

## City Council Regular Meeting Transcript – 11/19/2015

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[10:14:59 AM]

>> Mayor Adler:, we're ready. We're going to go ahead and we're going to begin with the invocation. Krishna gobburu, Austin hindu temple. Please rise.

>> Good morning, everybody.

>> Mayor Adler: Good morning.

>> We are from Austin hindu temple, myself and others will be invoking

[indiscernible] That removes all obstacles in our life and then we'll pray for the goddess of knowledge and pray for prosperity, peace and harmony.

[Chanting].

[10:19:59 AM]

>> Thank you very much.

>> Namaste.

>> Mayor Adler: All right, council, going over the changes and corrections, item number 11 is postponed indefinitely. Item number 44 is being postponed to December 17th. Item number 45, staff wants to postpone to December 10th, 12-10. Item number 55 has been pulled. It was not recommended by the electric utility commission on a vote of 7-3-1.

[10:22:05 AM]

As far as scheduling goes today, so that people can plan and at the request of folks, when we break for citizens communication at noon we're going to come back after lunch at 1:30 so people can plan on that. We'll break for music and proclamations tonight and we'll reconvene after dinner at 7:00 so that folks can plan ahead. We're going to do the consent agenda. Before we do the pulled items on consent, rocky mountain institute is going to give us a quick presentation so they can make their planes and then we'll handle the consent items there. And there's been a request for ads with the invited speakers have a time certain at 2:00. , And we'll pick that up as soon as we can /after/of a 2:00.

>> Tovo: Mayor, I need to understand the consent, the relationship between the briefing for rocky mountain institute and the consent agenda. Are we taking up all the consent items except for rocky mountain and passing those and taking up the rocky mountain institute?

>> Mayor Adler: We'll do that one first, thanks.

>> Mayor Adler: So what I'm showing in my notes here -- Ms. Kitchen, which item number is rocky mountain institute?

>> Kitchen: Good question. I was just looking.

>> Tovo: Item 76.

>> Mayor Adler: So the answer to the question is that's not a consent item.

[10:24:08 AM]

Wield approve the consent budget, have a presentation by rmi and then go back to the pulled items.

>> Gallo: Mayor, number 18 we need to pull just to read a brief statement to verify which of the two agreements were placed in backup and legal has recommended to avoid any confusion that I read some language to confirm which of the two backup agreements are actually the ones that we would be voting on. We don't need to have any discussion on this. All the parties have come to agreement. Thank you to all the parties.

>> Mayor Adler: Why don't you do that right now so that we'll call it up in the consent agenda. So if you want to clarify item number 18.

>> Gallo: Okay. Number 18, Mr. Mayor, on item number 18 we can pass this on consent with the understanding that we are passing the draft ordinance and what is labeled in backup as exhibit 1, a salvage draft agreement 11-18-15, red-lined from the adopted on the second reading. And this is the agreement that the owners and the neighborhood have agreed to, and I do thank you to all the parties, and this is also an item that is of benefit to the city. So we have agreement on all three places and I really do appreciate. This has been a long process with the owner and the city and the neighborhood, and I'm pleased to say that everyone agrees with the agreement that we're being presented to be approved on consent.

>> Mayor Adler: Okay.

>> Tovo: Mayor, I'm sorry to do this, but I wanted to make a brief comment about that as well. In one of our earlier hearings I pointed out that the only other time the city did a transfer of development rights the recipient of those came back and wanted to be paid for those credits, and the city council on a majority vote, of which I was not a part, I voted against it, agreed to a very substantial payment for those credits that had been negotiated in good faith with legal representation on both sides.

[10:26:24 AM]

So I am very glad to see this resolution with the neighbors, but I just want to say for the record that it is my understanding that this is a final -- a final agreement and that there will not be any further negotiation if in a few years the property owner wants to come back and talk about renegotiating that deal. I certainly am not going to be in support of it. There's been a substantial amount of discussion around this and I hope he feels it's a fair and reasonable agreement from his position because as far as I'm concerned it's a final one.

>> Mayor Adler: Okay. Council, what I am showing is the items that are being pulled are item 4, 8 -- 4 being pulled by tovo. 8 and 9 pulled by councilmember Garza. 11 postponed indefinitely. 15 pulled by Mr. Zimmerman. 22 pulled by Ms. Houston. 32 pulled by Mr. Zimmerman. Numbers 32 and 35 we'll be pulling because they have to be heard after item 96. Mayor pro tem tovo is pulling item 38. Item 44 postponed to the 17th. 45 postponed to -- December 17th. 45 proposed to December 10th. 44 is proposed to December 17th. 45 is postponed to December 10th. Troxclair is pulling 52. 55 is being pulled by councilmembers Casar and Zimmerman.

>> Gallo: And mayor, if we could pull 62, please.

>> Mayor Adler: 62 pulled by Gallo. Are there any other items to pull?

[10:28:39 AM]

Item 42 pulled by Houston. We have two speakers to speak on the consent agenda. Its first is David king,

the second is Mary Arnold. Mr. King, would you like to come speak? The items that are in play now are 5, 64, 67 and 68. Item number 68 --

>> I've got it, mayor, thank you. It's the pud zoning cases. All right. Thank you, mayor, mayor pro tem and councilmembers. My name is David King and I live in the Zilker neighborhood and I'm supporting item number 5, the golden cheeked warbler resolution there. I think to the extent we can protect the golden cheek warbler habitat it's good for our community, state and environment. Number 64, regarding the spring event, I call it south by southwest, but I know it's being called the spring event I guess for the city, I just would like to have a little bit more information on how taxpayers are going to be affected by this. Is the cost for the police protection be borne by the taxpayers and how that's going to work out? And about the businesses that are going to benefit from this, from these events? Are they going to chip in and help out and cover some of these expenses? I'm just concerned about the cost for this. This for-profit event coming on the backs of taxpayers. Number 67, the south Lamar mitigation plan, I understand that, but I wanted to make a point that later on in the agenda you're going to talk about ads and this project right here is an example of how when we overbuild even though we're not building beyond the impervious cover limits that are allowed, when we overbuild in certain areas, we get flooding. And look at the costs that this is having on our community. We're having to invest in the infrastructure and pay more costs for this.

[10:30:41 AM]

So when we talk about affordability, this Adu proposal, we must consider the impact that it's going to have on flooding and the infrastructure, and that cost must be part of the affordability consideration. These decisions that we make on our zoning changes. And item 68, the public hearing on the planned unit development, I think this is an important item. I hope that you will consider this an emergency item and pass it as quickly as possible so the unzoned public property that's going to become pud zoning that they are subject to the same requirements and same thresholds for approvals that zoned property is subject to. Thank you for listening to my comments and thank you for working so hard for our community and working so late into the night on so many meetings. Thank you very much.

>> Mayor Adler: Hopefully not tonight. Ms. Arnold?

>> Mayor Adler and members of the city council, I'm here to speak on item 39, the renaming of an overlook for Roberta Reid Crenshaw. I wanted to thank the council for passing the resolution in April, which included a lot of wonderful language describing what Roberta had meant to the city of Austin. I noticed in the backup that the draft resolution did not include any of that language nor did it include language that was included in the parks and rec part recommendation, which better described the area of the overlook that would be named for Roberta Reid Crenshaw. And I hope that that parks and rec board descriptive geographical language could be included in the resolution that you pass. Also, I think it's kind of significant that this is coming just before a wonderful weekend in Austin which includes free tours of many of our important cultural landscapes here in Austin, including the hike and bike trail.

[10:32:54 AM]

So thank you very much.

>> Mayor Adler: Thank you.

>> [Inaudible].

>> Mayor Adler: Why don't you come up and speak?

>> Good morning, mayor, councilmembers. My name is Gus Pena. I'm a native east Austinite. I am also a co-founder of Veterans for Progress. We started -- actually, we were formed in May of last year, Memorial Day, because of the fiasco of how the veterans were not treated fairly, politically,,

medicationwise and otherwise. Item 64 people asked me to come to speak about that issue, and they wanted to know what impact it was, just like Mr. King mentioned, what impact it would be to the taxpayers of the citizens of Austin, why not have some of the events with ponying up from their part instead of the city providing a lot of the services, a lot of police protection we have to pay. That's not right and that's what the message is from our organization, veterans for progress. We're 5,650 strong and it's growing. So that is the -- public safety is very important. I always supported law enforcement. I have been in that capacity one measure or another, but the issue is how much will it impact fiscally to the city of Austin and the poor people, residents of the city of Austin, the impact. And maybe we can get the festivals or the people that bring these initiatives to Austin to pay more for their share instead of the city of Austin taxpayers. And I hope this does get resolved. And it does get to the citizens of Austin.

[10:34:57 AM]

Mr. Mayor, I hope it does get the message across because taxpayers are being fiscally impacted on these issues. Thank you.

>> Mayor Adler: Thank you. Ms. Pool.

>> Pool: If I could add a little bit more information to Mr. Pena and Mr. King. In the conversations I've been having with our finance director, Mr. Van eenoo and others, we are looking to try to fund the spring festival season, and it is a longer time frame than simply south by southwest. So that the funding for the officers doesn't come out of general revenue, but rather from a fund that is specific to downtown, that is -- where the monies come from a different source than general revenue. And we've been working pretty hard to try to get to that place with this resolution, and management and the union have also been talking about the deployment of officers to ensure that officers are not pulled from the neighborhoods so that they have complete coverage during this time. And I think we have achieved some -- gotten to a good place with it, but we may have some more conversation about it later in the day. Thank you.

>> Mayor Adler: Okay. I'm showing -- all right, I'm showing as far as comments from the dais that Mr. Zimmerman is abstaining on items 2 and 3, voting against 5, abstaining on 7 and 10 and 12 and 13 and 14 and 16 and 17. Voting against number 21, abstaining on 30 and 31.

[10:37:00 AM]

Abstaining on 37, 43, 46, 48, 49, 51 and 53. And also abstaining on 56, 57 and 58.

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

>> Mayor Adler: Thank you. Is there a motion to approve the consent agenda? Ms. Troxclair? You wanted to comment?

>> Troxclair: Yes. I just would like to be shown voting no on items number 2, 3, 5 and 33. And abstaining from items number 4 and 21.

>> Mayor Adler: Okay. Any further notes? Is there a motion to approve the consent agenda? Ms. Gallo? Seconded by Ms. Garza. Those in favor of approving the consent agenda please raise your hand? Those opposed? It's unanimous on the dais. At this point before we go to pulled items, if rocky mountain institute folks would come forward.

>> Kitchen: Mr. Mayor, may I make a few introductory remarks?

>> Mayor Adler: Yes, councilmember kitchen, would you please do that?

>> Kitchen: As you all know, we were honored to be selected by rocky mountain institute as the lead city for their mobility transformation project.

[10:39:03 AM]

That was announced a few months ago. In our mobility committee meeting earlier this week we heard from rmi on the more detail on how they'll be proceeding with us and with the community on this project. So the purpose of today is to hear more from them in terms of how we'll be proceeding on this project and I want to just emphasize that we are fortunate as a community to have this kind of partnership with the city and with the community as a whole because what we're receiving is additional resources to help us go further down the road with some very innovative projects that we've already begun as a city, so this provides us with additional resources to continue to do the kinds of things we've done and we're known for around fleet electrification, around the use of technology through apps like ride scout. And so as well as providing additional options for workers to commute to their offices. So again, thank you very much for being here. We really appreciated your presentation in front of the mobility committee to we look forward to hearing what you have to say.

>> Thank you, councilmember kitchen. Mr. Mayor, members of the council. So just to kick things off, and that was a great introduction, so I don't need to belabor this too much, but by way of reminder, rocky mountain institute is a non-profit focused on transitioning us off of today's fossil fuel-based energy systems and toward more efficient and renewal ones, based on market-led solutions. So we're very excited to be establishing a market led program with our partnership with the community of Austin. We also have a partnership with the city of Denver. We conducted a national search to identify the top cities that we thought shared our vision and also had the wherewithal to execute it. Of course, Austin rose to the top of that process and is our lead implementation city, but we also have a partnership with the city of Denver who is our lead scale partner.

[10:41:08 AM]

We are trying to get what we start in Austin out to other cities, starting with the city of Denver. And when we talk about a transformable future for the city of Austin, for the community of Austin, what are we talking about? I'll lay that out really quickly here. Really consists of three elements. When I say our vision I really mean the collective vision of the industry. There's tremendous consensus around the possibilities for transforming mobility among both the private and public is noters. And prior to our city selection process we reached out to a lot of our partners in both those sectors to kind of understand what that future looked like. The first element of that future is what we call mobility as a service and the concept is not new. It's this idea that you get mobility when and where you need it. You pay for it as needed and the type of mobility you need is the type that you pay for on an on-demand basis and that's -- you can think of a taxi or transportation network company vehicle doing some version of that, but we're talking about a much more cost effective version of that that includes a lot more options for the user and those options are more seamlessly interconnected, including use of public transit and other cost effective transportation modes. So that's the first element. The second element is electric vehicles and eventually autonomous vehicles. So if you move to mobility as a service future where people are getting the type of mobility when and where they need it instead of it having been delivered by mostly personally vehicle that sit unused 90% of the time, you have fewer vehicles doing more work. Neither one is traveling more miles per year. As the miles create more economically it creates a case to electrify the vehicles because you're saving on fuel and maintenance costs. So establishing mobility as a service actually drives the electrification of the fleet and of course autonomous mobility is also very cost effective and if we can establish mobility as a service and plug autonomous into that it makes the system even better and more cost effective and makes it more accessible to a broader swath of societal groups. So that's the second piece, electric autonomous vehicles.

[10:43:11 AM]

And this is the city design portion. If you imagine as I said fewer vehicles doing the same or better job, you don't have to design the city, which is what cities are designed around today, and Austin is no exception, around unused personal vehicles. You can design that city around people and make the city more liveable. So those are the three elements that we're talking about. Moving out into the future. And we've established five projects in the city of Austin and with the city of Denver to get us to that future. The first is if we want a mobility as a service future let's establish a mobility to service project. And the first element of that is commuting. For obvious reasons there's a predictable start and end point. It's a subset of people willing to make a change because they're facing a lot of pain in congestion today. We start with commuting and what are we aiming to do? We want to have new mobility options tested and piloted with many of our partners, again in the public and private sector and we've already had conversations to establish some of those pilots. We want integrated commuting solutions deployed through an engagement with employers. So that's the year one effort around the mobility as a service project. Then we have a supporting project to that mobility as a service project that we call interoperable transit data that basically gets [indiscernible] Of better connecting these mobility services together. They don't really interoperate very well. They're one off. If you have to use public transit you have one selection. If you want to use a transportation network company, it's a different solution. It's separately done and not interconnected. We're trying to get those services to talk to one another better and there's some technical challenges that we want to solve around that. That's the second piece. The third one is fleet electrification. I mentioned with higher utilization of the vehicles and higher use and mileage per year the case is strengthened from an economic perspective. There are already vehicles from the fleet that travel between 50 and 75,000 miles a year, four to five times what an average vehicle would travel. Even when the relative expensive vehicles you have today it makes sense to electrify that subset of vehicles already so we have a near term effort to electrify four higher vehicle fleets and that -- it already makes economic sense to do that.

[10:45:15 AM]

Then we've got an autonomous vehicles project that is geared towards really establishing an autonomous friendly regulatory environment and thinking about some of the infrastructure that can enable autonomous vehicles to really thrive. The city of Austin is already a leader with respect to audit vehicle technology. It's the second site that Google identified as a test site for its autonomous vehicles and those vehicles are already being tested in the city of Austin. Finally mobility oriented mobility project. That's thinking about city codes, tying into the codenext effort and thinking about how we can essentially future proof the code to be able to take full advantage of this mobility future with many fewer vehicles and move towards cities designed around people and less around unused cars. In summary that's what we're aiming to do by the end of 2016 and those are our five project areas. There's a few details that I'll just cover with respect to the way the program is going to be managed. We do have a structure that we've set up that enables us to keep critical members of the community apprised of the project and also give them the opportunity to provide strategic guidance to the project. The first component of that is an advisory council which is a non-governing body of community leaders. We've yet to establish the membership with any of these groups but this is the framework that we would like to get approved. That advisory council would be reported into by what we're calling a joint executive team which consists of our institute and then the city of Austin. Under that you have an operational leadership team that's more on the ground in managing the five different areas. So each of the five years would report to that operational leadership team and you can see the integrated project teams are associated with the five areas that I just covered. There's a one to one correlation there. And then

there's a collaboration team which is actually very critical and it consists of private sector partners and other businesses that are already working on a lot of these solutions whose solutions we can build on and complement and that's a group of people that we would tap into and make part of the integrated project teams on an as-needed basis, very flexible. So that's kind of the organization and management structure.

[10:47:18 AM]

Finally I'll just conclude by saying that we also have a communication strategy that involved use of standard media, social media, community engagement, mixers, online list serves, other ways of keeping the community apprised of what we're doing. Of course, it is the community who would adopt these solutions and it's important for us to stay plugged into the community very closely and we're looking to work with other organizations that are involved in this type of effort to complement their efforts and what they're doing around community engagement. That's all I have. Today is to -- we've provided a co-development agreement in written form as one of the backup materials and we're essentially looking for approval of that code development agreement which consists of the elements I've laid out here today and a few other details related to the management of the different projects.

>> Mayor Adler: Thank you very much. It's, I believe, exciting to see us as we're looking at as many different options as we can to make more efficient use of the right-of-way we have. To find solutions that are market driven as opposed to those that are just subsidized by taxpayers. On so many levels this is exciting. I can recall being -- thanks to the leadership by councilmember kitchen during the process of the competition to see who would be selected, also probably need to mention commissioner Shea, Brigid Shea who also worked on that. But I had the opportunity to be in a room at one point with what were probably dozens of local organizations and well over 100 people who were connected to you all in Colorado by video link in that competition process. There were a lot of people, stakeholders in this community that want to work with you to see what can be developed. So thank you for selecting this city.

[10:49:20 AM]

Parse.

>> Zimmerman: Mr. Mayor? I voted against moving this forward. This is not on consent so I guess we'll probably take this up a little later, but I think that rmi has to leave so I'll make a few comments on what I have to do later. I did a little investigation. Absolutely the rmi has a lot of technical expertise, a lot of policy background. It's a very credible organization. But it does have certain policy objective and there are other groups that are equally competent technically that have different opinions and different views from rmi. So I just want to make that clear. I don't think that rmi would disagree with me on that. There are many, many non-profit research groups that help cities with policies. Many of them. And so let me turn your attention quickly to page 22 of the draft document: There's two documents here. This is the co-development agreement between the city of Austin and rmi. On page 22 it talks about the budget and resource plan. It says calendar year 2016, 1.8 million. And in 17 and 18 that increases to 2.2 million and 2.6 millions. So those are the figures in our backup material. Then if you look at the memorandum of understanding, the mou, which is also in the backup, on page 3 at the top it says city and community combined will match rmi's resources dedicated to the city resulting in a 50/50 cost share. So if you put these two ideas together it means the city is committing to match 1.8 million, then 2.2 and 2.6 million over the next three years. And also it's interesting that in the material here it says some of these resources are office space for rmi staff. So people are going to come from Denver and be embedded in our staff, in our bureaucracy, kind of sitting desk next to desk.

[10:51:22 AM]

So it puts rmi in a very advantageous situation compared to dozens of other credible organizations that might have differing opinions on the policy that you're recommending. The point of all this that I want to make and of course you can respond, is the city council is supposed to be setting policy, but when we agree for taxpayer resources to be committed to one non-profit group and not dozens of others that could also contribute, we're basically allowing staff in a non-profit to set our policy because what's going to happen is we're going to get policy recommendations back from the staff with rmi's assistance and it's going to be approved because the decisions we make as a council are only as good as the information we receive. So I want to make that clear. So rmi is not coming to the council as decision makers, they're going to city staff as decision makers. Because the information that comes back, we're going to be asked to prove it. I've got 90 something items here that are being asked to be approved and that's how these items come to us is from agreements such as these. So that's why I'm opposed on principle.

>> Kitchen: Mr. Mayor? I would like to ask our director of transportation to speak to that. As you know, councilmember Zimmerman, that's a mischaracterization of what this project is. And I will let our transportation staff speak to this. This is not rmi taking the place -- providing their policy. They are simply enhancing the policy of the city and the dollars that we already have. So Mr. Spillar, could you speak to the resources issue?

>> Yes, ma'am. Robert Spillar, director of transportation. You know, these program areas that rmi has proposed through the code development proposal are areas that our transportation department has already been focused on and as a city.

[10:53:23 AM]

Of course you know Austin Energy in partnership with ATD, Austin Transportation Department, installed charging stations all over town to encourage electric vehicle usage. We've seen quite a step up in the use of that. We know from every indication, whether it be Google talking about the advantages of being first in Texas as opposed to California because of regulations, that there is going to be a push for automated vehicles here in the Lone Star State. And so on. And we know that we're already adopting new development codes. So it makes sense to think about the future, and of course I need not say that we are definitely involved in mobility as a service, whether you call that the TNCs or the taxis or vehicles for hire. So there are areas where we were already expending funds and the match that the city would bring to this are activities that we're already doing, but we're interested in hearing about new tools. And with regards to policy, as professionals, professional engineers and planners, we do our best to provide information that is well rounded as best we can and not allow our personal views to interact with that. And ultimately policy is up to council to decide up or down.

>> Kitchen: Okay. Mr. Mayor, I would like to move approval of this item.

>> Pool: Second.

>> Mayor Adler: It's been moved to -- I'm sorry? This is just a briefing. If people want to discuss this later on then we're not going to do it now. We'll hold off.

>> Kitchen: Why would we not go ahead and move this item now? I mean, it's on the agenda.

>> Houston: Mayor, the only reason I said that is it was put forth as a briefing, not as when it comes up on the regular agenda.

[10:55:23 AM]



So if you want to do that now, I have some questions, but I thought we would just hear the briefing so they could catch a plane and we would take it up as regular order of business.

>> Mayor Adler: Go ahead. The -- I pulled it out of line for exactly that reason. But there's nothing to stop a councilmember from something not set for a time certain in the agenda to make a motion. But it was not set to be later. If anybody on the dais has a project with this being considered now, I'll entertain that before I recognize the motion, otherwise while they're here it might make sense to -- in case someone has a question they would be able to answer it. But if someone has a problem with that, then we'll do something different.

>> Houston: I just want to be consistent in our process. That's all I'm asking for. If the will of the dais is to go ahead and have the conversation and discussion now, I'm willing to do that now.

>> Mayor Adler: Let's ask that question. I said we would have just the briefing, the person is here, it's not set on our agenda to be brought at a time so there's no precedence. Let's take a vote. Those that would like to hear this matter now please raise your hands? That's a majority of the council. So we're going to hear this now. You move approval of which number?

>> Kitchen: It's item number 76.

>> Mayor Adler: 76.

>> Pool: I'll second.

>> Mayor Adler: Ms. Pool seconds that. Now would be the time to discuss that.

>> Houston: Mayor, I'm sure you all have -- in the mobility committee have vetted this in the prior conversations you've had with the folks from rocky mountain. I have some concerns about how we are inclusive in the diversity as you continue to roll out your work with the city of Austin. Historically the city has done the same people that are always part of these discussions and now that we're in a 10-1 system I would prefer or hope that you all would be broader and more expansive in how you reach out to different communities to ensure that they understand what it is that your outcomes are supposed to look like, and that we get feedback from all communities, not just from the usual suspects.

[10:57:45 AM]

>> Right. There's really two elements to that. One is around community engagement. And as I mentioned, we have an active strategy that we want to pursue to make sure that all districts are heard. That we plug into what is wanted and needed in those different areas. And of course, there's a pretty significant difference as you look across the different districts. So that's one element is within the community engagement portion. And then in terms of the work itself, we're really identifying initial areas that are most promising for rolling out some of these new mobility solutions and thinking about areas that are underserved or areas that would benefit from affordable mobility that haven't in the past is certainly one of the criteria that we are including. So we want to make sure that our first projects, number one, that we're not just doing one project, we're able to pilot several different ideas that would give us the option to plug into different demographics, and also even when we do an integrated solution that it would hopefully not just be something for employers or the particular employers that we engage with. I mentioned employer engage. , But by doing that solution for those employers, other communities benefit from that. So we're trying to find that overlap and we think it exists right now. We're in the process of selecting those projects, but certainly would be part of our consideration for identifying which projects to start with.

>> Houston: Thank you, sir. And please include my office on any way we can assist -- the city has not been very good about community engagement in the past so I'm always concerned about how that will be implemented going forward. But I stand ready to help you in any way we can.

>> Thank you.

>> Mayor Adler: Further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I attended the American dream coalition that came to the city of Austin a couple weeks ago. It was take two and a half day conference. Michael seral also joined that from councilmember troxclair's office, and it became obvious listening to that that when it comes to transportation there are some nonprofits, research groups that are pointing out these autonomous cards could obviate the need for mass transit.

[10:59:59 AM]

That autonomous driven cars and carpools that are controlled through applications such as -- you know, Uber and Lyft are already using, just as we should stop subsidizing mass transit because could be a better use of the money and provide better service. That's just one of 100 potential policy decisions and policy discussions that might come before council that probably won't have a voice because if rmi doesn't agree with that policy view, that voice simply won't come forward. There's one other point I made during our committee is that we had hundreds of people from Uber and Lyft, which really is mobility as a service provided by, you know, the free market, it's not a government planned, you know, business, right? It -- it developed in the private sector, it's an innovative use of technology. Ab the irony is you are here talking about how you are going to provide consulting services through rli, here's the community, the community was sitting behind you asking the city government to stop putting on ordinances and regulations that were not beneficial. So there just seems to be a tremendous disconnect that we should be on the hook for millions of dollars connected with rmis policy advice when we have the community engaging the council saying don't put these government ordinances and restrictions on the tncs. So I hope whoever is listening, I don't have probably a majority vote on this council, but I have a rational argument for why this is really a bad idea to take one -- it's a good policy think tank. I think rmi is really good in their technical views but it's one point of view and omissions other points of view, and the idea is the conflict with the tnc.

[11:02:02 AM]

S.

>> Kitchen: Mr. Mayor, I would like to make one statement. Again, councilmember Zimmerman is completely mischaracterizing this project. As we said before, the council makes policy, not our staff and not any consultant. There is nothing happening in this project where this consultant is making policy decisions for us. As we said before, they are simply augmenting policy decisions that this council has already made and this council is open to additional policy decisions in the future. In addition, this has nothing to do with the tnc issue and I think it's inappropriate to bring that up. Mobility is a part of this bridge which includes working with taxis and tncs and that's something you are aware of, councilmember Zimmerman, because we talked about it in our committee meeting.

>> I'll just emphasize, at the beginning I mentioned rocky mountain institute is nonprofit based on marketplace solutions to get us off fossil fuel energy and the market base is really the core element of our change model. We engage with all the private companies who are providing mobility today, we have engaged with the biggest transportation network companies that are operating in Austin. We've also engaged with the taxi companies and it is our intention to also engage with market subsegments through employers to begin with to plug new mobility services that are in the private sector to people who want them as a subset of employers. So it has to be -- the market driven aspect is really what drives it. We look at policy in case the policy can engage that. We are not a policy organization. We look at market led solutions, business led solutions and that's really the core element of this project as well. You mentioned the community, the people behind me on Monday and they are also I think present today. We speak with that community on a daily basis and look for business models they can adopt that would

both lead to better outcomes for them for their business interests and equally result in more affordable mobility for the citizens we're delivering these solutions for.

[11:04:13 AM]

That's the main aspect of our work. We've never been, you know, policy advisers or policy experts, but recognize that it can play an enabling role to the market led approach.

>> Mayor Adler: For what it's worth, Mr. Zimmerman, if you are able to identify a different group that's willing to come in and look at different solutions or different approaches or different perspectives, I'll join with you in encouraging that as many voices --

>> Zimmerman: One final question for legal.

>> Mayor Adler: Hold on one second. Ms. Pool and then we'll come to you.

>> Pool: I was just going to call the question. I think we've heard the different arguments previously in the work session and earlier as well and also at the mobility committee and I very much appreciate our friends with rmi traveling to Austin to be here to stand in front of us and answer questions. I support the work that you are doing and look forward to a good collaboration and partnership, but I would like to call the question.

>> Mayor Adler: We'll move the question in one second. Mr. Zimmerman's request for legal.

>> Zimmerman: There is or could legal comment on the memorandum of understanding about the 50/50 cost share and whether that requires any kind of budget amendment. You know, what is our process when we commit to -- you know, because we're committing to millions of dollars if we're committing to a 50/50 cost share.

>> I think it's a community commitment. We'll be happy to [inaudible] The actual contract or memorandum.

>> Gregory Miller, legal department. With regards to the budgetary commitment and how we actually exercise that, I leave that to budget and finance. I think rob spiller and his staff have determined what we're doing is focusing on areas we're already spending money so we already have money budgeted for these activities. So legally I'm not sure what the question is from a budgetary standpoint, I probably defer to rob or budget.

[11:06:16 AM]

>> Mayor Adler: I think the question is by approving this are we approving an expenditure of \$7 million or whatever the value was.

>> And what I would tell you, Mr. Mayor, is that those funds were already identified as part of our annual budget approved by council. We're not changing the focus of how we're using those funds. We are certainly making use of some new tools that they will be introducing to us, but they are the same funds, the same programs, electric vehicles, vehicles for service and we would be spending money on.

>> Mayor Adler: I may have interjected some measure of confusion by citing the \$7 million which is the value of the services. Even with that, the -- the amount of money currently in budget for current programs is not the full \$7 million. A lot of that is being met by groups outside. But the city of Austin is not committing any additional funds to this other than -- not committing any additional funds to this. You are going to continue the work you are doing and it may be augmented by --

>> Yes, sir. The other thing is remember that when they talk about community, that's I guess a little C, city, that there are private entities that are -- have already stepped forward or as part of this. When rim uses that local match terminology, they are using the term because that's the money they take to go bring investors from nonprofits to bear in their funding.

>> Mayor Adler: Thank you. With no further -- we'll take a vote on item 76. It's been moved and

seconded. Those in favor raise your hand. Those opposed? Mr. Zip voting zip -- Mr. Zimmerman voting no, the rest aye. Safe travels back home and we're excited about this. Thank you, sir. That gets us to our consent agenda.

[11:08:27 AM]

Something has been brought to my attention that may have me voting to -- or asking the council to reconsider item number 15. If staff associated with item number 15 could visit with Jim Wick or John Michael, I would appreciate that.

>> It was pulled.

>> Zimmerman: I pulled item 15.

>> Mayor Adler: Then I don't need to. We're going to continue then on with the agenda.

>> Mayor, may I make an announcement about the Austin energy? Is that okay?

>> Mayor Adler: Yes.

>> Gallo: I wanted to make the announcement so the community was aware of some scheduling changes for the Austin energy oversight committee which I chair. It's typically held on the fourth Thursday of each month and that fourth Thursday in November is Thanksgiving. The fourth Thursday in December is Christmas eve. Both of those are city holidays, so we've combined those two meetings and they will be held at 9:00 on December the 3rd. So if you would make a note of that, so we will not have the normally scheduled November and December meetings that are shown on our calendar, but they will be instead on -- they will be combined and on December 3 at 9:00. The meetings for January, February and March will also be on days which council is scheduled to meet because of changes in schedules for those three months and so the Austin energy meeting would be held at 9:00 on those three mornings, January 28, February 25, March 24, which are in the Normal meeting days for Austin energy and the council meeting would be held once our meeting is complete. Thank you. Just so the public is aware with plenty of notice with those changes.

>> Mayor Adler: Thank you. We're now to the pulled items. Ms. Tovo, number 4. I'm sorry, Ms. Troxclair.

>> Troxclair: Thank you for the heads up.

[11:10:29 AM]

I do have a conflict so I'm not going to be able to attend but thank you for trying to accommodate.

>> Mayor Adler: We're now on the pulled items. Ms. Tovo, number 4.

>> Tovo: I actually pulled number 38 but I understand it's connected with 4. We had a conversation about this in our work session on Tuesday and we've gotten some more information. This is a tract of land that's being proposed for sale. It is owned by the Austin resource recovery. We received a memo indicating that it had been offered to all other -- as is the practice with real estate, first they offer the tract of land to neighborhood housing to see if it would be appropriate for the development of affordable housing. The next step is they offer it to other departments to see if anyone has any interest and the memo we received said that no other city departments identified a current or future need and all are currently in agreement with the sale. And it really took me until Tuesday morning to figure out that this was exactly the same tract as I explained on Tuesday that came to this -- came to the former council for approval to create a dog park, to turn it -- to sell it to the parks department and create a dog park which was an identified amenity for that area of town, which is basically the southeast. And it's my understanding it wasn't just going to be a dog park, it's a fairly substantial tract. It would also be, you know, have trails and things of that sort. At the time there was a pretty lively council discussion as I mentioned on Tuesday, there were concerns about whether this tract would be accessible to those who are using public transit and to those in surrounding areas. There were several of us I think on the dais,

and I'll just speak for myself, that felt we should move ahead, that it was stowing that had community support. The decision was to send it to the parks board where the subcommittee recommended that the parks department purchase it for that use. The full parks board recommended that it be purchased for that use and then -- and then there was a gap of time.

[11:12:37 AM]

I understand we were -- we were notified in August that this was a tract that was going up for rfp. It was in the height of budget work. I did not notice that communication coming through. I don't know how many of the rest of you did, but in any case it was not -- it has been present to us as a simple sale and it had this whole public process, history, identified use prior to it appearing on our agenda for this week. And so I'm real concerned about that. I'm concerned about the process. I think it's very important if we're considering selling public land that we have a robust and vigorous conversation about whether that tract of land could serve the public purpose in any other way before we put it out for sale on the public market. It's a conversation that's happened one other time in my time on council and that was with the 64 Rainey tract which also appeared on our agenda for sale and council took the time to slow that down and really talk about it and in the end has decided to retain it for a public purpose. And I would suggest that this is -- I feel that we're, again, I have concerns about the process through which this landed on our agenda absent any -- you know, any acknowledgement of the prior public process that identified it as a possible park and possible amenity for that area of town. And so I know our staff are here. It's my understanding that there is -- that this is being offered for our consideration because there's an urgent need for the money and so I guess I would welcome you up to talk about that, but I will just say I would like to hear from our parks department about what happened after the parks board recommended it for approval. Why is something very different being contemplated here today and what -- what have our economic -- sorry. It's going to be a long question or a long discussion?

[11:14:37 AM]

Sorry. But I think it warrants it. I think when we're selling our scarce public land, we need to be sure that's the right decision and not have it be, you know, we have to sell it today or we're not going to be able to pay our bills kind of thing.

>> [Inaudible]

>> Mayor Adler: Let's talk with parks first because I think that was a threshold question. Mr. Zimmerman.

>> Zimmerman: I do agree with councilmember troxclair troxclair -- councilmember tovo. I share your concern about the process.

>> Tovo: I would be happy to postpone it except I understand staff have concerns about that.

>> Mayor Adler: Let's hear from the parks people.

>> Ricardo Solis. Mayor pro tem, you are correct, we've had quite a bit of history with this property. As you'll recall, this was -- we were moving forward with an off-leash area at Mabel Davis which is north of that. We do see the need for a dog park in this area just because of the growth on the Riverside corridor. The future of Norwood dog park, so this was important to us. At the time we were also talking to Austin pits live as a possible partner with us on this property, and you are right, time did -- did go from us because we're waiting for Austin pits alive to take a look at the property to see the feasibility for them, financial as well. And so today it's just with the market value of that property is something the parks department cannot move forward just because of that budget issue.

>> Tovo: So it was on our council agenda back in January 2014 for the parks department to purchase it for I believe in the \$200,000 range.

[11:16:44 AM]

One, possibly a couple councilmembers, successfully advocated for it to be postponed and sent to the parks board for additional consideration. They recommended it. It's taken a year and a half to come back to council and now the market value is such that parks can't buy it? Is that really the reason why the parks department is not interested in it as a parks -- as a dog park because it's been put out to bid and the bid is you can't afford the same rate?

>> Well, like I said, there was a time period there that we were talking to Austin pits alive and they were doing their due diligence on the property. And after that concluded and they decided that this was not going to be feasible for them or desirable for them, we -- we understand now that it -- for that transfer to take place or for that sale to take place, we're looking at a market value price. And so that was something that he we just could not move forward with.

>> Tovo: Would it still be -- if it were still available at the price at which it was offered back in January, I think it was January 2014, would the parks department still regard this as a tract that is useful for the public purpose for which it was identified as a park and a dog park amenity for that area of town?

>> Yes, we do.

>> Tovo: Okay, so it's -- I guess -- it may not be necessary, maybe my frustration is evident, but I think we have a problem when we have a city department that expressed interest, has identified a tract, another department puts that out for private bid, the bids come in at such a rate that it's then not affordable to our city department. I think we have to ask ourselves whether we need to look at the process and considering making some revisions. Because in that interim, I understand time has passed, but you were working with one of our partner organizations to figure out if a partnership was possible, not because the parks department thought it wasn't useful for your purposes. You were trying to figure out whether it could serve also the purposes we've identified for our animal shelter.

[11:18:48 AM]

>> Sure.

>> Tovo: Animal center. Okay, well thank you. Again, it's still of interest for the parks department, the immaterial pedestrian meant at this point is the price tag. Is it still an identified need in this area of town for a park that could also serve as an off-leash dog park?

>> Yes, yes, there is a need in this area.

>> Tovo: So there will continue to be a need that you will then have to try to satisfy by identifying another tract which will require a different purchase.

>> Exactly.

>> Tovo: All right. Thank you.

>> Mayor Adler: Thank you. Mr. Getter, can you address some of the other questions the mayor pro tem has raised in terms of the timing.

>> Bob getter, director of Austin recovery. Yes. Precise lie the timing issue. We have -- a previous council has accepted a grant from the economic development administration for \$1 million to support a project we're doing at the old landfill on fm812, the remanufacturing hub. We committed \$2.1 million in city match dollars and have originally committed certificates of obligation with a payback of 20 years. There was problems in administering the certificates of obligation so we were asked to find a replacement match for this grant. The replacement match that we have discovered is sale of surplus property. In my communications -- it was of the -- evident to me that no city department wanted this property, and I do believe it's the new market value. I do believe that's the issue. The property is zoned industrial and part of the neighborhood plan as an industrial parcel and that has escalated the price tag of the value of the

property over the previous years. And so it's now valued fairly high.

[11:20:49 AM]

There is a current bid of \$1.4 million for the property. My stake on this issue is not necessarily who gets the land, but the receipt of funds to fund an existing project that the fm 812 landfill.

>> Mayor Adler: And the process committee that I would have I think joining with the mayor pro tem is - it almost seems there has to be somebody from both departments looking at both the priorities. We have a real estate question, we have a resource recovery question and a parks question. It may be that the highest and best use is to sell the property to raise money to buy what might be a better parks location.

>> Uh-huh.

>> Mayor Adler: But if it's excess land, I don't know the money should go to the resource recovery versus the parks and seems to me that is kind of a germane question to ask. Can you talk to the timing issue that the mayor pro tem raised?

>> Yes.

>> Mayor Adler: In other words, could we not elect to do this and actually have that broader conversation?

>> Our Eda grant time lines, we've agreed to some time lines of employing an engineering firm by December 1st of this year and construction on site by July 1st of next year. Those are reasonable time lines when we were pursuing certificates of obligation. In switching to a different city match, we're now pressed on time to find the cash to match the funds. I have formerly asked the economic development commission for extension on time on our grant match and they have declined the extension. They've stated that they would award the funding to another city if we miss our marks on this grant application. On this grant award.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, I may have a point of order question here, but seems like we need to consider item 38 before we consider item 4 because isn't the whole point of these transfers depends on whether the land is sold, and I think the land sale in front of us is a binary decision.

[11:22:58 AM]

We sell it or we don't. So would it make more sense to postpone item 4 and let's consider item 38 first?

>> Mayor Adler: I think at this point we're considering both.

>> Zimmerman: We are considering them together? Okay.

>> Mayor Adler: Ms. Pool.

>> Pool: A quick question. The grant you were talking about, is that a definite the city would receive it unless we don't continue on with the application? Have they committed or are we still in a process and might not get it no matter what we do?

>> It's -- we have been awarded the grant. There was a press conference and direct award of grant. We have not received the funds from the grant. We received the funds as we spend the city match. It's a match dollar that the \$2.1 million match to the 1 million-dollar grant. And as we spend the city match, we receive the reimbursement from the federal government. Part of the conditions is meeting certain time lines. That's the issue that we have. I'm sorry, go ahead.

>> Pool: I would just like to say on that it may be that we could have some further conversations with the economic development department. I understand it's the federal government, just to kind of test that, and it could be that we -- if we're able to postpone this at this point, do a little more research and investigation and just test.

>> Tovo: I have a couple questions and then I want to propose a possible area, I don't know that it's a solution, an area of exploration. But I wanted to be very clear when we're talking about the market value that would now be assessed to the parks department, how is that determined? Through an rfp that resulted in -- or not an rfp, but through a process that resulted in bids from the private market?  
>> Councilmember, Lorraine riser, office of real estate. Councilmember, we had an appraisal done which actually came in less than the million 450 and we put the property out for bid and when we did the highest bidder of the property was for a million 450,000.

[11:25:08 AM]

>> Tovo: We offered a property that had been offered to one of our city departments for sale to the private market. It came in with a bid that was in excess of what our department could pay and that's how we're arriving at market value.

>> We're arriving at the sales price on the amount of bid, yes, ma'am.

>> Tovo: Then my question is -- thank you, Ms. Riser, I appreciate that information. Mr. Gedert, I heard you say the first led line is a December 1 deadline of hiring a designer. Is that right?

>> Yes, and I just consulted with Greg canally on that deadline. He's willing to authorize us to proceed with that while this issue is unresolved.

>> Tovo: That's what I was going to ask, how much money -- that seems like a very small amount of funding necessary for the December 1 deadline compared to the construction that needs to happen in July.

>> Exactly. And --

>> Tovo: So we could indeed postpone this.

>> Yes.

>> Tovo: You can meet your December 1 obligation. I would like to understand why the certificates of obligation were not regarded as a potential area of funding. I heard -- I don't know if this is something we can talk about in open session, bottle's.

>> Mayor pro tem, Lela for the law department. Certificates of obligation are not available for economic development projects so that was not an appropriate source of funds.

>> Tovo: Thank you. My area of exploration I would like our financial staff to do with Mr. Gedert, back during the budget process, there was a fund and I'm not going to get the name right, but I think it's the economic reserves development fund or something like that and I made a proposal and it was successful to remove \$2 million of that. Basically we have used that as a fund to pre pay some of the development incentives that will happen over the next ten years or something -- again, I'm not getting the Numbers or years quite right, but I bet Mr. Johns knows.

[11:27:11 AM]

But when we transferred \$2 million out of that fund, that was pretty conservative. There's still a fair amount of funding left in there and there may be a million dollars in it. That was my general recollection is that there's about a million still in that fund that is essence is being set aside to pay for upcoming -- for funding requirements in future years. And so if we need cash for an economic development purpose that we can't fund through other ways and this is an economic development proposal, I would say let's look to that funding first.

>> Kevin Johns, director of economic development. It is a very good economic development project to transform the landfill into an industrial park and we hope that it could generate as many as 1,000 jobs over time for the hard to employ so therefore we have approached the U.S. Department of commerce, the economic development administration, and we very much hope we can make this happen.



Regarding the economic development reserve fund, the moneys that were taken out in the last budget really tapped it out. There are funds left, but if we take any more out of the it, it will put the fund in the red. We can give you the exact Numbers.

>> Tovo: I would like exact Numbers.

>> But at the time and we were going through the budget, we had run the Numbers and so it was prudent to do that at the time. But I think at this point we can show you that that is not a good source from this point.

>> Tovo: I'd like to see those Numbers. That would be great. And when you talk about being in the red, I guess I would want to know when it goes into the red. Does it go into the red immediately like we can't meet our obligations for this year or are we talking about if no other funds come into that in the years ahead we won't be able to meet our obligations?

>> Exactly.

[11:29:12 AM]

We'll get you that information. I believe it's not the proper source.

>> Tovo: I would just ask staff to look at other sources within economic development since it is an economic development project, I understand it's being done in conjunction with Austin resource recovery, but it would seem to me that would be the place to look for funding and I would like to better understand the business plan. I think it's an exciting project, but I want to really understand the funding and the -- how those Numbers -- I want to see the business plan I guess for it. Especially if we're potentially going to be asked to consider a decision where we're selling a city asset that we would otherwise keep and use. I want to really understand what the financial liability is and make sure that we're all confident that it is a financially viable option for the city.

>> That is very valid and we think we do have a very good business plan and that it is sustainable over a period of time. It was the change of funding that threw us off. And the economic development department did identify the federal funding and go to bat to leverage that million dollars. All of this money really goes to create the infrastructure for the site. And so finding capital dollars from the federal government was a bit of a challenge, but we were able to accomplish that. So finding city dollars may be a little more challenging, but the business plan is pretty solid and we'll share that with you all. And if you have suggestions, let us know.

>> Tovo: Thank you. Again, I think it's a good project. I hope that we can figure out a way to match the funding without pitting the needs of one department against another, though.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Thank you, mayor. I'm real familiar with this area. Every time I go down I get lost.

[11:31:13 AM]

It's an isolated industrial area. I could never support putting a dog park there because people would not find it. It is just very difficult to drive and get to these industrial locations and the whole area is just full of industrial. In fact, you know, Arnold oil just moved out there and moved all that, you know, discussion like we had at the -- on the 7th street location site where we're saying we can't put housing around there because it's a lot of hazardous materials are being stored in this area. So I don't see why we would want to put a dog park in that area.

>> Mayor Adler: Ms. Gallo.

>> Gallo: As we have the dog park discussion kind of isolated to that, I'm reading in my backup information which says the parks and recreation department determined that purchasing the property for a dog park at the current fair market value is no longer financially feasible. Pard operates 12 off-leash

areas in Austin right now. And I just want to say I really appreciate that values by the parks department because I think they are so used to working on limited funds and they really do a great job of trying to equitably spread the park services throughout our community and I really do appreciate that. And this would be a large amount of money that would be isolated to one small area. I'm looking at the dog map and I think part of additional conversation should be a discussion of -- of evaluating where other dog parks should go where they are not currently provided. And I see that of the 12, six are located in Austin between 29th and Barton springs and one over at red bud. I think the city has done a very good job of centrally located off-leash dog parks. Basically looking at west of mopac, other than the Emma long facility, there is nothing that is west of mopac and north of the river.

[11:33:17 AM]

And I think that shows that that really is an area that's in need. There's one at far west and great hills -- I mean -- I'm blanking. Great northern, excuse me. And the problem with that is that it's a lovely -- it's a lovely area, but it's a detention pond, it has stagnant water and all of the veterinarians that treat dogs in this area know that there's a bacterial infection that a lot of the dogs are picking up from there. So it is a facility, but I think dog people are becoming more and more cautious about that when we haven't had a lot of rain. I just want to applaud the parks department for taking a really conservative approach to evaluating this and understanding that their needs are greater and that we really need to be conservative and fund parks and off-leash dog parks throughout the city and spend our money wisely to do that. I wanted to say thank you to parks for evaluating it in that way.

>> Mayor Adler: Ms. Garza.

>> Garza: Yeah, I asked questions about this at work session because initially I was concerned about best use and so those are my questions there. And then I also have concerns about the process. So did the previous council -- does the council approve staff going out to get bids when it's going to sell a piece of property? Or does it come to us like it has today?

>> Councilmember, we've been struggling with how to do this process for a while now so what we did for this particular thing is in August 2015 we sent out a letter to mayor and council with a list of properties that were going to be considered for sale this next year. And hoping that if council had any comments, concerns or anything that we would hear back. We heard back from your office about one tract on pleasant valley and William cannon, but it was the only communication we heard back from any of the councilmembers on that memo.

[11:35:19 AM]

>> Garza: And I appreciate you trying to find a system, but I'll be honest, there's so many memos and emails that we get, usually it doesn't even go on our radar until it's on a council agenda. And so I guess I too have concerns about the process and how we've -- you know, someone -- jimmy, forgot his last name, he's been awarded this and we might not sell it and the same thing with 64 Rainey, we were set to sell it and it set off alarms. I'm less swayed by any concerns over a dog park. I too think it's not a good location for a dog park. The onion creek dog park, which my understanding the largest off-leash dog park in the city is five miles from there. My concerns are can this -- are not about can this be a dog park it's more of a process so I would be supportive of a postponement to understand more where the funding is going and what exactly it's going to be used for.

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

>> Zimmerman: Thank you, Mr. Mayor. I think I'm hearing and I would like to make a motion that we postpone item 38 and 4 with a time certain for it to come back. Maybe of December 17?

>> Mayor Adler: Does that work? Move to postpone to December 17. Is there a second? Ms. Garza

seconds. Further discussion? Ms. Tovo.

>> Tovo: I just want to make a last point. I think based on some of the comments from my colleagues, I guess I would just ask that we have more discussion with our parks staff because what I heard them say was not that there's not a need in this area of town, but that they can no longer afford the price tag. So I need to get to the bottom of which of those things it is, but I think in any case we need to address whether it's the right thing for the city to sell this at this point.

>> Sara Hensley, director of parks and recreation.

[11:37:21 AM]

You are correct, it's not about need. We have a need, the Riverside corridor is the second most dense area and we recognize that we need to look at strategically placed dog off-leash areas. If you recall, mayor pro tem, previous council we had a huge discussion about the Mabel Davis site and the fact there was opposition from the community to put an off leash area in an existing park. This brought up a discussion when you try to put an off-leash area in an existing park, you get a lot of pushback. So we started looking at land that was not in an existing park site. This particular piece of land came up through our friends certainly in Austin resource recovery. They were working with us all the step of the way. I want to be real clear and don't want to hang another department out to dry for an incidence that really is not their problem. We worked with them side by side. We worked with juni plumber, with Lorraine. We spent a lot of time with a land planner. We looked at this site two-fold, one is off-leash area, but more importantly find an alternative site to partner with Austin pets alive. There was several months of discussion, how would they be able to chip in from a financial standpoint, would it work and the plan came back saying it could work, but at that time they had done an appraisal of the property and we just could not afford -- we couldn't make it work with Apa, they weren't interested anymore, and second knowing the price of the land we just couldn't afford it. So while we do believe we need off-leash areas in more strategic areas of the city, this is one area particularly, we cannot afford this property and it may not be as you said, councilmember Renteria, the most prime park site.

[11:39:22 AM]

We're going to continue to look at areas in this region and continue to look at ways to do this without expending a lot of dollars through vacant land or excess property, through partnerships with other departments as we were trying to do with our friends in arr.

>> Tovo: Okay. Before this comes back, I hope that we can get some sense of how likely you are to be successful. I think it was -- I mean the community members spent a fair amount of time identifying tracts in this area that they wanted to propose as solutions and they were all looking toward industrial tracts just for the reason you suggested that sometimes people don't want to live next to a dog park. It's noisy, there are contamination issues and those are some of what we heard in Mabel Davis. Thank you.

>> Mayor Adler: The motion to postpone to December 17. Ms. Pool.

>> Pool: Could I ask we move it beyond December 17? That's the last meeting this year and I understand it's going to be pretty packed. Unless there is a problem time wise, I would ask this be pushed to February.

>> Zimmerman: I don't have an objection to pushing it.

>> Mayor Adler: Mr. Gedert, could you speak to the comments?

>> Councilmembers, the only issues we would have to go back to the developer and see if he would be willing to extend his contract out to that date, and we would be willing to do that, but we just want to let you know that when we did the rfp it was his understanding that we would consider this before the end of the year. So I just wanted to mention that.

>> Mayor Adler: I'm going to hold this item then. Would you check with him and see?

>> Yes.

>> Mayor Adler: We'll come back to this item. Ms. Houston.

>> Houston: I would like to find out about the deadline for the grant from the federal government. Will that hold over until February?

>> We have some reporting requirements and if I can work with Greg Canally and our finance office, we can initiate the engineering contract. The next deadline would be letting out bids for construction, utility construction on site.

[11:41:24 AM]

We would probably go out for -- we have to have construction begin July 1st. So we would probably go out for bid in February. So we would have to have the money locked in place by the time we let out bids in February.

>> Houston: But I'm talking about the deadline that we were talking about today. What is that date now?

>> Yeah, the Eda grant deadline, we have a December 1st deadline to initiate the engineering study work and a July 1st deadline for construction on site. To begin construction on site. We anticipate occupancy in January of 2017.

>> Mayor Adler: Ms. Pool, could we do this, postpone it right now to December 17 since this is a staff matter? Let them take -- I'm sorry?

>> [Inaudible]

>> Houston: I don't want them to lose the grant.

>> The developer is okay with moving it out to the previous date.

>> Mayor Adler: It's good to hear he is. My recommendation would still be that we keep it on the agenda for December 17 to see if we can resolve these issues. If we can't, we could consider it. If it's too busy on December 17, then as we're engineering the remaining agendas in December, which we're trying to do, we could -- we could just postpone that. That would at least give us a flexibility in hearing it on December 17 instead of locking ourselves into a place where we couldn't hear it at that time. Ms. Kitchen.

>> Kitchen: What about December 10th? I think we already know December 17 is going to be way --

>> Houston: That's fine.

>> Kitchen: Significant issues that are going to take a while.

>> Mayor Adler: For the same reason, I would be okay expecting until the 10th recognizing we could push it to the 17th and if it was too busy we could push it again. I just don't know it will take that much time. I would support that putting it on the 10th, understanding if it's not ready, it would get pushed.

[11:43:25 AM]

>> Zimmerman: Mr. Mayor, I support that too as the maker of the motion, but I would request the council -- I think we need to separate these items and deal with 38, deal with the sale of land first and then deal with what was item 4 because I agree with mayor pro tem, we need to see a business plan for what's proposed under item 4. I would like to see that business plan. I think it would help us if we divided the question and commit to try to resolve the sale, you know, by December 10th and then consider the other issue separately.

>> Mayor Adler: Well, let's -- and I understand and I think we'll treat them differently. Do we want to maybe -- maybe that's something that all happens in that same time period. By postponing them both to December 10 we're not guaranteeing we would consider them, voting on the merits. It's been moved

and seconded to postpone to December 17th I'm sorry? December 10th. Moved and seconded to go to December 10th. The original maker and the original seconder. Those in favor please raise your hands. Those opposed? We'll postpone until then. Thank you. Those were all in favor of that vote. The next item that we're going to call is item number 8. Ms. Garza, you pulled this.

>> Garza: My questions were more about -- I heard from constituents and they thought the intent of these two different lists, the smaller I guess engineering list was so minority and the veterans and smaller firms could be on that list, and my understanding is the three of the -- three of the firms on the list for item 9 are pretty big firms. So can you -- I guess can you speak to that? Is that the wrong interpretation by somebody or was that the spirit of the -- I guess the process that set up these lists?

[11:45:29 AM]

>> Yes. Rosy true love with the capital contracting office. The items before you, 8 is the city of Austin's large scale general civil engineering rotation list and 9 is the small scale. We issued these solicitations as a pair every time we issued them with intent we want the work to be awarded a unique firm. If you are awarded a contract for the large you are not eligible to be awarded a contract on the small scale list. We do to ensure folks will have appropriate availability when the work comes up. The projects that go to the large scale list are anticipated to be larger. The authorizations are larger than on the small scale list. But there's not a requirement for one or the other that you be a firm of a certain size. So when we put these solicitations out, it's an open -- an open process, an open competitive process. They are very highly sought after. We had more than 40 submittals for both lists and they were not the same 40 firms that submitted to both of them. We do the evaluations for the large scale firm or the large scale first and then we do the evaluations for the small scale list to ensure we have a unique set of firms. There is no size requirement for the firms that are awarded the list. We traditionally have seen a good MIX of both smaller firms that are able to compete and get awarded contracts for the large scale list. And -- and larger firms that have been awarded contracts on the smaller scale list. The scale I guess is relative to the size of the project, not necessarily the firm.

>> Garza: Okay. So was it an ordinance that set up these two? It was just a process, administrative?

>> Yes. Many, many, many years ago when we did those rotation lists we had one rotation list that was maybe 25 or 30 even firms and we would have tiers associated with it.

[11:47:31 AM]

So that we would have the ability to award larger projects to firms that were on a tier that had a higher authorization, but that became very burdensome to administer so we broke it into two lists so we could tailor to large and small projects.

>> Garza: The question or the concern was the intent of the smaller list was to help smaller firms and so you are saying that that -- that that wasn't the intent?

>> That's part of what we were hoping to achieve is to have a contract that would be a little more attractive perhaps to smaller firms and it would be perhaps a little less attractive to larger firms. But we can't limit who would respond to our contracts. We have to respond -- or we have to evaluate those that respond to an open competitive solicitation process and in this case it's resulted for the small scale list in 16 firms being hired, six of which are certified. And I can't tell you the business size of any of the firms because that's not part of our evaluation criteria.

>> Garza: Okay. Thank you. I don't have any more questions.

>> Mayor Adler: Is there a motion to approve items 8 and 9? Ms. Troxclair moves. Second? Ms. Gallo. Those in favor please raise your hands. Those opposed? Everyone on the dais with Ms. Houston and the mayor pro tem off. Thank you. That gets us close to 40 items remaining for today. The next is item

number 15. It's the airport parking issue. Mr. Zimmerman.

>> Zimmerman: When I read through the material, it looked like somebody could have make a mistake on adding an extra zero.

[11:49:35 AM]

For the architectural planning that was listed, it could have seemed like somebody could have suggested 1.3 million instead of 13 million. My question is on what appears to be an extremely high price tag for the scope of work proposed. So that's why I wanted to flag this.

>> The current estimate for the project is about \$120 million and given the scope of work that the architects will be doing on this project, it was estimated that it would come to about \$13 million. That is consistent with some of our other capital projects in terms of the breakout of architectural services versus construction services.

>> Mayor Adler: Okay.

>> Zimmerman: I need to point out that the amount of money, you said the total project was how much?

>> Roughly 120 million.

>> Zimmerman: Okay, and that was scrutinized by the airport advisory committee. Did they dig into that in detail and did that make sense to them that was a reasonable amount or --

>> They voted for it.

>> Zimmerman: But did they dig into it in any detail and understand the scope of what they were voting on?

>> They asked questions about to what degree they dug into it their own or asked additional questions I'm not familiar with.

>> Zimmerman: So my individual that I appointed to the commission has been complaining to me that he's not getting the data in advance of meetings and he simply doesn't have the opportunity to dig into it. So that's why I'm bringing up the issue.

>> Mayor Adler: Mr. Renteria.

>> Renteria: My concern is that the -- these -- the last two -- the two top bidders, it's so close and we're awaiting this money to a company that, it's out of Dallas. I don't believe they don't even have an office here. And we have an Austin company here that's -- they are just very close.

[11:51:40 AM]

And what's an optimal interview? Seems like they got a huge boost on that. If you look at the bidding and the Numbers. The total points was 101-02 and the Austin had a 98-52, but on the optional interview, they had 13.30 points and 10.4 -- the second bidder got 10.40. Can you explain, do you all have an extra bonus for when Austin companies bid on these or -- I don't understand how you get to --

>> So we used for this particular solicitation -- rosy truelove. For this solicitation we used our standard selection process which is a a qualifications. Huang was at 87.72 and pgal, pierce goodwin, al lander and lynnville was at 88.12. But during the -- as a result of the interview, the ranking flip-flopped and huang scored higher than pgl did on the interview. Our interview process is similar to what you would expect for perhaps a job interview process where we hold everything in a very consistent nature. We have the same room set up, the same questions asked, give them the same advanced notice and same request to prepare a presentations covering certain points that we ask them to -- certain aspects of their proposal maybe or their approach. Then the interview panel members, which is the same panel that actually performed the written evaluations will ask questions and score them based on the answers that they pro.

[11:53:51 AM]

And -- provide and that is combined to create this composite score. It's not unheard of for a firm to score higher on the written portion and perhaps not do as well on the interview process. Specific to your question about do we give any extra consideration for firms that are in Austin, we do not. Not in professional services, per Se. There is ability to apply a local preference, that's something we look at regularly to see if there is any change in case law or in statute that would allow us to do that. Our way of looking at this is to ask them to address their experience with Austin issues in one of our evaluation criteria, but there's no extra bonus points for being in Austin associated with this particular solicitation.

>> Renteria: Thank you. Mayor, I'm very concerned about, you know, giving these contracts out to companies that -- especially this close. They look like they were ahead until this interview. And I find it disturbing that, you know, when an Austin company is competing and they come ahead, but then there's an interview that -- you know, they fail the interview I don't know what -- what questions there were asked of them, but I -- I believe that -- and it's still possible, we could go for the second one instead of the top one; isn't that correct?

>> Yes. Council does have the prerogative to select someone other than staff's recommendation provided their basis is grounded in what we evaluated as part of our selection matrix.

>> Renteria: And I have no problem going with the second one because they outsourced all of them until it came to the optional interview, which for some reason I don't know how that process works, but to me it seems like that's the only reason why they weren't able to win this contract.

[11:55:54 AM]

So I would like to make a motion to support our Austin company that came in second.

>> Mayor Adler: If there's no objection, I'll entertain that motion. Mr. Renteria moves to pick the second place, seconded by Ms. Gallo. I have a question. I notice that the top two are grouped almost on top of each other and then there are a lot of folks that trail. Are you comfortable with the second, either the first or the second?

>> Yes.

>> Mayor Adler: And I think our basis for doing this by law has to be on one of the criteria that are established. And as I look at this and see that number 2 has a greater weighted experience with Austin issues, I would give that greater weight in my evaluation of these contracts so I will be supporting the motion on those grounds, which I understand are proper grounds for us to use. Ms. Garza.

>> Garza: I'm not opposed to the rationale of maybe going with two because of everything that's already been said. I just don't feel comfortable voting on that so I guess I would suggest we could send this through -- is there a timing issue? And I could put this on our public utilities committee next month. Would that create any problems with this contract?

>> If it's done within a month's time frame, no. But if it drags on beyond that, it starts being problematic.

>> Garza: If I heard this on December -- I think our next meeting is 16th and it was on the 17th, would that be okay?

>> Yes, we can do that.

>> Garza: Then if I could entertain a friendly amendment to hear it in public utilities and have it back on the 17th

>> Mayor Adler: It's been moved to postpone this item until December 17th.

[11:57:55 AM]

With the understand you are going to hear it in committee before then, but our action would be to postpone this until the 17th. Is there a second to that motion to postpone? Ms. Troxclair makes that second. Did you want to address this? No? Any further discussion on the motion to postpone? Those in favor of postponing until the 17th, please raise your hand. Those opposed? Casar, Renteria and kitchen vote no and pool. That's four votes. Ms. Kitchen.

>> Kitchen: I'm sorry, I stepped out for a minute, but I still have the same concern about postponing things to the 17th. We already know there's a number of extensive items that are going to be on the 17th. I would much rather postpone to the 10th if we're going to postpone.

>> Garza: My expectation this would go on consent. I don't feel comfortable knowing the bounds of how we can change, you know, or what we're allowed to -- the basis of why we can change it I don't know the grounds. No one what happened at the interview, I don't know any of that. The reason the 17th --

>> Kitchen: Do you need that much time?

>> Garza: No, before the public utilities committee.

>> Mayor Adler: I would be voting for this yes today, but I'm willing to accommodate the request for the study on that question. I don't know all the answers to that question. It would be good to know. So we have voted to postpone this until the 17th. We're going to go on to the next item. Ms. Troxclair.

>> Troxclair: I guess if we've already voted, I would going to suggest maybe we could take it up later this afternoon and that would give some of us some time on answer our questions if we wanted to do that.

[12:00:01 PM]

>> Mayor Adler: Okay, so we will entertain the motion to reconsider this afternoon and you might want to touch base with Ms. Garza and see if it's possible for us to handle this today. But for right now it's postponed until the 17th. We can certainly reconsider that.

>> Troxclair: I'll make a motion to reconsider.

>> Mayor Adler: Do you want to have the conversation?

>> Troxclair: You are saying do that later.

>> Mayor Adler: And then if there's a desire to do that, we'll move to reconsider it.

>> Houston: One of the concerns I have is the optional interview. What does that really mean? Is that biased in some way that we're not aware of?

>> Mayor Adler: So in the break I would request that you guys would visit with a couple of councilmembers to see whether or not we can get this back on the agenda this afternoon. Thank you. It is 12 noon now. We only have three speakers so given that we only have three speakers and we'll be coming back at 1:30 for lunch, before we call the speaker I'm going to hit another item. Ms. Gallo.

>> Gallo: I would ask that we take up item number 42. I'm going to make a motion to postpone it.

>> Mayor Adler: This was pulled by Ms. Houston. Ms. Gallo moves to postpone item number 42. Do you want to address why you pulled it first?

>> Houston: Thank you, mayor. The reason I pulled item 42 is that we have a process in place that needs to play out before we vote on any renaming. And so I would support and second the motion to postpone. To February.

>> Mayor Adler: Ms. Gallo moves to postpone until our first meeting in February. Ms. Houston seconds that. Discussion now on the motion to postpone.

[12:02:07 PM]

Ms. Pool.

>> Pool: We have a request from the parks board to reiterate the moratorium on park place naming that



I thought we had actually approved previously. I know that the Roberta crenshaw overlook process had already been in progress which is why that was approved, but I think -- and I agree with councilmember Gallo on pulling this because this one came in later and I think we were trying to get a process in place. So the parks board also supports that request for moratorium.

>> Gallo: I would then add the motion would include that we would direct the city manager to have the park staff suspend the acceptance of new applications for naming any park facility until the revised naming policy has been approved by council.

>> Pool: I'll second that.

>> Mayor Adler: Sir?

>> It's outside of your posting.

>> Mayor Adler: She's suggesting it's outside of our posting to accept that policy. Let's keep it simple and postpone until February. But I would anticipate that something else comes to us within that period of time will be treated similarly. It's been moved and second. This has been postponed to our first meeting in February. Mr. Zimmerman and Ms. Tovo.

>> Zimmerman: This will be quick. Another point of order here that we got another blank resolution on the consent agenda and I -- I thought we agreed that we would just not have this kind of thing on the consent agenda anymore. It's got a blank here with consent. The implication if we had just voted and put it through on consent, then I guess would legally the tennis center be renamed open parenthesis? I wish we would clean this up.

>> Mayor Adler: I understand. Ms. Tovo.

>> Tovo: I believe we have staff here who can clarify, but I think this was initiated before we had that discussion at council. I'm happy to support the postponement, but that was my understanding.

[12:04:11 PM]

Q.gregory [inaudible] With parks and recreation. Mayor pro tem, you are correct. The application was actually submitted to the department prior to staff working on the current naming ordinance for amendment. So this application as well as the crenshaw application which was approved on consent actually were in the pipeline already and going through the approval review process when staff started to look into the current update, if you will, of the current naming ordinance.

>> Tovo: Thanks. It sounds like parks staff have understood our interest in that policy and, but we're taking -- bring forward things that were already in the pipeline. Are there others in the pipeline that you know of?

>> No, ma'am, just the two on the agenda.

>> Tovo: It looks to me like we have one speaker signed up and I saw him raising his hand. He might want to speak to postponement.

>> Houston: Before the staff person moves from the podium, is this the second naming that we've had? These are different -- they are different names each time this has come before us.

>> There's two applications.

>> Houston: This is the second.

>> They are competing applications.

>> Houston: That's another reason to postpone.

>> Mayor Adler: Mr. Webber, do you want to come and talk to us?

>> Mr. Mayor, councilmembers, thank you. My name is Tom Webber and I currently serve as president of the capital tennis association. I would like to thank councilmember Houston from removing the item from the consent agenda so it might be revisited and scud and we had hoped positively acted on by council. Our approximately 5,000 member organization began the process of renaming the Austin tennis center in honor of Carol welder for her almost 40 years of service to the Austin tennis community in

March.

[12:06:12 PM]

In fact at the same meeting where the crenshaw issue was brought up. We were told when we appeared before the facilities committee and the parks board that our application would be tabled until naming guidelines had been reconsidered. In June we were informed that the legal department had directed that since our application had already been filed, it should be considered under the pre-existing naming policies. So we again appeared before the facilities committee and found that a competing application to rename the Austin tennis center in honor of Sara Bernell for her many contributions to the tennis community had also been filed. I've known both of these women for more than 20 years and we have worked together on the capital area tennis association's junior development committee, which I chaired for more than 15 years and we will continue to do so. Given the nature of our collegial relationship, the facilities committee voted unanimously to name the tennis center after both women and asked me and Ms. Robin Motin who had filed the application for Ms. Bernell to get together and reconcile any issues and present for consideration at the next board meeting a compromise. We did so and using the strategy of naming different portions of the facility for each applicant that was suggested by one of the parks board members and in common usage in tennis centers in other places and other city entities, for example, naming part of the hike and bike trail in honor of Roberta Crenshaw, we agreed on a compromise naming the facility in honor of Ms. Welder and the existing courts in honor of Ms. Bernell.

[12:08:19 PM]

Unfortunately at the parks board meeting, unsubstantiated and anonymous rumors of coercion were allowed to be introduced. Alternative naming motions were made and our agreed compromise was never considered much less acted upon. Consequently the recommendation that came out of the meeting against the advice of staff at that meeting was to not rename the Austin tennis center until after new naming guidelines had been established.

[Buzzer sounding] As a result, I come before you today to ask the council to consider the uncounted hours the members of our organization have devoted in good faith to this process over the past nine months. And name the Austin tennis center after these two deserving members of the Austin tennis community in the manner of our agreed upon compromise. There are those who have tried to turn this into an east Austin versus west Austin issue, but the decision here involves not a neighborhood tennis center but the Austin tennis center. Our organization is in the early stages of capital campaign to raise the necessary funds to proceed with phase 2 of this facilities development and add ten more courts, we hope four will be covered. And become the first public covered courts in the Austin area and donate them to the city of Austin. We also hope to be able to in the not too distant future to undertake the third phase that would finally make the Carol J. Welder Austin tennis contract a court facility and remove the stigma of Austin being the only major city the if you consider Abilene, Corpus Christi major cities --

>> Mayor Adler: Sir.

>> Thank you for your time and consideration.

>> Mayor Adler: Thank you. Ms. Gallo.

>> Gallo: I'm a tennis player and as I read the resumes of both of the two women they are incredible and have been integral parts of the tennis community.

[12:10:24 PM]

I think the issue with this was more of a process issue than saying anything that either one of those women weren't qualified and I really do appreciate their efforts and their work and I appreciate you bringing up the point that Austin is -- is way behind the ability of having enough courts to hold state tournaments and there are other cities including galveston now that have the facilities to be able to have those tournaments and Austin needs to move forward in the direction of getting to that point as quickly as possible. But I just wanted to say once again after reading the applications, these two women -- not only are they wonderful tennis players, they have been so active in the tennis community so thank you for that.

>> Mayor Adler: The motion before us is postpone until February. Ms. Houston.

>> Houston: I'll call the question.

>> Mayor Adler: Yes, Ms. Garza.

>> Garza: I don't know if this is going to be answered but if February are we going to have the guidelines? Do we know that? I just want to know.

>> To answer your question, the review of the guidelines, the amendments are going to the parks board on December 8th, which is next month. At that meeting they will review them and could recommend to the open space committee to review and to council. It depends on whether they would like to hold it up, review again, make amendments.

>> Garza: Thank you.

>> Pool: And the earliest would be the February meeting? That's a good question, the timing may be a little awkward.

>> Garza: Postpone it against if the guidelines aren't --

>> Pool: Yeah.

>> Call the question.

>> Zimmerman: Second that motion.

>> Mayor Adler: Those in favor of postponing to February please raise your hand.

[12:12:26 PM]

February 4th. Those opposed, please raise your hand. Unopposed. Postponed until February 4. We're now going to go to citizens communication. We'll be reconvening after citizens communication at 1:30.

>> Zimmerman: I would like to raise a quick point of privilege. One of the listeners did not hear item 33, which I had listed as being against. I just wanted to make sure the record was clear that I was against 33 on the consent agenda.

>> Mayor Adler: Okay.

>> Zimmerman: Thank you.

>> Mayor Adler: And we have pulled both items 33 and 34 because they needed to be heard after an item later in our agenda. I'm sorry, 34 and 35. That's right. Is Richard boland here? Mr. Boland, and Zolla Vega is our second speaker, Skylar bufferton is third.

>> Does it make a difference?

>> Mayor Adler: No difference.

>> Trying to keep a time on my own time, if my watch will work. Good afternoon, council. I'm here in response to judge Lee Yakel's decision that the Austin police need no obey the law when they are on federal task force. I noticed the city council's outrage on this issue was pretty much silent. I'm here to ask for an ordinance or a city charter amendment, whichever it takes, to prohibit Austin police officers from serving on any task force or any other assignment where they are immune to the law under any circumstances.

[12:14:36 PM]

I believe citizens have a right to expect that city employees will obey the law when they are on the clock. I also believe that the city's chief law enforcement officer, whether chief Acevedo know or anybody in the future, are responsible for enforcing this. So I'm asking for this ordinance to have the enforcement penalty if an officer is found on a task force -- serving on a task force, if an officer is found having legal immunity from the law like officer Kleinert was, the police chief be immediately fired. I'm asking for it to be this serious. I'm just getting warmed up on this issue. I intend to speak to citizens groups, accountability groups, justice groups to get this passed. I intend to make it an election issue for each one of you when your election comes up. I want your constituents to know whether you are going to protect them from the Austin police department or whether you are going to protect the Austin police department from the citizens of Austin. And if that fails, I would like to push for a citizens initiative to get this put, you know, as an ordinance or a charter amendment. In short, I'm asking that the police obey the law just like the rest of us. Granted, the judge may say the laws don't apply, but I don't want to see Austin police officers in a position where judge Yakel's ruling applies. Thank you.

>> Mayor Adler: Next speaker, Zolla Vega.

[12:16:41 PM]

>> I'm Zolla Vega and I live in south Austin. The Travis county commissioners are partners in the current plan rejected the recommendations. Our current plan for coyote management includes hazing, education, outreach and limited targeted humane removal of a few aggressive coyotes to protect the safety of humans and their attendant pets. The recommendations are similar but lethal control would only be used if human attack and approved by chief of animal services and all of the city regardless of who owns the land or who manages the land. If adopted this proposal will impair closure ... Citizens lock themselves in their homes because they are afraid. In Austin pets are family and the community wants them protected. We ask you not to change the current coyote plan because it's a balanced policy and based on nationwide best management practices. This is a comparison of our current coyote management plan versus the Denver area humane society of the U.S. Plan. Similar to the one recommended by the aac. The items are the same. The next items show current response to coyote human

[inaudible]. We respond to human why not conflicts because we are prioritize the safety of humans. Pets and consider humane targeted removal of aggressive coyotes prior to a pet or human attack. The humane society's plan claims to respond -- but the results show this is not true. The last line shows the results. Our plan has had zero coyote attacks on humans since it started ten years ago.

[12:18:43 PM]

In the Denver area the coyote attacks on humans have increased at least 200%. Boulder, Colorado is another example of the lack of effectiveness of the human society plan. In January 2013, Colorado parks and wildlife initiated a voluntary coyote hazing plan, pedestrians and bicyclists. Hazing continued and weeks after it ended a 5-year-old boy was bitten and two coyotes were killed. This slide shows many trails closed open for months. The aac claims they want a more humane coyote management plan. Our current plan is more humane than the recommendations because we remove a few aggressive coyotes.

[Buzzer sounding] Thank you.

>> Mayor Adler: Thank you.

>> Zimmerman: On this issue I wanted to ask if you could assign this to public safety. I think the public safety committee would do well to look at it before it came to full council.

>> Houston: And health and human services will be taking this up in January.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Thank you. The third speaker is Skylar Buffington.

>> In 2011 I relocated to Austin for a job with Dell. Since then I've lived in district 7, 6 and 4. Dell's layoff last spring left me unemployed and facing over \$120,000 in student debt. I began consulting independently and signed up to drive for Lyft to help provide additional income stability. I quickly fell in love with Lyft. During the past year I've given over 1500 rides to passengers across each of your districts and beyond Austin city limits. I've also taken Lyft as a passenger for over 80 trips. I personally analyzed the APD monthly dwi records from January 2010 until last summer, which in Austin is increasing by 4.48% per month.

[12:20:57 PM]

After the launch D.W.I.s were decreasing by 5.16% per month. Mothers against drunk driving reports that the rate of drunk driving is the highest for 21 to 25-year-olds at 23.4%. Here in Austin those 20 somethings are choosing to go get a sober ride home from Lyft on Friday and Saturday nights instead of driving drunk home from Sixth Street. Lyft isn't a taxi service. In Austin Lyft drivers can set their destination for a trip they are already planning to take and only pick up passengers headed where they are headed. Lyft passengers in Austin can request a Lyft line and carpool on demand for a cheaper price. Lyft is on a mission to change the way we get around in Austin, to reduce fuel consumption, reduce congestion, to bridge the gap from transit stops to passengers' actual destinations and to save lives. I speak on behalf of a large passionate community of Lyft drivers and passengers that are disappointed in the process, the mobility has used to push these regulations to a final vote without accountability. On several occasions public testimony has been drastically reduced or cut entirely from hearings while some regulations have been sent directly to full council. We have ride sharing regulations in Austin and they work. They work great. We don't need to reinvent the wheel. Here's what a few of the drivers unable to speak at Monday's mobility committee meeting had to say. My wife, two children and myself lost our home to the Halloween floods. Now we are homeless and staying with family members which isn't easy. I work full time for Lyft and I drive -- I work full time for HEB and drive Lyft to make extra income. Lyft is about 50% of my income a few weeks. My wife deserves peace of mind and security. Please keep Lyft in Austin.

[12:22:59 PM]

Sara writesment. Driving for Lyft makes it impossible to support my parent as a single parent without assistance.

[Buzzer sounding]

>> Thank you very much.

>> Mayor Adler: Thank you. Council members, that concludes citizens communication. We will recess and convene at 1:30. We have close to 40 items this afternoon. Very few speakers, but a lot of items. So any delays will be ones that happen on the dais. We'll be back here at 1:30.

[]

[1:46:56 PM]

>> Mayor Adler: All right. I think we're ready to begin anew. Before we -- council, before we begin, I have some sad news to report. This morning one of our city employees passed away as a result of a fatal traffic accident. Raymond Rodriguez was employed as a stores specialist in the supply division for our

E.M.S. Department. In that role he delivered supplies and equipment to E.M.S. Personnel throughout the city and the county. And in doing that kind of job he would have touched and he did touch the lives of almost every one of those employees. He was involved in the community. He coached central Austin youth league girls softball. He even served as coach for other employees' children as well as his own children and his own grandchildren. I just want us to take a moment of silence in remembrance of Raymond Rodriguez' service to our city organization and to our community and to send prayers to his family. Thank you. We are going to continue in our agenda. Hit another item or two and then we'll do the ads.

[1:48:57 PM]

I think that we are at item number 15, which is abia parking. Mr. Zimmerman, you pulled this one? Was this the one -- 15? You're right. Have you had a chance to talk about that during the break?

>> Garza: I got my questions answered.

>> Mayor Adler: Ms. Garza had her questions answered.

>> Zimmerman: Are we on item 32?

>> Mayor Adler: I was doubling back to item 15. Ms. Garza had her questions answered. This was the airport contract.

>> Houston: This is in councilmember Garza's district. I still feel that those interviews are very subjective and would like more measurable ways to decide who out of two very close options would be the one to get the contract because having an interview is a very subjective measure for me. Depends on how well you're able to articulate and how verbal you are and how many times you've had to do that. I'm still concerned about the subjectivity of the interviews to make this decision.

>> Mayor Adler: Mr. Reason, did you want to move adoption of that contract but with the number two bidder? I think that's where we were. The motion --

>> Zimmerman: I thought it was to postpone, Mr. Mayor?

>> Mayor Adler: There was a motion to postpone.

>> Garza: I'll make the motion to reconsider.

>> Mayor Adler: There's been a motion to reconsider the vote to postpone. It's been seconded by Mr. Renteria. If we reconsider the motion to postpone, then before us would be the motion to approve the number 2 bidder. Is there any debate on the motion to reconsider the motion to postpone?

>> Zimmerman: A quick question.

[1:50:59 PM]

Who gets to vote on the motion to reconsider?

>> Mayor Adler: Everyone gets to vote if it was made by someone who voted in the majority, and that's what was required.

>> Zimmerman: Everybody gets to vote. Thanks.

>> Mayor Adler: Those in favor of reconsidering, please raise your hand? Everyone on the dais -- Mr. Zimmerman? Mr. Zimmerman is opposed. The mayor pro tem is not here, as is pool and troxclair. And we took a vote to reconsider the postponement on item number 15. Did you want to vote on that?

>> I'll vote to reconsider.

>> Mayor Adler: Pool and mayor pro tem also vote to reconsider. We are now reconsidering -- in front of us now is Mr. Renteria's motion to approve the number 2 bidder in that. It's been moved and seconded. Any further discussion? Those in favor please raise your hand? Those opposed? It's everyone on the dais voting aye with Ms. Troxclair off. So item number 15 passes with the seconded bier. Now that gets us to item number 22. Ms. Houston, you pulled that, it was a freescale issue?

>> Houston: Mayor, this -- just a question. Can you tell me exactly what this does for freescale? What will this designation --

>> It will allow freescale to be -- if approved by this body, allow us to nominate it to the skate. Freescale would be in competition with other companies around the state for this particular designation during this particular quarter, and for them, if approved, they would be awarded based upon the Numbers that we provided, which are the five being retained, the estimated amount that they could get could be 1,250,000.

[1:53:24 PM]

So that's broken up over a five-year period. That's broken up over a five-year period. So state comptroller's department will verify each and every year employees from the enterprise zone location or whether or not they're disadvantaged or whether or not they're veterans who are part of those which they have to commit the 25% for being inside the zone. That's the hiring requirement. That's essentially what it is.

>> Houston: What happens if it doesn't happen? What happens then?

>> The state has a remedy for -- actually, they won't get the 250,000. That's each particular year that they would be subject to being able to --

>> Houston: So what if freescale is bought by another company?

>> I would imagine that the state of Texas has a remedy for that.

>> Houston: But do we know?

>> We don't know at this particular level and can't affect it based -- the application before us at this time is based upon freescale, as you know, so we would submit that as the current merit of the application.

>> Houston: Is there any timeline on this? Are we under some kind of pressure? Because I have information that another company outside the United States is thinking about purchasing them. So I'd like to know what those remedies are if we go ahead and with this designation. What's the deadline on this.

>> The deadline is December the 1st. That's for this particular quarter. December the 2nd of this year.

>> Houston: So could you this afternoon find out what the remedies are from the state, if freescale is actually bought by another company that's not --

>> I'll do my best. I do have with me folks from Ryan who are here, Mr. Johnson Berkson, he is the consultant, as well as Mr. Daze who is with us --

[1:55:27 PM]

>> Houston: They can answer the question about the state?

>> They may be able to contribute.

>> Mayor Adler: The question is whether the obligations and responsibilities follow freescale if it's purchased by someone else?

>> Yes, they do. So the dysdesignation, if they approved the designation, it would stay with them. Depending on how any type of merger or acquisition was structured, it would pass on to the surviving company or if freescale were to stay, you know, just a subsidiary of whatever company they merged with.

>> Houston: How could we hold that company accountable?

>> They would -- they would effectively, you know, absorb the project designation and just -- it would be really a seamless transition. It would be either a name change or there's a way that it can be assigned to an acquiring company, and in order for that acquiring company, you know, the surviving entity to receive the benefits of the project designation, they would have to pass through the same compliance -- to

go through the same compliance processes with the state as if that never took place.

>> Houston: Thank you.

>> Mayor Adler: There was one speaker who signed up for this, David King. Okay, thank you. Is there a motion to approve item number 22? Ms. Garza moves? Is there a second? Ms. Gallo seconds. Any further discussion? I'm sorry?

>> Zimmerman: I'd like to speak briefly against the motion. As somebody that spent a lot of years in the high-tech industry, I absolutely love high-tech companies, semiconductor companies, love 'em. And I hate the subsidies. So on principle I'm going to be voting against this simply because I don't think the subsidies are sustainable and they end up setting a policy of picking winners and losers because the subsidies awarded to Freescale or whoever it might be have to come at the expense of other smaller companies and taxpayers.

[1:57:43 PM]

So I will have to vote against it simply on principle. But I love Freescale.

>> Mayor Adler: Any further discussion? Those in favor of item 22 please raise your hand? Those opposed?

>> Houston: I abstain.

>> Mayor Adler: Ms. Houston abstains, Mr. Zimmerman votes no, Mayor Pro Tem off the dais, the rest voting aye. It passes. That was item 22. The next item is item 32 32 Aisd case management. Mr. Zimmerman, you pulled that.

>> Zimmerman: Thank you. I have a couple of questions about the performance and outcome. So this is \$100,000 on the table here and I'm trying to figure out what is meant at the bottom, outcome. It says number of individuals who demonstrate improved life skills. And it says goal, 75%. I have no idea what improved life skills means. Can somebody tell me what that means?

>> Good afternoon, Stephanie Heyden, deputy director health and human services. I can tell you what that means. Basically these are for case management services and so basically they are working with the students and the families on such things as housing, employment, financial stability, adult education and access to health care. So the -- basically bottom line it is a formula which has a numerator and a denominator which measures an approval where they utilize a pre and a post test. So when they first start working with the families they measure where they are and then at the end of their it was services that they provide through them with case management, they conclude the post test and they're able to measure how successful the family is and how their needs are being met.

[1:59:50 PM]

>> Zimmerman: Okay. Is that -- that test is not in our backup is material, is it? What kind of questions would be in the test?

>> We do not typically include that in the backup materials, but basically the line of questioning they do for the families is the series of questions that they ask them, it depends on what is individually going on, so I'll give you a specific example. An example is employment. If a parent is with their student and they don't have employment, there are a series of employment questions that they'll ask them in order to connect them to the appropriate source of employment for them. At the end of process once the parent has employment then there is another series of questions that measures where they are and the ultimate goal is for them to have a job.

>> Zimmerman: Perhaps they kept their jobs for a certain amount of time before or after. Is that part of the metrics? Can I get those metrics?

>> So that was just an example because --



>> Zimmerman: That may not be necessarily what's going on?

>> That is an example of the work that they do because they look at the family in lines of stability, but that was just a kind of simplified answer for you.

>> Zimmerman: The final question is I get a lot of complaints from my constituents about the school taxes. That is the highest property tax burden and a lot of people have already had to leave because they can't afford the taxes. So why are we putting an additional \$100,000 on city taxpayers when the existing school taxes are already a crushing financial burden for people here.

>> So I'd like to give you a little bit of history. One answer is that 100% of these funds -- aid is a pass-through for these funds.

[2:01:53 PM]

100% of these funds are sent to two non-profit organizations. The first one is Austin project and the other one is Austin voices for education. So aid is simply the fiscal agent. In fy 2014 the joint subcommittee of the Austin aid approved to take action to support the family resource centers and at the time they agreed that the vehicle to support them would be aid, so each of the perspective bodies came back to their full bodies and requested funding and that funding started from the city August 1st of 2014 of \$57,000. That's kind of the history and that kind of tells you where the funding goes, so I hope that answers your question about that set of funding.

>> Zimmerman: Well, actually it doesn't because the question I asked is we have a staggering tax burden from our public schools and people are already very upset about the high taxes that we're paying already. So we're -- it looks like we're channeling money additionally for aid, a benefit to non-profits on top of the already unaffordable taxes.

>> So this was an action of the former council and then this council voted in fy 2016 to put the money in the health and human services budget. So from a staff perspective we just moved the rcas forward to be in a contract with the school district.

>> Zimmerman: So it's now turned into 257,000, it sounds like?

>> That's the total contract over the term, the full term.

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

>> Garza: Thank you. I want to add and I'm sure Mr. Zimmerman is aware of that, but much of the taxes we pay don't stay here to fund aid because of recapture.

[2:03:57 PM]

Millions of dollars that Austin tax -- because of the broken school finance system. So this is a state issue and this is why our city has to come in and provide resources that unfortunately because of a broken state finance system the taxes austinites pay don't stay in Austin and don't go towards aid. So I appreciate. I've seen these resource centers, I've seen the great work that they do and I'm glad that what I believe the majority of this dais supports because this is a need that our community faces and I'm glad that our city can step in to help.

>> Mayor Adler: Ms. Garza, will you approve to move item 32 had.

>> Garza: Yes.

>> Mayor Adler: So moves. Seconded biplane. Those in favor of 32 please raise your hand. Those opposed? Mr. Zimmerman voting no, the mayor pro tem off the dais, the rest of the dais voting aye. It passes. Items 32 and 35 will be heard after item 96. That gets us to item 38, but the mayor pro tem pulled that so we're going to move to 42. We've done 38 and forward. And we've postponed 48, is that right?

-- 38 we postponed.

>> Houston: 42 is proposed to February of 2016.

>> Mayor Adler: 42 postponed. Is the mayor pro tem here?

>> Houston: Yes, she is someplace.

>> Mayor Adler: I don't want to call Adu if she's not. So let's go to item 32, Ms. Troxclair?

>> Troxclair: I think that staff is going to follow up on the questions I asked on Tuesday.

[2:06:01 PM]

>> Greg canally. Based on your questioning we put a response together. This rca is to approve processing for American Express so the city can continue to accept American Express for citizens doing business transactions with the city. The rate that we pay American Express as part of the transaction is 2.15%. It actually compares very favorably to the transaction fee that we have to pay for Visa and Mastercard which is handled under another contract, which is actually higher than the American Express at about 2.7%. Generally speaking we have over 40 -- nearly 40,000 Austin residents have used American Express to do transactions with the city with the municipal court, parking meters. Certainly as we move toward an online payment system offering this convenience for our citizens to use a variety of credit cards is we believe an important thing for our transactions.

>> Troxclair: So the comparison to some small businesses that I know that make the decision not to use MX is because my understanding is that they charge higher fees?

>> What we understand in working with American Express is they obviously enter into agreements with each of the merchants. Your typical retail merchant is probably paying in the range of three to three and a half percent. The city and government were actually piggybacking off the Texas contract at 2.15%. I think the government has been able to leverage the business that we do and get a much better rate. And again, actually, it's a more favorable rate than we have. They're very comparable to what we pay with Visa and Mastercard with the private sector.

>> Troxclair: So we don't have these same kind of expenditures with Visa and Mastercard. They're just handled differently?

>> We do.

[2:08:02 PM]

We're required to do kind of the back end processing as a citizen comes to transact with the city. We have an additional similar contract through a third-party merchant that handles our Visa, Mastercard and discovery. That is an existing contract that was put in place in 2010 and actually will be going out this year and we'd be bringing back. This is just a contract for American Express. We're required to have a contract in place for both of them. They're just not on the same exact timeline.

>> Troxclair: So you're staying if we made the decision not to accept American Express the city would not save the money?

>> Correct, exactly. And in some cases it actually might cost us more depending on the transaction.

>> Troxclair: Okay. Do we provide an incentive to pay with like electronic check? Or anything for the people who are [indiscernible] So maybe we could save some of the millions of dollars that we're paying in credit card fees?

>> Linda Erwin with the treasury office. The online payments that we do currently except, there are currently no incentives for paying credit cards versus electronic check.

>> Troxclair: So that could be something we could look at in the future. It may save us or taxpayers money in the long run. Well, thank you for providing the answers to the question.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. These kind of fee payment arrangements are negotiable so I

think most of us will require a vendor to pay a credit card fee for something they are purchasing and they can pay with Visa, American or Mastercard but you Aring you Aring about to have to pay with a cashiers check there's no fee.

[2:10:08 PM]

So my question is why should the taxpayers be burdened with this fee? If people want to use the credit cards, then that fee could be paid for the convenience of using it. And then I can make a decision and I can make a decision do I want to pay with a credit card and pay the fee or with a check?

>> Knowing the widespread use of credit cards in the community to transact again. American Express we've done 115,000 transactions overall, 200,000 transactions. It's become a convenient for the citizens and the fact there's 40,000 austinites using American Express versus doing a surcharge on top of that. We feel that's in the best business operations of running the business in terms of the way we collect the fees and the revenue.

>> Troxclair: It may be worthing about because if I remember correctly, I don't know if it's the appraisal district -- I'm pretty sure the appraisal district charges like 3.5% to pay your property taxes. So that provides an incentive for people to send a check. It might be something to think about because I think there are other governmental entities in Austin that could do a surcharge.

>> The dollar, the amount of taxes being paid are fairly significant on people paying taxes 5,000, 10,000, to take a percentage -- we agree. This is an issue as we look at other opportunities. We moved a lot of transactions online. We continue to look at those opportunity and as we do that I think bringing this into the discussion about other payment opportunities to bring to the table, we're always willing to look at that.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Is there a committee interested in looking at this question of credit card fees?

[2:12:14 PM]

>> Mayor Adler: If there is and they will email me, I will refer it. No further debate on item 52. Miss troxclair moves seconded by Ms. Gallo. Those in favor raise your hands. Those opposed. Mr. Zimmerman voting no. Mr. Casar off the dais. We don't quite have a full dais yet. Let's look at item 62. Did we already hear this, Ms. Gallo? I think you pulled this one. 62 is the university of north Texas.

>> Gallo: Yes, we have not heard it and I just had a couple of questions for staff. And I apologize, these should have been questions for our work session and we were on such tight time constraints some of these folded over into our meeting today. I just was curious that one thing didn't go through the water, wastewater commission. Is that typical for items like this or was this just something that kind of missed that?

>> Mike percentette. We typically if we bring anything through a commission it would be the environmental commission, through watershed protection. Very rarely do we bring items before water and wastewater. Typically a purchasing item like this it would not be something that would go to environmental.

>> Gallo: Thank you for that clarification. The other question, this is shown as a restoration project and at what point does it cease being a restoration project and then become something that is more of a maintenance or moves into another category.

[2:14:16 PM]

>> That's a very good question. I want to introduce one of our senior staff scientists who has been

involved with this project since its inception. I asked him this question earlier today.

>> Good afternoon. I'm a biologist with the wastewater protection department. So the honest truth is that it's not a super clear line between at what point restoration would end, but generally we use the Texas parks and wildlife guidance on this. They protect the -- they kind of generally shoot for 20% cover of aquatic macrophytes. Lady bird lake is getting close to that. The lake Austin because of the problems that we've had with hydrilla over the last ten years and the kind of boom and bust we've had with both the invasive plants and the effort that this funding actually goes towards which is revegetation of native plants and shoreline communities, we're not even close to 20% right now. We're in the range of maybe one to two percent. So as we get back up to near that goal with a native kind of stable macrophyte, that's when we would think of this as long-term maintenance.

>> Gallo: Do you feel like we will get to that point? I'm curious if this is a long-term project is it worth doing something within our city staff rather than continue to have a --

>> Yeah, I think that's a really good point. We -- because of the -- I would say the dynamic and volatile nature of the way that flows have been in our highland lake system over the last ten years, once we figure out what's going to happen with our water resources from a use perspective and from a climate change perspective, it could very easily be moved into more of an operating budget type thing.

[2:16:26 PM]

Our group, the group I managed is doing a lot more of that kind of work. The contract with north Texas and the group that work out of there, they are very specialized, highly qualified with this very specific thing. We brought them in in that kind of activity around the hydrilla explosion that we saw in the early 2000's and they've been really good partners with us and we don't have the abilities or resources that they do in this area but we are building resources and I think at some point in time I can see making that move and taking it over ourselves. I would say we're not quite there yet.

>> Gallo: That's always a question I want to ask when we're looking at a contract justnd a million dollars. It's a lot of money and if we can do it more economically with city staff with an expertise, I was curious at what point we might be at that position.

>> I totally hear you. I completely agree.

>> Gallo: Thank you.

>> Zimmerman: Quick question on the back side of the page here there's a sentence that says restoration work will coincide with removal of giant cane and elephant ear and for replacement of controlled hydrilla. What does that mean?

>> What that means is as many of you know, we've been over the last ten years or a little bit more, we've been kind of working with Texas parks and wildlife in a variety of other stakeholders to put grass carp in Austin to control the hydrilla. That's what we've taken away a lot of the hydrilla. As that has moved out of the system, we need to replace it with native plant communities that will do a lot of that same kind of plant work in these reservoir systems.

>> Zimmerman: We're putting something in the place of eradicated hydrilla.

>> Exactly.

>> Zimmerman: It's not worded very well. This has been going on for ten years and it's the university of north Texas.

>> Yes.

>> Pool: Mayor, I move approval.

[2:18:27 PM]

>> Mayor Adler: It's been moved approval of item 62. Is there a second? Mr. Renteria? Those in favor

raise your hands. Those opposed. Mr. Zimmerman abstaining, the rest voting aye. The motion passes. We have, by the way, as part of the consent agenda postponed item number 45 until December 10th. We had some who showed up to speak. Is John Hensley here? The other speakers have declined to -- speakers have declined to speak. Thank you.

>> Houston: Mayor, on 45, I would like Austin energy to get in touch with my office so we can work this out.

>> Mayor Adler: Noted publicly.

>> Houston: Since the landfill is in district 1.

>> Mayor Adler: Okay. All right. It is now after 2:00. I'm going to call item 80, which is the Abu item. This is an item that has had a public hearing which was closed. Because of the interest in the issue we're going to call invited testimony. I have five speakers speaking on each side both for and against. And I'm going to call those for three minutes, but before we do that, Mr. Casar, do you want to lay out the ordinances adopt on second reading?

>> Casar: Yes, I would move to adopt the ordinance as we passed it on second reading.

>> Mayor Adler: Is there a second to the motion to adopt the ordinance as approved on second reading? I'll second that motion so we can proceed. That gives us the motion and a second. We're now going to have the invited testimony on this issue.

[2:20:29 PM]

We're going to begin with Mr. Hirsch.

>> [Inaudible].

>> Good afternoon. Thank you for the opportunity to speak to you today. I'm here to speak in favor of relaxation of the rules regarding ads throughout the city. Based on my personal experience with them. Austin is in the midst of a deepening affordability crisis and has been identified as the most economically segregated area in the country. The wider use of ads contain a wider use in a solution to this problem. I've lived in the cherry wood area for 15 years and have experienced how having several different types of housing types in one area can build community. Since I moved back to Austin I have rented a room at a friend's home, bought my own two-room bungalow, rented a backyard cottage after the end of a relationship while my house was still rented out, married and had a baby in my own little house, and moved eight blocks away to a slightly bigger house when I was expecting my second child. The fact that all those options were available to me within my same neighborhood, which is primarily a single-family home neighborhood, has allowed me to develop deep ties and commitment to the place and to my neighbors over the years.

[2:22:34 PM]

I think many others would similarly prefer to stay in their own communities as their life circumstances change over the course of the years. Now we're in the process of building our own Adu at our first home. The plan is for my sister and her baby daughter to live there. She's a single parent and professional photographer and we want to keep them near family and friends to offer support. While there are several apartment buildings nearby on manor road, a small quiet place within the neighborhood will work much better for her. The price is going to be market price which is pretty much the same for a small one-bedroom apartment at elan east, one of the new apartments, but a lot of amenities that might be better for somebody younger or not worried about a small child. This the last 15 years, I've seen cherry wood lose a lot of diversity due to the rising prices of houses and rent. I'm helping organize east 78722 and I invitalli klitschko to you visit our studios, but every time a home is sold it receives an up grade by something larger and grander. This will only increase the concentration of high

incomes in our neighborhood and I didn't choose to live in central Austin to live in a wealthy neighborhood. That was just not what cherry wood was 15 years ago and I would hate to see that happen. There's gated communities elsewhere where you could choose to have everybody around you be exactly the immaterial is a. Reverse the diversity of our workforce and the number of creative neighbors also is a immaterial path.

[Buzzer sounding] There are several adus in the neighborhood and I would love to see the rules relax so more could be built. These are options for students, anybody who prefers small living.

>> Mayor Adler: Thank you.

>> I prefer to focus energy on preserving access to the neighbors --

[2:24:38 PM]

>> Mayor Adler: Thank you.

>> -- And not so much on the geographical neighbors. Thank you so much.

>> Mayor Adler: Thank you. I don't know who is number 2. I had ed Windler Jr.

>> [Inaudible]

>> Mayor Adler: Ed Windler, Jr. Now. Thank you. By the way, I would note there is on the bulletin board an amendment to this item number 80 that has been posted as well as having been handed out on the dais. It was posted by my office.

>> My name is ed Windler. I'm a developer and because I'm a developer I get -- I'm on all the email lists the developers get emails about. Yesterday I received a number of them saying to come down and speak on this. And the message was that it's a simple matter of supply and demand. So I decided to come and speak. But I'm here to tell you that it's not a simply supply and demand and if you look at it that way you are being simplistic. I don't know, can you switch to the next slide? The logic is that if you increase housing supply, that rent and sales prices will tumble. And that is correct; however, the supply -- the law of supply and demand also says that as rents and sale prices fall, less sub ply is produced and the market corrects itself.

[2:26:49 PM]

The side I have in front of you what that would show is if you would move from the blue line to the red line so as prices fall, developers will actually build less units until rents climb back up and they can afford to build more. And so -Z to accept that we're going to build to affordability, you have to believe builders will keep building while rents are falling and vacancies are increasing and it doesn't follow the law of supply and demand. Supply and demand also impacts the entire supply chain. And so what happens is as you build more, construction prices go up. And so -- if you look at this graph I have up, land, you may have lower land costs, but if you are building a lot, construction prices increase dramatically. Over the last several years, construction prices have actually increased probably 35%. Far outweighing anything that you all could possibly do through ads to off set that cost. And I included in there an article about labor supply and construction and how tight it is because all the construction that's going on and how prices are going up. Also you have to remember that --

[buzzer sounding]

-- Supply and demand, there's two parts to that, supply and demand.

[2:28:51 PM]

And if you will look on this chart, what it shows is the number of households in the city limits by income category and the changes from the year 2000 to 2013. If you look at the last column, what you'll see is

over that 13-year period, which also included the great recession, we added about 72,000 households inside the city limits. And the amazing part of that is that in 2013 the median household income in Austin is about 54,000. The median income of the additional 72,000 is 110,000.

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

>> If you are looking at supply and demand, don't do it simplistically. And you are impacting the neighbors' lives when you add adds and you shouldn't do that.

>> Mayor Adler: Thank you, sir. Tommy Yates. Chris Allen is on deck.

>> Hello, good afternoon, mayor and councilmembers. My name is Tommy Yates and I'm a member of the council and I happen to be a renter who lives in Hyde Park in district 9. I really needed housing and I wanted to live in the central city, that's my story. However, I couldn't find any housing in that price range until I happened to discover a hidden gem a few years ago. Unfortunately most Austinites who rent do not share my experience. My surprise when I was doing research and discovered I happened to be one of those few lucky souls who are able to live in a core neighborhood in an accessory dwelling unit or ADU. The Austin board of realtors information shows ADUs are more affordable and in Austin average rents rose 14% between 2009 and 2014.

[2:30:59 PM]

Needless to say they are probably still rising. Contrast this statistic versus the median market rent for ADUs which is 1150 for 2015 and of the 67 garage apartments leased through the MLS, more than 25% rented for 800 to 1,000 per month. Compare that to the median rent for a house which is 1800 duplex which is 1275. ADUs can provide an affordable market rate option for many middle income households who are part of the missing middle households who likely would not qualify for subsidized housing but have trouble finding market rate housing to go fit their budget. In regards to impervious cover issues, impervious cover issues are only a problem if you let two families live on the property but no one happens to complain when it's a single-family use. However at this point it's moot. The middle class in Austin is barely hanging on and we can't wait for the perfect moment. For all the city's recent economic success, everyday people who live here are making a hard choice to stay or go. I have decided to take a stand because Austin working families can't afford to wait. Austin is not just for the upper middle class, those enough lucky to buy a house on fixed incomes. Right now we are in an affordability crisis which threatens to cleanse the heart of Austin of working and middle class systems and diversity at a time when across Texas and nationally we're becoming a more diverse culture. Help must come today. Please pass this final motion to allow more Austinites to live in the city we love and call it home and again Ara supports the Adler amendment. Thank you.

[2:33:00 PM]

[Applause]

>> Mayor Adler: The next speaker is Chris Allen.

>> Good afternoon, mayor and councilmembers. Thank you for inviting me here today. My name is Chris Allen. I'm an architect and neighborhood advocate in central Austin more than 20 years. My professional careers have focused on keeping central Austin affordable. I've designed many ADUs that have enhanced the neighborhood going back to the 1930's. In Rosedale the lots -- I personally think the time is right to open up the rules to allow more of my neighbors the options to build an ADU. This is where recent developments have me scratching out a lot of what I was going to say. ADUs share land and by being smaller in size. Above all else size matters. If we're aiming for affordability, we shouldn't be talking about big ADUs at all. The .15 F.A.R. Option that's before you would allow for a 1500 square foot and that's not an affordable home. I recommend you retain -- but if you want to give people more flex

ability, then please consider an option to have the smaller of say 1,000 square feet or .15 F.A.R. Ad Us zoned lots are established so it's natural to extend those privileges to more properties. I'm concerned there hasn't been enough public discussion to merit extending these rights to sf-2 lots and recommend you allow that change to be taken up by codenext in its more comprehensive and public process. There are a number of other late additions to this discussion including parking reductions for sites near transit and [inaudible] To caution you to take a bit more time to get this right.

[2:35:06 PM]

We don't want unintended consequences, we want to add more to Austin neighborhood and not create problems that are unforeseen. I'm here to answer questions if you all have any. Thank you.

>> Mayor Adler: Thank you very much. The next speaker is Michael casius.

>> Mayor, mayor pro tem, councilmembers, thank you. I'm here speaking in support of the ads rules as proposed. I'm a proud resident of east Austin and my family has lived within downtown over 20 years. I've been the executive director of a community housing organization which has built and delivered over 350 residential units for sale or rent in central Texas, mostly east Austin. I've also built housing for the number one affordable housing developer in the country so I've spent most of my adult life figuring how to deliver houses -- and I have lived affordably myself but to do both I've had to be creative. Adus, do applications, all of these tools and cottage homes they have been key tools to our affordability strategies over these years. These tools along with a smart housing program rewrite, developing more housing on public properties all over town with much deeper affordability and having a imagine Austin code that allows for at least a dozen other housing types are ways we can make it possible for people of all you can with a of life to live where they want instead of where forced to live. Adus figure prompt mentally in this discussion. I just wrote an article entitled ten ways long-term families can keep their homes and stay in east Austin. Adus are particularly helpful to long-term Latino families because we tend to have larger families, help across extended family lines and tend to stay close to each other across generations.

[2:37:15 PM]

You could say adus were made for us. Here are a few ways ads help families stay in east Austin. I'm using actual last names. Mr. And Mrs. Flores are empty nesters who live down the street next door to his widowed father. They didn't need the big house where they raised three children and next door their father was burdened by high maintenance and repair. Because ads are allowed on both properties they decided to move out of the main house and build an a du in the back. They planned an existing ads and they are able to pay off dad's debt, fix up their house, build their dream house all on the same 2 original lots. This way the family stays together, less car trips are needed among them versus if the father was relocated out to, you know, who knows where. And the two new units make way for two new families in the neighborhood. My neighborhood that is full of amenities where I rarely need a car to get around anywhere. Here's a second example. Ms. Martinez is a widow in an old house on garden industry she and her husband bought for \$30,000 years ago. While making several hundred thousand dollars in today's market on the sale of her house.

[Buzzer sounding] She wants to stay in the neighborhood she grew up. She knows her backyard sits unused and taxes are increasing because ads are allowed she's looking at multiple options for taking equity out of her home, allowing a family member to build an a du in the back and either pay her rent, a lease amount or share the costs.

>> Mayor Adler: Thank you.

>> There are a lot of options for families to be able to stay with their relatives in east Austin and this is a



true affordability. All the arguments against it for delay, we in the affordable housing development community, we've heard all of them and they sound exactly the same.

>> Mayor Adler: Thank you.

[2:39:17 PM]

>> Renteria: I just wanted to say Michael, thank you for helping those families out. They had come to me before and they were saying that they were going to have to leave the neighborhood. And the lopezes, I've known them for a long time so I want to thank you for helping them out.

>> Mayor Adler: Yes, Ms. Kitchen.

[Applause]

>> Kitchen: I just had a quick question. It's helpful to hear the examples. So these are folks that can -- did I hear you right that they were able to build under the existing Adu requirements?

>> Under the -- in our neighborhood plan we opted in for ads. It's extremely difficult because of all the regulations and requirements.

>> Kitchen: Expensive too.

>> They are working through the process right now. I wish I could say oh, they built it already.

>> Kitchen: But they are going through the process.

>> They are going through the process.

>> Kitchen: Thank you very much.

>> Casar: Mr. Casius, I didn't do it just for fun. So I imagine you've read over some of the things that we're considering today. Would it be -- would you say it would be significantly easier if the driveway requirements were different, you didn't have to build the driveway back to the Adu and didn't have to pave a second parking spot on someone's lawn? Would you see your work helping those Phoenix be simplified?

>> Absolutely. Right now the city is requiring a \$20,000 payment by one of the owners to resurface the entire alley way leading up to the backyard. Even though the city has been using that alley for trash because it's not perfect, because it's not concrete, we're getting required to extend that all the way to the street. So there's all kinds of -- I could spend a lot of time talking about all -- the secondary apartment ordinance that it's extremely difficult especially for these old urban lots.

[2:41:17 PM]

>> Mayor Adler: Thank you. Next speaker is Brian Rogers. Mr. Rogers.

>> So 30 years I left my engineering degree and I was one of those guys who hammered on telephone poles we buy houses. I've been doing this for a long time. This is a house, 1915 accessory dwelling unit, 840 square feet, it's \$3,000 a month. It's on west ninth. Is that affordable? Here's down the alley on west ninth street. There's three in a row. That one is 669 feet, \$2,400 a month. That's \$3.58 we are square foot. The construction cost was \$250,000 and actually she said she ran over budget it and went to 300. The city made her cut off from the eve. So you look at the financing. A \$200,000 cost over 30 years, you got up to \$1,400. That's your break even. So you are going to build a new one, you know, you are already at 100% mfi for a one and two person household. If you add a 200,000adu you are at 600,000. You are going to have to have a gross income to wrap it all together. There's a lot of nostalgic for garage apartments, but this is -- the time is passed for a garage apartment being affordable. It's a different goose now. Now, there are ways to make them affordable. This is a Athens park model home, 399 square feet. We were renting these in an rv park I had for \$1,500 a month. That's in the affordable. -- Not affordable. Here's another one.

[2:43:18 PM]

You can buy these for 50,000 bucks, put them in your backyard, extend utilities, do the driveway and maybe you can be it in for \$100,000, but this will devalue your house. So, you know, this isn't going to happen, this isn't the penetration you are going to see in west Austin. People are going to build higher end and this -- it's not going to be here. Here is an Adu, 380 feet, I pulled it off the internet, it's still over \$300 a square foot. That's not affordable. For one person it's smaller than a garage. You can be in this elan east for a less price per foot, 500 feet, 1150, and you get all sorts of amenities. Adus are not -- I like them. I'm not against them. But let's not kid ourselves, it's not affordable housing. What may happen is you get these lots that are empty in the back half and you are going to have a developer come in, saw off the back half and build, you know, 400,000, \$500,000 unit and tcad is going to permeate the neighborhood and everybody's taxes are going up. Lastly there's no parking. I lived on my street, there's an a du there that's been grandfathered a the guy who lives there has no parking.

[Buzzer sounding] He used to park in front of my house. I'm like dude, park in front of the house of the guy you pay rent. I don't like this idea of no parking.

[Applause]

>> Mayor Adler: Thank you.

>> Casar: I have a quick question for Mr. Rogers. Brian and I are friends so I'm going to ask the question in good spirit. I understand that on west 9th street that Adu was not particularly cheap, that you compare it in rent to other -- other places to rent on west 9th street if somebody was trying to rent in that neighborhood?

>> Well, are you talking about the same -- we have to talk apples and apples.

[2:45:19 PM]

You are saying have I compared another 500 square foot space within Clarksville.

>> Casar: That is one way of asking the question, but another way might be if somebody wants to, for example, in the north field, north loop area wants to live around there, they may not want to rent a three bedroom house, but they might want the opportunity to pay something less than \$2,500 to live there. So I guess the difficulty is if you don't -- your apples to apples comparison is going to be to other garage apartments on the street. But my question is there good reason -- I imagine your answer would be that's one of the cheapest places to live on that street. So my question is is there -- if it is one of the cheapest places to live, why would you not want that option there?

>> Well, if it's -- you want to live on that street, you are talking about the 100% mfi. It's not affordable housing. If you want something that's market race that's not 80% mfi, maybe you can find it.

>> Casar: And I understand in 78751, very opportune neighborhood Zones, the data has been renting at 70% mfi which is something we might subsidize lightly. I understand getting 100% of mfi on west 9th street is not deeply subsidized housing, we're not going to get hotels workers living there, but at the same time it sounds like folks being able to rent or live in the houses on west 9th street are making more than 100% mfi.

>> They are, that's right. But if you are going to build a new Adu in any neighborhood you are faced with the same costs. So 500, 600 square foot Adu, it's going to be \$1,200 whether it's in increase view or cherry wood. Let's not kid ourselves. They are not magically affordable.

>> Casar: And then my last point on this issue, and I'm not hammering you with questions, you can head out, but for me one reason why it makes a lot of sense to me to find somewhere at 80% or 90% mfi, find somewhere to live in a single-family neighborhood might be because one, they might want to live there.

[2:47:35 PM]

But then second oftentimes lots of parts of my district I'm seeing apartment complexes getting repainted, get a new name, it's got a higher rent and it's filled up with the folks that would love to live in a granny flat nearby, but those older apartment complexes where my lower income residents live, you know, if you can find somebody that's willing to live in that amount of space by repainting it because they can't find anywhere to live that's what landlords will do. I don't want it to be a landlords market.

>> That's been nostalgic for granny flat because they no longer exist the way we used to think of them.

>> Mayor Adler: Ms. Houston.

>> Houston: Mr. Rogers, before you leave, let's talk about the diversity of the at and that might be right for your area or cherry wood or councilmember Casar's area, is that something that translates into every neighborhood in the city should have the opportunity to have secondary units regardless of the amount of infrastructure or lack thereof that they have? Because in my area, because of the neglect of the city over many years, we don't have T kind of infrastructure. And so that's one of my concerns and the concerns of the neighbors when we begin to talk about secondary units. One is they don't believe they are going to be able, whatever that means to whoever is saying it. And the other thing is the amount of infrastructure that's going to be required to support these secondary units. Do you comments about that?

>> I can't really speak to what infrastructure may be existing. I can only speak to the affordability and what the market does and commands and the people want to make the most they can. And without government intervention and that's not what we're going to do, when this ain't Cuba, this is a free market economy and we've got expenses.

>> Houston: So on the housing prices, the supply, the supply part of that, are we building toward the people that, quote, the working people, not subsidized housing but those houses in the middle or where are we building to?

[2:49:53 PM]

>> I've been threatening to build a garage apartment by my house for a long time and I haven't yet because it's a lot of brain damage to do it. But I'm going to charge the most I can because costs are going to be high and I'm going to keep the spread. That's what any homeowner will do. Unless they are rent to go a relative. Unless they have incentive to -- you know.

>> Houston: How much did you say a secondary unit might cost just average?

>> 160 to, you know, 200, 250. I talked to an architect today who is building one and it's 160,000. It's about 300 a foot. But he's put in a carport. Has parking.

>> Houston: Thank you. I think -- my concerns are about -- well, with still having the testimony, I'll wait.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I have a question. You talk about the cost per square foot two and three dollars.

>> Monthly rent. That's what's happening in my neighborhood. If you look at the newly constructed apartments, people with a new Adu are going to peg with whatever the market happens to be at the time.

>> Tovo: Right. They are not going to necessarily -- they are going to want to cover costs, but they are not going to look at costs and say we saved money so let's rent it below market.

>> That's not the way the world works, particularly.

>> Tovo: Yeah, that's been my experience. I wanted you to talk, if this is within the realm of your experience, to an incentive that could be created for demolition of existing structures. Do you think that's a possibility?

>> An incentive not to demolish?

>> Tovo: I'm concerned that we are potentially creating an incentive for demolishing existing structures.

>> Well, you are. I mean I have a real estate broker who is among other email -- I'm on her email list to send me any lot over 7,000 feet that's on a corner or alley so I can look at it as if we can buy the lot, cut it in half, condo each side and do what we want with the front unit.

[2:52:02 PM]

I've given the homeowner and rental aspect but there's a investor aspect on can I make money on this lot by putting two units and condoing them off. And, you know, you can. Ab that will happen. But I don't -- you know.

>> Tovo: So -- and so I guess by extension were this to pass as it is currently constructed and it goes down to 57-50 as the requirement for two structures, you'll update your realtor broker and ask her to --

>> To go 57-50.

>> Tovo: Start sending you lot sizes that are smaller because those will have the same entitlement as a 7,000 square foot -- thanks.

>> I'm not saying I'm against ads.

>> Tovo: Yeah, I understand. You made that point. Thanks.

>> Casar: Mr. Mayor? Just in response to that point, I think prior to my issue with that logic is the status quo is that primarily in east Austin, north central Austin it is sf-3 and does include sf-2. I do not believe that it's true that we are going to start seeing a ton of demolitions of homes because they could build an a du. I think homes will get the affordable option in the back, but even if that were true I wouldn't want to say east Austin neighborhoods and north central neighborhoods that have chosen to have the smaller Adu size because they want that level of affordability, let's send -- under the logic that was laid out, let's send the dozers there. I don't think it's true. But I think if it makes sense to have that option across the city and even if it were true why would want it just in particular [inaudible]

>> Houston: Mayor, I would like to say that it is true, especially in district 1 where they have already -- where they are already doing this.

[2:54:04 PM]

And the housing units are not unsubsidized affordable, they are all market rate if not above because we're so close to downtown and so close to the university of Texas. So I don't think that anybody should make generalized statements about the city because each particular area is unique and needs to be treated as such.

>> Mayor Adler: Ms. Tovo.

>> Tovo: Agreed, and I would say I completely agree with councilmember Houston and I would say in answer to your question, councilmember Casar, we have asked our neighborhoods within neighborhood planning areas to construct a neighborhood plan. And some of those -- some of those areas opted into this infill option and some did not. And those fall east and west, I believe. I am going to ask staff, I know that we've received this information in the past and I don't have it before me, but perhaps they can give us information about areas throughout the city that have used this infill tool. I guess that's my answer to your question why we would have it in certain areas that happen to be east and not in certain areas that happen to be west because we've left that as an option to neighborhood planning areas to either elect to do that or not as part of our commitment to allow them to help determine what the planning is going to look like in their area. That's been the -- that's been the kind of commitment that the city has had with our areas again that fall within neighborhood planning areas.

>> Mayor Adler: We have four more speakers. Ms. Kitchen.

>> Kitchen: I'll be brief because I know we'll be talking later. I want to reiterate that. It's really breaking trust, from my perspective, to override the neighborhood planning process when we -- when we put

that in place for a reason, a previous council's past neighborhood plans with the commitment that those neighborhoods would have a say in what's going on and to just go forward and -- anyway, I will talk more, but I think it's a serious breach of trust to bring forward something that's citywide.

[2:56:09 PM]

[Applause]

>> Casar: And I just want to note that they are primarily east, but I understand that they are south central and north central. I represent both sides of I-35 and have neighborhoods that are allowed to 57-50 on both sides.

>> Mayor Adler: Jo Katherine Quinn is the next speaker. And Mary Ann is on deck.

>> Mr. Adler, mayor pro tem tovo and councilmembers, I'm Jo Katherine Quinn with caritas of Austin. And I'm speaking today in favor of relaxing the rules for development of ads because I think ads can be a real creative solution to Austin's affordable housing crisis. Adus can be affordable for most people and for tenants with less than stellar history. You know, it's much easier to negotiate a tenant's -- a potential tenancy for an individual with an individual landlord rather than a multi-family housing corporation. This makes it much easier to house people who are very vulnerable and who have a not so great rental history. So that's one niche that I think this really helps us fill. As well adus will add affordable housing across a range of price points. Not only for the most vulnerable but will add just to our whole stock and give us a lot more flexibility with regard to affordability. And so for these reasons I'm in favor of relaxing the rules and I thank you for your time today. And just anything that we can do for more affordable housing I think we should do it. Thank you.

>> Mayor Adler: Thank you.

[Applause]

[2:58:18 PM]

Stuart Harry Hirsch is on deck.

>> Good afternoon, council. My name is Marion Malotek in southwest Austin. This ordinance has been presented as an ordinance to promote affordability. It must be asked affordability for whom. For the investors and developers who are buy up and demolish existing homes and put two dwells on a lot and gentrify east Austin in for the people of limited means who are bound to experience more flooding from increased bidding and increased use of the impervious cover limits? There is already slated to be more flooding in district 2 as large tracts of land in district 8 have been up zoned for development in the Williamson creek watershed and are in the process of being built out, including the Garza tract you all approved which has Williamson creek running right through it. District 8 homes are already flooding and lift stations are already overflowing and polluting our waterways. Including sf-2, which is most of the zoning in district 8, will not increase impervious cover limits but it will increase the actual impervious cover utilized on the ground. That increased water will flow east into districts 5 and 3 where there is also flooding. Evenly creased building size from 850 square feet and decreasing the lot size for the many sf-3 lots in this area will again [inaudible] The impervious cover used. Some people who haven't chosen to utilize their ability to add on to their homes will no doubt choose to sell to investors or build rental homes on their property. Once again increasing actual impervious cover and adding more flooding potential to Williamson creek. So now we've loaded and aimed this flooding canyon in the direction of district 2 where some of the worst flooding in the city happens as Williamson creek flows into onion creek.

[3:00:24 PM]

Passing this ordinance will admonition to the charge pointed towards district 2. Will this be affordable [inaudible] As a result of this ordinance or will they lose lives and houses and the fabrics of their community? Can they afford this? On Saturday I heard Adelia's town hall in del valle there were still 90 people in the

[inaudible]. Do we want more of this for some of the people in the city who already have the least amount of resources to deal with it? Or is it unconscionable to pass this ordinance as it stands? If you are going to pass anything, go back to what passed at first reading. That was already driven a lot by developers and investors who are the ones who really stand to gain. Or give neighborhoods a opt in, opt out choice as is requested by Ohan representing the bulk of neighborhoods in district 8. We cannot afford this ordinance. Not the destruction from increased flooding.

[Buzzer sounding] And not the resulting buyouts. Vote it down. Go back to first reading. I have two more sentences. The environmental commission has not been briefed on this. They have not seen this regarding flooding and impervious cover. The other sentence. Given the public hearing that should be taking plays with such far-reaching changes is not yet happening, I appreciate having had the opportunity to speak.

>> Mayor Adler: Thank you.

[Applause] Mr. Hirsch.

>> Mayor and members of the council, my name is Stuart Harry Hirsch and like most in Austin I rent. And I wanted to give you an historic perspective about what you are about to do today. In the midst of Jim Crow Austin on June 29, 1950, the city council adopted an ordinance that changed what the rules were on accessory dwelling units.

[3:02:28 PM]

For most of Austin's history you could on any plotted lot in time have a single-family house, a duplex or two single-family homes on that lot in any zoning district regardless of lot size. On June 29, 1950, a zoning, that was now changed to what you have which is the 7,000 square foot limit. In first heightened area. In B zoning, the size of a lot which was multi-family in those days, what we would call mf, it was 4,000 and in C zoning two houses on one lot, 1500 square feet. Our history lesson today is that greater residential density was allowed in all zoning districts in Jim Crow Austin that is allowed today or contemplated in the draft axlery dwelling unit code amendments. I'm here to suggest on the 50th anniversary of the March from Montgomery to Selma and Montgomery to Selma that we can do better. We can still respect all the subdivision plat notes and the deed restrictions and private restrictive covenants which was true in 1935 to 1950 and make it possible on small lots and zoning districts with the goal of geographic dispersion in mind to make it possible to do something simple which is build two mobile homes -- build two homes on two lots. Those who live in the front pay more and those who live in the small house in the back pay less. When I got four kids and all we could afford was a two bedroom, one bath, great grandmother lived in the front house and we lived in the back and it was built legally under the regulations that were in effect in 1950. And a lot of us who were only renters, and that's 55% of us, don't want to go to an Austin that is not as good as what was in the 28 plan which seems to keep driving our land use patterns in this town.

[3:04:31 PM]

Our fair housing impediments to fair housing analysis in recent years has highlighted the posteriorly not of -- potential not of accessory dwelling units being the solution to affordability, but one potential tool to create an income MIX in some cases and affordability and partnerships with not-for-profits in others

who really get to serve the poorest among us which is what I try and spend my days doing. So you have a choice today. Keep what was adopted in Jim crow Austin in 1950, do what the opponents want, or make more dramatic changes than what you did on second reading.

[Buzzer sounding] And let's really move the city forward. Thank you very much.

[Applause]

>> Mayor Adler: Thank you. Susan -- I'm sorry, Mr. Zimmerman.

>> Zimmerman: Just a quick question. Thank you very much for the history lesson and if you know, I don't know how much research you've done, have there been other changes since the '50s, and could you briefly mention what's happened?

>> In Austin and the cities around the country after the passage of 1968 fair housing act, the entitlement to build a secondary dwelling unit went away. That was also incorporated in the zoning ordinance we adopted in the early 1980s and the ability even on 7,000 square foot lot to build a secondary dwelling unit didn't come back until the 1990s and the adoption of neighborhood planning tools. So for a long time you couldn't even -- if you tore down your existing garage apartment, you couldn't build it back unless it was a fire or something like that. So we have constrained the supply, and my -- you know, I totally respect Brian and ed. I've known them for years. Ed and I probably don't disagree about three things in the world, that supply is not the only answer, but it is part of the answer. And this will not save the world, but it starts a commitment as to who we are and hopefully we're not Jim crow anymore.

[3:06:32 PM]

[Applause]

>> Mayor Adler: Susan Moffett.

>> Thank you, I'm Susan move fit. I love adus and I have lived in one and live next door to one now. I'm a long-time subpoena port arthurer of affordable housing and inclusionary zoning. I fully support that ensures new units will be used for Austin residents and not just full-time strs, but with respect the additional proposals and the new amendments would be nor responsibly considered through the codenext rewrite. Planning commission already cut parking requirements, already did away with driveway requirement and made a number of other changes. So I was shocked this morning to see the new proposal to remove all parking for ads within a quarter mile of activity centers anchor doors without any regard for how this impacts specific areas or parking intensive uses already allowed in residential zoning including our schools, churches and day cares. For example, our public elementary is one block from an activity corner and on the streets in which it sits cannot handle one more car. Given there is no way to prevent occupants of the ad. S from owning vehicles, this amendment does pose legitimate safety concerns for some areas. And honestly even if I agreed with the proposals, I don't think this is how our public process should operate with the last-minute bait and switch. What makes sense to me is to try out planning commission's new relaxed regs on the 46,000 sites where ads are allowed and see how they are working, see what needs tweaking and quantify the impacts on infrastructure, drainage, flooding and other safety impacts before we go any further.

[3:08:35 PM]

This also gives us the very important chance to see whether relaxing regs for ads really does help our housing crisis or if it just adds more fuel for speculators ultimately driving up costs even further. I would really hate for us to blow up over a year of public process only to find that we've inadvertently made things worse. Meanwhile, the codenext process gives us a great chance to think through the rest of these proposals and to really look at them with traffic, infrastructure, drainage, flooding in specific areas in context with climate change and our recent building boom all in that MIX. Finally, housing experts

agree that given construction costs and property taxes, new adus will not be affordable but will be rented at market rates. And I personally don't think the city should give away any more development rights beyond the planning commission recommendations without gaining at least some truly affordable units in return and when I say affordable, I mean for musicians, I mean for service workers and the 1500 city employees who make below 50% mfi. So I would respectfully urge you to postpone if you are going to do anything --

[buzzer sounding]

-- And if you do feel moved to action, please adopt the planning commission recommendations with the proposal or with the provision that they will not be used as short-term rentals. Thank you so much.

[Applause]

>> Mayor Adler: Thank you. Those were invited speakers. As we had pulled that together. Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, let me say briefly, we talked about this on Tuesday about some invited testimony, and I apologize, but I didn't hear anything about a pre-prepared list. My understanding leaving that meeting was that each of the councilmembers could invite, you know, some expert testimony. The first news I heard of a list being prepared was just minutes ago.

[3:10:39 PM]

And I invited someone from the Texas public policy foundation, Kathleen hunker, who has some expertise. This is one of her research areas. I wanted to ask the council to give her three minutes.

>> Mayor Adler: Mr. Zimmerman has requested three minutes. At the elan on Tuesday this is what we had said we were going to do, but Mr. Zimmerman has asked for leave to do otherwise. He has invited someone. Is there a second to --

>> Houston: I'll second that. She's here.

>> Mayor Adler: Is there any discussion on this? Ms.

>> Pool: Pool is there anyone else who is here who thought they might be able to speak. We may want to open it up more fully.

>> Mayor Adler: Seems not. Mr. Zimmerman has moved to let one additional person speak. Is there an objection to that? Mr. Zimmerman, do you want to call your speaker?

>> Zimmerman: I would like to introduce Kathleen hunker from the Texas public policy foundation. Ms. Hunker, briefly tell us what you work on.

>> Mayor Adler: And you also have the same three minutes.

>> Thank you very much. As stated my name is Kathleen hunker, I am a senior policy and list at the Texas policy foundation, I'm also an Austin resident. My organization has done extensive research on land use regulations and in particular how that impacts the city's housing fork. It's with that -- affordability. It's with that expertise I come before you today in support of item number 80. Over the last few years, Austin residents have seen housing costs escalate far faster than gains in income. The immediate yam home price has Jerusalem 50% from 2004 to 2004. Only 4.3% of the new homes built will be sold nor less than \$150,000.

[3:12:41 PM]

Just three years ago that was 13%. Rental market has fared a little better. In its 2014 comprehensive analysis, found a gap of 40,000 rental units here in Austin in the low-income brackets. The Harvard joint center for housing studies determined that 48% of Austin renters are cost burdened. That means they spend 30% or more towards housing expenses, 24% of Austin residents, renters are severely cost burdened and that means they spend more than 50%. Austin's rapid growth has played a role in the



increased housing but it is also the land use policies that the city holds that takes the blame as well. Housing affordability has two sides. The first contains the amount of resources held by the councilmember, the second is the cost of the product. In Texas we're lucky, combination of low taxes, predictable regulations, they have created an economy where residents have ready access to quality jobs and decent salaries. Besides striking at the core of prop [inaudible] Rights which is a principles in -- the overregulation of how residents use and drives up the cost of both homeownership and rentership. The national association of home builders came out with a study that tries to determine the effect of certain regulations on housing stock. It found government regulations added 25% to the final sales price on average. Their findings were corroborated by two academic studies which investigated the housing markets in New York City and California. Both study independently concluded that the land use regulations had moved the entry point 50% higher in the most densely regulated marked as compared to the least densely regulated markets. Land use regulations can inadvertently prevent landowners from using their own in order to pay that land off.

[3:14:46 PM]

Land is not just a place we reside, it's a financial asset and can be a second source of income. It's for these reasons that the Texas public policy foundation is truly encouraged by agenda item 80, by relaxing the rules on accessory dwelling units, also known as granny flats.

[Buzzer sounding] It would open up a good supply of affordable units. We conclude by stating land use regulations have helped ensure Austin residents have shared in the growing pains. Resolutions like this one will go a long way into easing that burden.

>> Mayor Adler: Thank U

>> Mayor Adler: Thank you. Hold on a second. Ma'am?

>> Troxclair: Thank you for being here and for that testimony. You included some interesting statistics about government regulation and how that drives up the cost of having that I haven't heard before. Do you mind sending your remarks to me so I have the study for future reference?

>> I will be happy to do that. Also I will be coming out with a much more in-depth paper on housing affordability in Texas. Most of those will be cite add other ones as well. I will be happy to send those to the council if they're interested.

>> Mayor Adler: Those were our invited speakers. Real quickly, here's my take and this is where I am and how I got to where I got to now. I think that there are several issues that this calls into play. We're losing people and communities in this city. I think we've all discussed that. That includes the poorest among us but it also includes folks at many different income levels. Includes teachers and city employees.

[3:16:48 PM]

It includes middle class workers. We need a wide range of housing types to be made available and we need -- we need more of them. I'm also guided by the fact that the city is the most economically segregated city in the country. When you look at how our housing breaks out and where people live, it is a real problem. It's a problem on lots of levels. It's a problem on equitable and equity level that I think derives from historically where we were and the legacy that we have. But it also impacts the nature and quality of lives that I would have. Some of the most popular communities are communities where we have more mixture of people, greater diversity and I think we should be encouraging people to do that. And then guided by one of the assets we have in our city is our neighborhoods. We have neighborhood integrity that is important to this city and also an inflexion of who we are and where we are and capture the spirit and soul of this city so we have to also work to preserve and protect our neighborhoods. I start with the goal that I think within those constraints we need more housing and more types of housing in

more places if we're going to serve our community. The challenge isn't going to go away and we need to act, but at the same time I do not support interrupting the middle of the neighborhoods to try and find increased density and homes especially because the density you could make in those neighborhoods is not enough to move the needle in a way that is commensurate with the price that would be paid both emotionally and otherwise within our city.

[3:19:04 PM]

The character. Thank adus can provide an answer to this -- these issues, provide a way for folks of lesser means to live in higher opportunity neighborhoods. By that I do not mean that ads substitute or become the equivalent of subsidized housing. So adus will not be affordable housing as we use that word when we are doing an affordable housing bond or when we're seeking to get subsidized housing as part of our bonus programs. At the same time an Adu is most frequently the lower expensive unit in the neighborhood and not the higher expensive use in the neighborhood. It adds diversity within that neighborhood. It provides opportunities for people to live in that neighborhood that would not otherwise have the opportunity to live in those neighborhoods. I am convinced that ads would rent for less generally than the main houses would rent for in those same neighborhoods. I think there are two different ways to advance ads. One way to advance ads is to increase the geographical area that ads can be found. The other way to promote ads is to make their construction more viable. We have a lot of lots that have built ads, we don't have a lot of ads being built and I think what we can take a look at is what we can do to actually encourage their construction and their viability. The resolution that was presented by Mr. Casar that came as the second reading to this council seeks to increase the geographic area where ads can be found and does so by adding sf 2's within the city. That adds between 45 and 50,000 lots that were not otherwise available for ads that makes them available for adus, has them disbursed in the middle of neighborhoods, across the city.

[3:21:17 PM]

I have a real problem with doing that -- I have a real problem of doing that outside of the codenext process. I have a problem with doing that because of the impact that it would have on the character and nature of neighborhoods. I have a problem with that. I went to Mr. Casar and expressed that concern. I went to Mr. Casar to express that concern because with the bounds allowed me by the open meetings act, my best count based on what people were saying at work sessions and other places, that I would see them speak at club meetings that would be reported, my sense was that a majority of this council was going to vote and would vote for passage of something that had sf-2s being adopted across the city. I went to Mr. Casar and said I would be interested in seeing if there was a compromise that would be worked that would allow us to strike that provision. In my conversations with him he said that he would agree to dropping the sf-2's. I had also asked him to put a cap on the size of auxiliary dwelling units. The proposal had no cap other than an F.A.R. Cap. So the two things that I asked for were dropping sf-2s and putting a size on the ads. In my conversations with Mr. Casar he agreed to do that, to drop the sf-2's, to agree with the cap. We went back and forth, but together in our compromise agreed to 1100 square feet as the cap in size to Adu units. In E exchange for that I told Mr. Casar that I would support the second reading as it related to sf-3's, recognizing at that point we're talking about 9,000 lots as opposed to the 55 to 60,000 lots that were part of the issue on second reading.

[3:23:31 PM]

So today I'm going to support the sf-3 issue and as part of that compromise I said I would also support

no parking within a quarter-mile of the activity routes. My hope is as we move forward and codenext moves forward [indiscernible] The locations where we have adus more viable and that we use this time to go test or measure having that measure of diversity, both economic and geographic added into the city. So the amendment that has been passed out that is -- does three things to the issue on second reading. The first is it strikes sf-2 as areas open to Adu. It caps the size of the Adu at 1100 square feet and it waives the parking requirement for an Adu that is within a quarter mile of the activity [indiscernible] Corridor and the activity center. I recognize that there are a lot of people on both sides of this issue, that it is emotionally felt. That both sides can make very compelling, equitable and moral arguments for their position. I'm trying with this amendment to move us to a middle place that does not have what I feel would be movement that went too far. And that's the amendment that I make. My understanding, Mr. Casar, is that is an agreement that you would accept.

[3:25:36 PM]

>> Casar: I thought it was a great conversation that you and I had. I think this puts us in a better place towards our goals and before. I believe a lot of these sf-2 lots are pretty wide, but not very deep, and that there are better ways that we can encourage multiple housing types on a lot of those different sf-2 lots. And frankly when I talk to everyday folks in grocery store or on the street and ask them whether or not they should be able to have a granny flat, it's been a unanimous and resounding, that sounds like something I would really want to be able to build, but paving some concrete in their front yard where their garden might be seemed to me to be one of the greatest impediments, second only to cost. So creating the opportunities to support transit, to not increase impervious cover, but increase the amount of housing that we have -- increase the housing opportunity without the impervious cover of a parking spot makes a lot of sense to me. And I really want us to start moving towards how we house people in all sorts of different housing types rather than about how we make room for cars. So I think that it's an amendment that makes sense to me as a whole and I would be very supportive of it as a package.

>> Mayor Adler: And it's my understanding too, by the way, and for the record, that I have agreed to this by way of package so the three elements that are included in this are elements I will state T the three items in amendment on the floor relate to whether or not to strike sf-2, whether or not to cap at 1100 square feet, and whether to waive parking within that quarter mile range. We will also have plenty of other time to have additional neighborhoods to the ordinance as proposed by Mr. Casar. Mr. Zimmerman?

>> Zimmerman: Mr. Mayor, I would like to move adoption of -- to Adler amendment here that I guess you've already been discussing at great length.

[3:27:38 PM]

Can I go ahead and make a motion we consider it? Because it is an amendment in addition to what was already proposed or was it just proposed together?

>> Mayor Adler: I think I had already moved it, Mr. Casar had already seconded it.

>> Zimmerman: I thought you just did the base item. I'm sorry.

>> Mayor Adler: Mr. Casar moved that. It was seconded. So the amendment on the floor pertains to those three elements.

>> Kitchen: I have a question. Your amendment doesn't impact the prohibition on str's, is that correct?

>> Mayor Adler: It does not impact the prohibition on str's.

>> Kitchen: It doesn't impact the fact that they still fall within the three percent.

>> Mayor Adler: It makes no change to the str provision.

>> Kitchen: Okay.

>> Mayor Adler: Yes, Ms. Houston?

>> Houston: Mayor, while we're discussing this, I wish that in my heart I could trust that this amendment would solve the housing crisis in our city. I've lived through two experiments that said it was going to make Austin more vibrant, more diverse, more wonderful than it is, and both of those have come back to us as we've come on council, we've talked about the shared economy, we've talked about short-term rentals, we've talked about innovative mobility platforms, and every single one of those grand experiments have done irreparable harm to parts of my community. So yet again here's another one that we say is going to make this great opportunity to have diverse housing and move diversity through all parts activity, and I just -- I just can't believe that's going to happen because I've seen what the changes in the development code have done to district 1, and 78702 in particular and wherein fill options have just torn down houses and put up two huge homes that are \$500,000 apiece.

[3:29:44 PM]

So when you say that this is going to move us forward, I see nothing in the past to lead me to believe that this one is going to be any different. So I'm not going to be able to support this. At the appropriate time I will make a motion, another amendment, but I don't see that this is going to help the housing crisis that we're in because we're not even touching the things that have to do with why housing costs so much, much as it is about land speculation. So I don't know why we are even dealing with this and not sending it over to codenext. I said it in the beginning and I'm saying it again today.

[Applause].

>> Mayor Adler: Ms. Houston, I would say if you support having it in all sf-2 areas, then that would be a reason to vote against the amendment. If you're in favor of not capping it at 1100 square feet that would be another reason to vote against the amendment or if you're not in favor of the parking issue that would be another reason to vote against it because this amendment is not yet to vote on the overall bill, it's just on these three components.

>> Houston: I understand and I can vote no on all of them.

>> Mayor Adler: You certainly can.

>> Houston: I just want to make sure.

>> Mayor Adler: Ms. Tovo?

>> Tovo: I guess I have a question about the amendment and the rationale about it and I guess I also have a question if for our staff. My first question is I took from your discussion that part of your rationale for removing sf-2 is this ordinance as proposed, the ordinance changes as proposed, would change the character of some of our residential areas that have a lot of single 2 and I think you quoted the number of tracts in sf-2. And can you help me understand the 9,000 -- this reduces it to 9,000, but it seems to me we're talking about different areas and a lot of the 9,000 fall within the central city where before we were talking about an ordinance that touched other areas of the city.

[3:31:47 PM]

Is that what you found in your research? Where are those 9,000 tracts of sf that are going to be changed by this?

>> Mayor Adler: My research indicated that there were actually 62,280 lots in sf-2 at 5750 square feet and larger throughout the city in the sf-2. And that there were 8900 lots in sf 3 between the range of 5750 and 7,000. They are located around the city, but primarily within the more central area of the city.

>> Tovo: That's sort of my understanding based on knowing my district and knowing the districts that are adjacent. And I guess I would ask us -- I understand we've heard a lot from folks in areas that are -- that have primarily single-family two, but if we're stepping back and saying the changes door drastic for

certain areas because it's going to dramatically change the character or will change the character and that shouldn't happen outside of codenext, I would say the same is true of my district and the areas that also have -- there are within the central city. And that if we're trying to respect the provisions that have been set in certain areas of town I would ask that we do that throughout. I'm aware of several neighborhood plans that there will override within district 9 and I would echo a comment that came up earlier. We have promised, we have committed to the people who have been involved in neighborhood planning that that was a mechanism, and I'll read from the text on our website. Long range planning allows citizens to shape the neighborhoods where they live, work or own property. The stakeholders, as many of you know if you've been part of the neighborhood planning team as I have, consists of renters, business owners, as well as homeowners in an area that come together, we tell them that this is a mechanism they have to help preserve the character and shape, where they are in the future and in the present.

[3:33:50 PM]

And all of the rhetoric on our website talks about that. And again, I would say we are now looking at an ordinance change that excludes certain areas of the city and doesn't apply these changes, but it will certainly impact my district, which also has a right to determine the kind of planning they want. Mr. Guernsey, I have a question for you. One of the provisions that is of particular concern in the amendments proposed is the one to waive parking. When the resolution went off to the planning commission to begin the stakeholder process, I think there were -- there may have even been language in that original resolution to reduce parking down to zero. I know certainly there were advocates who wanted to see no parking requirements for accessory dwelling units, so it was my understanding that the planning commission considered that option and did not recommend it.

>> Yeah. As I understand it right now it would come forward from the commission and the staff we had recommended one space for that two-family residential second dwelling.

>> Tovo: Where did you recommend one space rather than zero spaces?

>> Well, first off, when this came about staff looked at the ordinance and we realized we've actually been misapplying a portion of our code for many years. And that really has to do with how the parking requirements are applied. If you were a commercial business and you were adding on to your building, not including a bar, not including certain restaurants that serve alcohol you were required to provide parking only for that addition. We did not apply that same language to residential. And when you were coming in to convert a property from a single-family residence to two-family residential, if you had a home that was built prior to 1955, there was no parking requirement for residential.

[3:35:58 PM]

Prior to 1985 you're required only one parking space for residential. And so a lot of the older core areas that are made up of housing built before '85, at most you would have one. So we looked at it as providing one as a reasonable number of parking spaces to require for that second unit, knowing that we would not require you to bring the other unit up to providing three, which would be two for the main primary house and one for that secondary apartment. So that was part of the logic. And I know we've had discussed. I know mayor pro tem was surprised when I said that. I think earlier this year, I guess, when that came up we have been applying -- our development services department, I've had conversation with the staff to correctly understand it as being applied correctly at this time. So that was part of it. We also -- there was --

>> Tovo: Can I pause you there for just a sec? So just to be clear, the staff is changing -- is changing how they interpret that code provision whereas in in the past if you added an accessory dwelling unit you

had to bring the whole site up to parking standards, you will no longer require that.

>> That's correct.

>> Tovo: That's kind of the layperson's understanding of that.

>> There are several testimony at committee, at commission, during stakeholder requirements the parking requirements were high. And I think actually some of the people that you heard before you today actually pointed this out to me and that kind of started a conversation along that line, which arrived after talking with law, after talking to residential staff, transportation staff, that's where we went.

>> Tovo: So you were going to change the requirements going forward because you were differently interpreting that provision of law?

[3:38:01 PM]

>> We are applying the code correctly now, corrected that. And we're moving forward.

>> Tovo: Why did you recommend zero parking requirements for the accessory dwelling unit.

>> We felt there was a need to provide some parking on these properties, especially in light of our correction of interpretation on the code and as it applies. Because you would not provide any parking for an existing residence in the urban core areas because there was no parking requirement or simply a requirement to provide one space per unit.

>> Tovo: Do you have a sense of how many in those older areas that do not currently provide parking how many of those will hit the criterion noted within this amendment of being within a transit stop?

>> No, I don't. I would comment on the corridors, we could apply the quarter-mile, I think, from the right-of-way boundary of the corridors as mentioned in the amendment. The centers are a little bit more difficult. The centers -- I'd say the lines of a center for a town center, regional center, neighborhood center, are a bit blurry. They're not -- they were never meant to be a hard, firm boundary. So we buy ask clarification on that portion of the amendment if it's successful because in some areas we shape some of those centers to match some development that may have been already going forward at the time we were doing imagine Austin and others that were just drawn for general areas that commission, community and eventually council adopted as a general location that might be a little bit to the right or a little bit to the left of where they might be shown on the imagine Austin map.

[3:40:01 PM]

>> Tovo: As the conversation transpired in the stakeholder process I know this was an idea that was at least floated in public conversation. I don't know whether it made it into the resolution that went forward to planning commission, but I know this is an idea that at least I would imagine received some discussion about whether to waive those requirements if close to transit. But the recommendation that still came out of planning commission was to require at least one.

>> That's my understanding also.

>> Tovo: Okay.

>> Mayor Adler: Before you leave, Mr. Guernsey, did you make a proposal with respect to whether or not there should be a parking requirement if you were just looking at properties within a quarter-mile of the activity corridor?

>> I've not had discussion enough to vet it with development services department in that regard.

>> Mayor Adler: So your recommendation was as to the entire neighborhood and not just that along the activity corridor?

>> With respect to the neighborhoods that were part of the neighborhood planning process?

>> Mayor Adler: No. Your recommendation in this case in front of the planning commission that the

mayor pro tem was asking you about, where you recommended one space --

>> I think we actually -- I might need to refer to my staff on this. I think it was below a certain square footage we did not require a space. If above -- 550? So it was zero if it was 550 or less, and if it was over 550 it was one. At the time I think it went to planning commission with a staff recommendation.

>> Mayor Adler: Okay. So you were at the time proposing zero for some units, one for other units. My question was did you make a recommendation looking at units that are within 400 yards and not within 400 yards?

>> No, I don't believe we did.

>> Mayor Adler: I think that the point made by the mayor pro tem is a good point with respect to the activity centers, and I would suggest, Mr. Casar, that including the word activity center in a way that I don't think is appropriate.

[3:42:04 PM]

If it's okay with you, I would ask the council if they were okay with limiting the activity corridors?

>> And as far as I recall in our discussion we talked specifically about corridors, which are defined. So I think that's the appropriate place to do it. And I think it's appropriate if we're thinking about size of Adu if we're talking about parking, planning it close to transit and planning it all in advance considering they're not going to plop down tomorrow, makes sense.

>> Mayor Adler: Does anybody have any objection to having it speak to activity corridors as opposed to others? Hearing none, that change is made and that's how the amendment now stands. Further discussion on the amendment? Yes, Ms. Pool?

>> Pool: Again, on the activity corridor, just to kind of nail down some of the edges, it may be a little loose, mayor, in your discussions previously with councilmember Casar, in your mind was the activity corridor a fairly expansive area or was it specifically a street? For example, burnet road is considered an activity corridor, so are we talking about burnet road or --

>> Mayor Adler: I did not intend for it to include transition areas outside of the right-of-way. I intended it to be measured off the right-of-way. Is that acceptable to you?

>> Casar: Yes, activity corridor as it's written in the comprehensive plan. I know all of us have the growth concept map burned into our minds at this point. It's the yellow lines and the yellow lines run up and down burnet road. Mature the yellow lines are contained within the right-of-way for burnet road. Thank you for that classification. Ms. Kitchen?

>> Kitchen: My question relates to it seems we're making an assumption that transit is available on those corridor lines and that's not necessarily the case.

[Applause]. So would it not make more sense if we wanted to tie that -- if we're tying this to what location we think is transit, shouldn't we wait until transit is there?

[3:44:11 PM]

And -- or at least have some relationship between the requirement we're making and what we expect to happen? I mean, I don't even know --

let me ask you this: The corridors, do we even know if transit is planned on those corridors?

>> We have planned for those corridors to be transit corridors or intermodal corridors. Whether the actual bus system is in place, roadway network is in place, I could not say in all of them.

>> Kitchen: Yes. So basically we don't have the answer to that question. That wouldn't be something that I would expect you to be able to answer at this point. And so I'm concerned about us making a plan for something we're making a huge assumption about. So I'm not sure how to address that, but I would like to request that perhaps we should consider before changing that kind of parking requirement, we at

least tie it to existing transit corridors.

>> Mayor Adler: Mr. Casar?

>> I've had conversations with the CEO at cap metro and lots of folks when I got thrown into the planning and neighborhoods committee job about the relationship between the two. And what I was consistently urged by everyone was to think about not where the transit is now, but where we want the transit to go and that we need to put riders near these activity corridors for folks at cap metro to be able to provide the service. It's the chicken and the egg and we constantly need more chickens and more eggs near the corridors. So since this is part of our growth map that's been published and passed by the council, I imagine that this is what cap metro is looking at about where they want rider ship. And I believe that we can have, of course, denser housing up and down the corridors, on the corridors themselves, but at the same time that that -- that this option would be the single-family homes near those corridors we could have folks that could choose to not have a car.

[3:46:27 PM]

Of course, these ads aren't all going to get built out tomorrow. Right now we're getting 40 or 50 a year. So the hope is by relaxing these rules that they start to evolve, the housing stock evolves and it evolves around the place where we're planning transit so that we're never -- cap metro is never held back because the housing isn't going to be there and we're not holding ourselves back from the housing because the transit will be there.

>> Mayor Adler: And I think to apply too, that's my understanding as well. And we have relaxed parking requirements in downtown buildings and in other places and there are a lot of folks that say that we shouldn't do that yet because the frequency of the transit isn't sufficient to warrant that or the extent of the transit isn't sufficient to warrant that. And I'm not sure how the city gets eventually to the place it wants to get to if you require the demand to precede the service. I rely on the experts for that as well that suggest that you need both.

>> Kitchen: I'm not talking about the demand. I'm just talking about the parking. I understand what you're saying and I'm just raising a point about --

>> Mayor Adler: I know.

>> Kitchen: I'm raising the point that we are not requiring -- we've got zero parking in an area where we don't know if there's any transit available or it's not yet available. That's all I'm saying.

>> Mayor Adler: Ms. Gallo?

>> Gallo: I'll try to dodge the sun here. And I think you're making a good point. Is there a way that we could style the language so that it's allowed -- the reduction is allowed in existing corridors, but also continues to add it as corridors are put in place? And have that flexibility within this ordinance so it's very specific -- so basically what we're saying is it's allowed where we have operational transit and then we continue to expand those areas as more transit comes into place?

[3:48:37 PM]

Is that just overwhelming from a staff perspective?

>> I might actually invite Rodney to come up, but I think that might be overwhelming because any time a permit comes in to add an accessory dwelling unit a two-family residential redundant, staff would then need to review to see if transit is available on the roadway on which we would issue the permit to determine whether or not parking is required or not every time it comes in. So it would be one more thing that we would need to look at and it would be, I guess, at the time that application was filed. We might tell the property owner you need to provide the parking today. If capital metro changes it next year, it would be removed. And then it might come back and ask can we remove this from the



requirement of our plan?

>> Gallo: I think the concern is if we're reducing the parking because a person has the option to not have a vehicle and use public transit, then it ought to be in the areas that the public transit is available, but at the same time is we have a citywide commitment to expand transit options, then that should be expanded in the same manner. I'm just trying to figure out how to do that.

>> Mayor Adler: Mr. Casar?

>> Casar: I think while it's important to focus on the transit piece of this, I think there's another really good reason to think about it this way. The parking spot and pouring concrete on your house, in your lawn is an impediment towards these getting built. And if we want folks to be able to live near the corridors which not only do we plan on trying to support transit on those corridors, we also want people to be able -- places people will be able to go shopping, where people are going to be able to live and see their friends. So we want to encourage again on the traffic side even if you do have a car and don't provide transit, yes, folks will park on the street and then if they have to drive somewhere they don't have to drive that far or they can walk there.

[3:50:44 PM]

And I think at some point we have to make a decision whether we are going to value the fact that there are going to be some cars parked on the street or if we actually want to follow up with our imagine Austin plan, which is getting folks near these corridors so that we can eventually get transit so that we can eventually have places people can walk to. And if they're going to drive, drive a quarter mile instead of in from pflugerville and backing up I-35 and then we have to keep on paying billions and billions of dollars to expand that thing.

[Applause].

>> Mayor Adler: Ms. Garza and then Ms. Pool.

>> Garza: I see both points so I'm trying to find the middle ground because if the spirit of the amendment is we're not going to require a parking space if you're close to a bus, then what councilmember kitchen is saying is right. And I think we do have to -- my office is constantly asked and maybe it's because of my role in the cap metro board that we're constantly asking when developers come in, you know, what's the transit plan for this development. And I guess I don't see why it would take a little bit longer. You basically have to look at a service map. So if you get an application, someone would just have a service map, look at, you know, the radius and they could see that there's cap metro service to that area. So what I think my recommendation would be is add, if located less than or equal to a quarter mile for an activity corridor serviced by a capital metro line would be a way to fix that.

>> Councilmember, I might just say by transit our activity corridors provide many means. It's not necessarily just transit. It might be buses, it might be rail, it might be -- we have smart cars and there are other alternatives. You do have cycling is available, making some commuting a little different if you're along some of these corridors it's more likely that you might have bike transportation that might be accessible getting around.

[3:52:57 PM]

So if it is for transit I would just say forms of mass transit other than saying just cap metro or just a bus line.

>> Garza: That's what I was trying to get to, not just a bus, but if the spirit of the amendment, the way I read it, is we're not going to require a parking space because you can walk down the block and hop on a rail or hop on a bus, then I support this. But if it's just -- it's the yellow line on the imagine Austin plan, but there really isn't a way for you to walk down the block to get on anything so you don't need to

depend on a car, then I couldn't support it.

>> Mayor Adler: What would be wording of that be, located within a quarter mile of an activity corridor that --

>> I said by a cap metro line which could include rail or rapid -- any of the was services that cap metro provides.

>> Casar: Mayor, I just had a suggestion come up that we already have for smart housing program the T for transit in the code. Is that something that we could mirror if we wanted to reduce the parking? Would that be something that would make it easier to administer?

>> We could certainly talk with neighborhood housing staff. I would not suggest that we certainly ask each garage apartment to be smart housing certified. As far as looking at what they look at for criteria that would make that, yes, we could talk with them about how they use to achieve the T for smart housing.

>> Mayor Adler: What is the criteria of that, do you know?

>> I might actually ask Betsy Spencer to come up and she can address it.

>> Good afternoon. It's one-half mile from a bus route.

>> Mayor Adler: So you want to do a quarter mile from a bus or other transit route. Service quarter mile of an activity center, which is a bus or transit route.

[3:55:05 PM]

>> Garza: Didn't you take out activity center so it's activity corridor?

>> Mayor Adler: One quarter mile of an activity corridor that is a bus or transit route? Route. Any objection to that change being made? Hearing none, that change is made. Further discussion on the amendment? Hearing none, those in favor of the amendment please raise your hands. Those opposed? Tovo and Houston voting no. The rest voting aye. We now have the motion as amended. Further discussion? Ms. Kitchen?

>> Kitchen: I have an additional amendment. I wanted to say first that I do support ads and I do support relaxing the rules because I think that that's critical to success. My problem is twofold and that is applying this citywide without a process, without honoring the stakeholder process that we went through and also without honoring the codenext process that we're about to enter into. So I want to extend ads in a way that supports pretty much codenext and builds trust in our community. I also want to know that it's working be we jump into changing the rules city way. So my first amendment that I'm passing out relates to the land development code process and codenext. I think it's important that we use codenext because it's based on neighborhood context, something that this proposal as written doesn't do. In some ways I think that this proposal is continuing the mistake of citywide rules that don't consider local context like flooding or heavy use of street area due to heavy use like schools.

[3:57:11 PM]

So I think it's extremely important that we make changes that support the development of a new land development code and keep trust with our community during this process. So the motion that I'm sending out we can put it on the overhead M let me read it first. Basically this would add language that states regulations related to adus will be analyzed as part of the codenext review of the land development code. The codenext team is directed to review and report on Austin's Adu regulatory, economic and fiscal impacts as part of the codenext process, including the impact on affordable housing options throughout the city.

>> Mayor Adler: You're proposing that as an addition to --

>> Kitchen: Yes.

>> Mayor Adler: It's an add.

>> Mayor Adler: It's an add. Is there a second to this? I'll second. Is there any discussion on this?

>> Kitchen: I would further state that the reason I'm bringing this forward is because I wanted to make it clear that regardless of what we adopt today that our codenext process must consider ads as just as well as -- just as they are considering all other aspects of our land development code. And just because we might adopt something today does not take it off the table for the codenext process. I think that's really critical because one of the fundamental foundations of the review of our land development code is to take into consideration community character and differences across the city. And I think it's really important that we do that. I also think that lots of people have raised concerns today, and I share those concerns too, about the degree to which this is really going to help us with affordability. Frankly, I don't think it will. I do think there's value, though, to having additional types of housing all over the city and I think that's important. And that's why I support relaxing the rules as they came out of the original stakeholder process.

[3:59:18 PM]

I just think we're going too far today. So I would propose this in recognition that the codenext process needs to consider ads and give us their thinking on it.

>> Mayor Adler: I have a question. By affordable housing do you mean affordable housing with the capital a and capital H or do you mean housing affordability?

>> Kitchen: Housing affordability would have been a better term.

>> Mayor Adler: Do you have any objection to making that change?

>> Kitchen: No.

>> Mayor Adler: Any objection to changing affordable housing to housing affordability? That change is made. Continued discussion on Ms. Kitchen's amendment. Mr. Casar?

>> Councilmember kitchen, I'm certainly supportive of this motion and absolutely think it's continued to be worked on with the codenext team and consultant. This is something they intend to do and I think making it clear is important. Frankly this was sort of plopped on to our committee and something that started last year. And if folks were willing to modify the code through that stakeholder process and everybody agreed that this was a little bit before codenext, but folks are willing to do it, I was just frankly a little surprised that when we amended it to what we thought the right temperature was that all of a sudden that categorically was not respecting codenext whereas prior to the two significant amendments that were most controversial it wasn't. So I would just really urge folks to really -- for us to continue to have a substantive discussion about ads and the benefits thereof and codenext is going to be bigger, but the ship embarked prior to codenext and I think the committee just turned the ship a little bit and that's -- and I think we're at a better place now.

>> Mayor Adler: Further conversation on Ms. Kitchen's amendment? Ms. Pool?

>> Pool: I like the changes that have been offered today. The changes from the mayor which address two very specific concerns that have been raised in district 7 by a majority of the residents there.

[4:01:28 PM]

I like the additional discussion I have for morphinely tuning the parking question and limiting the -- limiting the loosened regulation on parking to within a quarter mile of a transit corridor which I think we are calling activity corridor. And I very much support and like the new amendment that has been added or that I will vote for from councilmember kitchen on putting this whole conversation, these changes and the conversation into codenext because that has been a very serious concern that I have had in following all of this discussion that it feels like it's out of context. And it needs the forum of codenext. So

I very much appreciate all of these very good amendments to the base motion here today. I do have one additional item that I'll bring up in a bit, but we're still on your amendment.

>> Mayor Adler: Further discussion on Ms. Kitchen's amendment? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. To me it seems superfluous and kind of redundant. I can't imagine that the codenext team is not already doing everything that's in here. Their charge was to be comprehensive and I just think it's a superfluous amendment. I can't support it.

>> Mayor Adler: Ms. Houston?

>> Houston: Can I ask Mr. Guernsey a question, please? Mr. Guernsey, under the current code can you briefly tell us where people can build accessory dwelling units?

>> It might be a misnomer to call them accessory dwelling unit.

>> Houston: Granny flats, whatever they called them.

>> They're actually two-family residential and any zoning district in the city where you have a family residence or sf 3 zoning and a lot of 7,000 square feet would be a permitted use.

[4:03:40 PM]

In certain neighborhood planning areas there was also another type of dwelling that during the neighborhood planning process names could opt in and they were called secondary apartments. They were allowed on lots as small as 5750 and also allowed in sf 1, the large lot single-family, and sf-2, standard lot single-family. And there is a smaller area of the city where they are permitted. And those are the two areas of the city where we would allow a second dwelling unit that a family or an individual could live in. I'll briefly touch, there is a reference in the code today called an accessory dwelling unit and one of the things that staff would suggest is that maybe we actually change that term since we're using it commonly in all this language the last year in four or five months. We define accessory dwelling unit in the code as something being on a lot of at least 15,000 square feet in size and it's used for almost like a worker housing for someone who is attached to the property who might provide security or service for landscaping or maintenance, could be a butler, maid or nanny. And that's always been in the code since the mid 1980s. As amendments go forward staff had made a request so it's not confusing. We're really talking about two family residential in the amendment today and not confusing that with something that's already in the code called accessory dwelling unit.

>> Houston: So Mr. Guernsey, so there are already opportunities for people to build secondary units on certain kinds and types of land already, and in the city.

[4:05:42 PM]

And so my question now is how many applications do you get to build one of those units and is the problem here because the regulations that are currently in the code are too restrictive and we need to look at the current regulations or is it that we need to redo the whole code so something else can be done? Am I clear?

>> Yes. I think some of the amendments you have before you, the ones commonly referred to as the planning commission's recommendations, they make it easier to go build one than it does today. It reduces the building separation requirements between the front unit and back unit. It allows a front entrance for the back unit to be within 10 feet of a property line. It had kind of an onerous driveway placement requirement. This does away with that requirement. There's a reference to prohibiting the short-term rentals, the type 2's that the commission brought forward and it's to make sure these are actually used for rent by individuals on a long-term basis. But those are things that were suggested before we got to the committee level. When we get to the committee and reducing the lot size that opens it up to more property that's zoned sf 3 that may have not been thought of before, but the use

was always permitted on the properties. If they acquired more land from the neighbor they would have been able to do that.

>> So at this point we don't know how many applications you would get to build or permits you would be requested to build if we just relaxed what the planning commission has recommended. That may free up people to be able to build those units that they're trying to do without going through this onerous process to make this citywide?

[4:07:49 PM]

Because that seems to be a separate issue. We already have some ability to do this already. And if we could focus on how we make that code better then maybe we could solve the problem.

>> Those are built into the amendment that's before you.

>> Houston: The planning commission?

>> The planning commission recommendations. The amendment goes beyond what the planning commission recommendation would suggest. So that's before you, council.

>> Houston: Right. I just wanted to make sure that people understood that people already have the opportunity to do this. And what I understood initially was that people were saying that the process to do it was too onerous and so we were just going to work on trying to relax the code that we already had so people could use it in a way they wanted to. But now we're going to a citywide ordinance, which is different from my understanding of what we first were trying to do.

>> The amendments I mentioned that regard planning commission would be citywide.

>> Houston: I don't have that in front of me, but they were citywide?

>> Yes. The building separation, allowing the entrance, the driveway placement, the short-term rental, actually the parking requirements, those are things that would be citywide and sf 3. My staff is indicating to me on a lot of the questions that we've been asked and staff has been asked in this process is a concern about the lot size, though, that the 7,000 is considered high and a lot of people are prohibited within the sf 3 districts of trying to utilize that because of the 7,000 requirement rather than being something lower.

>> Kitchen: So --

>> Mayor Adler: Yes, Ms. Kitchen?

>> Kitchen: Mr. Guernsey, the planning commission recommendations were not citywide in the sense that they do not override the neighborhood planning process.

[4:09:51 PM]

Am I not correct?

>> Right. During the neighborhood planning process the two-family residential use is not one of the infill tools and so even if you were in a neighborhood planning area and you did not select the infill tool of secondary apartment, the two-family residential use was always an option. The difference, as I talked a little bit about this in the work session in particular is when you reduce the lot size to be 5750, that was a decision that was made during the neighborhood planning process. The 7,000 was always an option in an sf 3 district or maybe some more intensive districts to build that second unit regardless of whether the neighborhood opted in or did not opt in.

>> Kitchen: I understand that, but it's the lowering it to the 5750 that overrides the neighborhood planning process.

>> It would allow that in the sf 3 district and it would have been something that the neighborhood had before had the opportunity to look at. So yes, you would be able to do something that may have been contrary to the plan.

>> Mr. Mayor, so Mr. Guernsey, since we're still on the topic of this amendment, are you suggesting that we change the word adus here to secondary apartment or to two-family residential?

>> Two-family residential and secondary apartment. I think the way the law department has actually framed the amendment was rather clever. I think it covers both of those in the general posting. So as long as the ordinance is talking about the two-dwelling units, that would pick up both of them so they could both take advantage of the building separation being reduced to the parking adjustment, the entry, all those things --

>> Casar: But I just mean --

>> Mayor Adler: So the change would make it report on Austin's two-dwelling unit regulatory, economic and fiscal impacts?

>> I think mayor, that would address what councilmember Casar said?

>> Kitchen: I think it would be two-family use and secondary apartment regulations.

[4:11:55 PM]

>> Mayor Adler: Say it again.

>> Kitchen: Two-family residential use.

>> Mayor Adler: Two-family residential.

>> Kitchen: Use. And secondary apartment.

>> That would reflect currently what the the code says.

>> Mayor Adler: That language would be after the words report on Austin's -- it would be in place of the Adu. Any objection to that change being made? Hearing none that change is made. We're still discussing Ms. Kitchen's amendment, which is to add language to Mr. Casar's ordinance as amended.

>> Houston: I'd like to call the question?

>> Mayor Adler: Any further debate? Do you want to let Ms. Gallo go one last time? Ms. Gallo and then we'll call the question.

>> Gallo: I just want to verify, so with councilmember kitchen's motion it does not stop the progress of -- I just wanted to verify that so that was clear to everyone. It doesn't stop the progress of us moving forward. It just puts the discussion of whatever is in place as codenext discussions begin and continue to be addressed.

>> Mayor Adler: That's correct. It's in addition to the language, not a takeaway. Those in favor please raise your hand? This is now voting on Ms. Kitchen's amendment. Those in favor please raise your hand? Those opposed? Mr. Zimmerman abstains. The rest of the dais votes yes. We are now back to the conversation of Mr. Casar's as amended. I'll give somebody else a chance. Anybody else -- before I go back to Ms. Kitchen? Ms. Kitchen, you're up, number 2.

>> Kitchen: This relates to what I said earlier, the neighborhood plans. So I'm passing out a motion that would add language that clarifies that application of these sections of the code will not supersede established neighborhood plans that have not adopted the secondary apartment infill tool.

[4:14:04 PM]

And again, I pretty strongly feel like we -- we being the city, made a commitment to our neighborhood planning process that there were certain choices that were part of the neighborhood planning process and I believe that we are in effect -- if we move forward with this amendment as written we are in effect rezoning lots around the city in undoing neighborhood plans with no public process. And I think that's a mistake. I think it's breaking trust with our neighborhoods and I also don't think it bodes well for our land development code process because we need to earn the trust of the city to be able to go forward with codenext. So that's why I brought forth this amendment. And the purpose is to honor the existing

neighborhood plans where neighborhoods had chosen not to allow these options?

[Applause].

>> Mayor Adler: Is there a second to Ms. Kitchen's amendment? Ms. Pool? Discussion?

>> Kitchen: I would just say that a reason I think this is necessary is because the proposal that is in front of us lowers the lot size to 5750 and those are, as Mr. Guernsey explained earlier, that creates a situation where neighborhood -- contact teams and neighborhood planning process is being superceded. Mr. Guernsey, could I --

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

>> Kitchen: I don't know how many neighborhood plans are impacted. I can tell you that there is at least one in my district where there was a relative recent process where the city council committed to those neighbors that the neighborhood plan that they had put together after much work, much stakeholder involvement and much compromise among the people involved in that neighborhood plan -- and I just cannot go forward with disrespecting the work that they did.

[4:16:20 PM]

So I don't know how many neighborhood plans we're talking about, but I know there's at least one in the south Austin combined neighborhood plan being one of those, and that being our most recent combined neighborhood planning area. So let me ask you this, Mr. Guernsey, were the contact teams contacted about the potential change?

>> Councilmember, we're very early in to the codenext process.

>> Kitchen: No, my specific question is this change that's before us where the neighborhood contact teams notified that if we passed this change as is before us that for some of them at least who had not opted in that this would impact their neighborhood plan?

>> No, I don't believe the specific amendments were before them. We noticed neighborhood organizations and contact teams of an amendment which could be very broad and affect the uses, but not for the specific language that's before you today, but that's not normally our practice.

>> Kitchen: I'm not suggesting you should have. I'm sorry. I didn't mean to suggest that you should have done that. I'm just meaning to point out that they don't know.

>> I've displayed on the map you can see those areas that are in red are those neighborhoods that have opted in to the tool. And those with the little X have not had the opportunity to make a decision one way or the other.

>> Casar: Mayor, while I understand your amendment and your position, councilmember, I go back to something that the mayor pro tem actually brought up, which is to see how do we check where these 6,000 standard size lots, Normal size lots that are sf 3 zoned are. And it's true, most of them are in district 5 just south of the river or in district 9 in some of our most desirable neighborhoods in the city.

[4:18:27 PM]

And what I thought was right was to say if you have a standard size lot you should be able to build one of these granny flats and also regardless of where you are if you're sf 3 around and also that we have no election, we had a change in form of government and lots of everyday people in my district weren't consulted and I feel like I need to respect their voices if they want to have the opportunity to send their kids to ridgetop and go to Mccallum. That's what convinced me to do this. Not of disrespecting anybody else, but because I think that it's important for us to not block people off from having those sorts of opportunities, to live where they want to live. That it's not disrespectful, but it creates vibrancy and makes neighborhoods better and the fact of the matter is me having to represent what I think is best for the city is taking a moderate approach and a moderate approach seems to be a 5750 standard size lot is

where you can build these ads in lots of parts of the city and it seems to work pretty well. And why would we say that specific lots, 7,000 specific lots in some of our best, most desirable, beloved neighborhoods, we should keep folks out of them.

[Applause].

>> Mayor Adler: Ms. Tovo?

>> Tovo: I have a couple of things I want to say about that. Again my answer is the same as it was before. We've promised through the neighborhood planning process that people can have an impact over the area in which they live. And I think we need to respect that. I would ask you to please consider that within the areas as we look at the special uses that have been chosen and adopted neighborhood plans and I don't know if Mr. Guernsey wants to put that map up again, but I can tell you from the chart I have in front of me, Dawson neighborhood, for example, did adopt the secondary apartments infill tool, Bouldin creek neighborhood plan did not.

[4:20:38 PM]

I've got countless emails from one neighbor in Bouldin creek talking about the flooding that is happening on his lot every time it rains because of the infill that's happened upstream from him. I have a video that we can run at the appropriate time of one of the avenues in Hyde park which has not adopted an infill tool, running water and lots of flooding that has happened over memorial day and other areas. You know, one of the reasons -- I'm glad you brought up 10-1 because one of the promises of 10-1 is that people would be able to have more of an impact on policies because they know their areas best. And so when we've asked Hyde park neighborhood planning team, please, work together with the other stakeholders to construct a neighborhood plan that is contextually specific. It takes into account the kinds of features in your neighborhood, including the creeks, and please come up with recommendations that are then approved by the council, that work best for your area, we need to respect the recommendations that come forward. The same is true of bound inon -- Bouldin creek neighborhood. I understand they had presentations from watershed protection about the level of impervious cover in their area, the risk of flooding from east and west Bouldin creek and that was one of the reasons they didn't adopt the infill tool. We have a new form of government. We have asked people to tell us about their area so that we can make policies that are specific to it, and now we need to respect the policies that are on the ground with regard to the neighborhood planning areas.

[Applause]. So I'm very supportive of the amendment. And you know, I hate to talk about elections from the dais. It doesn't seem appropriate, but because you've mentioned it now three or four times as a reason why we should go back and reconsider the planning commission recommendations, I have to tell you this was an issue in my race. This particular issue of accessory dwelling unit. And as I talked to people therapy concerned about citywide policies that didn't respect individual on the ground neighborhood plans. And I am sitting on the dais and that is -- and I think that's in part because of that kind of perspective that we are going to respect our neighborhood plans and we're going to respect the work that people did because they know their areas best and they can make recommendations about that.

[4:22:54 PM]

I will say too that I understand the central neighborhoods are among the most desirable. There are other desirable areas as well and we do need to be mindful of the infrastructure. It's also one of the most densely populated and I think we need to be mindful of that as we make changes. It needs to be looked at more comprehensively.

[Applause].



>> Mayor Adler: Wait. Ms. Garza?

>> Garza: I just had a question. If you don't live in an area with a neighborhood plan -- I don't even know if this scenario exists. But if you're an sf 3, less than 7,000 square feet and you don't live in an area with a neighborhood plan, what regulation applies to you?

>> If you're not in a neighborhood planning area that had an adopted neighborhood plan, the question hasn't really been posed to that area at all. It would not be asked. Because there's no neighborhood plan. It was only those areas that had the secondary apartments on smaller lots of 5750 on sf 1, sf 2.

>> Garza: It's prohibited.

>> It was prohibited from doing that outside of the neighborhood planning areas.

>> Garza: I guess that's a concern. I'm very sympathetic to the neighborhood plans because I understand a lot of work has been put into neighborhood plans, but there could be an equity argument of not all -- I don't live in a neighborhood plan and it's because people in my district, they didn't have the time or they didn't have the -- you know, they're busy trying to work several jobs to pay bills and they weren't able to organize to have a neighborhood plan.

[4:25:01 PM]

And so -- I don't know. This one is a tough one because I've also -- my understanding from the -- I think it was the Zucker report specifically addressed the opt in, opt out system and said the approach was overcomplicating the code. So -- and it speaks about how it has added a layer. So, you know, I guess this can be framed as we're disrespecting neighborhood plans, but we're in such -- we're in a situation where this council has to make some really hard choices, really hard choices on our land use to try to solve some very, very complicated issues. So I guess those are just some of my concerns with the opt in, opt out option.

>> Ms. Gallo and then Ms. Kitchen?

>> Kitchen: Councilmember Garza, thank you for making that point because I was going to bring it up also as we try to uncomplicate our development in the zoning process.

[Gallo].

>> I think it's important that the specialists and consultants we have hired brought that to our attention. Can we put up -- one of the things that was concerning to me that I wanted to make sure that during this process we didn't do, I wanted to make sure that we were -- thank you. We asked the department to give us some information that could -- would compare what a property owner could do to their existing single-family structure versus what could be done if you added a second unit to the property as a second building. And... If you can read this chart, if you will look on the chart, basically the second group is the proposed regulations and now we're talking about eliminating the sf 2 so if you just look at the first group, which is sf 3, and it compares primary structure and then it also compares primary structure if an Adu was also placed on the property.

[4:27:18 PM]

And what was important to me is what this shows was the addition of the option of a property owner for being able to put an Adu on their property instead of maybe the option of adding on to their single-family house, they still had the same restrictions, the exact same restrictions for impervious cover, for building cover, for floor to area ratios, the building heights are more restrictive for an Adu than it is if they were to add on to their house. And I think this is really important when we hear and address the concerns about flooding, about density, about how the Adu, the addition of the adus on these lots would impact. To me this shows very clearly that this is the same restrictions that someone would have if they chose instead of having a second dwelling on their house chose to add on to the existing house

they have? I think that -- I think when over 50% of our population rents, both of my grown children rent. Half of my staff rents. And it is very difficult for renters, particularly the large portion of our rental community that looks for the smaller, the efficiency, the one bedrooms. These are the young professionals, these are the retired seniors. For them to be able to find properties that are available to rent, whether it's at an affordable rate or whether it's at a market rate, the supply is so limited in many of our neighborhoods and many of the neighborhoods that are located close in to the core of the city. And I appreciate neighborhoods that have developed neighborhood plans, but it's really concerning to me if the neighborhood plan that they have feels like it's discriminating towards renters having the option of finding more available houses in those neighborhoods. And I really support us moving in a direction of giving property owners the ability to provide those options for that part of our population that's over 50% of our population.

[4:29:28 PM]

[Applause].

>> Mayor Adler: Okay. Ms. Kitchen and then Ms. Troxclair and then Mr. Zimmerman.

>> Kitchen: I just wanted to address a few what I think might be -- I don't know. I just want to say some things about, first off, the central neighborhoods are not trying to keep anyone out. And I would say also just by a point of information the central neighborhoods in my district don't have neighborhood plans. So they're going to be impacted by this because they didn't -- they didn't have the choice. In my district the south Austin combined neighborhood plan is further south. And so I just wanted to address -- I don't think that the folks that were in any particular areas that were adopting neighborhood plans were trying to keep anyone out. That's not what it's about at all. It's about considering the context of their neighborhood. And mayor pro tem tovo said it much better than I, but it.

>> It's a current existing process that previous councils have made promises to the neighborhood. It does not mean in my mind that that might not change at some point, it just means in my mind that we're not going about it the right way. If we really feel like the neighborhood planning process is not appropriate any longer, this is not the way to make that change, because we are not using an appropriate process. We haven't talked to them, we doopt know their -- don't know their feedback and we're doing it outside the node nix process. So that -- code nix process. So that's my concern about going forward with this in a way that ignores the neighborhood planning process. I didn't mean to overstate that, I know nobody on this dais, including councilman Casar, I didn't mean that in any personal way, I just mean because of the current process that we have in place, we are, in effect, breaking a promise and we're doing that without a full -- without any kind of analysis and without any kind of Ip Ip -- input.

[4:31:41 PM]

That's where my concern comes from.

>> Mayor Adler: Mrs. Troxcla ir?

>> Troxclair: I guess I just felt the need to chime in because of the issue of the 10/1 system was brought up and how that translates into different people's opinions. I guess I just wanted to say that from my perspective, the 10/1 system allows us to confidently represent the feeling of your own district. So if that was an issue in your election and people felt strongly about adus in the city wide policy, you are absolutely able to have your opinion on the council and to speak eloquently to the council and convince councilmembers one way or the other, but I don't think it takes away from Mr. Casar's ability to say that there are different views maybe in his district and the people that talk to him may have a different approach. I guess I just wanted to say on the topic of the neighborhood plan, I would venture to guess

that the vast majority of the people in my district have no idea what a neighborhood plan is and no idea what the process is to get involved. That's not to take away from the people who have gotten involved and the people who have participated in that process, because I know it wasn't a small undertaking, and that maybe there were commitments that were made by a previous council, but I don't think that that means that that's the only -- well, I guess what I'm saying is I don't think that that takes away from the people of the opinions that I run into in the grocery store or that I meet at the park when I'm walking my dogs, who make, you know, comments to me about city policies but aren't necessarily at city hall advocating one way or the other way, or might not know that we're considering ads today, but might say at a grocery store, why can't I build a guest house on my property, or I, -- hey, I thought my neighborhood prohibited guest houses.

[4:33:42 PM]

That's just my take overall. It entitles all of us to our differing opinions, and for me, I feel like my mandate in part was to just -- was to remember that I represent not only the people who are strong advocates and who research these issues and who speak passionately about them in front of council, but to also remember the vast majority of my district who doesn't have the time or ability to speak before city council, but still needs to have an opinion. Mr. Zimmerma N.

[Applause]

>> Zimmerman: Thank you Mr. Mayor. I can tell you in the northwest part of the city, it's the same experience as my colleague, councilmember troxclair, most people have no idea what these are. They don't -- and I didn't know how much political capital had been invested in neighborhood plans, how serious people were about them. I wouldn't have known it would be a campaign issue. I kind of learned from the mayor pro tem's race how politically signature -- significant this was in the downtown area. That is not the case when you go way out into the suburbs, maybe it's a tale of two cities. I want to take you back quickly to what happened to me in February. I asked this council on behalf of my constituents in river place, which would probably be -- they could probably put a neighborhood plan in if they knew what it was and thought about it, but they were adamantly opposed to one -- cardinal point and I pleaded with my colleagues on behalf of my local constituents, you know, please vote against this on behalf of my local neighborhood, because they overwhelmingly, 80% of them, did not want the project, and I was outvoted nine to 10 to one. Now I'm looking at the neighborhood plans raising, ward politics.

[4:35:48 PM]

Now, the neighborhood plans are starting to look to me like ward politics. And I don't know how to reconcile these things. I kind of -- I've been convinced, everything I heard, Mr. Herch made a point about how the zoning regulations have changed over the '50s, '60s, '70, '80s, '90s, there's been some changes that have taken place, so the static nature of the zoning ordinance is illusory. I was under the impression originally that the zoning would be a hand in the face of the market. No, we're not going to respond to marketing forces because we have zoning in place, but we've been changing the zoning rules over the decade. I guess it brings me back to Te fact, if we can't have ward politics, we have to think about what's in the best interest of the city. Zoning has been somewhat changeable over the decades. I can't -- I'm having trouble backing up the idea of what was criticized as ward politics and now come back and saying, well, we are going to recognize the individual neighborhood concerns. The whole thing is a mess. I wish we could get rid of zoning and go to deed restrictions. But I'm going to be voting against this amendment.

>> Mayor Adler: Mrs. Tovo?

>> Tovo: I'm not advocating ward politics. I am advocating grassroots up up policies. The concerns that I

heard about a council resolution to make an Adu policy that was citywide when I was on the campaign trail was one of top down policies. And there's a tremendous amount of support for community-based decision-making, and that's really the distinction I'm trying to make. That our neighborhood plans are, no. 1, part of our comprehensive plan, and they are adopted by council and we've told people they require a plan amendment to change, and they are an example, I think our best example in the city, of ground up policy-making, where we, as a council, listen to what the community has created and then endorse it.

[4:37:59 PM]

And so that's, again -- I'm not advocating this amendment because of what particular neighborhood plans -- it is a bigger issue than that. It's about respecting citizens' voices as they're expressed in our neighborhood plans.

>> Mayor Adler: Before we take the back. Sorry, Mr. Renteria?

>> Renteria: Yes, I'm not going to be supporting this. We fought the Austin neighborhood council all the way through on getting our secondary unit. And that was the only way that we were going to survive in our neighborhood. We were struggling. You know, the appraised value of our land was going up, and -- and there was no way that we could compete with the big money that was coming in, so we said we want secondary units so that we can afford to survive in our neighborhood. And when we went down there, we got -- the fight was just -- I mean, we spent countless hours, night after night after meetings after meetings with the opposition of the neighborhood council coming at us really fierce because they didn't -- they were afraid that their neighborhood was going to get integrated with the undesirable low-income people. And that's not what we -- that's not what happened. We have now one of the strongest communities, you're going to see not all brown people there, not all poor people. We have a mixed income. We have an area that is safe to walk now. People walk their dogs, they stroll their children down the street. You know, that's what we wanted in our community, and that's what we got.

[4:40:02 PM]

And because I grew up here in this town. I know everything about Jim crow. I visit the location. I was told never to cross west of sixth street from congress. You know, I was told that you could not come into this place. You know, that's the way I grew up here. And I still have that feeling sometimes when I go to a certain area and I just don't feel comfortable because I knew at one time I wasn't welcome there. But now, you know, I have a lot of struggle in my neighborhood. You know, a lot of the low-income people saying there's justification, we don't want these rich people in our neighborhood, we wish they would go somewhere else. You know, we're constantly facing that, but I have -- I told them, I said, listen, the only way that we're going to solve the Austin problem is to get a mixed race, mixed income people in your neighborhood. That's the only way that we're going to solve our problem. If not, don Zimmerman's correct, we're going to go into ward politics. Applause.

>> Mayor?

>> Mayor Adler: Mrs. Houston?

>> Houston: Thank you, councilman Renteria. I understand your goal and your dream for what will happen. Unfortunately what I've seen happen with all the changes that we're now living under is that our neighborhoods have become more diverse, more economically diverse and ethnically diverse, but the rest of the city hasn't done that. And I'm not sure that any one in this audience today is going to be able to convince me that if we pass a secondary units or accessory dwellings, that that's going to happen. That anybody who is -- works in city hall that makes \$45,000 a year will be able to afford something in those high opportunity areas that we keep talking about in west Austin. What I think will

happen is that the same thing is happening now, we'll get more and more in our communities, which makes our communities almost unlivable now, but nothing will happen on the other side of town.

[4:42:14 PM]

And so I think we need to kind of slow down, I know you've been working on this for a while, but we're making policy from the dais, and I don't know that we have all the information that we need to make a good decision. And so I hear what you're saying about your neighborhood. And if that was everybody's neighborhood, I would say, yes, let's go ahead and do it. But everybody's neighborhood doesn't look like our neighborhoods, and so I, too, have to speak on behalf of those people who are just about being priced out by some of the zoning and development regulations that the city has imposed upon parts of my community that we will never be able to take back. And once this Jean -- genie's out of the bottle, we can't fix it anymore. We'll be sitting here three years from now saying we should have done this, we should have done that. We should take the time now to ensure that we have it right, otherwise we'll be just like short-term rentals and transportation network companies, saying, oh, we should have done it right the first time.

[Applause]

>> Mayor Adler: Before we take the vote and for the record, I would just point out that I started this week, I recognize there were a lot of people on this dais ready to vote for sf 2 as part of this, over 70,000 lots, we have an agreement where we reduced that back to about eight or 9,000. I'm going to vote against this as part of my commitment associated with that. Any further discussion?

>> Mr. Mayor?

>> Mayor Adler: Yes, Mr. Casar?

>> Casar: Councilman -- councilwoman Houston and councilman Renteria, I hear you. This would restrict several thousand lots at least from the maps I've seen almost entirely west of I-35 and Hyde park, those parts of town.

[4:44:16 PM]

Speaking of grassroots planning, we can all have different opinions on how that works, and the grassroots that I have talked to not just in my district but around the city that are looking for somewhere to live, even if the neighborhood plans aren't drawn specifically with an intention to exclude folks, if the effect is for prices to be so high and for vacancy to be so low that folks [lapse in audio] And having an opportunity to live where near they work or to live in the neighborhood where they are -- where their friends or family is and to find, yes, not necessarily a subsidize granny flat but somewhere that's renting at significantly lower rates than other places in the neighborhood. And I think the mls data has been shared with everybody here. You can find 750, 800, \$850 a month granny flats in 78751. It makes sense, and that's where I'm coming from. I understand that folks will disagree with that, I respect your opinions, but that is where I'm coming from on a grassroots planning perspective.

>> Mayor Adler: Mrs. Kitchen?

>> Kitchen: I would just close by saying that I would agree with you if I thought that was going to happen. It's not. I think that we should take other steps to make sure that we have more affordable housing available, and then I would just say as to this amendment, this amendment's a very narrow amendment. It's not going to impact zilker at all. There is no neighborhood plan in zilker. There is no neighborhood plan in the south Lamar area, there is no neighborhood plan in Barton hills. So this is a very narrow amendment, an attempt to not -- I mean, as far as I'm concerned, we are going outside the process in so many ways with this process.

[4:46:20 PM]

This is an attempt to narrow how we're going outside the process. That's all this is, it's just an attempt -- in the few areas, I think we had a map earlier, in the few areas where you have neighborhood plans that in the context of their neighborhood, the choices they made not to keep people out, but given the situation in their neighborhood, they made that choice, I'm just trying to preserve that choice at this point in time. That's all this amendment does.

>> Mayor Adler: Thank you. Mrs. Houston?

>> Houston: One last comment, mayor. I have seen the stats for seven -- statistics for 78751. And I asked the people to generate those to give me statistics for 78702 or 78722 and I'm still waiting for that, because I think you will find a lot of difference in the price points of the accessory dwelling units that are already on the ground, so I just want you to know that every zip code is not the same. And if we had some comparable data from those zip codes, then you might see some difference in what that affordable level is.

>> Mayor Adler: Thank you. We're now going to take a vote on this amendment. Those in favor of Mrs. Kitchen's amendment before us about neighborhood plans that have not adopted a secondary apartment infill tool please raise your hand. The mayor pro tem, Houston, pool, kitchen. Those opposed, please raise your hand? The remaining seven on the dais. Further discussion -- 7 to 4, that amendment is defeated. Any other discussion? Mrs. Tovo?

>> Tovo: I have an amendment that as councilmember kitchen said hers was quite narrow, mine is a bit broader, and I would -- I'm going to distribute it in the -- for the potential that it may address one of the concerns that councilmember Garza addressed.

[4:48:25 PM]

This would be an opt in/opt out process for the whole city, including areas with no neighborhood plans. There is precedent for this. I understand it may seem a little fool hardy to make a broader amendment after a more narrow one just failed, but, again, councilmember Garza mentioned that we would be treating neighborhood planning areas differently from areas that did not have a neighborhood plan. This would treat them the same. It would and could also include an appeal process. I have a separate amendment related to that if that's of interest. There is precedent for this. This is how the vertical mixed use was handled throughout the city in areas that had and did not have neighborhood plans. They were all given the opportunity to opt in or opt out of that particular tool. And so staff, it is complicated to -- it is -- it was more complicated in terms of developing the language than the staff were able to prepare for today absent really a vote of the council first, and so I opted to have the language be -- that within 30 days the city manager would develop those recommendations and come back. And I guess at this point, I will ask -- I mean, we have talked about this extensively, and I don't plan to do so now, but I would ask our staff if they would just run the video. And to me, this is an example of why we allow input from our neighborhoods whether or not they're in a planning area, to provide us with information, if it floods around the area by Waller Creek. This is Avenue A, I believe, around 40th. I'm looking at one of our respects -- residents out there. Is it Avenue A or H?

[4:50:25 PM]

I've forgotten. It was Avenue A around 40th street. As they're considering the infill tools, it was not in my assessment, an attempt to keep renters out, renters are welcome and very present throughout the areas certainly in my district, and it was not a dispute over accessory dwelling units. Accessory dwelling units are allowed on any sf 3 lot that is 7,000 square feet or more. Which is not true in many of our city

that have sf. 2 zoning. So this was an attempt to allow some degree for those areas with and without neighborhood plans. And are I have a subsequent amendment that councilman Garza suggested that would allow a property owner with substantial support from the neighborhood to come forward and ask for an exception, lived in an area that hadn't adopted that tool. So that's my motion.

>> Mayor Adler: Mayor pro tem, do you want to move what was handed out?

>> Tovo: Yes. And I'll distribute the appeal as well.

>> Mayor Adler: Let's take them one at a time mayor pro tem mayor pro tem and this first one here, it is an addition to what is currently? It's not a strike, it's an addition? Is that correct?

>> Tovo: Well, mayor, I believe it would -- I guess I would have to ask our legal staff whether they would regard it as an addition or -- I mean, it certainly -- I guess it's an amendment.

>> Mayor Adler: I'm just looking for the intent. I was unclear --

>> Tovo: It would alter what is in the existing ordinance because it would allow those to be an opt in/opt out process throughout the season.

>> Robin Harris with the legal department. That's correct. Staff would come back with the recommendation and then there would be an amendment to the code provisions that are passed today that would include the opt in/opt out process.

[4:52:34 PM]

This does not change what's being passed today.

>> Mayor Adler: So it would be passed, it would be allowed, but subsequently there would be a way for people to opt in or opt out upon any adoption of an opt in or opt out?

>> Correct.

>> Mayor Adler: Okay. I just wanted to make sure I understood what it was. Is there a second to this? Mrs. Pool seconds. Any debate?

>> Can you explain -- just clarify it again.

>> Mayor Adler: My question was, I wanted to know whether if we put this in and then adopted the whole thing, would it be available in the sf 3 standard lot? My answer is, it would be, because that's what our ordinance says, but it could very well be that pursuant to this amendment, we might adopt something which gave us an opt in/opt out 30 days or some period after that. So my question was, whether the opt in/opt out changed things immediately or in addition to everything that we're otherwise doing today, we were also going to be setting up the potential opt in/opt out for the future, and the answer I got, as I understood it was, this would not change the ordinance we're otherwise adopting, except that we would be asking staff in the future to come back with an opt in/opt out provision.

>> Tovo: Mayor, if you would like me to clarify my intent. No, it was to change from the granting of a citywide entitlement to an opt in/opt out process. The staff have not developed the language for that yet absent a council vote. I certainly would be -- I will contemplate the other.

>> Mayor Adler: I stand corrected. I was just trying to look for the intent.

>> Tovo: Yeah, I think that was the answer we got, but that was not exactly my intent.

[4:54:35 PM]

>> Mayor Adler: It is the mayor pro tem's intent to change the ordinance now in front of us so as to have an opt in/out process as to the secondary residential -- family residential units and secondary apartments to family residential units and secondary apartments.

>> Renteria: And mayor, the thing that concerns me is

[lapse in audio] Association and teams in that one little area of -- I wouldn't say it's a mile square.

There's -- and how -- which group are we going to be paying attention to? Who is going to be the right team to say they want to opt out and who's going to be the one -- we've got another group that say we want to opt in. Are we going to have them go out there and settle it somewhere in just this little area and have our city staff having to go out there and be the referee, who's going to be the winning team? That's -- that's my concern.

>> Mayor Adler: Any further discussion on this amendment.

>> Houston: And mayor, I don't have a problem with in district 1 contacting all of the contact teams and asking them what their preference is and let them make that decision and report back. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I think I understand the intent, and I think I'm struggling a little bit with -- I think what we had in front of us was ordinance language, right, which is pretty specific, you know, for what it is. We have ordinance language. And what the mayor pro tem is putting out more like resolution that would be turned into an ordinance down the -- you know, at some weeks or months later, so I'm -- it kind of looks like, you know, we're voting on apples and then here come Oranges.

[4:56:43 PM]

I'm confused how to reconcile this with the ordinance in front of us. Because this looks like resolution language and I have ordinance language in front of me, so can somebody -- can legal help me with that? What's -- yeah. There may be two separate things? Do we have to consider ordinance language and then maybe go back and consider this separately or...

>> So I think that part of the problem is that we're here on third reading, and so we can't pass -- we can't pass ordinance language that hasn't been drafted.

>> Mayor Adler: So would it be appropriate at this point, because we couldn't pass this -- if we adopted this we couldn't pass this on third reading. So is it more appropriate to treat this as a motion to postpone this item so that the language can be prepared? Because we couldn't pass this on third reading with this. Since we couldn't pass it on third reading, the adoption of this would be tantamount to postponing this item.

>> No.

>> Well, I think that there could be two routes. One would be that suggestion that it's postponed until further language comes back, and then we'd start the discussion again.

>> Mayor Adler: What's the second one?

>> The second option would be to pass the ordinance as it was amended and being contemplated currently, and then in 30 days come back with the recommendations on language, and then have that language and then adopt that language into the -- what would then be the current language in the future.

>> Mayor Adler: And does that require three readings at that point, since it would be a new ordinance?

>> It will require going through the process, since it is part of the zoning requirements, yes.

>> Mayor Adler: Going back to the beginning again?

>> Right. But not for the entire, just for -- just for that portion.

>> Mayor Adler: What's your pleasure?

>> Tovo: My preference would be not to grant an entitlement and then have it become an opt in/opt out. I think that makes it more complicated.

[4:58:47 PM]

But my interest ultimately is in having an opt in/opt out process. If people feel more comfortable with making these tools available and then coming back and seeing opt in/opt out, the second path is not



terribly disagreeable. Again, my first option -- my first preference would be for staff, if there is support for this on the dais, for staff to go forward, come back and explain how the process will work, taking into account the concerns that councilmember Renteria mentioned, and using the example of the vertical mixed use as their guide, how they did that last time I think would be informative when it comes to areas when you have overlapping groups.

>> Mayor Adler: Should we take a vote to see if that interest exists on the dais? How would you like us to handle this?

>> Tovo: Well, let's proceed with the first -- let's consider my motion. To be a motion for the first option, which would be to postpone third reading pending construction of this -- of an ordinance that would allow for an opt in/opt out process.

>> Mayor Adler: There's been a motion to postpone. Is there a second. Mrs. Houston? Any discussion? Those in favor of postponing, please raise your hand. Same four votes as the other vote. Those opposed, please raise your hand, seven. Motion to postpone fails. Zimmerman Mr. Mayor, well, we've been on this a couple hours [lapse in audio]

>> Mayor Adler: I'm sorry? There's been a second to end debate. It takes two-thirds to end debate. Those in favor of ending debate please raise your hand.

>> Kitchen: Wait, can we have some discussion.

>> Mayor Adler: I don't think the motion to end debate is debatable. Sorry. But it takes a two-thirds vote to be able to end debate, which would require in this case eight people to end debate.

[5:00:54 PM]

Those in favor of ending debate, please raise your hand. Those opposed to ending debate please raise your hand. Motion to end debate fails. Is there additional discussion or amendment on this item? Mrs. Tovo.

>> Tovo: Same amendment but I'll combine the two. I handed out one regarding an appeal. This would be a direction to staff to return within 30 days with suggested process for an opt in/opt out as well as a mechanism for an individual property owner to launch an appeal.

>> Mayor Adler: You've heard the motion. Is there a second.

>> Kitchen: Second.

>> Mayor Adler: Mrs. Kitchen seconds. Any discussion? Mrs. Garza?

>> Garza: I guess I want to speak generally and then speak to this about my, I guess where I'm going with my vote on a lot of these amendments. You know, for me, this isn't -- this isn't the neighborhoods against urbanists, for me. I'm just talking about me personally how I'm trying to decide what to do in this case. This isn't an issue in my district. In fact, I -- to be frank, I think I've heard from one constituent, she's here, former mayor pro tem Jacky Goodman," and so when there's issues like this when we talk about ward politics, when there's issues like this, I -- I think this came up in maybe two questionnaires in my campaign, and I think I -- when I would answer questions like this, I would say I will listen to input, I will listen to all the stakeholders, and so that's what I do. I listen and I try to figure out what makes sense, what makes sense to me because at the end, if I haven't taken a firm position one way or the other, I feel like I was elected by folks who trusted me to make a sensible -- and I'm not saying otherwise, for me -- for me to make a decision based on the arguments in front of me. And as I've listened to this discussion, you know, the eight people that spoke earlier, I agreed with -- you know, I thought, yeah, you're right, yeah, you're right to all eight of them, because I agreed with what somebody said in every single one of those arguments.

[5:03:09 PM]

And so this -- the opt in/opt out, and I spoke to this earlier, when I try to think of the logical -- for me, what makes sense logically is if a majority of a neighborhood does not want adus, then the majority of the neighborhood won't build ads. So you don't have this -- what happens in some cases, a vocal minority speaking for a lot of people. And so when I hear opt in/opt out, I think, hey, it makes sense to me to not have opt in/opt out, and the way it will work out is if the majority of the neighborhood doesn't want it, then there won't be adus in the majority of that neighborhood.

[Applause]

>> Garza: So -- and this is -- and I'm just going to speak to the flooding, because I've been frankly a little bit offended when folks have sent me messages using what happened in my district to try to sway me, because that was a very devastating event that happened in one of the most flood-prone areas, the most dangerous areas, that very few neighborhoods are in similar situation. And I spoke up against something that councilmember Zimmerman did using that to make a point. I don't think that's appropriate to use what happened to those families in a very specific situation to make a point about why we shouldn't have ads, and the flooding, what happened on October 30th was unprecedented 14 inches of rain, extremely fast, that our city streets -- floodplain or not, are not engineered to be able to withstand that. That happened in almost every street, that happened in my street, it washed out a lot of the gravel in my driveway. I mean, so that's why I can't -- I can't support any opt in/opt out. I feel like if the majority of the neighborhood doesn't want adus, there will not be adus in the majority of that neighborhood.

[5:05:13 PM]

>> Mayor Adler: We're now going to take a vote on councilmember tovov's motion to have the staff --

>> Major, I just -- can -- mayor, can I make an amendment to the amendment?

>> Mayor Adler: You can.

[Lapse in audio]

>> You know, city regulation, because I don't know where that would be appropriate and where that wouldn't be appropriate, but I am interested in making an amendment that would strike that opt out option and allow a neighborhood to opt in, a neighborhood who wants to -- most of my district is sf 2. Most of -- a lot of my neighborhoods in my district do not want adus, or the organized -- the people who are organized in some of the neighborhoods do not want adus, but there are some neighborhoods in my district who don't have hoas, especially in the -- especially in the northern parts closer to rolling wood, I have -- rolling wood, I have heard from some people who would want to have an Adu on their property. I would be interested to see what options there are for a neighborhood who was an SP 2 who wanted to opt -- who wanted to opt in.

>> Mayor Adler: Is it your intent to hold up the rest of -- intent to hold up the rest of it while that happens.

>> Troxclair: No.

>> Mayor Adler: Let's vote on councilmember tovov's and then let you come back.

>> Troxclair: I thought we already voted on it.

>> Why don't we take her amendment now and see if councilmember tovov's --

>> Mayor Adler: Because she's amending it in two ways. She's amending it to say that the ordinance moves forward without interruption with application now, but to have the -- because fundamentally they're different. Councilmember tovov's would have it not go into place, have it not go into effect immediately.

[5:07:16 PM]

>> Kitchen: No, that's not what she's saying.  
>> Tovo: We've already voted that one down, mayor.  
>> Tovo: We're now on no. 2 which it goes forward and the city manager comes back to us with an opt in/opt out process and an appeal while the ordinance is in place.  
>> Mayor Adler: I misunderstood. So there's a moment to Mrs. Tovo's from Mrs. Troxclair that would strike the words "Opt out" so to only have this be the ability to develop an accessory dwelling unit opt-in process for the entire city including areas with no neighborhood plans, and also that there be an appeal mechanism for a property owner whose neighborhood votes to opt out but would still like to build one of these units.  
>> Houston: I don't want to speak for councilmember troxclair, but I think sf 2, she wanted to give them the ability to opt in. Is that what you said?  
>> Troxclair: Well, I want anybody neighborhood [lapse in audio] It's up to them, and that would allow -- that would still respect the ability of the sf 2 neighborhoods who oppose ads, the ordinance would still respect their ability to not have adus in their district. And I guess one other amendment then -- I don't know if my amendment is adopted, I think that it probably makes null the second amendment that mayor pro tem tovo offered because the second amendment only speaks to an appeals process for those neighborhoods who have opted out. And if I'm striking the ability to opt out while keeping the ability to opt in, I don't know that that would be necessary. So maybe we could just divide the question.  
>> Mayor Adler: Okay. That's why I was trying to pick them up separately.

[5:09:17 PM]

So there is -- so I'm going to treat it this way then: There's an amendment to Mrs. Tovo's -- to mayor pro tem's to strike the words "Opt out" and remove the appeal mechanism provision. So what is before us now would be making that change to mayor pro tem's, it strikes "Opt out" and it removes the appeal provision. Is there a second to that motion from Mrs. Troxclair?  
>> Let me second it for discussion purposes. I'm not sure what we're doing.  
>> Mayor Adler: Mr. Casar seconds the motion.  
>> Casar: So mayor, I'm supportive of the idea of letting sf 2 neighbors in places like southwest Austin be able to opt in, is all this motion does?  
>> Mayor Adler: That's all it does. Sf 2 or otherwise. It enable --  
>> Casar: This is only an opt-in process as councilmember troxclair --  
>> Mayor Adler: Do you want to limit it to sf 2, you're saying neighborhoods should be able to opt in?  
>> Troxclair: Yes.  
>> Mayor Adler: So it's Mrs. Troxclair's intent to allow neighborhoods to opt in with these kinds of units where they are not otherwise allowed.  
>> Troxclair: And this would just -- from what I understand, this would just say that the city manager brings back an option within 30 days.  
>> Mayor Adler: Treact.  
>> Troxclair: So we're not necessarily making that decision right now, we're talking about we want to see what that would look like if we wanted to do that.  
>> Mayor Adler: That's correct. Yes, Mrs. Pool?  
>> Pool: Doesn't this unralph the agreement that she made that we voted on previously to exclude sf 2 properties.  
>> Mayor Adler: It does to me.  
>> Pool: Then I cannot support -- I cannot support this, that very intricate negotiation that you had with councilmember Casar that I voted for is -- I am unwilling to see that unravel.

[5:11:27 PM]

>> Mayor Adler: Is there any further debate or discussion, Mrs. Gallo?

>> Gallo: Yeah, I think your first study of separating this question makes more sense. This has gotten really complicated and I'm not sure that I fully understand what we're doing. Could we consider separating and going back to --

>> Mayor Adler: Well, it's pretty simple.

>> Gallo: Okay.

>> Mayor Adler: Mayor pro tem tovo moved that the manager come back in 30 days with a plan to allow neighborhoods to either opt in or opt out and also an appeal mechanism for a property owner who's neighborhood opted out. That's the amendment. The amendment to the amendment says, I don't want people to be able to opt in or opt out. I only want them to be able to opt in. And since only people can opt in, there's no need for an appeal process. So that's what we're voting on, the ability to be able to opt in without the need for an appeal process. I'm going to vote against this myself because I kind of struck my -- my... Mrs. Troxclair?

>> Troxclair: Well, I guess I want to clarify, that I don't think that this over rides the deal that you made in your amendment, and I don't think that councilmember pool's understanding of it is accurate. If this amendment passes, the vast majority of my district, which is sf and I'm just speaking for my district and that's because I'm most familiar with. The vast majority of my district is sf 2, the vast majority of my district under what the mayor proposed would prohibit ads in those neighborhoods. If there was a neighborhood that said well, we are in the minority and we don't really mind having an Adu in our neighborhood and we're all going to agree to that, we want the ability to do that, the prohibition of adus on sf 2s.

[5:13:39 PM]

This just leaves it up to the neighborhood in case there is a neighborhood that wants to be a part of the regulations that we're passing here.

>> Mayor Adler: I understand. Mrs. Kitchen?

>> Kitchen: I think that in general, I'm okay with the idea of opting in; however, I would want that right to go to sf 3s also. So if we were going to do an opt in, which I think is what mayor pro tem tovo may be talking about, so if we were to do an amendment to allow people in the sf 2 areas neighborhoods to opt in, that would make sense to me, but only if we did that for sf 3 instead of requiring sf 3s to have it.

>> Casar: Mr. Mayor?

>> Mayor Adler: Mr. Casar?

>> Casar: I believe I can simplify this, there would be nobody -- none of them to opt in, because they are in.

>> Kitchen: Unless we change that, you know. That's what I'm saying.

>> Mayor Adler: But we haven't yet, which is why the sf 2 provides. Sf 3s are already in by virtue of the base motion. Mr. Casar?

>> Casar: And Mr. Mayor, I respect what it is we discussed, and of course here we have to get to the place where we have what our understanding of that is, which is that we did not actually take all sf 2 out of being able to have accessory dwelling units. We took out all sf 2 that had not opted in. There is sf 2 in Windsor park that I know very well because I rented right nearby where sf 2 has opted in and we did not remove those. So what councilmember troxclair is stating, I don't think really -- is something we can just direct staff to do, which is if anybody wants to opt in, they do. So I think it still stands that any sf 2 that has not opted in was removed from this, and now we're just saying if an sf 2 does want to opt in, they may.

>> Mayor Adler: I think for me probably with respect to the agreement that we reached, it was pretty simple and straightforward, and it was not something that you and I discussed.

[5:15:50 PM]

So it wasn't there. I'm going to vote against it because I think that if Mrs. Troxclair wants to move in that direction or other people do want to Michael move in that direction, there's nothing to stop that from being a subsequent or following act, but I -- but I -- you're right, you and I did not discuss it so I don't think that anybody here is bound by that. Mrs. Gallo?

>> Gallo: Could I just ask a question of staff? So there are obviously neighborhoods that have chosen already to opt in that are sf 2 neighborhoods. What's -- what is the mechanism that allows that? And is that still available, that mechanism still available for other naibls such -- neighborhoods such as councilmember troxclair's neighborhoods?

>> Opting in secondary partner, I don't know if we can bring up the map that has the red -- that one, yeah. That would allow the secondary apartment on lots less than 7,000, but at least 5750 in the sf1, 2, 3 districts, that was all done through a neighborhood

[inaudible]. The question was brought before them, the areas you see in red opted into that process. Those that are yellow opted out. And the one with an X, the question hasn't been finalized yet because it doesn't have a pending neighborhood plan.

>> Mayor Adler: I think the question is, there are some areas that have the vote right now, they can either opt in or opt out. Is there a procedure for the other areas -- I mean, are there areas in the city that there is no proa -- procedure for them to be able to opt in/opt out.

>> Beyond the areas in goal low, there is not one available for them. It only the areas that have a neighborhood plan that has been adopted.

[5:17:53 PM]

The only concern I might have with the amendment that might be suggested is that if you're asking staff to go back in all the neighborhood planning areas and raise this question again, I do not have the resources to go back to go to all those neighborhood planning areas and ask again if they want to opt in for the neighborhood planning tool at this time.

>> Tovo: And that is not what I think this amendment would contemplate.

>> Troxclair: I don't see anything in this amendment to put the burden on the city staff to go back out and do anything. I see if a neighborhood who doesn't have a Adu wants to do this, they would -- I'm asking for the stiff staff to come up with a disaish city staff to come up with a mechanism a petition or something that they could bring to the city that would allow them to opt in.

>> And that would not include the exhibiting neighborhood planning areas.

>> Troxclair: If they are --

>> Mayor Adler: Do the existing neighborhood planning areas have a mechanism to be able to opt in if they want to?

>> They didn't when we went through the planning process known as secondary apartment.

>> Mayor Adler: The question is now. A neighborhood that has gone through that process as a neighborhood plan, is there a mechanism for them to be able to opt in if they had previously opted out?

>> Yes, mayor, they could come back and ask for a plan amendment. But if I were to bring in the 50 or so neighborhoods, and if they were all asking to opt in again, I'm saying that would be a great burden on the resources of my department, and I don't feel I could do that in a timely manner.

>> Mayor Adler: The 30 days was not to do --

>> I understand. 30 days to come back with a recommendation on how to do that. It's actually very easy

for me to say within those neighborhood planning areas, there is a mechanism that we can go do that today.

[5:19:54 PM]

Outside of the neighborhood planning areas, I don't have one, I'd have to come back and think about how to do it. What I'm saying if you said to go ahead and do that in the neighborhood planning areas, I don't have the resources to do that in all the remaining neighborhood planning areas that have opted out, or that those who have opted in that want to get out, that would be the question that I think may be suggested by the motion.

>> Mayor?

>> Troxclair: Maybe I can just clarify it. Sounds to me those with the neighborhood plan already have a tool if they want to opt back in to do that. So it seems like it would simplify the motion to just apply to the areas without a neighborhood plan who, to me --

>> Mayor Adler: That would be an easier.

>> Troxclair: Who, to me, right now, do not have that ability.

>> Mayor Adler: That's correct. And those areas with the neighborhood plan can go through the process and make that request rather than trying to figure out how to do that all at once. So Mrs. Troxclair's 30 days for recommendations to a two-family residential use and secondary apartment opt-in process for areas of the city with no neighborhood plans. Is that right? Is that right? That'sp been moved. Is there a second to that? Mr. Casar seconds that. Further discussion? Mrs. Kitchen?

>> Kitchen: I just -- I have a question. So is it -- am I understanding correctly that this motion is limited to sf 2s, is that right?

>> Mayor Adler: Yes, because sf 3s are already allowed by this ordinance to opt in. By this ordinance change, it applies to all sf 3s larger than 5750.

>> Kitchen: Yeah, if we adopt this ordinance. So something that councilmember Casar said earlier, I wasn't sure if I understood it, did you mention something to the effect that in sf 2s they already have -- can opt in, did I hear that wrong?

[5:21:56 PM]

>> Casar: There are many sf 2s in neighborhood planning areas that have the council determined where they wanted to allow more accessory dwelling units, so those sf 2s already have adus on them.

>> Kitchen: Got you. So to point out, I think what we're doing to say for neighborhoods that are sf 2 they get a choice but neighborhoods with sf 3s don't, because that's essentially what we're saying here.

>> I as councilmember troxclair is saying, I think it's appropriate for a neighborhood to be able to choose that, but if we're going to do that, why would that be any different between sf 2 and sf 3?

>> Mayor Adler: Any further debate on this amendment from Mrs. Troxclair? Mrs. Garza?

>> Garza: I'm conflicted on this one, too, and I feel that the previous amendment that councilmember kitchen proposed that said that we're going to look at this later through the codenext, maybe that would be the more appropriate place because I feel what's already been discussed is kind of a compromise to all the issues. So I'm not going to support this because I feel like it's expanding what I thought was a compromise.

>> Mayor Adler: Any further discussion? Mrs. Tovo?

>> Tovo: Could you restate it also?

>> Mayor Adler: The motion from Mrs. Troxclair the within 30 days the staff will development recommendation for secondary apartment opt-in process

[lapse in audio]

>> And may, I think it's just the two-family residential. Two family residential.

[5:23:57 PM]

>> Mayor Adler: Two family residential use opt-in process for the areas of the city with no residential plans -- no neighborhood plans. It's been moved by Mrs. Troxclair. Seconded by Mr. Zimmerman. Any further debate? Those in favor of the amendment, please raise your hands. Houston, Zimmerman, troxclair, Gallo, Casar. Those opposed please raise your hands? So the balance of the dais loses 6 to 5. Any further amendments? We are now -- now we're back to Mrs. Tovo's amendment, which is to have the city manager develop a two-family residential use and secondary apartment opt in/opt out process for the entire city including an appeal mechanism for a property owner whose neighborhood opted out. Still have a two-family residential use and secondary apartment. Any further discussion? Those in favor of this amendment from mayor pro tem please raise your hand. It is kitchen, pool, Zimmerman, Houston and the mayor pro tem. Those opposed? Balance of the dais. It's defeated. Any further items before we take a vote on the -- Mr. Casar's motion? Those in favor of Mr. Casar's motion, please raise your hand.

>> As amended.

>> Mayor Adler: As amended. It is Zimmerman, troxclair, pool, me, Garza, Renteria, Gallo and Casar. Those opposed? It is kitchen, Houston and the mayor pro tem. Motion passes 8 to 3.

[Applause]

[5:26:00 PM]

We have -- we're not quite to 5:30 yet. We have some staff on several items, I wonder if we can move on some items and let staff go before dinner. Do we think we could... I'm sorry? On the committees I think is where we had staff beginning with item no. 74. That goes to the oversight committee. Is there a motion to approve item no. 74? Is staff here for this item? Why don't you come down and give us a 30-second introduction to what this is so everybody knows where we are.

>> Houston: And while they're coming down, mayor, did we pass in your amendment the short-term rental --

>> Mayor Adler: My amendment did not change.

>> Tovo: On second reading.

>> Mayor Adler: Mr. Renteria moves approval of no. 74. Is there a second to that? Mrs. Garza second's that. Is there a quick understanding that you can give us?

>> Yeah. The item is one that provides us power plant and chilled water plant services, so these are contractors that we use to do the heavy maintenance work that we use at our plants mainly during outages but mainly for repairs.

>> Mayor Adler: It's been moved and second.

[5:28:01 PM]

Mrs. Houston?

>> Houston: I was just going to ask, is this for -- we had a situation where one of our large users had a shutdown. Does that have anything to do with this --

>> No, councilmember, that was a different issue. That was in one of our substations and it was operations within the substation itself. This is actually at our power plants and chilled water plants.

>> Houston: Oka

>> Houston: Call the question.

>> Mayor Adler: Those in favor of item 74 please raise your hand?

>> Zimmerman: Mr. Mayor? I had a quick comment or very quick question. In the event -- I don't know if this is likely or not, but in the event that the Texas legislature or something happened to Austin energy where it was ordered to be broken up by the legislature, what happens to these kinds of assets? These are long-term income-producing assets. And I just have to ask the question. If I vote on this I'm making the presumption that Austin energy will be around for maybe 10 or 20 years because these are -- so is there any guidance you can give me on that?

>> So I think your question, councilmember, is if in the event that Austin energy would deregulate what would happen to these types of assets? The contracts themselves are of course subject to renewals, that you're not committing to any long-term activity with regard to these contracts. But in the event that there was a deregulation bill of some sort passed by the legislature for Austin energy, what happens to our power plants really would be a pretty -- an unknown outcome.

[5:30:11 PM]

We own them. If they're competitive in the marketplace then they'll continue to be competitive regardless of our status.

>> Zimmerman: It's probably something we can't answer right now, right?

>> No, not in a simple answer.

>> Mayor Adler: Those in favor of item 74, please raise your hand? Those opposed? It's unanimous on the dais. Mr. Zimmerman abstains. Item number 75 is --

>> Item number 75 is a contract for mottek north America and this is services that we utilize regularly primarily for underground utility services for constructing duct banks, repair of duct banks, assistance in construction within substations.

>> Okay. Any discussion on this item? Ms. Gallo? Ms. Gallo makes the motion to approve item 75, seconded by Mr. Renteria? Further discussion? Those in favor please raise your hand? Those opposed? It's unanimous on the dais. I think 76 was approved. We have 77. Are we going to move forward. Does anyone want to move forward with 77 at this time?

>> Tovo: No, thank you, mayor. Actually, I'm going to move that we postpone this item until December, dairy say it, 17th? 10th.

>> Mayor Adler: It's been moved to postpone this item to December 10th. Is there a second? Second. Those in favor of the postponement please raise your hand? Those opposed? The item is postponed. We're on a roll. 78 is a fee schedule ordinance. Staff is here to give us a 15-second or so introduction on this.

>> Kimberly neck Nealy, assistant director for parks and recreation.

[5:32:15 PM]

This is to approve an ordinance to amend the current 2015-2016 fee schedule to allow for city residents 80 years and older to use swimming pools at no charge. Simply put there's a charging season that's approximately three months per year instead of having to charge individuals who are 80 years and over one dollar to swim, we would charge them zero dollars to swim. The impact could be anywhere from 171,000 to 289,000, but when we think about how many 80-year-olds we possibly have in the city who would be swimming five times a week through that three-month period we're thinking it's more of an 18,000-dollar impact to our revenue, which we believe would be minimal because depending upon the year and how hot it is, that could be easily made up by other individuals participating in the swimming activities.

>> Mayor Adler: Ms. Pool, do you want to move this motion?

>> Pool: I will move passage of this. It was approved through committee.



>> Mayor Adler: Ms. Gallo seconds.

>> Troxclair: I have a question. Sorry. Why did we pick --

>> Garza: Why did we pick 80?

>> Because there's a historical precedent through resolutions and through an -- not an ordinance, but resolutions that were passed in the past where 85-year-olds at one time and then in the 1990's it was 80-year-olds were given an opportunity to apply for application to apply for and receive a life-time pass to Barton springs. And what happened was is one of those life-time passes came forward for consideration and it was thought by the council -- it was suggested by councilmembers that maybe once you're 80 years old you should just not have to go through an application process and be allowed to swim at no cost. And so the 80 was set -- is historical from two previous resolutions. First 85 I think in 1970's and then it was changed to 80 years old in 1994.

[5:34:16 PM]

>> Garza: Okay. The reason I ask that is because I'd be supportive of it going down to 75, but anyway -- okay.

>> Houston: I think just to clarify, the first time this came up you had to come to council to get approval to have the couple -- it was cookseys that were the first people we had on this council and it was an equity issue. Why should somebody have to get approval to -- come to council to get to swim for free when you're 80 years old. So I think to thank the parks and recreation department for taking this up and I thank you for your support.

>> Mayor Adler: Are we ready to vote on this, Mr. Zimmerman?

>> Zimmerman: I would like to speak briefly against this. I voted against this in the committee. Incredibly one of my 80 plus-year-old constituents somehow saw this come up. I was stunned that anybody was paying attention, but he made it a point to call me up. He says, you know, he says I'm over 80 years old. I don't think I deserve anything just because I got to be older than 80. He got me thinking about it. I thought the current policy we had made sense. It was somebody that had a personal interest, a personal stake, somebody that had contributed to the pool. So it was more of a personal reward. So just opening it up based on age to me takes away from the fact somebody is getting a recognition for their personal contributions. For that reason I'm voting against it? >>

>> Mayor Adler: I just love the thought of the headline around the country that says Austin financial collapse because of habitual 80-year-old swimmers? I just love that message. We have a flood of people coming here. And -- all right. We're going to vote on this item. It is item number 78. Those in favor please raise your hands? Those opposed? Mr. Zimmerman voting no. It is 10-1. Do we think the next one will be fast too?

[5:36:19 PM]

81 and 82 are eminent domain matters. Does anyone anticipate having an objection to those? If not we'll do those real fast? All right. We'll call then we have a speaker on 81 and 82. Is Julio Rodriguez here?

>> [Inaudible].

>> Mayor Adler: With respect to items -- let's see. 82 has ysidiro Rodriguez and Julio Rodriguez. With respect to items 81 and 82 being non-consent condemnation items is there any -- is there opposition that the city of Austin uses of power of eminent domain described in the agenda for the current uses described there in. Mr. Renteria moves. Is there a second? Ms. Garza? Paragraphs. The problem here, I guess for Ms. Rizer, is that we can't clear title, is that correct? That we're having to do eminent domain because we're having a problem for the seller to clear title?

>> Councilmember, one of the items it is because of clearing title and the second one is about money, where we have not been able to agree on the dollar amount.

>> Garza: Okay. Is anybody still living in that home?

>> Yes, ma'am. And the second one.

>> Garza: Okay.

>> Mayor Adler: There were, by the way, no speakers that signed up against this. The speakers that signed up were neutral. Those in favor of approving 81 and 82 please raise your hand?

>> Garza: Can we divide that question in.

>> Mayor Adler: Those in favor of 81?

>> Garza: Can I have clarification of the one we're doing clear title?

[5:38:20 PM]

>> Mayor Adler: 81 is clearing title, is that correct? 81, please raise your hand, approval? It's everyone on the dais. Mr. Zimmerman abstaining. Number 82, those in favor of 82 please raise your hand? Those opposed? Mr. Zimmerman is abstaining. The rest voting aye. That's 81, 82. We're done? Okay. We're going to stop for live music now. We will be back at we said 7:00, I think. Before we break, before we break, Ms. Pool, I recognize you.

>> Pool: Thanks, mayor. With all the conversation on 80 and all the amendments on amendments on amendments, I raised my hand at a time when I shouldn't have and I meant to vote against the base motion so that the 8-3 should have been 7-4. For some reason I thought we were voting on the amendment that you had brought, mayor.

>> Mayor Adler: Okay. Let's do this so that the record can be -- let's do this so that the record can be corrected.

>> Zimmerman: Motion to reconsider.

>> Mayor Adler: Mr. Zimmerman motions to reconsider the vote on number 80. Is there a second to that? Mr. Renteria? Any objections in favor of -- those in favor of reconsidering? Those opposed we'll take a vote on 80 as amended? Please raise your hand? Those opposed? It is the 7-4 vote now, same vote as before except mayor pro tem, Ms. Kitchen and Ms. Pool voting no. We'll do live music now and proclamations.

[5:45:48 PM]

>> Mayor Adler: Having just gone through the accessory dwelling unit discussion we have earned music today and this is my favorite part of city council meetings. I want to introduce to everybody list I can't Alani, midwest born, Texas raised soul singer. She is quickly becoming a force would be reckoned with. Alesia spent much of her childhood in Texas with her mother and brother and started singing and writing other own songs at the eight of eight. By 16 Alesia was featured with some of Texas' most notable rap artists and performing at south by southwest festival. Her debut album first impression was released earlier this year and has garnered much fanfare as she continues to firmly establish herself as a rising star in R and B music. Her honors include winning best new artist, best a and B music awards at the 2015 Austin hip hop awards. And the campus on this young starlet is trending up, and Alesia shows no signs of slowing. Please help me welcome Alesia Lani.

[Applause].

[5:48:15 PM]

[Singing]. >>

[5:52:29 PM]

>> Mayor Adler: That was wonderful. Thank you. So if people are listening and they want to find out more about you, do you have a website? Or.

>> I do. It's Alesia Lani music.com. It's spelled a little different, Alesia Lani music.com.

>> Mayor Adler: And if people wanted to get some of your music how would they best do?

>> You can search my name, you can get on spotify, iTunes, [indiscernible]. You can find me.

>> Mayor Adler: If someone wanted to come listen to you play where's your next gig in town?

>> Actually, my next gig I am booked for tonight in celebration of this day. Thank you again for letting me have my own day. This is beyond

[indiscernible] For a couple of years now. I'm excited so tonight I'm throwing a benefit concert and we'll have a bunch of musicians coming out and singing and we're collecting donations for safe place.

>> Mayor Adler: Where would that be?

>> That would be downtown on sixth street.

>> Mayor Adler: Great. I have a proclamation. Let me read that, please. Be it known that whereas the city of Austin, Texas is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our music scene thrives because Austin audiences support good music produced by legends, our local favorites and newcomers alike. And whereas we are pleased to showcase and support our local artists, now therefore I, Steve Adler, mayor of the live music capitol, do here by proclaim November 19th of the year 2015 as Alesia Lani day. Congratulations.

[Applause].

[5:55:50 PM]

>> Pool: Kalpana, I'm so glad you're here. Today we've got something special for you. I'm Leslie pool, district 7 and I'm going to read the proclamation recognizing our city of Austin staffer kalpana sutaria. And here's the proclamation. Be it known that whereas kalpana sutaria is a project management supervisor in the city of Austin's public works department and is a nationally recognized leader in the area of sustainability practices. And whereas she has been instrumental in the delivery of many high quality facilities that benefit the community, including the mexican-american cultural center, the Austin asian-american resource center and the African-American heritage center. Several recreation and public safety facilities as well as the Austin animal center in which she went above and beyond the call of duty by organizing and leading meetings with community stakeholders and ultimately delivering a successful Leed gold certified and industry leading animal center. And whereas his sutaria has been a leader in the city's sustainability initiatives, including preparing the annual sustainability report and leading public works efforts to adopt and promote environmentally responsible design and construction methods and her efforts recently earned the prestigious international leadership in sustainability award from the American public works association -- wow. Now therefore I, Leslie pool, on behalf of Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November 19, 2015 as kalpana sutaria day.

Congratulations.

[Applause].

[5:57:59 PM]

>> So tomorrow I am finishing 26 years with the city and I just wanted to say that I have worked with so many people in all these years, and sustainability -- building sustainability with sustainable buildings requires big teams, really teamwork, and I have been very pleased to work with not just the design

teams, the contractors, but we had full support of the city management starting from 26 years ago, and then the resolution that was passed in 2007, and that really provided a lot of opportunities for people like me and my colleagues to do sustainable building. So I'm very thankful and very pleased to get this honor. Just like Alesia said it's beyond belief for me. Thank you.

[Applause].

>> Pool: We're lucky to have your services. Do you have people who would like to be in the picture with you and the mayor as well? >>

[6:00:31 PM]

>> Tovo: Good evening, it's my privilege to offer the following certificate of congratulations to Kevin thee 17 of the Austin water utility and his colleagues. Our water quality protection program as many of you may know, has protected more than 25% of the recharge zone of springs segment of the -- of the Barton springs segment of the Edward's aquifer. They have done there through careful planning and acquisition and really great stewardship of our lands. These lands, the water quality protection lands constitute some of Austin's last wild places and the management strategies that they use to protect water quality impact some of our most sacred places like Barton springs and impact them of course positively. I am pleased to announce in October of this year the society for range management for the first time ever recognized a municipality. Typically they give awards to private landowners. This was the first time in their history they recognized the work of a municipality and they conferred on them the outstanding rangeland -- outstanding rangeland management award. And so that's the basis for the certificate of congratulations, which I'll read now. Certificate of congratulations, for exemplary commitment to conserving Austin's unique and precious natural heritage, the water quality protection land division of Austin water utility is deserving of public acclaim and recognition. The water quality protection land division was awarded the outstanding rangeland management award by the Texas section of the society for range management. This certificate is issued in acknowledgment and gratitude for achievement if 19th day of November in the year 2015 and it's signed by mayor Steve Adler. I'd like to welcome Kevin thee 17 up to say a few words about the award, about the work that his division does and again, please join me in extending our sincere congratulations on the great work they do on behalf of our city.

[6:02:40 PM]

[Applause].

>> I'm Kevin Thuesen and I've been doing this job for 13 years and I'm one of the few people doing the exact thing they want to be doing with their life. Winning this award was really fantastic. It comes from a group that really recognizes private stewardship, landowners who have spent their entire lives and sometimes many generations on the same property. That sort of dedication yields the conservation results that is worthy of this sort of award. That means you work really hard, you get up early, you go to bed late, you do what's best for the land and I can say all these people behind me, these men and women behind me do that. They do the getting up early, they do the staying up late. They do the projects that people say are hard or maybe they're even impossible to do and they do that everyday. And I hope they enjoy the work as much as I do and it was really wonderful to be recognized by this group. Thank you very much.

[Applause].

[6:05:00 PM]

>> Good evening. My name is or rho Houston and I represent district 1 and I'm so proud to have in district 1 the center for maximum potential building systems. And here tonight we have pliny Fisk, who is the founder of the center, and his co-director Gail vittori is not here, she's in Washington, D.C. And he'll tell you a little bit more about that. Be it known that whereas the center for maximum potential building systems was established in Austin, Texas in 1975. Its original purposes were to restore, conserve and promote responsible use of the Earth's and Texas environmental and natural resources. And whereas the Austin green builder program for which the center had the conceptual framework in 1989 in partnership with the city of Austin has inspired scores of green building programs in cities, states and countries around the world and whereas the center has contributed to making Austin a global leader in green building through its collaboration in developments. And the Ronald McDonald house of central Texas, the only Leed platinum certified nonresidential building in Austin. Now therefore, Steve Adler, mayor of the city of Austin, Texas, pro claims November 19th, 2015 as center for maximum potential building systems day in Austin.

[6:07:13 PM]

And here to accept this proclamation is Mr. Fisk.

[Applause].

>> So this is very special. If it weren't for Austin we probably would never have been able to pull this off. So in 1975 when we started, this was a very, very new topic. The word sustainability practically did not exist. So we were causing potential around the country and Austin was brave enough to have us cause equal trouble and commotion here and the first green building program in the world, I don't know whether people realize it, that was the only Earth summit award given in Rio in '92 to the country. So that began to say that Austin was a green building Mecca potentially and now it is because now there are 10,000 homes that have been certified and 600 some-odd businesses and commercial structures and so on, but the most important thing is that this whole thing has become viral. So if you think that the music industry in Austin has been viral nationally, you ought to see what has happened to the green building movement because not only did everybody become very jealous that Austin was doing this in Texas, but Ann Richards said we can do that on the state level so Austin precipitated at least 30 other cities to do the same. Ann Richards precipitated believe it or not 11 other states and then it went national related to Leed and international related to the gbci and various things like that. So Gail vittori is not only my partner, but she's my wife, so I don't know whether this is sustainable or not, but where we work and where we live, that's sustainable, but we also had all our children right there within 20 feet of where we work.

[6:09:13 PM]

Is that sustainable? I think that's pretty good. So they grew up doing these kinds of things and they're now doing extraordinary things themselves. One son is actually doing -- breaking code of various fire walls around the world including China and Syria and various places, so this virus has affected the kids so he has millions of dollars of used money to change the world and throughout the U.S. Gail wishes she was here, because she just won a national award, the Henley award, the most prestigious award in the sustainability movement, she won two nights ago. Thank you very much.

[Applause].

>> Mayor Adler: I have a proclamation and an honor both.

[6:11:16 PM]

Be it known that whereas D.C. Bloom is recognized by his fellow musicians and critics for his excellence as an outstanding Austin song writer and musician. And whereas D.C. Bloom has also promoted the Austin music scene through his work as a journalist in helping to further the careers of his fellow musicians in the city of Austin as well as across the miles and miles of Texas. Where as D.C. Bloom has been honored by the Austin song writers group for his uniquely original compositions some kind of nasty coming down, and oh wow wow. And whereas D.C. Bloom has confronted and overcome numerous health issues in the past five years that would have felled a lesser human being or singer song writer and has always returned to Austin's musical stages with a smile on his face and songs of joy in his heart. Now therefore I, Steve Adler, mayor of the city of Austin, Texas do here by proclaim November 19 of the year 2015 as D.C. Bloom day. Congratulations. Do you want to say something? Please.

>> Thank you, mayor. That was great. I'm one of those singer/song writers here in Austin who came for the music and have stayed because I've made such great friends and there's such a welcoming sense of community and support for those of us who make art and I really appreciate all that goes into creating that environment here in the city. I also just want to tell the mayor that I'm probably your newest constituent. Just today, D.C. Bloom day, bought a house in Austin, so I'm a new homeowner. [Applause]. I'm really excited about that.

[6:13:17 PM]

And finally, I just wanted to give the mayor D.C. Bloom t-shirt because believe when someone gives you a proclamation you give them something back. So here's an oh wow wow t-shirt. I appreciate it.

>> Mayor Adler: That's pretty cool.

[Applause]. >>

[7:06:19 PM]

>> Mayor Adler: I think we have a quorum, so we're going to go ahead and start. 34/35 have to wait till 95. What about 55? Mr. Zimmerman -- he was here a second ago.

>> He is here.

>> Mayor Adler: I lost him real fast. We have to wait for don. He pulled this one. Sorry. Here he is. You tricked me there. So this is 55. This is the consumer advocate service for Austin energy. Can you give us a 15-second -- where we are on this, what's the deal?

>> Good evening, councilmembers. This is the consumer advocate for the upcoming Austin energy cost of service study as required by 2012 council ordinance and subject resolution. The consumer advocate is responsible for representing the interests of residential consumers, all 400,000 of them, commercial -- small commercial consumers and houses of worship.

>> Mayor Adler: Okay. Mr. Zimmerman, you pulled this. Mr. Casar, I think you pulled it as well.

>> Zimmerman: I did, Mr. Mayor. And the general concern is -- I think why my constituents are kind of confused and I'm a little bit confused on this is I thought the city council was the advocate for, you know, our user community.

>> I think, councilmember, that it's common, both in Texas and across the country, for -- in proceedings and studies, to bring in an outside advocate, typically for residential consumers because they as a group do not always have the resources and the organization to participate in this type of study, whereas industrial and commercial customers have greater resources and organization to do this.

[7:08:20 PM]

So it's not uncommon, and it was required that we -- that we adopt and identify a consumer advocate in

the 2012 ordinance, and in a subsequent resolution.

>> Zimmerman: Independent, does that mean it's got to be independent from Austin energy or --

>> By independent, we anticipate that the consumer advocate will be independent from Austin energy. We did have one member on the selection panel. The other members of the selection panel were from across the city, city finance, city legal, community housing, and the sustainability office, and the contract will be managed out of the city manager's office.

>> Zimmerman: Okay. I guess the amount, we're talking 200 -- it's \$200,000. Right?

>> Yes, sir.

>> Zimmerman: And the firm, if I read this there's two phases here, and it looks like -- the work that we're paying for 200,000 really is just -- it's several months, isn't it?

>> We anticipate that the cost of service study will conclude around the middle of the summer and --

>> Zimmerman: Six months or so, six or seven months for 200,000. Okay.

>> Casar: Mr. Mayor?

>> Mayor Adler: Yes, Mr. Casar.

>> Casar: I pulled this not just because some folks brought it up, but also the Austin utility commission had some concerns with it, and I know how important this cost of service study will be and how -- and how the houses of worship and consumers will be affected. It really is sort of an important sticking point, during the last cost of service study, so I see this is a really important item and I was hoping that it would be something we could easily approve because folks have very excited about who we're getting. It sounded like from my very brief review of the euc meeting, some folks have concerns.

[7:10:22 PM]

I understand Austin energy is recommending this person, but could you summarize sort of what the key questions were, and if at this point you've answered some of those questions and --

>> Sure. In developing the solicitation package, we look for guidance in two places, one from the council resolution -- resolutions, so we included in the minimum qualifications in the solicitation package, the language coming out of the package, then we look to state law where the state office of public utility council plays this same role in proceedings before the public utility commission, so we put requirements of the public utility council into the solicitation. As I mentioned, we received responses back. We had a review panel that was not dominated by Austin energy. In the end, we only received two responses, even though we sent out, as you know, typically 900 solicitations to registered companies with the city, and the -- the criteria for carrying out this responsibility really had two primary components. The first is the capability to dig in to the cost, the cost of service, understand rates, and rate-making, and I think it is clear that this firm has a strong record in financial analysis. And I don't think there's any question about that. The second issue is the consumer advocacy role, and I think there were greater questions at the electric utility commission about this issue. The firm does not have an Austin presence, so they were not scored the 10 points they may have been scored for having an Austin presence, and I think that we would have -- that some people would have expected a local Austin firm to respond.

>> I would note that the principal in the response is the former executive director of a state public utility commission, and in the response that was reviewed by the panel, was able to demonstrate deep knowledge in rate-making, and a lot of experience protecting consumers and customers in the state of Connecticut where the gentleman was the director -- the executive director of the state public utility commission.

[7:12:53 PM]

And so the panel did judge that they had the qualifications, both on financial analysis and on consumer

representation, as noted by the public utility -- by the electric utility commission on Monday, they did not have a local presence or name recognition among the folks who participate before and on the electric utility commission.

>> Casar: And I certainly wouldn't want to award a contract just based on name recognition, but I was hearing a lot of questions about how much residential advocacy experience this firm has, and it sounds like they've got some in the state of Connecticut, but there are two people responding to this, then the person responding, whether they have experience doing what, exactly what it is we're asking them to do, and extensive experience in that seems important. So I'm just having a little bit -- I want this person to be, you know, a phenomenal force, and I would hope that they are, but at the same time getting two responses and then having all these questions about whether they have the experience we need for what we're about to get into, it makes it hard for me to want to move forward hastily with it.

>> Right.

>> Casar: I understand the cost of service study is starting soon B, but what is the sort of timeline if we were to slow down, maybe some of us on council sign ndas and review what it is that was put out, how much time do we have?

>> The timeline is challenging. We have designed the cost of service study so that you'll have the opportunity to make a decision by midsummer. That would allow the decision to be included in the budget process and for rates to be implemented with the next fiscal year. In order to accommodate that schedule, we anticipate that we will go to the electric utility commission on December 14th with our initial briefing and to council work session on December 15th with our initial briefing for the council, and then at the January utility oversight committee, we'll have the full briefing, and then the council will send the cost of service study to the Marshall

[7:15:11 PM]

-- to the impartial hearing examiner to begin that phase of the process. We're on a very tight timeline, and for example, if we were required to resolicit, which around the holidays, probably 12 to 16-week process, I think that would put your decision-making somewhere around the end of October, instead of midsummer. That would take you out of the budget cycle. And so that would be a consequence as far as the schedule. Given that there's -- I think the next council meeting is on the 10th of December, we would like to have the consumer advocate, if possible, on board in December so that we can begin working with them to understand our cost of service and have them participate on December 14th before the electric utility commission and December 15th in front of the council.

>> Casar: So if we were to wait until December 10th to approve this, it would put you guys perhaps five, six, seven days behind.

>> I think it would be difficult to enter a contract, begin working with the consumer advocate, and have them on board for those meetings. And I think you would find it valuable to be able to have the consumer advocate there and be able to give them a sense of what you're looking for as they begin this work.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Thank you, mayor. You know, when I was looking at this contract, I was -- I wasn't [inaudible], but it really concerns me when I see only one company bidding and no one else, and then being in New York, you know, they do their electricity and set their rates totally different from Texas, where we're a unique -- in the country, we have our own little electric company, but the thing is that, still, I'm really concerned whether this company in New York, you know, that can actually come into Texas, into Austin, and look at these rates, are they -- do they have someone that knows about how we sell electric here in Texas?



[7:17:26 PM]

>> If I could just step back for one second, I'd like point out that we -- we issued a solicitation this summer, we received two responses. We were concerned that we'd like to see a deeper pool of respondents, so we cancelled that solicitation and went out as staff and kind of beat the bushes on other folks that we know who would be qualified, who might not have been aware of the solicitation to try and drum up more local interest. And following that, we issued a send solicitation, and we got the same two exact responses, and no one else responded. So as staff, we have the responses before us that responded to the solicitation. I would say on the second part of your question, the review panel did review the proposal of the proposed provider and found them adequate and found, in fact, they're very experienced in the financial analysis part of the rate-making process, so I think they were confident that they could come to Texas, understand the Texas market, understand our rate-making process.

>> Renteria: What's concerning me also is that here we have a university here, you tell, that, UT, that should have a lot of these specialists and professors that I'm surprised we weren't able to get one of those departments to bid on -- or did we ever try to ask the universities if they could help?

>> I do not know specifically if we reached out to the university. We have a better list shorthand some 900 entities received a copy of the solicitation. We kind of beat the bushes to try to identify other individuals to make proposals on this solicitation, so I personally spoke to two former public councils of the state of Texas, and by spoke to the former consumer directors at the state public utility commission, and I spoke to several former administrative law judges of the state of Texas, and a number of law firms, and asked them if they would be interested and asked them to spread the word.

[7:19:41 PM]

But, again, in the end, we received only these two proposals.

>> Gallo: You know, it looks like that there were almost a thousand notices sent out with just less respondents than we would like to come back, but I am concerned about us doing something that would delay our timeline and cause some negative effects and consequences to us as we go through this process. So I think my suggestion would be that we move forward with this. But I think what I'm hearing is maybe before we do this again, for the next time, that we would look at the process and what we're asking of this bidder and there perhaps could be some other way of structuring it so that we would have the opportunity to have morbid bidders more bidders come in. But I think for this cycle, what I'm hearing, we need to move forward on this or we're going to impact our ability as we get into next year.

>> And okay given the discussion Monday at the electric utility commission and the discussion tonight, we'll share what we've heard with the vendor, and you will have an opportunity, I would hope on the 15th of December, to have initial contact with the vendor. And it's also part of their role to be in contact with all the local consumer interests, so they'll have that execution well.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I had a couple questions, and I guess I share some of the concerns that were raised. Our utility commission voted against approval of this --

>> Yes, they did.

>> Tovo: -- Contract, on a pretty decisive vote, 3-7 -- 7-3-1. I think back to the rate case we had, and the interest in having a consumer advocate had a lot to do with making sure that residential customers and advocates for residential customers felt like they had confidence in the process, and I would say it really concerns me when we have a recommendation from the electric utility commission that this is not a firm that they feel has adequate experience representing residential customers, and I've gotten a couple e-mails to that effect as well from people I really trust, who were involved last time in the rate case, on behalf of residential customers.

[7:22:08 PM]

Just reading a little bit of -- I think we all got an e-mail from Lynnetta Cooper who looked at Oxford advisors and saw they have primarily, as Dreyfuss -- I don't want to characterize what you said, but she said they tend to be utilities, not residential and small business customers, and that concerns me. I think we need our residential customers to feel they are being adequately represented in this process. So I have a couple questions and I guess the first is, one of the things that happened with the rate case last time is that the recommendation that's came forward through our public involvement process and recommended by Austin Energy were of such concern to so many people that we then spent months really looking at them and having eleven extra work sessions whatnot, and that gave us off schedule. I don't remember how off schedule that through us, when the recommendations that came forward were of such concern to so many different rate payers.

>> I remember it well, and Austin -- the process at the electric utility commission, which in this case is going to be a process before the independent hearing examiner instead of the electric utility commission, in that case, ended around January. In late January you received the recommendations of the electric utility commission. We had two or three work session discussions, and at the conclusion of those work sessions, you had a resolution to set the agenda for the 12 work sessions.

>> Tovo: As I recall, we did it late fall or sometime in the fall, is when we finally approved the rates.

>> The rates were approved on June 7th of 2012, at about 11:30 P.M.

>> Tovo: Not that anybody is following it that close.

[7:24:08 PM]

But anyway, I guess I would say that I think this is -- I think it would be tough to start our rate case on a negative foot with a consumer advocate that people don't have confidence in. And so I appreciate that you've gone back and done another solicitation and tried to make sure that the pool is as broad as possible. I guess I would feel more comfortable if we either did that a third time or looked at other options. The city manager was able to hire a consumer advocate last time, middle -- really late in the process, and so I don't know if that's how we were -- how we were able to go through that kind of a process because it came in under the city manager's administrative approval, and this is going to be a longer period and a bigger expenditure. Is that why --

>> My recollection is that somewhat late in the process, we received the direction to bring in a consumer advocate, and I recall that earlier in the process we'd had a residential advisor who advised Austin Energy, but whose role was different because they were an advisor for us; that council gave us the direction to bring in an outside consumer advocate, and the consumer advocate was hired not through solicitation pros but through a professional services agreement which the individual was brought in through a consumer advocate, interviewed by the city manager's office, but I will tell you my recollection of that is, in the end, you know, my recollection is that there was some discomfort with the outcome of the process. And so as we set off to acquire a consumer advocate in this case, the Austin Energy staff thought it was very important that we use the process that's available to us to have a solicitation that -- that set minimum standards for our expectations for the consumer advocate, and that was transparent, given process that is available to us under state and local law and policy, and was fair, and had -- was free from conflict of interest.

[7:26:18 PM]

So that's what we attempted to do. But this is the result that in both solicitations, we received these two

alternatives.

>> Tovo: I appreciate that intent, bringing a different kind of process to solicit interested parties. Is it available -- is the other process available to you, given line of scrimmage and interest in getting somebody on board, would it be possible for you to secure a consumer advisor, consumer advocate, through the professional services contract?

>> I think that is probably best a question for purchasing --

>> Tovo: Okay.

>> Or for legal, but even if we were to move forward with that, I think we're still faced with how do we select who that individual is, or that firm is, and have we had a fair process with all options to participate, and as I said, we moved in a different direction.

>> Tovo: Sure. And I guess I want to just call attention to -- I think this was again in the letter from Lynnetta Cooper. She listed some firms that she would suggest be included. I think you did send solicitations to -- I think you went back through the list and saw that you had sent solicitations to a couple of them on that list, but there are some on that list who I don't think received a solicitation and might be interested in applying.

>> So the list that I saw from Ms. Cooper, one of the members directly received the solicitation. A second may not have directly received the solicitation, but a firm that he's associated with did, so he was an original submitter on the first round. A third member, we had contracted with in 2012, but then he had to step down. A fourth member was the individual that we contracted with following that, and a fifth member was someone that we had attempted to recruit to participate with us in auto our cost of study in 2012, who declined to want to work with us at that time, so some of the members of the list we have experience with; there are some other names on the list that we don't.

[7:28:27 PM]

>> Tovo: Okay. Thank you. I guess I was wondering, if we were to provide direction to take a little bit more time, you know, send out a solicitation again, see if -- specifically to some of the firms that have been recommended, and see if any additional bids were coming in, you know, I just wanted to get a sense of how many on that list might be interested, of folks who really had direct experience representing consumers, residential rate payers, I should say.

>> Again, if that is the council's direction, we will do that, but we're very cognizant of the schedule. We are driving the Austin energy staff to be prepared so that you can be complete by midsummer, and we don't -- we're not dug we're not discussing rates in the fall.

>> Tovo: I appreciate that. I think having a calendar is important, but it's also important that we do it well and do it right and not have the kind of situation we had last time. So thank you for balancing those concerns.

>> Mayor Adler: Ms. Pool.

>> Pool: Thank you. I just wanted to weigh in a little bit on how important I think it is to have somebody with experience working on the rate cases on behalf of residents and small business, and I want to make sure that the people that we are giving our attention to and who are going to do this work for us have those credentials. I know that Lynnetta has had some concerns about how the process had played out in the past, and I think that advocates and stakeholders like her should have an opportunity to weigh in on the selection process of the -- of the consumer group. And I'd like to see a process that builds that in. And this is what we do, this kind of public process, we did it with the Austin energy general manager previously, and we will be doing that again, I think. The city manager, the police chief, the police monitor, animal center director, it was all a very public and open process, and I would anticipate that the community would respond to that very well, and I think we can do no less, given the fact that this consumer advocate is exactly that, a consumer advocate, and that would be the consumers of -- of the

city of Austin.

[7:30:46 PM]

>> Mayor Adler: Is there -- there's an Austin energy meeting on December 3rd.

>> Yes.

>> Mayor Adler: That would be almost two weeks before this advocate would come back. Is there any beneficial use to be made of the time between now and then to run traps to see if anything would be different if you did this a third time, but still leave is where we can keep to the schedule?

>> I think I would like to confer with purchasing about that. It seems to me that -- that between now and the 3rd, if we were to continue to vet the current solicitation, would there be an opportunity for the potential vendor to -- I don't know.

>> Well, Yolanda Miller, deputy purchasing officer. I think what I heard you say was to do it a third time.

>> Mayor Adler: My question was, if you had until December 3rd, is there anything you could learn between now and then that would indicate to you that if you did it a third time, it would be any different?

>> We could always go back and try to do some review, but I don't know if it would be different a third time because of the open process we did this time. We advertised it twice.

>> Mayor Adler: There was some question -- I know you advertised it -- there was some suggestion that maybe there were some people that -- that could have been reached out to that hadn't been reached out to, was my sense. If you reached out to them and said, if we did this, would you want to bid, and they all said no, then that would indicate to us if you did it a third time, it wouldn't be any different. If you reached out to them and they all said yes, then we would at least know whether to do the delay because it's going to result in more people, as opposed to doing the delay only to do it yet a third time and be in the same place.

[7:33:00 PM]

I'm trying to figure out if we took the Austin merge meeting and appended a city council meeting to the same day, on this same item, whether you would have -- if you used that intervening period of time, if you'd learn anything that would be helpful and still be able to make the deal on the 15th if that's how --

>> One of the challenges we might have is the message we might send the people or the company that did bid in the process for this one. They could, you know, rescind their offer if they felt that we were looking for someone else. So that is a challenge we could have if we go back and start beating the bushes again. Also, the solicitation has closed, so if we sent the message that we were still trying to go out and look for additional people to submit offers, you know, it would mean that, of course, we'd have to close this one and go out. And then, the people who are actually -- we are talking with, might not submit an offer even after we opened it back up. So, you know, it would -- you just never know, and the time is short. So, you know, we could always close the solicitation and then go out and do another one, but again, it would take time because we typically have it on the street for about a month, and then we also advertise twice. So there would be some challenges.

>> Mayor Adler: Mr. Casar.

>> Casar: And I think one other benefit of having it on the 3rd may very well be that this vendor actually has all the experience that we want and as the right vendor, it's just hard when the euV votes on Monday so decisively that they had such questions, to turn around to make this decision today on something that we know is going to be so important to us in the coming months.

[7:35:05 PM]

And so if we have the potential for moving forward on the 3rd, and we could potentially learn some things about what other vendors think, but then also in particular about this vendor, that may also be helpful.

>> Pool: Mayor?

>> Mayor Adler: Ms. Pool.

>> Pool: I'd like to know if on the list of the companies you contacted, if any of those companies had a track record of working with residential and small business, and were the elements of the rfp broad enough or specific enough to include that as a criteria for the application. Because that's really what we're talking about. We need someone who has background in residential and small business, and there's a sense in the community that oxford associates does not, in fact, have that; they've worked primarily with commercial. So what I would say is, even if we delay the 3rd, may be who we need isn't on that list, and maybe we have to go back to the drawing board and look at the criteria listed in the rfp and be more intentional about who it's sent out to. That would be my suggestion, that in fact, we go back to the drawing board, unless you can show me that the criteria included to say elements, and, in fact, there is nobody out there who wants to respond to it.

>> And I cannot commit that we went to every one that we were soliciting and told them all the information that you just mentioned. I'd have to talk to Austin energy and what was in the scope of work. However, usually, when purchasing goes out, we do not -- we try to give them as much information as possible, but I'm not sure if we gave them the information you just asked about.

>> I would note that the scope of work is very clear as to the requirements for the potential vendor, both in terms of analysis and experience with consumer and business issues, and the vendor demonstrated in their response that they met those qualifications through their extensive experience working in the Connecticut public utility commission and consumer protection and the review panel did deem that their response was worthy.

[7:37:18 PM]

>> Pool: So you are saying that the specific criteria of working with residential and small business customers was included in the scope of work and that this bidder specifically delineated experience to that end, and you could show us that?

>> Councilmember, I was not personally on the review panel, but the Austin energy project manager is here and he could come up and speak to that specifically.

>> Pool: Because I think that's the sticking point here. We want to make sure that if we hire this particular firm, that they actually have the background and the experience at the level that our rate payers deserve to have in this really key position.

>> Okay. So I'll introduce Barksdale English who is the project manager of the staff level on the cost of service study and was the lead on the review panel for this solicitation.

>> Good evening, Ms. Pool. Yes, the scope of work did include a very specific requirement that the proposers demonstrate that they have experience representing residential and small commercial customers. That was language that we took directly from a resolution that council passed back in November of last year. And the proposer was able to demonstrate that they were able to meet that requirement, both in an independent review by the purchasing office before they did the -- deemed the proposal qualified, and then the evaluation panel then take a look at it and looked at their specific experience and found that it was sufficient.

>> Pool: Was being a consumer advocate one of those specific elements of the scope of work?

>> Let me just pull up the scope here so I can --

>> Pool: Sure. Thank you.

>> So the resolution that council passed indicated that they had to have previous experience representing residential customers and local, state, or federal rate-making proceedings, including experience filing written reports or providing written testimony to, or in-person presentations or oral testimony before a regulatory agencies.

[7:39:28 PM]

And so the direction that we received from council over the last three years was to hire a consumer advocate that can represent the entire group, and not necessarily to go find a low income advocate or find a solar advocate or find an advocate to represent the outside city customers, not those more marrow segments, which are very important and voices that need to be at the table, but council asked us to find a consumer advocate to represent all 400,000 of our residential customers be and 20,000 small commercial customers as well. So there's a great opportunity for the low income and solar advocates and outside city advocates to participate and have their voices heard at the table throughout the debate, and that's what this process before the impartial hearing examiner is meant to do, to provide a venue for all those interested parties to come represent and talk about the issues that need to be addressed in this rate case.

>> Pool: And that is exactly right, and it's just that important of a position, and I would have a higher level of confidence in this particular hire if I had some specific evidence that this company had engaged in working with those segments. And it's not your fault if the previous direction from council didn't include those specifics, but it is true that Austin, as generally speaking, in these issues, is very concerned with the low income segment of our population, and we do pay special attention there. And I guess I am a little bit surprised that the direction previously didn't -- wasn't as specific. But I understand the direction that you received did not include that, and I do -- I do feel like that that is a key piece that's missing from the consumer advocate who, frankly, will be representing this segment probably more than others.

>> And I think -- I mean if I can think about the interpretation of what prior councils did, perhaps they were trying to find a balance between all the different competing interests in that one rate class, in the residential rate class, and wanted to make sure that the other -- you know, what is it, 375,000 residential customers that aren't represented by the low incomes or the solars or the outside city customers or what have you, do have a voice at the table as well, and expert financial --

[7:41:56 PM]

>> Pool: Absolutely. It's just that we don't know so there's a lot being taken on faith.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Can we call the question?

>> Mayor Adler: There's been a motion to call the question. Is there a second? Ms. Garza.

>> Casar: What's the motion?

>> Mayor Adler: Will someone move adoption?

>> Casar: Can I move to have it on the 3rd, postponed on the 3rd and posted on the agenda to be on the 3rd? Very well, councilmember pool's questions might be answered by then and we may be able to get through.

>> Mayor Adler: It's been moved to -- call a special session -- the motion is to set it for a council meeting on December 3rd. There's not one set for December 3rd at this point. If the motion passes, then we would set one for that day. Is there a second to that motion? We have an Austin energy meeting, so we would just set a council meeting for --

>> Casar: We'll all already be here.

>> Mayor Adler: -- For this one item on that day because it would take council to approve the contract. Is there a second to that motion? Mr. Renteria. Is there -- can the successful bidder revoke their bid if all we've done is postpone action on the -- until December 3rd?

>> They can make a request. However, it does not -- I don't think there's going to be -- that shouldn't be a problem.

>> Mayor Adler: Okay. I think you could use the intervening time to see if you could answer questions or concerns about this. We want to go into the process with people feeling that -- that the process will be fair, so maybe there's just some work to be done between now and then. It's been moved and seconded to move this to December 3rd before the council. Is there any further discussion? Ms. Tovo?

[7:43:56 PM]

>> Tovo: Yeah. I just want to be sure that Mr. Dreyfus, did you read the bullet point that talked about experience and working with residential consumer groups, including low income consumer groups involving rates? It was a specific bullet point in the resolution. I mean, as the sponsor of this last provision, councilmember Spelman sponsored it during the rate process but I sponsored last year, we did pull out particular points including experience with low income customers. So I think the exchange with councilmember pool started to suggest that wasn't a focus in our original charge. I think that you -- it sounds to me like the solicitation -- the problem really wasn't with the solicitation you prepared, it sounds like the problem, if there is a problem, is in the responses you received, and you've done a good job of trying to get responses. I'm just not sure we're quite there yet, in getting exactly the right group. And so the additional time will allow us to assess that. And then I hope we'll be open to maybe considering whether some additional time might get us just exactly the right advocate.

>> Mayor Adler: Ms. Pool.

>> Pool: And it sounds like, because Barksdale did read what was in the solicitation, it may be there is a gap between what was in the organs, the direction, and what we had in the solicitation.

>> Tovo: I'm not sure I need -- I kind of need to line them up to know, but I just wanted to be sure you understood that was an element that was called out in the resolution.

>> Mayor Adler: There's been a motion to postpone this till December 3rd. Staff is okay with that because it's an intervening time. It's been seconded. If no further gay, we're going to take a vote. Those in favor of postponing till December 3rd, raise your hand. Those opposed? Ms. Troxclair votes no, the others vote . " Passes. December 3rd. If the clerk would help us call a meeting for the same time as the convening of the Austin energy meeting.

[7:45:58 PM]

The next item that we have is item -- we want to handle 79 and 98. We have four citizens to speak on this. Mr. King, do you want to speak on this?

>> Yes, I do.

>> Mayor Adler: Why don't you come on down. 79 and 98. The next speaker to speak is Andrew dodge.

>> Thank you, mayor and mayor pro tem and councilmembers. I'm just going to be real brief. I think these are important items here, and I'm glad that they're here before you today, and you know -- what materials are going to recycle and what projects would fall under these requirements to recycle. I would just ask that we -- this has been scaled back from what was originally recommended by the zero waste [inaudible], so I think it would be good to remember that, that this is -- you know, we really need to keep pushing the envelope on this, and also including smaller commercial projects and residential projects in recycling. I see so many homes being demolished in my neighborhood, and they seem to be, you know, really descent, smaller, affordable homes, but they're getting demolished, and I just wonder

where all that material is going. It seems like it could be recycled, yet I don't think it is. So I think we really need to look -- in another way, too, by requiring a higher bar for recycling, maybe that would help us to try to inhibit so many demolitions of single-family homes.

[7:48:15 PM]

If you're going to demolish a single-family home, you've got to do everything you can to recycle every bit of material out of that. I think that would be important. I'm flat this item is before you today. It raises the bar from where we've been, but I think we have further to go. I hope you'll keep pushing forward on this, and thank you for your support.

>> Thank you very much. Andrew Dobbs, Texas campaign to the environment. I think I've been here as long as y'all have. It's exciting. Very grateful to everybody's work on this ordinance. We are obviously very much strongly in favor of it and do have some quick proposed changes. I wanted to first off thank Austin -- Austin resource recovery staff. Obviously, the director, but also woody and Gina and Jason McCombs on staff who have done so much tremendous work on this. I also know that Rick Coffey, the former chair of the zero waste advisory commission was here earlier, he had to leave but he was hoping to give a thumbs up to this. This is absolutely crucial for our zero waste goals and plan. This is about 10% of the material that we're generating in this city. This is stuff that we can now start to capture, create a lot of value, create a lot of opportunities for jobs and for businesses and for wealth creation here in the city of Austin. This ordinance is crucial towards that. One thing that we did, I did want to point out, is that, believe it or not, we did support delaying the implementation of coverage for demolition in this contract or this ordinance because we recognize that the markets here in town need to be built up a little bit more. We need stronger and better markets, and this is an opportunity for leadership, not just for this body as a whole, but particularly any particular member who wants to take this on, there's an opportunity for doing some real work to help create markets for these materials. If we take the demolition material, which is so much less value than the construction materials, and we kind of overwhelm our market with that right away, we could end up with some serious problems in terms of illegal dumping and whatnot.

[7:50:24 PM]

We don't want to see that happen. If we wait a few years, three years as it is now, we can build these markets up and be in a better shape to do that at that time. The one change I want to see is that initially this ordinance, in 15-6-151 and 15-6-152, increased -- decreased the disposal rate and increased the diversion rate over time. The disposal rate went to one and a half pounds per square foot 2020 and .5 in 2030. The diversion rates are 75 in 2020 and 95 in 2030. These are visionary goals, visionary standards. If you were to require 95% diversion today, you couldn't build anything in Austin. Right? Or it would be very, very difficult. But if we're not doing that by 2030, we're undermining our zero waste vision and, you know, frankly, we're going to have some serious problems. It anticipates cultural and economic and technical advances that if we don't have by then, we're going to be in some trouble anyways. And so the process is that if we -- it's a little easier for future council to look at this and say, you know what? 95% or 75%, that's just in the something we can do, let's back that do you know to 65% or to 85%. So -- [buzzer sounding] So we hope you'll restore those. Like I said, there's a lot of opportunity here. I wanted to talk about market building. I'm happy to answer questions on that or talk about that offline. But thank you so much for your leadership.

>> Mayor Adler: Thank you. Councilmember pool?

>> Pool: I move approval.

>> Mayor Adler: This is a public hearing so let me call the he is are of the speakers.



>> Pool: Oh, oh, oh, sorry. Well, I like it. Andrew.

>> If anybody is interested in amending it to add those diversion rates, we would really appreciate that. Thank you.

>> Mayor Adler: Ross -- you said Rick coffer is not here?

>> Yeah, he's not.

[7:52:26 PM]

>> Mayor Adler: Okay.

>> Mayor and councilmembers, my name is Ross. My family has been in the demolition business in Austin for over 50 years. I've been following this ordinance with great interest, and I signed up in opposition, but it was really more of -- there's some things that could be changed in this. I am concerned about the affordability. I think before Dobbs makes a good point about exempting -- or differentiating between demolition and construction. It's a whole lot easier to source separate materials on a construction job than it is on a demolition project. The affordable care act is one thing -- woody and Gina have been great and cooperative with me when they knew I didn't always share their viewpoint, but one of the things -- items he cites is that the additional cost of this is estimated to be \$20 per ton. If you talk to the landfill people, they really don't know what it's going to cost, and a big component of that is not just the labor and time that they spend sorting it, but what they can get for the material as the end product. And what you may end up with is a whole big pile of scrap lumber that's mulched up that nobody wants. And the feasibility of the, you know, 75% in five years and 95% in ten years, you know, I understand it was explained to me that it's aspirational. I can tell you, you can aspire all you want to you're not going to get there. And, you know, I think that this is not a bad first step to have commercial properties included. Demolition projects, residential demolition projects pose different concerns from the standpoint particularly of hazardous material with asbestos and lead-based paint that are required to be removed on commercial projects. And, again, you know, it's affordability, it's another layer of regulation and bureaucracy, kind of on top of some more of them.

[7:54:36 PM]

Will it work? I'm willing to give it a try, but I do think that before the before -- particularly before the threshold levels are raised, some serious studies need to be made. Thank you.

>> Mayor Adler: Thank you, sir. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I want to thank you for those comments. You took the words right out of my mouth. I'm going to add to that that I'm afraid the council is going to pass this. It's going to be unaffordable, it's going to provide virtually no benefit, provide a surprisingly high cost, it's going to contribute to our unaffordability. It takes our city in exactly the wrong direction, and it's really frustrating for me to sit here and watch this happen.

>> Mayor Adler: Thank you. Questions for this person? Ms. Troxclair.

>> Troxclair: You said that you don't think that 95% is -- or you said some of the goals are aspirational but not attainable, so what is attainable?

>> The 50% on a commercial project is, in certain -- we're talking about demolition. There's a big difference between demolition and construction. You might get one of these days to 95% on a construction project. Again, it's -- you've got to keep in mind, when you're cleaning up something, you tell the guy, go put sheetrock in this box, go put lumber in this box. Unfortunately, in the demolition context, for instance, painted sheetrock, there is no use for it. It can't be recycled. It can be ground up as alternative daily cover at the landfill, but that's not counted as a beneficial use under this ordinance, this follows the lead thing. And likewise, what most of these people are doing with scrap lumber, you can't

do anything with scrap lumber, other than make -- [inaudible] Out of it. That's not counted as a beneficial use.

[7:56:39 PM]

So there are going to have to be some markets that develop for this stuff; otherwise, it's just going to pile up.

>> Troxclair: Okay. I saw something in here about document retention, that you have to keep your documents for two years --

>> I think that applies to the waste process.

>> Troxclair: Okay. Yeah. That seems like -- it just seems like an administrative burden. Then I haven't really gotten a clear answer on the affordability issue because there was an affordability impact statement in our backup that said that the proposed code amendments will result in increased development costs. But then we heard from our department staff that there was no -- that it wasn't going to cost you any more. So is it --

>> Their own figures say it's \$20 a ton more, which is basically a 50% increase over the current tipping rates that we're paying now. But, again, that \$20 is what they think it is. It may or may not be what it actually is. The landfills can't tell you.

>> Troxclair: So how much do you pay now?

>> Pay between 35 and \$40 a ton. At one landfill. It's 55 or 60 at another one.

>> Troxclair: And the estimates is, this is going to be another \$20 a ton?

>> That's the estimate.

>> Troxclair: It's hard to tell.

>> I'm real skeptical that they can get there. Again, a big part of it depends how much they're able to offset the costs that they have with what they can sell the recycled material for.

>> Troxclair: Okay. I mean, it doesn't sound like -- do you already recycle materials?

>> We did as far as best practices anyway. You don't want to send thing to the landfill that don't have to go to the landfill.

>> Troxclair: So you're not opposed to the idea.

>> Oh, no I'm the greenest guy here. I wore a green shirt today.

[Laughter] I will throw more away in a good day than most people will in a lifetime, but I'll recycle ten times as much.

>> Troxclair: Okay. Thank you.

>> Mayor Adler: So bottom line, you're okay with this ordinance as drafted?

[7:58:39 PM]

>> As drafted, yes. I just want somebody to flag it somewhere, when hopefully most of y'all are still around when these -- when the rates are proposed to be increased, and the city is required to do some studies on that and just kind of harken back to this day.

>> Mayor Adler: I understand. Any further discussion on this? Thank you very much. Is there a motion to close the public hearing? Ms. Gallo moves to close the public hearing, seconded by Ms. Pool. Those in favor of closing the public hearing, raise your hand. Those oppose wanted? It's unanimous. We're now up to the dais. Does someone want to move passage of the ordinance that is 98 and the rule change which is 79? Ms. Pool moves. Mayor Adler let's make the motion first. Councilmember Casar seconds that. It would be in order for you to make an amendment.

>> Pool: I believe we want to make a demolition piece -- it's already in there. All right. It's been taken care of. It's all good.

>> Mayor Adler: Moved and seconded. Any discussion before we vote?

>> Zimmerman: Mr. Mayor, one clarification I wanted to ask on the square footage, there was a number mentioned of I think four or five thousand square feet.

>> Mayor Adler: Five thousand I think was the threshold.

>> Zimmerman: So the question is if there is a multi-family apartment building or a large commercial building that's maybe 10,000 square feet and half of the building is being, you know, renovated or if it's four thousand square feet -- if it's less than the limit, but the building in total is larger than the square foot limit, which standard applies? If we remodel or recondition 4,000 square feet in a 10 square foot building is it going to be counted as a 10,000 square foot remodel? Kicking in the requirement.

[8:00:43 PM]

>> Mr. Gedert.

>> Bob gedert, director of Austin rose recovery. The square footage for this ordinance would be on the permitted square footage. The overall square footage as the permit is drawn. So if -- for a multi-family if it's 10,000 square feet overall it would be based on that square footage.

>> Zimmerman: Even if they only did 500 square feet, they need to do a little bit of work in the building, it's still --

>> Mayor Adler: Excuse me, it says 5,000 square feet of new, added or modeled floor area.

>> Yes. So if it's remodeled it's the permit of the remodeled square footage area, not the entire site, but what the permit application states for the remodeling.

>> Zimmerman: Okay. And which is the permitting department, is that what you say? Is that from the code?

>> This is from the permitting department?

>> Is it in the code or is that an interpretation?

>> That is the intent of the ordinance.

>> Zimmerman: It's the intent. What happens with intents is they get interpreted and the intention changes.

>> Mayor Adler: 25-11-39 subsection C part one, it says new, added or modeled floor area to the project.

>> Zimmerman: Thanks.

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

>> Mr. Gedert, you heard Mr. Dobbs talk about how there was some aspiration national stairstepping in previous versions and not in this one, is that correct?

>> Yes. And then I heard the second gentleman who testified talk about how he may not be opposed to it whether it may be feasible closer to the stairstepping attend it came before this body. Is that an option that we can consider to have set times when the department may be able to come back and recommend if the stairstepping should go? Because I think a happy medium might be to include the stairstepping, but perhaps not automatically without the department's review recommendation and the council's -- the council's approval as well.

[8:02:52 PM]

>> Yes. This ordinance as proposed with the administrative rules that are paired with it do require those studies that were referenced. Two studies, one of a 75% and second study prior to the 95%. We have with the staff recommendation proposed not to include the 75 and the 95%, but the studies are still included in what is proposed before council.

>> Casar: I understand that piece, but is there -- what is the drawback of including the 75 and 95% stair

steps if they are not automatic, but rather still require study and approval?

>> Two different flu shot -- different flossies -- philosophies, one is to include did, and if we cannot reach it there is a council action to eliminate that aspirational goal. A second philosophy is to reach that study, verify that we can reach 75% and then ask council to increase the goal to 75%. The stakeholders preferred that second process. From our zero waste plan I prefer the first process of including it in today. Our staff recommendation followed the stakeholder process and the recommendations from the stakeholders.

>> Casar: So in department's preferred version we have the stairstep, but the council still has to vote on it because you presented the study to us. So the council still would have discretion of saying we're not going to stairstep yet, we'll delay a couple of years.

>> That would be my preferred path. That is not what is being presented today, though.

>> Casar: Do we have language available in order to implement that version if we wanted to do that tonight?

>> Yes.

>> Tricia Lancaster, assistant city attorney. Are you asking to put the stairstep back into the ordinance.

>> Casar: The stairstep would have to be approved by the council -- studied by the department and approved by the council before it were ever implemented.

[8:04:57 PM]

>> I would like to take a chance to draft that before I could tell you definitively how it would look because the original drafts were going to be automatic on the specific date, but the ordinance now and then also required staff to do the studies. So the draft that's before you now does not have the stairstep, but it requires staff to come back to the council at a four-year time frame and let you know how it's going and the impact on marketability. So that's when you could implement the stairstep.

>> Casar: What I'm trying to get at is some sort of meeting between the two where we would have the study where the stairstep would not be automatic, but would be after the study, but that we still maintain the baseline expectation that we're trying as aggressively as possible to get to those stair steps, but we don't implement them without affirmative vote. And I think that would achieve the goals sort of laid out by the two speakers, so if you don't -- if there is desire to do something like that on the dais, then I would ask that you -- we see if we can put something like that together perhaps while we handle other items and at least be happy you're not working on short-term rentals.

[Laughter].

>> Mayor Adler: Do you understand it well enough to see if you could come up with language?

>> I can work on some language.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: I'm not sure that that was the goal of this. I can't -- the last speaker. I'm not sure that he was advocating for having those included. So --

>> Casar: I was saying it would be a sort of meeting of -- I think it's in between.

>> Troxclair: Well, maybe we should have a vote on whether or not we want to have the staff go and do that before they go and do that? Because it seems like what the stakeholder -- what has come forth is already very aggressive and it seems like it's pretty clear what our goal is I don't know. If it's that important to you, but it seems like --

[8:06:58 PM]

>> Casar: I think we have the departments prefer it, the stakeholders prefer it and I think that this walks a happy medium in between.

>> Troxclair: So --

>> Mayor Adler: There's been a motion to lay this on the table to allow that work. Is there a second to the motion to lay it on the table?

>> Zimmerman: I'll second it.

>> Mayor Adler: So let's take a vote. Discussion? Those in favor of tabling this, laying this on the table for that work please raise your hand? We're going to lay it on the table. Those opposed? Those opposed, Ms. Troxclair, Ms. Gallo, the others voting aye. So let's go ahead and lay it and then come back to us. Thank you.

>> Troxclair: Mayor, can we take another vote. I don't think half the dais voted on that.

>> Mayor Adler: We can certainly vote again. The question is whether to 38 this on the table for a moment so staff can work up language as Mr. Casar as requested. It's been seconded. There's no discussion. We'll take a vote those in favor of laying this on the table please raise your hand? Those opposed? Ms. Gal Mr. Zimmerman and Ms. Troxclair. We'll lay it on the table. Come back to us and let us know when you have the language. The vote on there was 8-3 in favor of tabling. Let's see if we can take care of one and let people go home. We have an agreement I think on number 83, which is pilot knob. This is second reading of item 23. Ms. Gar so, do you want to tell us where we are on item 83?

>> Garza: We've made some progress on the negotiation. There's been a lot of talk of smart housing because some talks with cap metro and that includes some fee waivers that are included in the smart housing program, but we're still negotiating how deep in affordability we're going and exactly what those smart housing fee waivers would include.

[8:09:09 PM]

I'd move that we pass it on second reading, but I'm happy to hear Betsy's take on what the negotiation is right now or I guess what you think the agreement's heading towards.

>> Betsy Spencer, neighborhood housing and community development. Yes, we've been in constant conversation with the attorney and the developer. I think that we've come a long way. I think that we have a little bit of negotiation left, but I believe that they have been acting in good faith and that we should be able to come to an agreement shortly.

>> Mayor Adler: Great. There's been a motion to pass this on second reading. Is second to that motion? Mr. Renteria. Any discussion? Those in favor of passing on second reading please raise your hand? Those opposed? This was pilot knob. It's unanimous -- pilot knob, number 83. On item 83, thank you, it passes unanimously on second reading. Thank you. Let's call up now number 84.

>> Thank you, item 84 is case crown 2015-0061, zoning change request to the townhouse condominium residence conditional overlay. The zoning and platting commission was to grant the staff recommendation, which would have a limitation of -- requiring a 10 foot wide vegetative buffer and pedestrian and bicycle paths along the property lines. The the applicant has agreed with staff to prohibit a gated access on the property, so staff would forward this to you with the commission's recommendation plus the gated access prohibition.

[8:11:21 PM]

I know councilmember Garza had something I think that she wanted to inquire about this.

>> Mayor Adler: There are no speakers signed up for this public hearing. Is this a public hearing?

>> Yes, this is a public hearing. We offer this for first reading only for today.

>> Mayor Adler: A motion to close the public hearing? Mr. Renteria moves. Is there a second to that? Mr. Casar seconds closing the public hearing. Those in favor of closing the public hearing please raise your hand?

>> Garza: I don't want to close the public hearing because the reason we're just going on first is there is some concerns from the neighborhood so I gave them indication that we were only going on first reading.

>> Mayor Adler: And not close the public hearing.

>> Garza: Exactly.

>> Casar: He withdraws the second. We don't have a motion.

>> Garza: I move to pass this on first reading.

>> Mayor Adler: It's been moved. Is there a second? Mr. Casar seconds.

>> Does that include the gate prohibition?

>> Mayor Adler: Yes, as you laid it out. We are leaving the public hearing open. Any discussion? Those in favor please raise your hand? Those opposed? It's unanimous as we just described. I would point out to the clerk that on that last item that we had, item 79 and 98, we called for Mr. Cofer to testify, but he was no longer in the hall. That takes care then of item 84. What about taking up item 96 can we take this one up at this point? Okay.

>> Good evening, Betsy Spencer, director of neighborhood housing and community development. This is the item that you needed to take before items 34 and 35 this is conducting a public hearing to consider a resolution in support of an application to be submitted to the Texas department of housing and community affairs in regards to 6725 urban oaks partnership.

[8:13:39 PM]

This project is one where the housing authority, subsidiary of the housing authority is issuing the bonds, and this provides them with the opportunity after the public hearing is closed and if we get through items 34 and 35, where they can submit an application for four percent tax credits.

>> Mayor Adler: Thank you. This is a public hearing on the item 98 portion of this. We have some speakers. Is -- 96, rather, I'm sorry. Is Mr. Pena here? Is Jay White here? Is David Knoll here? Is Bill Walter here?

>> He is.

>> Mayor Adler: Bill Walter? Is Mr. Walter here?

>> Yes.

>> Mayor Adler: You did. I'm just checking. You have six minutes instead of three minutes because Mr. Walter is here.

>> I think I'll need maybe just about one. I'm David Knoll with Ryan companies. We are co-developing this property with the city of Austin. This is an affordable housing under the four percent tax credit program in southwest Austin. Location is approximately half a mile southwest of William Cannon and I-35. We'll be constructing 194 apartments for families, 69 one bedroom, 115 two bedroom and 10 three-bedroom apartments. And mostly I'm here to answer any questions that y'all might have. We look for your support for the development and appreciate your time this evening.

>> Mayor Adler: Thank you. Is there a motion to adopt the resolution number 96? Ms. Garza makes that resolution. Seconded by Mr. Renteria. We can now discuss it on the dais.

[8:15:43 PM]

>> Zimmerman: Thank you, Mr. Mayor. Quick question. So how much of Austin taxpayer funding in the form of loans or credits is going to the property?

>> There will be loans associated with the project, but there will be no taxpayer funding.

>> Zimmerman: Okay. Is this project going to be on the property tax rolls?

>> It will not be because it will be a non-profit entity that owns it.

>> Zimmerman: Okay. And I understand is there any private activity bond money contributing to this particular project?

>> There are bonds that are issued to the benefit of the project by the public finance corporation, so I would say yes, sir.

>> Zimmerman: Are those bonds tax exempt or are those taxable bonds under the IRS code?

>> Those are tax exempt bonds to my understanding.

>> Zimmerman: You think they're tax exempt? Okay. Just a quick question. It is obvious, right, that whenever we develop and build new structures, and we do have a housing shortage, I refer to these projects as unaffordable and unsustainable because they increase the economic segregation between those that are forced to subsidize the projects and those that are not because the people in the project are going to need public services. They're going to need a fire truck to show up if a fire starts, if there's an emergency for police, right, or E.M.S., they're going to need public services. But because the property is exempt from property taxes, they're not contributing to the tax base. So can you see how that would burden the taxpayers in our city already because these people need services, but they're not contributing to the tax base?

>> I understand your logic there, but it's a decision that the community has made for non-profits and a decision that we've made as a whole to help affordable housing.

>> Zimmerman: Okay. So I mean, you're a professional in this business and you develop. Can you imagine the benefit that other apartment owners would have if they didn't have to pay property taxes? They could probably reduce their rents 20% if they didn't have to pay property taxes. And so the other apartment complexes around this city would become more affordable if they didn't have to pay property taxes, isn't that true?

[8:17:51 PM]

>> They would become affordable in the private market to the extent they want to become affordable. I think there was some discussion earlier tonight about market forces. The requirements of these apartments will be that they will be affordable by a land use restriction to folks earning between 32,000 for a single household and 46,000 for a family of four with a single homeowner or single wage earner. So there are some serious restrictions on who we're able to rent to. Cemented and we do have, --

>> Zimmerman: And we do have, what, tens of thousands of people that would like to have subsidized --

>> The demand is large.

>> Zimmerman: Staggering. It is staggering.

>> It is staggering.

>> Zimmerman: So how do we pick who gets to have these subsidies for the project you're proposing? How do we pick who gets those subsidies? Because there are tens of thousands of people who want it but you only have limited units, so how do you pick?

>> How do you pick who should build these units?

>> Zimmerman: No, who gets to live in them.

>> We comply with fair housing and we'll accept those applications, they'll go through the screening process like any other renter would with Lincoln property management, our management company. It's a selection of who qualifies, who satisfies the requirements, and then basically who, I guess, finds from the market forces the apartments to live in. It's not let's say a pick or a selection by us as a developer or by the property manager.

>> Zimmerman: Thanks for being here.

>> Mayor Adler: Ms. Houston?

>> Houston: Thank you for being here, Mr. Knoll I call the question.

>> Mayor Adler: Thank you. Those in favor of 96 please raise your hand? Those opposed? Mr.

Zimmerman voting no, the rest voting aye. It's 10-1. We now are at items 34 and 35. We have people that are signed up to speak on this. Mr. Pena, are you here? Mr. White. Marion molutak and David knoll. Those are the same speakers on 34 and 35.

[8:19:53 PM]

These are the resolutions in support of the action we just took. Is there someone that will move adoption of items 34 and 35? Mr. Renteria, seconded by Ms. Garza. Any discussion? Those in favor of 34 and 35 please raise your hand? Those opposed? Mr. Zimmerman voting no, the rest voting aye. 10-1 approval on those items. Thank you. We're doing good, guys. How about -- are we just left with -- 84 we've handled, is that right? 79 and 98 we've handled. It was tabled. The Austin energy advocate, did we act on 55? Yes. All right. So let's do then into the public hearing in housing. We're going to recess the council meeting and we are going to call to order the Austin housing finance corporation board of directors meeting. It is 8:21. We are in the Austin city council chambers. Today is Thursday, November 19th, 2015. We have a quorum of directors present. We will now begin this meeting.

[8:21:55 PM]

Would you please take us through it?

>> Yes, sir. Board of directors, Betsy Spencer, treasurer of the Austin housing finance corporation. We have five items on the agenda, which I offer on consent. The first item is approval of the minutes of the last board meeting on October 15th. The second item is to conduct a public hearing and receive public comments regarding the issuance of up to \$25 million of multi-family housing revenue bonds authorizing the Austin housing finance corporation to act as the issuer. Item number 3 is setting the public hearing to receive comment on an 8-million-dollar productivity volume cap multi-family housing non-recourse bond, that would be set for December the 17th. Items 4 and 5 are both resolutions approving amended and restated bylaws for -- number 4 for the Austin housing finance corporation Aldridge 51 non-profit corporation and item number 5 is in regards to the Austin housing finance corporation 1034 Clayton lane property. And so those bylaws were previously approved. They are substantially -- they're not immaterial. They are cleanup changes. It really authorizes the amendments from the original bylaws to allow for action to be taken by written consent of the board in lieu of a physical or telephonic meeting. The members happen to be myself, Burt Lumbreras and Rebecca giaello. And I'm happy to answer any questions.

>> Mayor Adler: We have two speakers. Gus Pena and jay white? They're not here. We have no speakers. Is there a motion to approve the items 1 through 5 on this agenda? Mr. Casar so moves. Ms. Garza seconds.

>> Houston: I have a question.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: On agenda item number 3, the property on Clayton lane, could you describe that a little bit more what's going to happen there?

[8:24:05 PM]

There's already a property there, right?

>> Yes, ma'am. It's the rehabilitation of a property. I think it's about 120 units. It is predominantly one, two three and four bedroom. It is well positioned for family units. It is located roughly at 35 and 290 near the target, so it is a rehab project so it is preserving an existing affordable project. And again, it will facility a lot of family units and there will also be some units for permanent supportive housing.



>> Mayor Adler: Any further discussion on these items? Mr. Zimmerman?

>> Zimmerman: I have a quick question. I did receive today at about 11:40 my first example of one of these loan agreements. I think it was last year's cross creek that was executed in July of 2014. And I just had a couple of really quick questions. So I went through the 30 pages, about 38 sections and 30 pages of documentation, and it does refer to the promissory note document, which was also attached. And on that promissory note I did not find anything in the documentation that talked about a forgivable loan. I didn't see that anywhere. I did see under the promissory note there was a one percent interest rate, the term was 40 years, and there's no requirement to pay principal, but there is a requirement every July to pay one percent of the interest, which would be \$20,000.

>> You are correct. I misspoke on Tuesday when you brought it up. Many of our transactions are deferred forgivable. That particular transaction does have interest payments.

>> Zimmerman: Okay. So was that payment made last year for \$20,000 or this year in July?

>> It has been invoiced. The developer has asked to defer that payment as they are pending their permanent financing. But we did invoice for the payment.

>> Zimmerman: Okay. All right.

[8:26:06 PM]

Thanks.

>> You're welcome.

>> Mayor Adler: Okay. Any further questions? Ms. Troxclair?

>> Troxclair: On item number 2 there's a note that the developer plans to make a significant percentage of affordable units available to veterans and their families participating in the wounded warrior project and in need of an accessible unit. How is that confirmed or followed up on? I mean, what does a significant percentage mean and how do we identify that that happens?

>> That will typically be handled through the final agreement. We often will detail in there the monitor requirements and what the percentages are. So we're not at that point yet because we're conducting the public hearing and so when we get to final execution of the loan agreement then we'll be able to detail that more clearly.

>> Troxclair: That would come back to council?

>> Um, I believe so. We've got bond counsel here. Yes? Yes, it will come back to council.

>> Troxclair: Okay, thank you.

>> Mayor Adler: Okay. Any further questions? The motion is to approve items 1 through 5 on this agenda. No further discussion those in favor please raise your hand? And also including closing the public hearing on these items as is appropriate. Those in favor raise your hand? Those opposed? It's unanimous -- oh, Mr. Zimmerman voting no, the others voting aye. That concludes all our business. We adjourn our meeting of the Austin housing finance corporation. We are now back into the city council meeting. Let's go to -- what about item number 91?

[8:28:07 PM]

>> Good evening. This is conducting a public hearing and consider a resolution related to an application to be submitted to tdhca by the nrp group or an affiliated entity for a proposed multi-family development to be called the terrace at walnut apartments located in the Austin extraterritorial jurisdiction at old manor road and U.S. Highway 290. This is strictly a resolution of no objection. There is no participation by the city. It is just a requirement of the tax credit application that there be a resolution of no rejection by the city council but it's within the etj.

>> Mayor Adler: We have some speakers signed up to speak on this. Gus Pena. Jay white? Sarah Andre?

Do you want to speak?

>> Yes, sir.

>> Mayor Adler: Jason arashega? And I apologize for what I'm sure I did to your last name.

>> No, that's fine. I have difficulty pronouncing my last name occasionally. My name is Jason arichaga. I'm with the nrp group and this item today, bypassing this item today you would be passing a resolution of no objection to putting 324 units of affordable housing multi-family in partnership with the Travis county housing finance corp located about half a mile west of the intersection of Johnny Morris and 290, located on 290. I'm here as a resource for any other questions y'all may have as I represent the nrp group. Thank you.

>> Mayor Adler: Okay.

>> Houston: Sir, could you come back? Yeah. I just -- thank you for coming tonight and staying so late. This is a part of the area that is in the etj but it's adjacent to district 1 and as you may or may not know we've had conversations about the lack of amenities.

[8:30:13 PM]

And I see you have some on-site amenities, but where would people go to the grocery store? Or things -- things that most of us have close in our communities?

>> I understand. Let me discuss some of the on-site amenities and I'll be happy --

>> Houston: I see the on-site amenities. I have that.

>> We are in negotiations with cap metro to put a public bus stop directly on site on the northwest corner to be able to provide public transportation. The other amenities, one of the requirements that we have, when putting an application to the Texas department of housing and community affairs, is locating certain number of amenities around the area within a one-mile radius or it would not be accepted. Those we have identified, but beyond just those particular amenities when it comes to retail shopping and grocery we look further to the west at 290 and 35 and some of the infrastructure that has been put there such as the target, the grocery stores around there. So as it's located directly on 290 we think that the -- it will have excellent access from there. And with the upcoming transportation it will provide access to the amenities.

>> Houston: Can you tell me where the target is on 290? Can you tell me where the target is?

>> It's not on 290, the one on 35.

>> Houston: That's a long way away from where you are, but okay.

>> Mayor Adler: Any further discussion on this item 91? Is there a motion to close the public hearing and to approve the resolution? Ms. Pool so moves. Ms. Garza seconds. Any discussion?

>> Houston: I'll be voting against it because again, we're putting rooftops out in a part of the city that has no amenities and when you talk about Johnny Morris and 290 you're talking about a long way to get to a target to get groceries. So I'll be voting against it although it doesn't depend on us.

[8:32:20 PM]

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: Okay. I guess I'm confused because it -- this is an application for four percent tax credit through tdhca?

>> The four percent tax credit program.

>> Troxclair: They need a resolution from the city council in order to --

>> Of no objection. It is in the etj. It's not within -- it's not within the city. So if it were within the city then it would be a resolution of support. When it's not within the city limits, but within the etj, there's no objection. So you're not necessarily supporting it, you're just not objecting to it.

>> Mayor Adler: Do you support this?

>> Yes, I do.

>> Mayor Adler: Would you talk about the -- its locational issues? Ms. Houston has raised some questions about the location.

>> I appreciate your concerns. From my perspective, my professional perspective, while it is difficult to often site these in an ideal situation, I believe that it is better to have the housing than to not at all. And often times -- not always, but off times other things will follow that development. It's not a guarantee, can't swear to that, but often times it will or sometimes it will. Having been a developer myself, filling out these applications, there's a variety of amenities that you can offer per the application process. And if you don't meet that threshold, you will not qualify. So -- and the rules change every year. This is what we see with the tax credit program, nine percent or four percent, every year they change the rules. So every year we have the opportunity to weigh in on that. I think it's valuable, though, in a market like ours to get as much housing as we can. That's my opinion.

>> Houston: So Ms. Spencer, it would be helpful for me to know how many of these four percent applications have we received and the number of housing units we've put in that particular part of the city?

[8:34:26 PM]

>> I would have to get that information.

>> Houston: Would you please?

>> I can send it to you. Just this area? >>

>> Houston: Because there's no amenities. I've been saying that since January and we continue to approve units and applications even though this is in the etj. It does impact the lack of available resources in the community. So I'd like to know how many people are we as a housing finance corporation putting in those areas where they have no community benefits?

>> To be clear, the finance corporation is not. Okay.

>> Houston: I understand that, but we have in fact approved units in that area that we've had this same conversation about and I'd like to know how many people, how many units are being built in there so we'll have a cumulative idea of how many people we're putting in an area that has nothing.

>> Yes, ma'am. We can get that for you.

>> Troxclair: So the -- in the backup it says the tax credit equity is almost \$19 million. So that is the value of the four percent tax credit?

>> Yes.

>> Troxclair: Okay. So I just wanted to point that out and follow up on councilmember Houston's comment. These four percent tax credits are a lot of money and it's -- it's a tax credit, but they are worth a lot of money. And the only obstacle or the only thing that they need to do is to get a resolution from city council. Once they go -- unlike the nine percent tack credits, which are competitive at the state level, the four percent tax credits, if we pass a resolution at city council, they are going to receive the credit. So we have a lot of power to decide where the best location is for these affordable housing complexes. So I just -- I think that we should take your concerns really seriously because I think there's a lot of people out there who like to have 19 million dollars' worth of tax credits and would probably work with you on finding a place in your district that has access to better amenities.

[8:36:29 PM]

>> Mayor Adler: Would you address that question?

>> Sure. In regards to the equity, that is over time. The equity, that's over a 10-year period. So they

don't get that all at once. You have to earn that over time. Also, --

>> Mayor Adler: I think the question is should we not be -- from a policy standpoint should we not be picking this project? Should we be picking a project that is better located than picking this project? We're talking policy here?

>> As a policy I believe it would be important to support every opportunity that we can, whether it's within the city limits or in the etj. And it's not just a matter if not for this -- yes, this -- if you choose to object this, it would kill the deal, you are correct, but there are a lot of things that they have to meet in order to get the four percent. This is not the only thing that they have to do. There's actually a lot of stuff that they have to do to get this.

>> Mayor Adler: Should we be holding off and encouraging or waiting for a better located property? Is there an opportunity cost in approving this?

>> I would not recommend holding off and looking for another one. I would recommend encouraging this in as many places as you can. That would be my recommendation as a policy, encourage this as often as you can.

>> Mayor Adler: Is there an opportunity cost? If we approve this does it mean we will run out of the opportunity to do this other places?

>> The four percent -- I'm not -- I want to make sure I'm not saying this -- there's a very high capacity for the bonds that go with this. The productivity bonds is always married with the four percent tax credits. There's a cap, but it's a very high limit and we never get to it in the state of Texas. The four percent tax credits, I don't believe we've ever gotten to that limit. I'm going to look to other people. Am I making stuff up? Not in over 10 years. So I've never been aware where we've gotten to the cap.

[8:38:31 PM]

So we have a lot of opportunity with the four percent. The nine percent is a finite amount of money per region, per time. The four percent, there's a lot more to it, there's a lot more capacity there. Which is why the nine percent has so much more equity. That is why it is so incredibly competitive. The four percent tax credits married up with the bonds is a much more flexible opportunity, which is why I think it's an exceptionally important tool to have because you've got more flexibility.

>> Mayor Adler: Thank you.

>> I'm not sure if I answered your questions.

>> Mayor Adler: You did for me. Mr. Renteria?

>> Renteria: You know, I like the project because it's not only offering three bedrooms, but it's offering four bedroom housing. And we have a great need. Not just in the inner city, but throughout the whole city. And I think if we don't support these type of projects by using the excuse that it's some kind of -- there's nothing out there for them, that would be a big mistake and disappointment. You know, we're working very hard to try and build as much affordable housing and we're -- every time we're trying to build these kind of projects, you know, there's -- there's just -- I don't believe that, you know, we're really looking at it at the right way we should be looking at it. We are in desperate need of affordable housing. We have people that they can't even move out of their neighborhood. When we have these displacements that are going on, which it will continue, we don't -- we can't provide them anything, not even in the etj because they don't exist. So what are we going to do with these people? Are we just telling them that they just have to leave the city? That the city is not open to poor people anymore?

[8:40:33 PM]

Are we just going to send a message don't even bother coming to Austin if you can't afford, you know, these high rents, that we're not going to build any more affordable housing? I think that's a wrong

message that we're sending out to the people -- low income people of Austin.

>> Houston: Mayor, what we're doing is forcing poor people out into areas where there's absolute -- there's no grocery stores. We talk about healthy food, with he talk about transit and connectivity. We talk about jobs where people can live, work and play so they don't have to ride their cars into town or wherever they have to go to find work or go over to the target over on I-35 and 290 to get groceries. We talk about that, but we talk about it out of both sides of our mouth, yet we keep putting people in those kinds of positions. So although I think we have to have housing that workforce people can live in, we continue to put them in areas where they're exactly against what they say we're going to do in every other part of Austin. And we do it because it's okay to treat people in that manner, to put them in a place where there are no community benefits and no amenities. This particular piece of property is in manor ISD. How are they going to get there? I mean, if they're children are there. There are a lot of things about how we place affordable housing and how we use our four percent and nine percent tax credits that concern me because we are still putting them in places where there's nothing there for them except a place to live, and they don't have any of the other things that we demand for other parts of our community.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. A quick question on the capitalization. It looks like the total capitalization here is about 50.6 million. Is it fair to say that if that were on the tax rolls -- what do you think the appraised value would be on the project?

[8:42:36 PM]

Would it be around 50 million on the tax rolls?

>> I couldn't answer that.

>> Zimmerman: Okay. What I'm asking for is do we know what we would be losing in property taxes? Is this another one of the property tax exempt projects or is this one paying property taxes?

>> I believe --

>> Yes. As this is a partnership, excuse me, with the Travis county hfc, it is a tax exempt project.

>> Zimmerman: It's tax exempt. Do you have a rough idea of how much property tax we would be missing from the 50-million-dollars? That's quite a bit of property taxes?

>> It's based on net income as opposed to the value. I know that right now there's nothing existing on the property. But I don't have an idea of what it would be.

>> Zimmerman: You're right, nothing exists right now, but that means nobody will call an ambulance to come or police to come rescue because there's nobody there, but once we build the unit now we'll create a pretty significant demand for city services and there will be no contribution to the tax base. And the kids that need to go to school there's no contribution to the school tax base. So that means that everybody else is going to be --

>> If I may, I'm Sarah Andre, a consultant to the project. I want to point out that in the extraterritorial jurisdiction we would not be subject to city of Austin taxes regardless of what was placed there.

>> Zimmerman: Okay. But there's still a tax burden. There's still --

>> There is to Travis county and this is being done in partnership with Travis county housing finance corporation. It has already been approved by the Travis county commissioners, all four -- all five of the commissioners and the county judge. And it is a partnership that Travis county will eventually own this property.

>> Mayor, I'd like to call the question.

>> Mayor Adler: I don't think we have a motion yet.

[8:44:36 PM]

Will somebody move adoption of this item number 91? Mr. Renteria moves. Is there a second? Ms. Garza seconds that. Ms. Houston, I'm going to vote for this because I think the only thing worse than having a house with no community benefits is not having a house. And I see this kind of that way for me. And because I'm going to trust the professional judgment of our professionals.

>> Houston: That's fine, but we have people who have houses and no benefits, and we cannot seem to get them the benefits to them or get them to the benefits without using cars and that con jects our highways and our city streets.

>> Mayor Adler: I want to work on that too. Let's take a vote unless there's further debate. Ms. Troxclair?

>> Troxclair: I want to say at some point I really do hope that we can have more discussion about this. I guess I first brought this up in the very first batch of nine percent grants that we passed. And if we keep -- we lose all of our leverage as a council and as a planning body, we lose all of our leverage if every time something comes forward that has to do with affordable housing we just pass it. I think that if we went back to developers and said, we will support this project once you have confirmation of a bus line or if you're willing to put in a pool or whatever it is that we want, we can ask for those things. And we can leverage our ability as planners to make sure that we're putting housing in the right place. So it's not a matter of do we want affordable housing or do we not want affordable housing. We can have affordable housing. There are a lot of developers who would want \$19 million. So we just -- I think at some point we need to stand up and, yeah, take the stance that we're going to approve affordable housing complexes that come with a vast array of amenities.

>> Further discussion? We're going to vote on this item 91.

[8:46:42 PM]

Those in favor of 91 raise your hands? Those opposed? Ms. Houston, Mr. Zimmerman and Ms. Troxclair voting no. It passes 8 to 3. That gets us to item number 92. We have to citizens to speak. Is David king here? Do you want to speak on this one? And then brad parsons.

>> Thank you, mayor and mayor pro tem and councilmembers. My name is David king. I live in the zilker neighborhood. I support this ordinance, but I would suggest that we really if we're going to address our affordable housing problems here, we should be looking at 60% mfi instead of 80%. We should really -- 50, 60%, we really need to really dig deep in there and get to the lower level of affordability. And the issue with the Mueller -- affordable housing at Mueller and the appraisal district saying that those affordable houses would be appraised at full market value, you know, we need to be careful about that in this resolution. So I would suggest that we require the affordability in perpetuity so we don't have to deal with this issue that at some point the housing could be sold at market rates oriented at market rates. And the location, as councilmember Houston said, I think is essential if we're going to allow fee-in-lieu. If we're going to allow a fee-in-lieu on these puds, planned unit developments, we should also with that decision to approve it, we should also define where that affordable housing is going to be located, where are those dollars going to be spent for affordable housing that come from that pud that paid a fee-in-lieu.

[8:48:45 PM]

That way you will be informed and make sure that it's being located where amenities are provided and that it's geographically disbursed. And the other concern that I have is that when we're trying to value the fee-in-lieu and the on-site requirement, affordability requirement, what is that based on? Shouldn't it be based on the value of the entitlements that are being granted? Every time I come up here and talk

to you about this, I mention that question, that issue? It seems like we're flying in the dark, if we're trying to approve a deal and we don't really know what the title value of the entitlements are that we're granting. It seems like you don't really care about that. I don't know how to interpret this. You're making a deal here essentially with these puds. You're making a deal. And if I were making a deal I would want to know what the total value of the entitlements that I'm granting to you and what are the total value of the amenities that the public is going to get. Just that basic information. I don't understand how you can make a deal without knowing that and I hear the question after question after question asking about the value of these contracts that we're signing. And why aren't we asking that same question about pud deals? And we had a taco pud, we call it the taco pud in my neighborhood. They provided 250,000 roughly dollars in affordable housing.

[Buzzer sounds] Fee-in-lieu. Well, the project didn't build. So they got that refunded and we get nothing. We get nothing after having gone through all of that effort we get nothing. So what I suggest we do, and this is my last point, mayor, is if we're going to allow them to pay a fee-in-lieu that we give them a time and say okay, if you -- every year that you don't have a site plan you lose 20% of that fee-in-lieu.

[8:50:50 PM]

We're going to keep that.

>> Mayor Adler: Thank you.

>> I just hope that we make some of these changes that we're recommending here. Thank you.

>> Mayor Adler: Thank you. Brad parsons?

>> Mayor, mayor pro tem and councilmembers, one thing I wanted to say is it's good to be here. I've intentionally chosen not to come before you ever since you were elected because I wanted to make sure if I had something to say that it had some significance to it. And what I've been following closely the development of actually this item and, you know, it was said earlier about talking out of both sides of our mouth. I agree with that. A friend of mine called it kibuku theater and there's something here that needs to be revealed. Can you put up the first slide? We're talking about the pud fee-in-lieu of. And I kind of wanted to build into it with these slides, but I don't know if some of you know, some of you may not know, but there has not been a single unit built from fee-in-lieu funds derived from a pud in Austin ever. And not only has there not ever been an affordable unit built from pud fee-in-lieu funds, but as of last summer when staff created these graphics that I was going to put up here, it was only like in the middle of the -- towards the end of the summer, they could only account for \$23,000 that was still derived from pud throw of. It would be higher if the taco pud funds hadn't been returned, but still it's a very low amount of money. In case I don't get to point, as far as I can tell from the different versions of the ordinance we have, it's still at six dollars a square foot above the baseline for the fee-in-lieu.

[8:52:51 PM]

To build an affordable unit is going to cost like 100 to \$150 a square foot almost anywhere. If you're really trying to actually -- as has not been the case so far. If it's really going to be to try to build funds from the fee-in-lieu funds, why not \$10 a square foot? Six dollars a square foot is like an insult, especially given the history going on with this. And I wanted to point this out because I don't think I've heard it said ever, ever in this council chambers that nothing is being built in affordable housing from pud fee-in-lieu of funds. Yet you're giving entitlement to these companies for this? Some cases -- probably none of them have claimed superiority on this, but this is a disgrace. So that's why I came here to speak today. We did 10-1 from beginning to end to stop things like this. It's kibuku theater. You could call it worst things than this, but it's a total misrepresentation of the public, until I said it right now the public didn't even this was happening in the pud fee-in-lieu of funds. They're not being used at all,

they're not being accumulated. Do you have those slides? Let me say what this was. You received a study from the city auditor on all affordable housing funds and this was basically this came to you just this month. Some of you may have read it, some of you may not. But 58%, they've overstated the nhca, 58% of amount of affordable units that have not been built in Austin. There's -- I have before -- you can look at it later if it doesn't show up, but it's their report from the city auditor, there's a spreadsheet on every affordable housing program in Austin that clearly shows no units being built from the pud fee-in-lieu of.

[Buzzer sounds] Say at a minimum I would say this should only be approved, if it is, on first reading. There is a number of things that David mentioned could be improved on this, but the fee, six dollars a square foot above the baseline, that's a disgrace.

[8:54:56 PM]

We need to stop the charade here in Austin and start getting real about affordable housing.

>> Mayor Adler: Thank you.

[Applause]. Mr. Parson, so I think the intent of this is to stop the fee-in-lieu of. It's to require people to build.

>> You have multiple different versions in your backup of the ordinance, but from what I can tell there's still the opportunity to use the fee-in-lieu of. By the way, my first belief is what was recommended by the way when this was started by the community development commission, there should be no fee-in-lieu of. But if there is going to be one, it needs to be increased from what it's been in the past.

>> Mayor Adler: And it should also be really hard to get.

>> Say again?

>> Mayor Adler: It should also be really hard to get.

>> So I see that you've increased the vote to a two-thirds vote to eight people. That still means only three no votes and eight yes votes and it can still pass. I don't think that really changes the equation on getting the fee-in-lieu of in a given case.

>> Mayor Adler: I understand. Thank you, sir. Those are all the speakers that we had. We're back up to the dais on item number 92. Will someone move adoption of 92? Ms. Tovo. Second by Ms. Garza. Do you want to lay out your amendment?

>> Garza: Sure. Mine's real simple. It's changing the 99 years to affordable in perpetuity from the date of certificate of occupancy is issued.

>> Mayor Adler: Is there a second to that motion? Mr. Renteria. Any discussion? Mr. Zimmerman.

>> Zimmerman: I'm sorry, I cannot fathom what this means. I first have trouble understanding what affordable means and in perpetuity. Can you bind someone for all eternity to try to define affordability and make it happen forever? I'm really confused by this.

>> Garza: It originally said 99 years, and I asked that question in work session, and legal told us that it was just kind of put there as practice, and that there was nothing wrong with saying that it would be in perpetuity.

[8:57:08 PM]

So that's the reason.

>> Mayor Adler: I think affordability is defined as being available to someone whose income is 80% or below mfi. So I think that remain affordable speaks then to that earlier clause. It's been moved and seconded. Any discussion? Those in favor please --

>> Zimmerman: Mr. Mayor, is there any objection to putting that in, 80% of mfi? Some kind of definition?



>> Mayor Adler: I think it is. It's right in a, the line before it, affordable -- to a house --  
>> Zimmerman: That is the definition.  
>> Mayor Adler: Yes. Those in favor of Ms. Garza's amendment please raise your hand? Those opposed? Mr. Zimmerman voting no, the rest voting aye. I've handed out an amendment -- >>  
>> Gallo: Mayor, can I ask a question? I'm sorry, we just took the vote. Somewhere it seemed like legal had an issue with the 99 versus the perpetuity. Has legal given us the blessing on changing it to that?  
>> Garza: We addressed it in the work session and it was okay. The other issue you had before you was the two-thirds vote and that was addressed.  
>> Mayor Adler: The two-thirds has been changed and stricken as a legal issue there. I've handed out an amendment that has a subsection D in in the conversation we had at work session staff indicated that it would be good for them to be able to have this option, but this option required -- only comes to the city council if they recommend it be taken. The recommendation has to come to council before it's approved. I think, Ms. Tovo, this is language that you thought was okay.  
>> Tovo: Mayor, this is your amendment, I'm sorry.  
>> Mayor Adler: I move this amendment. Is there a second to this? Ms. Pool? Any discussion on this? Those in favor please raise your hand. Those opposed? Mr. Zimmerman voting no, the rest voting aye. Ms. Tovo, I think you have some amendments?  
>> Tovo: I do, mayor.

[8:59:08 PM]

Thank you for asking my opinion about that earlier one that you proposed. So I distributed a copy on the dais. It's on yellow. It has my name at the top. And I've bracketed my amendments. All of the underlining text is not my amendment. That's things that we're changing that were recommended by staff. My first amendment is -- I'm sorry, I should have given one for the overhead. But I do have an extra copy if someone wants to -- thank you. , Assistant city manager. My first amendment just does what we talked about in the work session the other day, adds the language the developer may provide all or a portion of the amount established under section 2.5.6. So it just makes it clear that it could be a portion, for a portion, if the developer is proposing paying a portion of a fee-in-lieu that would also come to council. So that's the first change. And then the second change is in D, and that ties -- it advertise our approval of any alternative affordable housing project to a three-month time period.

>> Mayor Adler: 36 month.  
>> Tovo: 36 month, three-year time period. So that allows a council to reevaluate whether that is still the best option based on the market conditions at the time that the development is moving on to construction.  
>> Mayor Adler: So --  
>> Tovo: So I guess we should do those separately. I move approval of the amendment as indicated in item B.  
>> Mayor Adler: To add all or a portion? Moved by Ms. Tovo, seconded by Ms. Pool.  
>> Tovo: Would you mind just flipping it?  
>> Mayor Adler: That's okay. Spencer, is that -- does that amendment work for you?

[9:01:10 PM]

We're talking about Ms. Tovo's amendment at section B, which says that a developer may provide all or a portion, she's adding "All or a portion."  
>> Speaker2: I was just reading that if if they provide a portion of the fee does that mean they also have a portion on-site? I just want to make sure.

>> Tovo: Yes, I'm look at the language hoping it really does what we had anticipated or expected for it to do. What we were trying to ensure, the original language made it clear that if you -- if a developer is asking to have all of the on-site requirement waived it needs to come to council. It was less clear about whether if a developer is proposing just a portion of that on-site requirement be waived, it was less clear that that needed to come to council as well. So that was really what we were trying to achieve, make sure that if a developer is not providing on-site affordable housing, either in total or in part, that those decisions come to council. And so this is what law has drafted. Hopefully that is indeed what this achieves.

>> Mayor Adler: It's been moved and seconded. It looks good to you?

>> Yes, sir.

>> Mayor Adler: Any discussion? Yes, Ms. Gallo.

>> Gallo: I'm going to abstain from voting on this. I'm really uncomfortable when something that is going to substantially change the way we do things, going through the process in a format and then all of a sudden we get to the dais and we have pages of indemnities to it and really don't have time to think about it and don't have time to -- I don't know that the stakeholders -- I mean, it's 9:00 in the evening. You know, I'm not sure that stakeholders have even been aware of these changes. So I would just, once again, encourage us, when we're considering amendment -- considering things that have worked their way through the process, through the community development commission, through the planning commission, and to us, that we have time and the opportunity to think and research and ask questions and visit with stakeholders about it before we're asked to make decisions on the dais.

[9:03:16 PM]

So I don't know whether I'm for it. I don't know whether I'm against it, but like I said, I just feel like I haven't had time to really study this so I'm going to abstain on this.

>> Mayor Adler: Any further discussion? Those in favor of miss tovo's amendment please raise your hand. Those opposed? Mr. Zimmerman voting no, abstaining, Ms. Troxclair, Ms. Gallo, on a vote of eight--1-2.

>> Tovo: My second amendment is D, like the other one, language I read aloud in our session on tugs, shall expire 36 months after the date of approval.

>> Mayor Adler: Is there a second to this motion? Ms. Pool seconds. Ms. Spencer, could you come up and talk about this one too?

>> Yes, sir. We would be in support of that. It gives us the opportunity of the market should change one way or the other we would be able to renegotiate.

>> Mayor Adler: Is there ever a situation where someone initiatives -- I guess, this would be -- do you ever have a project like this that works in phases?

>> Yes. H.u.d.es work in phases very often, especially if they exceed the 10-acre limit. Sometimes we have smaller P.U.D.S but theoretically they should be 10 acres or more. It is possible, depending upon the size, that they would work in phases.

>> Mayor Adler: So, Ms. Tovo, mayor pro tem, how would that work on this? If someone initiated the first phase, would they then be locked on their deal?

>> Tovo: I would say if the affordable -- if the section of the project where they've requested the waiver has not yet begun and they're at the point where they're beginning it in a -- I would say if the housing -- let me say there are three phases to a P.U.D.

[9:05:26 PM]

And B hasn't guardianship at at -- begun at all and they got their approval ten years earlier. I would

argue that piece has to come back for consideration of whether it should still be waived.

>> Mayor Adler: Would it --

>> Tovo: Ms. Spencer --

>> Mayor Adler: My only concern is if someone starts a project they're starting with a certain economic model in mind and if someone initiated a project with an economic model in mind, I'm not sure that a third of the way through or half the way through we should be changing the economic model.

>> Tovo: Well, if we have crafted our fee-in-lieu correctly, those should be equivalent. The fees that they pay in lieu should be similar to the costs of constructing that housing on-site" otherwise I would say that our fees are set too low. It shouldn't impact -- if we've structured our program correctly, in my opinion, it shouldn't impact their finances. They're either constructing that housing on-site or they're providing us with a fee-in-lieu that's equivalent to the cost of those units.

>> This is only when we have previously authorized a fee-in-lieu. Is that correct?

>> Tovo: Right. That's correct.

>> So theoretically, we're operating under on-site is required unless they have -- they can convince the director of neighborhood housing --

>> Mayor Adler: And then the council.

>> And then the council that there should be -- they're a portion of a fee accepted or all of the fee. To be able to be used, as we discuss on Tuesday, hopefully in the very near area or something that really made sense to all of us. So this is only if we accepted -- you accepted some level of a fee on the front end and so at that point then it would have to come back three years later and is that argument still compelling?

[9:07:30 PM]

You know, so it's only if the fee was decided on the front end.

>> Tovo: And hopefully it will be the very rare example.

>> Mayor Adler: And I was in favor of this, and I'm just trying to think through whether -- and I'm -- maybe not smart enough to do that. I'm trying to think through what happens if someone starts a project, having convinced you of a certain amount, fee-in-lieu of, so that you could buy alternate property. They come to the council, convince the council and now they're starting the project. So when they start the project, does someone pay -- let's say there's multiple phases to a project. Does the developer pay all of the fee-in-lieu of for all the phases of the initiation of the project? They pay at different points, different milestones. Am I correct? They'll often pay an installment on the front end or at site plan review and pay another at certificate of occupancy. Sometimes if it's a smaller one they'll pay -- they can pay it up front. I've seen other ones --

>> Mayor Adler: I'm thinking of a multiple -- of a multiple phased one we could extend over three years and I'm trying to figure out if there's a scenario where someone will have cut a deal and it could extend over a three-year period of time. It's not through inaction, but the project -- someone got a deal and nothing happened. But if they start investing money in a project and start working on the project or many in the midst of the project and then three years hit, I'm trying to figure out if -- what would happen then?

>> I would assume in that case it would not be -- if they've already started a project and made an installment or not, but if the project is already started, that you wouldn't -- you wouldn't renegotiate.

[9:09:32 PM]

It would only be on something that hadn't started. I would never recommend that you would renegotiate in the middle.

>> Mayor Adler: Right. And --

>> Of construction.

>> Mayor Adler: And I don't know that you can say, I have a three-phase project, that if I start phase one, I haven't started the project. At that point. I'm not sure after I've done phase one and now I'm starting phase two, I'm not going to be able to complete phase two within a three-year period of time, I think a developer would look at that and say I made my deal, I looked at my cash flow okay, I mapped out my economics on this deal from phase one through phase three, so that's why I asked the question. I'm comfortable voting on this right now if the project has to be initiated within the 36 months, and if it's multiple phases then that's okay, but the project itself has to be initiated. Otherwise I think I need to think about this more. That's my concern.

>> Tovo: I think that -- I think that's consistent. I think that is consistent. I mean, I can see adding language to the effect of unless that project or that phase of a multiple phase -- multiphase project is underway.

>> Mayor Adler: So we could say --

>> Tovo: I know we're talking about projects in phases, it's possible -- and I don't remember if they were P.U.D.S or not but there were some projects that go on for decades and I would say if a developer is beginning phase B of a project 15 years later, I would say they ought to come back.

>> Mayor Adler: So can we add --

>> Tovo: A whole new phase of a multiphase project. If it's pretty limited in scope, I would say three years of the project is sufficient.

>> Mayor Adler: Can we add to the end of it council approval of my alternative affordable housing project shall expire 36 months after the date of the approval if the project has not been initiated?

[9:11:52 PM]

>> Tovo: I'm comfortable with that. It doesn't capture those projects that are multi-phase but we would have an opportunity, I think, as those come forward, to add particular requirements on those if we need to.

>> Mayor Adler: And if you want to study this and come back and say that the concern I'm having here today at the dais isn't real, I mean, I'll work with you on that too. As we sit here --

>> Tovo: We can talk about that piece. I think that's right. I say let's get it in and we can think about those real unusual circumstances that might be multi-year and see if we need language for that, but it seems to me we would have an opportunity in the P.U.D. Review in consideration itself to address those real usual circumstances and maybe apply some additional timing requirements.

>> Mayor Adler: So if there's no objection we're going to add a language, comma, if the project has not been initiated. Is there any objection to this change being added to Ms. Tovo's amendment? Hearing none, it is. It's been moved and seconded. Is there further discussion on this item? Ms. Gallo.

>> Gallo: Once again I'm going to abstain from this vote and I think you had a lot of good questions that pointed out that, you know, there's often times things that we need to work through and ask and have the time for staff to be able to look into and I just am uncomfortable making a decision on this particular thing without much time to think about it.

>> Mayor Adler: Okay. Further discussion? Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, I'd like to speak against. I want to remind our council, we had a Zucker report back in the spring. Seems like a pretty distant memory right now. We had quantifiable results that we had delays and problems in our bureaucratic processes. We never addressed them. And people told us how it drives up the cost of development in the city, and pretty much we've done nothing about it, and now we're piling on more bureaucratic obstacles. So I'm very disconcert with all this.

[9:13:53 PM]

I'll be enthusiastically voting against.

>> Mayor Adler: Any further discussion? Ms. -- On this -- Ms. Tovo's second moment those in favor raise your hand. Those opposed? Zimmerman voting no. Those abstaining? Gallo and troxclair. 8-1-2. It passes. Ms. Gallo, do you have an amendment?

>> Gallo: I do. I do. I thank councilmember kitchen for bringing forth the idea a little bit earlier when we were talking about the auds, that when we are now talking about things and making changes to the code, that we ought to make sure that those changes and all of that is still discussed in the codenext review so my motion is actually copying councilmember kitchen's motion from earlier that says regulations related to planned unit development density bonuses will be analyzed as part of the codenext review of the land development code. The codenext team is directed to review and report on Austin's planned development density bonus regulatory, economic and fiscal impacts as part of the question. Process, including impact on a housing affordability options throughout the city. So I thank -- thank councilmember kitchen for bringing forth this idea earlier, and I think that as we all want to make sure the codenext process fully vets and reviews the things that we are doing in -- prior to the codenext being implemented, I would propose this motion to be added.

>> Mayor Adler: Is there a second to the Gallo amendment? I'll second the Gallo amendment. Is there any discussion on this? Ms. Tovo.

>> Tovo: I just wanted to know, is this actually going into the ordinance or is this direction to our staff?

>> Gallo: I would say it should be handled the same way the Adu amendment was handled.

>> Mayor Adler: Direction to the staff.

>> Tovo: Okay.

>> Mayor Adler: Any further discussion? It's been moved and seconded. Those in favor of the Gallo amendment please raise your hand.

[9:15:57 PM]

Those opposed. 10-0h1, Zimmerman abstaining. Ms. Gaza.

>> Garza: Is there any part of our land use code not being reviewed by codenext?

>> Greg Guernsey, planning and zoning department. Looking at the code in its entirety, so the only thing I ask maybe don't do too many amendments from now on and we can actually kind of get through it. It becomes more difficult as amendments come forward, the closer we get to getting to the public draft. That's my one wish for today.

[ Laughter ]

>> Mayor Adler: Everybody gets a wish today.

[ Laughter ] And if there's no further discussion, we're voting on item number 92 as amended. All in favor please raise your hand. Those opposed? It is Zimmerman voting no so it's 10-1. 92 passes. What about 93 and 94, 95?

>> Good evening. Items 93, 94, 95, while are separate, I will summarize the purpose of all three. We are here today to hold a public hearing on the establishment of three homestead preservation districts. This is responsive to council resolution number 2015-56-04-051, which directed us to proceed with establishing homes in areas designated district B, district C and district D. As part of our outreach efforts we're asking council to hold a public hearing today and we will bring these ordinances back for action on December 17. Chapter 373a the homestead preservation district and reinvestment zone was introduced into Texas legislature in 2005.

[9:18:03 PM]

This chapter allows for the creation of districts where consensus tracts meet certain conditions regarding population size, income and poverty rates. After districts are established there are three affordable housing tools that may be used within the boundaries of each district. The homestead preservation district reinvestment zone, land trust, and a land bank. Today we're here only to hold a public hearing on the establishment of these districts. Establishing the district will have no immediate impact on residents. However, it will preserve the option in the future for council to adopt an HPD tif if desired.

>> Mayor Adler: Okay. Is there a motion to approve 93, 94, 95? Mr. Renteria. Seconded by Mr. Casar. Discussion? Ms. Houston.

>> Houston: Yes. Ms. Spencer, is this one of those public hearings where people have to know to come here? We don't send any notices out?

>> Good evening, jest can I with neighborhood housing. The public hearing is not required by the state law on this particular item. We wanted to hold the public hearing as part of our overall public engagement process. What we did do to notify the public was to send out a news release flew the Austin housing notes to let folks know the public hearing would be taking place today.

>> Mayor Adler: Okay. Any further discussion on this 93, 94, 95? Those in favor please raise your hand. Those opposed.

>> Houston: I'm abstaining.

>> Mayor Adler: Ms. Houston abstained. Mr. Zimmerman abstains. Ms. Troxclair, I didn't catch.

>> Troxclair: Abstain.

>> Mayor Adler: It is 7-3 -- 7-0-3 with Ms. Garza off the dais.

[9:20:11 PM]

All right. That gets us then to item number 97. We have three people to speak. Gus Pena, Jay Wiley, Sarah Andre.

>> I'd just like -- I just like this side better. Hi, I'm Sarah Andre, consultant, I'm here on behalf of the developer and I'd like to give you an update on this project. This is located at 1124 Rulland, it is 200 units. This is a rehabilitation project so it's existing housing built in 1970. It is de facto affordable. It is not officially affordable through any restriction. We are serving people at 60% and below. 20 units are reserved for people at 30%. Ten are reserved for permanent supportive housing. We have a higher degree of accessibility than would be required through fair housing. It's a smart housing project. It is in Austin energy green building project. It is not tax exempt. This is an amenity-rich area of Austin. We are very close to a really nice YMCA and HEB and a beautiful City of Austin park as well as numerous retail and employment opportunities, as well as public transit. It is the only apartment building in the immediate area that has not been rehabilitated, basically for-profit developers have snatched up those units that are in that area and renovated them and raised the rents. We turned in our application to the bond review board, and we received our loan commitment from Fannie Mae today.

[9:22:12 PM]

Fannie Mae today.

>> Mayor Adler: Does someone want to move 97? Mr. Casar, Mr. Renteria --

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: Ms. Andre, I respect you and your staff's work. I appreciate this project in the heart of my district, which I do think is a great place for affordable housing is getting worked. I just don't want it to be affordable because people don't have hot water or because there are other problems with it, and I

am not -- you know, I don't know how much is the developer's responsibility versus the city's versus anybody else's. I just don't want folks winding up on the street and so if there's any way that my office can assist or any way we can assist to make sure that this project happens and that whatever it takes we just want people to get housed, and I know that's your intention as well. So I'm just really -- really don't want to wake up reading the newspaper finding out that my constituents wound up having to be evacuated from a place that wasn't safe for them to stay. So I appreciate the work being done. I want the work to get done, and it's really important to me that it happen.

>> Thank you for your support.

>> Mayor Adler: Any further discussion on this item 97? Mr. -- Ms. Troxclair.

>> Troxclair: So the applicant is mullholland group?

>> The official group is tmg-tx Austin two, lp. That is a limited partnership that is -- the mullholland group is the developer, a limited partnership. The general partner is nahc cross creek apartments LLC and the owner of nahc cross creek apartments is the know he will affordable housing corporation which is a nonprofit.

>> Troxclair: Is the developer a for-profit developer?

[9:24:14 PM]

>> Yes.

>> Troxclair: You said something --

>> Market rate developers.

>> Troxclair: Have snatched up --

>> The affordable world is filled with for-profit developers. My company is a for-profit company but they do not develop market-rate housing.

>> Troxclair: I just wanted to point that out, the developers building these projects are making money off of them.

>> Zimmerman: Mr. Mayor, the other thing to point out is that limited partnership you just mentioned, it is a New York state partnership.

>> It is, registered as a foreign entity to do business in Texas.

>> Zimmerman: Yeah.

>> Mayor Adler: Okay.

>> Zimmerman: Mr. Mayor, one quick question. It's saying here we're back to negotiation and execution of the loan agreement so we don't yet have the promissory note and the loan agreement or do we have that?

>> The city of Austin executed a promissory note and a loan agreement over a year ago, and that's been executed and is in effect. Is it the same one --

>> Yes, sir.

>> Zimmerman: The one we were just talking about, okay.

>> Yes, sir.

>> Mayor Adler: Okay. 97 has been moved and seconded. All those in favor please raise -- sorry, and we closed the public hearing and to approve the resolution. Those in favor please raise your hand. Those opposed.

>> Zimmerman: Abstention.

>> Mayor Adler: Two abstentions. Zimmerman and troxclair abstaining. 9-0-2, passes. The record should reflect on items 93, 44, 95, homestead preservation districts I think all we were able to do on those was close the public hearing. That's all we were posted for. That gets us now to items 79 and 98.

>> Casar: Mayor.

>> Mayor Adler: Yes, Mr. Casar.

>> Kitchen: So I move -- jack I move passage with this amendment, yeah, exactly, so I move passage with the amendment, which the law department drafted and essentially describes this middle ground between what department recommended and what the stakeholders recommended.

[9:26:26 PM]

It keeps our stair step goals in place, but they cannot actually be put into force unless the council votes to put them into force. And we need to receive a study from the department about whether or not that's viable so it leaves it to our disconnection.

>> Mayor Adler: Okay. It's been seconded by Mr. Renteria. The amendment that's been handed out to us in three sections is the modification of item 98. Is that correct? So it's been moved to adopt 98 as amended and number 79 as posted. And it's been seconded by Mr. Renteria. Is there any further discussion? Those in favor -- sorry, Ms. Gallo.

>> Gallo: I'm sorry.

>> Mayor Adler: It's all right.

>> Gallo: You know, this is kind of the same thing that I talked about a little earlier. The original motion - the original ordinance that we had was unanimously recommended by the planning commission and recommended by the open space council committee as it was written. And I would love to support what came through and that direction. I'm not -- I'm uncomfortable supporting changes to something that went through those two entities already. So I would vote against the motion as amended, but I would vote for the motion without the amendment.

>> Mayor Adler: Okay. Motion on the floor is the motion as amended. Those in favor please raise your hand. Those opposed? Voting no is Zimmerman, troxclair, and Gallo. It passes 8-3. Did we pass 45?

>> Postponed.

>> Mayor Adler: That was postponed to another meeting.

>> Right.

>> Mayor Adler: I think that was everything on our agenda. No?

[9:28:28 PM]

No -- I'm sorry, Ms. Tovo?

>> Tovo: Mayor, did we actually -- was our last vote -- I thought our last vote was a vote on the amendment. Was it actually on the overall motion?

>> Mayor Adler:.

>> Casar: I moved passage with the amendment.

>> Tovo: Thanks for clarifying.

>> Mayor Adler: Passage as amended. I wanted everybody to know that Mr. Zimmerman's last several times asking questions I think could be due to the fact that he had predicted a stop time tonight of 9:30 I'm just saying it could be coincidence, maybe not.

>> Tovo: That's a very good point. I'm going to have to take that into my analysis of whether or not you've earned a prize.

>> Zimmerman: Maybe there's a penalty if you guess right.

>> Kitchen: I want to remind everyone before we leave, since we've talked about codenext several times tonight, that this week is the sound check week, where there are events going on all week, all the way through to Saturday, talking about the codenext process. So I hope everyone will see if they have some time to participate tomorrow or Saturday.

>> Mayor Adler: That would be great. That's all we have. Everybody should have a happy Thanksgiving. See you afterwards. Thank you. Bye-bye. We're done.