:50:19 pm]

I'm not going to tell you what to do with your body and i would hope you would not tell me what to do with mine. Some of the things i want to talk about. The planned parenthood location on 7th and chicon is the one where my daughter used to go when she had no health care and needed reproductive services. She may still be going there now. I don't know. She's grown. I try not to get in her business. But --

[laughter] but the fact is that although they are paying a dollar a year, it's no different than zach scott paying a dollar a year and i don't see you coming down complaining about that. We have to be consistent when we put things together. You can't just have apples and a grapefruit there. The fact is that there are no community cares east of 183. There are no services for people in district 1 east of 183. So many of the people because community care has both men and women, some women don't want to be in that environment with both males and females and so they prefer to go to an all female kind, except mr. King has said men do go to planned parenthood and get condoms, i hope that's true. I don't know, i suspect that is true. Where is ms. Wheat? Can men go to -- okay. So men have services there also. But that is probably the closest place where women in district 1 can go to be able to get the health care services, cervical cancer screening, all those other things. We're not talking about abortion, we're talking about womens health care. And that should not be denied to anyone. So again, i understand it's

an emotional subject, but i think that we need to talk about everybody has a right to use their body or misuse their body in the way they so choose. So that's all i okay. Mr. Zimmerman.

[2:52:21 pm]

>> zimmerman: thank you, mr. Mayor. I'm going to make some remarks on the record on this important issue. On behalf of the majority of my district 6 constituents and also speaking personally. I want to call attention to the resolution on the second page of three pages in the fifth whereas clause. It says since 2003 the texas legislature has passed bills every session that chip away -- and here's the key phrase -- at access to reproductive services. Second look at page 3 of three at the top of the page, another whereas, whereas protecting funding for planned parenthood and highlight expanding access to a full spectrum of health services for women. I'm going to say what offends me about this and how this is so cynical and hypocritical. If my wife wants to terminate a pregnancy and kill an unborn fetus, she will be covered. That's called reproductive service. If she wants to deny her womanhood, refuse to have a child and get a gender change and a sex change operation, she would be covered. But if my wife wants to get pregnant and produce a child and she needs fertility treatment, she's not covered. I'm deeply offended at that. We're talking about a full spectrum of health services for women, but if my wife needs help getting pregnant, she's not covered. There's no service. She can't even get her drugs paid for or the medications are expensive. She looked at last last airlines. They paid for her medical -- medical treatment, progesterone and patches [inaudible]. But she had to leave that job. Now she's covered under my health care benefits here and she's not covered and we're out probably thousands of dollars. For those medications. So i'm voting against this for all the reasons that the witnesses said, but it's also somewhat personal to me.

[2:54:28 pm]

[applause]

>> mayor adler: further debate from the dais? Ms. Troxclair.

>> as i said at the work session on tuesday, i wish this resolution focused on womens health care in general instead of planned parenthood because i think we can all agree that we want womens health care to be a priority and i would love to work with councilmember houston to see if there's anything we get [inaudible] providers in 2011 to -- 4607 and the cost per funding has increased from \$109 per potential beneficiary to \$236 per potential beneficiary. And if you do need health services, i would encourage you to go to healthy texas women.org. It's a really easy to use website that can help direct you to affordable and reliable health care. So i just-"i'm not going to be able to vote for this because i think that it sends a message that we don't care about the rest of womens health clinics who are striving to provide comprehensive services to women in texas and i hope in the future we can talk about womens health care as a whole instead of the divisiveness that comes with the entity of planned parenthood.

[2:56:40 pm]

>> mayor adler: thank you. Ms. Kitchen.

>> kitchen: i would just like to add my remarks to what my colleagues are saying. I'm a long-time supporter of womens health and access to health care for women and for men who are uninsured and don't have access to services. And i can tell you unequivocally that planned parenthood is a necessary provider in our community and they provide an amazing array of services and have for, you know, many, many years. Reproductive services, lifesaving cancer screening services, and i think that the reason

we're here today focusing on planned parenthood as a particular provider is because they -- because of the misinformation and attack on one provider from the state and the federal government. So this is not about us saying that we want to single out one provider. This is about us defending access for a provider that's been available in our community for many years for people that need that help. I'd be happy to talk about womens health care as a whole and i'd be happy for the federal government and the state to quit attacking planned parenthood. But so long as they are, then i'm here to say that it is very appropriate for us to stand up for planned parenthood.

[applause]

>> mayor adler: any further discussion from the dais? Ms. Pool.

>> pool: yeah, i would just like to say that i'm a huge supporter of planned parenthood and have been for a very long time. Planned parenthood helped me out of kind of a tough spot when i was in college. It provides low cost on cases free, health services to men and women throughout this country.

[2:58:41 pm]

I am appalled by the attacks that are aimed at it directly. I find them mysonenistic. If this can help promote planned parenthood, then i am all for it. I urge everyone in the city to understand womens health care issues are different from mens. We get to make these decisions for our bodies. I fought these battles back in the '7s 8 -- '70s when i was really young. It's makes to have these conversation in the 21st century when i thought we had won a huge victory back in 1971 with roe v. Wade. In the intervening time essentially men have come at this -- strictly within a womens purview and chipped away at it and chipped away at it. If this is a bulwark against that chipping way, i am entirely behind it and invite all of austin to be entirely behind it and embrace planned parenthood in a very big way because they bring services to women who need it and to men who need it. They provide emotional support to people who are going through really difficult periods of time and people who are just looking for a little bit of a safety net. I fully support this resolution and i am really grateful that my colleagues have brought this forward today. Thank you.

[applause]

>> renteria: i just want to say as a father, you know, and i have a daughter that -- that her husband was in the military and -- and he served his four years and got discharged. Then my daughter was faced with no health insurance, because her husband was going to school and they couldn't afford health insurance.

[3:00:50 pm]

And it was planned parenthood that helped her out. So i'm very grateful, you know. There's nothing that concerns their parents more than their daughter's health. I was very concerned that, you know, she wasn't going to be able to get the medical attention that she needed. So i'm very grateful for the planned parenthood. And i am going to be supporting this.

>> i wanted to -- i want to thank everybody, i know this is a very emotional issue. I really do appreciate all of the different opinions and all of the different comments that have been made today and as a councilmember, you know, i will pledge to always be very respectful to everyone's opinions. And -- and really appreciate the fact that you have come here and allowed us to hear from everyone, so thank you for being here.

>> mayor adler: thank you. Further discussion of item 39?

>> houston: call the question.

>> mayor adler: further debate on 39? Hearing none, those in favor of item 39 please raise your hand. Those opposed? Zimmerman, troxclair voting no, the rest voting aye. 39 passes.

[applause] we're now going to go ahead and recess the city council meeting so that we can move to consider the austin housing finance corporation meeting. To that end i will convene the austin housing finance corporation meeting. It is 3:00. On october 15th, in the city council chambers. Ms. Spencer, do you want to take us through this, i'm sorry you're not feeling well.

>> betsy spencer, treasurer of the austin housing finance corporation.

[3:02:52 pm]

We have seven items before you today, one is approval of the minutes, items 2 through 5 are all items related to the go repair program that we administer with the general obligation bond funding, minor home repair for seniors and disabled. Items 6 and 7 are both related to the austin colorado creek apartments project. One is to set a public hearing and the other item is to -- an inducement resolution, which allows us to apply for the private activity bond funds. I offer them all on consent and am available for questions.

>> question, mr. Mayor? Could we put on the overhead, i'm not finding the agenda, unfortunately. Could we put those on the overhead, please.

>> let me help you find the agenda. If you go to the city council page, you can find the agenda next to the city council meeting.

>> zimmerman: we could. Is there a way we could have a paper copy, other people could see it, too.

>> mayor adler: i would like you to finish, though -- would you tell us how to find it, please?

>> just go to the city council page, where it has the city council meetings listed and the first agenda is the meeting -- the full meeting agenda. And right below that is the austin housing finance corporation agenda. You can click on that agenda and it will appear.

>> mayor adler: okay. Then we also have a hard copy that's been printed. Is there a motion to adopt items 1 through 7? Ms. Pool makes that motion. Is there a second to that motion. Mr. Renteria. We have a speaker. We have a speaker, in fact two speakers, i think, on item no. 7. 6, rather. The first speaker is gus pena.

[3:04:57 pm]

>> i got you covered, too, mayor, council, gus pena, proud native east austin night, proud united states marine veteran. I just got out of the hospital yesterday. It's very important for me to appear on this item no. 6. When i ran for justice of the peace, i was endorsed by the austin police association, sheriff's office, dps. I'm just not here to speak meaningless terms, open, dumb statements, et cetera. But on item no. 6, it states and i read it, public hearing to receive public comment regarding the issuance of up to \$25 million of multi-family housing revenue bonds. Mayor, you remember that press conference that y'all had, right? With senator watson, allegedly it was 252 homeless veterans here in austin, travis county. Which i strongly debate is incorrect. I was interviewed again by fox 7 last week, actually just right after i got out of the hospital and -- and only 99 veterans, homeless veterans have been housed out of 252. The question question to you

Was this: are you going to be able to meet -- meet the statement of housing all homeless veterans in austin-travis county. Mr. Mayor, i supported you heavily. I was discharged from st. David's and that same evening i asked home phone bankers you had. Only one. I went down there and phone banked you for. Let me tell you this, mr. Mayor, i'm going to say this respectfully, the boss, my wife said keep it honest, true, respectful. That's hard, honey. Remember the movie what price glory by gary cooper, what price glory do we have to pay the veterans. What price homelessness. The city gives more to developers than we receive in real, low, income affordable housing. Transitional housing is needed. That's spoken

very little. I brought that up back in the 1980s when bruce todd ran for mayor in the '90s, that was one of my first main focuses.

[3:07:06 pm]

Homelessness wasn't as bad as it is now. What i want to say is this, we ain't doing enough holding accountable the developers. We're giving too much. We don't receive enough. Okay? And i'll quote this - let us just not talk the talk, let us walk the walk. A society's worth is measured but its treatment of the less fortunate. And let's say hope for the homeless. We can find no social or moral justification -- more justification, nothing, for lack of housing. What more are we going to do to improve the quality of life of the people that are poor, homeless, helpless and hopeless? We're doing a bad job. Mayor, i respect y'all. But even my campaign, one of my campaign issues when i ran for council was affordability. [buzzer sounding]. And we ain't getting it done. We need to do a better job. We're not getting enough, we need to receive more. Thank you very much.

>> mayor adler: next speaker that we have on this item no. 6 is frank ivey. Is mr. Ivey here. Okay. We are back now to the agenda, it's been moved and seconded, adoption of 1 through 7. Any discussion? Those in favor of items 1 through 7, please raise your hand. Those opposed? Mr. Zimmerman votes no, others vote aye. With councilmember kitchen off the dais. Thank you very much.

>> thank you.

>> mayor adler: hope you feel better.

>> mayor adler: thank you.

>> mayor adler: thank you. Let's see if we can pick up some items here. What about item 58 and 59, zoning matters. 58 and 59 do not have any speakers.

[3:09:07 pm]

>> thank you mayor and council,. Greg guernsey withthe planning and zoning department. I think i can add one or two additional items. Starting with item no. 58 and 59 under zone ordinances closed, npa 2015-0007.01, this is a property located at 8130 noters lamar boulevard in the north austin civic association neighborhood planning area, this is a plan amendment. To take the property from commercial lands used to mixed use, ready for 2nd and 3rd reading. Item no. 59 related rezoning case, c 14-2015-0059 located at 8130 north lamar boulevard. This is to zone the property to general commercial services mixed use neighborhood plan or cs-mu-np combined district ready. Ready for concept approval on second and third readings. Item no. 60 probably discussion as well as items 61 and 62. And 63. I believe we can offer items 64 and 65 as concept, mayor, unless you have some folks signed up in opposition that would like to speak.

>> mayor adler: 64 and 65, no one signed up.

>> so let me offer item no. 64 for consent for second and third reading. C 14-2015, 0001 located at 4905, 5001, 5003 pecan springs road to zone to multi-family residence low density conditional overlay neighborhood plan for tract 1 and townhouse condominium residence conditional overlay neighborhood plan or sf 6 co-np combining district zoning for tract 2. That is ready for consent approval on 2nd and 3rd readings.

[3:11:12 pm]

56 is c 14-2015-0131 for the property located at 14,000 echo lane to zone the property to lake austin residence or la district zoning to correct an address. This is ready for concept approval on all three readings.

>> which one?

>> 64 and 65.

>> mayor adler: it's -- someone move adoption of the consent agenda which would be approval on second and third readings of 58, 59, 64 and 65, ms. Gallo moves, mr. Renteria seconds.

>> houston: i have a question about item no. 64, we postponed this so that the neighborhood and developer could have an opportunity to -- to clarify some issues. And i'm just checking, i don't see any of the neighbors here. But i'm --

>> 63?

>> houston: no, no, 64. That's okay. We'll get to you. They were supposed to have a meeting on saturday and i just need some verification if that happened. I haven't heard from any of the neighbors. So --

>> councilmember houston, mayor, councilmembers, yes, that meeting happened this past saturday. The neighborhood -- there weren't really necessarily issues for clarification. I think they just wanted to have one more look at it all. They either voted to not do anything or to reaffirm their vote in support and we recorded the -- i don't actually -- remember exactly which outcome it was. But anyway, they reaffirmed their vote of support, whichever method they took to do that and we recorded our restrictive covenant with all of the conditions yesterday. So that's been done and that's been supplied to the city staff.

>> houston: thank you.

>> thank you very much.

>> mayor adler: the consent agenda moved and seconded. Any further discussion? Mr. Zimmerman?

>> zimmerman: quick question. Mr. Mayor, item 65, i believe that is in district 6, is it not?

[3:13:13 pm]

It doesn't say that, but i think that it's in district 6?

>> i believe that is correct.

>> zimmerman: okay. Thank you.

>> mayor adler: okay. Those in favor of the consent agenda please raise your hands. Those opposed? Unanimous on the dais with ms. Kitchen off the consent agenda, those items are approved. I want to take a second just to welcome gabriel ott to the city council meeting here today. We're going to try to end this one early for you tonight.

>> houston: don't bet on it.

[laughter].

>> mayor adler: but it's not gonna happen.

>> mayor? You know what my next question is going to be?

>> mayor adler: yes.

>> gallo: how old are you?

>> 13.

>> gallo: do you know what you do when you are 18, the very first thing on your 18th birthday? You are really in trouble.

[laughter]. You register to vote. So that when you turn 18, you'll be able to vote in your first elections. I bet your dad will make sure that that happens if you get distracted on your 18th birthday.

>> the proper answer is yes, ma'am.

[laughter].

>> thank you.

>> zimmerman: mr. Mayor?

[applause]

>> i have -- mr. Mayor, i have an alternative piece of advice. Before you register to vote, make sure you finish school and learn how to do something, either a career or job or a business, then register to vote.

>> houston: he can register to vote --

>> mayor adler: we are all feeling pretty paternal today.

>> zimmerman: get educated. Make sure that you finish school, learn how to do something, then register to vote.

>> mayor adler: all right. I think that -- that that represents the things that are relatively easy on our agenda. Everything else here is probably going to take some measure of time. We have some things that will be called up at 4:00.

[3:15:15 pm]

We can't call those yet. So we're going to go ahead. There is -- i'm sorry, what? Do what? We approved the consent, the zoning agenda. So that gets us into the next item that we have. Let's go ahead, so do you want to do the str's? Or do you want to hit some of the other items first? I recognize that you've been pushed down to the bottom of the agenda some of the times, i want to know what your pleasure is.

>> tovo: i appreciate that. Am i wrong in thinking that i thought one of my colleagues had pulled that as a time certain. Was i mis-- was i wrong about that? Short term rentals, 6:30. Okay. So that's been pulled to 6:30. So items that we can consider that are not pulled at this point, would be ... Adu is at 4:00, fee in lieu of. An str question, item no. 42, that's been pulled. A lot of speakers to speak. We will pull that when we do str's closer to the 6:30.

>> casar: mayor you said that the [indiscernible] is at 4, but i don't think there's a time certain for that accessory dwelling units is just a planning and neighborhoods committee recommendation, i don't think there's a time certain for that.

[3:17:15 pm]

>> mayor adler: as i'm getting through it, i'm thinking pretty much is -- there's -- well, let's see. There are two homestead preservation items -- no, approved on consent already. That gets us to 6:00. I think the next item is the adu matter. That would be the next thing set on our agenda that's not time certain. Do you want to lay those out? This is items 54 and 55.

>> certainly. I can lay that out briefly. One more time, try to do it more expediently than at work session. This process began in june of 2014. It went through lots of public hearings. We had a lot of input. We realized when our full council voted to send this to committee, we noticed there were did too many topics for us to handle in one meeting, so we actually addressed it over three separate committee meetings. We talked about preapproved designs, city financing, regulations for short-term rentals, watering metering, lot size requirements, affordability requirements, neighborhood plans and opting in, opting out, along with parking requirements. And most of that was laid out in the initial resolution from back in june and was discussed quite a bit by the community and the planning commission and the codes and ordinances subcommittee. We put together some recommendations. The major changes are to allow building of an accessory dwelling units if you have a standard size lot or great, 5750 square foot lot. Some folks thought it would be eliminated entirely, others thought 5,000, others who wanted a variety of sizes for different neighborhoods. We voted 3 to 1 to allow 5750. We also with the work of lots of folks in the community talking to the water utility, put into a recommendation into code to -- to allow, if -- when you are building lots with extra bathrooms, that you don't have to build a separate meter or submeter for the -- or build an extra meter for an accessory dwelling unit that would make it significantly easier for a homeowner to build one.

[3:19:39 pm]

We passed a 1.5 far requirement so on a stand sized lot you can build a standard sized adu, but if you have a larger lot you can build a slightly larger adu so you can build back yard cottages that are more family sized and we supported planning commission's recommendations around parking, which is one parking spot for the accessory dwelling unit and no need to pave a driveway all the way back to the accessory dwelling unit which is basically what staff recommended that, you know, a little trail to the back makes some sense. So those were the recommendations coming out. And my committee members can let me know if there was anything that i might have missed in there.

>> mayor adler: do you want to make a motion?

>> yeah, my motion will be to move forward on both items that came out of committee, which is second and third readings on number 54 and also 55 which is the water meter.

>> mayor adler: okay. It's been seconded by mr. Renteria. Any discussion on this adu matter? Ms. Pool and then ms. Tovo.

>> pool: yeah, i have a couple of questions for the chair of the committee. Could you help us understand how you came to the lot size of 5375.

>> casar: 5750 is the standard lot size in austin. The -- the many neighborhoods already have 5750 as the minimum lot size for accessory dwelling units. I actually interestingly enough got several emails and phone calls from some people who said oh,, you know, accessory dwelling units are working great in my neighborhood, please don't make changes to the lot size.

[3:21:46 pm]

I went and looked at the map and called some of the folks back and said 5750 is exactly the lot size, that is the minimum in some of those district 4 and district 1 neighborhoods. So many neighborhoods where there are people who wanted more affordable options and smaller living spaces, the city council determined those neighborhoods could put it in at 5750. We have seen more accessory dwelling units being built there because more people have the right to build one to supplement their incomes. And more renters can live in those. So we voted to allow that. Of course, if there are deed restrictions that make it such that in a particular neighborhood you can't add a secondary structure, those deed restrictions would still stand and also just to note impervious cover limits, mcmansion rules, all of those would also apply. So obviously if you have a smaller lot and you already have hit your impervious cover limit, then you still -- this would not allow you to break that limit.

>> pool: then why did the committee abandon the opt in and opt out, which seemed to be working currently for those neighborhoods that don't want to have ads. So why did you abandon the opt in/opt out?

>> certainly, in conversation with our staff, right now we don't have staffing, they can confirm this, i believe, to be doing more neighborhood plan amendments. Second, the neighborhoods while we can have advocacy from different neighborhoods as to what it is that they want, the city council is the one that decides and has always decided what the lot -- minimum lot size should be. So the city council decided primarily in the western portions of town to limit accessory dwelling units to lots of 7,000 square feet and greater. And in other portions of town allow them at 5750 and in an attempt to want to make there be housing opportunities for all different kinds of people and all different kinds of town, at least i can't speak for the whole committee, but for myself knowing that accessory dwelling units are more affordable option, i want to provide the option for people of varying incomes to live in all parts of town and allowing those on 5750 lots would, in my view, create more opportunity for people to have those affordable options.

[3:24:05 pm]

Then also in some other parts of the city, somebody may have a standard sized lot, that's the basic sized lot is 5750, may want to build an accessory dwelling units but right now they are just allowed to build an extension to their house. One thing that was very convincing to me and lots of people -- there was a big petition signed, people listed the reasons why they wanted to see changes to the accessory dwelling units ordinance and one person from the western portion of town wrote in saying the city's rules encouraged me to build a big extension and a really big house as opposed to create housing opportunities for more people. While it provides rental opportunities in those parts of town for people that may want -- that can only rent a smaller apartment, it also gives sort of a property right to people in those neighborhoods to build an accessory dwelling unit if they already have the property right to build an extension to their house.

>> so why did you abandon the opt in/opt out?

>> casar: that was the reason, everything that i just said.

[laughter].

>> pool: because it seems to me that if you lowered the lot size, you could still leave the opt in/opt out and still get to where you want to be. I don't see that the two need to happen together. I think that you can have where you are going without the opt in/opt out, but still maintaining the opt in-opt out. They feel like this is -- they are being required then to approve them and they would like to maintain the integrity of the neighborhood plans, for example, to be able to exercise their property rights not to have the ads in their neighborhoods. I guess what i am suggesting is if you go for the lower lot size, which was 5730, i think that i was being a little dislection nick dyslexic there, but still maintain the ability for the neighborhoods not to do it, then that would ensure the integrity of the neighborhood plan and give the neighborhoods a certain sense of being able to chart their future so i would be interested in choosing between them, if we could do that.

[3:26:35 pm]

>> casar: no. I understand your point well. I think that within every neighborhood there are people that have differing opinions. I'm sure on every single street you might be able to find people with different opinions. So understanding that within every neighborhood there is going to be a variety of interests, i thought that it was a -- a middle ground to strike to instead of eliminate the entire minimum lot size to allow those that have a standard sized lot by our rules to have the ability to build an accessory dwelling unit, i have within my own district, western portions northwestern portions of my district areas where you aren't allowed to build, during the neighborhood planning process the city council choose not to allow adu's on 5750 lots. There are people who may agree or disagree. It's our charge to decide the planning principles for the whole city. I think that it's important to understand that there's going to be different people with different interests, it's our job as a city council to decide -- to decide what we think is best and then, also, i think something that was very striking to me during this process and i told this -- i think that i said this during the first reading before the full council, i was at grocery store did in the central city, the cashier was one of my constituents. He lives in the far northern part of district 4 and wanted the opportunity to live in a smaller garage apartment closer to where he worked, not in my district. He wanted to live somewhere in the northern part of district 9 or southern part of district 7. He may not have been involved in planning that part of town, but his desire to have -- his desire to be able to live in the central city is also part of my charge is to not just think about my own district, but to think about planning principles for the whole city and i think that, you know, creating these -- the opportunity

for homeowners to supplement their income and for renters to find smaller places to live is important and it -- and is a small step that in my view is -- is very, very largely supported by most folks.

[3:28:46 pm]

So it's not of any disrespect for anybody's plan or anybody's opinion, but on balance it seems that it's for the good to make it a little easier for folks to build accessory dwelling units. On average we are permitting about 40 of these a year. Seems to me the demand for this is for hundreds and hundreds more. Our rules aren't all to blame for that. But some relaxation of the rules to a reasonable level seems to me to make a lot of sense.

>> mayor adler: ms. Tovo?

>> tovo: so i have a lot to say and i'm going to try to say a little bit of it now, maybe a little bit of it in a while. You know, this was a -- as chair casar said a process that began a while ago and i just want to remind my colleagues there was a work group and a long planning commission process and it was a balancing. I think they balanced a lot of different issues. And the recommendations that came forward from the planning commission, i believe, had a general level of support. I heard some concerns about them from people on various sides of the issues, but i think there was a general -- that's kind of the nature of a compromise. They did loosen some restrictions. However, they didn't recommend lowering the lot size and they didn't take some of the other approaches that some members of the community wanted them to. And i appreciate that not everybody in the planning area is not necessarily going to agree on lowering the lot size. However, within our neighborhood planning -- within the neighborhood planning areas, there's a mechanism for addressing that. And i know hyde park neighborhood association, neighborhood planning team, for example, addressed that very issue in the last year and they chose not to lower the lot size. So i guess that i would like to sort of begin by asking some of the questions submitted through the q&a of our staff. I have to say an overall comment here. We are hearing this today on third reading. There were some extremely substantial changes that were made by the committee that were recommended by the committee at its last meeting and we have closed the public hearing.

[3:30:52 pm]

So that is something that i think the transition committee is going to need to address. But let me just call your attention to one of them and that's the item that to amend -- it is the item that would allow -- it removes the cap of 850 square feet for those dwelling units and i think it's important to look at the question and answers that i submitted. I don't have -- i don't believe that i have any or much single family 2 zoning in my district. However some of you have a lot of single family 2 zoning in your districts. I think there's a lot in district 7, there's quite a bit it looks like to me in district 6, 8. These are individuals who are -- facing a pretty

[indiscernible] change. They currently have a lot of zoning in their area that does not allow for two dwelling units on their lot. We are not only making that change that's going to allow two dwelling units, which was the recommendation of the planning commission, but now those units aren't going to be limited in size and coupled with that change we're also changing what has been the practice in terms of parking requirements. So if you had a house that didn't have parking up to code but you were putting in an accessory dwelling unit, you used to -- the practice has been to require those property owners to bring their property up to code and provide parking that is sufficient according to our current code. Those properties are now going to be grandfathered. So in some of those areas, you're going to have a situation where there may not be parking to code on those lots and they're not going to be required to bring it up to code and you could have some pretty substantial "accessory dwelling units" on them. So i

don't think that we have fully -- that we fully understand the impact. I don't think the public fully understands the impact. I've been getting emails all week about the issue and some of them really don't understand -- don't understand, well, how this is going to interact with far, how it's going to interact with mcmansion. So i think -- and let me top that off by saying, for that piece our committee voted to at least get some language from staff that would allow for preservation bonus.

[3:33:02 pm]

Because if we're now providing what is going to end up being an incentive to demolish the front house, so that you can really maximize the space on that lot to create two dwelling units because the back one is no longer capped at 850 square feet, one of the advocates for that, one. Advocacy groups suggested that we could apply some kind of restrictive covenant on that front property to at least make it less likely that that front house is going to be demolished to provide for the second one. We don't have the language from law yet. Again it was a vote of the committee. We've requested it. We've been in communication with staff. It's my understanding law is not ready with that language. So i would suggest we can continue the discussion and i think we should. But in contrast to some of the other issues on our agenda, where we're talking about getting information that we'll use to maybe later initiate a code amendment or we're discussing here today the initiation of some possible code amendments, we're actually at the point, at our very last reading today, this is going to become the city's ordinance in 10 days if it passes and there are quite a few moving pieces here. So i passed out an amendment. I have a couple of others that i would like to make. But let me just express my concern about a couple of those items and i do have some questions for staff. So if now is an appropriate time, i would like to ask mr. Rusthoven or mr. Guernsey or someone to address a couple of those.

>> mayor adler: that would be fine.

>> tovo: so mr. Guernsey, i had asked the question about particularly the measure that was added at the last planning and neighborhoods to remove the cap for the accessory dwelling unit and i asked the staff to kind of run a few different scenarios so people could have a sense of what that would look like, again compared to the now reduced what would then be reduced parking. But i asked the question of if this measure passes, would it override the site development standards of sf 1 and sf 2.

[3:35:08 pm]

The answer seems to be that sf 1 wasn't contemplated. So sf 1 will not change?

>> that's correct. The committee passed out the motion that would affect the standards lot, the sf 2 single family lots. Currently the sf 2 district that you find mostly outside of the urban core, around the i guess you could say the newer subdivisions, maybe 60s, 70s, 80s, 90 subdivisions, many zone sf 2. Lots are 5750 in size. Typically less than 10,000. It would introduce for the first time the ability under our ordinance to allow a second dwelling unit to be built on those lots.

>> tovo: that is within any sf 2 category.

>> that would be on any sf 2 category with the provision that the lot is at least a minimum of 5750 feet.

>> tovo: mr. Guernsey, i asked the question through the q&a if neighborhood associations, neighborhood planning teams had been notified. They were notified back when the accessory dwelling unit was working its way through the zoning process -- were they notified about this particular amendment or any recommendations that have come forward.

>> general notice has been given, that's correct, for the amendment that's been in process for about three or four months. No, we do not do any additional notice for the committee's recommendations. The only notice that they would have is that i know that they were allowed to participate in this process

from all different groups. But there was no notice that was given for the planning and neighborhood committee's recommendations.

>> tovo: is staff recommending that change?

>> well, i would say that certainly some of the recommendations that we would look at, i'm not totally comfortable, i guess, with all of the recommendations that the committee made because i've not vet them with our consultant on codenext.

[3:37:15 pm]

I know that i've had discussions with some neighborhood leaders specifically the president of anc in the last week and she indicated to me that a lot of her membership was not aware of all of the changes. So from a notice standpoint, i'm a little uneasy because this is -- the committee process is still new. And we may have lost some people along the way. A lot of the recommendations, i think, that the committee made would possibly be okay. Allowing them in additional areas. But i don't know if they have really been vetted with all of the stakeholders for me to be comfortable to say yes to say go ahead and -- [indiscernible]. It is up for second and third readings today. It's not just third reading. It's proposed for second and third reading today.

>> mayor adler: thank you, ms. Houston?

>> houston: thank you, mayor. Mr. Guernsey my concern is that it seems like we have bifurcated a system and i understand that we can make -- we set policy. But we've got a group of people who have been working on codenext for how many years now? And we're going to say this is a change to a code, a significant change to a code because i have some questions about sf 2 outside of mcmansion. What does that do to that? Once this is adopted, it's adopted everywhere, right?

>> it would be -- the ordinance as laid out by the committee would be both in areas that are subject to mcmansion, residential design standards in the urban core and everywhere elsewhere zoning would apply. So it would be all the full, unlimited purpose jurisdiction of the city of austin.

>> houston: okay. So that -- we've got a group over here that's trying to work to stream line the code. Yet as we set policy up here, we're putting things on top of a code that they perhaps have not even talked about.

[3:39:20 pm]

And it seems to me that that's a disjointed way that we're doing business here. And it's hard to get people engaged with so many moving parts. And so i've got a lot of questions, there's a lot of backup here that of course we just got when it was posted. So it's just those kind of things that just seems like a disconnect that we've not -- the people who have been working on the process have had a lot of time to work on the process. There's so many people outside of the process that have not had any input into it. I don't know if we're going to approve it, do it on second reading and keep it open so we can engage people more. There's a lot of information here that really needs to be looked at specifically. One of the things that i'm most concerned about is the change -- change in parking requirements. Now, no matter how many times people say this, folks are coming to austin with cars. And on the streets in my part of town that are much narrower than other streets, bicycle people aren't safe on 'em, children who are trying to learn how to ride bicycles or walk are not safe because they have to walk down the middle of the street. So when those kinds of things are put in place and then it's put in place all over the city, that causes harm to some residential neighborhoods. And so i'm not ready to -- to sign-off on a bunch of these because i don't know how some things will be enforced. This whole thing with the building separation from 15 feet to 10, you know, it's just -- there's some minute details that i think need further exploration.

>> councilmember, with regards to the building separation, the allowance of an entrance within 10 feet of a property line, the removal of the driveway placement requirement, the change in the parking requirements for one space for the secondary unit, prohibiting a type 2 short term residential for this second dwelling units and applying the ordinance city-wide, those are all things that have been discussed by the planning commission.

[3:41:33 pm]

They were vetted also and discussed in committee. The -- when we came back for first reading, they were available for first reading. I know when we went to the committee, there were particular issues that were dealt at one meeting and then another set of issues dealt at a second meeting. There was a great deal of testimony that was taken i think at those meetings. The concern about the notice is maybe one of the actual committee action, may not necessarily be understood by all of those that -- that may have been participating over the last year and a couple of months. But certainly those things that the commission discussed and even the lot size, i think, throughout all of the hearings that we had either at committee, commission, on the discussion of reducing lot size to not requiring it or to being much less, that certainly occurred. I think that maybe the -- the most substantial changes the committee may have offered it to allow it in the sf 2 district and that has maybe not been discussed widely by a lot of the stakeholders.

>> houston: i think that's true. Because that's an infill long that we are concerned about. What happens - - infill option that we are concerned about. When we reduce the lot size, it becomes two huge duplexes and we have no design standards. So there's still some issues on how we use that as an infill option on sf 2.

>> well, none of the amendments would change the allowed impervious cover. Would change the maximum heights allowed, would change the setbacks that have required. Those items don't change and the issues -- remember, we're only talking about two units detached. So we're not talking about duplexes. We're just talking about garage apartments. That the issues that really speak to how you develop, you would still have to comply with all of our mcmansion regulations.

[3:43:39 pm]

So this doesn't allow you to create additional square footage with that back unit that suddenly can exceed the mcmansion regulations. So those would still stay in place.

>> houston: one quick thing. One quick thing is that maybe when i'm talking about duplexes we're having a different kind of standard of that. I'm talking about two houses on a -- what we call in my neighborhood a substandard lot, which would increase the impervious cover. So maybe we'll have to have a conversation with me because i wasn't in the committee structure, i wasn't there when they vetted all of that. Sometimes that's an issue for us because they have a lot of information that the rest of us don't have. So that's my fault and i take responsibility for that. But i'm definitely not ready to vote on this with second and third reading.

>> mr. Zimmerman.

>> thank you, mr. Mayor. I have a really quick question either for director guernsey or councilmember casar. On the requirement for the water metering, i see nine pages in here of edits and changes, is that in the ordinance language on one of these pages 1 through 9 or somewhere else?

>> that is listed separately as item no. 55.

>> zimmerman: sorry, thanks.

>> casar: if the water utility is here, we could get to that one. That is certainly one of the less controversial points for all stakeholders if we get to that point.

>> mayor adler: ms. Kitchen, ms. Gallo.

>> kitchen: i have a question. I need clarification on applying the ordinance city-wide. Help me understand how that applies or how that works in the context of existing neighborhood plans where a neighborhood might have not chosen to opt in?

>> during the neighborhood planning process, neighborhoods had the opportunity to add what was called a secondary apartment that you could add a second unit on a lot that would less than -- that would be less than 7,000 square feet as an option.

[3:45:50 pm]

This would offer an alternative, so if a neighborhood said no, that they did not want a second apartment and this ordinance would pass, then you would be allowed, regardless of that neighborhood plan option, to build the second unit on a lot, an sf 2 lot, sf 3 lot that could be as small as 5750.

>> kitchen: then a quick follow-up. I apologize, i just don't remember all of the details. The south austin combined neighborhood plan was adopted not all that long ago. Do you recall whether there are any of the areas within that south austin combined neighborhood plan where the sub-- the planning areas chose not to include?

>> what i remember, they did not adopt the secondary apartment. I know a lot of their lots were actually larger in size. So they could actually build two family residential today. I don't recall the number of lots that were less than 7,000. But i recall they did not adopt a secondary apartment as an option.

>> kitchen: my memory is that there was at least parts -- that's a combined area, but there were some of those areas where they specifically did not want to allow -- allow this to occur. Am i remembering correctly?

>> i believe that is correct. I know there were some lots but i could not even guess how many.

>> kitchen: okay, thanks.

>> mayor adler: ms. Gallo?

>> gallo: just to address, i guess this is where the discussion about committees, having discussions in committees and -- our committee has taken this up at three different meetings. I seem to remember that we had public comments at each of the three meetings and there was a lot of attendance and interest in each of those three meetings. And i really feel like that there has been a lot of discussion about all of these points at those three meetings. The down side to doing all of this in the committees is that the councilmembers that don't serve on those committees are not part of the conversation.

[3:47:58 pm]

So, you know, this really goes back to the discussion of, you know, is it in the best interests to be time efficient with the council time spent on discussing things to have discussions like this before the full council and instead of committees where all of the councilmembers weren't there and then the discussion comes before the council where there are councilmembers that have not been part of that full discussion. It's been complicated but it's been very lengthy. I think that the chairperson greg has done a great job of laying it out in a very systematic way where we had plenty of opportunity to talk and hear public comment on particular items. We talk about over and over again is this council really being concerned about affordability in this community. And how quickly our rental prices and how many prices keep -- continue to go up. The way we can address affordability and in a really proactive way is [indiscernible] old housing stock as quickly and efficiently as we can and this certainly is one way to do that. We talk in neighborhoods about concerns with scale. Of homes that are built, older homes are demolished, new homes are built, even added on to. What i see this being able for us to do is to build density in our neighborhoods, but allow it to be built at a better scale where instead of one large

property that's expanded to the max height and dimensions, it should be the maximum that you can build, that you end up with two smaller scale properties on the same lot. I think that that addresses the issue of scale, which i think all of us as we talk about neighborhoods, infills, demolitions that's the concern that we address over and over again. But i do think that we need to have a city-wide commitment to -- to providing more affordable housing and building more units and that that city-wide commitment needs to include all of the different neighborhoods of the city.

[3:50:09 pm]

As we look at what happens at committee, how we word things, i don't think this should be sent back down to the committee to take further look at. I think it's been to a committee a lot to be reviewed. I'm also cognizant of the fact of things that have changed. As i'm trying to figure out, in the -- the transition committee figures out how to move forward, you know, maybe one of the solutions that we look at is building in a period of time between a committee's work and the council's work so that there's more of an opportunity for the community to be able to lobby or work with councilmembers over that period of time. Maybe that's ultimately where we find the balance. I'm not sure. As i sit here right now, i'm thinking if there are councilmembers that in this instance are asking for this to be approved on second reading and not third reading, i might very well go there. Then let the people begin both on the dais and off the dais, but not while -- not while they're sitting on the dais, try to craft solutions, as we worked on other things where a member has done that work and then brings a compromise. I would hope that mayor pro tem would make her amendment either now or later with respect to the short-term rentals on those -- on those units. Continued discussions. Anybody not had a chance to discuss yet?

>> houston: i have one more thing.

>> mayor adler: i'm not going to double back for a second chance to talk. Mr. Casar.

>> casar: sure, some folks had questions about the codenext process. We did clear this up with the codenext team in committee, if there's somebody from the codenext team, i would ask the question about whether this fits in the codenext or not. If mr. Guernsey or mr. Robertson flying over here. If either of you will -- i hope that you would give me the same answer here that you did in committee.

>> mr. Mayor, point of order.

[3:52:09 pm]

Is -- has the motion been made and seconded to approve this?

>> mayor adler: yes.

>> zimmerman: it has? Okay. Thank you.

>> mayor adler: the motion was for both items. Continued conversation on these items.

>> casar: my question was just --

>> mayor adler: yes, that's right, sorry.

>> pool: mr. Robertson -- so there was some question as to whether or not this would complicate the codenext process so we asked that question, i believe, in the first committee meeting. Can you talk to us about -- about if this fits in with what we're doing with codenext?

>> yes. Thank you. Jim robertson, planning and zoning department and the project manager for codenext. The. This -- the short tans is this would not -- answer this would not complicate our ability to move forward with codenext. What i see, i can't claim to be intimately familiar with all of the stakeholder input and so forth on these particular items because i've been sort of preoccupied with codenext. But having said that, you know, i see this as, you know, a crafted solution to fit within our existing code. We'll be absolutely looking at the same issue within the context of the code that we will be bringing you for consideration through the codenext process. This obviously will inform us, but you

might -- our community and you as policy makers right, you know, you might choose to look at it differently within the context of the different code that we'll be bringing you, you know, in the next year or two. The short answer is we can move forward just fine with -- with -- regardless of your decision today.

>> casar: and i think that it's just important to clear up that one issue because it's been brought up several times that this would somehow conflict with codenext and it doesn't. I think there's also been some misconception that we would be breaking mcmansion with this. Mr. Guernsey, thank you very much for clearing that up. We're not. We also would not be overriding anybody's deed restriction.

[3:54:10 pm]

The city does not deal with that. The parking and setback requirements were ought dealt with planning commission's recommendation it is. All the committee did extra was to say if those things all make sense, if that parking requirement makes sense, if those set back requirements make sense, then they should make sense all over the city if you have a standard sized lot. They could and do make sense and i understand from some neighbor's perspective, if you have the option of saying, well, i want all of those cars in somebody else's neighborhood, why some folks might want to do that and so from a planning perspective i think as councilmember gallo stated, everybody creating those opportunities for property owners in their area and for renters in that area make sense.

>> mayor adler: continuing. Continuing debate on 54, 55, second and third reading. Ms. Pool?

>> pool: i have a question for legal. It goes to deed restrictions and what -- how the city views them, whether they're something that the city -- how does the city treat deed restrictions? Do they have any standing?

>> talking about private deed restriction, the city would not enforce those.

>> pool: okay.

>> mayor adler: but nor would our ordinances trump the enforceability of those restrictions.

>> that's correct.

>> pool: so please discuss. Because on the one hand it sounds like a deed restriction would protect a neighbor's property. Or not. So if you would help, please.

>> [indiscernible] robert hairs with the law department. So as ms. Morgan and the mayor were saying, the -- the deed restriction would -- would -- you couldn't have a deed restriction that is contrary to what the code says. And you know it would depend on -- it would depend on what the deed restriction is.

[3:56:12 pm]

>> pool: so if you can't have a deed restriction that is contrary to code and if the deed restriction explicitly says no more than one habitable structure on a lot but we pass the adu changes to code, then what?

>> so then the parties who are -- who are party to that deed, to that deed restriction, they would have a private action between themselves. So if it's a deed restriction --

>> so the neighbors would sue each other.

>> correct.

>> pool: that is not a policy outcome that i would support. Is there any any grandfathering? It doesn't sound like there is. So that if you had the deed restriction from the home that was built in 1954 and in 2015 we come in and say, "this is a change and now this -- your deed restriction is essentially null and void, as far as the city is concerned, there no ability -- there's no -- the standing on a deed restriction is somehow subordinant to the city code.

>> mayor, i have a problem with that, and would ask staff to bring us some additional examples where code has trumped deed restrictions.

>> councilmember, i think there are probably many instances where deed restrictions probably trump, city code would trump a deed restriction.

>> pool: so if there are many, maybe in the intervening time between if we do this on second reading and then maybe by the time we get to third, because i would like to have a better understanding of how these different requirements are going to knit together.

[3:58:19 pm]

So you don't need to answer it now, but i would be happy to have that information brought to us --

>> we could probably bring you a sampling of system.

>> pool: and share it with the rest of council.

>> we could certainly share it with the rest of counsel. I can tell you that the deed restrictions change from subdivision almost block by block. It would be extremely difficult if not possible for staff to enforce. Deed restrictions also lapse during time. They may be good for a period of 10 years, 20 years, 30 years. There are violations that occur within subdivisions where you may, i'm not an attorney, but they may be presented to a court where --

>> pool: mr. Guernsey, mr. Guernsey, excuse me, please. I appreciate your efforts to educate me on this. But as you say, you're not an attorney and these are speculative and fairly vague examples that you are providing. So let's take a step away from it. The question is out there. I would like legal to bring some specific examples of where we have dealt with this before, so that we have a strong policy basis and understanding for what we're dealing with. Additionally, i understand that -- that the adu's, thank you, robin very much, this is on a different topic, goes to impervious cover. Particularly in the flood alley that is along shoal creek and the various tributaries, fema maps have changed significantly in district 7. And a number of properties that have never been in either the 100 year floodplain or the 25 year floodplain now are specifically in those and my elderly residents are faced with either having to purchase flood insurance, which they never thought that they would ever have to do, sell their home which now is devalued because its in a floodplain or try to shore up their home so that it doesn't flood again like it did memorial day.

[4:00:26 pm]

And our folks with watershed protection have been meeting with -- with a group that's called the red zone committee dealing with this in brentwood, we also have actions with the flood mitigation task force that will be looking at these issues. So the reason that i bring this up is our

>> the reason i bring this up, our watershed protection department doesn't yet have any sort of financial impact analysis at hand that would give us a good understanding of how additional ads and impervious cover will affect the different parts of our town that are in new flood -- flood-prone areas. For the good education and advisement of the residents who may be in those parts of the city who will be affected by potentially enhanced flooding, i would very much like to get additional information from our flood -- floodplain folks, kevin shunch in watershed protection, so before we go forward with any kind of final vote on ads and the additional impervious cover, that people are sufficiently well informed as to what effects this may have on their property and whether they would need to buy flood insurance for their homes to protect their -- what is a huge investment for them. Do i need to put that in some kind of a specific -- is that a formal enough request, to have a report from staff?

>> mayor adler: i think so.

>> pool: on the flooding impacts?

>> mayor adler: i think so. I think they can move it to table. Ms. Tovo.

>> tovo: i ask this question directly in the question and answer but i'm not sure i got a direct answer and it came up again. I want to be real clear. For property owners who reside in a neighborhood planning area and their plan specifies 700 square feet as the minimum lot size for accessory dwelling units, will this change as it's currently composed, override their neighborhood plans?

[4:02:30 pm]

>> yes, in the as if 2 district.

>> tovo: well also in the sf-3 as well. We've had endless discussions about whether imagine austin would override plans, whether codenext will. I want to be really clear that not only are we overriding the whole zoning category of sf-2s, appropriation against two structures on one lot, we're also overriding those neighborhood plans that have specified a minimum lot size of 7,000 and allowed planning areas to choose whether they want to lower that. That's been as you explained an opt-in, opt-out -- each team had an opportunity to do that or consider it through amendments. I know at least two in my area this will override. Now, i want to say we've talked a little bit about what was vetted, what wasn't, and we certainly had a lot of public testimony, but the one-year stakeholder process that planning commission initiated resulted in six recommendations. Those are pretty well vetted. They had an opportunity to consider lowering the minimum lot size, changing other requirements, and did not recommend those. And so i do think that what came forward to us from planning commission was pretty well balanced and represented some compromises on various size. This goes further than i would like and i think that we should consider a couple things, one, make it opt in, opt out, and there's been a lot of discussion about how accessory dwelling units are going to help are there is no requirement currently in those requirements that it be limited to a family of particular median in that if we're relaxes the restrictions, i definitely propose we tie those to an affordability requirement. But at a minimum, i would like to make sure, again, the discussion in the community from those who are advocating for accessory dwelling units has been one about making more abundant housing for people throughout our city.

[4:04:43 pm]

And to ensure that that's the case, it seems critical to me that we ban short-term rental use, commercial short-term rental use from those dwelling units that take advantage of the relaxed restrictions. As i explained on the message board, that was an amendment that only got two votes at the neighborhood planning committee but i would propose -- i've done what the mayor has asked us not to do, which is to make comments. If someone wants to talk, we can come back and i can make my amendment. I think it's critically important if we want to ensure these dwelling units remain as housing we need to prohibit them from becoming short-term rentals, or they will. And there is -- you know, i will just say that some loud voices for accessory dwelling units are people who own and manage and are strong advocates for short-term rental use. There is no -- that is not a surprise to me because every -- every accessory dwelling unit, if we allow them, will have a higher potential as a commercial short-term rental than it will as a long-term rental. So if we're serious, and i think we are, about creating -- using this as a mechanism, it will be easier for people so there are more housing opportunities, we need to ensure it stays housing and not hotel use.

[applause] so i passed out -- i passed out an amendment --

>> mayor adler: mayor pro tem, let me go see if there's further debate, then we'll come being about a and give you the opportunity to make that may. Ms. Troxclair.

>> troxclair: i guess i have a question for the chair regarding short-term rental-related issue. In part 8 of the ordinance, i guess that's subsection c, part 3, and in another place later in the ordinance, it speaks to

basically including type 1 short-term rentals in the 3% cap, and i guess i'm curious to hear why the committee made that decision because -- well, and this is so confusing to have this discussion of ads and short-term rentals.

[4:06:54 pm]

The mention of type 1 short-term rentals caught me off guard because none of our discussions have type 1 short-term rentals been the issue. In fact, if we're talking about an adu where there's an owner -- there's the main building, the owner of that building is living there full-time, they would -- they would have a secondary -- they would not be renting to people who would be irresponsible or cause problem property. Can you just explain why the committee made the decision to include type 1 short-term rentals in this ordinance?

>> certainly. So the planning commission recommendation was to have no type 2 sgr licenses in new accessory dwellings. I won't put words in her mouth but the mayor pro tem's concern that i heard, when we discussed this, is that that only keeps them -- an adu is only a type 2 sgr if the owner does not live in the front house or the back house. If the owner lives in the front house as you described, the adu in the back would be categorized as a type 1. We had a conversation about how we want to encourage new long-term housing units, but also some of the merits of perhaps renting out the backyard cottage during festival week, for example. So mayor pro tem's motion was to ban accessory dwelling units, new accessory dwelling units being short-term rental at all, even if you just want to rent out the back house for one week by south by, that was her amendment. I voted against that i believe as a councilman and as compromise to sort of address some of those concerns and encourage the units to be long-term rentals, we thought something that would pass committee and that could be helpful would be that in those census tracts where the three percent cap has been hit, new accessory dwelling units not be rented out as short-term rentals in those census tracts.

[4:09:05 pm]

So that's sort of the intent of that ordinance change. In census tracts where you haven't hit the cap, the adu being short-term rental be counted in part to that three percent. So that was the compromise considering that the amendment that the mayor pro tem just passed out, i believe, went down on a 2 to 2 vote.

>> so -- okay.

>> casar: i don't put a lot of words in other people's mouths. I was trying to be accurate. Feel free to correct.

>> troxclair: i guess from what i have seen or what i understand, type 1 rentals are not anywhere included in our codes that refer to caps. This says tract cap. So this seems to be somewhat of a big decision of taking an entire type of str and now submitting them into the cap regulations. And i guess i'm concerned about it because, again, i don't think we've heard any complaints from people -- from neighbors who live next to type 1 rentals. And actually, in fact, going back and looking at the original resolution from last year that began the adu process, one of the main components of it or one of the main purposes of the resolution stated that ads can help homeowners make ends meet. And i would think that's exactly someone who lives in the main house and has a guest cottage, probably most of the time is going to use it for their own family to come stay or for their own purposes, but i think it would be a legitimate way for them to make ends meet, to rent it out every once in a while to -- to someone -- to another person coming to stay for the weekend. I mean party as an entity, not party. And because they have a home on the very same property, they would have the exact same concerns that we have heard

from a lot of the neighbors who have come to complain about the type 2 strs and that they wouldn't want to rent to people having parties, being out late, drinking, because it's happening in their backyard.

[4:11:10 pm]

So i guess number one, from a policy decision perspective of making this big decision regarding type 1 rentals, which really has not been a focus of any of our discussions thus far, and then from a -- what problem are we trying to solve perspective, and that that hasn't been a problem thus far, i guess i can't make a motion, but i --

>> casar: it seems to me that there are three options.

>> troxclair: yeah.

>> casar: option 1 is the mayor pro tem's amendment which would ban type 1, type 2, of any type, in future adu use. Another option is the committee's recommendation, and then the third option is planning commission's recommendation, which is just banning type 2s. My -- what is currently in the planning and neighborhood committee's recommendation was trying to sort of bridge between planning commission's more liberal recommendation and the mayor pro tem's amendment she just passed out, which is to -- and i don't mean liberal -- i mean as far as the mayor pro tem is banning them in all future, so this tries to come out in between. I would just describe it in those ways.

>> could you describe it --

>> maybe we can come back to the issue, depending what happens --

>> mayor adler: and i think we will. Ms. Kitchen, then ms. Tovo, then ms. Gallo.

>> i was just asking councilmember casar to go over the in between option to make sure we're all clear.

>> casar: the in between option -- my intent would be, and we can check with legal if that intent is reflected in the ordinance, is that new accessory dwelling units built in the back of the homeowner's home would count towards the three percent cap. So if you're living in a census tract has hit the three percent tract, you can't get a license for the back house, even though your the homeowner, and if you live in a census tract where you've not hit the three percent cap yet, new accessory dwelling str licenses, even if you live in the front house, bump that census tract up closer to that three percent.

[4:13:31 pm]

>> mayor adler: ms. Tovo.

>> tovo: i want to clarify something that was said earlier. So we -- during the discussion about short-term rentals, i believe councilmember casar and maybe somebody else expressed that concern, that if there's tenant in the back, a long-term tenant who wants to rent out that place for a couple weeks or south by southwest and their landlord is fine with it, they ought to have an opportunity to do that. I just want to call your attention to the notes. I actually revised my amendment so that it would provide for that. If you're a long-term renter in the back and you had the ability through your lease to do that you could. You could do what a type 1 does. I could rent out your place for a item weeks. The intent of these amendments is to make sure that our accessory dwelling units that are constructed under relaxed regulations, possibly very relaxed, are not going to be used as commercial short-term rentals, as type 2s. And so i've proposed doing that in a variety of ways. One is that i think we should be capturing the amount of housing that is taken off the market for rental, long-term rental use for ownership and convert it into commercial short-term rental use, so that is the intent of reclassifying what are now type 1s that are functioning as short-term rentals, a hundreders of the time. So they will count toward the cap. So if i have a short-term -- if i have an accessory dwelling unit in my backyard and it's a short-term rentaller i can use it, but the city is now going to start tracking that. If it's used as a commercial short-term rental a hundred percent of the time, the measure that's now in our ordinance will track that

toward the three percent, so across the census tract, we have three percent of our houses and not more that is counting toward commercial short-term rental. For over, we're going to have to do it through attrition because i'm not suggesting a situation where if i have a commercial short-term rental that's an accessory dwelling unit, i'm going to lose my permit as soon as this goes into effect.

[4:15:31 pm]

But if you're building an accessory dwelling unit using these relaxed restrictions, i don't think you should have the ability to use them as commercial short-term rentals. And our code just didn't provide for that. So i'm not even sure when the planning commission made the recommendation that they not be used as type 2s, that they were even engaging with the fact that you can have short-term rentals now, if there's a property owner on the property, they're not type 2's, they're type 1's. We didn't make a fine distinction between type 1's where a homeowner is living and may rent it out a couple weeks a year and the type 1's, the back house, that may be a hundred percent of the time, short-term rental. The code just didn't distinguish between those uses and i'm suggesting we do that. So that is the substance of that. But, again, i really think it's important that i did acknowledge that concern. I'm fine with a long-term renter who wants food -- who wants to do what the property owner can do, rent it out a couple weeks, a type 1. To me it's a housing access issue, a housing use issue. I think we continue to talk about, you know, the bad apples, and for me the short-term rental discussion is not just about the bad apples, it's about making sure we've got enough housing for austinites who want to rent and buy it.

>> mayor adler: i'm looking at the language that you handed out and i don't see the language that you handed out addressing the concern that was raised. Would you need to add the phrase
The end of it: an accessory dwelling unit built after the date may not be used as a short-term rental except as a type 1 short-term rental by a long-term tenant?

>> i think i have language that we vetted with law somewhere in this mass of papers in front of me, and i can't quite put my hands on it at the moment, but i think -- i think the language that might accomplish is would

Be: may not be used as a short-term rental for more than 30 days a year. Just looking back at our planning and neighborhood's notes, that appears to be some of the language that we used.

[4:17:35 pm]

So begin, just to the motion sheet i handed out, it would

Say: may not be used as a short-term rental for more than 30 days a year.

>> mayor adler: and what is the definition of a type 1? What is the time allowance for a type 1 short-term rental?

>> tovo: i think that's it.

>> mayor adler: same as --

>> tovo: i would look to staff to clarify, but i think that's the same -- we may have been more generous with this. Mr. Rusthoven or mr. Guernsey, can you help me with the type 1? What is their maximum allowable rental day? And i will say we did get a letter from the city suggesting, recommending that accessory dwelling units not be used as short-term rentals. I think there are other entities in town who are weighing in on this. Mr. Rusthoven?

>> jerry rusthoven, i'm sorry, i can't remember that number. 30 does sound right but i'll have to double-check.

>> tovo: in any case, i'm happy to use the same language that we used in the planning and neighborhoods and make that 30 days.

>> mayor adler: okay. Next time we come back to you, maybe you'll make that amendment. Mr. -- no, i had already called out ms. Gallo was next, then ms. Houston was after that.

>> houston: councilmember renteria hasn't said anything so i'll go after him.

>> mayor adler: is that okay? Mr. Renteria, i'll let you jump up first.

>> renteria: thank you. You know, this whole ads was sold to me as affordable housing. It wasn't ever sold to me as short-term rentals. You know. And when i had discussion, when they were talking -- discussing this item with me, you know, they said this would be a great thing for austin to solve the affordable housing problem that we have. And that's what i always believed when i was, you know, discussing accessory dwelling units.

[4:19:43 pm]

So i always thought that when we were going to make the final decision, that we were going to be using it to solve some of our housing problems that we're having here, not to use it as full-time short-term rentals. So i hope that we can, you know, focus our discussion on, you know, providing affordable housing for the people, the citizens of austin, and not just trying to make it into a vacation designation for people that want to visit austin. I mean, that's what hotels are for. So i just hope that, you know, we can focus back on having these units that's going to meet our housing needs.

>> mayor adler: i'm going to try to move it to some votes so we can move our way through this conversation. Ms. Tovo, do you move to amend the -- for mr. Casar to add the language, an accessory dwelling unit built by the date of october 21st, 2015, may not be used as a short-term rental for more than 30 days a year.

>> tovo: yes, i do.

>> mayor adler: that's been moved. Is there a second to that? Ms. Houston seconds that. Any discussion on this amendment? Ms. Garza.

>> garza: i just have a question about the 30 days because i thought were saying -- i thought the point was, you can't rent it out as short-term rental for more than 30 days, so that would be like 15 weekends. But then you asked about -- then we asked about clarification of what the definition of a short-term rental was. So i'm just kind of confused on it.

>> mayor adler: and it was rented out not more than 30 days.

>> garza: so i understand that's what a short-term rental is, it's something pleasant to out for more than 30 days, but is the amendment asking for basically when you're limited to 15 weekends -- am i making sense?

>> mayor adler: yes. Yes.

>> garza: so is that the intent, that your amendment says it can be rented out for 15 weekends, basically?

[4:21:44 pm]

If they were there for two days, assuming they were there for two days?

>> tovo: so my general intent was to provide them with the same provisions that are available to property owners who have the ability to do a type 1 short-term rental, which i think is 30 days. If it isn't, then i'm going to request on our next reading that we make that consistent, for clarity sake. But i suppose you could do that.

>> mayor adler: the next question i'm going to ask for a vote is second reading only, as opposed to second and third. Further clarification, discussion on the amendment is offered by councilmember tovo.

>> gallo: can you repeat the amendment again please.

>> mayor adler: to add the words for more than 30 days per year at the end of the sentence.

>> gallo: so we are still, just for clarification, it's adding that, but the they're still counted in the census track? Okay. In the committee i voted -- i did not support this because we currently have no cap on type 1s. I'm not understanding why we begin the cap now for type 1s. You know, everyone has said that the preferred short-term rental method is type 1. You have owners that would be living on the property, and, two, let me just as a side note, i want to say thank you to ora for the information on the thousand people that signed the petition, or put information down, and also the breakdown of the information, the comments. That is much preferable than a thousand e-mails into our e-mail boxes. I just wanted you to know, no one has said that yet, how much we appreciate that. And reading the comments, they're great comments so thank you for that process. Back to what i was going to say, but thank you. You know, people that contacted us and talked about the ability to build the accessory dwelling unit and have the ability to use it in a variety of ways that best fit their circumstances talked about they had just had a new baby, and it would be really nice to have grandma or sister or somebody come in and stay back in accessory dwelling unit and be able to help, but then there would be other times of the year that they might not be there that it would be nice to have the ability to rent it on a short-term basis.

[4:23:58 pm]

And what they're talking about is what we've heard with other people that have rented short-term rentals for not the party house, not the fraternities, not the bachelor parties, but for people in transition between housing, somebody that's close closed on a house, their new house isn't ready yet, they need to be someplace for a couple weeks, maybe a month or so, and they are going to be back in the neighborhood, they just need a temporary place to stay. Are the many people that come to austin to work, and their business sends them here, and rather than staying for a hotel a week or two at a time, they prefer to stay in a residential housing unit as a residential use, not a commercial use, and so once again, i just -- i voted against it because we don't have the cap in the other type 1s and i don't think we should have the cap in this.

>> mayor adler: the discussion on ms. Tovo's amendment. Mr. Zimmerman.

>> zimmerman: i was going to take a shot at calling the question.

>> mayor adler: any further discuss on ms. Tovo's amendment? Hearing none, let's vote. Those in favor of ms. Tovo's amendment, please raise your hand. It's the mayor pro tem, ms. Houston, ms. Pool, me, ms. Garza, ms. Kitchen, mr. Renteria. Those opposed? The other four members. It's 7-4. The amendment passes. Is there a motion to amend so this would be approved on second reading only and not second and third reading? Mr. Zimmerman makes that motion, ms. Houston seconds the motion. Is there any discussion on that change in those in favor of the amendment, please raise your hands. Those opposed? Mr. Casar voting no, the rest voting aye, second reading only. Any further discussion on this? Ms. Kitchen.

>> kitchen: i will -- i will do my homework between now and the next time this comes up, but i do want to mention my concern about moving forward with -- with provisions that would override existing neighborhood plans, and doing that right now, outside of the codenext process i think is not appropriate, and so i'll look into this further, but at this point i cannot support overriding existing neighborhood plans at this point.

[4:26:16 pm]

>> mayor adler: i understand.

>> kitchen: in our discussion.

>> mayor adler: ms. Tovo?

>> tovo: as i alluded to earlier, i believe it was ora that brought forward the recommendation that the cap be lifted on the back house, and they suggested -- and i hope i'm getting this right. I should probably call one of them up to talk about it, but i believe they also suggested that be coupled with a restrictive covenant. And as i mentioned earlier, i did request -- i think we passed that as direction to staff at our planning and neighborhoods, and i did request that staff bring forward that, and i just want to say i believe it's really critical for this council to have that in place. And so i would -- i guess i'll make -- i guess i'll make an amendment that staff come back with language that would require a restrictive covenant or other requirements that would keep that front -- front house, if they're making use of the relaxed restrictions, to build beyond 850 in the back. Again, otherwise, i'm very concerned. And i know our staff had some concerns about legal impediments. We've been trying to get to the bottom of what those are, but i am quite concerned that if we are changing from the planning commission's recommendation of leaving that cap alone at 850 square feet, we are going to be incentivizing the demolition of structures throughout all of our neighborhoods, and that is just not what i regard as in the community's best interest or in the interest of preserving our wonderful -- the wonderful character of so many of our neighborhoods.

>> mayor adler: okay. So i think the request would be for legal to make draft of that language, and then - and then give it to ms. Tovo, the mayor pro tem, and also for the rest of us so we can see it.

>> we can do that, but --

>> i think mr. Moyt is here.

>> i think we have a more fundamental question. We have two things going here, one is the recommendation from the planning commission and one is examine from the council committee. Is it your intention to vote on the planning commission recommendation or the counsel committee recommendations?

[4:28:19 pm]

>> casar: i move the committee recommendation -- council committee was moved. That's what we're looking at. I don't think we need to amend it to ask to see that language. I think we can just ask legal to give that language to the mayor pro tem and let the others of us see it as well. Because that's; ms. Morgan, that legal can do for us and for the mayor pro tem.

>> yes, we can do that.

>> mayor adler: thank you. Further discussion on mr. Casar's motion as amended. Ms. Houston.

>> houston: would you repeat the motion as amended.

>> mayor adler: the motion is to approve items 54 and 55, except that 54 is amended -- let's do 54. To approve 54 on second reading only. The council committee recommendations, as changed by the mayor pro tem's amendment, that we went over a second ago that was handed out with the language change. Other than that, it's the committee's proposal, second reading only. Okay? Ms. Tovo.

>> tovo: i just have one last comment. You know, as i mentioned, i think what came out of the planning commission was a balance. I think this is less so, but i think there may be, if we are going to go as far as these ordinance changes would -- would have us go, outside of the codenext process, then i will be bringing forward an amendment at next -- at our next reading to apply an affordability component to this. Probably it will look like a restriction of 60%, and i will bring forward that requirement.

>> mayor adler: okay.

>> tovo: i'm also thinking about an opt in, opt out. Again, that was something the planning commission had as part of the things they were considering, and they didn't recommend it in the end, but i think that was because they got to a place where they had a balance set of recommendations, but those are -- those are just two of the amendments i'm going to consider bringing forward for third reading.

>> mayor adler: thank you. Any further discussion? Mr. Zimmerman.

>> zimmerman: i wanted to call the question on 54 and 55 as amended.

[4:30:20 pm]

>> mayor adler: 54 as amended is what's in front of us right now. There's been a motion to end debate. Is there a second to the motion to end debate to item 54? All right. We'll continue a little bit longer. In the gallo.

>> gallo: i just have a," question because the amendments that mayor pro tem tovo brought forward, there was one she passed out.

>> mayor adler: the only one before us is the one that's passed, that's in your hand, an accessory dwelling unit built after the day of the october 21st, 2015 may not be used as a short-term rental, and the words added for more than 30 days per year. That is part of number 54 as amended, which is what we're discussing right now, approval of second reading. Mr. Casar.

>> casar: so i just want to clarify a few things about what is in this motion because there's been a lot of conversation about it, and i hope to make that clear while we think about this between now and next month. First, around flooding, this does not allow any additional impervious cover than what's already allowed. No additional impervious cover is allowed. People can build much bigger houses under our current rules than what we are allowing these accessory dwelling units in size. So we're not allowing any additional impervious cover by changing these rules. Second, we do not, in my understanding of our planning principles, we do not write code to match deed restrictions, otherwise, we would spend all of our time writing code to catch up with what people sign in their private deed restrictions. And third, yes, this does change things. That was the point. There was an election, there was an important election, and in my view, there were a lot of people who talked to me and many of our colleagues about the need for more housing, the need for smaller housing, the need for more affordable housing, especially near the central city, and if it's our goal to economically integrate our housing to more racially integrate our city, then we sometimes are going to have to make changes. And so i understand and respect the work that's been made into building our previous code.

[4:32:24 pm]

I really do. I know that i said hard. I've only had a little bit of time to experience it myself. But i also respect this council's ability and the advocacy communities ever community's and the and our staff's ability to change that code as our city changes. It seems to me this is an important small change for us to make, and we're going to be changing a lot more if we need to make our city more affordable and we need to think about how that can work while making -- while maintaining high quality of life in our neighborhoods. So i think that's really critical, and if this is about housing access, we talk a lot about short-term rentals when we talk about housing access but that is going to be such a smaller sliver of the pie than the housing units we're trying to create. I respect the idea of not having as many short-term rentals pop up in existing housing stock, and by that same value, that's why i went with this middle road and our committee recommendation, but by that same value, that is why we took planning commission's recommendations and said those recommendations are good, they should apply to as many lots in this city as possible. So that's my pitch and my clarifications, but i think there are two important points to bring. One, at our last meeting, we did list opt in, opt out, and affordability requirements as things to be discussed. Recommendations did not come out requiring those things, but if anybody from neighborhood housing is here -- is neighbor from neighborhood housing here? You may not be able to speak to this now, but i recall somebody from neighborhood housing told me when we were having this discussion, would you all be able to monitor or would you recommend having

affordability requirements with the city when private homeowners all across the city are building their accessory dwelling units?

>> rebecca jella with neighborhood housing development. That is one issue that we flagged, that would be something that we would have to look at administratively. We have monitoring you're not, we monitor anything that has an affordability requirement.

[4:34:28 pm]

When you talk about the scale, that certainly is something that we flag as a concern. It's certainly not saying it's not feasible. We would just have to look at that.

>> casar: and i just think that it's important for us to -- a lot of the information that was brought to the committee is that even from realtors' reports -- i don't know that many renters that use realtors, i imagine they skew toward higher income folks, that taking income from realtors, accessory dwelling units that have been on the ground oftentimes rent below austin's mediana family income, median family income, unsubsidized, because they're a backyard cottage. We can't -- we can fix our affordability problem to some extent with subsidized housing, making sure those units are affordable, but we have to be able to get market affordable units on the ground. The housing report we were brought and presented in the housing committee, one of the key recommendations from that consultant for furthering fair housing and integration into our city was exactly this, making it easier for more small accessory dwelling units to be built in the back of homeowners' homes. Is that correct?

>> that has been a consistent recommendation in a number of our studies. With the housing market study, for example, it is looking at regulations that do allow for more housing stock, such as this particular type.

>> casar: and i recognize that there is this pull, but if we want -- if we care about housing access and housing affordability, then i just -- i just -- i just can't understand why we can't have this all across the city, and by trying to make those requirements that those units be more affordable, i just don't know that many homeowners that are going to sign up with the city to income verify their tenants and we may end up getting less of these than more of them, which we know those smaller units in the backs of houses rent out for less money.

>> houston: excuse me, mayor, could the rest of the council have a copy of that housing and market study so we know they rent for less than usual?

[4:36:29 pm]

Because i've been asking for how do we know that the units that you're going to put on the ground are going to be affordable, and nobody's -- even my great new urbanist friends are unable to give me any data where in any other cities where this has happened, that the rental units are less expensive than the other units. So if you have that, i'd be happy to see it. Maybe some other people would if they haven't seen it already.

>> mayor adler: you neat

[inaudible] your friends.

>> gallo: one question of staff to follow up with that. I think it's important to understand the process an owner would have to go through if we had an income component, knowing these would be occupied by people not in the property management business. If there was a requirement, what would that be?

>> most often when individuals interact with our department, it is through the mechanism that they have received funding in a particular circumstance where they wouldn't necessarily be receiving funding, but still had an affordability requirement, that would be more along the lines of an entitlement was given or something of that nature that would be captured. A lot of the density bonus data right now is

captured through amanda, as you all know, that's the enterprise system, so that's how essentially it would be permitted. Through that data, obviously, is where we would get our data that populates our monitoring program. So we would require that the individual owners would income-qualify. We technical assistance for that. And then we would require what we call tenant income certification, so a monitoring file on each of those units.

[4:38:30 pm]

And then we would monitor to ensure that that is what was happening. Whether that was done annually, we would obviously just have to look at the scale and the ability to do something like that.

>> mayor adler: okay. I would suggest that we have 30 things left on our agenda. The question of affordability standards on adus is one of the items that's not in front of us right now. So let's hold off debating that one unless and until it is. Is there any further discussion? Ms. Pool.

>> pool: i just wanted to clarify. The reason that i'm concerned about the impervious cover percentage increasing, it's not that i -- i understand that this doesn't add to it, that's not already permitted on that. The point is that a new structure brings new impervious cover, whether it's meeting or below the amount that's allowed there, that wasn't there before. And there are significant areas in district 7 that are now subject to flooding because of all of the building around it, north and west, primarily, because of the topography. And so that's why i want staff to bring back some information to give us an idea if we were to add additional units within the imperv allowed, what would the impact be on the flooding? That's going to be the real on had of the-ground result of this and we won't be able to respond to this after it's already done. So we may be looking at additional buyouts after we did earlier this week at onion creek and williamson creek. The last thing i would say, i was prepared to come today to support the changes that the planning commission had suggested for accessory dwelling units. That's what i thought was on the table. I'm not a member of the planning and neighborhoods committee. We didn't have a report from them other than i think there were some things on the message board. There was no debate and no discussion, and we haven't had the input from the public on the changes that came out of the committee that i think would have been really informative and helpful, so that we can really see the impact that these proposed changes will have.

[4:40:37 pm]

So i just wanted to say that the changes are very distinctive from what the planning commission had offered, and so i'm glad that we're only going to move on second reading here today because i find myself really struggling to get my arms around all of the massive change that is actually proposed here and then understanding how this will integrate with the changes that are yet to be determined through the codenext process.

>> mayor adler: okay. Ms. Troxclair?

>> troxclair: i would like to make a motion to strike the reference to type 1 strs in part 8, number 3 of the ordinance, and part 9, number 1, of the ordinance. And if i get a second, i'll try to quickly explain.

>> i'll second.

>> mayor adler: so you're changing what part? 9 of the ordinance to 8 of 9?

>> troxclair: so part 8 on page 6 of the ordinance, if i have the right copy, subsection c.

>> mayor adler: yes.

>> troxclair: adds type 1 to the three percent census tract cap. And so we have -- we just now by adopting councilmember -- mayor pro tem tovo's amendment, said that no secondary dwelling unit can ever be rented, any new adu can never be rented for more than 30 days. But this section says that if three percent of -- if there are more than -- you can't at all rent your back cottage if three percent of

people in your census tract also have back cottages that they are renting for less than 30 days. So we are not talking about type 2 strs, we're not talking about renting anything more than 30 days, but these two sections here, by including type 1 strs in this section, we are limiting a property owner's ability to possibly ever rent out their adu, which i don't think that's necessary.

[4:43:00 pm]

>> mayor adler: this one, as it's written, basically says that -- the amendment, as i understood from ms. Tovo, was to effectively remove ads as a type 2 rental and to say that it would effectively be type 1. Tovo right.

>> mayor adler: is it sufficient to say we need part ac 3 to conform with that?

>> troxclair: there are two issues. Her amendment said it will not be type 2, all adus will be type 1. But this says there can't be more than three percent type 1s in any census tract.

>> casar: mayor, i don't think this section is all necessary if you pass this. The sex -- perhaps it's written differently, but the intent was about new adus not being built where there's already three percent. If this is passing saying pretty much no new strs type 1 or type 2, i think you should strike this section --

>> mayor adler: i think it's not saying that i think the amendment that came through says you can use an adu for a short-term rental, not to exceed 30 days. But it also seems to me that that language then might obviate the need for this language. Ms. Tovo?

>> tovo: if i could just speak to this. So this is the language that was created in response to the following amendment that i made at our neighborhood -- at our planning and neighborhoods. And i agreed that it looks to me like this language needs to be adjusted. I would suggest we not strike it but we ask legal to take a look at it. This is dealing with existing ads. The intent was to deal with existing did you understand, i had two amendments. One was existing, one was new. New didn't pass planning and neighborhoods, it passed here today. Existing passed planning and neighborhoods, but -- i'll just read you the language. I moved to change the classification of accessory dwelling unit strs as type 1bs and including them in the type 2 census tract cap while grandfathering existing dwelling strs.

[4:45:09 pm]

That's not completely clear but basically existing ads were to be grandfathered, but if they are commercial short-term rentals, a hundred percent of the time, they should count toward the three percent cap. So i think the language looks a little odd to me in the ordinance, but that's the intent. Again, if i've got one in the back of my house, on my lot, and i'm using it as an accessory dwelling unit, it is currently not counting toward the three percent cap, but i think it should, and committee thought it should and voted to support that. But it will be grandfathered. You will not lose the ability to continue operating it. So i think what councilmember troxclair's point is that the language may go beyond that, but that was the intent.

>> mayor adler: my suggestion is this. Rather than us trying to craft the language here, we ask staff to conform this section with the amendment that was made earlier. We're only passing it on second reading, then we'll all have language to look at before we come into the next meeting that we can fix if there's uncertainty as intent or how it would work, we can all then play with the language, but we all have language in front of us we can play with, we can talk to each other on the bulletin board, rather than us trying to craft language through that. Is that okay with you, ms. Troxclair?

>> troxclair: yeah. I mean, i would be interested -- i would want to hear from councilmember casar if i am understanding this correctly, or if you have input, because it does seem like two pretty distinct issues to me, and that we're now including type 1 strs in the census tract, which is different from what mayor pro tem tovo is explaining.

>> casar: my understanding of this is that this -- the language that is currently in here about type 1s, my intention with it was to try to strike a compromise between what it is that was just amended and passed, because i believe that this is not enforceable to figure out whether somebody has used their str for 30 days, based on how we issue the licenses. I thought this was an interesting. Why i said i would support this idea if it was enforceable.

[4:47:13 pm]

In my conversations, it seems unenforceable -- if somebody has an str, for you to call and figure out how many days it has or hasn't been used at the time of the license, that's a different issue. I said i would be supportive of something like this, but it doesn't seem to work for me so i included this language to try to adjust the issue. So, frankly, if we can find a way of enforcing what it is we just amended, then we can strike this. But the mayor's suggestion also seems sensible.

>> mayor adler: only because i don't think we're going to be able to craft our way through this right now. We kind of highlighted it as an area that is evolving. And let's work on it before we come back next time with language. If that's okay, we'll ask staff to try to conform this section and any other sections necessary to be consistent with the amendment that we have.

>> casar: and, mayor, i do have one last remark, and with all due respect to councilmember pool, in committee, when this was referred to committee in the spring, it was referred for our committee to handle the issue, just like so many other committees. And we discussed it in committee and realized we needed time, and that council didn't want to delve into every single issue and wanted the committee to sort it out. So it was sent to committee. Then at council on first reading, i explained very clearly, and posted it up and everything, how we were going to handle this through multiple meetings and deal with each issue as laid out. And we passed that. And then we did exactly that, and i posted it to the message board, too, exactly what the schedule was going to be, and invited everyone to come and people did come. Then at the last work session on tuesday, i said the only major changes that we made from planning commission, which is what everybody passed the first time, was that this could apply to 5750 lots and sf-2s and that the scale of adu would up and down and we solved the water issue, because council passed it and sent it to committee. So with that you will due respect, we can take as long on it as you want, but the committee worked hard on it, and the committee is not shoving the down anybody's throat.

[4:49:14 pm]

The committee had lots of public testimony and the committee did exactly what it is that we were going to do. I'm proud of the work we did, even through our disagreements. But if councilmembers need time to work on this, i totally respect that, but this is not something new that's being sprung upon everybody. It got passed by the last council in june and we started working on it very publicly this spring, throughout the summer till today.

>> mayor adler: my sense is that we just need a little bit greater distance between the committee reporting it and us being able to work through issues. I think we were put on notice as to what the points are, and i think that by passing it on second reading today, that will give us the chance to -- chance to do that most efficiently. Ms. Kitchen?

>> kitchen: it might be helpful too. I really appreciate all the work the committee has been doing on these really tough issues. I know it's hard. We've had a few in transportation, so you guys on your committee have had a lot too. So my thought might also be -- might be helpful to make sure that at the work session, at least the work session right before it comes up, or maybe even an earlier work session, i'm not sure of the timeline for it coming up again, that we make sure we spend some time to talk in the

work session, because that would be -- just for me, anyway, personally, that helps me a lot if i -- if i know that i've got some time in work session to kind of understand what the key issues are, and then spend a little time talking about them. So maybe that would be helpful.

>> mayor adler: i think that's a great idea. I think if we had a work session agenda of the things that were coming up on thursday, and if we have two or three really big topics that we see are coming up, to be able to -- to be able to bring those up and touch those, even without it coming up on the following thursday, after a committee has done its work but before it's on the agenda, that makes sense to me. That would be helpful for me. That's a good idea. All right. We are still now in this resolution, second reading. Any further discussion? Hearing none, those in favor of passing number 54 through on second reading, please raise your hand.

[4:51:21 pm]

Those opposed? Unanimous. We're going to do that item number 55, which is the -- to allow the -- one tap to serve both the home and the adu in the back; is that correct?

>> casar: yeah. I think this is something that should be celebrated so if the water utility wants to take 45 seconds to explain it to us, i think we can pass it handily. This is something all the stakeholders have been asking about.

>> mayor adler: does anybody need the water utility to explain this? Is there a second to --

>> casar: okay. That's fine.

>> mayor adler: -- 55? Mr. Renteria seconds it.

>> casar: i apologize.

>> mayor adler: ms. Houston?

>> houston: i'm sorry. There was some concern about the cost for submetering, and i think we need to have somebody answer that.

>> mayor adler: okay.

>> houston: because that's not in the backup information. What would be the appropriate cost of submetering?

>> casar: in the backup information, what we're doing is codifying the water utility's new administrative rules that require -- that do not require you to dig up the street and make all those expensive changes, unless you're adding lots of extra bathrooms and needing water capacity, basically.

>> houston: i hope that answered that person's question that asked me that.

>> casar: yeah, we're -- we're going to make it way less --

>> mayor adler: so a less expensive option for a property owner. Further discussion? Those in favor, please raise your hand. Those opposed? That's unanimous. 55 is now taken care of.

>> mr. Mayor? I just have a question. I don't know if we've figured this out yet, but at the appropriate time, i'd just like to understand how we're going -- how we're handling the five -- i don't know if we have proclamations or we're going to break for dinner --

[4:53:25 pm]

>> mayor adler: we do. We have music at five -- at 5:30. We have music at 5:30. We have proclamations after that. We'll probably try to get back here at like 6:45. We have several items, tnccs and strcs that have to be heard after 6 o'clock. We have the ability to now hear fee in lieu, the density bonus issue, united and mk, so we have a couple of zoning issues. I thought at this point we would just continue moving forward on those and call up the fee in lieu at this point, which is item number 38. This is to initiate a process to consider an ordinance concerning a pay of a fee in lieu, which is item number 38. We have 13

citizens to speak to this issue, but this was one that went through -- did this -- this didn't go to committee; is that right?

>> mayor, it did go through the committee. We have both recommendation on the agenda, is that right, wells a resolution. And if i could just -- i think i may have mentioned this at the work session on tuesday, when we passed this at our committee, i was under the impression that the staff were going to be able to gather the information and report back to our committee, and we would then have the conversation about the code initiation. It turned out we had asked -- what we had asked for, much of the -- much of the information they have, some of it they didn't, so they really needed council action.

[4:55:27 pm]

So that's really why this is before the council today.

>> mayor adler: okay.

>> tovo: when we checked in with staff to say when are we getting the information, it became clear we weren't going to get it out a council action. So in some ways, i just want to make sure the public is aware of that and my colleagues as well because we're really just trying to gather together the information we would need to evaluate whether to initiate code change.

>> mayor adler: okay. So with respect to this subject, generally, mayor pro tem, are you willing to move adoption of resolution number 38? All right. Is there a second to that? Mr. Renteria seconds that. I note that the resolution that you have is something which basically is identifying the issue and asking for reporting, coming back, as well as recommendations and putting it on the council meeting, but it's broadly addressing different ways of looking at it and pros and cons, which i like and appreciate that why you have set it up that way rather than having the council taking a position as we sit here on that issue. We have eleven people that were going to speak. This had already gone to committee. We had talked about having four and four, two minutes. Looks like i have eleven speakers. So i'm just going to start calling them up with two minutes of time. And i would point out to everyone again that this resolution is pretty wide open, so the gist of the conversation in debating this issue may best be held as part of that process because it's now going to go through the stakeholder process, through the development, and then back to us, where it will be debated once we actually have language and a recommendation in front of us. But i want to give people an opportunity to talk at two minutes a person, if they wish to take it.

[4:57:29 pm]

The first person is stewart hirsch.

>> mayor and members of the council, my name is stewart harry hirsch, and like most in austin, i rent. I've wanted to mention that there's not explicit language in the resolution referencing the most successful of the density bonuses, which is the university neighborhood overlay that uniquely has both fee in lieu and on-site affordability. And my fear in reading the backup is that we are going to miss an opportunity to talk about what succeeds and what fails in this town by looking at not just what fails, but also looking at what succeeds and what we as stakeholders came back and made even more successful by longer term affordability, deeper levels of affordability, and increasing the fee in lieu, and doing all that with partners in the neighborhood planning area. My fear is that you are about to pass a resolution that doesn't recognize our success and is going to be focused on the failure and doesn't doesn't talk about the fact smart housing is only integrated into the overlay density bonus program and is not integrated into the other density programs, including vertical mixed use, planning developments, tod's and the other ones we'll all be examining. Please let those of us who have worked successfully in uno to provide evidence of why we thought that worked and how it would need to be replicated to work in the

other areas that we all as a community are trying to make it work. And if you don't give us that specific direction, my fear is, we will continue to have density bonus programs to fail. Thank you.

>> mayor adler: thank you.

>> tovo: mayor?

>> mayor adler: ms. Tovo?

>> tovo: mr. Hirsch, we do reference the university neighborhood overlay in the third whereas and in the ninth whereas. In fact, the ninth whereas is all about the university neighborhood overlay, which has created almost 500 on-site affordable units and two million dollars in payments, then it goes on to talk about that.

[4:59:38 pm]

I'll make sure we get you a copy of the most recent, though i think it's been in there since the committee version.

>> yeah. We weren't allowed -- i wasn't present at the committee meeting so i don't know what the committee took up, but what i was seeing didn't emphasize that at the level that i thought it was worthy. So thank you very much for that clarification.

>> mayor adler: i'm sorry, in relation to that, there was a question about timing that came up at the work session, when we get to a place where we can talk about them, i want you to double back on them. We talk about the council taking action in december, but they're not bringing best practices to us until january. And i think that part of what mr. Hirsch is raising is a best practice to be considered. If we're going to be taking a council vote in december before we get the advantage of the best practices then i would be limited to what i could vote for in terms of a policy in december. If that was made to reconcile with the january date, i would be better able to take the policy position or vice versa, if it's going to be hard to take a policy without having a report. Thank you, mr. Hirsch. The next speaker that we have -- i'm sorry, mr. Casar.

>> casar: the timing question i think is important, but more -- even more important, i think, to mr. Hirsch's point, is to clarify with staff when the time comes, what the recommendations and information it is we are getting because i think the intent of the committee is to make sure that we get a variety of policy options and recommendations for what truly furthers our affordable housing goals the most, such that if it's fee in lieu somewhere, let it be national parks it's mixing, if it's calibrate up or down, be it that i think looking at our existing density programs and how it works there is a piece of it. I think what mr. Hirsch brings up is a valid point and we'll be clarifying with staff to make sure that the information we get is useful for our decision-making process.

>> mayor adler: okay. The next speaker is david king.

[5:01:40 pm]

You also have two minutes if you want it.

>> thank you, mayor, mayor pro tem, and councilmembers. You know, my main point is going to be that, you know, i just want to make sure that what we end up with is a strategy that does really get us more affordable housing, and the diverse -- that's disbursed throughout the city, integrated into our neighborhoods. The fee in louis often used to buy -- build affordable housing in areas where the land values are lower because you can get more units. Well, that tends to segregate, you know, low income people and affordable housing in certain areas of the city. It doesn't integrate them into our neighborhoods. Yes, it's going to cost more to integrate them into our neighborhoods, but that should be one of our values. It's a long-term strategy to help the low income families to lift them up. And when they're integrated into our neighborhoods, that works better. And so if that means we need to bump up

the fee in lieu around make sure that it's spent in a neighborhood where that development occurs, well, then that's -- we should look at that. But it shouldn't be an automatic check box against fee in lieu. That should require a super majority vote, when you're going to use a fee in lieu option on the density bonus programs. The developers, they get really nice entitlements, and we need to compare the entitlements to the amenities that the community gets back. That's one of my themes, and i hope that someone will look at and say what is the value of the entitlements of what the developer is getting and what are the value of the amenities that the public is receiving. We need to have that basic information when we look at these density bonus programs. Thank you very much.

>> mayor adler: thank you. Heidi brock. Is alicia here? You have two minutes.

>> good afternoon, mayor and council, thanks for the opportunity to be here. I'm heidi, speaking on behalf of the real estate council of austin. I just have three quick points. One, i want to commend -- most of this resolution is really wonderful, talking about the data that you all need to make good decisions on this understand and we really support that we think good data will help craft both fee in lieu and density bonus programs that will be successful.

[5:03:51 pm]

I want to urge you to get the data on the fees before you change the fee schedule. I think that's just -- it makes a lot of sense to do that you'll know the economics behind your decision if you do that. I think it's likely that staff may need some professional help to get some of that data, so if they ask that, i would recommend that you consider doing that with them. And then finally, just give them enough time to collect the data. It's not a small thing, what you all are asking. It's a lot of data and a lot of information. So those are the points i wanted to make, and thank you for your time.

>> mayor adler: thank you. Gus peña.

>> mayor?

>> mayor adler: yes, sir. James nelson. Julie fitch. Ann teich.

>> good afternoon.

>> mayor adler: go ahead.

>> i'm julie fitch with austin alliance. I'm here today to ask you all not to make changes to any of the the density bonus programs without the full benefit of professional economic model. That really is part of the data that you all need to make that decision, and i ask that you ask staff whether they have the time and the resources and the budget to get that done in advance of the decision-making that is scheduled right now for december. The density bonus programs were always created with the idea that density -- the benefits of density should be shared between the city and the private developer, and that you can't extract all of the value from increased density excuse me know that unless you kind of update the economic modeling with professional consultants. And the resolution states that the program failed to set a fee for downtown commercial projects, but actually the study showed that there wasn't enough incremental value to justify charging a fee, so the council set that fee at zero, with the idea that that could increase at the time that the market would bear it. We don't know if that's the case at this point, so that's another data point that you need to consider before adjusting the fee schedule.

[5:05:59 pm]

Again, that right now is being scheduled for december 10th. That could be done on december 10th, without initiating a full code amendment public process. So we ask that you study these things all in context and have all the information that you need to make these decisions because if we get it wrong, we don't get affordable housing. We don't get additional density. We don't get that additional tax base. Thank you.

>> mayor adler: thank you. And now ms. Teich. . Cory brown is on did that.

>> good evening. My name is ann teich. I'm the (by mr. lhfe) trustee for the austin independent school district. I also wear several other hats. I'm chair of the housing and affordability work group for the revitalization team. I also chair a foundation for the homeless. I'm speaking from each of those hats. By the way, i'm speaking in fourth of 38 and 53 so you can hear me on both items and, therefore, i don't have to take up your time on 53. Okay. With these two items, we are starting a process with the objective of providing, creating more housing affordability, and we need that now because we all know that many austin residents suffer from the lack of housing affordability, and that leads to the following things. Mobility, stability issues for students, and that's where i'm concerned from an aisd board trustee point of view. It leads to homeless individuals in the rundberg area having little access to affordable housing, that's with my affordability work group hat, and as board chair of the foundation for the homeless, that organization is trying to rehouse homeless families, that means people with children, and that has been extremely difficulty to do, particularly since there isn't -- these families aren't in an income bracket where they need to have access to shoppability, transportation, health care, education, and their work.

[5:08:05 pm]

Okay. So, i'm trying to follow my notes and it's a little bit late in the day. And by the way, i'm going to say, when you change items around on the agenda and people are waiting to speak, i'm just going to leave it there. Okay. So -- okay. So we've got cost burdened families in this town, and we all know that. Okay? So what can we do to make their lives easier? We can get them some housing affordability. Okay? And i'm just going to ask that the members of this council who keep in mind the -- how costly it is to live here for families, not to mention individuals, that you really need to support these two items, 38 and 53. Thank you.

>> mayor adler: thank you, ma'am. Cory brown. Carina malone is on deck.

>> good afternoon. I know i'm on this side of the dance, but i like watching a deliberate body in action and think it's exciting. I watched the last item go through -- talk about flood analysis, affordability analysis, and all these different things. That's why my concern with this is the december 10th timeline for recommendation for a new fee schedule without doing our due diligence first. Making sure we go through a proper economic impact analysis. This is a significant impact for the future of our city and the future of downtown. Cities are complex ecosystems so we're avoiding any inadvertent unintended sequences. I think the december timeline is too hasty. I think we should go through the proper analysis. Another concern i have is studying different types of development and how that impacts not only downtown in that ecosystem, but the affordability issue as well, low rises, mid rises, high rises, all have different construction costs. I'd hate to apply a one size fits all solution that causes unintended sequences for us later. This is a big issue the city should look at very closely and very deliberately.

[5:10:06 pm]

That's why i'm asking for, we have the deliberative process, we have the analysis, we collect the best practices, we evaluate those best practices, and then we work to amend the code. Thank you.

>> mayor adler: thank you. Carina malone, sam hall is on deck.

>> good evening, mayor adler, mayor pro tem tovo and councilmembers. I'm here speaking today on behalf of oak creek village tenants association. I'm the president and also a leader and member with austin interfaith. Oak creek village is an affordable housing apartment complex in austin. My comments are also related to items 3. After this i've got to go pick up kiddos, and as much as i would appreciate pease and oh henny watching them, i don't think they would appreciate it. So oak creek village is located

on a nine acre lot. In 2012 the residents of oak creek received a notice that the developer, eureka holdings, was applying for tax credits, which also included increased zoning. They were currently zoned at mf-3 and they were looking at mf-6. The current zoning for them would allow 330 units. They had 173. With the increased zoning it would have been up to 486 units. The end results, in june 2013, the city granted mf-zoning to eureka, and eureka received \$20 million, 18 of which was tax credits. They applied for tax credits and received 18 million, two million from the city of austin. It was a very complicated situation. There was lots of time taken into consideration regarding the schools, the residents, the residents of the neighborhood, and the city. Fee in lieu would not have kept affordable housing in this neighborhood. A pud zoning could have, but that's not how eureka applied for the bonus density. They used the mf-6 zoning. While oak creek village may have affordable housing, that's only because of two items. It's because of the tax credits and because there is a private restrictive covenant on behalf of the residents that puts in a contract, a housing assistance program, it's a subsidy and allows that to be affordable housing in a neighborhood where affordability is scarce.

[5:12:23 pm]

While it's an ongoing struggle to hold the developer accountable, many families have lost their homes due to the reconstruction. The fact is, i wouldn't be standing in front of -- i would not be standing in front of you today if it wasn't for that option, the density option. Austin interfaith encourages you to support all options to create and preserve affordable housing in neighborhoods that have scarce affordability.

>> mayor adler: thank you.

>> these density programs do just that. At the same time we urge the council to hold them accountable, to these developers, and continue to provide safe and decent housing.

>> mayor adler: thank you, ms. Malone. Thank you. Sam hall. You also have two minutes.

>> thank you, council. Sam hall is my name. I'm officer of the hidden value high meadows association, out in east austin, near decker lane, and i support, or we support item 38 and 53. And the reason we support it is because we feel that in our community, which is somewhat low income, we need affordable housing. Back in june, the property that the mobile home park is in was bought by a man named mr. Scott roberts. And he has give us rules and regulations which are hard for us to comply with, and it seems to be pushing us out by raising the rents, adding extra fees, towing of cars, and different things like that. So we're asking for your help on that. It's -- they changed the name from hidden valley to loma vista.

[5:14:25 pm]

In june when he brought out these new rules, we began to go through them, and some of those rules are very oppressive to us as residents. We've had a case where we had an elderly gentleman pass away in the neighborhood, and management was notified that had a death in the neighborhood, and yet they towed the car of the relatives of mr. Hernandez, mr. J. B. Hernandez. He just happened to be a friend of mine and a neighbor. And we thought that that was over the hill. We had woke up the next morning -- [beeping]

-- and his car was gone. So i'll leave it at that for now.

>> mayor adler: thank you, sir. Thank you very much. Thank you. Those were all the speakers that we --

>> i'm sorry, mayor, i thought i signed up.

>> mayor adler: go ahead and speak. Two minutes.

>> thank you. I'm a member of wild flower church, leader with austin interfaith. You've heard two stories from mr. Malone and ms. Hall a austin interfaith supports 38 and 53. We've seen the parents and

children of our schools being forced out of the neighborhoods they've called home for decades or generations. What we found through the fee in lieu program is, it does not preserve affordability in those neighborhoods. The housing could end up anywhere and these new developments, no matter what increased density they provide of housing, initially, they displace people when they're redeveloping a property. And we really believe that when that displacement occurs, we need to use every tool possible to ensure that affordability comes back to the neighborhood as quickly as possible. So because of that, we believe the density bonus provisions that provide on-site housing preserve affordability within neighborhoods, and they don't displace people and allow those dollars that are collected through fee in lieu options to be disbursed on the edges of cities, on the edge. Our stickers far from services, far from the schools the children attended, and far from all the supports that these families had had for many years.

[5:16:43 pm]

So we urge your support for 38 and 53. Thank you.

>> mayor adler: thank you.

[applause]

>> mayor adler: is lisa here? Coronado? All right. Those are all the speakers that we have. We're now back up to the dais. Ms. Tovo, i think this is your motion? No, this is -- do you want to make a motion?

>> tovo: i never made one -- i can't remember, but i'll make another.

>> casar: i already made it. He seconded.

>> mayor adler: renteria seconded. Okay. Are we passing 38 in lieu of 53? Are those tied?

>> casar: no, they're separate.

>> tovo: i think we mostly talked about 38 at this point.

>> mayor adler: okay. 38 has been moved. Any discussion on 38?

>> casar: mayor, i do have a couple of -- there's two sort of important points for me. One is to clarify from staff if we pass this, sort of what information it is we're getting back. Is there somebody from staff that would be doing sort of the recommendations or analysis on calibrate fee in lieu or recommending elimination of fee in lieu on any particular project? Or in any particular bonus area? Hi. So my -- i think the intent of the committee was that we all unanimously agreed that what we want to do as lots of speakers brought, is maximize the amount of affordable housing that we can build, that private developers can build, in these density bonus areas that are usually high opportunity areas, or in rapidly gentrifying areas. I think what was difficult for me but why i did support this, i wanted to hear back from staff if the fee in lieu too low or if fee in lieu too high, or if we eliminate the fee in lieu entirely, if we'll get -- if we expect that we will get the affordable units which would be our goal. And so it seems to me that that breaks up sort of into two parts.

[5:18:46 pm]

One is analyzing all of the density bonus areas in general in this radio, and the second much smaller part is the office and hotel fee in lieu calibration. So i guess my question -- my question to you is, is that what your understanding of the resolution is, to provide that sort of analysis for us to make an informed decision for those two parts, and does that tie -- does the timeline in the resolution work for you to do so?

>> i appreciate the questions. Rebecca, city of austin housing, community housing development office. We understand the resolution. We feel like it's written with clarity, and in that we believe the neighborhood housing staff can provide clarity and a lot of the best practice research we've already done. I believe some of the components that has -- has left us still needing to do some research is

specifically around the performance of the density bonuses and some of the best practice research that we already have. So we have done an environmental scan for the number of years that we have been working on smart housing and a number of the amendments. What we cannot find and what will take some time is to interview individuals with cities, with density bonuses, to find out what the performance has been on those practices. We have yet to be able to call them best practices until we have more performance information. That would be in the second component of the resolution. To your question on any recalibration, and specifically looking at the downtown density bonus, we would work closely with jim be robertson and his team at the planning department. They would lead that particular issue, and i would want to defer to him to speak on that particular issue.

>> casar: and stay with us just in case he defers back to you.

>> i'm not going anywhere.

>> mayor adler: any other issue to speak to -- i don't know if you're deferring -- this is the timing question, whether december 10th is enough time to be able to do the task in front, is the timing question.

[5:20:57 pm]

Could i get a comment on that as well?

>> jim robertson, planning and zoning department. I'll speak specifically to the final -- i guess it's the fifth of be it resolved on page 5 of the provost resolution. That one specifically directs the city manager to prepare an amendment to the ordinance from 2013 and to bring it back -- well, to go to the community development commission, to the downtown commission, and return to city council on december 10th. That does not specifically call for an economic analysis. I would echo that our past practice with regard to the downtown density program has been to base it upon economic analysis. In 2008, when we first brought to the city council the proposal for the downtown density bonus program, we had an economist as part of our subconsultant on the downtown plan, and it was based on a very extensive set of modeling that they did. In 2013 when the density bonus program was actually adopted, the council had directed us to, prior to that adoption, to, in essence, reengage with that same consultant, and they gave us a report in 2013 that updated the information then. We -- going specifically to your question, we could not replicate that -- there's two things. We don't really have the expertise in-house to perform that kind of economic analysis, as one gentleman said, the downtown is a complicated ecosystem when it comes to economics. I would echo that comment. So we would need to -- if we were to base -- if we were to base a recommendation with regard to the final sort of be it resolved, that proposal, we would need to engage the economic consultant, and we can't do that by december 10th.

[5:23:01 pm]

>> casar: sure. So -- mr. Mayor?

>> mayor adler: yes.

>> casar: while there were some other sections of this i wanted to address, i want to knock that one out really quickly so maybe we can take these piece by piece. I mentioned the work session, that i would like to amend this last be it further resolved. This be it further resolved was actually an idea that i pitched during committee to the mayor pro tem, that i recall when the fee for hotel and office downtown was set to zero, and i read the consultants' report that the office -- office and hotel couldn't bear it at the time. It seems with the amount of officer and hotel going up, that perhaps it could bear it, and we could be missing out leaving some affordable housing money on the table. The resolution currently says to equalize the fee in lieu on office and hotel with residential, but i don't know if we can actually set it higher and that office and hotel can bear it more, or if we're going to get even more affordable housing

money if we set it a little less. And so, thank initiation i know a few folks that do these analyses. They weren't bids, but the quotes that i got were actually pretty low, so i would actually want to amend this to instead of say equalize, rather to say recalibrate, and hopefully our staff could engage in a economic analysis that i think would be cheaper enough that it would be worth the investment in doing that analysis because we could wind up with a lot more money for affordable housing if we set it right.

>> yeah. I should clarify. My, remarks were not to reflect that any knowledge or belief that i have that the market could or couldn't bear that. I'm just referencing the fact that in past practice, we have based it on an economic analysis.

>> casar: exactly. And i think that what the committee supported, at least what i supported, was trying to see if we could set a fee in lieu in order to maximize the amount of money we have for affordable housing. And i'm not -- considering that it's not so expensive to engage these real estate market analysts or economists, instead of shooting for the hip and going for exactly what residential happens to be, if we could do more and that gets us more, i'd like to do that.

[5:25:08 pm]

If actually coming in let's, that means we're going to get more offices and hotels --

>> mayor adler: i understand the point. To take out the word equalize and make that recalibrate, do you also have to drop off the last part of that sentence? Because you're not recalibrate two, just fee in lieu.

>> casar: i would just want to recalibrate the fee in lieu, and once we have the [inaudible], send the analysis to our commissions --

>> mayor adler: i'm going to let you come back and make that, in keeping with our practice here, and, mayor pro tem, i'm concerned about the timing issue. We're like eight weeks away, and this is a big issue, and i think i'm -- i am with you with respect to reforming how we do these because i think it's not leading potentially to the geographic of what we need. I just want to make sure that we have set out a process where we can actually get to a conclusion.

>> tovo: so i'm happy, mayor -- we had set up two different time tailbacks. Because one is a fee change, it's changing the downtown development fee from zero to something, then the other is coming back to initiate a code amendment. But i'm happy to just make the timing all the same, and it would -- the housing committee and the planning and neighborhoods committee in january would begin that dialogue. As long as we can move forward. You know, i just -- i know that we're at 5:30, so i don't want to go on and on about it, but initially, i believe the proposal i brought to planning and neighborhoods was to initiate the fee change and the code change -- well, the fee change, as councilmember casar said, was his idea, and i think it was valuable and i think we should move forward and do it. The other, though, was an intent to initiate a code amendment to change, to require on-site affordability, unless there is really an extenuating circumstance. So we're really backing off that timetable quite a bit. The committee wanted to see the data before initiating the code code -- the code amendment. I'm reluctant to slow things down to the point where we're just not moving forward.

[5:27:10 pm]

We had 11,000 new units applied for in the last year. You know, more and more housing is coming online in austin, and every -- you know, quite a bit of that is our missed opportunities to create on-site affordability. So i'm just reluctant to move any slower than that, but i'm happy to just have that come back in january, if that -- if that makes for an easier type. I do want to just call up our staff, just for a minute, though, because in the affordable housing -- in ordinance number 20130427-105, where the downtown density program is described, part 6 specifically lays out the

Following phrase: the city manager shall evaluate and, if necessary, adjust the development bonus fee, the on-site affordable housing bonus area and allocation of money generated by the fee, at least every three years. And i believe we may be at that three-year mark. So as we talk about studies and the needs need for a full economic analysis and so forth, the ordinance itself contemplates that that development fee should be looked at. It was not -- it was not ascensus position among all the stakeholders that commercial development should be set at zero. That was the decision that came forward, but there were voices within our advocacy community who felt like commercial -- that hotel should -- should be considered within it. And i would say that, you know, the economic study, as mr. Robertson said, we had a full economic study. It came forward with some recommendations that resulted in that zero, but shortly after that, our downtown experienced a really significant boom in hotel development, and so the data in the study was -- was, in my opinion, not terribly useful, immediately. So i just don't put a lot of stock in -- in doing a full economic analysis to help us recalibrate what we know is that if we have a downtown density program for residential development, and we don't have one for hotel/motel, and it's a goal of ours to include acknowledged encourage residential development downtown, that's probably not the right balance to strike.

[5:29:22 pm]

We ought to have a density bonus program that applies to all of the development that could occur downtown. So that we're not incentivizing one particular kind over another. So that's -- that's our -- that's a "yes" to the request to extent the study -- extend the timeline, but, you know, again, a request that we -- that we do kind of move forward and not stop and do a full -- you know, wait to make all of these decisions on a full economic analysis that i think, in the end, you know, we -- this is a policy matter. We either want it to apply to commercial, to hotel, or not -- an office, or

>> mayor adler: would it work with respect to the timing issue, ms. Tovo, in that second -- the -- to take all the timelines from december 10th, which is just before the holiday, to make them to the january planning committee meeting so that the report will be available for the council committee at its january meeting? The second one would be the city manager would present to the committee in january a report necessary to initiate the code amendment. The change in the fourth "be it resolved" is it would be fine. And then the last one, it would be return to the city council committee in january of 2016. I think if we do that, and that turns well, the council should be in a place to make a policy decision when it initiates the process. Is that amendment okay? Is that acceptable? Is there objection to that amendment being made? Hearing none, that amendment now is included. Further discussion? Mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. As somebody who lived in houston for 13 years before i moved to austin in 2000, i want us to take a step back and realize that we got to where we are now attempting to hire consultants, do studies, take planning recommendations from our city bureaucracy, vote on them, deliberate them on council.

[5:31:31 pm]

It seems to me what we're debating and discussing here is exactly the same thing that got us into the problem we have now. The most economically segregated city, the most unaffordable city in texas. And so, i wish -- my council colleague could take a step back and say, you know what, for decades, we've been doing things that got us to where we are now. Let's stop doing it. One of the things we say in engineering, you find yourself in a deep hole, step one, stop digging. It looks to me like we're just digging harder and harder, thinking that somehow we're going to lift ourselves out of a hole that we've dug in austin for ourselves. The central -- centralized planning people got us into the problem we have now,

most unaffordable, most economically segregated city. So i'm going to have to vote against this and hope some of my colleagues will join in.

>> casar: mayor, i'd like to move to amend the final "whereas," or the final "be it resolved" to strike the word "equalize" and put in place the word "recalibrate," and then strike to current levels of residential bonus fees.

>> mayor adler: is there a second? Ms. Gallo. The change is included. We now --

>> casar: with the understanding that our staff will engage with a professional to let us know how we can maximize the amount of affordable housing dollars we get.

>> mayor adler: okay. So, we have the amendment as it was stated, the first whereas resolved clause shall be available for committee review in january of 2016. The second resolved, city manager will present to the committee in january 2016 a report enabling the committee and council to consider initiation of a code amendment.

[5:33:32 pm]

The change in the fourth "be it resolved" stays the same as it is right now, and in the fifth, it's changed the equalize to recalibrate, dropping those seven or eight words at the end of that sentence, and returning to the city council committee in january 2016. Any further -- yes, ms. Gallo.

>> gallo: so we kind of asked staff these questions about timing and resources to prepare what we're asking for, but i'm not sure that i got a really clear answer. Mr. Robertson, do you mind? Where did you go to? There you are. Excuse me. So, will you -- when would you be able to get the report back to us, and do you have the resources in-house to be able to do that? And if not, if you needed to hire a consultant, what would be the cost of that? And then how does the council become involved in that conversation? And let me just mention one thing, too. I think when we talk about the items that we want to evaluate, i think it would be really helpful to understand the cost to build units downtown versus the cost to build units around the community, around austin, because this really does become a balancing act of, if it costs more to build units downtown, and we're asking those units be built downtown, and it's less expensive to build in other areas, then it does become a balancing act of geographic disbursement of affordable units, which i think we all are interested in accomplishing, but also it may be a question that that's at the cost of building less units total in affordable. And so i really would like to see the analysis of the difference in cost between building units in downtown versus other areas of the community, so.

>> once again, jim, planning and zoning department. I've made a note of your second request, and we can -- certainly do that.

[5:35:39 pm]

I'm speaking really only to the fifth and final "be it resolved." the first four relate to, you know, collecting data, doing a best practices analysis, and so forth. And as my colleague rebecca indicated, we can do that in-house. The fifth "be it resolved" takes us into territory that has expertise that we don't have in-house. So i guess the first question would be, we'll have to identify the resources to hire somebody, and then procure those resources. The procurement process can be a little cumbersome. I'll just be polite about that. And that in and of itself will be the first thing we need to do from a timing point of view, is try to get through that as rapidly as possible. And then once we have -- assuming we can cross those hurdles and find the funding and get somebody on board -- it's not an immediate process. It's not rocket science. The people we would retain to do this, this is what they do for a business. You're essentially running pro-formas for model projects. We would have to go out, i believe, to the community to make sure our data is current and accurate. We don't want to come to you with something that is immediately

subject to criticism because, oh, they're using the wrong numbers. So, there's a little bit of time involved in the engagement required to make sure we're using defensible numbers. I think january would be problematic for that. Certainly, we can do it as rapidly as possible, and report back to you as to our progress then. But i can tell you that january would be problematic in terms of locating the money, procuring the resources, and engaging in the process itself.

>> gallo: and the first four items, is that -- you mentioned that was something you could do in-house. Is that information that you would be able to have the staff resources to be able to do in house and get back to us in the middle of january?

>> we have a planner that works with our density bonus programs, and interfaces with the planning department.

[5:37:44 pm]

We have indicated to planning that we will be lead on those items, and jessie cook has had a number of opportunities to explore research in that area. She will be building on that research. We will be lead, and we would be supported by jim's team. Jim made it very clear that it would be -- for their team to take a lead on that just with all of the work they've got. So we'll be shifting some priorities. We do feel that we will be in a good place to report back on those components in january.

>> mayor adler: mr. Casar.

>> casar: so, i think i know what i wanted to say at the very beginning of this, which is that a lot of this conversation came out of the idea of getting rid of fee in lieu and requiring on-site in one or multiple density bonus areas. And i know from looking at the fee in lieu we've collected that even with leveraging that fee in lieu, we're not getting that many units out of that money compared to some other sources, perhaps. And, you know, from a gut level, as some folks discussed in work session, would like to see units on-site if i know that i have a decent guess. If i'm not taking too much of a risk at the fact that i might get some more units that way by getting rid of fee in lieu, or by merging fee in lieu with on-site requirements as an uno or something else like that. What i need to know, in order to make a decision, i want to know if i'm setting my expectations too high, is some best practice or real estate analysis or something so i know what i'm doing when i take a vote, how much risk generally i'm taking on whether or not i'm going to get those affordable units or not. If eliminating fee in lieu -- in one particular density bonus, you say, there's a good chance you'll get more affordable units, it's a good idea, i would love to do it. But, i can't just take a stab at it and guess what's right, because that's -- other people i know work at this all the time. I just want to be clear that i'm looking for the best opportunity, and to understand -- so much of this conversation comes out of eliminating the fee in lieu option.

[5:39:54 pm]

What an expert's best guess is, what will happen if i do that in any given density bonus area. I thought that was going to be shorter.

[laughing]

>> i understand what you want. I think that the language of the resolution -- i want to be very clear, because i want to manage expectations. The language of the resolution that the neighborhood housing staff will be providing is best practices -- how other cities do this, how they calibrate, when they do, and essentially, how they structure visiting economic analysis to get to those results. When i listen to you speak, i am almost inclined to take the approach of in our existing density bonus programs, if i were to take a look at what you could achieve now if you remove the fee in lieu, versus allowing the fee in lieu, in this report back, we could easily give you case examples of what we've seen in some of these density bonus programs. That's how, probably, i would approach it, to give you a real, concrete scenario that

you could, you know, utilize to make some decisions based on how we structure the density bonus programs now. But i want to be very candid in terms of what we will not be coming back with, based on the third "be it resolved" is heavily laden economic analysis that could guide your decision-making. This would be at a high-level, practice by other cities and how they calculate their density bonus programs.

>> casar: so, if, for example -- i think this resolution might bring back a code amendment to eliminate fee in lieu in x density bonus area. We could name any one of them. In a particular tod, for example. Of course i know that if we just -- somebody has taken advantage of the density bonus program and has paid us a fee in lieu, i could easily say, if we hadn't allowed that fee in lieu, this is the number of affordable units we would have gotten.

[5:42:07 pm]

I know that that's not a sound economic analysis, because who knows if that fee in lieu option was there, how much of the density bonus they would've taken advantage of. And i'm not asking for you to tell me, you know, a hundred percent what would happen, but i want to have some guiding principle as to whether or not to eliminate the fee in lieu, because that's what we're going to be debating.

>> understood. And i will say that the policy policy -- aides are a great portal in for us to continue to work with them to be sure that what we provide back to you is a meaningful report back in january. And i believe you recognized the amount of work that goes into economic analysis. So, on the pieces that housing will be leading, i believe we can bring back something of substance in january that will be helpful in your policy-making decision.

>> casar: thank you.

>> mayor adler: thank you. Any further discussion on this item, 38? Those in favor of 38 as amended, please raise your hand. Those opposed? Mr. Zimmerman voting no, the rest voting yes. We're going to move to music and proclamations. It is 5:40 right now. Do you think we could be back here at 6:45? That's an hour from now. Let's do that. And we only have 28 things still on the agenda.

[laughing]

>> mayor adler: we'll reconvene.

>> troxclair: i think the next item was the tncs. I see people showing up for items we may not hear at the time we originally said. If we can give them guidance of how many issues there are to take up --

>> mayor adler: i would see us coming back and probably handling the tnc issue.

>> there's several set before, i thought. Maybe i'm wrong. I thought we had other things set at 4:00 that we haven't gotten to yet.

>> mayor adler: i have a density bonus on the mf6 issue.

[5:44:11 pm]

And i have the tnc issue set at 6:00. I have korean united were not set, they're just shown on the agenda that way. My guess is if we have the tnc issue in, with limited debate on that, everybody understands that there's a different resolution, i think, you're laying out.

>> kitchen: yeah.

>> mayor adler: but i don't anticipate we'll be here for long -- we can let a lot of people go.

>> kitchen: okay. I was just sensitive to the folks that are -- that may be testifying on these other items, since -- it's up to you whichever way you want to do it.

>> mayor adler: i think we'll see the tnc might be a good one to get. We'll let a lot of people go at that point, then we can go back to the density bonus issue, mf6. There are not that many people on that. We have the korean united, part of the planning agenda at 4:00. We have then the str. And those are the big issues that we have left. We have the annexation public hearing.

>> houston: and we have item 49.
>> mayor adler: which is the --
>> houston: reasonable accommodations.
>> mayor adler: reasonable accommodations.
>> troxclair: so we'll plan to start with the tnc issue at 6:45?
>> mayor adler: that's my anticipation. 6:45. All right. Let's all come back at 6:45.

[5:56:21 pm]

>> performing before audiences across the country for decades. Established in east austin in the late 1970s by leonard, who is with us today, street people's horn-driven arrangements combined a diverse array of musical elements to put a twist on the un-denialable sound of tejano music. They were inducted into the tejano roots hall of fame earlier this year.

[applause]

>> mayor adler: help me welcome street people.

[applause]

>> thank you, everybody. We're a tejano band from austin. And our music is tejano, but we do different genres of music, which is what we grew up with. And we're going to do a slow ballad. It's a tune that i recorded about 30 years ago. And we recut it, and so we're going to do something. It's entitled "do i ever cross your mind."

[6:00:29 pm]

>> okay, thank you. I'd like to recognize a couple of the guys. The mayor said that we were a horn-driven band. We do have four horns, two trumpets, two saxphones. One of our sax players had emergency surgery. He just got out of the hospital. And our other sax player had to work.

[chuckling] the traffic, you know. Traffic's bad. But i'd like to recognize our tenor player, mr. Tony.

[applause]

>> and one of our trumpet players, and mr. Alberto mesquita. And i'd like to introduce the guys in the band. On keyboard, we have mr. Jimmy chief duran. On the guitar, mr. Samuel garcia, sami g. On the drums, we have mr. Edward sandoval. And on the base we have mr. Raul reyes. And some of these guys are original members of the latineers, we see each other around town, we said, what're you doing, nothing, let's make some noise. So, after a 28-year hiatus -- intermission, i say, 28-year intermission -- we came back and we're enjoying it. We're a little slower than we used to be, but we really enjoy doing what we're doing. And i thank councilman pio renteria for honoring us with this presentation. Mayor, thank you very much.

[applause]

>> mayor adler: knowing you, just if they wanted to get some of your music, where would be the best place for them to go?

[6:02:31 pm]

>> now you can get it online, it's on itunes. And you can get it at heb superstores. And i know here in town, at turn table records. I have to get with the distributor, because we have somebody that does us for us, so.

[chuckling]

>> mayor adler: a website or a place they can go to follow you? [Wwww.streetpeopleaustin.com](http://www.streetpeopleaustin.com) .

>> mayor adler: okay. And finally, if folks wanted to come hear you play, where's your next gig?

>> our next gig here in town, we're doing a benefit for a good friend, patito rodriguez, who has been struck with a rare type of cancer. And we're doing a fundraiser with several other groups at the moose lodge on the 8th of november.

>> mayor adler: councilmember renteria and i are going to present a proclamation. Be it known that whereas the city of austin is blessed with many creative musicians whose talents extend to virtually every musical genre, and whereas our music scene thrives because austin audiences support good music, produced by legends, our local favorites and new comers alike, and whereas we are pleased to showcase and support our local artists, now, therefore, i, steve adler, mayor of the live music capital, together with councilmember renteria and the rest of the council, do hereby proclaim october 15th of the year 2015 as street people day. Congratulations.

[cheering and applause]

[6:08:24 pm]

>> pool: all right, thank you. I chair the council's committee for sustainability. It is a real pleasure for me today to present this proclamation to laura schuman, with the parks and recreation department, the urban forestry department. Laura is the program manager. So, laura, here we go. Be it known that whereas the city of austin is known nationally for its stunning park system, enhanced by a rich, sprawling forest canopy, and whereas trees are valued by all austin's citizens for creating significant cost savings through prevention of soil erosion, improvement of air quality, mitigation of storm water, and reduction of energy costs, and whereas though the ranks of volunteers and community stewards continue to swell, the rapid growth of our city continues to increase pressure on our green spaces, and whereas i urge all members of our community to support efforts which protect our urban forest, and to plant trees, thus increasing the quality of life for generations to come during this city of austin's 24th arbor day celebration, now, therefore, i, leslie pool, councilmember district 7, on behalf of steve adler, mayor of the city of austin, texas, do hereby proclaim october 17, 2015, as arbor day.

[applause]

>> pool: if you'd like to say a few words.

>> thank you, everybody. It's very exciting that we're going to be celebrating arbor day. We celebrate arbor day in the fall in texas, because that's the best time to plant trees. So i'd love to see you all come out and help us plant some trees. Make a seed ball, get a temporary tattoo. Help us keep arbor day weird. Thank you.

[applause]

[6:11:10 pm]

>> mayor adler: and we have a proclamation. Be it known that whereas ten years ago, keep austin beautiful and the city of austin watershed protection department created the adopt a creek program to protect the health of austin's streams, and whereas creek doctors make a commitment to protect creeks by adopting a quarter-mile stretch of creek for two years, and whereas keep austin beautiful and the city of austin watershed protection department are to be congratulated for the success of adopt-a-creek, the program raises awareness about the need to care for and maintain the health of local creeks. It improves the water quality of more than 17 miles of adopted creeks through litter cleanups and creek restoration. It engages 750 citizens annually in improving the water quality of area creeks. And it fosters a sense of ownership, and a pride of place with more than 70 participating adopting groups showing their creek love. Now, therefore, i, steve adler, mayor of the city of austin, texas, do hereby proclaim october 15th of the year 2015 as 10 years of adopt-a-creek day. Congratulations. And rodney ahart. Congratulations.

[applause]

>> mayor adler: rodney, do you want to say a couple words?

>> thank you so much, mayor adler, and austin city council. I'm the executive director of keep austin beautiful. I just want to say, who cannot think of their first environmental experience? Going to your neighborhood creek.

[6:13:11 pm]

I know my twin brother and i brought home so many things from our creek. It truly was our introduction to the environment and how important it is to maintain our environment. You know, we are so excited today to be at the ten-year mark for a program that is strictly about community engagement. The mayor mentioned 750 citizens that participate in this program adopt a quarter-mile stretch of a creek and do service projects -- four service projects a year, from cleanups to restoration, to removing invasives, to planting native seeds. It's been a great ride. And we want to encourage the citizens of austin to join us in in program. We have plenty of quarter-mile sections available for people to adopt. Please, you know, contact us and get involved. But we are really excited about our partnership with watershed protection and being able to provide this service to the community. And thanks again, mayor adler, and austin city council.

[applause]

>> mayor adler: i do remember well my first -- i brought home something that was alive. And how it ended up in my mother's bed, i still don't know.

[laughing]

[6:15:28 pm]

>> thank you.

>> thank you.

[applause]

>> renteria: if all the members of the tejano coalition group would come down. I want to thank y'all. Today being the last day of the hispanic -- national hispanic heritage month, i'm really proud to read this proclamation. We have a group here that has been promoting tejano music. And i'm proud to say that i and my staff are all members of this coalition, because they have done such a good job here in austin in promoting -- our heritage. So, this proclamation, be it known that whereas the austin tejano music coalition has promoted the advancement of tejano musicians through unification, education, and public awareness, and whereas the city, the austin tejano music coalition has preserved the historical and cultural significance of tejano music by creating an environment of respect and appreciation, and whereas the austin tejano music coalition has supported and expanded the presence of texas music known as tejano throughout the community of austin and central texas for over a decade, now, therefore, i, steve adler, mayor of the city of austin, texas, do proclaim october 13, 2015, as austin tejano music coalition day.

[6:18:02 pm]

Congratulations.

[applause]

>> thank you.

>> thank you.

>> mayor adler: does someone want to say a few words, or . . .?

>> i would just like to say that on behalf of the austin tejano music coalition, and the members back here behind me, we accept this proclamation, and we want to say thank you very much to the city, the mayor, pio renteria, for all that they've done in the past to support us. We're an organization founded in 2006 to support and promote tejano culture. And we are, you know, genuinely happy to be here today. That's all i can say. Thank you. Thank you.

[applause]

>> yeah. I'm maggie with the austin tejano music coalition, i'm also in charge of tejano idol, which is a program that we created in order to promote tejano music and the new artists that are coming out. We have an annual tejano idol competition, contest, showcase, i guess, every year. And this year it happens to be october the 18th, which is this sunday at 2:00, at h&h ballroom. And i would like to extend an invitation to everyone to please come out and support tejano music, and enjoy the music that these young kids -- they're just so talented. And we like to show them off, so come on out. Thank you.

[applause]

>> when we say tejano music, it's because we as mexican-americans are proud to have been born here in texas. That's where the word tejano comes from. Tejanos have been here for over 500 years in this area.

[6:20:04 pm]

What tejano music is, is really a mixture of different genres of music that was created to create this particular sound. And, of course, musicians can play all genres of music. And also, when we say, you know, tejano music, it's basically really heard throughout the whole country, not just in texas. Because many people have left texas. And they still continue with the tejano music in their system. So, you know, again, we do want to thank, you know, the city for supporting -- keeping their support behind our music. It's not only about our music, but it's really about our culture. And one thing about tejano music, it's really the only real texas-made music, because it was created here in the state of texas by our own musicians. So, again, if you ever get an opportunity to go and listen to a tejano band, you will not be unhappy, because we sing in two languages. We are bilingual, but we actually sing all -- we play all types of music. Again, you know, thank you for being here and listening to us. Thank you.

[applause]

[6:22:20 pm]

>> mayor adler: all right. Congratulations.

>> thanks.

>> thank you.

>> houston: good evening, everyone, my name is ora houston, and i have the great pleasure of representing council district number 1. As those of us who work in the field of sexual assault and domestic violence know, neither of those two things are any respect of person, place, or status. Today, i am proud to stand before you as a survivor of domestic abuse and present this proclamation. Everybody's moving around. I'm going to wait just a minute. Be it known that whereas domestic violence is a serious crime that affects people of all cultures, ethnicities, ages, and genders, families are indispensable to a stable society, and should be a place of nurture and support to instill responsibilities and values in the next generation. And whereas the mission of the austin-travis county family violence task force is to reduce domestic violence, raise awareness, and promote community in austin, and surrounding areas, and whereas this special month provides an opportunity for citizens to learn about preventing domestic violence, and to support the numerous organizations that provide advocacy,

service, and assistance to survivors, now, therefore, steve adler, mayor of the city of austin, texas, proclaims october 2015 as domestic violence awareness month.

[6:24:57 pm]

And here accepting this proclamation is melinda cantu.

[applause]

>> thank you so much. Thank you so much. Mayor, and councilmembers, and -- thank you, councilmember houston. I stand here before you today. I am the executive director of safe place. With my friends and my partners from travis county and apd, with ann tesh from the can, and aid, and monica from restore rundberg. We are here because we believe that we can make a difference. And we know and we thank this city for supporting all of the work that we do. We know that it takes all of us. It takes every single one of us. And together, we provide that safety net. So for those people who come to us -- there are 5,000 survivors we see at safe place. And for those thousands others who reach out to our community partners, we really thank all of you for domestic violence awareness month this october. Thank you.

[applause]

>> houston: all eyes are open?

[laughing]

[6:27:12 pm]

>> oh, nice to meet you.

>> mayor adler: we have a proclamation. Be it known that whereas, derived from the spanish word meaning "progress" or "advancement," avance is a national nonprofit dedicated to providing innovative education and family support services to hard-to-reach families since 1973. Avance austin is a local chapter of the national avance program, and has been serving low-income hispanic families and children ages newly born to 3 years old in the austin area for 17 years. And whereas at the core avance believes a program providing culturally appropriate parenting education empowerment and community-building with early education development services to hard-to-reach families will fundamentally change the trajectory of children's lives, and whereas avance austin will hold its eighth annual fundraising luncheon on october 22nd, 2015, this is the inaugural year for the griffith family legacy award, which will be presented this year to bali and beverly griffith.

[6:29:36 pm]

And all are invited to celebrate avance's commitment to unlocking america's potential. Now, therefore, i, steve adler, mayor of the city of austin, texas, do hereby proclaim october 22nd of the year 2015 as avance austin day. And to accept this proclamation is marie felan, and rosie rosie.

>> tovo: thank you, i serve as mayor pro tem, and represent council district 9. I wanted to express my congratulations to all those who have been involved in advance, the staff, the volunteers, and the families and the children. It's a wonderful program. I've had an opportunity to see -- to learn of its success, and the success of its families. And it's just a very -- we're really fortunate to have avance here in austin. So thank you so much for all of your work.

>> well, good evening, i'm marie, executive director with avance austin. I'm extremely honored to be here today receiving this proclamation. Thank you so much, mayor, and also mayor pro tem kathy tovo, who has been very, very supportive of avance for a long time, as has most of our community, which makes it possible for us to achieve our mission. I am also joined by our staff, and our board member,

kathy dell, and we have a very special thank you to mayor adler. I want to say, when you said that avance austin changes the trajectory of a child's life, this is proof. We have the very youngest, emiliano, who went through our avance program with his mom, and his little sister frida. And their mother lupe is employed by avance.

[6:31:37 pm]

And casella was one of the first graduate babies in 1997. And she is now a college student. So we are very proud.

[applause]

>> of our dual education program that makes a difference in the community. And, again, i want to thank each and every one of the supporters that we have. And thank you for continuing to support our organization with a program that really, really works. So, thank you again. At this time, emiliana is going to present mayor adler with one of our hobby horses. This is a toy our moms make in class, but it's more than a toy. It's an educational toy that helps their children learn about colors and shapes, and physical activity.

[applause]

>> and so at this time, i'd like to introduce our board member, kathy, who is here in stead for rosie, who is tied up this evening. And kathy will say a few words. Thank you.

>> i just wanted to say, i'm a brand new board member, and i am thrilled to be giving my time to this fabulous organization. Our board chair, rosie mendoza, could not be here at the last minute, and she asked me to step in. And it's an honor for me to be working with the staff, with the parents, and with the children. And as you can see, the program works. We have the young ones and then we have a college graduate who started in one of the first classes. And all of the research, in a very simplistic way, tells us one of the most effective ways to ensure that a child begins and finishes their educational trajectory with a positive experience is early childhood intervention.

[6:33:38 pm]

And that is core to what avance does. And they do that by working with the staff, with the parent, and the children. And it's a family endeavor. It's dual-generation. It has been researched and studied, and it has been proven to be effective. And in austin, we are so lucky to have avance. And i'm so proud of everyone here. Thank you. Thank you, mayor, and mayor pro tem.

[applause]

>> you can stay here if you want to. Do you want to stay here?

>> thank you so much.

[applause]

[6:57:53 pm]

>> are you ready to start the

[7:02:30 pm]

>> mayor adler: item number 79 will not be called before 9:00 this evening. Ms. Kitchen, do you want to lay out items 50 and 51?

>> kitchen: yes, thank you. First off, let me just welcome everyone here today. I appreciate hearing from everyone. And i want to say, at the outset, and i think many of you may have been with us with our

several committee hearings, but i want to say from the outset that it is not the intention of myself or the city council to drive tncs out of town, or destroy tncs. That's not what we're talking about. What we're talking about here is what we should be doing from our responsibility for public safety. So -- and i do appreciate you all being here. And i'm going to start by just kind of laying out what the process is real quickly. Just so it's clear for everyone, so it's not confusing. And then i'll speak very briefly to the two motions that are before us today. And then we'll hear from our speakers. So, just by way of background, which i think is important for folks, if they've not -- if they're not familiar with the background. But the previous council passed an interim ordinance related to tncs. And one of the expectations that was set was that we look at an equal playing field with regard to our regulation with ground transportation, the various kinds of ground transportation. And as i'm sure you're all familiar, we have, in addition to tncs, we have taxis and limos, charters, and pedi cabs, and a lot of other types of ground transportation operating in our city. The other thing that that interim ordinance did, it passed a requirement that there be a fee for tncs just as there is for other ground transportation.

[7:04:36 pm]

What we're doing with the mobility committee and now with the council is taking up that ordinance as the previous ordinance directed this council to do, so we are moving forward with what was set, the expectation that was set in the ordinance that was passed by the previous council. So in terms of our process with this council, we've had four meetings with our mobility committee to date, and we have at least one more scheduled. We began with a briefing in the spring, and then we had a briefing in august where we heard from our transportation department staff. In september we had a full public hearing. I know some of you were there with us, and we appreciated hearing from you at that public hearing. Then in october we gran deliberations as a committee. We discussed and made recommendations to bring forward to the council the two items we're hearing tonight. We also said at that mobility committee meeting that in november we would have a discussion of at least one more recommendation that related to -- to reporting requirements. So that will happen in november, and there could be other items, too, that are brought up at that time. So -- so at this point, what we are bringing forward is a recommendation from the mobility committee to initiate the process. And so whatever this council passes tonight would then go to our staff to develop language, then come back to our mobility committee to review the language, and then back to this council. So i'm just wanting people to understand that tonight in the first step in the process from the council's perspective. We do not have final language, and final language does have to come back to us as a council before we pass anything that finally becomes in ordinance. So with that said, i want to talk briefly about the two resolutions.

[7:06:39 pm]

I think it would be helpful to just lay them out, and so i would ask -- and we're going to put them up on the screen so that everyone has the benefit of seeing what we're talking about. So the first one, which is item number 50, relates to the permit fee. And, again, the goal -- the purpose from our mobility committee, as well as the statements in our previous council's ordinance, was that we look at a fee that's equivalent to what we charge for taxis and other ground transportation. And, again, as i said before, at this point in time, tncs are the only ones that do not pay a fee. And my understanding is from the tnc company, and of course they can speak to this when they speak, is that they understand and expect to pay a fee. So the question before us is what's an appropriate fee and what's an appropriate way to

[inaudible] that fee, what's the appropriate formula for the fee given the business model the tncs have. If you'll see what we've laid out here -- let me back up. One other thing, fees that are charged for ground

transportation, they're designed to cover two policies, the cost of regulation and the cost of related use of the roads. Have the resolution that's up on the screen basically provides an option. The committee wanted to provide an option understanding the differences in the model that tncs have, business model, so that it provides for an option. At the option of the tnc company, to pay either the total of the permit fee paid by taxicab companies, so, in other words, the same permit fee that taxicab companies pay, or one percent of the tncs' annual local gross revenue. There's also a be it further resolved at the end that recognizes that at some point in their future, there may be a smaller tnc, if they're just coming into the market, and so that provides for an option, if they're smaller than the taxicab companies, looking at a smaller fee.

[7:08:45 pm]

So that's what we have before us, and after we hear from our speakers, that's what the council will be discussing. So now i want to lay out the other motion. We put the other -- okay. You might move it up a little bit so people can see. And in a minute we'll have to turn it over because there's two sides to it. So what you have before you is a motion that we're bringing forward today related to fingerprints. And let me just say that we've had a lot of discussion, and i know there's been a lot of concern in the community about fingerprints. Again, it's not our goal to put forward fingerprinting requirement in any way that creates any barriers for drivers. So we'll be talking through the process, and the goal, as you'll see in this language, is to put forward a process that -- i think the term is frictionless, or whatever -- put it forward in a way that doesn't create barriers. So, again, the goal is public safety. And i just have to say i do not believe that we have to choose between public safety and transportation. We are an innovative community. Our tncs are innovative companies. I know -- i feel very confident that we can come forward with a process that involves fingerprinting that does not result in an onerous process for our drivers. That's the concern that we're hearing from the tncs, is that they are concerned that if we put in place fingerprint process, it will be onerous for drivers, and drivers will not want to drive with them. Well, i'm just saying that i don't think that that's the necessary result of what we're talking about. I think that we can -- it is our job to protect public safety, and i think we can have a community that is as safe as possible, using the standard for public safety, which is fingerprinting, without sacrificing our ability to have a good transportation system.

[7:10:55 pm]

So very quickly, i just the to

-- i just want to run through what's in this proposal. The first bullet is to align the background check process for tnc drivers with the process for taxis so that the check is conducted nationwide for both types of drivers. The second bullet is to align the driver eligibility standards for tncs with that for taxis so that a activity so a history is treated the same. The third is to add a fingerprint requirement for tnc drivers that collect the same fingerprint information for tncs as is collected for taxis and every other ground transportation driver in our community. The last one recognizes our concern that doesn't create a barrier for drivers, and that's to authorize our transportation department to contract with a third party to manage the fingerprinting and background check process so that the process can be completed quickly and does not create barriers for on-boarding drivers. Now, i want to say just two -- a couple of quick things about that. We recognize that what that means is, you have to be able to -- let me back up for a minute. What that means is a process that offers multiple options, times and places and days that a fingerprint can be obtained, that recognizes that we're talking about one process, not multiple processes, where you have to go many different places. We're not talking about that. And a process that

recognizes that -- that adjudication needs to take into account and provide for things like resolution of arrest records and things like that.

[7:12:55 pm]

So the final be it further resolved, you'll see this is an item that we added after discussion at our work session. And it's designed to address the kinds of questions that my colleagues have raised, and also to provide either -- even more detailed information for us as a council that will be available to us when the proposed ordinance actually comes back to the committee and back to the council. So it directs the city manager, in conjunction with the transportation department, to do a series of analysis and produce a report for us. And those relate to the effectiveness, it's directed to produce a report, and make recommendations of the effectiveness of criminal background checks, again that are designed to match the person whose background is checked with a person who's applying to be and is ultimately the driver, making that match, and that that report should include fingerprint based and name based background check processes, and a recommendation for which process best protects public safety. The second part is the recognition that there's an impact -- there can't be an impact on our community, whichever way we go, and so this asked for the city manager to come back to us with information about the potential impact on the city of whichever -- whichever kind of criminal background check process we end up with, including any options for mitigating any impact. So -- so with that said, i want to turn it over to -- to my colleagues and see if they have any comments on the committee, councilmember garza, councilmember gallo, is there anything you all would like to add at this point?

>> [off mic]

>> i just want to make sure i've laid this out. If they don't want to add anything, that's fine.

[7:14:58 pm]

>> i guess i would just emphasize that that conversation has never been about uber or lyft leaving. We recognize the value that you bring. Tncs are a necessary part of our transportation system. We're just trying to balance that with what we have been told is best practices for public safety. So i just want to really emphasize that. I don't want tncs to leave austin, texas, and i hope we can find a balance so you can continue being part of our community.

>> mayor adler: okay. Yes. Ms. Gallo?

>> gallo: and i would say the same thing. I mean, we -- as we try to keep only safe drivers on our streets, and we have alternate transportation options for people that perhaps shouldn't be driving, you know, we certainly want to encourage all of those options to stay in austin and help -- help us provide safe streets for our community. But the directions were very clear from the resolution that was passed by the previous council on tncs. Two things were to happen, is the council -- the evaluation of the original resolution in the beginning of the regulations was to be revisited by the council after six months, which would have been in april, and we're a little behind on that, but we're doing it now. And then the second part was the city manager was directed, very specifically, to make sure that the -- all the transportation companies were treated equitably and along the same lines with regulations. So i do think, as we sit up here on the dais, that the council really is responsible for policy. The city manager is responsible for operations. And as we talk about the responsibility for the policy of public safety, we look to the -- look to the city manager and our department to make recommendations as to what they recommend as the best practice for certainly background checks and what those would include.

[7:17:01 pm]

So i think that's been part of the discussion, too, is that we want to see a very thorough analysis with lots of stakeholder communication with the city manager, with the transportation department, to really determine what is the best safety, public safety procedure to use for background checks for all of the transportation companies, not just the tncs.

>> mayor adler: okay. Mr. Zimmerman?

>> zimmerman: thank you, mr. Mayor. I am the third member of that mobility committee, and i'm the only member that voted against these items. And my reasoning for voting against these started with -- well with, i'd like to point out a constituent in the back. See that no str sign back there? We had an outpouring of constituent demand for additional regulation on strs or enforce current ordinances. There's no question that our constituents wanted us to act on short-term rentals. There's no evidence that our constituents wanted us to do any of this. In fact, my e-mail box has been packed with constituents, drivers and riders from the tnc community, who do not want any regulation. And that's why i voted against all these items. Back when we had a discussion on the taxis, the level playing field argument came up, and i made the point that what we should have done as to relax or to deregulate some of the taxi requirements, or to provide choices. When it comes to the question of fingerprints or what the background checks should be, why don't we extend a choice to the taxi franchises. If the taxi franchises believe that fingerprinting provides better background and checks, let them do that and advertise that as a benefit. But we should give them the choice. Weather give tncs the choice. They should have the choice because our constituents have made it loud and clear, they like the tncs the way they are. We have no evidence that the tnc background check is inferior to the taxi background check. We have no evidence of that.

[7:19:02 pm]

We have more tnc rides than we have taxi rides, and there's no evidence that the tncs are less safe, and there's no demand from the constituents for us to add any regulation to the tncs. So that's why i've been opposed to all of these. And i hope we can generate --

[applause]

>> so, mr. Mayor --

>> zimmerman: i'd like to hear from some of my other colleagues, the ones that weren't on mobility and let them --

>> i will defer members.

-- i'll defer comments. I think the statements you made are not factual, but i will defer comments. I think we need to hear from our speakers and then we can have a discussion.

[applause]

>> mayor adler: is there a newer draft of the -- of what you're going to propose?

>> yes. That's what i put up and went through. It's on yosemite you have a whole packet that says tncs on it.

>> mayor adler: all right. So we'll go now to public speakers. We have -- this has gone to our committee. We're going to have eight minutes on each side. Speakers have been chosen by their perspective interests. We're going to -- i want to call mike lesko first, speak for five minutes. Then i'm going to call adam blenek, and jed bowie. Welcome.

>> and, mr. Mayor, would you begin, and if we could take like ten seconds not in his time to just plain to people what your background is.

[7:21:03 pm]

>> my name is mike lesko. I'm deputy assistant director for texas department of public safety for law enforcement specifically over crime records. In my capacity there i oversee the automatic fingerprinting identification system, a computerized criminal history system, sex registration system, the national crime information center, and the texas crime information center, as well as uniform crime reporting in the state. In addition to my state duties, i serve on the fbi's advisory policy board. I chair their identification services subcommittee. I also serve on the compac council, privacy and contract council, charged with criminal justice data for non-criminal justice purposes, specifically for applicant screening.

>> mayor adler: okay.

>> so that is my background.

>> mayor adler: go ahead and start. You have five minutes, sir.

>> i was asked to come and talk specifically about the differences between fingerprint checks and name based checks. When you're doing a background check, the very most important thing is to have proper identification so you know who you're actually talking about and whose criminal history that you're looking at. That can only be achieved through fingerprint checks. Name checks cannot do that because names, the way that they're set up for name checks, it takes induce premise that an individual that's applying for a job or conducting one of these name checks is using the same name on their application they did when they were arrested. And that's a very bad premise because in the law enforcement community, we have seen that criminals have a tendency to lie. And i know it comes as a shock, but that does happen. And unless an individual commits a crime in a jurisdiction and uses that same name on an application, you're not going to miss him -- or you will miss him. Additional problems with name checks are false positives, because a lot of common names are available, an individual applicant could have, as a base root name check, incorrect information brought against him because it's not him, because it was a common name.

[7:23:11 pm]

More important, or more drastic, is the false negatives. That's where an individual goes in, he does have a criminal history, but because of a name check, that name does not come up, and the individual is subsequently exposed to vulnerable populations. This is a real fact. The fbi did a name check efficacy report where they take over 690,000 individuals and ran their fingerprints and ran their names in a parallel format and found that 11.7% of the individuals that hit on fingerprints did not hit on name checks. These individuals would have been put in positions of trust or involved with vulnerable populations. So name checks are not good in establishing the individual's identity. Additionally, name checks do not serve to protect the privacy of individuals that are not the subject of the check. Because there's going to be multiple names coming back. And that name needs to be adjudicated to determine if it is potentially the individual of the application. You're exposing criminal history of other people that don't belong in the applicant process. Finally, what we don't have with name checks is a relief on disability program. With both the federal and state level, when you do a fingerprint check and you say that's not me, you have an avenue to challenge the record, not only about the identification, but also the content of the criminal history information. With name checks, you do not have that ability because it's simply a name check. There's no way to prove up it's not you. So we have those individual issues there. Once we get past the identification, it's a question of where is the source of the data? With name-based checks, it's unclear where this data comes from. It's basically data aggregators that will go to courthouses, police departments and sheriffs offices, some state agencies, and gather this data and put it together.

[7:25:12 pm]

We have seen issues in the past with name checks where they misaggregate data where my information may be aggregated with another individual of the same name, and presented as mine. So we have that issue. With Texas, we have access to all the information in the computerized criminal history system. That information, by chapter 16, code of criminal procedure, includes all arrests in the state of Texas that are class B misdemeanors and greater. At this time we're talking about 8,700,000 individuals that are responsible for 22,944,000 arrests, of which there's 26 million charges. We also have over 19 million, almost 20 million dispositions from the courts in our computerized criminal history system. Additionally, fingerprints allow access to the federal database. You are not allowed to do a name based check against the federal database for criminal justice purposes. At the FBI there's over 70 million individual records that are available for the folks to be able to adjudicate against. In addition, at both the state and the federal level, you have access to individual sex offender registration records, done by fingerprints, so that we know it is the individual in question. One other part about the data itself is the timeliness of the data. As I said before, data aggregators that do name checks have to go to all the different places and sources of data which takes a while for them to get and subsequently aggregate. With the records at the federal and the state level, the updates are near realtime. The individuals are arrested, we have live scan devices in the state of Texas. Over 95% of our arrests come in via live scan, which means the individual is arrested --

>> Mayor Adler: you can go ahead and finish your thought.

>> They're rolled in and being able to provide that information quickly. Finally, with fingerprints, you have the ability to do what we call wrap-back, where we can retain those fingerprints, and if the individual offends again in the future, you can be notified of that offense, which is also beneficial for the applicant themselves because they don't have to go and get continually vetted on a monthly, weekly, yearly basis.

[7:27:25 pm]

It provides a service for them as well. I guess I'm done. I ran out of time here.

>> Kitchen: I have a question.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: could you -- could you speak to the -- there's one -- there's two issues I'd like to you speak to. The first one has to do with the length of time that it takes to run a fingerprint check, then the second issue relates to -- you know, there's some level of concern about arrests that may have been resolved and not resulted in a conviction. So if you could speak to how that is generally handled and protected against also.

>> Well, with regard to applicant fingerprint checks, we do electronic submissions. We have a live scan network across the state called Fast, fingerprint applicant services of Texas. You can go online, make a registration point, go in it takes approximately 15 minutes to have the fingerprints rolled. They're submitted electronically to the department. We run them through our automated fingerprint identification system. Once we facilitate an identification or a non-identification, we send it to the FBI. It averages about three hours on fingerprint submission turnaround time. On both the Texas and FBI response, we push back to the authorized agency to see it, we're out of the picture at that particular part. With regard to arrests that do not result in dispositions, obviously, the individual has the opportunity to bring forward information. They're able to adjudicate or help with the adjudication of that process by providing court records that are associated with their particular arrest event that may not have been submitted to the department.

>> Kitchen: thank you.

>> Mayor Adler: Ms. Tovo.

>> tovo: thanks so very much. That was really useful information. I appreciate you taking time to come here this evening. I have just a couple questions.

[7:29:25 pm]

I know you covered these points but i just want to be really clear on them. So the background checks that you're talking about that have access to state and federal criminal records, those are not accessible by private companies.

>> that is correct. The only thing that's available for a private company within the state of texas is the criminal history records that are public. So from our repository, only those offenses that result in a conviction or deferred adjudication are public. So new outstanding arrests, dismissals, what have you, are not public information, so the private aggregator would not have access to that from the department. They can go to the courthouses and obtain that information, but they have to go to all of the counties, all 254 continental airlines all 1196 law enforcement agencies, to get that and put it in a realtime manner. It's not very effective.

>> tovo: right. Then you talked about the wrap-back service, and that, too, is something that a private company wouldn't have access to.

>> they could not do that because it requires fingerprints to be actually retained in an automated fingerprint identification system and have subsequent arrests submitted to that automated fingerprint identification system to facilitate that wrap-back.

>> tovo: okay. Thank you. I appreciate it.

>> mayor adler: mr. Zimmerman.

>> zimmerman: that's very useful, very interesting information. There are, i believe, eight pieces of information that uber uses to corroborate -- they're not silly enough to just go out and match a name. They'll do birthdate, social security number, driver's license number, lots of pieces of information, but i believe we have adam blenек. Could i ask him to come --

>> mayor adler: he's one of the speakers. He's one of the speakers.

>> zimmerman: very well. Thanks.

>> mayor adler: any further questions for this witness?

>> kitchen: yes. I'd like to follow up on what councilmember zimmerman appeared to be asking. That is, when you're talking about name checks, just to we understand, when someone submits a social security number, or i forget the other one councilmember zimmerman was bringing forward, the other documentation, tell us how that, would.

[7:31:36 pm]

Is that not a name check?

>> it is. It just supplements a name check to try to provide additional information for the actual check itself. But we have seen, and i testified at state legislature on this very same topic, and at the time, we had a particular uber case where an individual picked up a young lady and she couldn't remember where she was going home, so he conveniently took her to his place where he sexually assaulted her. When we looked at the criminal history of the individual that was available, he had individual arrests that were disqualifying but were not seen because they were not available through a name-based check. They were only available through fingerprint check to authorized entities.

>> mayor adler: thank you. Further questions for this witness? Ms. Troxclair?

>> troxclair: i just want to understand your response to mayor pro tem tovo's question, that the information that is public is only convictions and that you have access to pending arrests and dismissals. But isn't the convictions the piece of information that is most relevant?

>> it really depends on the adjudicator. What is important for them to do the adjudication. I'm not a social scientist so i don't pretend to know what they want to look at. It's important to know that's only texas records. None of that is available from the federal government. So anything that would have occurred out of state is not available in that manner. It would have to go through a third party process to aggregate all that information on where -- where their jurisdictions are, how much data they have, the completeness of the records, whereas if you go to the federal government you get all of the arrests that are submitted from the localities. You have the arrest, then you can subsequently see you may be missing a disposition, but you can follow up, find the disposition and do the proper adjudication. It shouldn't be, i get the arrest, and because there's an arrest, i'm not going to find this person qualified.

[7:33:39 pm]

It should be due diligence in

--in following up on that disposition, but without that arrest event, you won't even know anything had happened and a potential disqualifier would be missed.

>> okay. I was looking at a report from the national employment law project that was released in 2013, and it said, quote: fbi records are routinely flawed. And it doesn't -- i don't have the rest of the information that expands on that, but do you -- i don't know what led them to make that conclusion, but --

>> i believe what they're talking about is lack of dispositions that are present at the fbi. It's somewhat of a misconception because of the way that the national fingerprint file is constructed. National fingerprint file is constructed in such a manner that arrests are sent to the federal government, but dispositions are not. Once people query upon the fbi and hit against that particular individual's record, a notice is sent to the state that contributed that arrest record to provide the disposition to the recipient. So the fbi does not maintain those dispositions, and quite frankly, you'll hear the term 45, 50, 55% of the arrests at the fbi have dispositions. That may be true, but it's misleading because a lot of those dispositions are held at the state level for those states that are participating in the national fingerprint file. Are.

>> troxclair: okay. Thanks.

>> mayor adler: mr. Zimmerman.

>> zimmerman: one other quick question on this we've heard a lot about hackers that have been breaking into computer systems. Now that there's more and more data on the cloud, it's not just department stores but federal -- you know, local and state federal governments are also being hacked. So i've got a real concern with mandating that more and more people submit biometric identifiers to go into some database in the cloud, and once there they're there, there is no way that you can secure and guarantee those biometric identifiers will not be stolen. And then once the biometric identifiers are stolen, now we've got huge problem because now people can falsify records more easily because they have biometric identifiers in addition to their other tricks of the trade of concealing their identities.

[7:35:51 pm]

So --

>> understood. The fingerprints are not stored in the cloud. They're stored locally. They are encrypted with 140-2 encryption to this. They're ubi transactions, which is part of itl specification. They're in crypted with also -- compressed, i'm sorry, at a 15 to 1 ratio. There's a lot of security wrapped around there. The latest hack was actually from opm's data, which is not the data that is being held by the fbi nor by the department of public safety. We have never had any hacks of biometric data. The fbi also hasn't had any hacks of their biometric data. So i can understand and appreciate your concerns, but i

believe that there's adequate protections in place to make sure that that biometric data does remain protected.

>> zimmerman: sure. But if it is, not yet, but when it is -- it is amazing how hackers are getting more and more access to data. After you get the data, you can encrypt it to do something with it, but there are always leaks in any data system where data could be available to be hacked before it's encrypted. But if that they have the of -- if the theft of biometric identifiers happens, what's going to be the liability of the government? I think there's going to be no liability. The biometric identifiers are gone and people that lose it, they're out of luck. It the government going to pay the people that lost their biometric identifiers?

>> i really can't speak on hypotheticals. We have the --
[applause]

>> mayor adler: okay. Hey. Hey. Huh-uh. Please. Any other questions for this witness? Ms. Garza?

>> garza: it sounds like when you were talking about the checks that are done through the biometric, the fingerprints, it sounds like it's kind of realtime, whatever is available.

[7:37:58 pm]

Do you know the third-party folks who offer a background check, are they constantly updating their information? Is it done -- like is it done on a periodic basis, and what is that periodic basis?

>> i really could not tell you because i do not know their sources of data. I do not know what the -- their sources allow them to do. Some of these have to go to courthouses where they go in with pen and paper and they copy down some of the court dispositions. Some courts allow for electronic dumping, i guess you could say, of their records. It's different from jurisdiction to jurisdiction to jurisdiction across the country, so we don't know what data they can get. We know -- we don't know how often they can get it, how often they have to go back to the courthouses to get it, whereas the information that's in the state repository and the federal repository are basically updated realtime.

>> garza: thank you.

>> mayor adler: anything else for this witness? Mr. Casar.

>> casar: mayor, i have a question for my colleagues around how the fingerprinting would work. Based on that answer, i may have a quick question for this gentleman. So as you all know, we're going to be bringing soon, i believe, to the council a policy decision around fair chance [inaudible] which would make it in austin that you would wait until the latest stages of the employment process to consider somebody's criminal background and would make it accepted in the places where it wouldn't work because there's some professions where it's not allowed by law. But in most professions, would make it such that it would be illegal for you to consider, for example, somebody's arrest history if they -- if they indeed were not found and convicted of anything, and that you would only consider relevant convictions. So considering that's a pretty serious policy consideration we're having, i have -- i just want to understand that if we do the fingerprints, do they come back to the city and then we distribute them?

[7:39:59 pm]

Because if so, i would want to ask if we have the ability, when we get that information, for us to eliminate, for example, arrest data that results in no conviction so that we're not disproportionately impacting those communities that are disproportionately arrested and not convicted of anything.

>> kitchen: okay. Well, then i have two responses to that. I don't know if our staff -- i'm sure we may need mr. Thomas to speak to this but let me give it a shot first. But two things. We are -- as part of this resolution, we are asking our staff to come back to us, and as part of them coming back to us, they would be telling us the whole design of the system. Now, we have put together what we think it would

look like, and that's a flow chart that we've shared with you. But at the end of the day, what you would be voting on would be what would come back to us, and that would specify the process. Now, with that said, the thinking -- well, two things. The thinking is that, yes, the data comes back to -- the check comes back to the city, and the city adjudicates, as our speaker was speaking to. And adjudication means that our staff would both run that information against whatever as a policy this body decides is what's -- what would disqualify a driver, and also as part of that process, there's the opportunity to -- for a -- you know, to make sure that if there was an arrest without a resolution, that that information was -- was taken care of. And i do know that right now, with taxi drivers, that our city staff does have a process where, if there's an arrest, for example, or something else about the paperwork, there's a process for an appeal process where our city staff works with the person who's applying to make sure they've got right information.

[7:42:06 pm]

>> casar: so what you're saying is rather than -- is that the city would be able to take the raw information given to us and ensure that only relevant conviction history --

>> right.

>> casar: is considered and distributed for those companies to make their decisions.

>> kitchen: the city would make the decision.

>> casar: right.

>> kitchen: and, yes, they would make the decision based on the policy that this council sets for what's appropriate.

>> casar: when i say make the decision, i guess i ultimately meant that tncs still have the option, of course, to make a decision on who they want to contract with.

>> kitchen: sure.

>> casar: but ultimately that the city would be the one that could set our own policy, and should, since it's part of the eeoc guidelines, only consider relevant history, or open arrests, which i think clears up some of the confusion and communication that i've received that this is going to -- i think that there are other concerns that i know we'll be talking about, but as far as i can tell, we aren't going to be all of a sudden considering non- -- arrests that have been closed and have no essential nexus with being a driver.

>> kitchen: no.

>> just to clarify, federal and state law requires proper authorizations to get information from these systems, and if you pass an ordinance that requires the fingerprinting, you'll be able to qualify under 411.122 and 411.124 of the texasing government code, but that stipulates it has to come back to a governmental entity for adjudication. We do not make any adjudication standards. That is solely up to you. Generally what an applicant agency will do, we'll publish their adjudication standards so applicants know, going in, what is a potential disqualify. Disqualifier. You get the information, you adjudicate it, and make the suitability determinations yourself. This can be, as the resolution says, outsourced.

[7:44:09 pm]

But it has to be an approved process by the system officer for the state of texas, which happens to be me.

[laughter]

>> kitchen: okay.

>> mayor adler: anything else for this speaker? Thank you, sir. Next witness we're going to call up for two minutes is adam blenek. , then jed.

>> thank you very much, mayor, chairman kitchen and council. I really appreciate you having me here today. First, i just -- out of interest in time, i will not address the fees item. We do have issues with it but obviously there's a more pressing matter in front of us. I want to start by saying that uber has a very thorough, rigorous background check process. It is much more robust than the process that was just described. Indeed, we do collect a lot biographical information from every applicant, motor vehicle record, social security number, driver's license, date of birth, insurance. And i really want to stress that it's the same process used by companies like care.com, ups, and fedex, companies that sends employers and contractors into the homes of thousands of austinites every week. Our background check process is simply one part of a comprehensive safety regime that covers every trip end to end. Being mindful of time, i can't get into all the details here, but we've circulated the document. I think you'll see that there would be a lot of work that would have to be done with taxi in order to bring them up to the level of safety that we provide end to end for our riders and our drivers. The proposal in front of you today would set austin back. It would require an unnecessary

[7:55:56 pm]

If i may --@[applause]%-@>> if i may, just to address that comment, i really think it's important that we take a broader look at what we're talking about, when we're talking about tncs and safety. Background checks are important. No one is questioning them. We believe firmly in the thoroughness of our process. It's only one part of the security regime. We have ps tracking of every ride. No one is anonymous in any ride. We have abilities to share information in realtime. There's a 24/7 response team, every ride is rated, we are constantly collecting information about the performance of our partners and riders. We sometimes lose the forest for the trees when we get into a conversation about background checks, which i'm more than happy to talk about. As i said, i will vigorously defend our background check process. But i do believe that when we're talking about tncs, and we're talking about - the vehicle for hire world, our processes, start to finish, are unrivaled.

>> mayor adler: ms. Gallo.

>> gallo: thank you for being here to answer questions. You know, i just wanted to read something that was in the statesman. And you addressed this also, but, in the statesman yesterday, it was a quote by uber's chief adviser. It says our big issue with fingerprinting is we think it disproportionately affects the minority communities. You know, we've spent probably three months working with the transportation companies over the summer, and had the opportunity to have many of the members of that community in the city chambers. And i see a lot of that community here tonight. And so i'm very visual. And i think this would give us a good image of the potential. I would never support a policy which has a discriminatory impact on any part of our community, but i would like any of the members that have been fingerprinted as part of either a taxi, being a taxi driver, or pedi cab driver, that have already been through the fingerprinting process that our transportation department does and implements, if you could raise your hand for us.

[7:58:12 pm]

So, if you have been fingerprinted as part of the process already. That, to me, looking around, says that this process is not discriminatory.

[applause]

>> mayor adler: thank you.

>> may i address that quickly?

>> mayor adler: yes.

>> we're talking about two very -- i appreciate the comment, councilmember gallo. I think it's important to note we're talking about two very different industries here. Our industry is predicated on us getting a lot of people who are willing to drive a very little amount of time. These are not -- mostly -- professional drivers. Currently, the average is 50% of our drivers drive less than ten hours a week. That number is declining. When we partner with groups like the urban league, the naacp, the hispanic chamber of commerce, to bring on 5,000 new driver partners in east austin, these are not people that are necessarily going to be on the platform full-time. They are going to be doing this to supplement income. It's much -- value. So, i think it's very important to know that we're not trying to attract a few hundred people to drive for 60 hours a week and pay a company 400 bucks a week just for the right to drive. We are partnering with individuals in the community and we want to grow it as broadly as possible, and the system in place works for that purposes.

[applause]

>> mayor adler: you know --

[applause]

>> mayor adler: just to reiterate what councilmember kitchen said to start with, the ordinance that is before us today is in significant part asking us to look at background checks, to look at both fingerprinting and background checks that do not involve fingerprinting. The language specifically says that the city manager is asked to produce a report to make recommendations regarding the effectiveness of criminal background checks designed to match the person who's background is checked to the person who is driving.

[8:00:22 pm]

This should including fingerprint and name-based background check processes, in a recommendation for which process best protects public safety. In addition, the manager is asked by this resolution to direct and analyze a report on the city adopting each of those different scenarios. And i think that's good, because we're not going to be able to decide here tonight which would be the better direction to go. And we still have 28 things on our agenda when we pass this asking for report. That said, i will point out to you that important part, this resolution that i anticipate is going to get passed directs the manager to initiate an amendment process that does include fingerprinting. It will come back to us the same time the report comes back to us. And the reason i think that it's coming back indicating that we at least want to see an ordinance that addresses fingerprinting is because we're being told from a lot of different places that that's the most reliable way to bio-metrically ensure whoever it is that is driving the car is actually the person whose background is checked, because the person who is driving the car had the fingerprints done. Now, there will be the opportunity over the next four to eight weeks, however long this takes -- four weeks is the process before it will come back. My hope is that uber will be involved in that process, and be part of those conversations. I look forward to hearing what comes out of the conversation when uber sits with mr. Lesco to discuss specifically what the alternatives are. I'm going to want to hear his assessment of what it is that you do, and to see whether that's consistent with or changes what he said when he testified, because he does come into this place as a very credible witness for us to talk to.

[8:02:33 pm]

And i also want you to take seriously, and to take back to the uber folks, that this is austin, texas. And austin, texas is an innovative place. And we would hope that in addition to finding solutions and disruptive technologies that work, like uber and i will of and lyft, which have picked up as many rides as taxis provide at this point, there's obviously a demand in the community for this. But we're a creative

place, and we really, strongly want to understand and learn exactly what the reticence is for participating with fingerprinting. And i've heard you say that there are better systems than the fingerprinting, including the one that you use. And i hear that. And my first impulse is, maybe we should require them both. Maybe we should require --

[applause]

>> mayor adler: the eight-point check that you have, plus the fingerprinting. I mean, that would be one possible answer to this. But yet, i hear that doing the fingerprinting doesn't fit with the business model that enables uber and lyft and similar technology companies to be able to provide the service in the first place. That's a concern. But i want us to be able to understand much better what those problems are, what the friction is, what the challenges are in hopes that as a community, we might be able to help solve those issues, or get past those issues. I know there are -- you know, in order for the uber model to work, you have to have 10,000 drivers to ensure that there are 200 on any given evening at the corner when i pull out my phone, click on my app, and want the car to be there in two minutes.

[8:04:34 pm]

You have to have that universe. But even that said, maybe there's a way for us to make it quicker to get. Maybe there's a way to reduce that friction. Maybe there's a way to ensure that we are the ones doing it so that there's not an employment-related question, if that's what the resistance is. Whatever the resistance is, i'm encouraged by the article that appeared last evening in forbes magazine last evening, where it looks like -- and, you know, i'm just reading from forbes, i don't have any independent knowledge of this -- that uber is quietly testing fingerprinting in california with drivers. I would point out to the drivers in the audience, it's also reported that participating drivers got four \$50 visa credit card gift certificates to participate, just in case we can get a little demand to drive to test. But, this might be a good community to test possible solutions. So, again, i would hope and urge -- you know, the company was quoted as saying that it's always looking at ways to use technology to improve safety for riders and drivers before, during, and after a trip. And i want you to participate. What we have set up is a community conversation that's going to occur here over the next four to six weeks, and i want to enter into -- for my position, with as open a mind as i can, trying to take into account both safety concerns, and take into account concerns related to business models, hoping to conclude, as councilmember kitchen has, that there's not a conflict between them. That we don't have a forced choice. That we can actually find a way to maximize both the safety and maximize the climate that works for the industry.

[8:06:42 pm]

So, i would look at -- and i hope that you look at -- what is happening here today, which i anticipate is going to happen if this resolution, as proposed by ms. Kitchen and a majority of the mobility committee, that it is a four to six-week conversation that we'll all try to enter into with a really open mind and see if -- i know this is a conversation that's happened in lots of different cities. I know it's been resolved a lot of different ways in different cities. Our transportation people tell us that in st. Louis, in corpus, in columbus, ohio, they have a fingerprint required for these. I don't even know if that's true. All i'm saying is we have four to six weekends to have a

-- weeks to have conversation, and my hope is if we enter into that conversation with an open mind and try to find creative solutions that nobody has yet to find to either have processes or to reduce friction, or to provide for business models that you and uber will put their most creative minds against it, too, to see if we can figure out something here that maybe might work for uber around the world. That's my thought.

>> if i may, just --

>> mayor adler: yes, sir.

>> i appreciate the notion that this will be looked at more carefully. As i said earlier, i believe to councilmember troxclair, i only ask that the discussion be broadened out beyond just background checks. We're happy to have a conversation about the quality of our background checks. We stand behind them. This is so much more than that. What we can do with our technology, with innovation, with partnering with cities, is something you could not have in an analog world. If we don't look at this comprehensively, we are going to lose the forest for the trees here.

[8:08:43 pm]

And some of the benefits, like reducing dwis, real safety matters that are affected austinities today will come at the expense of a process where we're looking at things through too much of a tunnel vision. The only other thing i ask, i understand there's going to be a vote soon -- since there is a desire to look at this, and there is going to be a dialogue, it would seem to me, speaking on behalf of uber, that's a conversation that should happen before any direction is given on a law. I know it's a bit bold for me to ask, and it's your decision, of course. But i would just ask that that be considered in this forum. Thank you very much.

>> mayor adler: in response, just real quick, it's important to make sure that you know, as you leave here, that what has been drafted and presented is both. It asks, as you were just suggesting, for not only a look at the background checks, but in that last resolved clause, that's the first paragraph. The second paragraph is the broader context. It's asking for the impact on the city generally. And i think that would enable us to consider all of those things -- all of those things which i think are important. My sense is that the council is going to vote to provide this direction, just because i think that reflects a general sentiment. But we wouldn't be asking for these reports if they were not meant to be read and studied. And if these reports lead us to a different place, then they will lead us to a different place. But it is important for you to know what the sentiment is, even as we are entering into these reports, me with very open mind and wanting to take into account that wide breadth of issues. Thank you. Any further questions for the witness? Ms. Garza.

>> garza: yeah. There's a lot of talk about -- you know, your background check versus what we've been told is best practices.

[8:10:47 pm]

And when you say that you're -- you send people out to the courthouses. So for everybody in here that's, you know, wearing an uber shirt -- for example, i've lived in travis county, bear county, and spokane county, washington. If i go apply to be an uber driver, you are sending a person to -- every single one of those courthouses just for me, to look at my record to find something that may or may not be there?

>> it would be a physical or a digital check, depending on what the courthouse provides. We would go to every courthouse to check for the records of wherever you lived. It only stipulates -- some states have limits in the period. We honor those. Other states allow for indefinite periods, and demand of us that we look back indefinitely. And there we do. But, yes, indeed, the short answer is, yes, we go to every courthouse that we are tasked to do so.

>> garza: so what if i hadn't told you i lived in those four, but i really lived in ten? How do you know that?

>> because we do a social trace check. We take your social security number and through a trace test of that, we pull a lot of data. So your ups, mail, fedex, job information, addresses you lived, the party provides that information and that provides a ton of information. If we can't reconcile that, if there is a

gap in your history that doesn't make sense, you're not permitted to be on the platform until we figure out what happened during that period in time. The way it works is, it's not a name-based check. That oversimplifies it. We're collecting a lot of information about the individual. It tells a lot about their history. And we have to paste together that history and check every -- as I said, we do that in every courthouse, regardless of if there's an indicator suggesting a crime has been committed. We check, in your case, even though there's no reason to think you have done anything.

>> Garza: .

[8:12:48 pm]

[chuckling] okay.

[laughing]

>> Garza: in college.

>> Mayor Adler: butter up the counsel there.

[laughing]

>> Garza: and I want to say, you made it clear that you want to be part of the conversation. And I have sat down with you a couple of times, and I think it's important that the company is part of the conversation. I would ask, in return, that we be fair about the messages that we're sending and the intent of what -- you know, we're trying to do on this council, because there have been messages sent -- councilmember Kitchen is trying to take Uber out of Austin, Texas. That's not fair. I'll also say, you mentioned the letter from the NAACP. And reading it, it's very clear they're addressing arrests and how minorities are disproportionately arrested. I feel like somebody sat down with them and told them, this is going to disproportionately affect minorities, and said whatever to convince them to agree to this letter, when the fact is, everybody so far who -- said we're not going to adjudicate drivers like that. If it comes up that they have ten convictions and eight arrests, we get to decide we're not going to consider those arrests. So I just ask in return, we want these companies to be part of the conversation, but it has to be a two-way street of appropriate and fair messages being sent both ways.

[applause]

>> Mayor Adler: Mr. Casar.

>> Casar: and I appreciate that the resolution includes the report back from the city manager on, sort of, the relative public safety benefits of different types of checks, but one thing I was asking for at work session -- and I won't ask them from both Lyft and Uber, I'll just mention it since you're standing here now, but, I've communicated this to the Lyft representatives, as well.

[8:14:48 pm]

There's also, what I'm hearing, some cost benefit as to how easily and quickly drivers get signed up, and what the relative gain or loss in number of drivers might be. Because for me, I, sort of, would need both pieces of information to make a sound judgment call, and that's information that y'all would be able to help us with, for what is the delta of improvement in public safety based on the decisions that we make. And then what is the effect on riders being able to get a quick ride. And I need to be able to balance both of those, since they aren't independent variables. So, you don't have to share that now, but as we make this determination, it seems to me that the city manager's report isn't quite enough information for me to make a good decision. I need to be able to weigh those two and how they're connected, so.

>> Mayor Adler: okay. Further questions for the witness? Thank you very much, sir. The next witness is Jared. You also have two minutes. We'll see if you're up here for 40, as well.

>> Thank you. I promise I paid close attention in the corner. Notes taken. Again, my name is Jed, a representative of Lyft tonight. I wanted to thank you for your willingness to dig into this complex issue in

a meaningful way. I certainly believe it's critical to take the time to get it right. I wanted to offer a few thoughts on behalf of the company, but also a few questions that i hope you will consider in that four to six-week conversation moving forward, mayor. First, i want to say that will that lyftwants to be a good community partner. It's our hope that we've been here, we've demonstrated value locally in terms of helping address congestion some, improving public safety, and putting money back in austin's pockets. Our request remains the same -- to leave the current ordinance as it is. We believe it's working well and is used as a model in many cities across the country. We recognize we need to pay our fair share. We are on the record on that issue. I think our questions still remain in terms of how that is calculated and how we pay that fair share.

[8:16:52 pm]

On the record tonight, we are good with paying our fair share. The assessment of the tnc issue over the last few months -- it seems to be some assumptions that have been involved in the conversation. This is what i offer for y'all's deliberation going forward. One, there are things that are not working with the current ordinance. The luxury we have now is a year's worth of operating here. So, before prior councils, we were talking about different parts of the country. I'm hoping with this historic data in town, we can look at that and make decisions based on that. The second, i will say also that our background check process is incredibly similar to uber's, and part of the assumption is that something's not working with that. I'm hopeful by closer examination of that process, identifying the deltas of what is not being covered, we think they are. Having that conversation will be incredibly important.

[beeping]

>> mayor adler: you can finish your thought.

>> third, fingerprinting is the catch-off for the safety issues. We don't believe that to be the case. On public safety, it is paramount to lyft. We put a premium on that. Public safety, we agree. We want to be incredibly safe for the community. So, again, i think that comes down to how we best implement that going forward, and, again, thank you for your careful consideration of these issues.

>> mayor adler: thank you. Any questions for the witness? Ms. Troxclair.

>> troxclair: that's an interesting point, we have data and best practices now in our city after tncs have been operating here for a year. That's interesting to think about. In that year, i'm curious, do you know how many incidents there have been -- public safety-related incidents there have been with lyft drivers?

>> i do not, but i will work to get that for you.

[8:18:56 pm]

>> troxclair: okay.

>> mayor adler: okay. Further questions for this witness? Thank you very much.

>> thank you, mayor. Thank you, council.

>> mayor adler: next witness is ken. Mr. Cassaday, you have one minute.

>> i'll make it quick, he did a fantastic job describing the fingerprint process. I represent over 1700 officers here in the city of austin. The first thing i'd like to say, the officers of the city of austin are very appreciative of the tncs, the taxi drivers, lyft, uber. There's no doubt in my mind that it saves lives every day. It was very hard to get a ride home from 6th street until uber and pedi cabs and a lot of other people came to town. However, we do believe that the fingerprint process is the most valuable process to use. I can tell you story after story of predators that travel from state to state, county to county. And you would never find them in a -- the process that uber uses. Fingerprints is the only way to go. We support that. You would be making a big mistake if you do not require that for uber and tnc.

[beeping]

[applause]

>> mayor adler: okay. Ms. Troxclair.

>> troxclair: thank you for your feedback on that. And i mean, i agree with -- from my perspective -- yes, drunk driving, i think, has decreased over the past year. I don't know that.

>> the department has not come out on that, but i will tell you, in my opinion, it has.

>> troxclair: okay.

>> we're talking about other, more serious crimes. Dwi is a serious crime. We're talking about sexual predators and violent offenders.

>> troxclair: sure.

>> there's no way to catch them, especially the traveling ones, which is very common. And i can tell you story after story, to catch them unless you have a fingerprint on file.

[8:21:03 pm]

>> troxclair: right. So i'm just curious about -- the conversation so far has been very focused on how to make tncs more like taxis. And what i'm hearing from the tnc representatives is they want us to expand the conversation and recognize the safety features that they offer, and also look at, maybe, making other transportation options like taxis more like tncs. So, do you feel like there is value -- are you familiar with this list that uber handed out?

>> i've never seen it.

>> troxclair: with their safety features? So i guess i would just be curious about if something like a gps-enabled ride, being tracked, trip history, where you can rate the driver, cashless trips where you're not -- where the driver isn't handling a lot of money, map-sharing so you can send the driver's information and your location to a friend, if some of those things, in your opinion, would increase the safety of our taxis.

>> i think they would. There's no doubt in my mind they would. However, i came here to talk about the fingerprinting process. And i explained to you my experiences with that.

>> troxclair: thanks. No, i appreciate it. I think if we're going to have a conversation, we should have a well-rounded one, so.

>> mayor adler: okay.

>> i have a question.

>> mayor adler: yes, ms. Kitchen.

>> kitchen: could -- oh.

>> mayor adler: ms. Kitchen.

>> kitchen: okay. Thank you very much for being here on behalf of the police association. Could you speak just for a minute -- you said that you've had a lot of experience with regard to the violent offenders. Could you give us a little more detail about why you say the only way to catch them is with the fingerprint?

>> when i say that, i'm not talking about all sexual predators. We have sexual predators where it's common to use the railroad lines.

>> kitchen: okay.

>> or the bus lines from city to city, all over the country.

[8:23:04 pm]

There's specific cases i could go into. I never worked in violent crimes, but i did as a patrol officer, and then cases that i've taken where people have been sexually assaulted have been followed up by detectives. Someone that could answer your question is andy romero, the rest of the council knows, he

worked in sex crimes for over four years. He can tell you story after story of the reasons we need to use fingerprinting.

>> kitchen: okay, thank you.

>> mayor adler: thank you. Anything else? Thank you very much. I'm sorry, mr. Zimmerman.

>> zimmerman: yeah. One other quick thing, if i could. I think there's a common-sense point here about the statistics that show that minorities do get arrested in higher percentages, so they're going to get fingerprinted in higher percentages. If their booking does not result in any kind of conviction, it still seems to me that the burden is going to be on these people that were arrested, that were never convicted of anything. But if the burden is on them to prove --

>> it depends on how you set up the process.

>> zimmerman: it's still going to come back to that individual, because the way bureaucracies work, we all try to do the best we can, but it keeps falling back to our constituents to try to push something through when the process breaks down, which it frequently does, so.

>> i wouldn't be in support of saying if you've committed a crime that you are disqualified. To me, it needs to be violent crimes or multiple wis. To me, that would be easy to find out what exactly is happening and if it's been adjudicated.

>> zimmerman: the tncs refer to friction. It's just one more obstacle in front of somebody that doesn't allow them to be a tnc driver and gain that extra revenue. It's just another little piece of stuff, an obstacle in front of them. You know, they have fingerprints on file, they weren't convicted of anything. The records are messed up, and onus is on them to get it fixed. They say, they give up. That's the friction we're talking about.

[8:25:06 pm]

>> in the end, the police department and the city council is about public safety. If we're going to do it right, we need to go through that process, even though it's going to be a small inconvenience. I think they can get it done within three to five days, and i think we owe it to the community.

[applause]

>> mayor adler: thank you, sir. The next person to speak is boom blocker.

>> mayor adler: mr. Blocker, you have two minutes.

>> thank you. I just served seven years in the urban transportation commission. Had a good piece of designing that ordinance for you, that one-year ordinance of welcome. And so, when i, you know, think of safety and what we're talking about, i think of my mom and my sisters, and my friends. And obviously, there's, you know, a bunch of strong, independent women on this council, which is a good thing. You know, i was raised by my mom. So -- and, you know, just in terms of, like, getting the first uber ride, my sister was in from philadelphia. She was in councilmember gallo's -- that's where we live, my mom and my sister use it. You know, again, when i think about any of these, you know, regulations and rules, i think about my family. And i think about my sisters. And, of course, all of you do, as well. And so, again, i just -- there are things that the taxi industry could be doing that they're not doing, you know, in terms of sharing itineraries and seeing the picture of the driver and the car, and, you know, those things uber and lyft are putting a far superior product on the market, and that's a good thing.

[8:27:23 pm]

[applause]

>> again, any conversation moving forward, you know, i think that needs to be acknowledged. And we're in the middle of a transportation revolution. And transportation -- yes, there's lots of traffic. And, you know, there's things that we can fix, and things that we can do better. But there's been -- you know,

there hasn't been a lot of situations like there is in austin right now. And, you know, around the world, for that matter, e-cycle. When you're pumping a lot of money into the community, that's something to think about.

[beeping]

>> and every little piece of rule and regulation that you put, you know, every little burden, as innocuous -- again, i was on the urban transportation commission. So we tried to do the best job as we could. But every little piece you put on just makes the burden higher and, you know, stacks up against the tnc. And so when the company is, you know, involved in doing those types of things, then they're not able to innovate and, you know, produce the, like, uber access, which is, you know -- we're not talking uber access. But, just in terms of, you know, having to deal with little rules and regulations that might not be needed, they're not able to innovate and push new products that are desperately needed, because the accessible cab industry in this city has been abysmal for years. So, i don't work for uber. I'm just an engaged citizen. That's why i'm here. New guys on the scene are doing a better job and i'm all for it, so.
>> mayor adler: mr. Blocker, thank you.

[applause]

>> mayor adler: thank you. The next speaker is emily leblanc. Sara levine is the last speaker on deck. You have two minutes.

>> thank you, mayor, and council. My name is emily leblanc, and i'm the director of community advocacy at safe place.

[8:29:28 pm]

To our friends at the nursing and advocacy program, we work with sexual assault victims by providing exams and advocacy. In the past three months, we've worked with at least four survivors who were sexually assaulted or attempted sexual assault by a tnc driver. In each of those cases, the victim called a tnc to try to be safe after drinking alcohol. So as to not drive intoxicated. It horrifies me that in a woman's attempt to be safe she might instead be assaulted. It exacerbates a huge barrier to reported assault, because victims often feel guilt and shame when they've been drinking and don't report an assault. We want tncs in our town, and we believe the transportation options are a good thing, but we want those to be safe options, and believe that this is an issue of public safety. One assault is too many. And we believe that a fingerprinted background check can help make tncs a safer option for the citizens of austin. Thank you.

[applause]

>> mayor adler: thank you very much. The next speaker is sara levine. Is sara here? And we are back on the dais. Is there any discussion on this motion? Yes, ms. Kitchen.

>> kitchen: are we going to take -- let's take -- i would propose we take item 51 first.

>> mayor adler: okay.

>> kitchen: and i don't know if i officially did this or not, but i move that we pass -- motion for item 51, the one on the yellow sheet that we went over earlier. So i'm making the motion that we pass this.

>> mayor adler: it's been moved that we pass item number 51, the version that was handed out today that we've all been quoting from.

[8:31:34 pm]

It's been moved by ms. Kitchen, seconded by ms. Garza. Is there any discussion on this item? Ms. Kitchen.

>> kitchen: i would just say that i appreciate the discussion we've had with our speakers tonight, and i appreciate the opportunity to move forward and have greater conversation. And i appreciate the

statements from our tnc companies that they're willing to work with us as we move forward. I will also say that this motion moves forward an ordinance that includes fingerprints. It includes the four other items that we talked about earlier. I strongly believe that we do not have to choose between a risk of being assaulted and good -- and transportation options in our community.

[applause]

>> kitchen: i think --

[applause]

>> kitchen: i feel very strongly that fingerprints are a best practice. And i also feel strongly that we can find a way to have a process where we have fingerprints that doesn't create a barrier for drivers. And i must say, why wouldn't we? Why wouldn't we do everything we possibly can to protect the safety of people in our community? And i think that that is something that's nonnegotiable.

>> [off mic].

>> mayor adler: hang on, hang on. Ms. Kitchen, my view -- excuse me.

>> kitchen: may i respond for just a second?

>> mayor adler: i didn't -- you can respond, but i didn't hear what she said.

>> kitchen: i don't think she understands our process, because we've already had a full public hearing, which -- we had a long public hearing. And i am happy to speak with anyone. I know my colleagues are happy to speak with anyone as we go forward. But we've been listening to people, and we've been hearing from people. And i hope many of you were there with us a month or so ago when we spent a couple of hours talking with drivers.

[8:33:40 pm]

[applause]

>> mayor adler: okay.

[applause]

>> mayor adler: any further comments on this before we move to vote? Yes, mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I'd like to speak against the motion. I do concur with my colleague, councilmember kitchen. We did have public hearings on it. I think that our constituents have informed us, through the public hearings, through emails. I think this council has been informed that our constituency does not want these regulations for tncs. I think that's abundantly clear. And i think it's time for a vote. I think i'm going to lose the vote, but i think these regulations are a terrible idea. The constituents didn't ask for them, and i'm going to vote against them.

[applause]

>> mayor adler: ms. Houston.

>> houston: thank you, mayor. Well, unfortunate, my colleague doesn't speak for me or the people in my district. I'm sure there's a mixed bag of people who do support the transportation network companies, and there are also people who want public safety at the forefront of their concerns. They use both, and sometimes there are new ones out there almost every day. And so there are constituents in the district who are concerned about the safety aspects, and who believe that fingerprinting is the best way to go. I'm sure that's not appropriate -- something that people in this atmosphere feel is the appropriate way to go, but i -- unlike some other colleagues, i have had both. And so i think this is an opportunity for us to try to align so we have consistency across all vehicles that use our streets to -- and people -- they're hired by people to carry them safely to and from on austin streets. So i'll be supporting the motion.

[8:35:43 pm]

[applause]

>> mayor adler: i'm going to be supporting the motion, i just wish i had anywhere near the same level of certainty that my colleague at this end of the dais had, or my colleague at this end of the dais has. Fortunately, i can support this resolution without having that measure of certainty.

[applause]

>> mayor adler: what i do believe is that we have both an obligation to ensure that we have safety for our residents. And that's important. I also think that there is safety that comes from this technology being employed in our city. The questions are not simple. And it just doesn't turn on the validity of one kind of check. It turns on the validity of the comparison of efficacy across checks. It includes the services that would exist with checks, and without checks, or with those checks, and without those checks. I mean, it is, i think, a real important time for us to engage in this conversation over the next four to six weeks to see what we can discover. And i am pleased that we were given the opportunity to be able to vote for a resolution today that would move this matter forward without having to decide, ultimately, what the answers are. And for that reason, i'll be supporting this resolution.

[applause]

>> mayor adler: ms. Tovo. Ms. Tovo.

>> tovo: i just wanted to say that i'll be supporting the resolution as well. We had a pretty extensive conversation -- or maybe three extensive conversations about the time that the ordinance was being adopted last year, and this was an amendment that i supported. I supported an amendment to have fingerprinting at that point.

[8:37:45 pm]

I thought it made good sense, and i still do. In all of the research i've done, it appears that that is the most thorough way, and i believe we have an obligation and a responsibility to ensure the safety of our residents. And that's the best way to do it, so i appreciate the committee --

[applause]

>> tovo: i appreciate the committee for tackling these items, and for really looking at the gaps in the existing ordinance, and working to address them.

>> mayor adler: okay. Further comment. Mr. Renteria, and then ms. Troxclair.

>> renteria: yes, mayor. As one person that hasn't driven a bus or uber or lyft for the last three years -- so i really don't know about your services. But i know that i -- when i was applying for a part-time job, i was required to do a fingerprint background check. And it didn't hurt me at all. I mean, i paid my \$25.

[laughing]

>> renteria: and i got my report. That was it. There was nothing to it, you know. So i don't know where -- i just can't believe that someone would go through all the trouble of going to all these courthouse locations when they could just pay \$25 get the guy's information right there. I mean, it just doesn't make sense to me.

[applause]

>> mayor adler: ms. Troxclair, do you want to say anything?

>> troxclair: i think that one conversation that they had at the mobility committee that we didn't necessarily have here tonight was what the potential outcome could be of enacting an ordinance like this. And when we talked to the uber and lyft representatives we found out that both lyft and uber are operational in cities nationwide, but lyft does not operate in single city that requires fingerprinting, and uber i believe only operates in one city that requires fingerprinting.

[8:39:49 pm]

Because, as they've explained, their business model is different, and it affects their ability to get as many drivers as they need to as quickly on to the platform. So when we're talking about public safety -- and i struggle with this decision, too, because i understand where councilmember kitchen and the rest of the mobility committee members who have voted for these ordinances are coming from, with wanting to make sure that we protect the people in austin to the best of our ability. But knowing that lyft and uber are operational in virtually no cities that require the things that we're talking about tonight, the flip side of that to me is the reality of -- that we may not -- that if we follow through with these regulations, we may not have lyft, or uber, or other tncs operating here in austin.

[applause]

>> troxclair: and so what keeps me up at night is thinking about the dozens of austinites who die every year in drunk driving accidents. Not only the people who get in the car when they shouldn't be driving, but also the people who are hit by drunk drivers. And so, knowing that that is such a serious problem in our city, and knowing how difficult it is to often find safe rides late at night, or when someone has been drinking, or when they don't have any other alternatives available, i truly see that as a public safety benefit that the tncs are providing us. And so, yes, if we can do both -- and if there is a way to make this work that the tncs will stay in austin, then that is great. But the reality of the decision that's faced with me tonight is, enact -- or move forward with regulations that i think will drive them out of the city, and that are coming about despite the fact that there have been no issues that i'm aware of in the past year with any of the tncs that are operating responsibly in our city, or the flip side of the reality that we have austinites dying, you know, every month from drunk driving accidents.

[8:42:01 pm]

And so with that -- with those facts in front of me, i just feel compelled that i'm not ready to move forward with ordinances that i think history has shown will cause us to lose safe driving and transportation options for austinites.

[applause]

>> troxclair: and i hope --

[applause]

>> troxclair: to the taxi drivers in the room, i hope that y'all remember that i was a huge advocate for you as well when we had the conversation about taxis earlier this year. And so it's hard to compare the two services. Yes, they both provide transportation, but they're such different business models that it's very difficult to compare the two. And this is not an easy decision for me, and it's not to take away anything from the service that. You provide our community, because without taxis, we would have an even more serious drunk driving problem, so i appreciate you as well. I guess the only thing i would ask to councilmember kitchen is if she was open to it, reading the language of the resolution. I think based on the conversation, and your interest in making sure that we have comprehensive public safety measures, if we can, kind of, take to heart the suggestions that were made to not just say tncs should operate like taxis, but to say, let's take a comprehensive look at the public safety standards that both taxis and tncs are implementing to keep our riders safe, and make a change like in the first bullet point, align the background check process for tnc drivers and taxi drivers so that the check is conducted nationwide for both types of drivers, instead of aligning the tnc practice with the taxi process. And then in the second bullet point, say align the public safety standards for tncs and taxis, so a history of offenses is treated the same, instead of staying align the standards for tncs with those of taxis, so we're not predetermining the outcome of the public safety questions that we're asking in the resolution.

[8:44:13 pm]

>> mayor adler: ms. Kitchen.

>> kitchen: i'm not open to any changes at this time, but the reason is because what you're asking for is already in here. As you can see, it says amend the taxi ordinance to allow for a nationwide process. As we went through this process -- and the recommendation that's being made, you know, from the mobility committee is to do what you just said. It is not -- the first bullet recognizes that one of the values that we are learning from the tncs is that we need a nationwide process. So that's exactly what this says. The taxis aren't nationwide right now, and it says amend the taxi ordinance to allow for a nationwide process. So i guess what i'm saying is that what you're suggesting is already in here and i don't think we need to change the language to do that.

>> mayor adler: i concur with ms. Kitchen. I think that what this is, is in essence, to me, both a taxi and the tnc ordinance needs to change. And i don't think that anybody is suggesting at this point that one or other is the model to be adopted. And if i understand the testimony of the mobility committee, that was not the sentiment of the mobility committee. So, i suspect that out of this process, it's going to be something new, probably something that applies to everybody, but something that is not either of which we already have. So, i would agree with ms. Kitchen. I think the intent and how i read these words is not to say that tncs have to align with taxi drivers.

>> troxclair: can i ask a quick followup clarification?

>> mayor adler: yeah.

>> troxclair: councilmember kitchen, then, is it your intent that when going through this process, our city staff should take into consideration some of the things that are listed on this sheet, like gps-enabled rides and map-sharing and cashless trips, and trip history, and rating the driver, and 24/7 support, and all of those things are encompassed within the scope of the resolution?

[8:46:21 pm]

>> kitchen: yes, mmhmm.

>> troxclair: okay.

>> mayor adler: okay. Ms. Houston.

>> houston: yes, mayor, thank you. I just had a question about -- on the matrix that you gave us, chair kitchen. Could we -- is there any way to talk about ground transportation requirements, and not say taxis or transportation network companies? Because as i'm looking across this spreadsheet, we're talking about all ground transportation.

>> kitchen: that's right.

>> houston: not just the two entities that we've named.

>> kitchen: thank you.

>> houston: that would help.

>> kitchen: thank you, i appreciate that.

[applause]

>> kitchen: and thank you for that reminder.

>> mayor adler: okay. Any further discussion on this? There's been a motion and a second to approve item number 51. Is there no further debate? Those in favor of item number 51, please raise your hand. Those opposed? Troxclair and zimmerman voting no, the rest voting aye. The conversation will now begin. We'll now move to the next item. 51 passes.

[applause]

>> mayor adler: do you want to go down to the second tnc matter?

>> kitchen: this is item 50, relating to the permit fees. The resolution related to the permit fees.

>> mayor adler: it's been moved. This is item number 51. Is there a second to 51? Mr. Casar.

>> kitchen: i think it's 50. It's actually 50.

>> mayor adler: moves 50, second to 50 by mr. Casar.
>> kitchen: would you like to speak to it for a minute?
>> mayor adler: yes, why don't you lay it out.
>> kitchen: as a reminder, it offers an option to the companies. Either the total of the permit fee paid by taxi cab companies, the same as the cab companies pay.

[8:48:28 pm]

And councilmember houston, the reason that says taxi cab is because there's different levels for the different kinds of ground transportation companies. And the thinking was that it was the level of the taxi cabs that was the most appropriate, ask and that was 450. Or 1% of the tnc's annual local gross revenue. Now, i know that there had been some information requested from our transportation department in terms of the impact of the dollars. And i have provided that information in the packets that i gave you that came back to us from the transportation department. And so i suppose if anybody has questions, they're here to answer those questions.

>> mayor adler: okay. I think the public testimony addressed these matters already.

>> kitchen: yes.

>> mayor adler: does anybody have any questions with respect to item number 50?

>> zimmerman: yes.

>> mayor adler: yes, mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I do have a question about the legality of item number 2. We did hear -- i think it's in the transportation code, the law that affects that.

>> kitchen: mmhmm.

>> zimmerman: and the language of the statute seems to be geared towards taxis with the idea of 2% of the gross revenue of the taxis. And so -- again, because they are different models, very different business models -- i had mentioned the possibility of computing a different metric, which would be the total number of miles driven by tncs, total miles driven by the taxis, and come up with a cost per mile that would be a road use fee that i think was, maybe, envisioned by the texas transportation code. But that's absent. There's no language in here that, kind of, specifies what that -- you know, fee would be for. So i'd like somebody from legal to speak to that so i can be sure this can be legal, what we're voting on.

[8:50:37 pm]

>> hi, i'm from the law department, angela rodriguez again. The statute that we're discussing covers, as we know, vehicles used to -- for compensation to make money. It's -- we're going to do our fiscal analysis with ground transportation if this passes. And if you noticed on the statute, it's an either/or. We can justify -- we would have to justify costs -- the actual cost of administration and regulation. Or, the use of the road -- like that kind of fee. We also have to keep in mind that we already have a transportation user fee, so we couldn't do anything that would violate that. But like i said, once we get this -- if this were to be passed, then the financial and the legal department would be able to then give you a precise -- a more precise number and amount to go into the fee schedule.

>> zimmerman: and i guess the point -- probably the legal question would probably come more into play once ordinance language was drafted, right?

>> absolutely, sir. This is just giving us a direction, and then the law department would make sure -- the important thing to remember, though, is we could never go above 2%. We could never -- even if the costs were above 2%, we could never charge more than 2% of the gross revenues, according to the law that you're describing. Okay. Thank you.

>> mayor adler: okay. Further discussion? Mr. Casar.

>> casar: mayor, i just want to get some clarity from, perhaps, the chair of the mobility committee that if it comes back that more than 1% is what the council wants to authorize for good reason, that we aren't constricting ourselves by passing this, necessarily, at 1%, or by going just under or over 1% if there's good reason for it.

[8:52:42 pm]

>> kitchen: that's my interpretation, but i would ask our city attorney. I'm assuming that when this comes back to us in an ordinance form, if we have information from our transportation department, for example, with regard to cost, and if we decided that -- you know, 1.25% or whatever was more appropriate, that we could actually change that number.

>> you can give that direction right here. We've heard it and they can put that in there.

>> kitchen: okay.

>> if that's the appropriate number, then it will come back that way.

>> kitchen: okay.

>> mayor adler: okay. Further discussion on item 50? Ms. Houston.

>> houston: thank you, mayor. I thought that i heard one of the agents for one of the transportation network companies said that they weren't settled on either the fee or the percentage. And so, is there any way that you all could work -- continue to work with them to, kind of, figure out which one, or do they have a choice?

>> well, at this point -- do you want me to respond to that?

>> mayor adler: please.

>> at this point, we have asked both companies. And we asked both companies a while back what formula would work for them. And whether one of these formulas would work for them. And in fact, we asked them that before we even had our committee hearing. And we have gotten no definitive answer. So -- now that doesn't mean we can't continue to talk with them. We certainly can. But at this point in time, i can't tell you which they would choose, because they haven't told me. And they haven't suggested another alternative. They have said that they expect to pay a fee, that's as much as we've been able -- and i think that's the experience for councilmember gallo and councilmember garza, also.

>> mayor adler: ms. Gallo.

>> gallo: you know, that was part of the discussion, because we just felt like that, you know, every company in our ground transportation network has different business models.

[8:54:46 pm]

And what we heard from the tnccs is quite often, their population of drivers are more part-time drivers. So a fee per vehicle or fee per driver might not be as good of a choice as a fee on the total income that comes in. So it really does give them an option of which process, which fee collection process would work best for their business model. We also heard that there was a lot of reluctance for them to share income information with the city. And so if they were not comfortable with doing that, then the per driver fee would keep them from having to share financial information. So we just felt like it gave them more options. We wanted both of them to mirror more closely what the rest of the ground transportation companies were being charged. And we also talked about the fact that as we go into collecting fees from this section of the ground transportation service companies, it may allow us to go down and reduce the fees for all of the ground transportation companies. So there is a possibility as the transportation department evaluates this that it could very well be that the fees come down, which i think would be good for everyone.

>> mayor adler: ms. Garza.

>> garza: i just wanted to add, i know some people had to leave work session early. But the conversation was started at \$1 per fare, and then after the public hearing where no testimony was limited, we heard from every person that signed up, the clear message was, that's too much. We can't do a dollar per fare. And so we listened to that concern, and houston state law allows us 2%. That's what houston was doing. That's what was proposed. The compromise was to 1%. Because -- you know, as the uber representative was saying, you know, it's about a comprehensive look at all of this, not just at the regulations.

[8:56:50 pm]

I believe that was a little bit of a compromise. We're asking for a little bit more on the safety side through the fingerprints, we'll compromise on the other things. So, we have been really looking at this comprehensively and trying to come up with a fair package. Like i said at the beginning, we don't want them to leave. We want them to stay, but also respect the values that we place on our community. We put emphasis on public safety.

>> mayor adler: is -- did any of the tncs suggest what they thought was a fair rate?

>> kitchen: no.

>> mayor adler: ms. Gallo.

>> gallo: and i think it goes back to the equity issue, the equity of the charges between all of the ground network companies, transportation companies. But what we did hear was that there was some potential resistance to supply financial information on gross revenues to the city. And so that would give companies the option of doing the percentage. And actually, the -- drop to the 1% was the result of some calculations, i think, by the transportation department that said if the taxi cab companies were doing a percentage that what they were paying would be closer to the 1%, so i think that's part of the evaluation of the equity of a fair structure.

>> mayor adler: i

>> mayor adler: i understand that you're trying to do the best job you can. I understand you're not trying to max out the rate the state would allow. I understand you're trying to give uber and lyft options. It would be hard to come up with a fair rate if the person that you're regulating isn't participating, isn't helping. So i would ask, as part of this is being developed, that these companies come back. If this is not fair because -- to some degrees you're guessing.

[8:58:52 pm]

Because you're trying to figure things out based on unknowns that you can't know the answer to. And it would be helpful if you had a partner that was coming in and saying if we were the -- your council, this is how we would design it fair and this is why i think it would be the right thing to do. That would be helpful you need to press your mic button.

>> kitchen: i would just add the question that -- the appropriate question to a ground transportation company is, you know -- is how -- you know, how -- what might be a formula or a way of calculating? Not what the amount is. I mean, what we were talking about is an amount that's comparable to what we charge other ground transportation companies in line with the purpose behind the fee. Which has to do with the cost and wear and tear on the roads. So that kind of information we have. What we don't have is what are the different ways that you might calculate it? So we're putting forward two options of ways to calculate it, one of them being a fee, which is what we do with our other ground transportation companies. Another option is a percent of gross revenue.

>> mayor adler: i understand is that that and i understand you think you have a real good handle and may very well have a good handle on exactly how much the fee needs to be. But i would also like and would invite those companies to come back.

>> kitchen: sure.

>> mayor adler: if they thought that amount was an inappropriate amount i'd like to -- i would like to have that information as well. I would just like to learn as much as i can learn.

>> kitchen: no. I think that's appropriate. That's what the mobility committee asked for and we remain open to hearing that, as the whole council does.

>> zimmerman: mr. Mayor.

>> mayor adler: yes.

>> mayor adler: can i be recognized to make an amendment.

>> mayor adler: yes.

[9:00:52 pm]

>> zimmerman: to add. I move that we amend this resolution, item 50, to add a third point under the 1% tnc annual local gross, and the third one would read a mileage-based formula that would not exceed 2% of the gross revenue. But a number based on mileage instead of just being based on gross revenue, but based on mileage and that be applied to tncs and taxis.

>> mayor adler: so what was the wording? You added an or on number 3?

>> zimmerman: i may need some help from our friends at atd, austin traffic department, because we talked about this before. Could you maybe help me put this in a simple sentence of how you would craft an option that would be mileage-based?

>> assistant director, austin transportation department. Sorry, i haven't spoken in a while. Little gruff there. We used as a model the information we had available from the taxi companies for the year -- for last year. They drove about 37 million miles, of which 17 million of that was for revenue service. The franchise fee we received from those taxi franchises was 340,000 on 54,872,000 in fares. So if we just take the basic fees and divide by the mileage in revenue service, which i think is much more typical than the gross miles, that would be about 2 cents a mile. If we went to the 2% of the 54 million, that would get us at about 6.4 cents per mile. But, again, what state law provides is that we can do 2% of the gross revenue.

[9:02:58 pm]

I don't know that there's a mechanism really we can charge by the mile.

>> mayor adler: by state law.

>> speaker1:.

>> by state law.

>> mayor adler: state law allows you to do it either by the number of drivers or as a percentage of local gross revenues but --

>> no. I believe it's just by local gross revenue.

>> mayor adler: well, then how can we have --

>> because those are franchise fees, which are a little different. And. . .

>> zimmerman: okay. I guess this goes back to kind of the problem of the business model. It's always presumed to be taxi business model. I guess i'm looking for guidance for some way that this is a resolution again. I'm just looking for another way to investigate -- a third way to do a charge that would be basically mileage-based.

>> you can direct me to investigate it and i'll investigate it.

>> zimmerman: okay.

>> i just don't know the answer right now if we can or not because while -- what we've been focusing on is that particular provision of the transportation code, which would talk about wear and tear and use of roads or administrative costs. I can investigate that for you, of course. I just can't tell you the outcome.

>> mayor adler: it would seem to make sense if it's a cost associated with wear and tear on the roads, it would be mileage related. Mr. Zimmerman would it be appropriate to add a number 3 that said "or a comparable amount based on mileage if allowed -- if legally -- if allowed by law?"

>> speaker1: so moved. Perfect. Works for me.

>> mayor adler: do you have -- ms. Kitchen, do you have an issue with that?

>> kitchen: no. I accept that.

>> mayor adler: okay. So number 3 would say "or a comparable amount based on mileage if allowed by law " there's no objection. Any objection to having that added? Hearing none, that is added.

[9:04:58 pm]

Any further discussion on this item 3? Any -- i mean, on this item number 50? Those in favor of item number 50 please raise your hand. Those opposed? Passes unanimously. Thank you. That's all for those two items. Let's look at -- i think at this point --

>> gallo: mayor.

>> mayor adler: yes.

>> gallo: we had talking about

[indiscernible] at 9:00.

>> mayor adler: we had talked it being no earlier than 9:00.

>> gallo: shoot. I thought i could get that slid through.

>> mayor adler: there are a lot of people here who had wait for a lot of things. Item number 42 is a public hearing -- is to set a public hearing. This is the str. The question is -- we're going to set a public hearing. The question is should we set it november 12? Is there a motion to set the public hearing for the str issue for november 12? Ms. Tovo moves that. Is there a second to that? Ms. Garza. We have a lot of speakers that have signed up to speak on str. We're not going to hear any testimony on str. We will hear a discussion if anybody doesn't want to do it on november 12. Because november 12 is when we'll have the public hearing. We're not going to have a public hearing to talk about str about the public hearing we're going to have on str. Does anybody here want to talk about whether or not we should do this on november 12 or at a different time? Okay. Mr. Hirsch. Now, i have 156 minutes of speakers who want to speak on something other than the date, so i'm going to police this really closely.

[9:07:01 pm]

You're recognized to speak about november 12 or an alternate date.

>> mayor, i can support the november 12 date if i can be assured that people who are either not industry or not homeowners with complaints will be allowed to testify at the november 12 hearing.

>> mayor adler: we're not going to set --

>> because the process up until now has not allowed those of us who are not in either camp speak at either of the str hearings.

>> mayor adler: that's something you should probably talk to the council about and address when we bring up the hearing but you're okay with the hearing --

>> as long as we're allowed to speak, that's fine with me.

>> mayor adler: we're not going to be making any rules about what the hearing will be like because we're not set up to do that right now.

>> i understand, mayor.

>> mayor adler: but i understand. So does anybody else want to speak about whether we're going to do this on november 12? Okay. Then let's take a vote. Those in favor of setting the public hearing for november 12, raise your hand. Those opposed? The hearing will be set november 12. We have a similar public hearing to set with respect to item 43. Item 43, again, this is a -- to set a public hearing for november 19. Does someone want to move that 43 be set for november 19? Ms. Tovo moves. Seconded by ms. Garza. We have two speakers in case they want to speak about whether november 19 is the right day. Mr. Hirsch, you would like to speak?

>> same comment, mayor.

>> mayor adler: okay. Mine is the same comment too.

[laughter]

>> mayor adler: is david king wanting to speak? That's all the public testimony. Those in favor of setting the public hearing november 19, please raise your hand. Those opposed? We'll set that november 19. That's gets us up to item 49.

[9:09:14 pm]

49 was pulled by three speakers. I'm going to call them up to speak now. Public hearing. Mr. Hirsch, you're up first. Is amit here? Ananva? You have three minutes, mr. Hirsch.

>> thank you, mayor, members of the council, my name is stewart harry hirsch and like most in austin i rent. I'm asking you to pass this ordinance on first reading only because the posting language is too narrow. I appeared before the mayor's committee for people with disabilities to talk about the fact that we already have a public accommodations in title 25, not in title 2. So my suggestion is that the amend the existing language in chapter 25 that deals with ramps to include not just single family and two family but multi-family and commercial and then use the title 2 amendments to apply for all other accommodations that don't involve ramps. Last year we had a very deliberative process about balancing the need for people with disabilities with our goals relating to zoning setbacks and zoning and fire -- drainage and fire expression we ended up with an ordinance for those of us that actually install ramps for people with disabilities to create an expeditious process for those ramps to be in place. Like i talked earlier about uno, i think sometimes what we need to do as austin is take what works and replicate it where it works and then modify it in other areas that are cycle soant. So if you pass -- silent. So if you pass this on first reading tonight and start aid process to amend title 25 -- and i handed you a copy of the ordinance that council approved last year -- i would be okay approving this on first reading.

[9:11:18 pm]

>> mayor adler: questions? Any questions? Ms. Houston.

>> houston: no questions for mr. Hirsch, no.

>> mayor adler: okay.

>> houston: i just want to say that this -- this resolution has gone before the commission on persons with disabilities and the health and human services commission. We had testimony from an individual from the tenants -- austin tenants council and there was some things that she brought forward that were included in the revised resolution. There was one thing that was not mentioned, and that was about how to do a expedited process in case of an emergency. Could someone explain to me why that was not included in the revised resolution?

>> mayor adler: and, ms. Houston, we have one more speaker.

>> houston: oh.

>> mayor adler: that's okay. Mr. King, you do want to come down and speak.

>> houston: i'm sorry.

>> mayor adler: that's okay.

>> houston: i thought he was going to wave his hand no this time.

>> i'll be real quick. I'm just wanting you to please pass this as quickly as you can and let's do right by the people with disabilities so they can have access to the -- to our housing here in austin so i appreciate you bringing this forward and, again, just pass this as soon as you can. Thank you.

>> mayor adler: thank you.

[applause]

>> mayor adler: please come up for the question.

>> assistant city attorney. If a requester comes to staff and needs a almost accommodation, when they make that request to staff, they can notify staff that the time is of the essence and that timing is an issue and staff will be able to determine that during the process. The ordinance sets out the process for staff to grant the reasonable accommodation, gives them the authority they need, and also sets a deadline, absolute deadline, for staff to make a decision on the reasonable accommodation.

[9:13:22 pm]

And as such, they have the authority to expedite it if that is what the requester needs.

>> houston: i guess my concern is that for some people with disabilities, there may be some disconnects in trying to get through to staff that this is an emergency application and then being able to track it to make sure that -- that they've dotted all the i's and crossed all the t's. So i don't know what staff that would go to to make that determination.

>> so the way the ordinance is set up is that the department -- the director of the department who is responsible for that provision of the city code would be making his staff -- his or her staff would be making the decision on the reasonable accommodation. Under the ordinance, the director is required to provide the necessary assistance to the requester. So if it's, for example, as it came up in the committee, that they have a -- want to make a verbal request, then staff will translate that into writing for the requester, and during that process would be also when staff would be able to address the time of the essence, the emergency nature of the request.

>> houston: and what would the person's appeal process be? Would there be an appeal if they didn't think it was being expedited?

>> the way the ordinance is drafted, there's an appeals process if the request is denied or if the responsible director places -- provides a different accommodation than what the requester has asked for. I think in this situation if there's an issue where time is of the essence and staff is not understanding that, it will just need to be elevated and staff will need to address that issue.

>> houston: okay. Thank you. I'm willing to do this on first reading only. I think we need to work out some other kinks on.

[9:15:26 pm]

>> mayor adler: okay. Ms. Houston moves adoption of item number 49 on first reading only. Is there a second to that? Ms. Garza seconds that. Is there any discussion? Those in favor of ms. Houston's motion please raise your hand. Those opposed?

>> zimmerman: i'm abstaining.

>> mayor adler: 10-0-1 with mr. Zimmerman abstaining. That's item 49. That gets us then to item -- mr. Renteria, did you vote on ms. Houston's motion to approve item 49 on 1st reading only?

>> mayor adler: 10-0-1. That's what i thought.

[laughter]

>> mayor adler: the next item is --

>> tovo: mayor, i think we have --

>> mayor adler: the density --

>> tovo: sorry.

>> mayor adler: density bonus item, number 53. Do you want to tee that up, ms. -- mayor pro tem.

>> tovo: sure. And i know that there was a discussion about it at the work session. I appreciate councilmember casar for laying out the resolution on tuesday's work session, which i had an opportunity to watch on replay. So this is -- and i've posted on the message board so i'm happy to answer questions. I won't describe it extensively because i think we've had those conversations but this really seeks to close a gap in our land development code where developers can achieve significant increases in development and density for multi-family development without providing on-site housing. It's not been used very frequently, but it has been -- we have seen several cases already in the time that we've been together as a council, come forward, looking for mf-6. And so we are -- this resolution would, again, just begin a public dialogue about code amendments, but it would initiate a coat amendment to -- code amendment to change the multi-family 6 category into a density bonus program so if you are a developer seeking multi-family zoning there would be, once we've adopted the code, come through the process, come back to us and we've accepted it and voted it in, there would be an affordable component to it as there is with vertical mixed use.

[9:17:53 pm]

Vertical mixed use has resulted in something like 300 affordable units in various places in our city. It is i believe a successful example and one we should model so that is my proposal. Again, it's really starting the dialogue. It's asking the city manager to prepare a proposal that would require on-site affordable housing, as we've discussed a couple times today alone, requiring on-site to really start achieving diversity of housing in various parts of town, including high-opportunity areas. So that is my proposal.

>> mayor adler: okay. We're still on item number 53. Mr. Renteria? Motion for approval of 53, seconded by mr. Renteria. We have some speakers here to speak to this item. Number 53. The first speaker is amanda swahr. David king. Take your time. You don't need to run.

>> thank you, mayor, mayor pro tem, councilmembers. You know, this is really important. We have, you know -- we need to kind of equal lies the playing field with mf-6 zoning and vmu. And so that we can get the affordable housing that we need distributed in our neighborhoods here so i hope that you'll approve this so that we can have the density bonus program as part of the mf-6 developments. And when we do the affordable housing, you know, this is a good way to have it on-site and really disbursed throughout our neighborhoods across the city but i think it is going to be important to make sure that affordable housing is designed to be set up in perpetuity.

[9:19:56 pm]

So that it doesn't expire in 30 or 40 or 50 years. It needs to go in -- it needs to be required for once it's established. And it also needs to be set so that it's affordable to families so we incentive advice the developments for families, with children, so they can live in our neighborhoods and go to neighborhood schools. It should be affordable as well. We should have a requirement that it's affordable and that we get really, really down to the 40, 50, 60% mfi level so that we can really bring those families into our neighborhoods. So i hope that you will consider these comments, and move forward with this amendment as quickly as possible. Thank you very much.

>> mayor adler: thank you heidi gobrach is she here? Gus pena. James nelson. Ann teich. Karina malone. Sam hall. Lisa -- sam hall. Mr. Hall.

>> thank you, councilmembers. Back up again. I spoke a little bit earlier about the low-income homes and affordable housing for mobile home parks. And i represent hidden valley mobile home park and high meadows out in northeast austin, and we recently changed owners from -- mr. Scott roberts bought out the community, and he's trying to change different rules to get some of the people that are long-time residents there out, due to the fact of the high rents, towing of the cars, late fees, et cetera.

[9:22:08 pm]

So i support the item patience if you will. Item 53, if you will. Any questions.

>> mayor adler: no. Thank you very much. Lisa granados. And cam pope. Please tell me how i should have pronounced that name.

>> karen paup.

>> mayor adler: it has cam.

>> good evening, mayor, mayor pro tem, members of council, my name is karen palp, affordable housing advocate. I worked on the vmu stakeholder group and most of the other density bonus stakeholder groups when those were being set up. Item 53 is a good idea, and i ask you to support it. This is an opportunity to simplify the development process and at the same time increase the number of affordable units. The vertical mixed use overlay gives us a good idea of how a density bonus works in practice. Vmu replaces the uncertainty of coming down here and negotiating a zoning change and the time it takes to negotiate that with a process with clear expectations of what's expected of the developer. They get to use the existing zoning plus an increased amount through density bonus if they provide certain community benefits, including affordable housing, and the city can require affordable housing in this case because it's voluntary. The developer could use the existing zoning. The developer could do the community benefits with the overlay. Or the developer could come and negotiate for a zoning change to do the increased attempts that they want on the -- entitlements that they want on the land. I heard you discussing fair housing earlier. This is something that promotes fair housing because it goes where development goes, where there's an active market, where developers want to be.

[9:24:10 pm]

This helps to put affordable units into that area. And to see the success of the program of the vertical mixed use, just look at all the construction going on on south lamar or burnet or north lamar. We have -- mayor pro tem cited 300 units. I'm told we're getting close to 400 units already available to rent or in the pipeline from the vertical mixed use program. So i think this is a good program. It simplifies the process. It gets us affordable housing. And i ask you to support it. Thank you.

>> mayor adler: thank you.

[applause]

>> mayor adler: those are the last speakers we have. We'll now return back to the dais. Further discussion of item 53 mr. Casar.

>> casar: mayor, i have just a brief question of staff. About the language in the resolution to make sure we're headed in the direction i think we're headed. So i supported this at the committee level because i [indiscernible] and lots of places can bear on-site affordable units and we're actually seeing that i think bear out in the community. However, my concern is whether or not we're being -- whether or not the language is too prescriptive as to just tell staff exactly how to do this or if staff can provide us with what sort of changes to mf-6 might be necessary for us to maximize affordable housing in mf-6. So in the reading of the language, will you -- or will you just be bringing back amendments that will just do your best to mirror vmu offer do you think that with the current language you have the flexibility to tell us, well, vmu has different parking requirements or different setbacks and we might need to consider those

within mf-6 in order to get the affordable units that we -- staff, given our council's direction and goals want to meet?

>> jim robertson, planning and zoning department.

[9:26:10 pm]

If i read the language of the resolution literally, it seems consistent with the intent of the vertical mixed use. The use of the word "intent" there gives us leeway as i understand it to come back with recommendations that we believe meet the intent. If the intention, though, is to literally mimic vmu then it may be restrictive because there are aspects of mf-6 where you can't literally impose vmu on it and make it work well. I'll give you an example. One of the reasons that vmu has been fairly popular and, therefore, we have gotten affordable housing units is it gives relief from the minimum site area requirements, a requirement that each unit in a multi-family project be calibrated by a certain square footage on the site, in other words your site has to be big enough to support a number of units. Mf-6 zoning does not have a minimum site area requirement. Another carrot that has been attractive to projects utilizing vmu is far. It gives you relief from far. It doesn't give you relief from height or compatibility. Mf-6 doesn't have far. So in order to meet the intent of the vmu ordinance, we would probably need to come back with some alternative mechanisms to make it work. But if the council believes that, you know, the intention is for us to come back with something that accomplishes the intent, ie, providing certain additional attempts in return for -- entitlements for getting affordable housing and other things, if that's the reading of council then i think we have the ability to do that.

>> casar: great. I just want to be really clear that my intent to maximize the number of affordable units we get out of mf-6 properties, especially when folks are coming with a zoning case, that we want them to utilize this density bonus we're creating because we want to get the most affordable units we can get.

[9:28:22 pm]

>> right.

>> casar: and i want staff, who is going to be much better at this and the stakeholders that staff works with that's going to be much better than me on the dais to come up with whatever creative things they need to come up with as necessary in order to achieve that goal.

>> right.

>> casar: i think that's pretty clearly the goal of the chi and i just want to make sure that what we're passing communicates that clearly.

>> if that's the charge then we will do exactly that, come back with you with our best recommendation to accomplish that goal.

>> mayor adler: ms. Tovo.

>> tovo: yeah, as the sponsor of the resolution i'm happy to clarify the intent. I mean, it was -- the resolution talks about intent and doesn't use language like "please mimic or model or duplicate" for that reason. The intent is to create a density bonus program that will provide on-site affordable housing in the way that the vertical mixed use does and provide a certain level of community benefits in exchange for, as ms. Paup said, the predictability that the development community intends.

>> sounds like we're all on the same page.

>> tovo: i think that's right.

>> mayor adler: creative and constructive are your only constraints. Any further discussion on this? Ms. Gallo.

>> gallo: question of staff please, before you get too far. Come back. So i noticed in doing research on this that it looks like that there are 23 properties currently zoned mf-6 and it looks like all but two have

conditional overlays that already limit their density and/or the number of units. So in doing your evaluation and recommendations, you would also include recommendations on how to handle that? Because if we are talking about giving incentives for affordable housing, which i think we all are interested in doing, we seem to also have situations where we have already limited or those properties have been limited in what they can do. So will your evaluation be able to help us with that too?

>> yes.

>> gallo: okay, super thank you.

[9:30:25 pm]

>> mayor adler: any further discussion on this item 53? Those in favor of 53 please raise your hand. Those opposed? Ms. Troxclair off the dais, mr. Zimmerman voting no. The vote is 9-1, one off the dais. Okay. That then gets us up to number 56. Is this something that you want to hear now or what's your me, ms. Tovo?

>> tovo: mayor, this is -- can somebody tell me what 56 is.

>> mayor adler: short-term rentals. I don't know if you want to do that or hit some of the other things on the agenda.

>> tovo: i would love to get to short-term rentals. I understand there are a couple consent zoning items, i'm not sure we worked our way through those. If those are fast it might make sense to eliminate a couple of those quickly and then move back to short-term rentals.

>> mayor adler: i think we've hit the consent zoning items. We have 61 and 62, 61 is the korean united, i don't know how many of those 15 people are here. Five people on 62. Nine people on 63, which is mmk. Do you want me to call those first and see?

>> tovo: you know, it strikes me that that is going to be a long discussion. I was really talking about 70, i believe, is a corrective, that's a public hearing. I'm not sure that we have any speakers.

>> mayor adler: we don't.

>> tovo: i think it's just a corrective item so those are the couple items i was thinking we might knock out in case there's staff.

>> mayor adler: let's call up items 70 and 77.

>> thank you -- thank you, mayor, greg guernsey with the planning and zoning department, item 70, conduct a public hearing regarding the east riverside corridor regulating plan, relating to an existing drive through.

[9:32:33 pm]

The essence of this is a correction that we had left off one address for one existing drive through business located at 1701 east riverside drive. It was recommended by the commission in an 11-0 vote. I'm not aware of any position.

>> mayor adler: is there a motion to close the public hearing and approve 70 on all three reads? Mr. Zimmerman moves. Tovo seconds. Any discussion? Those in favor please raise your hand. Those opposed? Unanimous on the dais. Mr. Casar off.

>> item 71, this is conduct a public hearing and consider ordinance relating to subchapter f. This is the mcmansion regulations, relating to property within the east riverside corridor or a transit oriented development district, tod district. This is an area that when we did the original plan it should have noted an exemption for subcharter e and subcharter f. This would collect that to add sup chapter f, the residential design standards. It was recommended to you by the planning commission 11-0 vote, volted by the combined neighborhoods and the montopolis neighborhoods and we could offer this for -- close the public hearing and approve on all three readings.

>> mayor adler: is there a motion to approve item 71, close public hearing, approve 71 on all three reads? Mr. Zimmerman moves.
>> houston: i need to ask a quick question. Did you say subchapter e and f.
>> it adds subchapter f. E is already there.
>> houston: okay.
>> mayor adler: it's been moved by mr. Zimmerman to close public hearing, approve on all three readings. Is there a second? Ms. Garza seconds. Any discussion? Those in favor please raise your hand. Those opposed? It's unanimous on the dais. That takes care of 71.

[9:34:35 pm]

>> mayor, i could offer two more if you'd like of the same kind of genre.
>> mayor adler: let's do it.
>> item 72 indefinite postponement. I believe you have one speaker. This has not gone to the commission, it's going back to the subcommittee. Item 71 is conduct a public hearing, consider ordinance dealing with our mcmansion and residential design compatibility standards, specifically as it relates to garages and car ports, the planning commission has not yet finished their discussions of this item so staff would offer this for an indefinite postponement. We would have to renotify in order to bring this item back to council at a later date. So we offer this for an indefinite postponement.
>> mayor adler: this is item 70?
>> 72.
>> mayor adler: 72. There's one speaker on 72. Do you want to speak to this issue?
>> mr. King is waving at me no.
>> mayor adler: i saw that as well. There a motion to indefinitely postpone? Ms. Houston so moves. Mr. Renteria seconds. Any discussion in those in favor please raise your hand. Those opposed. It's unanimous. 72 is indefinitely postponed.
>> last item i'll offer of this kind of genre, conduct a public hearing and amending ordinance title 25 adding notification and a meeting requirement for the east riverside corridor regulating plan. The neighborhood came forward and asked that they have a process similar that we might have in adopting neighborhood planning areas to have a meeting and notice, premeeting. And it has been recommended to you by 11-0 vote of the planning commission. It also, i believe, has support of the neighbors in that area. So we could offer this -- this is item 86, sorry.
>> mayor adler: 86, okay.
>> we could close the public hearing and offer this for consent approval on all three readings. I don't believe you have any speakers.
>> mayor adler: no speakers on 86. Is there a motion to close public hearing?

[9:36:38 pm]

Approval all three readings item 86? Ms. Pool moves. Seconded by mr. Renteria. Any discussion? Those in favor please raise your hand. Those opposed? It's unanimous on the dais. That takes care of number 86.
>> thank you, mayor, council.
>> mayor adler: thank you. What about item 75? We have -- 85. We have no speakers on 85. It's a public hearing on nonemergency transfer franchise.
>> pool: i think we had a presentation on this at the committee meeting and i think this is the one where they rejected approval of the franchise application because the franchisee had not met the basic requirements of the contract and my recollection and councilmembers on the committee can weigh in

here, but i think we were completely fine with that and we voted for -- to nothing to support the rejection of this extension of the franchise.

>> mayor adler: okay. Ms. Pool moves approval, moves to close the public hearing since there are no speakers. And approve the application that was submitted. To reject the application submitted.

>> pool: yes.

>> mayor adler: seconded. Is there a second on the committee in mr. Zimmerman. Is there any discussion? Okay. Those in favor please raise your hand. Those opposed? It's approved unanimously. Thank you. All right. Council, what we have now is a series of -- we're not going to call them in this order.

[9:38:42 pm]

We have a series of annexation matters. It looks like there are about ten of those. One of those has 16 speakers and that's la pass sass trail. Those are ten of our cases. In addition to that, we have the str matter, which is 56. We have the bluebonnet hill historic district. Public hearing is closed on that. This is second and third reading. So we have str, we have korean united, which is 61 and 62, 63 is the mmk case. And then we have 69, with

[indiscernible], that's the one with the 300 feet of the school, the business that is alcohol. And we have four people waiting to speak on that.

>> pool: mayor, if i could on the two items zoning in district 7 and that's numbers 61, two, is and three.

>> mayor adler: yes.

>> pool: there are ongoing conversations among the parties in both cases and both of the zoning cases are -- to make things easy for everybody tonight and -- i mean, we can still do the public hearing if you -- i guess we're just -- we don't have a public hearing on these. Is that right?

>> mayor adler: no. We have speakers that are signed up to speak on 61, 62, 63.

>> pool: okay. What i was going to say is the conversations are ongoing and both of these zoning cases are ready only for approval on first reading. As written in the ordinances that are provided. There's ongoing work going on. So i can maybe make everybody's burden a little bit lighter by just going to that point.

[9:40:45 pm]

>> mayor adler: of just going to what point?

>> pool: if we are hearing from the neighbors who are here and also to let council know that the parties are fine with going on first reading on both of these cases and that would be the only thing that would happen tonight.

>> mayor adler: okay. Mr. Guernsey, are you here?

>> yes.

>> mayor adler: can you confirm that all the parties are okay on 61, 62, 63 with reading on first -- approval on first reading only?

>> mayor, council, greg guernsey, planning and zoning. On the korean united presbyterian church, i know the agent had an emergency and he had to attend to two weeks ago -- or weeking and we -- week ago and we brought this back tonight on their behalf. I believe you do have speakers that would like to speak to this assignment.

>> mayor adler: we do. The question is can you confirm whether or not 61, 62, 63 --

>> are only first reading for all three.

>> and the parties are in agreement with all that?

>> i don't believe the parties are agreeable to that. I would probably invite a representative on both sides on the korean united presbyterian church. There may be agreement on 63, but i have not spoken to the parties.

>> pool: i know on 66561, 62, the cranny church is a valid petition so the only thing we can do is first reading. I did talk with the agent a few weeksing and told mr. Thrower it would be a first reading only and that was acceptable to him. He's here right now. Mr. Thrower?

>> mayor, councilmembers, ron thrower. Yes, if y'all are willing to pass first reading only and then obviously when we come back for second and third hold a public hearing at that time i'm certainly okay with that to lighten your agenda.

[9:42:47 pm]

>> pool: i don't know that we're going to forgo the public hearing because we do have speakers tonight.
>> understood.

>> mayor adler: ms. Tovo, i think i'm going to throw the question to you because, again, you've been bumped three times and i don't know whether you want to hear the str tonight or would rather do it on a different night. It's late. But we can either go there or we can start with these zoning cases?

>> tovo: mayor, i understand. We do have several large issues ahead of us and it is late, and i think if we were having this conversation earlier in the day i probably would have agreed that postponement made good sense. However, we've had people here on the str issue who have been here all day so i would like to move forward and hear those items tonight.

[applause]

>> mayor adler: okay. Let's go ahead and do that.

>> tovo: and i guess i could -- and i think that we should probably clarify what the speaker situation will be for them because we do have 78 people signed up and obviously --

>> mayor adler: right.

>> tovo: since it went through committee they won't audible able to speak. They'll need time to organize themselves.

>> mayor adler: okay. We had talked at the work session, we put people on notice we're going to do four and four on the str so four speakers for, two minutes, four speakers against it, two minutes. So if people want to start talking amongst themselves to see if they can agree on who would be the appropriate people to speak, that would be helpful. Otherwise i'll do it based on who signed up first. I'll give everybody a chance to talk and let's hit one of these zoning cases and come right back to it. Let's do it that way.

>> mayor, council, we do have a agreement wi by the neighborhood and contact team -- and the neighborhood contact team and the applicant on 61 and 62, parties are agreeable to first reading but ask the public hearing be open for second and third readings.

[9:44:49 pm]

So i guess it's your pleasure if you would like to take action to approve these, 61 and 62 on first reading. Leave the public hearing open for second and third reading and the parties will talk and come back another day.

>> pool: i would like to hear from those neighborhoods who are here tonight who have stuck it out.

>> mayor adler: we're going to hear from --

>> pool: we would keep --

>> mayor adler: if we're going to hear from the neighbors i'm going to move to close the public hearing. If the neighbors want to come back, then we will hold the hearing open for the next time. And i'd be happy to do that, however, the people here would like to do it.

>> zimmerman: mr. Mayor, i'd like to concur, make that motion if that's necessary, either do it now and get it done or else do first reading and leave the hearing open for next time, testimony.

>> mayor adler: or take public testimony and close public hearing. Ms. Houston.

>> houston: i want to give them time to have time to talk about it before we make a decision.

>> mayor adler: no, no. I do too. So that was 61 and 62, mr. Guernsey?

>> yes. 61 is a case mpa-2015.

>> mayor adler: hold on. But we don't know that we're calling that one up. So let's do 69. Because that's an independent, we have people here waiting only four people speaking. That will give a break for people to talk. Mr. Guernsey, can you set up up for 69.

>> that item will be presented by a representative of the development services department. Chris johnson will be presenting the case.

>> mayor adler: great. Thank you.

>> christopher johnson with development services department. This is an alcoholic beverage waiver for a proposed restaurant located at 1007 south congress avenue, located within 300 feet of the property line of the texas state school 40 deaf and, therefore, it requires approval of a waiver.

[9:47:02 pm]

Staff has reached out to the school. We've received verbal confirmation of support but they did not follow up in writing. Staff recommends approval of the waiver.

>> mayor adler: we have people here to speak. Let's bring them up. The first is gretchen auto. Is ms. Auto here? Take your time. Take your time. Three minutes.

>> gene, mayor, mayor pro tem, councilmembers. Thank you for letting me speak. I know it's late. I've been here since 10:00 a.m. my name is gretchen ototo, i'm a homeowner in travis heights and the vice president of the homeowners association. I'd like to go on record as being opposed to this alcohol beverage waiver. The current zone collides a protection around schools for good reason. The environment created around an establishment that serves alcohol is not a safe environment for children. There's a significant correlation between the sale of alcohol and the incidents of crimes, such as assault, criminal mischief, tress passion, dwi, drug possession and public intoxication. I'll try to keep this short. I want south congress and the neighbors of south congress want it to stay a family friendly place. I think it's on the burden of the applicant to show hardship to get this waiver. I know that the school for the deaf is not opposing it, but i just want to go on record as being against it. Due to the small window of notification, the srcc was not able to have an official vote on this particular case.

[9:49:03 pm]

However, the srcc has a long history of being opposed to alcohol beverage waivers and aisd's official policy is against it also. So i just want to urge you to deny this waiver and avoid setting a precedent for more alcohol sales on south congress to keep the area family friendly. Thanks for your time.

>> tovo: mayor.

>> mayor adler: yes, ms. Tovo.

>> tovo: ms. Otto, thanks for being here all day. As i recall, there was a pretty recent case a few blocks down on south congress where there was a alcohol permit applied for in close proximity to fulmore.

>> yes.

>> tovo: and the south river citizens does oppose that.

>> yes, we did, we voted to support the aid position of opposing the waiver.
>> tovo: this is a pretty close, similar situation.
>> it is similar. It's not an aisd school and the school for the deaf isn't opposing is so it's a little bit different, but we just want to make sure that south congress doesn't end up like sixth street or rainy street. We want to keep it family friendly and --
>> tovo: thank you. I appreciate that.
[applause]
>> mayor adler: is your opposition to this waiver have to do with the school or just the location of alcohol on congress avenue?
>> it has to do with the waiver. I don't think we should grant waivers. There's a reason why we don't allow alcohol near schools.
>> mayor adler: do you know why the school in this case is not opposing it?
>> we don't want to set a precedent.
>> mayor adler: no. Do you know why the school in this --
>> oh.
>> mayor adler: in the other case the school did oppose it.
>> correct.
>> mayor adler: do domestic we know why the school is not opposing it here?
>> i did talk to a representative of the texas school for the deaf and she said they've never opposed a waiver of this nature before.

[9:51:06 pm]

I think they have not had any specific incidents where they've had an issue with alcohol at their school. So that's why they're not opposing.

>> mayor adler: okay. Thank you.
>> but the neighborhood just generally is against the idea of granting waivers in these cases.
>> mayor adler: okay. Thank you. David king.

[applause]

>> mayor adler: mr. King here? Next speaker would be jim bennett. Is mr. Bennett here?
>> mayor, councilmembers, i'm jim bennett. I'm here tonight on behalf of the owners of the business in support of the application for the waiver. I think when you look at this situation, the school for the deaf is separated from the place of business by five lanes of traffic and two lanes of parking. Their eastern boundary or west side of congress is also protected physically by a wall and fence that would discourage any involvement with the school property. There are other uses that are closer to the school than we are, that are serving alcohol. And we think if you look at the straight line walking distance from our business down congress, across congress, to the school property, it's about 230 feet, plus or minus. That's where the traffic signals that are involved. As you know, section 495 allows this council to grant these waivers if they feel that certain conditions exist, and one of those is we feel it's an undue hardship on the applicant, as far as a competitive market with our other competitors in close proximity. It does not serve the intended purpose because of the physical separation that is existing.

[9:53:06 pm]

And because separation by the five lanes and the parking are equities that should be in allowing this business to operate at this location, which is similar to other competitors and meets the intent of the ordinance, in that the campus for the school of the deaf is quite big and with the physical restraints that

exist around, it that we think it should compensate for any offset of the variance that's being requested. I'll be available should you have any questions.

>> mayor adler: any questions. Mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I was wondering if we could put up the google map because i brought the google map up here and it does affirm what this gentleman is -- has testified. It looks like at least 250 feet across congress, across a green space, across a parking lot before you get to the building. So is there a way we could put that -- do you have a computer and you can look up the address and put it on the overhead? I think it's pretty good context for the discussion here. 1007 south congress avenue with a google satellite view. I think it would help.

>> houston: mayor.

>> mayor adler: yes.

>> houston: may i ask a question while we're look for a google map?

>> mayor adler: yes.

>> houston: so was your -- the property owner aware of the closeness to the school for the deaf when he bought the property and that a waiver would be needed?

>> councilmember, he's not the owner of the property. He's the owner --

>> houston: or the owner of the business?

>> yes.

>> houston: he was aware. Thank you.

>> mayor adler: any further questions for mr. Bennett? Thank you, mr. Bennett. Thank you. We have another witness while staff is trying to get the google map up.

[9:55:07 pm]

There's the google map.

>> garza: there's a map in the backup.

>> mayor adler: and a map in the backup as well. The last witness that we have is amil sarfani.

>> thank you, mayor, thank you, council for hearing this issue. I'm actually the owner of two hands brew, now two hands coffee. I want a point of clarification. It is primarily a coffee shop, and in terms of building a company that is very community-oriented, it is a coffee shop that's pushing the bounds of social enterprise. We're paying double fair trade price for coffee, also serving juice, and hopefully beer and wine as well, but the beer is&wine is really to create a community space, nightly events. Our primary product is coffee and that is what we are, you know, strongly behind. I want to make myself available for questions, but i just wanted to make that a clarifying point.

>> mayor adler: thank you. Any questions for this witness? Mr. Zimmerman.

>> zimmerman: how long have you been in business at the location?

>> so we -- i'm actually starting the first location over here at the domain. We are opening that location in early december so south congress will be our second location opening up later in spring.

>> zimmerman: okay.

>> mayor adler: okay. Any further comments on this? Ms. Houston.

>> houston: yes. So that your primary drink of choice is coffee, but you will be selling alcohol?

>> yes. So we'll serve very limited choices of beer and wine. It's not going to be a robust mixed beverage menu it will simply be a few taps and bottles of wine, mostly to sustain nightly events to create a community feel, trivia night, music, cool south congress, i'd love to be a part of that to add on to the south congress vibe that's already kind of created there.

[9:57:13 pm]

>> houston: thank you.

[applause]

>> mayor adler: okay. Anything else? Thank you. Any discussion on this item 69? There's been a motion to -- is there a motion to approve 69? Ms. Pool, is there a second? Mr. Zimmerman. There was a referral to the planning committee on this kind of issue before. And the questions that we looked at were the variables. Because there seemed to be some sense that a lot of people felt that one rule didn't fit every situation, that in part depended on the route that people would take or how far it was, part of it depended on the particular use of the business. Can you talk about what happened with the committee on that referral? Do you remember?

>> casar: i do. We brought it up. Some committee members, including myself, took a look at the ordinance and we didn't have any suggested changes at the time.

>> mayor adler: okay opinion. Ms. Gallo?

>> gallo: you know, i really struggle with this discussion because one that we had a couple of months ago or three months ago was actually in district 10, and it just -- you know, it seemed to me that our discussion was that if we're going to keep granting waivers, then perhaps we shouldn't have the restriction. But we also talked about the fact that the requirements should be strengthened and perhaps you need to be able to fulfill more of the -- or meet more of the requirements to qualify for a waiver. But at some point somewhere, i think this needs to be discussed because we just -- i'm just really uncomfortable that we keep being put in a position of granting waivers for this.

[9:59:19 pm]

>> mayor adler: you know, that's why we sent it to the -- take a look at it. My sense on this is that the objection to the use is not related to the school. But the school is providing a tool to be able to stop a use that the neighborhood doesn't otherwise want to have on congress avenue, if i understood the neighbor correctly.

And the school >> mayor adler: the school and this use is saying that they don't object. And i understand the concern about not wanting south congress so turn into 6th street, but if that's what we're trying to hit, then i would prefer us -- if that's what it was, i'd prefer us to hit that directly and not use a tool that was intended to protect a school and students don't get a school that the school in this case doesn't think needs protection or application. And that's my quandary here. Ms. Pool and ms. Tovo, then ms. Garza.

>> pool: yeah, we had an alcohol waiver in district 7 earlier too, then we had 10, in both cases there were situations where there was a waiver of another entity that was already -- like it was a cvs and walgreens in district 7, and the one that we dealt with was farther away from the school that had already received the waiver, so it was difficult for me to see why we would deny it to another -- oh, gosh, it's late -- not to cvs when we'd already granted it to walgreens. Then the tiny box case, the situation was, to qualify, which is what was in the ordinance. I had a concern about as the crow flies, because i think since we don't fly, that if we're going to have a restriction, it should relate to the distance that you walk to get there. And tiny box was a fairly convoluted way to get from where its door is back to bryker wood.

[10:01:24 pm]

I didn't know that it had come up in the committee. I guess i would have come and talked about it if i had known because i was the one who raised the question about can we look at why it's 300 feet and why is it as a crow flies. Could we find a better way to do a measurement and maybe tackle the issues that the mayor is getting to, the provision of alcohol, or is it the closeness to the school.

>> gallo: i'm happy to -- i made the motion to move this tonight and would be happy to continue on. It sounds like what the gentleman has in mind for south congress with -- would fit in with the situation on south congress. I don't see any other -- the one thing we have is does the school want it there or not. And they don't mind it being there. So the one thing we have doesn't seem to forestall it.

>> mayor adler: is there a motion to extend the meeting past 10 o'clock? Ms. Garza moves. Is there a second to that motion? Those in favor of extending, please raise your hand. Those opposed? It's unanimous on the dais. Ms. Tovo.

>> tovo: so, you know, i mean, we had a pretty extensive -- several pretty extensive discussions about the other alcohol waivers, and i would just say if we're going to have a policy that you have to have good reasons for coming to this council and asking for a waiver if you're going to be located near a school, we should have good reasons. And with all due respect to the speakers, i haven't heard those. The question was put to the speaker from the neighborhood whether the opposition was based on the proximity to the school or the activity, and she reiterated that it was the proximity to the school. And i guess, you know, as a representative of this district, i just need to also say, you know, we were -- we had a little exchange there about the other case a few blocks south. There was a proposal for an alcohol waiver for tacos.

[10:03:29 pm]

There was significant neighborhood opposition and from austin interfaith who came and rallied around aisd's school. There hasn't been a rallying around the children that go to the tex school for the deaf and the administration of that school have declined to get involved. But i don't think we have any less of an obligation to protect those students than we do for the kids down the street. So i would say again, if we have a policy that you need to have really good reasons to ask for an exception to the alcohol waiver, then we should be -- we should be contemplating those. And i -- we're not doing that tonight. I don't know whether it's the lateness of the hour or the lack of information, but i'm not inclined to support this waiver based on the information we've received. I think to be consistent with our -- with our past practices and our city policy, i'm not going to support it. I also think -- i see the agent here. I'm sure he's keenly interested to see what we do on this case.

>> mayor adler: ms. Garza?

>> garza: yeah. I'm inclined not to support this waiver, either. You know, without reading the code here and without knowing exactly the -- maybe the intent behind it, i would say that it's not just about the proximity of the school and whether the school approves of that or not, it's about -- usually schools are in neighborhoods, so it's a good, i guess, landmark. We don't want this in our school because usually schools are in neighborhoods. I think the difference, too, with this is, it is a little bit different than the other one where there was an issue of as the crow flies. This one, looking at this map, the entrance to the school is almost right across the street. And i believe, if i'm not mistaken, the school is -- i think -- they live here. So this isn't a place where they just go back and forth during the day.

[10:05:30 pm]

They live here because it's children from all over the state. So maybe their parents don't know about this, and that's the difference in one school and an aisd school, a lot of parents know about it and come and speak before council, but i'd be curious to know if the parents of the children that live here were made aware of the school's position. So because of that, i could not -- as a former firefighter, i always err on the side of caution and public safety, and i couldn't support this.

>> mayor adler: in the gallo.

>> gallo: you know, one of the other discussions that we had on the district 10 one is that this becomes a school issue. I think the reason we do this is to provide safety for the schools, but i'm a little concerned that we don't get a lot of guidance from the schools, the school district, and we had talked about trying to engage aid at least in a conversation that talks, you know, if the school district opposes it, then, you know, we should be comfortable with the position of opposing it, but if the school district is lukewarm and doesn't oppose it, we should be able to support it. I think we get a lot of mismatched information from the district. I know that when we were talking about the one in on district 10, you know, the indication from mayor pro tem tovo's children actually go to that school was that the school, pta, actually, was not willing to step up and say that they were opposed to it. So, you know, i think we keep getting put in awkward positions when it really should be the schools that take the lead in telling us what they feel like helps make their children, students, safer.

>> mayor adler: mr. Renteria.

>> renteria: thank you, mayor. I'm not going to be voting to approve this item. I'm real familiar with that little piece of area there, and i just -- i know there's a starbucks there, but that area there, that particular block, i feel like if we're starting to allow alcohol there, the whole entertainment area from the continental club is going to be moving north down to that block.

[10:07:48 pm]

There's a lot of little small offices and buildings there, but i just don't see alcohol there. I haven't seen it before, and if we're allowing someone to come in there and start selling alcohol, that's just going to put more pressure on that one block for other businesses who want to come down in that little area.

>> mayor adler: okay. Further testimony? Mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I guess on these questions, i think the 300-foot rule we have in place is something that obviously we can utilize, but i want to go back to the prohibition, alcohol prohibition era of the '20s and '30s. There was a reason they put prohibition in, they thought it was a good idea. Let's just stop people from drinking which. Later they decided that was a bad idea and they repealed prohibition. So there's regulatory power from the state, alcohol beverage commission. To me, when i look at this area, it looks very, very differently than what goes on at 6th street. I think we recognize we have a lot of problems on 6th street because we have so many establishments concentrated together that are not serving coffee, you know, they're serving hard drinks. And i think the one thing that would convince me to vote against this is if we were in one of those party districts where we have problems, where we have violence and a lot of arrests and a lot of drunkenness, and i might say we have a problem, but i don't think that's the case here. So i tend to side with the business owner here and the people that are going to take advantage of responsibility of location and if they cause problems, they're going to get shut down. So i'd be inclined to vote in favor of this.

[10:09:50 pm]

>> mayor adler: further discussion?

>> houston: thank you, mayor. I'm going to be voting against this request for a waiver because this is not just a school, this is the home of children, as councilmember garza said, from all over the state of texas, and they're children from young ages who are deaf or hearing impaired till they graduate from high school. And so this is at the front door of their home, even though it's across the the street. They do -- are able to walk across the street and go down to the corner and come downtown. I mean except for the little ones. And so i'm going to be consistent and going to vote against this waiver.

>> mayor adler: is staff -- staff made contact with the school and was told something. Tell me about the nature of the conversation you had with the school.

>> it was simply an exchange of message. There was a couple of episodes of phone tag. Eventually there was a message that said they had no objection to it. We reached out and tried to get a written convergence confirmation but they did not respond to that e-mail.

>> mayor adler: ms. Troxclair.

>> troxclair: i guess i just want to point out, looking at the map and being familiar with this part of south congress, dock's is right across the street, and it sounds like from the portfolio of this business, and knowing the kind of business that dock's motor works runs, that they probably would have a heavier alcohol portfolio than the coffee shop. So i guess --

[applause]

>> do you mind if i -- i just want to make one more last case for it. I personally talked to the superintendent. She was -- she was not opposed to it. She said she wouldn't give me a written support for it, but she said she wasn't opposed to it and they would stay out of it in terms of giving a written "yes" or "no" against it.

[10:11:54 pm]

But i would like to point out that i think this impression of what the shop is going to look like is a robust beer and wine party kind of central place. It's at all not going to be like that. It is a coffee shop, first and foremost. It serves -- my two primary products will actually be coffee and juice organically squeezed juice. We're paying a price to our farmers. We have a direct relationship. I've stayed on the coffee farms. My love for the business is not the beer and alcohol part, it is the coffee part, and i will not be able to necessarily conduct that business in that location if i can't get the other streams of revenue. There is a competitive edge over there and dock's is right down the road. There are people serving alcohol within the same walking distance that i am to the school in other directions, and i would hope that there is this idea of other people are doing it, and not that that justifies it, but in the sense that i'm not going to be necessarily adding to it because that's not my primary business. There are other people serving alcohol. There are coffee shops on south congress serving alcohol and it is not going to be a party shop, it is a coffee shop that is going to use hopefully the beer and wine just to create a community feel. And, you know, tab does monitor us pretty heavily on terms of who we're selling to, and i don't want to lose that kind of license, either. So, again, i am very responsible with that kind of stuff. My primary business is a coffee shop, and i hope that, you know, we can kind of see that and that it is a social enterprise, it is working towards that goal. And the superintendent herself did not oppose it. She just said she wouldn't get involved, but i did personally talk to her about this and notify her of what i'm doing across the street.

>> i guess i just point out that dock's -- it's not even right down the street, it's the same block, it's the exact same proximity from the school. So it's not like the school superintendent doesn't have experience with businesses that are serving alcohol.

[10:13:58 pm]

Alcohol. I think if they had a problem with it, they probably would have spoken up. It makes it hard when the school is already in that situation and doesn't have a problem with it.

>> our shop is called two hands coffee. We are advertising the coffee shop aspect of it, first and foremost.

>> mayor adler: further comments?

>> houston: may i ask staff a question, please.

>> mayor adler: yes.

>> houston: does the waiver go with the business, or with the totality of the property? So once the waiver is given, if the coffee shop fails and a bar comes in, the waiver is still there?

>> no, the waiver is to the specific business entity, and when they leave, if another business wants to do the same thing, they'd have to make their own waiver request.

>> houston: okay. I'm still not supporting it, but i just wanted to know.

[applause]

>> tovo: were there any other businesses in close proximity to the texas school for the deaf that got an alcohol waiver?

>> dock's was granted one.

>> tovo: and when was that?

>> i don't know.

>> mayor adler: mr. Bennett, do you have something? Mr. Bennett, do you have something else to add?

>> chris is looking it up, but dock's was granted a waiver, and the school actually leases parking spaces to dock's for an off-site parking deal. So they're certainly aware of what the facilities are.

>> mayor adler: thank you.

>> that waiver was granted in 2005.

>> tovo: thanks. I hope so i would say, again, we have a responsibility to make good decisions for the residents of austin, and we have -- we had an opportunity, and actually went against the aid's -- but as i recall, they wrote a letter in opposition on the restaurant over in district 10, but we had a lot of discussions about the kind of business that was going to be and the proximity.

[10:16:09 pm]

And, so again, i would just call your attention to the comments that councilmember garza mentioned about the fact that, i would guess, that for a lot of the students, young and high school students, their parents may not be aware of this application pending before council and creating a part atmosphere in close proximity to this school is not something we necessarily need to do.

[applause]

>> mayor adler: hey. Hey. Is there any further discussion on this item 69? In the gallo.

>> gallo: i'm going to support the waiver. Mayor pro tem tovo was convincing in the district 10 vote because i was initially not going to support the waiver because the aid doesn't support the waivers, but she convinced me that the school was silent to the matter and would not oppose it, and i think i'm hearing the same situation here, which is the school has actually had conversations with the applicant and also i think has left messages for the staff and won't support it, but doesn't oppose it. And i think that makes a huge difference. So because of that, i will support it.

>> mayor adler: any further discussions? Ms. Garza?

>> garza: yeah. I, too, realize that dock's is on the corner right there, but i would say i didn't sit on the council that voted for that. And there was discussion about -- because i would have voted against it. There was discussion about this isn't going to turn into a corridor, it's not a party. Obviously, it might. We have one waiver tonight, and then we have another waiver coming up. If we set precedent that way, we keep granting waivers like that. It's interesting that i think there's neighbors here that live in that that are for this, but i guarantee you in ten years, if it's a row of bars, we're going to have neighbors in here saying why did you allow this? There was a school there.

[applause]

>> garza: so i can't support this waiver.

[10:18:10 pm]

>> mayor adler: okay. Any further discussion on this? Ms. Troxclair.

>> troxclair: staff, can you remind me, is there a restriction on the percentage of the business's revenue or sales that can go towards alcohol or come from alcohol?

>> yeah. This facility is being permitted as a restaurant so at least 51% of the revenue has to be from school sales. So alcohol sales cannot exceed 49%.

>> tovo: okay. Thanks.

>> mayor adler: any further discussion on this?

>> i'd like to call the question.

>> mayor adler: sounds like we don't have anybody else ready to talk. So we'll go straight to a vote. Those in favor of granting permit on 69, please raise your hand. Those opposed? Opposed to it is the mayor pro tem, houston, garza, renteria. Those for, so the other seven were voting yes. This passes. [applause] that's it for 69. You want to tell us where we are --

>> mayor and could you know, there's an agreement on item 61. 62, to approve the planning commission recommendation on first reading. The parties asked if it was possible for them to be first on the zoning agenda on november 12th. It's entirely up to you, but they would agree to keeping the public hearing open, doing first reading of the zoning and planning commission recommendation -- or the planning commission recommendation on 61 and 62.

>> mayor adler: keeping the public hearing open and not having any public testimony tonight?

>> that's correct.

>> mayor adler: okay. Then i would vote to put them up first on november 12th, for that, after we've handled the extent items.

>> pool: i will make that motion.

>> mayor adler: okay. Ms. Pool moves to approve on mirrors reading, 61 and 62, keeping the public hearing open, and we'll put them up top among their contested cases on the 12th of november.

[10:20:14 pm]

>> then on item 63 --

>> mayor adler: hold on.

>> and we haven't voted yet. If i could just mention, just a reminder, there is a valid petition on 61 and 26.

>> mayor adler: okay. Those in favor of passion passing this on first reading, please raise your hand. Those opposed? It's unanimous with mayor pro tem and ms. Kitchen off the dais. Those two. 9-0-2.

>> mayor and council item, the last zoning case is item 634. This is case c14-2014 0193. There's agreement of the parties to do something similar. Again, go first reading, but this is of the staff recommendation on 63, and then bring this item back, also keeping the public hearing open for second and third reading on the 12th.

>> and what i would say about this one is the neighborhood and the developer have worked on this plan for a considerable period of time and are aligned in the -- in their vision on how to put this new development on the ground. There is disagreement with some staff, and i'm hoping with the first reading only to have the additional time to work with staff at the staff level.

>> very quickly, we've agreed we'll put together a meeting with the transportation staff and the neighborhood applicant on this case before we come back with second and third.

>> thank you.

>> mayor adler: okay. It's been moved approval -- no, do you want to move approval on the first reading only.

>> first reading only and keeping the public hearing open so there can be testimony when it comes back.

>> mayor adler: we'll take this one up early as well as we did the last one. That is the staff recommendation.

>> zimmerman: i second that.

>> mayor adler: mr. Zimmerman seconds that any discussion? Those in favor, please raise your hand.

[10:22:14 pm]

Opposed? Unanimous with ms. Kitchen off the dais.

>> there's only map changes this evening.

>> mayor adler: good job, mr. Guernsey.

>> oh, there is one more, i spoke too soon. There's bluebonnet. There will be discussion on that probably.

>> mayor adler: bluebonnet is item number 60, i think. All right. So that gets us back to str. Insist tovo? Are your str motions today the list of 1 through 5?

>> tovo: yes, they are. And these, i just distributed them again. They're identical to what was distributed, possibly a few times before, but i brought copies with a new date just in case.

>> mayor adler: okay.

>> tovo: because i'm happy to hear the speakers first.

>> mayor adler: okay. We have -- on the str, we're allowing eight minutes on both sides. I have the people who are against changing the -- against these five pieces, components, which will be voted on individually, as we have -- all right. We're good then. Speaking in favor, let's start with that. David lauderback. You have two minutes.

>> is this microphone fine? Thank you. I want to thank you all for your time here today. Your predecessors left you with a mess. The city of austin came together three years ago to explain to you what a problem these have become. They had ruined our neighborhoods. And this body agreed and then flipped on it. Part of the energy, why we change the city council, and we're looking to you now for leadership. These are businesses. The one next to me advertises as a venue for south by southwest. I've had people charging up and down my street selling liquor distributorships, selling restaurants.

[10:24:16 pm]

I've had to arouse people off my property because they're doing photography classes. I've had adult films made next-door. These are businesses. This is not a few bad actors. This is a systemic problem across the city.

[applause] we know that this is a problem across the city. We know that this is a problem across the city because we've come together again to let you know just how bad it's become. Save our neighborhoods. Save us from this nightmare. Uncle curt us across the way, the the man who built our neighborhood in the '40s passed away. The neighborhood came together to help his bride of 49 years. We make sure she has food and gets to your doctor's appointments. We still make sure she gets all of her prescriptions. This is nothing special. This is nothing unusual. It's what neighbors do for each other. Save our neighborhoods. Businesses belong in commercial zones.

[cheers and applause]

>> mayor adler: the next speaker is richard sley. Mr. Sley, you have two minutes. Mike pollston is on deck.

>> hi. My name is richard sley and i appreciate you all going through this again tonight. But let's start off with the basics. What is the definition of a residence? If you'll look it up, it's a place where -- a person's home, the place where somebody lives. An str 2 is not a residence. As shown in the new york times article, it's an unsupervised road hotel and/or party house in a residential neighborhood. Str-2's are for commercial purposes only, not to be lived in. No matter how the industry tries to spin it, str-2's are not home sharing.

[10:26:18 pm]

There's no home involved, and should be in commercial areas regulated as other rooms for sale by the night businesses are, such as b & bs, boarding houses, and hotels. Now, a lot of our laws were passed before this ordinance came into effect. Here's how one residential community that is handling it that came into effect after the ordinance. Short-term lesion probation -- leasing probation. Violations of the minimum lease term, which is six months, the first day of violation is a 5-hundred-dollar hundred dollars fine. The second day is a one-thousand-dollar fine. The third day is a \$5,000 fine and every day thereafter. In their regulations it says each residential unit must be used solely for residential use and may not be used for commercial or business purposes. That's a pretty good definition of residence. An owner occupant may not use this residential unit in a way that noise other owners or occupants and neighboring units, reduces the desirability of the neighborhood, or endangers the health and safety. These are regulations from the residences at the w. What is good for the wealthy is good for everybody. [applause] the city should protect its citizens the same way the privileged are. Let's pass these regulations and get the str-2's out of residential areas.

>> mayor adler: next witness is mike pollston. After mr. Pollston, jessica newfelt is the fourth witness. You have two minutes.

>> hello again. I've been here about four or five times, i think, in the last couple months. I just have one point to make, and this has to do with when i got my letter, my form letter from the city, i think it was the code department that said, hello, you have an str across the street from you.

[10:28:28 pm]

About three months ago, i said, well, that's interesting. So i started looking up what str's mean. I've learned a lot about str's in the last two or three months. I'll just offer one suggestion, which i've done already in an e-mail back two months ago to everybody here, is that you have a database of all the adjacent neighbors that have been impacted by str's, either 1 or 2 or 3, i think they're mainly 2, perhaps, but you have that database of probably between 1,000 and 2,000 addresses of owners of properties that are adjacent to these str's. Now, we all show up, it's the same crowd, but we're very passionate about this, and we're being severely impacted in our neighborhoods. I suspect that you might be surprised at what you find if you were to survey these 1,000 to 2,000 adjacent neighbors. Just make it simple. Are you aware that there is one there? Does it bother you? Have you been irritated with party houses? Are you okay with having all these cars in the driveway every weekend? Are you concerned about your property values? I would ask that question. And i think you'll get some data that will help you make better decisions about how to manage this. Thank you.

[applause]

>> mayor adler: thank you. Next, ms. Jessica newfelt.

>> hi. My name is jessica newfelt. I live in northwest hills, district 10. I wanted to ask you all to vote in favor of mayor pro tem's amendments and phase type 2 short-term rentals out of residential zones. Before i talk about that, though, i wanted to echo something that councilwoman garza mentioned with respect to another conversation that's ongoing, in that as we continue with this conversation about how to handle short-term rentals that we do so and characterize things fairly.

[10:30:44 pm]

And what we're asking for today is not to ban all short-term rentals. That's not what this is about. This is about moving not owner occupied commercial enterprises out of residential zones.

[applause] the nuisance that some of us suffer at the hands of short-term rentals is horrible. It is a violation of our right to the quiet enjoyment of our homes. But this issue goes deeper than that. I understand that people like to vacation in homes because it is comfortable and convenient. But that doesn't make it right. And i don't think the ability of people to enjoy the creature comforts of home when they are on holiday should trump the rights of the residents to a neighborhood.

[applause] the reality is that i wouldn't have purchased my home, the biggest investment of my life, the place where i've decided to grow my family and build a life, if i knew i was going to be living next to a hotel. And i didn't just purchase my home because of the structure. I purchased it because of the quality of life surrounding it. Because it was in a beautiful family neighborhood with great public schools. Short-term rentals have drastically changed that. A year ago there was just one. Now, there are four within a quarter mile of my house. The one next to me sleeps 18 --

[beeping]

-- the one down the street sleeps 24. These were homes intended for families, for residents, not for tourists. Owner occupied short-term recommendations are be businesses that negatively impact the quality and character of single family residences and should not be allowed to operate in neighborhoods. Thank you.

>> mayor adler: thank you. The next speaker it sharon walker. Sharon walker has eight minutes. Ms. Walker, you have eight minutes.

[10:32:46 pm]

>> hi. Sharon walker again. Nice to see you all. On a personal note before my time begins, i agree with her. People should not have to deal with that. While our opponents have definite emotional impact here and sometimes are entertaining even, i come to you again with facts and requests for reasonable consideration. I'm going to read to you something that was released today by the texas real estate law society at the university of texas school of law. And i hope you'll consider their words since it's been so difficult to get ours considered. The austin city council has proposed and is in the process of passing unwarranted city regulations of strs, specifically type 2 strs without reasonable data to support its actions. The austin code department reports that they received only 13 noise complaints from licensed type 2 strs in the last three years. I'd like that time added back on, if you don't mind.

>> mayor adler: just go ahead.

>> in comparison to 13,100 noise complaints reported to the city of austin in 2014. Even if every single one of the 13 noise complaints from type 2 strs were registered in a single years, it would only constitute one-tenth of one pertains noise complaints for the city of austin. Such an insignificant number does not support the picture that is being painted of a rowdy, noisy rentals destroying austin neighborhoods. In fact, only 12 strs have been identified as problem properties, and just four of those are type 2 strs. Of the four, one alone accounts for 33% of the complaints. Instead of revoking this license and the licenses of other -- the other three problem type 2 strs, the city has allowed them to continue to operate and disturb our residents. The city council, instead, is proposing to appease residents by overregulate regulating the owners who comply with current city regulations.

[10:34:52 pm]

[applause] the city of austin has a map on its str informational web page which shows 33 repeat offenders. None of these properties have been licensed as strs, and the repeat offender label is about health and safety violations, not nuisance complaints. These appear to be primarily long-term rentals and apartment buildings unrelated to the str debate. While health and safety has been cited as a reason for the regulation, public information does not support the contention that strs have current issues with

health and safety, or are in need of stricter code enforcement, than homes occupied by owners or homes rented for longer periods of time. Finally, even as the only city in Texas that is regulating short-term rentals, Austin has succeeded in hutch meyer compliance rates as to licensing and taxes than those in other areas of the country. In February 2015, the Austin Code Department had brought 72% of identified non-licensed STRs into compliance. Other cities are working on as low as 5% compliance rate. We've been really successful here in Austin. And a lot of the people who are trying to determine the number of STRs in the city are looking at multiple sites and counting people double, triple times, so the number of STRs is a hard number to determine here in Austin, and we do believe it is overstated. With evidence of a level of compliance of STRs in Austin at 72%, Austin is a leader in the level of compliance with local regulation nationwide. Also, the office of the city auditor audit five randomly selected centers? A. The report showed that three of the five had correctly reported and paid the tax and the combine errors of the other two constituted an overpayment to the city. The city collected over two million dollars in 2014 in hotel tax and fees from the operators of STRs. The Austin Code Department estimates that its STR pace enhanced enforcement program would have an annual cost of just over \$69,000. It seems money collected from the STRs could be used to support the program as well as existing police and code enforcement even beyond the needs created by STRs.

[10:37:00 pm]

Over regulation of all type 2 STRs as a response of the failure to the city to enforce the current laws against minuscule number of violators is not the answer. I want to repeat that. Please listen. Over regulation of all type 2 STRs as a response to the failure of the city to enforce the current laws against a minuscule number of violators is not the answer. The restriction of type 2 STRs to commercial areas would prohibit any future issuance of type 2 STR licenses in residential areas. The city of Austin has [inaudible] rentals with added burden of licensure and the council has recognized it cannot rescind current licenses without a reason. The limit will take away rights of current property owners who have made the decision to purchase or retain a property based on the city's established policy to allow STRs. In addition, the cumulative effect of the proposed regulations would be to allow city council or code enforcement to systematically -- to systematically remove many short-term rentals from the market for non-compliance with unreasonable regulations, resulting in unwarranted license revocation. Those revocations and the restriction of type 2 STRs to commercially zoned areas would devastate the STR market in Austin, along with the events and industries that rely on it. Because if renters wanted a commercial area, they would stay in a hotel. In a recent case, the court of appeals in Austin held that whereas drafters of restrict TV covenants recognized and permitted the leasing of homes, ambiguous covenants should be interpreted in favor of the owners. The court concluded that because of the covenants, because the covenants allowed rental of the property in general, the operation of an STR was residential use. Texas courts favor free and unrestricted use of property. Here, while restrictions apply to zoning, as opposed to covenants, there is no ambiguity. The city has specifically allowed, continues to allow, even issues licenses for short-term rentals. Owners of STRs and owners of single-family residences who use or plan to use their homes as STRs have relied on that policy.

[10:39:04 pm]

An arbitrary prohibition, especially when the city could instead just revoke four licenses, is unjustifiable. In addition in impeding or prohibiting the business of current STR owners by implementing impossible to meet regulations does not change the substance of the city's action. The council's response to the complaints of neighbors unhappy because of four repeat violators, that the city louse to remain in operation, is not justifiable or reasonable. Regulations preventing people from sitting on front porches

or having a reasonable number of people on a property are not the answer. They're infringement on personal liberty and unjust restriction on private behavior. Law enforcement currently maintains public order by enforcing the current ordinances at community residences. The same enforcement is already in place when dealing with type 2 strs. In fact, the city has the power to rescind the licenses of the four repeat offenders and can do so with likely little cost to the city, compared to the cost of enforcing and defending outrageous regulations of personal autonomy and freedom. Again, this was written by the Texas Real Estate Law Society at the University of Texas Law School. In conclusion, the proposed overreaching regulations are an infringement on personal liberty and contract rights. I hope the facts are speaking today.

[applause]

>> Mayor Adler: Those are all the public testimony that we have. Ms. Tovo, seeing that's all the public testimony we have, before it turns back to you, we've been handling all these strs, in essence, as independent resolutions, giving direction to staff in terms of drafting ordinances. Do you want to raise these in the order that they're listed? You want to lay out the first one?

>> Tovo: Yeah.

[10:41:04 pm]

I'd be glad to. And, again, I want to just remind my colleagues that what we're doing is initiating months of a public process, so if these amendments pass, they would move on to the planning commission because an ordinance subcommittee first, then full planning commission, the public would be able to go and attend, and the planning commission could tweak them. So we're multiple steps away from these becoming final action. The first one would initiate a phased-in process to limit type 2 short-term rentals to commercially zoned areas and it would require conditional use permits or some other mechanism, and I've given some thought to what those mechanisms might be, for continued operation of type 2 short-term rentals and single-family zoning and/or consider options for amortization of existing type two short-term rentals. Mayor, I make that motion. We have had opportunities to talk about this in the past. If I get a second, I want to say just a few more comments, and I would like to look at some of the data that we've got from the school district.

>> Mayor Adler: Okay. Is there a second to this motion? Ms. Houston seconds it.

>> Point of inquiry, quickly, before we dig into this a little deeper. Maybe this is for our staff here. I was trying to understand the speaker sign-up system here in the citizens for and against and trying to make sense of the numbers. I've noticed that a number of the speakers are listed twice, so I'm struggling -- it says citizens against 452, citizens for 50. But some of the names of the people on here are listed twice. For instance, Judy Walsh is listed on order number 4 and she's listed again on number 55, here on the list.

>> Mayor Adler: In any event, since this had come up before, we limited the speakers to four on each side, so we're done on the public hearing at this point.

>> Zimmerman: Can I trust the measure I'm seeing, there's 452 people against, and 54?

[10:43:06 pm]

Can I rely on that number that I see here on the screen? So --

>> Mayor Adler: I would imagine those were the people that signed up in the system.

>> Zimmerman: Yeah. If the clerk could just mention that briefly to help me understand this.

>> So there's nothing that prevents someone from registering more than once in the speaker sign-up system because we do not ask for any type of identification. Typically, as you're taking up items, I go through and delete what I can tell is a duplication. But as you can tell, there are close to 500 names on

this one item, and so the system is running pretty slow and just getting it to stay up is my main goal right now.

>> zimmerman: i appreciate that? A. Yeah it looked to me like the room was kind of balanced and i couldn't understand this lopsided number on here so that's why i was asking.

>> and i do believe a lot of them signed up not to speak so they may not even be --

>> zimmerman: okay. Thank you.

>> sure.

>> mayor adler: okay. Ms. Tovar?

>> tovo: i just wanted to say a few words. Again, we've had some discussion about this point in the past, but i know that we keep coming back to this question of, you know, of why we're contemplating this kind of action if there just really -- if it's really an enforcement issue. As i've said before, for me it is multiple issues, and in allowing commercial use, what is absolutely a commercial use, into our residential neighborhoods, we introduced all kinds of issues. And, yes, we introduced some of the problems that many of you have spoken about eloquently, but we have also taken available housing stock off the market and made it available to people for hotel use. That is of grave concern to me. And frankly, in looking at studies around the country, it is beginning to become a real concern in other cities as well.

[10:45:11 pm]

[applause] in 20 -- in 2012, i think i passed out a copy of the editorial that councilmember morrison and i had published in the statesman, and in it, we quoted our city demographer, who, in a -- i believe in a discussion with a group of realtors, noted the clustering of short-term rentals, the clustering effect of short-term rentals is one potential factor in the declining positions of our central city. It is of concern. We have a situation that has been watched for years, families of children moving out of our central city. It began to become, i think, noticeable among regular austinites, like me, when our school -- when our schools were faced with closure. So i'd like to ask our staff just to put on the overhead some of the work that did -- the maps that follow, and these were on the message board, i apologize they're really difficult to see on the overhead, but for those of you in the audience, being go to the council message board where they're available. We asked the school district, beth wilson, from aisd's planning department, to help us put together a map that looks at some of the schools in the central city, and it overlays it with information that we have about short-term rental licenses. Now, clearly there are lots of factors going on in why families are moving out of the central city, why we see declining enrollments in our central city schools, and the cost, the high cost of housing is probably at the very top of that list, along with other factors. But i would ask you to look at the numbers. Could we see the next page, please? In my district, in district 9, several of these schools are present.

[10:47:13 pm]

I will say there's other interesting factors here that are -- that i just want to point out. In a school like becker, becker was faced with potential closure because of its underenrollment. They actually introduced a signature program there, dual language magnet program -- a dual language program, rather, and now they're getting a lot of students transferring in. So that's one reason why that enrollment has increased in that school. But you can see the pattern is generally declining. When you get to east austin schools, the cluster of east austin schools, that the school district put together, you see a really serious decline in terms of the number of students. Now, are short-term rentals the cause of this declining population? -- excuse me. I'm going to answer my own question.

>> mayor adler: please. Please.

>> tovo: however, i would ask you, should we have a program in our city that takes housing units and turns them into hotels when we have a situation where our schools are declining in enrollment because of the high cost of housing? This is an issue where i believe we need to bring all our tools to bear, and having a problem that allows apartments and houses to be used a hundred percent of the time as hotels, in our residential areas, is not helping our goals to encourage lively, full neighborhood schools and diverse neighborhoods that have families with children in them. So ...

[applause] and again, in looking around the country, they're starting to grapple with these issues as well. Because when you remove housing stock and turn it into hotels, it's going to have a result on the rental market and it's going to result in changes in those areas. So that's my rationale for motion number one.

>> mayor adler: any discussion or debate on that? Ms. Kitchen?

>> kitchen: i just have a question.

[10:49:13 pm]

And i know we've had some conversation. I'm just trying to understand. Could you -- could you clarify the impact of number one on existing str's? I'm not certain what you mean by the last part of this.

>> sure. I think there are questions that the planning commission, in combination with stakeholders are going to have to grapple with if this passes. One would be what happens to those existing short-term rentals. What number one currently spells out is, if you have a short-term rental in a commercially zoned area, i think we should continue to allow them. And let me just reiterate, table -- type 1's are not contemplated in these resolutions. So if we want visitors to continue to have the experience of staying in a residence when they come to austin, they'll still have that experience because type 1's are going to continue unabated. If you have a type 2 in a commercially zoned area, you're good to go. If you have a type 2 in a residentially zoned area, i do believe we should start phasing those out. There are a couple options --

[applause] the one option that appears in here is a conditional use permit where an owner of a short-term rental that is in residential zoning could have -- again, this is one of the options. This isn't the only option, but one option would be that they could go to the planning commission, through the conditional use permit, and argue their case, talk about why this is -- you know, why they've been able to manage it well, if they have support of their neighbors, they might come down and testify, and then that would be the kind of -- of situation that the planning commission could consider, whether that is an appropriate location for a short-term rental use. Another way to manage that might be the way in which we do street closures. Right now, we have a process where, if you are in the immediate vicinity of a proposed street closure you get a letter and you have an ability to register an objection, and if there is a certain threshold of objections reached, then that triggers a review.

[10:51:25 pm]

So that could be another -- that could be another way to do it. If you have a short-term rental in a residential area, maybe we mail your neighbors -- maybe this is the proposal that comes forward from planning commission -- we mail your neighbors a letter, and if your neighbors don't send back their letter or send back their letter saying we have no objections, you're allowed to continue. If you get a certain number of people who object, it goes -- it triggers a review at planning commission as to whether or not you can keep that short-term rental use in that residential area. So -- and then there would be some natural attrition, i think, over time. So there are -- i would say number one is -- is -- expresses an intent, but isn't specific about the mechanism because i think there are multiple ways of achieving that.

>> okay. So i think i'm understanding. So you consider the language in

The last part: and/or consider options. Because you just laid out a number of options and i'm trying to read the language. The language isn't --

>> tovo: yeah, absolutely.

>> kitchen: isn't telling me that but that's what you're intending. Is that what you're saying?

>> tovo: absolutely. I would say that could be true for some of the others as well. And this is part of the stage that we're at. We're initiating, i hope, a dialogue at the planning commission, and they can consider options for achieving the intent. Around the main intent here would be to limit short-term rentals to commercial areas and to phase those that are in residential areas, or only to allow those to continue that are operating well and are in a neighborhood context that seems appropriate. And that might be a busy corridor. You know, we do have some busy corridors in our neighborhoods where there may be residential zoning along that corridor, but that might be a great place for a short-term rental. It doesn't necessarily meet the first you criterion. It doesn't have commercial zoning, it may have residential zoning, but it's on a corner that's busy enough to be an appropriate place for a short-term rental.

[10:53:28 pm]

>> mayor adler: were you done, ms. Kitchen?

>> kitchen: you can come back.

>> mayor adler: mr. Renteria.

>> renteria: i'm really comfortable with item 1 on mayor pro tem tovo's short-term rentals motion. You know, what it's doing, if the neighbor really supports you, if you're really a good neighbor and, you know, you're not -- you're the good guy, then your neighbors should support you and say, yes, we can give you a conditional use and continue your short-term type 2 rentals. And if they're not, then you should be punished. So this -- and i really want to thank councilmember tovo, mayor pro tem tovo for bringing this up. I think this is -- it's a solution to the problem that we've been facing.

[applause]

>> mayor adler: is there further discussion? Ms. Garza?

>> garza: i remember i spoke about, you know, what we were trying to accomplish here and we were trying to solve the problem of the party houses, and i think i said something to the effect that, you know, if you're a good actor, you -- you know, that you wouldn't be -- like this wouldn't be an issue for you. So because this is just starting the process, there's all kinds of things we can look at. I don't -- i'm not comfortable with the conditional use permit, but i'm reading this as that's an option that might not be the final thing. I'd have to agree with what councilmember renteria said. If you're a good actor and you don't have any issues, then your neighbor shouldn't have any issues with it, and they should be okay with allowing that use to continue.

[10:55:29 pm]

And if not, if you're not a good actor, this would solve that problem, get some of the bad actors out of operating str.

[applause]

>> mayor adler: you know, my perspective on this is -- and we've heard it, you know, several times, i think this is the fourth time, probably, it's reached the council. I don't think that neighbors should have to live next to the kind of party houses that people have in the complaints. And i wouldn't want to live next to one of those, and i think we have a failing in the system when we allow for those, and i think that's what precipitated the issue we had. You know, i was struggling the last time as we go through some of the initial changes that we made, trying to figure out how you captured all this, and i finally got

to the place where i realized there was nothing that i could do that satisfied me. You know, if i had a fix that captured a hundred percent of the problems, then -- then i was capturing too many problems i didn't want to capture. If i made sure i wasn't capturing the problems that i didn't want to capture, i wasn't capturing enough of the problems that i wanted to capture. So i started trying to look at, to me, what was an 85% rule. I'm going to try and capture 85% of the bad ones, 15% i won't, and i'm going to try and save 85% of the good things i want to save and 15% of the good things i would like to save are going to get lost. And then i started trying to craft things, and i think that that got us to a place in the conversation that we were able to push forward on some of the more delicate issues, just by way of framing. This is an issue that we've taken seriously. We've done a lot of things. On august 20th, we directed the city council, the city manager, to process amendments that would add the existing requirement to include license numbers in advertisements, added a bad actor clause, required operators to maintain a guest registry, required short-term rental licenses toe comply with noise requirements, authorize the court official to suspend or revoke license when false information was provided, add a non-compliance penalty for operating without a license for expired license, the type 1 penalty is the license 2 and 3 twice the cost of the license, require an occupancy limit statement, an advertisement to promotions, to lead the ability to do the test, the order advertising, require a local contact, local contact to reside within the austin metro area, which is that five-county area, could be able to respond within two hours of being noticed -- of notified by the city or an occupant, of an emergency, to ask the manager to consider amending the penalty range for administrative citations.

[10:58:30 pm]

On september 17th, we met. We added short-term rentals to section 1301 so that we could have administrative hearings and work being done. We required a certificate of occupancy in order to be able to move forward. We made it -- it had to be issued within a reasonable time period. They had to have an inspection. Septic system evaluation during the initial application for the type 2 rentals. We passed indication asking the manager to come back with an ordinance that would prevent clustering of type 2 short rentals. We added language about enforcing the occupancy limit for short-term rentals through the administrative hearing process so that there could be a presumption that didn't exist in a criminal proceeding so that we change the level of proof that we required to find violation, to be able to stop these. We prohibited the use of short-term rentals for gatherings, such as weddings or bachelor parties, bachelorette parties, concerts, so they couldn't be advertised as a venue and hold those kinds of things, resulting in forfeit of short-term license for violation. We also suspended all type 2 short-term rental licenses, new ones, for a year, put on a moratorium. We met again on september 22nd, and we went further in terms of the restrictions that we were doing, and we limited the occupancy limit to no more than six unrelated people, no more than ten people in entirety, no more than two people per bedroom, plus two, related or unrelated. We created a presumption that a house had two bedrooms until such time as an inspection is done. We didn't allow assemblies of anybody more than six people outside of a house, and no gathering of any number of people outside of a house after 10:00 p.m. we made include the occupancy license, the number of bedrooms available in properties, the maximum number of people allowed would be consistent, the numbers approved for occupancy limits so that code enforcement could be able to tell in realtime what those limits were.

[11:00:40 pm]

We created a presumption that a house only had two bedrooms in it, until there had been an inspection and evidence and proof otherwise that there were more bedrooms than that. We put in provisions to let evidence come in from eyewitness accounts and photos and videos could be admitted in the

administrative process. We directed staff to determine options for collections of hotel tax, and i think, and i could be wrong because you have it here again, mayor pro tem, i think we directed staff to determine options for the collection, remit tans of hotel/motel taxes in the city of austin, including, potentially requiring short-term rental advertising and listing services to manage the

>> mayor adler: i don't know that we have done enough, but we have done a lot. We have one year moratorium and at this point i would let the things that we've done see if they could work and see if they get us to where it is we need to go.

[applause]

>> mayor adler: ms. Gallo.

>> gallo: i'm going to ask you to indulge me. It might not be quite as long as what you just said, but it's going to be close. And i'm going to ask you to just -- i want to go back and talk a little bit about the history because if i don't vote in a way you think i should vote, i do want to remind all the neighbors that it was my office and my interest that started this whole conversation about the problems that neighbors were having with the enforcement of short-term rentals that were not operating properly.

[applause] in the spring as my office started holding town hall meetings in district 10 we began to hear the horror stories and they were horror stories of party house that's were appearing in our neighborhoods. So we began to investigate what the problem was, where this issue was coming from. You know, i heard that neighbors were extremely frustrated with the lack of enforcement from our code department for short-term rentals, which were operating without a license or operating in a manner which was not in compliance with the code and resulting in party houses that were disrupting their neighborhoods.

[11:02:57 pm]

My staff and i had meetings with district 10 neighborhoods. I see some of people here from cat mountain, glen lake, green shores, and district 10 neighbors. We had meetings with representatives from home away and we had lots of meetings with the code department. On june the 11th, i held a press conference along with mayor adler, councilmembers kitchen, troxclair, renteria, along with the neighbors from their districts and representatives of the austin rental alliance and the austin board of realtors. I made it very clear at that press conference that it was not my intention to revise the existing short-term rental ordinance and it was not my intention to disrupt the vast majority of the short-term rentals and owners who were operating in compliance with code in the ordinances. My goal was determined to be how to fix the enforcement of short-term rentals that were disrupting our neighborhoods by being party houses. Over the next two months my staff and i organized 14 more meetings with neighbors, short-term rental owners, the code department, and many others to begin to draft amendments to our current code to improve enforcement. This has been an enforcement issue. Let me make that really clear. This has been an enforcement issue. For the years, the lack of short-term rental enforcement has resulted in disruptions to our neighborhoods by short-term rental operators, once again operating in violation or operating with -- without a license, and those are the properties that have become the party houses. Prior to july of this year, out of 125 code inspectors, in the department, only two people were assigned to short-term rentals. And their work hours were monday through friday from 7:00 a.m. to 4:00 p.m. how can you shut down party houses that are operating on the weekends in the middle of the night if you don't even have code inspectors that were scheduled to work during the hours as parties were going on?

[11:05:00 pm]

But the good news is, the code department listened. The city manager listened. And beginning in july, a task force was established and added weekends to the work schedule and worked from 10:00 p.m. to 4:00 a.m. since august, we've had three council meetings discussing short-term rentals enforcements and we've approved the initiation as the mayor mentioned of 22 code amendments aimed at improving short-term rental enforcement. We even went the one step further. He talked about and initiated the one year moratorium on new type 2 licenses which should allow our code department time to implement the 22 new enforcement tools. We need to allow time for this process to work, and, once again, i say to our city manager and the code department, we have given you new enforcement tools that you have asked for so please do your job and shut down the party houses that are interrupting our neighborhoods.

[applause]

>> mayor adler: further discussion on the dais? Mr. Zimmerman?

>> zimmerman: thank you, mr. Mayor. First i want to commend mayor pro tem tovo because she did write the editorial. I read that, and she predicted that the problems we're having now were going to happen. She was right about that. She voted against it, so kudos to her. I also want to concur with the mayor's remarks and councilmember gallo's remarks. And i want to draw attention quick throw something i put up -- quickly to something i put up on the council message board back on september 21. It's called a.p.d. task force for str and other public disturbances. So this has been -- it's nearly a month ago that -- everybody has been complaining that we hadn't been enforcing the ordinances already on the books. It's the one thing that both passionate factions agree on, and that is the people disturbance ordinances already on the books were not being enforced.

[11:07:08 pm]

So i objected to all of this from day one, saying if there's one thing that we all agree on, why didn't we do that first? Why didn't we create this task force? We spent \$3.6 billion. We can afford to spend some money to dedicate one or two code compliance officers and a small team of a.p.d. officers who can respond to 311 calls. Right now when you call 311, when you have a drunk party next door, nobody comes. This is the root of the problem. We're not -- we were not enforcing the ordinance that's were on the book, as councilmember gallo pointed out, so i still want to ask my colleagues to come back to attack the original problem and please support this idea of having a task force that will enforce the ordinances that were already on the books before we took office. That still needs to be done.

[applause]

>> zimmerman: and even if we -- the new ordinances that have already been passed plus the ones that the mayor pro tem is proposing today, these are useful if we don't have enforcement. I'm not going to support these because the problem is we're not enforcing ordinances on the books. So i'm going to be voting against all of these, and i want you please support the task force to enforce the ordinances.

[applause]

>> mayor adler: further discussion on item number 1 on the list? Ms. Tovo.

>> tovo: i appreciate, councilmember zimmerman, you reading the editorial. Thank you. And i'm sorry that some of those predictions have come to pass, including that the -- that we would start to see short-term rentals more in east austin, more in the north. You know, i want to just read one line from that. Losing residential homes to short-term rentals may well transform our neighborhoods and schools, and we wrote that in 2012.

[11:09:11 pm]

I think that's what we're seeing. I also want to call your attention to one of the pieces of information that we flight that. Cited in that. In 2011 the national association of realtors issued a report that stated when property owners elect to rent their homes on a short-term basis rather than a longer her basis they essentially squeeze the supply of housing, pushing up the demand and subsequently the cost of housing in the community. There are studies going on in our community, as well as other communities, about how short-term rentals are impacting rents and the cost of housing. I believe it's -- you know, we've all expressed a real concern about the increasing costs of housing, about affordability. Short-term rentals, i believe, and others do as well, and i believe we're going to see the data shows, that those are starting to have an impact on the cost of housing.

[applause]

>> mayor adler: ms. Kitchen.

>> kitchen: i'm going to support this moving forward.

[applause] but i do have -- but i do have a concern, and i think i'm understanding the intent is that a whole range of options can come back to us. Because i do have a concern about those discussing '02 who don't have any enforcement issues, who have been good operators. And i'm going to be wanting to see options come back that allow for those types of type 2s to continue. I personally -- i do not support type 2 short-term rentals in our residential areas at all.

[applause] that's why i voted -- that's why i voted for the moratorium. But i'm also sensitive to those people that are administrator here and that are participating as good actors, and i want to make sure that what comes back to us respects what they've done in their -- you know, with their own property.

[11:11:27 pm]

[applause] so i'm just -- i can propose some language, but, actually, i'm just going to -- i'm understanding from councilmember tovo that this language is intended to be broad, and so i'll support it with that understanding that those kinds of options will come back for us to consider about what to do for those -- for those type 2s that are good actors and that exist now.

[applause]

>> mayor adler: any further debate on this item number one on mayor pro tem's list? Then -- ms. Garza?

>> garza: yeah. Councilmember kitchen, that's basically what i wanted to say, but i'm really tired.

[laughter] so i don't know if an amendment is in order because the way i read 1 it's saying -- and require conditional-use permits and i'm supportive of this moving forward with those -- with that as an option, but not -- the way it's worded, it sounds like we're just saying that that's the end all -- the end of it. So i don't know if that's -- if that's in order. Because i, too -- my gut is to not punish the good actors, and so if there was a way to maybe grandfather good the actors, if there's never been a 311 call against them or something like that, that's what i would prefer.

>> tovo: mayor?

>> mayor adler: yes.

>> tovo: if i may, you know, i'd rather not come up with kind of the conditions and restrictions and mechanisms and the means, but how about if we just add require conditional-use permits and add the language or other options for continued operation of type 2 short-term rentals and then it goes on to say and/or consider options. So i think we've already captured options once, but i'm happy to add it in after conditional-use permits as well. Or the language "or other options."

[11:13:29 pm]

>> mayor adler: any objection to that change being made by mayor pro tem? Hearing none, that change is made. Or other options are added. Further discussion on this option? Mayor pro tem's item number

1? Let's take a vote. Those in favor of this item number 1 being sent to the manager to initiate the ordinance consistent with it, please raise your hand. Mayor pro tem, houston, pool, garza, renteria, and kitchen. Those opposed? Balance on the dais. That one moves forward.

[applause]

>> mayor adler: number 2. Mayor pro tem, number 2?

>> tovo: number 2 is to repeal the provision that allows 25% of family units type 3 short-term rentals and cap all type 3 short-term rentals to no more than 3% by property. This is something that, again, i think if we're concerned about preserving housing

[indiscernible] opportunities for renters, for austin residents, i believe we need to take a look at that 25% provision and so that's my proposal. Again, this would move on to planning commission for their recommendations, if they want to suggest other ways to look at that percentage, that would certainly be the option that they have before them. But i do think that 25% is really way too high.

>> mayor adler: okay. Is there a second to item number 2? Ms. Pool seconds that. Discussion? Ms. Troxclair.

>> troxclair: i -- the previous item that just passed initiated a way to push type -- to push str's into commercially zoned areas but now with this we're saying that we don't want to have -- that str's shouldn't be allowed in commercially zoned areas either.

[11:15:40 pm]

So, i mean, i just -- this is a significant reduction -- well, few things. Number 1, that's not that many complexes that allow type 3 short-term rentals in the first place. So i think the number -- i know the number of type 3 units that we have in the central business district is only 56 units. So i think it's very conflicting to say that we want to push str's into commercially zoned areas but then to say that they shouldn't be allowed in commercially zoned areas. So i'm going to be voting against this. And i also think that -- i also hope that we can have a legal discussion sometime between now and when this ordinance comes back because i'm very concerned that there are people in austin who have bought properties here based on the property rights that were currently -- we're currently granted under existing codes and that if we put these things in place that we're going to have some legal issues on our hands.

[applause]

>> mayor adler: is there further discussion on this item? Ms. Gallo and then ms. Kitchen.

>> gallo: i also expressed concern about the same thing. We hear people talk about wanting to move short-term rentals out of neighborhoods into commercial areas. This is so counter to that. There shouldn't be any caps on those properties in those areas. And the other thing is we keep -- people keep bringing up the conversation of the impact that short-term rentals have on our rental market, and i just wanted to put forward some numbers. I mean, there are 520 type 2, type 3 short-term rentals, licensed as of october 2015. 520. There are currently -- the consensus shows that there are -- census shows there are 185,000 rental units in austin right now.

[11:17:43 pm]

That is less -- it's probably a .2% of the total rental units.

[applause] and i -- and i believe the number shows that there are about 10,000 under construction and probably another 10,000 that are currently in permitting process. So the number of short-term rentals that are currently licensed are a very small percentage of the total rental housing in austin and i think we need to keep that in perspective.

[applause]

>> mayor adler: okay. Ms. Kitchen.

>> kitchen: i was just curious about the 3% by property, and i'm wondering if mayor pro tem is open to measuring 3% in other ways. Would that be one of the options that could come back to simultaneous.

>> tovo: i'm happy to have the planning commission look at options that are reasonable for that. What i'm -- and so if you want to add language "or other options." my concern -- and i think, councilmember troxclair, you raise a good point, so i want the ability to address that. You know, if you get a complex and we do -- we have not been able to get the numbers broken down by properties downtown. I do -- i have looked at a few of them, primarily those owned by people who are advocating against this amendment, but -- so i know there are some complexes in our downtown area that are well beyond 3%. You know, if you get to the point where you've got a quarter of the units that are rental units that are reserved now for hotel use, you're not -- you know, at some point you ought to go and seek a change of use for a hotel. I think if that's the primary interest in your complex of having it be a hotel use, you have an ability to do a zoning.

[applause] so that's my intent, to make sure if we have multi-family rental properties they exist primarily as rental properties.

[11:19:48 pm]

So i'm open to other ways of capping that that are reasonable. 3% by property i would like to be an option they consider. If you want to propose 3%, you know, or other reasonable limits or some other kind of language, i'm certainly open to that. In fact i'd be happy to add that in, "or other reasonable limits." and then with the knowledge to the planning commission or the request of the planning commission that they help sort out, you know, what are some other proposals that would meet the intent of that.

[applause]

>> mayor adler: ms. Tovo proposes to add the phrase "or other reasonable limits" to her number 2. Is there objection to her doing that? Hearing none, those words are added. Continued conversation on item number 2? We'll take a vote -- i'm sorry, ms. Troxclair.

>> troxclair: i guess i just want to make one more note. These condo or apartment -- condo complexes already have hoas that strictly regulate -- have the ability to regulate, whether or not they want to become a hotel, whether or not they want to prohibit the use of short-term rentals, whether or not they want to reduce the percentage of short-term rentals. So there's also -- there's already the owners -- the owners in that complex, unlike the neighborhoods, which may not have as strict of controls of what their neighbor does on their property, the condo complexes do have that control within their building. So i just think that we should -- i don't think that these are -- again, these aren't the problems -- the properties that we're having problems with. So let's spend our time and resources enforcing our existing regulations on the problem properties.

[applause]

>> mayor adler: mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I'm just looking at the data that was handed out here. It looks like a compilation of the austin code department and if i'm to believe these numbers -- and i don't have a reason not to -- short-term rental type 3s, 1.4% of the complaints called in to 311, and that compares to 19.3% for type 2 and 62% for unregistered str.

[11:22:12 pm]

So i'll be voting against this because it's just -- it's not a problem to be fixed, for type 3s. So. . .

[applause]

>> mayor adler: any further debate on item number 2? We'll take a vote. Those in favor of number 2, please raise your hand. The mayor pro tem, ms. Pool, kitchen, mr. Renteria. Those opposed please raise your hand? So the rest of the dais. It's defeated. And ms. Houston abstained. It did not pass. We'll get then to item number 3. Ms. Tovo?

>> tovo: so this provision -- and it's my understanding that based on discussion that we had back in 2012, that as public accommodations, commercial short-term rentals type 2s are required to provide ada accessibility. I'm not sure if there's dispute on that or not. I think there is among certainly members of the community, but i think as a community we ought to -- we ought to require places that are providing public accommodation to be accessible to all individuals. And so number 3, again, would initiate a code amendment that does that.

>> mayor adler: okay floodplain a --

>> tovo: to clarify, this would not be type 1 because they're not used as public accommodations 100% of the time.

>> mayor adler: is there a second to this? Ms. Pool seconds.

>> pool: yes.

>> mayor adler: is there any discussion on item number 3? Ms. Pool?

>> pool: providing accommodations under the americans with disabilities act is really important to me. I had brought this up earlier, that if the mayor pro tem hadn't offered it, i would. I think it's only fair that we make sure that these units, if they are indeed available to the public, that they are available to our folks who happen to have disabilities as well.

[11:24:22 pm]

[applause]

>> mayor adler: okay. Any further discussion on this item 3? Mr. Zimmerman.

>> zimmerman: maybe, it just occurs to me that if this council were to propose something that may be 3% of the population would have to pay for for 97% of the other people's enjoyment, they would say, well, that's discrimination against the minority. Why are you forcing us as 3% to pay for something that benefits 97%? Now we have it the other way around. I just -- this is just crazy to me, that 97, 96% of us are going to be forced to pay more for the benefit of 3 or 4% in private businesses and i just can't conceive of how we could do this. I thought our job as councilmembers and city government was to provide the best service we could to the most number of people. And this is how we do the opposite.

>> pool: mayor, if i may.

>> mayor adler: furnishing discussion? Ms. Pool.

>> pool: if i might, it happens to be a federal law.

>> right.

>> pool: the americans.

[applause] with disabilities act. That is not something that we can pick and choose and say, well, it's too expensive and it's only going to benefit whatever percentage you happen to pick out of your hat. This is a federal law if has been in place for over 25 years. If our short-term rentals of any type can't accommodate and abide by the law, then we have a real problem on our hands. This is a very -- this is so foundational. This is so foundational.

>> mayor adler: is there any further conversation on item number 3?

[applause]

>> mayor adler: ms. Garza.

>> garza: this is -- this one is a tough -- all of these have been tough. But this one is especially tough because i could support new strs having to be compliant, but i guess there's -- for me it's a little bit -- it's a matter of interpretation if an str is -- it's not like a restaurant, where you have a lot of public coming to

visit it, which i think there are exemptions when the ada was instituted originally, and then there were properties grandfathered and there's all kinds of things that apply to new -- to come in compliance with ada.

[11:26:56 pm]

So i could support this for future str's, but i can't support it for everybody having to come into compliance.

[applause]

>> mayor adler: any further discussion on this item? Ms. Houston.

>> houston: well, i just want to remind everybody just a few minutes ago we were talking about reasonable accommodations. That's one of the things that people with disabilities have a right to, as well as everybody else.

[applause] so i just want to remind them, remind us of that.

>> mayor adler: further discussion on item number 3? Ms. Troxclair.

>> troxclair: i don't know if there's staff here, maybe another councilmember can answer this, but aren't -- didn't -- under the disability ordinance that was passed recently, aren't all new -- all new builds, i guess, are required to be ada compliant, but that wouldn't necessarily mean that a new str would be ada compliant. Never mind. I answered my own question. My question then for staff would be do we have any information on how many str type 2s are ada compliant or what the -- how many would need to be brought up to that standard or what the cost would be or how many people we have that are renting units that need ada accessibility?

>> mayor, members of council, carl smart, director of austin code department. To answer your question, councilmember troxclair, we do not have that information. We are hopeful that pretty much all of them would be ada compliant, but we're not sure if this -- this ordinance or amendment passes, then of course -- couple of things. One, you've already done an amendment that would allow staff to do inspections, and so we could check because we haven't had that authority so much before. And then, secondly, we would accept complaints or call -- requests for service from potential tenants or tenants who would like for us to check the property to see if it's ada compliant.

[11:29:07 pm]

So right now we don't have that information, but going forward, of course, we could get that information.

>> troxclair: okay. I guess i just -- yeah. I mean, it's hard to vote on something when we don't have any information about -- any information about it. And i would think from a -- if i was an str owner that owned an ada compliant property, i think that that would be a benefit that i would advertise to people who would potentially come rent. It seems like there's already kind of a built-in benefit to be ada compliant, because you're able to serve a broader were broader number -- broader number of the population.

>> mayor adler: further discussion on this item 3? Ms. Tovo.

>> tovo: i'll just add that, you know, as i mentioned this came up last time, and i think there are differing legal interpretations of whether they're already required to provide -- to be compliant or to provide accessibility, and so i think that asking the planning commission to take a look at it would make good sense because there are people in our community who believe they are already required to provide accessibility, and it would be nice to get out ahead of that issue.

[applause]

>> mayor adler: any further discussion on number 3? We'll take a vote. Those in favor of number 3, please raise your hand. Tovo, houston, pool. , renteria, kitchen. Those opposed? The rest of the council. Does not pass. Number 4?

>> tovo: so 2001 -- you're right, mayor, i think you mentioned before that we have already adopted 5 so we don't need to go through that this evening. Number four would ask the owner and the property manager to certify that they have no significant code or austin police department violations or significant verified complaints within the last two years.

>> mayor adler: is there a second to this?

[11:31:09 pm]

Ms. Pool seconds. Discussion?

>> gallo: i'd just ask a question of staff. How would you do this? How would this be implemented?

>> councilmember, on this particular amendment, of course, we would use -- depending on our database, which is the amanda enterprise system, as cases are handled and violations are occurring, we enter that data into the amanda enterprise system. And so in reviewing the application for an str, of course we would have to go into that system and go back a couple years and look and see if there's any outstanding violations or any violations that occurred on that particular property. At the same time, the police department would be using their system in order to do the same thing.

>> gallo: so i guess my question -- i mean, i think the intention is really, really good on this, but my concern would be you just -- it's so broad. Austin police department violations. Would that be a speeding ticket? I mean, i'm concerned that that's really open-ended and i think what you're looking for really is the verified complaints and that really triggers it down or hones it down into the short-term rental properties. That would be my --

>> tovo: and i would say i would assume that planning commission would sort of take that approach and our staff in sending it back to us but, yes, i would say verified complaints or code violations related to the health and safety of tenants short-term rental visitors in that property. For example, if they have not finalized one of their inspections or something like that, i would expect this check to pop up that.

[11:33:09 pm]

If they have a history of significant verified a.p.d. complaints on that property, that would suggest there are dangerous conditions. Or a series of noise complaints then that would be something that could be triggered as well. But i would like to leave -- i would like to leave figuring out the mechanics of that and the specifics of it to the planning commission and our staff, but, absolutely, i don't think things like speeding tickets or other issues not related to the running of a short-term rental.

>> gallo: i would be delighted to support that if you could add some language into the austin police department violation to really make it specific to the property. You know, i'm just wondering, now that we -- i think one of the enforcement regulations -- the enforcement tools that we've added is that the code department will now be able to respond to noise violations. And that was really the only violation that the police department was responding to.

>> tovo: so i've got the first three words but i think it needs a fourth. Significant verified complaints related to -- related to the property? That's not great, but maybe that helps eliminate speeding tickets, other kinds of nonproperty-related complaints or violations. So then it would read for any short-term rental license, application or renewal, certify that both the owner or property manager have no significant code or a.p.d. violations or significant verified complaints related to the property within the last two years. Does that help?

>> gallo: it does. Then i have another question. I'm sorry. My brain is too tired but there's questions that keep popping up. So the situation that i would want to try to avoid also would be a circumstance where you have a really responsible property owner that has not had any complaints but all of a sudden ends up with residents that do something and the police get called and it's very -- it's a 1-time situation.

[11:35:25 pm]

I mean, i just -- one time you're out on something that a resident may cause that hasn't ever happened before and then all of a sudden we're talking about they can't renew their license. So some type of moderation that maybe goes back to the three strikes you're snout i understand the intention and i think it's good but i don't want to penalize property owners that have been good short-term rental owners but just happened to have that rogue resident that for some reason the police get called on and there's some type of police action and then that would impact their ability to continue to rent to their normally good residents.

[applause]

>> tovo: so this is talking about the owner and the property manager. If you had that one tenant who was doing something or the one resident, i guess depending on the action, they might be the source -- they might be the recipient of that violation or it might go to the property manager, and it sounds like that's the situation you want to offer some alternatives to. So, councilmember gallo, would it work to offer some language about directing the city manager to suggest an appeal process or some such that would allow for those unusual cases where there might be a violation that's really not associated with the property owner? Or is there some other language you would suggest? Or is it enough just to provide staff with direction that we want them to take into account that situation.

>> gallo: that it relates to the property and against the owner. Related to the property and specifically to the owner. Not the residents? I'm just -- it's -- do we have any attorneys in the group that could recommend --

[11:37:25 pm]

>> mayor adler: how about -- if the goal here is to introduce the subject and to ask the staff to do it, maybe to be less prescriptive and to just say on the short-term rental license application or renewal, considering past violations or history related to the property's use as a short-term rental? And just leave it open like that. I have -- i like this too. I'm concerned about how you treat a complaint because a complaint to me doesn't have the same standing as a violation. Because a complaint goes one step past that. So i'm trying to see if we can pull out a little bit to raise the issue and then let the process define how it would be applied or taken into account or what would be applied or taken into account or how it would be applied or taken into account.

>> tovo: i'm fine -- i'm fine with that being a source of discussion that comes back to us. I do want to preserve the austin police department in there so that it's not just code violations but it's also austin police department. So as long as we can do that and allow for those -- your language was, i think, good. But i couldn't begin to repeat it so.

[laughter] maybe we can ask the court reporter.

>> mayor adler: i couldn't do that either.

>> you may want to say criminal violations because of course it's not the austin police department violation. I think what you're trying to capture is criminal activity.

>> tovo: thank you. So significant code or criminal violations --

>> mayor adler: associated -- related to the property's use as a short-term rental.

>> tovo: that's fine.

>> mayor adler: right?

>> troxclair: should be taken into consideration.

>> to clarify, you're asking for the property owner to certify that their property hasn't had a criminal violation or code violation?

[11:39:30 pm]

>> mayor adler: i was pulling back a little bit because i don't know if it would take place at a certain location or the review associated with that. But i think the -- what the concept is, that -- that at -- as part of consideration of a license application or renewal, as part of the consideration or -- consideration would be made of prior code or criminal violations or significant verified complaints related to the property's use as a short-term rental. And that leaves it -- how it gets considered, whether they're considered equally, whether they're considered separately, what the ramification is, those would be all things to be worked out in the process.

>> tovo: yeah, the language that you had surrounding the phrase short-term rental.

>> mayor adler: related to the property's use as a short-term rental.

>> tovo: because this is for new applications as well, i want to make it clear that related [indiscernible] in that sense i would think of as relevant to its potential future use as a short-term rental. So if there were other property-related issues, even though it hadn't been a short-term rental, i think they would still be relevant.

>> mayor adler: okay. Related to the property's use or the person's prior track record with the short-term rental?

>> tovo: that sounds good.

[laughter] i think that captures the intent. I think that captures the intent. And i think our city attorney asked the question of whether the property owner and manager would provide that certification or whether it would be staff, and i'm agnostic about it. I think it is very easy to get a police report for an individual so certainly we could ask them to do that.

[11:41:32 pm]

It's also easy for staff to run that. So, again, i think that's -- that's a detail i'd rather --

>> mayor adler: i concur.

>> tovo: have sorted out later in the process.

>> mayor adler: okay. Is it okay if number 4 gets mended with whatever -- amended with whatever language it was last discussed when staff goes back and looks at the tape?

[laughter] no objection. That's what it is. Because this is going into a drafting process, i think that provides the direction. Any further discussion on this? Those in favor of that four as changed please raise your hand. Those opposed? Mr. Zimmerman is voting no. Everyone else votes yes. And ms. Houston is off the dais. That i think is all those items. Okay. We're blowing and going now.

[applause] thank you all for your patience. I know this has been a really long day for you guys as well.

>> gallo: mayor, can i just --

>> mayor adler: ms. Gallo.

>> gallo: i just wanted to say thank you to all of you --

>> mayor adler: we're not done yet. Ms. Pool has one.

>> gallo: never mind. I'll thank you in a minute. Sorry.

[laughter]

>> pool: it's fine if you want to thank them now.

>> mayor adler: ms. Pool, you've handed out a sheet. Do you want to address that.

>> pool: i did. I had posted on the message board that i had talked about the last time we met on short-term rentals that i wanted to look at the fee structure and to reduce it for the permitting fee, that is, for type 1 str. And potentially increase it for the type 2s and 3s so after consulting with staff, i'm proposing this amendment that i've passed out on the yellow piece of paper and if someone can put it on the overhead that would be really great and we can share it.

[11:43:42 pm]

And my staff, i thank them for the work that they did yesterday and today with ms. Link to get this wording correct. So i'm going to read because i have to get this exactly right and i think we're dangerously close to midnight. So after consulting with staff i'm proposing this amendment in place of my other proposed fee structure amendment that was posted to the message board. My intent is the same, and that is to lower type 1 fees and to increase the fees for commercial short-term rentals, and i want the fee changes to be revenue neutral. So i move to have this city manager bring back on amendment to the fee ordinance that creates a tiered fee structure for short-term rental licenses based on str type but does not result in a loss of funding and does not exceed the cost to regulate the activity. Because type 1 short-term rentals are owner-occupied homes and are therefore not available for rent on a constant basis, they don't generate the same income stream as can be generated by your type 2 non-owner-occupied str. Therefore, we need to encourage compliance with the license requirements for type 1 str by reducing the amount of the fee the city charges to obtain that license. So that is my thinking on lowering the fees on the type 1s. And then adjusting upwards as necessary in order to be able to pay the cost to regulate the activity, but for it to -- so there's no loss of funding, but that it's revenue neutral, so of course we would not be making any profits on that. So that is my motion.

>> mayor adler: okay. It's been moved to add another element to the str ordinance that would create a tiered str license structure based on type but would be revenue neutral.

[11:45:48 pm]

Is there a second to that? Ms. Tovo seconds that. Any further discussion on that?

>> pool: and i appreciate everybody's indulgence because it's late. So when staff comes back with a proposal, then we can talk about it further. But the intention, as i have laid it out, is to lower the cost to people who have the type 1s and to encourage additional compliance and then to recoup the cost of the activity. We don't really have a fix on what the cost to regulate the type 2s and trustees are at this point. The amount that was chosen last year was kind of picked out of the sky, and i think with all of the additional work that we're doing on short-term rentals, we have a much better opportunity to be able to cost out what it will cost, the real costs of regulating.

>> mayor adler: any further discussion on this motion by ms. Pool?

>> houston: mayor.

>> mayor adler: yes, ms. Houston.

>> houston: bring it back by when.

>> mayor adler: it would be part of the process.

>> houston: part of the process, okay.

>> mayor adler: it would be among the other instructions we've made, the other 24 now changes we're making on str. Yes, ms. Kitchen.

>> kitchen: i will support bringing this forward, but i don't know enough yet to say what i would expect the -- you know, the result to be. So i respect councilmember pool, she obviously has done a lot of work on this. I don't know that lowering on type 1 and raising on type 2 would necessarily be the result. I mean, it sort of makes sense. I just want to say that i like the idea of the tiered fee structure, but i want

the information to come back to us and then we can decide what the result is going to be. And so i just wanted to say that because i can vote for this but in voting for this i'm not necessarily agreeing that it would come back to us that way.

[11:47:51 pm]

>> pool: and i think the staff was looking for a better way to measure what the cost of the enforcement is, and because there is less -- there are less issues with the owner-occupied, that it seems like just a logical conclusion that it would be lower. And i'm happy to see what the -- what the results of the additional work would bring us back to.

>> kitchen: okay.

>> pool: yeah. Thank you for that.

>> mayor adler: and in that light, is it okay that, in addition to drafting this, because they'll be doing the research associated with that, that we ask staff to also come back with a recommendation as to its appropriateness?

>> pool: in what way?

>> mayor adler: that they could go out and take a look at it and say it's not legal, it's not practical. We've done it. You asked to us do this. We've done this. But now that we've been in it, that we have -- we're asking them to give us an opinion, which goes to the question that ms. Kitchen asked.

>> pool: yes. And i would expect that would be what we would get back, is to see how to recoup it.

>> mayor adler: any objection to adding those words to ms. Pool's deal? Then the words are added. Any further discussion on ms. Pool's? Ms. Gallo.

>> gallo: i have a question from legal. Because i thought that the admin fees that were charged were administratively determined. And now we're talking about having something that's getting put into the ordinance?

>> councilmember gallo, it's amending the fee ordinance. Whenever council sets fees for licenses, permits of any sort, it's part of the city's fee ordinance. So we would be amending the city's fee ordinance. It wouldn't be necessarily a direct amendment to 25-2 or 25-12. It would be the city's fee ordinance but because it's all part of this same discussion it would come back to council in the same time frame as the other amendments.

>> gallo: so what we would be amending is going to a tiered structure -- or evaluating going to a tiered structure but not actually an amount?

[11:49:58 pm]

Because my understanding, that if you go to amount and the cost -- it has to be tied to the actual cost.

>> correct. Staff -- the budget staff will work with code staff to determine what those numbers are. And then they will make a recommendation showing a tiered system, and they can also show an alternative if that's what the council would like.

>> gallo: but the actual dollar amounts are not placed into the ordinance because if they were to change from year to year, then we would have to be amending the ordinance again?

>> so the fee schedule is adopted on a yearly basis. So you would potentially change it on a yearly basis. What we would bring back to council would be the fee ordinance showing the tiered structure as part of that ordinance. So assume for the next budget cycle, if the council needs -- determines that the amounts need to be raised or lowered based on whatever the city's costs are at that time, then you would make that change at that time as well.

>> gallo: okay. So it's not the long lengthy process of a code ordinance change. It would just be part of the budget if it were to change from year to year?

>> correct.

>> gallo: thank you.

>> mayor adler: okay. Ms. Pool's motion as amends has been made and seconded. No further debate. Let's take a vote. Those in favor please raise your hand. Those opposed. Mr. Zimmerman votes no. The rest voting aye. That one moves forward. I think we're done now with short-term rentals.

>> pool: thank you, everybody.

>> mayor adler: thank you, everyone.

[applause]

>> mayor adler: it is -- thank you. It is ten minutes to 12:00. We have --

>> gallo: mayor, can i say my thank you now.

>> mayor adler: if you do it quickly.

>> gallo: very fast. Anyway, i just wanted to thank you to everyone that's been part of this long, long journey that we started early this year. And i just -- i want to thank you for that, and i wanted to ask the district 10 neighbors to still continue to work with our office and let us know when you have issues with code enforcement.

[11:52:00 pm]

We want to continue to be part of that process and continue to hear your concerns. So thank you.

>> mayor adler: thank you. We're going to move to one of the annexation issues here that has folks to come talk to us. We'll also have bluebonnet hills that does not have any speakers, as well as the rest of the annexations that do not have any speakers. Let's see who is here to speak to the annexation item 79. This is lampasas trail and teleron drive.

>> good afternoon, mayor, council, virginia collier from the planning and zoning department.

>> mayor adler: if everybody can be quiet please and let us try to get through the agenda. We'd appreciate it. Sorry, go ahead.

>> this is the second of two public hearings for each of these areas. Council will not be taking any action on the items at this evening's hearing but i wanted to remind you we need to close each of the hearings tonight so you can consider these at the november 10 council meeting. So before taking up these issues individually, i just wanted to point out and clarify a couple of things regarding annexation generally. Staff is recommending each of these areas for your consideration based on direction provided and the council adopted imagine austin comprehensive plan custom

[indiscernible] annexing land when advantageous the public good. The state provides tools need in encouraging orderly growth and economic development. When used responsibly annexing of properties located adjacent to the city limits allows the city to expand land use and development regulations to properties located in the city's etj, to protect and expand the tax base, broadly disabilitying the cot cost of services that benefits residents and surrounding areas such as public health and safety and drainage and street maintenance, recreation and programs, municipal courts and provide municipal services to developing and urbanizing areas, especially areas already receiving city services where full municipal services can be easily provided without negative impacts to existing city taxpayers.

[11:54:16 pm]

Collectively these include approximately 1200 acres, 72% of which is currently undeveloped with either approved or pending approvals for site plans or subdivisions, 14 existing homes, 2,152 platted lots and include 7,000 residents at build out. As part of our standard practice, city staff and multiple city departments reviewed the areas and provided feedback that allows us to recommend all of these areas for annexation at this time. Copies of the service plans for each of the following areas are available

online and in the council agenda backup for each item and i brought copies or i'd be happy to send a copy. In compliance with statutory requirements each plan includes through main components, first being the early action program, including services provided in the area commencing on the effective date of annexation, second section talks about additional services available city-wide but not required by state display then the third section of the service plan contains the capital improvement program where any information about capital improvements necessary to provide municipal service would be found. Starting with item number 79, the old lampasas trail area this one includes approximately 83 acres in travis county, south of the intersection of old lampasas trail, continues to districts 6 and 10. This area is currently in the city's limited jurisdiction etj and adjacent to the north and expertise west sides of the tract. This area includes seven single family houses on large lots, a church and a pedernales electric substation, west of spicewood springs road. This area includes three quarters of a mile of right-of-way. At the first public hearing residents of this area expressed concerns about becoming city residents and described issues involving flooding mitigation and the city's accountability for addressing drainage problems in the area. I spoke with our watershed protection department engineers and staff, who provided additional information in response to the residents' concern and i'd like to share that with y'all.

[11:56:24 pm]

First the residents noted undetained and untreated stormwater from development of properties upstream, namely canyon creek streets, draining directly to old lampasas trail and across the street to the south, flowing through the properties considered for annexation. Upstream from the old lampasas notable development took place in 1980s with residential muds and then in 1990s with commercial development around the four points area near six 20 and 2222. City of austin coat and criteria has required water quality treatment for all of the development occurred in the proximity to this annexation area. Culverts upstream are designed to let water through at a certain pace, however overflows cause erosion in the annexation area. Located on tributary five to bull creek, immediately upstream of the annexation area the gardens referred to at the first public hearing as an earthen dam wisecracked by the city of austin and mitigation for upstream development stormwater flows began in december 2000. The gardens provides a significant capture of stormwater that otherwise would flow through these properties. In addition the city has made other significant investments for flood mitigation and to some degree for water quality in the proposed annexation area. The city currently owns and helps manage the balconies management land, this corresponds to approximately 36% of the total contributing drainage area at the confluence of tributary five with the main stem of bull creek located at the upstream end of the proposed area. The bccp lands effectively eliminate the possibility of additional runoff from urbanization. Also the watershed protection department is currently working on arranges project for the old lampasas that significantly reduces throws from the tributary to bull creek that flows into the eastern end of the annexation area near the substation.

[11:58:31 pm]

As for flood protection within the proposed annexation area none of the homes within the area are located within the floodplain, however since bull creek runs along the back of the lots within the area portions of these properties are partially in the 100 year floodplain as you saw in the pictures, the residents showed bull creek flowing after a recent storm event. The residents of the old lampasas area also spoke about a water feature on the meyer tract which is not a utility pond located on private property. So the city of austin cannot perform maintenance on this using city funds. Flood trail facilities located within the annexation area are on the church tract including two ponds, privately maintained with no registered complaints. As described in the service plan being proposed, drainage needs within

the annexation area would be addressed as funding is available, relative to flooding concerns on the watershed protection list. Finally i'd like to point out that the deed restrictions the residents put forward apply to approximately 30 of the 83 issues or 36% of the land within the proposed annexation area, including the old lampasas and pedernales tract, so why is this in the city's best interest? Annexation of this area results in a more equitability distribution of the cost of city service that's benefit not only residents but also residents of this area. The extension of zoning, building codes, development regulations to maximize protections for an environmentally sensitive area protects property values and characteristic of this area. So, again, the city will provide municipal services upon full purpose annexation and we have the assistant director jose guerrero and chuck to answer any questions you might have this evening and that concludes my comments.

>> mayor adler: thank you. Were those comments written?

[laughter]

>> i tried to write it out so i can move through quickly.

>> mayor adler: that was fine. You would please send them to council.

[12:00:31 am]

>> sure, sir.

>> mayor adler: thank you. We have speakers signed up to do this. I want to begin by thanking you for your patience. If it's any consolation, we'll still be here after you're gone.

[laughter] but we thank you for your patience. Do you have an order of people that you want to come up? I had sharon blithe first but if you want to --

>> yes, we do. I'll speak first. I'm going to be brief for sake of time. And then greg is going to speak. I think several others have signed up to speak. Then i'll close, if you don't mind.

>> mayor adler: that would be fine.

>> first, i'm speaking on behalf of all of the property owners. And almost all of them are here tonight. And the one thing i wanted to -- what i'm going to do is be brief on this because for the sake of time -- yeah. Is if i can just briefly review what we covered two weeks ago. And i'm not going to cover all the points because we went through this before. There's nine property owners, all of us are opposed to this on old lampasas trail. Councilmember garza had mentioned what is the effect if you do not annex this, and these percentages up here show that it's very little effect if you don't annex us in the overall scheme of things. The deed restrictions. One thing i didn't really clarify on the book that i brought last week, that book represents a novel written by walledden, clem tine walledden, and it was written -- she's the great granddaughter of w.d. walden, who is written up in the historical museum of texas, and it describes this valley.

[12:02:39 am]

And when we read that book, as every property owner has, we've been out there for two, three, four decades, that is how we created these deed restrictions. As virginia mentioned, yes, those deed restrictions cover 30 acres but we have since then, because of this annexation, we've talked to every -- all nine property owners who have said if it comes down to annexation, to avoid it, they're all in agreement with adopting those deed restrictions. And those deed restrictions will protect that creek and keep it in alliance from an environmentally sensitive area better than anything that the city has. We've adopted those. They will last in perpetuity, and they also maintain rural residents status for 5 acres or more. The -- providing municipal services, as i mentioned before, the city is providing nothing. We have provided all of that out of our own sweat equity as well as a lot of capital providing those. You mentioned one of the criteria is the efficiencies in service delivery. We are not land locked, and we are

not, as we see, a gap in the service. The old lampasas trail is a limited purpose annexation, and the city has full access to officially service the people to the north of us. So there's no justification in our opinion to -- as a criteria to annex us because of those efficiencies. In fact, as you -- as we pointed out before, commission daughtery has given a letter to support not annexing.

[buzzer sounding]

>> i should have had more minutes, i think. Was that just three?

>> mayor adler: you can go ahead.

>> maximize return on the city's investment. Again, the city has provided nothing. The other is -- this is a win-lose proposition.

[12:04:42 am]

Yes, the city was going to get taxes, but it's a huge burden to every one of the constituents on this property. We're all taxpayers. We pay a lot of the taxes. This would be a big burden for all of us and most everybody is retired on income that is declining due to inflation. This is the big one. And i'm going to read this because i think it's important in -- and commission pool has mentioned before in the last session about federal law. This is a state law. And i'll read it. The owner of higher properties entitled to have surface waters pass along to a lower properties so long as the waters follow the usual courses and flow in natural quantities. The higher property cannot increase the burden on the lower property by diverting or impounding the natural flow. This has happened. The city has inherited the development that was annexed upstream. This is all the property north of us. That was annexed in '97, '98, you inherited that, and it doesn't take a rocket scientist to figure out that the engineers that put this stuff in place did not comply with this law. And because of that inherence, i believe the city is liable for this, and pardon my crude analogy but if i have a guy bleeding in my living room and there's blood all over my carpet, it is -- it is in the best interests of me and that person that's bleeding to stop the bleeding and figure out why he's bleeding and not figure out who owns the carpet. So with that, we've got some examples. Greg? To show you on --

>> by the way i'm greg

[indiscernible], i was here last time. I want to go back to deed restrictions.

[12:06:44 am]

Paragraph g, paragraph h of our deed restrictions forbid short-term rentals.

[laughter]

>> just want you to know that that would not be the case. It's in there. Okay? It's already in there. We beat you to it, okay? So we want -- won't participate in the circus you had here earlier tonight, just fyi, rest comfortably.

>> also, may i add i also included in your packet, mayor pro tem kathie tovo video had asked for the differences between our restrictions and the city's, and we included that -- detailed list in your packet.

>> last week we showed you the -- you got the click center there you go. Thanks. This is the drainage culvert that comes off grand oak on the northwest balconies area. This is the drainage, we showed you a picture of that. We found out by closer measurement this is exactly -- we thought it was 30 inches but we actually measured and it was 24 inches, not 30, to take all the stormwater runoff. You can see the area has been shooting out water for quite a while it actually eroded down the slope. And this is the area, though, that we're talking about. All right? It's not the -- the direct flow comes from the neighborhoods above us. The white -- the blue area is the pond, the tank that's on the meyer tract. The arrows are pointing from the drainage openings that are not only the one i just showed you but also on - from tree bent and pick fair. Those miss the earthen dam put in to block the water coming down from

canyon creek. So that's also what we have to deal with. Now, one thing we found by accident -- this will entertain you because you get to look at a movie. We dug up, dustin meyer, from the meyer property who is at the first piece of property, dug up a video from 2009.

[12:08:49 am]

This was during the worst drought in the history of the area, 2008-2009. And we'd like to show you square root. He was sending it off to his friends, posting it on facebook, saying, gosh, we're in a drought, please pray for rain. And then that's pretty much all you need to know. This is coming from his property, if you can play that.

>> [video playing]

>> was it on that flash drive?

>> what's really amazing about this is that you'll notice that the tank -- here you go. You got volume? That was it?

>> yeah, i know.

>> that's all right. It's been a long night. I just want you to know that all the older people that tim was referring to --

>> we live down here --

>> we're on meds, still here.

>> but it's been low recently as you can see here.

[indiscernible] there go the cranes, one of them, but usually this is all pooled water and here in austin we've had such a drought for the past two, three months or so, as you can see, we finally have been able to --

>> this is all silt. This pond used to be ten to 12 feet deep and it's full of silt now.

[12:10:52 am]

>> it was pretty consistent. The rest of the week is supposed to be pretty rainy as well. Last week or so. But we've been really thankful we're finally getting some water because it's just been so -- so freaking dry. Even the turtles are baking out here. Please, give us some water. But, anyway, so --

>> we are entertaining. Usually all this down there, that's usually covered with water. We don't have grass growing there. Usually that's water. There's some more cranes. See there's our paddle boat. It's totally dried up. Because usually we just don't get enough rain. But, anyway, so we're going to keep our fingers crossed we can get more rain because that would be good, like that mountain right there is usually -- there's usually water all back up in that spot right back in there. So, anyway, what else? So we're hoping that we get, you know, some more rain so you guys keep your fingers crossed for us and we'll let you know when it happens. So --

>> this was the next day.

>> out of their minds. I'm about to show you why. Check this out. Looking in the hall. Duuu, duuu.

[indiscernible]

>> all right.

>> our editing skills weren't that great, but.

[buzzer sounding]

-- you're going to enjoy it.

[12:12:59 am]

>> okay. Forgive me if i talk like

[indiscernible], but we haven't had any rain here in austin for about, oh, two or three months now and yesterday i uploaded a video showing you how low the pond was. This is just one day. One day of rain. I'm going to show you guys. Number 1, my job as the husband of this house, i have to remove the grate over here otherwise all the water coming down from there will go right into there, which is bad. Not good. Everybody say hi to the studio. Hi studio. Okay. So if you remember from yesterday, we saw the video, the water was so low you got to see the bottom of the pond. Look at that. See the bridge? It's completely covered. The lower portion of our little patio over there, covered. You look way down across over there, covered. See the island? The top of the island is almost completely submerged. Check this out. Remember from yesterday? It was just -- you could see everything down there. Now it's completely full. It's really hard to get perspective by looking at video but i'm telling you folks, it is crazy. Raining. I'm going to try not to fall. Into the water. Which wouldn't take much. Yea, froggies. Look. I'm right here. And there's supposed to be a bridge. But, wait, there's the bridge. Look at that. Hey, look, our paddle boat is gone. Whoops. Wow. Wow. All right. Well, i know i asked you guys to pray for little bit of rain, but you can stop now.

[12:15:04 am]

Seriously.

[laughter] okay. So i guess part two. There's a house. There. I can see it. And as you can tell, it's raining like crazy. And there's a pond, which is now apparently a river. And just filling. You guys have to see this. This is just incredible. Okay, now, remember, like just last week, this whole area that i'm about to show you was bone depreciation like no water -- dry, like no water at all. Thank goodness we live at the top of the hill otherwise we would be submerged in this. Check that out. How crazy that? Like --

>> that's bull creek to the left there.

>> that's bull creek right there.

>> mayor adler: so that i make sure i'm following, it's a beautiful piece of property. Help me -- what's the connection with this with the annexation that you want us to see?

>> well, the water that's coming through here is what's coming from the area where the arrows were pointing, okay.

>> mayor adler:.

>> okay so that's the water coming down on the property as well as what's supposed to be slowed down from canyon creek earthen dam. That combined with the two is creating that therefore.

>> mayor adler: got that. Again, we met before, and i'm trying to learn about annexations too. Help me understand what about the fact that there's water coming from the north down through your property is relevant about the annexation?

>> well, the relevance to the annexation is the stormwater runoff that has been happening since the mid '80s, since that subdivision was built, that runoff has not been mitigated at all since annexation in 1998. In other words the water is being dumped by property annexed by the city onto this tract and flooding through this property that this eventually comes down and affects us. So we've had this situation for 16, 17 years and there's been no effort at all to do anything about that opening that you saw a picture of.

[12:17:05 am]

>> mayor adler: and the relevance to that in annexation is?

>> well, what are we -- what do we receive for our efforts? We've had to mitigate that, those sheet drainage, the owner of the property has had to do all the work, has done all that he can to redirect those waters. And so as we went forward in '91, '98, we were not annexed at those times we were left to believe we weren't ever going to be annexed. So we've expended, every one of us has expended

money diverting this water, dealing with this water. The meyers are in a tough spot because if you excavate, try to dig out and dredge, which they've done some, you're going to damage the springs. Those springs are me head waters of bull creek. So it's all interconnected. What's in there is the sludge that came out of the pipe that you saw and several others.

>> mayor adler: i'm not joining at all. I'm just trying to make sure i understand. What you're saying is that you shouldn't be -- this property shouldn't be annexed because other property that the city annexed previously is being out if a use by its owners that is resulting in the flooding of your property?

>> that was already in -- had already been out if use by its owners, not since then. In other words this situation --

>> mayor adler: prior to that being annexed?

>> this was in -- this situation was prevalent prior and after annexation. Okay?

>> i'd like to call up sam tackerrenton who is signed up to talk.

>> mayor adler: i'm trying to understand what the argument is.

>> yeah. For 17 years, our actually sam spent \$17,000 worth of attorney fees trying to get this solved. He went to travis county to try to get -- and they said, no, it's not our problem.

>> let's let sam talk about it. Let's do this. Sam, sam.

>> mayor adler: is here?

[12:19:06 am]

>> he's here. Come on up.

>> sam wants to speak because he was the original property owner in 19 extrapolating he was there at that point in time.

>> mayor adler: what would be helpful to understand is -- is how the fact that there's property upstream from you flooding your property, what is the harassment you're making that that is -- argument that you're making that that is relevant to this annexation?

>> let me put it back to you and councilmembers. What argument does the city have to annex us because -- why would you want to annex us if you have a problem that already existed in annexed property, why aren't you taking care of that property first before you annex? Why inherit more? Does that make sense?

>> zimmerman: mr. Mayor? I think the argument here is that this 17 years, whatever the time period is that there's been a problem in place, caused by development approved by austin in the city of austin or annexed by austin because that hasn't been mitigated, they have no confidence that if they're annexed that they'll get any service or any watershed protection or any of the service that's were called out in the annexation agreement. The annexation agreement, remember it said that watershed, you know, has responsibility for flooding. It also said that there's no need for mitigation or work in the annexation agreement.

>> right. Exactly. I have -- we have actually met with the two people here tonight from watershed department, and i think we're in a disagreement to a certain agree with respect to this texas code. Because as an engineer -- and i look at that spillway, i would be appalled at that spillway. And i think it's generally agreed. I won't put words in their mouth, but when you take the distribution of the water in accordance with this code, you can -- we're used to sheet flow.

[12:21:11 am]

That sheet flow should be coming down in a natural quantity, as it says in here. But if you redistribute that sheet flow and get it confined to, like, that one culvert and have a massive washout, which you have pictures here to show you, some of those trenches are 10 feet deep, that's not normal and that has

conflicted with this code. So in that respect, all we're saying is, as we said in the -- last time, we're willing to sit down because our goal is to protect the creek. But we ask what benefit is it to you or to us to annex us when you have an issue that needs to be taken care of? We're willing to sit down, more than willing to sit down with city staff, engineers, have them come out, put their eyes on that. We've appreciated they've lowered the flood zone for some things they've done.

>> mayor adler: is the argument that if the city annexes you it will now be responsible for a problem that it wasn't otherwise responsible for?

>> i don't think so. I don't think -- what i'm getting at is that the argument was if we annex you, then we can come down and help fix this problem. And we're saying you don't need to annex us. You needing to fix this problem and then we'll entertain annexation. But just show us how you can --

>> mayor adler: so it -- to the degree that the city is saying that the purpose of the annexation is so as to provide the city the ability to fix the flooding problem you're saying you don't have to be annexed for the city to fix the snob.

>> exactly. That's right.

>> mayor adler: that's the argument?

>> right.

>> mayor adler: to the degree the city is saying we have to annex you in order to fix this problem, you're saying that's not true.

>> exactly.

>> because you already annexed this problem.

>> mayor adler: i understand. So we'll talk to staff about that when you guys are done with your presentation.

>> this is the problems that been up there. It's already -- that water is coming off of grand oak and that is already going down as deep as 7 feet into the limestone.

[12:23:17 am]

That's how much water is coming out of that subdivision, out of the pipe that you see right there. 40 feet down from there, 40 feet, just -- that thing opens up, 40 feet down from there it's exposed a gas pipeline as well. And so --

>> the trench on the left is 10 feet deep.

>> mayor adler: okay. Do you have other speakers that want to go ahead and speak?

>> yes.

>> mayor adler: then we'll get to the staff people. Next speaker.

>> thank you. My name is sam tackerinton and in 1980 i purchased 25 acres that most of the map was showing. For five years, i lived out there and that was most -- the most pristine area. The lake that they've shown was about ten to 12-foot deep. It was crystal clear, bull creek was the same way. Now, none of this has anything to do with annexation, but what started right after about 1985, the pipe they show that came out of the area up above started coming down on my property. And i met with the city, and then the city said -- and at first -- i'm sorry, the county, because the county owned that property where it was dumping into. The county said they couldn't do anything about it because it was the city that was dumping the water on it. So they came out and put a silt fence, plastic fence up, and i had a 6-foot chain link fence that's now about 3-foot subcommittee it's caught all the sediment coming out of that area up there. I really couldn't get anything done with the city or with the county. The county, they had -- i think 44 homes right in -- 41 homes right in the area where this water was coming out of this pipe, and i had hired an attorney and quite costly, to get them to understand that sheet runoff that they said they could handle but the engineers showed that no one could handle it.

[12:25:37 am]

So we stopped that one, and then the city annexed our -- annexed that property and then they built four or five homes threw, which they're -- up there which they're having trouble with now. I -- no one -- knowing these guys, they came out there and they got this neighborhood association and they have a sincere desire to save that. When you purchased that bccp up above, it was a joyous thing. It was great because we knew we didn't have anymore runoff coming from that direction. Most of it is coming from the north, the arrows show. That's where the water is coming from. I tried for, well, 20 years, to get something done, and somebody would say, no, it's not our problem. And they'd say this is a natural flow. Well, it's a natural flow but not for the whole acreage out there. I think that what everyone is concerned about, no one has been able to do anything about it for 30 years, 35 years. And now no one is going to do anything about it again. It's a beautiful piece of property. That lake is now nothing but -- it's a runway. There's no depth to it at all. The dam is an earthen dam and if you got too much dredging in there you're going to loosen all of that and you're going to lose the whole thing. So i -- i've -- i'd say i've fought this but we have really tried for a long period of time to make this valley right. I think if this all could be where they don't lose their property and they are losing it in trees, i think they'd be willing to do anything, but just annexing them right now, they're feeling, well, annex, and nothing is going to happen. And until today there's not money available for that. So they built one retention pond up above that.

[12:27:39 am]

And that's on canyon creek. And canyon creek used to come in and be a natural flow to keep that lake full. Those springs are gone. They're still there. They're not coming out. I used to have those marked where they'd go out and see the springs coming out in then dry weather. It's -- it was once approved for historical plat, built in 1856, i think, two log cabins on it, dog one, i've built a home around that, and it's still there. Everything is really nice, but the area is just degraded so much. I appreciate you listening to my story, and i know it's late.

>> mayor adler: thank you, sir.

>> thank you very much.

>> mayor adler: thank you.

>> i think what sam says is what is the answer to your question. We just don't see the city being able to deliver anything to us that's going to give us any more benefits than what we already have, and i think when we met with the watershed folks today, we were pretty much told that the list of drainage projects are huge for the city. You've got onion creek, shoal creek, millions and millions of dollars and eight, ten, 12 years worth of work. We're not even going to get on your radar, even if you do annex us. And so it's one of these things where you have limited resources. And then we have limited resources too. If you take some of our limited resources away in the form of taxation you can't keep doing what we've been doing and people like sam have been doing to protect the creek. We feel like we can protect it better than the city of austin can protect it until you fix what's already the problem. And that's really the key. Is you've got to fix this problem right there and once those problems are mitigated, you know, then we can see a light at the end of our tunnel. Because then we could say, well, okay, we can get the water redirected and deal with the runoff.

[12:29:39 am]

Then we can look at maybe curb, gutter, something our tax dollars could go towards that would really solve our problem.

>> mayor adler: okay.

>> and i -- sue

[indiscernible] who is the president of the northwest balconies homeowners association, signed up to speak but she could not speak, i want to read you her statement. My name is sue [indiscernible] and i'm speaking as president of the northwest balconies association. We bought our home in 1996. At that time the northwest balconies neighborhood was in a local municipal utility district which provides services to residents -- its residents. In 1997, when the area was annexed by the city many residents objected and our hoa was vocal at the time. In the 20 years since then we have seen very few effects of annexation. Our local park is not as well cared for as it was under the mud. We frequently have to contact the city parks and recreation department repeatedly just to get grass mowed and almost nothing else is done. The hoa sets quote cleanup days during the year when residents come along to catch up with the work that used to be done regularly by the mud. After the annexation the subdivision was developed adjacent to our street with traffic access from the new housing coming into the middle of grand oak drive. The volume of traffic in the morning and evening rush hours is tremendous, the speed of many cars well in excess of the limit. Many drivers fail to stop at the stop sign as they enter on grand oak or at -- on the one as they leave. Or at the one on old lampasas. We never see patrol cars from a.p.d. on our streets. As to flood control and mitigation in our subdivision, it's nonexistent, heavy prolonged rains, the local streets are inches deep in water, storm drains overwhelmed, rising water at the box our driveway days on end, we had to use sump pumps to move an estimated six to 7,000 gallons of water over into the canyon.

[12:31:44 am]

Northwest balconies residents have seen no material benefit from being annexed by the city of austin and in almost 20 years and i believe the same will be true for the residents of old lampasas trail.

Sincerely, sue

[indiscernible], president.

>> mayor adler: thank you. Is daisy o'hays here.

>> no.

>> mayor adler: what about kirk pennypacker? Someone else also listed as signed up to speak.

>> no.

>> mayor adler: do you have anybody else that wants to speak before we get back to the staff?

>> the rest of them fell off but we're still standing.

>> mayor adler: okay.

>> i think the one -- i think the close -- yeah, i think we'll let tim close it up.

>> mayor adler: okay.

>> i hope that by our standing here with you, our determination, that you will not annex us, but tim has got that.

>> it was asked two weeks ago what is -- i'm sure every councilmember has some interest, what is the best interests of the city. In our opinion, it's take accountability, in other words be accountable and take responsibility for what you already have rather than take on inherit other issues. And is annexation the right path forward? What is the right path forward for the city? Again, we think these four major points, especially 100% of the property owners are opposed to it, we're not land locked. We just don't see any criteria that says, yes, we need to do it unless it's just you want more tax money. And that's we're hoping is not your justification. Again, we would like to meet with, you know, city staff, with the department, find out what is the cost to get this fixed and then whenever this comes up for annexation again in the future, you'd know what that cost ramification is because you haven't -- we won't

disappear. We have a problem. We don't think you're meeting the state code. And we will make sure that that's heard.

[12:33:45 am]

Appreciate your time.

>> mayor adler: thank you, sir. Can we bring staff back up here a second, please? I'm going to start here and then i want to get to legal and wastewater as well. Help me -- going back through the opening that you gave, the reasons, justifications for the annexing of this property are what? Can you list those for me?

>> well, let me see. So i said specifically why is this in the and i's best interests to annex this area, the summary statement was annexation alternates more equitable distribution of the cost of city service that's benefit not only city residents but residents of this area and the extension of zoning, building codes and development regulations to maximize protections for an environmentally sensitive area, protects the property values and established rural character of this area.

>> mayor adler: two things, first was equitable distribution of services. What does that mean?

>> so the city is in the business of providing services to the general public. That's what makes the city of austin so attractive. Things like public safety, the police, and the fire and ems maintaining the roads, providing access from this neighborhood to jobs and grocery stores and things like that. The public -- health and human services things like coat enforcement and -- code enforcement, you guys talked about short-term rentals as an example of code enforcement, some of the other things are libraries, all the city services. Those are the kind of things that benefit residents within the city limits but also make the city an attractive area to folks coming to austin.

>> mayor adler: okay. So that i understand -- and i'm -- not just this tract but any tract that we would be considering --

[buzzer sounding]

>> mayor adler: sorry. Any tract we'd be considering annexing, our -- is this neighborhood -- are there city roads near this neighborhood that these folks travel on?

[12:35:50 am]

>> yes. There are. The only road that this area -- that is not in the city limits is the stretch of old lampasas trail right in front of these properties. All of the city roads as soon as you leave these driveways, these drivers would be driving on city roads to, you know, head into town, to grocery store, to go to dallas or whenever they go, just the same as the residents on the north side of old lampasas trail.

>> mayor adler: do we have any way that we collect contribution from these people for those kinds of roads?

>> well, no. I mean, city property taxes fund road maintenance and there's the transportation user fee that funds road maintenance but for properties that are on the edges of the city limits there's no way that they contribute to utilitying city roads.

>> mayor adler: okay. All right. Thank you. Okay. More questions for this witness?

>> gallo: i just wanted to verify. When we were working -- we're working on a case that's on spicewood springs, and some street, can't remember, too late, and i was surprised to learn that surprisewood springs is actually a county road also, not a city road. So -- where did the mayor go? There he is. He's hiding. So it's not just old lampasas that is not city but all the spicewood springs that intersects lampasas and goes all the way east to 360 is actually county road also.

>> mayor adler: okay. Ms. Garza?

>> garza: i'm not sure if this is for you or mr. Guernsey, but we're dealing with some muds and so my understanding of muds were, you know, their limited purpose and then basically we create a -- structure not the right word but a model where the people in the mud pay -- they do pay taxes but it goes back into the mud. So it's like paying off the developer for developing the infrastructure for the mud.

[12:37:51 am]

>> that's correct.

>> garza: i'm assuming at some point that infrastructure is paid off and is this -- my question is, are these -- are they still paying taxes on something that's already paid off? Or at some point do they stop paying for those taxes the infrastructure is paid off?

>> these residents were not part of the municipal utility district, that's why they weren't annexed in 199 when the area was annexed. The municipal utility districts in this area, some under the city limits, somebody thought it was a good idea to have them in full purpose before the homes were built so they wouldn't have to deal with annexation on down the road. Some of the areas in the homes in the area just immediately north of this area were in the etj when they were built and then when the mud was annexed the mud was dissolved so they became full purpose. So those mud taxes pay for that mud infrastructure, but regardless of if you're in a mud or you're just -- you have regular property, it's the property owner or the developer's obligation to go out and fund the service a lot of times folks outside the city limits will apply for city of austin utility service and connection to our systems but that's -- the infrastructure to develop that site and put a house on the property is the obligation of the property owner, the developer, not something the city does.

>> garza: you said they weren't in the mud?

>> these properties along old lampasas trail were not in the mud and probably why they weren't annexed as part of the larger annexation because it followed the boundaries of the utility district.

>> garza: i thought a saw a slide in the presentation that said they were in the mud?

>> they could have connected to mud utilities as out of district customers prior to --

>> that's what we were. We paid for out of district service to do that.

>> garza: okay.

>> we paid paid for the utilities to be installed.

>> garza: okay. The next next i'm curious, what is their trash service right now.

>> properties outside the city limits have contracts with private haulers so you could have contractors, whoever the individuals contract with.

[12:39:51 am]

>> garza: thanks.

>> mayor adler: okay. Thank you. Environmental staff, one of the questions, issues that was raised, that was discussed was we can annex property in order to better protect environmental areas and the like. How do you see that as applicable to this tract? To these properties?

>> good morning, mayor, councilmembers, chuck lease knee yack.

>> mayor adler: rub it in.

>> good morning to you.

>> and the -- because they are in the etj, a lot of our development electricians already apply. Anything that is to water quality already applies there. The primary changes that would occur at annexation is our tree protection regulations, tree preservation regulations would apply. They do -- much of these properties are mostly within creek [indiscernible] water quality zone and water quality transition zone so new development on any of these properties would be very, very limited. They could redevelop

[indiscernible] but it would be very limited on these properties today. And but that is the same annexation or not because they're in the etj. So there would be -- then they would have obviously zoning regulations and those sort of land use regulations that would apply that don't apply today. But the environmental regulations that apply to new development for the most part are in place today regardless. Tree preservation would be the -- probably the biggest thing, biggest difference.

>> mayor adler: what about they have development that is upstream from them that appears to be causing or contribute to go flooding problems for these tracts.

[12:41:53 am]

Let me ask jose guerrero to speak to the drainage issues.

>> mayor adler: what i'm looking for here is a sense of whether the city is responsible for that, whether annexation impacts whether we're responsible for that. Should we be doing anything about that? Is that impacted by annexation?

>> i'll let jose speak to that.

>> mayor adler: okay.

>> good morning, mayor, council, jose guerrero, assistant director with watershed protection department. In response to your questions, is the city responsible or liable for past development. Our position would be that the engineer responsible for the subdivision is the engineer of record and responsible for the design of the system. There's usually a 10-year statute of limitations. This property started being developed in the early '80s. By the time it was annexed in around 1997, that statute of limitations was over. Yes, we did inherit the drainage at the top. One thing that's odd to me is there's no detention for that development. Again, it is a hilltop. A mountaintop. And its discharge is on the slide of a slope so it would be very difficult to build a pond in the slope area. Really what he it comes down to is the residents want us to retrofit a detention pond in an area of bull creek that's very difficult to construct on, number 1, and as engineers we could come up with several solutions. The solution that's probably the most feasible is a storm drain collection system at the bottom of the street with a by pass maybe into bull creek, downstream of this dam built as a private amenity. To me that would be a more feasible solution but we as a city couldn't do that because it is out of our jurisdiction.

>> mayor adler: is the -- is -- when the lot -- when the subdivision up and stream on top of the hill was built, was it in the city?

[12:43:59 am]

>> it was in a municipal utility district.

>> mayor adler: so it wasn't in the city at that point?

>> no.

>> mayor adler: okay. If the land up above is built without the proper detention pond or the proper drainage, whose responsibility is that?

>> the -- if there's adverse impacts downstream, the neighbors have indicated there's adverse impacts, erosion on the hillside, that goes back to, again, engineers that designed that.

>> mayor adler: or the owners of that property. Who are the owners of that property?

>> or the owners of the property or the developer originally, yes.

>> mayor adler: a lot of those people are probably gone at this point.

>> they are gone. They are gone.

>> mayor adler: is it -- i guess, legally is the fact that -- obviously we have somebody that went up there and developed by today's standards, certainly, i don't know by those standards but certainly by today's standards they developed poorly. They didn't provide the appropriate drainage in order to protect, and

now there is flooding that's happening downstream of them that, if they could be found, if it was still timely, they could sue those people for causing a flooding problem on them. And i'm trying to figure out -- i'm trying to figure out how that issue relates as -- as it's been presented. Is that -- maybe that's a legal question. Does that relate to annexation?

>> so i think it makes an argument for folks about, as they've articulated why they may not think the city should be annexing this property, but it is not a legal connection between the annexation. It's not part of the issue involved with the annexation. I think you're describing because you're a lawyer a private cause of action between two people.

>> mayor adler: does annexing this property give us any greater either legal or practical basis for assumption responsibility for this or trying to fix this even though it's not our responsibility?

[12:46:15 am]

>> i don't think it gives us any greater obligation to. I think what mr. Guerrero was saying was we're not able to go in there right now and fix it because it's not city property, it's not within the city's jurisdiction.

>> assume they're annexed. Our -- part of our drainage services would be to fully investigate the drainage deficiencies in the area. We could design it with our field engineering group. Then we could construct something with our field operations crews. That would probably be the quickest way to deliver the needed drainage services in the area. Outside of that, if they're not annexed, what -- there's no solutions that been carried forward in these years that i've been looking at this -- and i'm talked to them over the years, and he's discussed with me that he's attempted to do legal actions in the past, was unsuccessful. So one thing the city has done to alleviate drainage to the tract in question is we've invested 1.8 million in a regional detention pond. Again, to mitigate flows from another mud, the canyon creek mud, due to urbanization, rapid urbanization up in this area. So we have mitigated significantly the amount of water that goes in this tributary of bull creek, that goes through one of the properties that's part of annexation.

>> mayor adler: okay. Anybody have any further questions for these folks?

>> one last thing.

>> mayor adler: hang on a second. Let me see if they have any more questions these people and i'll come back to you at the end to close. Ms. Gallo.

>> gallo: but if i'm understanding the ability of the city to do work, the property that's already been annexed on the other side of old lampasas, the city would have the capability of doing detention -- doing drainage issue work in that area.

[12:48:17 am]

Is that correct?

>> yes.

>> gallo: okay. But that's not been done yet?

>> well, the storm drains infrastructure that you see, the pipe outfall, that is adequate to convey the flows coming from the subdivision. It's a question of the outfall, where that -- the outfall to that system is going to. It runs down the hillside. It erodes, brings in silt down to old lampasas trail, which either has to go down the culverts or the channels on the side of the road or culverts that then go into bull creek on the other side. It's that lower outfall drain system that's missing. And it's real difficult to -- the remote boundary areas of two different jurisdictions to solve drainage issues without full corporation of all the jurisdictions.

>> gallo: so if the city annexed only old lampasas, would you be able to put in flood controls on either side of that road to help the situation?

>> the creek is parallel to old lampasas, if you can imagine that. So there will be a low spot in old lampasas trail that will then a pipe or a channel would have to then take it to the main branch of bull creek.

>> mayor adler: any further questions.

>> that could be yes or no. We'd have to just engineering plan it out.

>> mayor adler: mr. Zimmerman.

>> zimmerman: thank you, mr. Mayor. I'm going to refer to the annexation service plan that's in our backup. I may have mentioned this before, but i'm -- again, i want to refer to the annexation plan, page - this is page 5 of 8, additional services, section 2, additional services, paragraph a. Watershed protection. It says the watershed protection department will provide drainage maintenance services in the annexation area.

[12:50:19 am]

Okay? Now i want to jump ahead to page 7 of 8, again, and section h, it says watershed protection underlined and it says "no capital improvements are necessary at this time to provide services." i want to make that observation. That's in the current annexation plan. So the annexation plan that's in place in our backup, it's already been determined that there is no capital improvement necessary. So that's already been committed to writing. So i wonder if this is just boilerplate language the city uses. I wonder if this same language was used in the 1990s when that upper area was annexed, but we have it in writing --

>> look at the drainage representative before those annexation areas and, yes, they are to some extent boilerplate but the first part of the drainage services are our full array of drainage services that are provided and are listed in the drainage plan. Again, the project that i was talking about could be done with our in-house engineers and our in-house crews for construction. Capital improvements gets into another category of services. If there's severe issues and there's rarely a time but there have been some annexation areas that have had drainage c.i.p.s included in them pip was part of those but mainly those are reserved for our water and wastewater statutory requirements that we have to get in place within certain time frames and, again, we do coordinate they do construct -- coordinate when they do construct waterlines and sewer lines to do drainage as necessary because they're going to be digging anyway.

>> zimmerman: the point is we are short of money. We don't have anywhere close to the money we need to provide for what's already been annexed. We've talked about ingas valley, another area designed by engineers in the '70s that did not do a good job of stormwater conveyance, very poor infrastructure, but the city made the decision to annex that property and they had to have known if we go look at it, we would say, you know what?

[12:52:35 am]

This isn't properly engineered. We should not annex it because we incur, you know, a liability when we annex it so let's not annex it. And if we had done that, we wouldn't have the unhappy ang gust valley taxpayers now planing about the flooding problems weapon i think that's what the constituents are saying, that their point is kind of proven but what i've read here and what we've seen in the past.

>> mayor adler: ms. Garza.

>> garza: i'm not sure it's a staff question but i'm not sure to whom. I'm still trying to understand if and what city services are being offered to these residents. For example, i asked about the infrastructure -- the infrastructure and they said that they pay to be part of the infrastructure that was part of the mud.

So, for example, like, when they flush their toilet, where does that -- does that go into the infrastructure that was in the mud which essentially is now city so it goes to city sewer?

>> that's correct.

>> garza: so maybe that would be one city service being -- benefit right now.

>> right. All the assets of the mud utilities are included assumed when the mud is dissolved during annexation.

>> garza: okay. So then -- so the road -- we heard about roads, maybe not the road that they're on but the road that connects them to other areas is city and the infrastructure so their drainage and sewer is city. Anything else currently is, i guess, a city benefit to them right now?

>> i can speak for drain. Like i said our full array of drainage services pretty much everything that's listed in our budget submittal is going to be provided in the annexation area upon annexation.

>> mayor adler: i think it's a victoria question.

>> garza: okay.

>> i can maybe clarify that a little bit. So the state law requires the city to provide certain things immediately on the effective date of annexation. Those include police and fire protection, emergency medical services and solid waste collection. Residents in areas that had existing homes prior to annexation have a two year window they can elect whether to continue with their current private hauler or switch to city garbage collection.

[12:54:44 am]

In addition the city is required to operate, maintain infrastructure, such as water and wastewater --

>> garza: i understand that there's stuff required going forward if annexed but right now, right now what is -- what kind of city services are they getting? And it sounds like sewage and drainage and roads that connect them.

>> [off mic]

>> garza: okay, thank you.

>> mayor adler: any further questions? Do you want to close?

>> yeah, please. Jose correctly mentioned that there are areas, he's already mentioned that need to be corrected, if i'm not mistaken, especially where we have this main trench being created. Which is not compliant. So we think it's incorrect for the article that done zimmerman was reading to say that there's no capital expenditure expected to annex us when it's already been said something needs to be done. And, again, i don't see any reason to annex us to get that done. And we would welcome jose and chuck and virginia to come out and look at this, put their hands on it, so they can see what those issues are and truly assess what this is. If it, done before the vote on november 10, great. But if it -- i don't think it can, to really truly assess this, and i think it needs to be pushed into they can do it, such thing. That's all i have.

>> mayor adler: all right. Thank you.

>> one last thing i want to point out.

>> mayor adler: okay.

>> i'd like to say it. You mentioned the 1.8 million spent on the earthen dam. The flood you saw, september 9, 2009, if you look it up. That's 2 inches of rain.

[12:56:45 am]

That's all. And that's what it caused. So when we get the big dog -- the big rains, you can only imagine how much worse that will be.

>> mayor adler: thank you. That ends the public hearing for today. Is there a motion to close the public hearing. Ms. Gallo moves, garza seconds. Any discussion? Those in favor of ending public hearing, please raise your hand. Those opposed. Unanimous on the dais. Thank you very much for your time. Thank you. We have several more public hearings. And we have one additional item that i think i'm going to call now, the bluebonnet hills historic district matter. There are no speakers for that. Staff want to thee up? Again, we say thank you to the neighbors here for this matter. We know it's been a long day for you as well.

>> good morning, mr. Mayor, mayor pro tem, members of council, steve sadowsky, historic preservation office, planning and zoning department. I want to start off by saying that yesterday marked the 49th anniversary of president johnson signing the national historic preservation act. So over the years our consciousness about historic preservation has grown significantly and here in austin our program has also progressed from the individual landmarks that we started off preserving and it has grown into historic districts that took shape about seven years ago. This is the nomination for bluebonnet hills historic district and i really don't have that much to add to what has been presented to you on numerous occasions. I do want to reiterate how hard everyone on both sides of this issue has worked for this district or to oppose this district, and i wanted to update with you the latest numbers.

[12:58:47 am]

This was true as of 10:00 last night. 63.47% of the properties within the district contribute to its historic character. 51% is required. So this is well over. 52.12% of the property owners within the district support its creation. 51% of the property owners is required so this is over. The owners of 55% of the land support its creation. Again, the threshold figure is 51%. And there is a valid petition on this nomination, and it is signed by 30.1% of the property owners within the district. So that is all the additional information i can present to you this evening.

>> what's the threshold so create a valid petition?

>> 20%.

>> mayor adler: 20 senators.

>> yes, sir.

>> mayor adler: thank you.

>> generally on these types of cases, mr. Mayor, this is different. Because generally in a zoning case, it's 20% of the people entitled to notice. So it includes people beyond the actual property being rezoned. So this historic district, the valid petition is just within the district.

>> mayor adler: okay.

>> i think if you look at the figures, over half of the people who live in the district want it. Less than a third of the people have objected to it.

>> mayor adler: with the valid petition, that means that it's going to -- in order to pass on second and third reading it would require nine votes approving? If there are less than nine but more than six or more, then it would pass on second reading. If there are less than six, then it would not move forward. Is there any further -- the public hearing has been closed so we can now engage in discussion. Mr. Casar.

>> casar: brief question for you you.

>> mm-hmm.

>> casar: the limitations on what one can do to a home only apply to those that are contributing.

[1:00:52 am]

Is that correct.

>> that is correct.

>> casar: and so of -- it was just over 100 homes in the entire district, but whoo you're saying is that only 60 something of them -- if it were exactly 100 homes than 63.4 --

>> it actually was 72.

>> casar: there's 72 contributing homes?

>> 73, sorry.

>> casar: thank you.

>> yes, sir.

>> mayor adler: how many of those contributing homes are among the supporters?

>> i don't have that calculation.

>> mayor adler: okay. Ms. Tovo?

>> tovo: i had a couple questions. One is related. I'd be interested in knowing how many of the homes -- how many of the individuals who have signed the ballot petition will you in contributing homes?

>> mayor adler: that actually was sent to you in an email from bob gee, and, unfortunately, i did not print that out. That is in your backup.

>> tovo: okay. Thank you. I'll take a look for that information. I thought i had seen it at one point.

>> i do want to say, too, that since the last -- since the last time this came before the council, we've gone back and we've had another workshop address additional issues that have been brought up by the stakeholders in this district. The design standards which are part of the preservation plan have been clarified, they've become much more user friendly, the input of the stakeholders was taken into consideration in making these clarifications and revisions. And staff has also gone through, at the request of several property owners, and recommended changes to the status of their homes. We looked at a different period of significance, which ended at world war ii.

[1:02:54 am]

So that we're really looking at the core of the historic heart of this district, so the 1930s and 19 -- early 1940s homes that really make up the historic and architectural character of this district and homes that were built more than 50 years ago but after the close of world war ii were taken out because really the majority of this neighborhood was built up by world war ii and that really is the heart of the neighborhood and even though houses are architecturally compatible, houses built, say, in 1950, 1955, were considered infill. So the number of contributing houses has dropped actually since the first iteration of this 234078 nomination and that is through a lot of meetings through the stakeholders in this district. So i want to reiterate to this council that everybody involved in this, both the no, ma'am, inators, staff, the opponents, has had a number of opportunities to meet, converse, exchange ideas, and what you see before you is the result of all those conversations.

>> mayor adler: okay. Further discussion? Ms. Tovo.

>> tovo: so i have the email that you referred to, and it talks about that at our last council meeting the owners of eight homes spoke against the local historic district, saying they wanted to be able to do whatever they wished to their homes and the author of the email said they can because only two of the eight are clarified as contributing to the historic district. The other six are noncontributing so they can demolish or modify their homes without seeking special permission. Is that accurate, as far as you know?

>> actually, i think the number of owners of contributing homes who spoke against it is now down to one.

[1:04:58 am]

Because one --

>> tovo: i see.
>> we changed --
>> tovo: the designation?
>> the status of one just yesterday.
>> tovo: most of who we heard from at our last meeting live in homes that are not contributing to the local historic district and is it through if they are in noncontributing homes that they are able to demolish or make alterations to their property without seeking special permission?
>> they are.
>> tovo: okay. Thank you and i think i still would be interested in the answer to that question about how many of the individuals on that ballot petition live in contributing structures. If there's a way to sort this out if this doesn't pass on second and third reading tonight, perhaps we'd have an opportunity to get that information. Though i hope it will pass on second and third, but if it doesn't, maybe we can get that information before the next.
>> mayor adler: mr. Casar.
>> casar: that being said, just very briefly, for my colleagues, i've spoken with folks on both sides, and it seems that quite a bit of census on both sides is we get this over with tonight. We just want to sort of get a poll from my -- of the dais, i -- because it's such a small number of homes, i see some benefit to having these in little places in the city as long as -- i felt very uncomfortable with the idea of this being very large, when it was first filed years and years ago, but now that it's 70 something houses i see a benefit to it. I voted for it on first reading, will vote for it again but if there aren't nine votes for it today and those that are voting against it aren't going to change, i've just been hearing from people that are and against it that -- if a that if it's not going to change that we just stop keeping -- bringing people here until late in the night over and over again if it's just going to not work out.

[1:07:01 am]

So my preference is to take a vote on it and if we can't get to nine then we just end it.

>> mayor adler: mr. Renteria.
>> renteria: thank you, mayor. Last time i voted against this because i had a couple of my supporters and friends that i knew that had concerns about it and the reason i voted against it at that time was so that they would have time to go and meet with them and they did. All their questions were, you know, answered to the -- satisfactory to them so i'm going to be supporting this historic district this time around.
>> mayor adler: any further discussion? Ms. Garza.
>> garza: yeah, i was trying to remember the conversation from last time so my staff pulled the transcript so i could remember what i said, what was said. I remember a lot of the conversation resolving around -- resolving around, yes, you can change your windows, no, you can't change your windows. Then i remember we talked about that we -- you could go back and discuss with them building standards and so you mentioned it a little bit, but did any of those building standards change that addressed the concerns of people being able to change windows?
>> yes.
>> garza: so they can? It's easier? Or are we just -- or by listening the contributing structures it affects less people?
>> well, no. Combination of the two.
>> garza: okay.
>> noncontributing structures do not fall under these design standards.
>> garza: okay. So they can change windows all they'd like. In the contributing structures, the [indiscernible] was changed to

[indiscernible] and the emphasis was on the front of the house so that on the sides or back of the house, which are much more private, the flexibility is much greater.

>> garza: okay. Then there was a comment about they can demolish -- doesn't this neighborhood still have to abide by, like, mcmansion rules, which you can't -- can't you not tear down a structure and if you're in the mcmansion area?

[1:09:17 am]

>> no, you can tear it down.

>> garza: you can?

>> sure. It happens every day.

>> garza: you just have to build a certain kind of structure in the place?

>> yes. That's actually what the historic district does as well. Mcmansion basically talks about the envelope that the new structure would take. The historic district has a set of design standards that addresses new construction within the district, whether it's on a vacant lot, currently vacant lot, or the result of a demolition.

>> garza: okay, thanks.

>> mayor adler: further discussion on this item? Ms. Tovo.

>> tovo: few for questions. I wanted to talk a little bit about -- i think you answered -- in your answer to councilmember garza you talked about this a little bit. I'm looking at some of the changes made on the marked draft of the design guidelines i have it does look like there's new language that talks about a greater degree of flexibility on the other sides of the house, it's under the general -- there are, you know, other changes, quite a bit of changes under windows and screens. Are those all changes that have been made since the meeting that you referred to earlier?

>> yes, they are.

>> tovo: so in the time since we met as a council, the stakeholders came together and as you said there were some changes made to the design guidelines to try to address the issues that some of the neighbors who opposed had identified?

>> yes, that's true.

>> tovo: and i don't know if any of my colleagues are interested, i'll hand this down. I mean, there are quite a few edits that i'm looking at in this. Are you aware of other significant concerns of that not been addressed in the design guidelines that could be? I mean, i'm sort of struggling with what are the remaining issues on the table that those who oppose the local historic district have raised?

[1:11:22 am]

>> well, the only thing --

>> tovo: beyond just the general concept.

>> the only thing that i can -- that i can tell you as knowing first hand is what i've seen sent in emails regarding opposition to the district. And, you know, a lot of things are talking about we want our neighborhood to be eclectic, we want to be able to do what we want with our property. We don't want to have to go to the landmark commission for permission. And, you know, i have tried to address the ones that are addressed to me, anyway, i've tried to address those concerns and tell them that if you -- in one case, show me specific -- show me specific provision in the design standards that you are -- that you're afraid of? And let's talk about how the city would interpret that and what it actually means, what you -- you know, it may be that your concern is misplaced. You know, i mean, i think, you know, i've been accused several times of being impartial. I'm not impartial in this case. And i do want to address that. We've intent a lot --

>> we can't hear you.

>> i'm sorry. I'm too tall for this. We worked a long time to move away from designating individual landmarks in austin because we were doing historic preservation one building at a time. And there were unintended tax consequences that were significant. While we have also reduced the a tax exceptions that we give to landmarks, we also needed to follow -- we wanted to follow the trends in the rest of the country, which look at preserving larger areas of the city.

[1:13:33 am]

And in doing so, the standards are not nearly as stringent as they are for landmarks because we're looking at the collection of buildings rather than one building that is so significant that it needs to be preserved in and of itself. This is the collection that tells the history of the city and the story of the people who lived in neighborhoods, and it's a way not only to preserve that heritage, but to encourage redevelopment in these older institutionalize that the neighborhoods are not scraped or completely obliterated through new development. There's nothing in these historic districts that prevents demolition. There's a higher standard for demolition but, you know, there's been a lot of people that said, well, i won't be able to tear down my house. That's not really true. But there's a higher standard. If your house is contributing -- if your house is not contributing to the district, there's no -- no different standard than exists right now, whether you're in a district or not. In fact, we've had and approved at least two that i can think of off the top of my head demolition permits in bluebonnet hills in the last couple months. So, you know, i just want to let the council know that in staff's opinion, this is a good nomination. I don't have -- i don't have a dog in this fight. But this is a good nomination and the direction the city has said they want to go with historic preservation. These nominators have met all of the criteria necessary to establish the district, and that's why staff has supported this nomination.

>> gallo: could you tell me the other historic districts that we have in austin?

>> sure.

[indiscernible] street, which is a block off of west sixth, castle hill, which runs from sixth to 12th street on baylor and blanco and then hyde park, which starts at 40th, just shy of handling.

[1:15:41 am]

>> gallo: did think of these other historic districts have valid petitions against the request for historic districts?

>> yes.

>> gallo: which one?

>> well, let me ask my -- i don't remember if they had valid petitions. They did have opposition.

>> garza: but valid petition indicates a certain level of opposition.

>> right. Each one had -- you know, each one had vocal occupants. I think they all have valid petitions.

>> gallo: but you don't know for sure?

>> i don't know for sure.

>> gallo: my concern --

>> renteria: also, there's the willow expense to wall partner the frontage road --

>> that's a national registered district.

>> renteria: right.

>> gallo: but i think that is an important point because, you know, when -- if we have -- if we have other historic districts that have gone through the process and had support from the majority of the owners in that area, that shows me a different situation than a situation like this, where we have enough owners

of properties that are not in support, that they've been able to meet the threshold of valid petition. I would really like to see that information and i think that's important to this discussion.

>> gallo:.

>> okay.

>> mayor adler: any further discussion? Ms. Pool and then ms. Troxclair.

>> pool: could you go over one more time the structures that -- i'm a little confused. It's almost 2:00 in the morning. I thought i heard that you had gotten support and approval from all of the homes that are part of the historic district, that the people who were opposing it were not in the historic district. They didn't have a contributing structure and that that was down to just one person opposing it.

[1:17:47 am]

>> well, no. I would need to qualify that statement.

>> okay.

>> pool: i may not have heard it clearly.

>> no because i probably wasn't talking into the microphone very well. I'm better now. If y'all want that information i can get that together. I don't have it right now, that shows who owns a contributing structure and what their vote on the historic district is.

>> pool: because it sounds like through the work that the staff has done with the neighbors, that those who had complaints about it, that their issues have been by and large resolved, that there may be continuing lingering opposition to it for philosophical reasons, that they just don't like the program. But the people who have worked for 10 years and more and supported it have done everything that the program asks of them to do and followed all of the rules with, you know, i guess typos here and there in the process, but that they have been diligent in trying to build the case to achieve approval from council. Is that an accurate assessment?

>> yes, i believe so, yes.

>> pool: i'm very supportive of the local historic district for bluebonnet hills and would be happy to vote that way this evening.

>> mayor adler: i think hyde park was approved over the objection of a valid petition.

>> i believe it was.

My question really would be with hawthorne street because that was the first one.

It's been so many years ago i can't remember if we had a valid petition on that one.

But that was 12 homes sorry, 10 homes.

>> troxclair: can you remind me what the percentage of the valid petition was at our last hearing?

>> it has always remained right around 30%.

>> troxclair: so despite the meetings or efforts, there's still it doesn't seem like the the hope would have been that through the last couple of months that the meetings and agreements and all that would have resulted in everybody coming on the same page, but it doesn't sound like that's happened. It sounds like the people who were against it to begin with still have issues.

>> actually.

There's been a lot of almost internal changes, councilmember, in that quite a number of these houses have been sold over the summer.

And we've got some new owners who have said yes, that they support the historic district.

We've got others that we don't know.

They haven't responded one way or the other.

We've had others that said no, we're against the historic district.

So the numbers have kind of flipped within that same paradigm a little bit.

>> troxclair: and you don't know the number of contributing structures owners with contributing structures that have signed the valid petition, but you know it's more than you know it's more than one.

>> i know it's more than one, yes.

But i don't have that information to correlate the owners of distributing structures versus their vote on this nomination.

>> troxclair: okay.

>> we can get that.

>> houston: mayor?

May i ask a question?

On the handout we were given, there's some that says non contributing in red.

Does that mean anything specific?

>> yes, ma'am.

That means that that is one that we changed since it was originally a contributing structure, but usually based upon an owner's request and justification, we have changed it to non contributing.

>> houston: okay.

I understand that.

Is it appropriate for me to call the question now, mayor?

>> mayor adler: not when you talk like that.

[laughter] ms. Tovo?

>> tovo: i just wanted to make a couple of comments.

As i look through the numbers of demolitions in the last year, there are a lot.

And this is one of the tools that our city created to try to preserve and to protect those neighborhoods that were losing a lot of their historic character.

In district 9, district 9 has the very highest number of demolitions, it was 191.

I don't know how that breaks down in terms of the number in this area, but as mr. Sadowsky said in the last couple of months there have been some houses lost in this area.

And councilmember renteria, you're number two with 180 houses demolished in the last year.

So, you know, the city has is kind of behind other cities nationally in having local national historic districts.

And as mr. Sadowsky said this was a way identified to preserve and protect some of our neighborhoods and to stem some of the overhaul that's been going on.

It is, as councilmember pool pointed out, the bluebonnet hills applicants have met the requirements.

They've gone through the historic landmark commission numerous times and have received a recommendation of approval each time t these are, you know, more than 50 texas cities designate historic properties in districts as culturally significant.

So this is the local historic district is a great tool to really recognize unique historic character, to encourage the conservation of those homes and to really appreciate what is special and unique about some of these neighborhoods.

So i would just really urge my colleagues to support this.

I understand there's opposition.

I was on the planning commission when hyde park forgive me, i may have said this at our first hearing, i can't remember, and it's so late i may be like a broken record going over and over again.

I was on the planning commission during the hyde park local historic district and it was extremely controversial.

And just looking back at the statesman article, i'm looking at the comment.

There were concerns that you weren't going to be able to replace your windows or your doors.

I mean, they were the same set of concerns.

And as we've seen in hyde park, people still continue to renovate their homes even in that local historic district.

They live in those homes, they are adding additions and other things.

We don't we haven't seen a neighborhood that stopped changing and that was any less dynamic in hyde park because it's a local historic district.

I think what's happened is it just has a higher level of appreciation and some protections in place to make sure that there's not wide scale demolition and lots of changes that are out of character with that historic with that historic landscape.

So again, i would encourage this is in district 9.

I would really encourage you all to give serious consideration to the work that the neighbors have done.

>> zimmerman: mr. Mayor, before councilmember houston calls the question she's chomping at the bit there.

>> mayor adler: i know, ms. Houston told me earlier today that we would be done by 9:30.

[laughter].

>> houston: ms. Houston obviously misread this one.

>> zimmerman: a quick question for our realtor experts here.

There's been quite a few hours of this and it looks to me like city staff does have a dog in the race.

It's a big great dane and it's wearing a jacket that says vote for bluebonnet hills.

So they do have a dog in the hunt.

Let met ask from the realtors, i've heard from constituents that people don't like to buy homes, there's an issue on property values because the perception at least is that these properties do have restrictions on them and that there is a difference in nonconforming properties that you still have more hoops to jump through if you want to get those demolished or get something done and the realtors are telling our austin residents that they should not buy in these districts because you're going to have issues.

So is that true or not?

For my realtor experts here?

>> [inaudible no mic].

>> mayor adler: hey, hey.

It's okay.

Ms. Gallo, do you want to respond to that?

>> gallo: thanks a lot.

I think there are many people, many reasons that people choose to buy or not buy, but i'm going to move the discussion in a different way.

I guess one a couple of things concern me on this.

One is that we're talking about almost a third of the neighborhood being opposed to this.

And i really would like the information on the other three historic districts, but not only whether they're valid petitions, but also what the percentages were because i'm a proponent of personal property rights and i think when you get that large of a number of a neighborhood that opposes it, and it sounds like people have tried to work things out, there's still some underlying issues that still concern me.

And second that this and i appreciate the neighborhood that's worked so hard for this, and when y'all came in to talk to me, you really were organized and had a lot of good points, but you've been working on this for a long time and it's strange to me that there's only two individually historically designated homes in this neighborhood when the issue of historic preservation has been so much at the forefront for all of the neighbors that are interested in this.

And so a person has the ability if you want to preserve the historic nature of your home to be able to get that designation and it preserves it forever.

And you can do that.

So i just this is a group of people that say this neighborhood is historic and the properties are historic and we should protect it, but when i see only two of the homes having been designated historic, then that concerns me.

And i see layered on top of that that there's a third of the neighborhood that is opposed to it, i'm just getting a disconnect there.

I didn't answer your question about realtors at all.

>> zimmerman: you did, you did.

>> mayor adler: further discussion?

Ms. Tovo?

>> tovo: i know we all want to go home, but i feel like i really need to point out that preservation austin and others have probably provided us all with information, but i've read some of the studies myself and i've heard some of the speakers over the years who talk about the economic value of historic landmarks and the preservation of historic structures, so i think there's a lot of evidence out there that really contradicts the point you've made here today, councilmember zimmerman, that it's an economic disincentive or that it suddenly that having these kinds of designations actually discourages buyers. I think there's a lot of evidence tying historic designations and the preservation of historic structures to attractiveness.

And mr. Sadowsky, might be you might want to chime in on that.

And i also want to say that councilmember gallo, i understand the point you're making, but i also want to point out that the city has sent out messages, i think, through its discussion of historic preservation that we were going to move toward a system of local historic districts and that was in some ways it's been the question of designating individual structures as historic landmarks has been somewhat controversial.

And this is this has come aboard as a tool that's an alternative to just designating individual structures. So i'm not sure that we should really hold that against the neighbors in this area.

They're responding in some ways to what previous councils have said they want the trend to be.

And mr. Sadowsky, maybe you can comment too on whether i'm miss characterizing that, but it's certainly the impression i've gotten and it was really previous councils that adopted the local historic designation.

Those are two questions for mr. Sadowsky.

One to just chime in on whether my reading of whether there are assertions out there and evidence showing an economic value to historic preservation and also whether i am correctly characterizing what the city has said they want the direction of historic preservation in the city to be in terms of moving away from individual designations as the only tool and toward [inaudible].

>> yes.

There's not a specific a study specific to the city of austin, but there is a very recent study that covers the entire state of texas that presented to you in the work session on tuesday that i know i emailed at least one councilmember that study.

I'm happy to email it to all of you so you can see it.

We don't have figures for the city of austin.

And part of it is because of our land values and structure values, our property values have been rising at a rate that is unlike any other city in texas.

So we don't know what the appeal necessarily of living in an historic district versus just living in a central neighborhood and being able to tear something down would be.

And i would hesitate to hazard any kind of guess on that.

As far as the

>> tovo: i don't mean to interrupt you, but are there studies showing the economic value of historic preservation?

>> in texas, yes, there are.

>> tovo: thank you.

>> houston: mayor, i call the question.

>> tovo: i asked him a question and i would like for him to answer the second part.

>> the second part is yes, you actually could.

>> mayor adler: okay.

Ms. Houston calls the question.

Is there anyone else that wants to debate?

I think we've reached the end of the debate.

I will now take a vote on this item 60.

This is a request for historic designation.

Those in favor of approving the designation, isn't that right?

I guess i didn't have a motion.

Will someone move to approve historic designation.

>> houston: i so move.

>> mayor adler: ms. Houston moves.

Is there a second?

Ms. Pool seconds.

All those in favor of approving historic designation please raise your hand?

Those opposed?

Three opposing, troxclair, zimmerman, gallo.

The others voting aye with renteria off the dais.

This approves on second.

Would not have approved on third reading regardless.

So it's approved on second reading and it will move forward again.

Okay.

>> gallo: we've requested some information.

Part of this process that allows you to be able to get this information back to us before we bring it up for a vote again so i just want to make sure that we're on that same wavelength.

>> i'm right on it.

>> gallo: thank you very much.

>> mayor adler: okay. we will now close out the public hearing on the balance of the annexation cases.

How quickly can we run through this?

>> the lightning round.

I'll start with item 73, austin research recovery, johnny morris road area.

This is 145 acres in eastern travis county, three tenths of a mile south of the intersection of johnny morris road and daffan.

It's undeveloped and includes city owned land.

The reason why this is in the city's best interest is because annexation of this area brings the city's investment intended support services provided by multiple city departments into the city limit city limits, providing long range planning for development.

Again, copies of the service plan are available this evening and that concludes my comments on item 73.

>> mayor adler: we have no speakers identified.

Is there a motion to close?

Mayor pro tem moves, ms. Houston seconds.

All in favor raise your hand?

Opposed raise your hand?

It's unanimous with mr. Renteria off the dais.

>> item 74 is the bellingham meadows area.

This one includes approximately 190 acres in eastern travis county west of parmer lane and west of the intersection of parmer lane and bellingham drive.

This area is currently undeveloped and concludes a proposed bellingham meadows subdivision and the adjacent roadways.

Future land uses include the proposed 626 lot standard small lot single family residential subdivision.

The reason why this is in the city's best interest, annexation of this area brings anticipated residential growth into the city limits, extending city services and regulations to ensure and approve public health and safety.

Completing full purpose annexation prior to build out brings home buyers to awareness of future property taxes prior to purchasing a home in this neighborhood.

Again the city will provide full municipal services as described in the service plan, and this concludes the staff presentation for item 74.

>> mayor adler: ms. Tovo moves to close the public hearing.

Seconded by ms. Houston.

No debate.

Those in favor raise your hand?

Those opposed?

It's unanimous with renteria and gallo off the dais.

>> item 75 is the blue goose road area that includes approximately 28 acres in eastern travis county east of blue goose road approximately 977 feet northwest of the intersection of u.s. 290 east and blue goose road.

In addition to existing homes and warehouses, the potential land use is currently in rereview.

The area extends full municipal services to residents and property adjacent to the city limits, includes land use regulations to ensure public health and safety and protects property values in a rapidly developing part of the city.

City services will be provided as described in the service plan and this concludes the staff preparation for item 75.

>> mayor adler: no identified public hearing, ms. Houston moves to close the hearing, ms. Tovo seconds it.

Any discussion?

All in favor?

Any opposed?

It's unanimous again with gallo and renteria off the dais.

>> item 76 is the cantarra howard subdivision area.

This includes 263 acres in northeastern travis county north of howard lane approximately 700 feet east of the intersection of howard lane and cantarra drive.

And also south of the howard lane and cantarra drive.

Future land uses include 272 small lot single family homes in the remaining sections of the subdivision and the commercial mixed use in the proposed howard subdivision south of howard lane as indicated on the subdivision case currently in review.

Home builders have submitted written opposition to annexation and requested phased annexation in lieu of full purpose annexation at this time as homes are built in the area.

The reason's why this is in the city's best interest, annexation of this area brings anticipated residential and commercial growth into the city limits, extending city services and regulations to ensure and improve public health and safety, completing full purpose annexation prior to build out.

Again, the city will provide full municipal services to this area upon annexation and this concludes staff comments for item 76.

>> mayor adler: there are no speakers, ms. Houston moves to close the public hearing, seconded by ms. Tovo.

Those in favor raise your hand?

Those opposed.

It's unanimous with renteria and gallo off the dais.

>> item 77 is the heritage oaks at pearson ranch area which includes 135 acres in southern williamson county south of avery ranch boulevard at the intersection of avery ranch boulevard and pearson ranch road.

This is currently undeveloped.

Future land uses include a total of 177 single family residential lots and two commercial lots.

The reasons why this is in the city's best interest annexation of this area brings anticipated residential and commercial growth into the city limits, extending city services and regulations to ensure and improve public health and safety, completing full purpose annexation prior to build out provides the advantage to prospective home buyers of the full awareness of property taxes prior to purchasing a home in the neighborhood.

The city will provide full purpose services to the area as described in the plan and this concludes presentation for item 77.

>> mayor adler: mr. Zimmerman moves to close the hearing.

Ms. Troxclair secretaries it.

All in favor?

All opposed?

It's unanimous with mr. Renteria off the dais.

>> item 78 is the lost creek connector piece annexation area.

Which includes 165 acres in travis county north of lost creek boulevard approximately 380 feet west of the intersection of lost creek boulevard and bend of the river drive adjacent to the lost creek mud.

The reason why annexation of this area is in the city's interest is because this area is scheduled to be annexed to coincide with the annexation of the lost creek mud which is being annexed this year, resulting in a city of austin just city limit.

The city would provide full municipal service as provided in the service plan, copies of which are available today.

This concludes the staff presentation for item 78.

>> mayor adler: ms. Pool moves to close the public hearing, seconded by ms. Troxclair.

[laughter].

Seconded by mr. Zimmerman.

Those in favor raise your hand?

Those opposed?

It's advance on the dais with mr. Renteria gone and ms. Troxclair abstaining.

>> i have three more.

Item number 80, the txdot u.s. one '83 a tollway area annexation area, approximately 87 acres in southern williamson county north of avery ranch boulevard at the intersection of u.s. 183 a tollway and avery ranch boulevard.

The reason why this area is in the city's best interest to annex at this time because it improves public safety and emergency response by bringing a continuous stretch of road into the city's jurisdiction.

The city will provide services as described in the service plan.

This concludes the staff presentation for item 80.

>> mayor adler: mr. Zimmerman moves to close the hearing.

Seconded by ms. Houston.

Those in favor raise their hand?

Those opposed?

It's unanimous on the dais.

>> item 81 is the vaught ranch area which includes approximately nine acres in travis county south of f.m. 2222 at the intersection of f.m. 2222 and vaught ranch road.

This area includes undeveloped land and an austin energy electric substation.

An approved site plan shows construction of an office building in the undeveloped portion of this area.

The reason why it's in the city's best interest is because it brings commercial growth into the city limits, remaining economic activity and tax revenue in the city limits.

The city will provide full municipal services to the area described in the service plan.

This concludes my presentation for item 81.

>> mayor adler: mr. Zimmerman moves to close the public hearing, seconded by ms. Tovo.

Those in favor raise your hand?

Those opposed?

It's unanimous on the dais.

>> then finally item 82.

>> the walnut creek place area that includes 138 acres in eastern travis county west of sprinkle cutoff road approximately 477 feet north of the intersection of sprinkle cutoff road and samsung boulevard.

Construction of the walnut creek enclave, a 1004 unit detached condominiums are underway.

The reason why this is in the city's best interest is because annexation of this area brings anticipated residential growth into the city limits, extending city services and regulations to ensure and improve public health and safety, completing full purpose annexation prior to buildout provides the advantage to prospective home buyers of the awareness of future property taxes prior to purchasing a home in the neighborhood.

Again the city will provide services as described in the service plan, and this concludes item 82.

>> mayor adler: ms. Houston moves to close the public hearing.

Mr. Zimmerman seconds it.

All in favor?

Those opposed?

It's unanimous on the dais.

We actually worked through a lot of really tough issues today.

I know it was a really long day, but we had several of these things that had been hanging around for a long time and we actually did a really good job today.

Although it's 1:42.

Let's not ever do this again.

>> gallo: but you still have not beat our record for housing and neighborhood, so don't wine.

>> mayor adler: don't let that happen.

This meeting stands adjourned.