

# City Council Regular Meeting Transcript – 12/08/2016

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[10:20:38 AM]

>> Mayor Adler: All right. Council, are we about ready? I'm going to go ahead and call this meeting to order. It is December 8, 2016. It's 10:20. This is the regular Austin city council meeting. We're in the city council chambers at 301 west second street here in Austin. We're going to try to do the consent agenda on the consent matters and then we will do the consent agenda on the zoning matters and then start working our way through the agenda. Let's first look at the consent agenda.

>> Houston: Excuse me.

>> Mayor Adler: Is -- with respect to item number 2, I think we need to pull item number 2 so it doesn't pass on consent. And my understanding is we're going to withdraw that item.

>> Houston: Councilmember Casar is going to -- councilmember Garza is going to request that it be withdrawn.

>> Mayor Adler: Okay. There are -- so we're going to pull item number 2 so we can handle that. Is Bob Jones here? Bob Jones? Then we don't need to pull -- is John Jeffreys here? Okay. So we don't need to pull item number 4, but Mr. Pena is here to speak on that. We'll call that in a second.

[10:22:39 AM]

>> Kitchen: Mr. Mayor, I'll be pulling item number 12, the appointments and environmental commission bylaws.

>> Mayor Adler: I think that one is good. Item number 7, let me look and that and see if there are any citizens. That also does not need to be pulled. Item number 9 we're going to pull. Item number 10 we do not need to pull. Item number 11 we're going to pull.

>> Gallo: Mayor, excuse me, you mentioned 9, but I had requested 8. Did you mean 8 instead of 9.

>> Mayor Adler: The aid issue? Eight is the aid issue, 9 is the city manager issue.

>> Gallo: Did you mention that 8 is being pulled.

>> Mayor Adler: No. 8, the aid matter, we'll pull that one as well. And what I'm doing is looking at speakers that were signed up. That gets us through consent. So the items I'm seeing being pulled, the consent agenda is items 1 through 14. The items that I see being pulled here are 2, 8, 9, 11 and 12.

[10:24:50 AM]

>> Zimmerman: Did you mean 3 instead of 2? 2 and 3?

>> Mayor Adler: 2 and 3. All right. Central library is being pulled. So 2, 3, 8, 9, 11 and 12 are being pulled. So 2, 3, 8, 9, 11 and 12 are being pulled. Okay. We have so people to speak on the consent agenda. One person would be Mr. Pena if you want to come down, Mr. Pena. I have you speaking on 4, 7, and 10.

>> Good morning, Mr. Mayor, Gus Pena. On item number 4, I've known Michael Lofton for many years. This is on the African-American youth harvest foundation, item number 4. It's been added for a long time. It is very important initiative by Mr. Lofton and others, and for the future ignored to save lives of the youth and put them in the proper direction to graduation and become positive members of society, more funding would be requested and suggested. I know about the funding constraints here at the city of Austin, but I know this is an outstanding organization Mr. Lofton has a number. You said number 7 too, right, mayor? Number 7, a lot of the community has a lot of problems. We're talking about 4900 -- 4900 on Gonzalez street. I understand that to be the old Allen junior high. I'm going stick to this item. Is there another item that is conducive to this one.

[10:26:52 AM]

Number 7, Allen junior high, I attended Allen junior high back in the early '60s, but it's supposed to be bought. Now, what are we going to do about the schools who are going to be closed because of structural damage? They have students right now that are going to be included from other elementary schools. What are we going to do if this individual purchases this property for affordable housing, which sometimes this gentleman does not build affordable housing according to our definition of affordable housing. So think about that you're going to sell that property in conjunction with aid where are the children going to go to school. Number 10 states equality, liberty and justice. This is an outstanding of the agenda where people have been in course rated for non-sexual issues. But it goes beyond that, mayor. People go down to jail or prison and become indoctrinated on the do's and don't's and also indoctrinated on other issues and become a productive member of society. They need jobs too, not just these folks. I would like to see it incarcerated that have proven to be productive members of society, once they were dismissed from the jails or prisons or whatever. There's a lot of them, a lot of them in the community that need help to reenter society and get a job. If you have that black mark it's going to hurt you. Word to the wise, let's expand these programs and it is a good program we all support and there's a lot of people in the community that have backgrounds and they have a difficult time. I wanted to mention that. I know that item number 2 has been pulled for is it speakers, mayor or for what?

[10:28:55 AM]

Number 2?

>> Mayor Adler: It was pulled.

>> Isn't it in conjunction with item number 7?

>> Item number 2 is the spay/neuter item.

>> Okay. Item number 2? It says Austin independent school district. Maybe I have the wrong thing.

[Buzzer sounds]

>> Mayor Adler: That's item number 8.

>> Anyway, thank you, mayor, for the time and let's keep helping the school kids. They deserve it. Parse those are all the speakers that we had on the accident agenda. I'm going to read into the record a couple of action items while I'm thinking about it. Item number 16 on December 6, 2016, it was approved by the parks and recreation board on a 7-1-0-3 vote with board member vein voting against and members donovan, luka and Wimberley absent. Item number 45, the owner applicant is Wesley foundation of Austin. The agent is Mike Mahoney real estate. Item number 49 is withdrawn. And item number 56 will be postponed to December 15th when we're able to call that item at 4:00, but I just

want people to know that when we call it at 4:00, I think it will probably be postponed to December 15th. Okay? We have had all the public testimony on the consent agenda. Again, consent agenda is items 1 through 14. The items being pulled are 2, 3, 8, 9, 11 and 12. Is there a motion to approve the consent agenda? Ms. Gallo makes that motion. Is there a second? I need a second.

[10:30:59 AM]

Mr. Zimmerman.

>> Zimmerman: I'd like to read into the record, I want to be voting abstaining item 4, against item 5, abstaining item 6, against item 7, abstaining from item 10 and in favor of the rest. Thank you.

>> Mayor Adler: Okay. Thank you. Any other notations. Yes, Ms. Troxclair?

>> Troxclair: I just want to abstain from item number 4, 5 and 7, please.

>> Mayor Adler: Okay. Ms. Kitchen?

>> Kitchen: I should have mentioned this before. I don't know if you want to bifurcate pulling 12 or not. There are two parts to 12. The nominations and waivers is one part and the environmental bylaws is the other part. I was pulling with regard to the environmental commission.

>> Mayor Adler: Let's pull the whole thing. I'll make a nomination for the bond board since it's a task force we can do that orally. And I think councilmember troxclair is going to do the same thing so we're going to pull 12.

>> Kitchen: Okay.

>> Mayor Adler: Yes, Ms. Garza?

>> Garza: Does two need to be pulled if the plan is to withdraw it and there's no objection?

>> Mayor Adler: There are a lot of people signed up for that. We could -- we wanted to -- let me ask the question. There are a lot of people that are signed up to speak on item number 2, which is the spay/neuter matter. My understanding is that there's going to be a motion to just withdraw that item from the agenda. It will be seconded -- it will be seconded by Ms. Houston. Does anyone who signed up on that still want to speak to it?

>> Mayor, I have a question about that.

[Inaudible].

>> Mayor Adler: I'm looking at the agenda and item number 2 relates to the sterilization of animals at the Austin animal shelter.

[10:33:01 AM]

Is anybody here speaking on that item, the Austin animal shelter item, that signed up for that wishing to speak if it's going to be withdrawn?

>> [Inaudible].

>> Mayor Adler: If it's withdrawn you don't need to speak. Okay. So Ms. Garza makes item number 2 -- suggests that item number 2 on our consent agenda be a withdrawal of that item. It's seconded by Ms. Houston. So in the absence of an objection, item number 2 on our consent agenda now is just the withdrawal of that item. Okay? So that item no longer needs to be pulled. So there will be no public debate. And it will be withdrawn with our adoption of the consent agenda. Any further conversation? Those in favor of the consent agenda please raise your hand? Those opposed? It is unanimous on the dais with the mayor pro tem absent. Today the mayor pro tem is not with us. She is representing the city and the council at an international event where the city is being recognized in an open forum matter. We're the only north American city I think that is being so recognized. We appreciate the mayor pro tem representing us today there. Greg, do you want to take us through the consent agenda for zoning and platting items?

>> Thank you, mayor and council. Greg Guernsey, planning and zoning. Zoning ordinances and restrictive covenant items start at item number 17. 17 is case npa 2016-0010-02 for the property located at 622 pedernales street.

[10:35:07 AM]

Staff is requesting a postponement of this item to your December 15th agenda. Item number 18, c-14-2016-0041 on east sixth street, staff is requesting a postponement of this item to your December 15th agenda. Item number 19, case c-14-2016-0043 for will property located at 622 pedernales street. Staff is requesting postponement of this item to your December 15th agenda. Item number 20 is case c-14-2016-0025-01. This is the second and third reading for a neighborhood plan amendment at various properties on rialto boulevard to the multi-family land use designation and this is ready for consent approval on second and third reading. Item number 21 is case c-14-2016-0011 for various properties on rialto boulevard to multi-family combined district zoning. This is ready for second and third reading approval. Item number 22, case c-14-2016-0052 for the property located at 507 west 23rd street to go-np combined district zoning. Item number 23 is case c-14-2016-0091 for the property located at 4001 south Lamar boulevard to zone the property. This is ready for consent approval on second and 3dings. Continuing on with the zoning and neighborhood plan amendments. Item 24, c-14-85-288.8, rca 3, these are for various properties on rialto boulevard. This is ready for consent approval to grant the amendment. Item number 25, case npa 2016-0005.01 for various properties on thrasher lane.

[10:37:08 AM]

This is to postpone this item and staff requests to your January 26th agenda. Item number 26, c-14--2016-0070 for various properties on thrasher lane. Staff requests postponement to your January 26th agenda. Item number 27 is npa 2016-0005.0 two for properties on east Ben white boulevard and montopolis drive. Staff is requesting a postponement of this item to your January 26th agenda. Item number 28, case c-14--2016-0085 for properties on montopolis boulevard and east Ben white boulevard. Staff is requesting a postponement of this item to your January 26th agenda. Item number 29, case c-14-78-220 rct for property on Ben white boulevard and montopolis drive. Staff is requesting a postponement of this item to your January 26th agenda. Item number 30, case npa 2016-0013.01 for various properties in south second street. The applicant and the neighborhood have requested a postponement of this item to your December 15th agenda. They're working on a private restrictive covenant. It hasn't been completed yet. Item number 31, a related item, to item 30, is case c-14-2016-0077 for various properties on south second street and Christopher street. The applicant and the neighborhood have requested a joint postponement to your December 15th agenda. Item number 32 is case npa 2016--0021.01 for a property located on east Ben white boulevard. The applicant has requested a postponement of this item to your January 26th agenda. Item number 33, case c-14-2016-0069 for the property located at 5016 one and a half east Ben white boulevard.

[10:39:17 AM]

Applicant has requested a postponement of this item to your January 26th agenda. Item number 34 is case c-14-2015-0119 for various properties on shoal creek boulevard. Staff is requesting a postponement of this item to your January 26th agenda. Item number 35 is case c-14-2016-0039 for the property located at 2413 Thornton road. The applicant is requesting a one week postponement of this item to your December 15th agenda. Item number 29 is case c-14-78-220 rct for properties on east Ben white boulevard and east oltorf drive. Staff is requesting a postponement to January. Item number -- I

just noticed I'm repeating. Item number 36, c-14--2016-0087 on east oltorf street. Staff is requesting a postponement of this item to your January 26th agenda. Item number 37, case c-14-2016-0092 for the property located at 12,200 Jordan crossing boulevard. This is to zone the property to mf-3 zoning. This is ready for consent approval. Item number 38 is c-14-2016-0093 for the property at 510 east 15th street. This is ready for consent approval on all 3dings. Item number 39 is case c-14-2016-0097 for the property located at 4714 south congress avenue. The staff is requesting a postponement of this item to your January 26th agenda. Item number 40 is case c-14-2016-01006 for the property located at 4411 south congress avenue.

[10:41:19 AM]

Staff is requesting a postponement of this item to your January 26th agenda. Item number 41 is case c-14-2016-01007 for the property located at 9413 and a half Pearson ranch road. This is to zone property to go-mu-co combining district zoning. This is ready for consent approval on all three readings. Item number 42 is case c-14-2016-0109 for the property at 16401 Bratton lane. This is ready for consent approval on all three readings. Item number 43 is case c-14-2016-0110 for the property located at 1005 west avenue. Staff is requesting a postponement of this item to your January 26th agenda. Item number 44 is case c-14-2016-0114 for the property located at 3121 palm way. This is to zone the property to mipda district zoning. This is ready for consent approval on all 3dings. Item number 45 is case c-14-85-002 rct for the property located at 2202 nueces street to grant the restrictive covenant termination. We need to note that the applicant is Mike Mchone or the agent is Mike Mchone on this case. 46 is C 14 H 2016-00 survey for the property located at 504 west seventh street. This is ready for consent approval on all three readings. Item number 47 is case c-14-h-2016-0099 for the property located at 905 Dawson read to zone the property to sf-3-hnp combined district zoning. Ready for consent approval and all 3dings. And fine any number 48, C 144-2016-0112 for a property on east Cesar Chavez street:

[10:43:22 AM]

This is ready for consent approval on all 3dings.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Hang on one second. Best as I can tell, you have read through us beginning with item number 17 and going through item number 48 and every item on there is either for consent approval or postponement.

>> That's correct.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: That answers my question. I missed one of them. So I got it.

>> Mayor Adler: Ms. Pool?

>> Pool: I have one question for Mr. Guernsey. And it is on item 44. It looks like there is one change to the major industrial plan development area versus major industrial plan development area and is it just to allow a cocktail lounge that's larger than 10,000 square feet?

>> I believe that's correct. I might have to go back and dig through.

>> That's the only thing that -- Mr. Rusthoven?

>> It is to allow a store to sell beer and wine, what is normally a retail store, criteria and burial. That would -- crate and barrel. They would like to be able to sell beer and wine.

>> Pool: That answers my question. Thank you. I don't see any speakers on these matters. Is there anyone here to speak on these matters that I don't see? Is there --

[10:45:22 AM]

>> Casar: I wanted to ask a quick question of the staff or potentially councilmember kitchen has the answer. On Thornton, do we know when it will be coming back? My particular interest in it, as is yours as well, is that the developer has talked about some affordable housing components and I just -- while I understand that we might R. May want to continue working on the zoning case, I'm certainly not inclined --

>> Kitchen: It's postponed to next Thursday.

>> Casar: So shortly. Okay.

>> Mayor Adler: Is there a motion to approve the consent? Ms. Houston?

>> Houston: I understand on 44 that because the domain is a walkable community it's all right for people to drink and shop, but I'm going to be voting no on 44.

>> Mayor Adler: Okay. The record will reflect she's voting no on 44. Is there a motion to approve the consent agenda? Ms. Troxclair moves, seconded by Mr. Zimmerman. Any discussion? Those in favor raise your hand? Those opposed? It's unanimous on the district zoning a the miles per hour off with the know -- the mayor pro tem off with the notation made by Ms. Houston. And where the publics where applicable, they are closed.

[Laughter]. Okay. That gets us then back to our agenda, to work through. I'm looking at item number 3. Mr. Zimmerman, did you want to address that?

>> Zimmerman: Thank you, Mr. Mayor. I would be happy to do that. Is there somebody in staff who could -- we asked for some backup information, and we did receive some backup information, and one of the rationales for the cost increase according to our information, and I'm going to quote here, is the addition of a photo vow tallic system that costs 600,000 on the library roof, but curiously it says there are various building and life safety code requirements.

[10:47:37 AM]

That have presumably resulted in about five million dollars of extra charges. I wonder if there's anybody that could speak to the justification for this additional five million dollars or so?

>> Mayor, councilmembers. City attorney, I'm John Gill Lamb, the library department's facility process manager. The life safety issues in the building that are currently being corrected are primarily, but not solely related to the smoke evacuation system for the atrium in the building.

>> Zimmerman: I'm sorry. How long -- this building has been coming up on four years, right, that it's been constructed and there was a lot of design that went in part of that.

>> We broke ground in may of 2013 and started digging for the underground parking garage.

>> Zimmerman: Right. And the bond was approved seven years prior to breaking ground.

>> 2006, yes, sir.

>> Zimmerman: Let me put that overhead -- I've got an overhead here, some support information. It comes from the city of Austin voter education and I'd like to draw attention. When the voters voted for this back in 2006, if they went to the city for information on what they were voting on, what was going to be the cost and what was going to be the benefit for the voters that bothered to look I've marked at the bottom here the cost. So the ballot language is pretty clear. The issuance of 90 million tax supported bonds for constructing and equipping new central library facility and acquiring land and interest and property necessary to do so. So that sounds pretty comprehensive.

[10:49:38 AM]

We have a budget of 90 million. You're going to improve 90 million. And you're going to get a building constructed. If you go down the description there are some further benefits enumerated, but I want to

draw attention to the line where it says "The new central library facility will feature but is not limited to." In other words, I'm going to pay \$90 million, but I might get even more than what the education tells me I'm going to get. So my objection here is that it turns out the opposite is true. \$90 million doesn't get me a library. And not only is the cost not limited to 90 million, it's not limited to 100 million or 110 or 120 or 130 million. Does anybody know where we are if approve this additional money how much we will be over the 90 million.

>> Could you ask that again?

>> Zimmerman: With this additional cost overruns where is that going to put us when we told the voters it would be 90 million.

>> Greg Canally, financial services. In 2010 as the library began the process of initial design on a new central library they brought back to council and going through that process working with stakeholders, including the council at the time and the community, in 2010 the city of Austin approved an architectural program for a central library and an associated budget for that library. The library sat in December of 2010 for the budget was \$120 million. The city then working that process beginning contracts forward to realize -- to get the project going. This action today is adding additional authority for the construction contract, which is part of the overall library project, so from \$120 million we are now at \$126 million for the entire new central library project.

[10:51:39 AM]

So about six million dollars over the original budget of \$120 million.

>> Zimmerman: Hang on, I'm sorry. The original budget was 90 million. That's what the voters voted on. The budget is 90 million, not 120 million. I'm sorry, if we go to the voters and we put in ballot language \$90 million, that's not 120 or 126 million or 130 million. It's 90 million. How is it not 90 million.

>> Mayor Adler: So my understanding -- it's kind of a rhetorical question, but my understanding is that --

>> Zimmerman: I want it to be a legal question, not a rhetorical question. It seems to be a legal question, not a rhetorical question.

>> Mayor Adler: So the legal question is when the community gets together and approves a design for a library at 90 million dollars, does that -- \$90 million, does that preclude the citizens from acting through their city council from later deciding that they want to change the scope of the project or they want to add to the project? My understanding is that in this case after the initial scoping of a 90-million-dollar library project, the citizens, community, acting through their elected representatives, said, you know, when we build this library there are some additional things that we want done and the citizens again acting through their representative decided that they wanted these things and were willing to pay for them. And then the budget and scope was raised to a cost of 120 million. That would happen after community conversations, community engagement, community process. And a vote of the community through their representatives. Subsequent to that there's been an additional six million dollars associated with the items you have brought back to the council, is that correct?

>> That's correct. And in fact, the additional five million dollars was included, the city council approved the additional funding as part of this year's adopted budget.

[10:53:40 AM]

It was consistent with the conversations that we had with you in the spring as we're updating the council and the community on the progress of the overall project.

>> Zimmerman: If we could put that back up, the mayor is correct, details can change, but if you notice down here at the bottom of the page in the description it said the new central library facility will feature, but is not limited to. In other words, when the voters were educated, quote unquote, they were

informed that they could get additional benefits just as the mayor said. What was missing was that the project could be 30 or 40% more than what it was put on the ballot for. And I absolutely disagree that going to the voters and saying do you want to spend this is the same as getting six councilmembers to say we're going to increase it by 30%. I don't think those should even be mentioned in the same conversation. So I'm going to be voting no.

>> Mayor Adler: Any further discussion on this item number 3? Is there a motion to approve item number 3? Mr. Casar. Is there a second? Ms. Pool. Any discussion? Those in favor of approving item number 3 please raise your hand. Those opposed? Zimmerman and troxclair voting no. Others voting aye. The mayor pro tem off the dais. Thank you.

>> Pool: Mayor, could I just say thank you to staff for the diligent work that they've put in on the library? It really is going to be a really important and valuable asset for the community despite what some of the rhetoric of the dais may lead the community to believe, I think that the city of Austin really appreciates the work that staff has done and I'm looking forward to the day when we cut the ribbon and celebrate the opening of a new central library. It's time for a larger, more 21st century targeted building and interiors and all of the assets and benefits and programs that we'll be able to do there. Literacy, education is really important to this community and we show that time and time again with the community's support for things like bonds for the new central library.

[10:55:49 AM]

So thank you, Mr. Gilliam and also to -- Gilliam and also to Ms. Branch and all of the staff who have worked so hard to make this project come to a final end. And I know how applicanted it is and so again, the community appreciates you.

>> Thank you. It has been a challenge and we will finish it and it will be a success and it will be a huge asset for the entire city of Austin. And it will increase library services throughout our branch system. The central library is essentially the trunk of the system, and when we build a bigger, better central library with a great collection it makes the assets available to anyone at any of the neighborhood libraries. Thank you very much.

>> Mayor Adler: Okay. That gets us to.

>> Gallo: I thank you for mentioning neighborhood libraries because the struggle we have in our neighborhoods is now that we have funded and we have a focus on the neighborhood libraries. I know there's a library in my district that we've been trying to get the funding for for improvements, A.D.A. Improvements that need to be done as some asbestos issues that will have to be hand as part of our renovation. I look forward to getting past the discussion on the central library and us be able to focus on our neighborhood libraries and getting them to a place that they need to be to be able to supply the necessary services for people who don't want to get in their cars and drive a great distance to come downtown. So thank you.

>> I think people often think that the library department right now is totally focused on the new central library, but we deal with branch library renovations and improvement everyday. I think we have approximately 10 million dollars' worth of capital improvement program funds being poured into our branch system right now.

[10:57:53 AM]

We're either in design or construction or some phase of trying to improve all our libraries, which are very important to us as well as to the communities they serve. So I thank you.

>> Mayor Adler: Thank you. That gets us now to item number 8, which is the aid item. Ms. Gallo, did you say you wanted to say something about this?



>> Gallo: I do. I just have some questions of staff. So thank you. You know, it's always good to look at opportunities and I know we're so focused on affordable housing, which is appropriate and many people hear me from the dais continuing to talk about opportunities for affordable housing that can be geographically disbursed throughout the community. So this gives us the opportunity to do that. I just have a couple of questions and I know because we are in the process of submitting a bid that obviously as happens in bid situations, there's a limit to the amount of discussion that we can actually have here. But it's my understanding that we have three opportunities with the school district on these properties. One is an opportunity to form a partnership where the properties would actually be donated to the city as long as we use them for approved public uses. The others would be -- the the other would be that we are able to purchase but at a discounted rate from market value and that would have the same provisions. And the third opportunity is to purchase at market. And the concern obviously if the properties are donated, are sold to us at a discounted amount that I would embrace those completely. My concern with any portion of this that includes an offer of market is finding the funding stream to pay for that.

[10:59:56 AM]

I would imagine in a contract that we would be obligated to completing the contract and finding that funding stream. I know as we've talked about this that if G.O. Bonds, existing G.O. Bonds are being used that I know when the housing bond was voted on by the voters that the city actually set up a committee to be able to -- and councilmember kitchen the funding that came out of that housing bond. And to strategically address the most appropriate projects to spend I guess one of my concerns and a question I would like to ask is has this discussion gone before that committee so that we can understand if the properties that we are including in this bid have been addressed from the standpoint of how they would be prioritized. Obviously we have more opportunities and needs than we have money for and so that would be my first question is in the process -- and I applaud the real estate department because I know you've had to put this together very, very quickly. The school district didn't give us much turn time on this. But I do -- we have a process in place for evaluating the purchase of properties that would be paid for with that housing bond and I just want to understand where that process has laid itself into what we're doing. And once again thank you for the hard, quick, fast work.

>> Mayor Adler: The question would be obviously we don't want to talk about specific properties and we don't want to talk about specific offers because this is a closed bid process and it's confidential at this point and it concerns real estate. So I don't know if in order to answer that question we need to go back into executive session to have that conversation or if there's a way to answer that question so broadly as to not give indications as to specific properties or specific bids in a way that would still meaningfully answer the question councilmember Gallo is asking.

[11:02:00 AM]

>> I think the very simple question that can be answered here which is did this go through the bond process and it did not given the timing involved with the whole transaction with the asked. So the answer is no.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I would -- I'm going to support this. I would -- I'm going to support this with the understanding that if we were to win on bids that we haven't finally stated where we would get the funding from. Because it's very important I think not to go around the process that we've set up. And so I'm going -- before I will be able to vote for using the bonds, I will want to hear from the committee who's charged with providing recommendations on the use of those bonds. And I understand that we

have several potential sources of funding, that bonds are not the only potential source, you know, in terms of, you know, using funding for anything we were selected for. I just want to state rye now that I think -- and I think -- can you confirm for me the intention would be that for anything that we were selected for that involved funding that we would take it back to that committee?

>> Yes, I can confirm that that will happen.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: Thanks for that. I assumed that that would happen. I didn't realize there was any question. I know there was no direction from council to change the process so thanks for restating it, but I was pretty sure we were moving in the same direction. I recognize there may be timing issues but they can also come into play when we have more information.

>> Mayor Adler: Ms. Gallo.

>> Gallo: So may I ask the question since these are contracts that would obligate us to potentially purchase problems that would require funding sources, is it appropriate to ask where those funding sources would be?

[11:04:02 AM]

>> I think -- we are asking -- you are asking us to vote on submitting a bid to potentially purchase properties for an amount that is listed, and the source of the funds -- I'm just asking where the source of the funds could potentially be from.

>> So potentially we would be looking at a funding source such as general obligation bonds, once we have the opportunity to go through the process, or potentially the housing trust fund or another source of funds that would be identified through our financial services department.

>> So council, if I may, Burt Lumbreras, I think it's for our purposes, it's not a requirement of the bid. What I would suggest to council is that if we were to be successful, then I think we obviously are going to honor the issue of respecting the process about going through the committee and then also coming back to council with a funding source once we identify whether there is support from the committee or the G.O. Bonds or not. If not, then we obviously can come back with other sources of funding. So the issue of the funding source was provided to council, but I think that that's something we could work through once we determine whether we're the successful bidder for any of these properties.

>> Gallo: So if the -- one of the potential funding sources would be the housing trust fund, has the housing department -- have they been involved in this process at all from the standpoint of being a potential source? I just -- I'm always concerned when we go out to bids on contracts that would obligate us to comply and execute those contracts that -- that are determined by a source of funding. And so I just want to make sure that all the voices -- and I see housing here also, so -- yes, excuse me, you were already here.

[11:06:09 AM]

>> Rosie truelove, we have been actively involved since the initial passing of the resolution asking us to look at this. And we have, you know, through our processes identified options there.

>> Gallo: So you have been part and that is a possibility to be able to have these contracts funded. Okay. Thank you. That's really helpful. Just knowing and the public knowing that we've actually had a conversation with the different sources of funding that would be part of this as we vote up here to obligate us for that I think is very helpful. So thank you.

>> Mayor Adler: Is there a motion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I thought I heard a rhetorical question about where is the funding coming from. We have something that's called an automatic teller machine, it's the Austin

taxpayer and it's one source of all the funding, just to be sure. I am, of course, going to be voting against this because again we're moving in the wrong direction of affordability. Subsidized projects are not sustainable, they are not affordable, they put additional pressure on the people already being forced to leave Austin because they can't afford the taxes and fees. This contemplates raising that burden to pay for the subsidies on the people still here on yet another economically segregated and subsidized class. This is an absolutely terrible decision and it's going to make our affordability problems and economic segregation worst so I will be enthusiastically voting no.

>> Pool: Do you have someone who has made a motion?

>> Mayor Adler: I was about to call for that but Mr. Zimmerman raised his hand so I called him to speak.

>> Pool: I would be happy to make that motion.

>> Mayor Adler: Ms. Pool makes the motion to approve item number 8. Is there a second? Mr. Kay arrest star -- Mr. Casar seconds. Those in favor? Mayor pro tem is off the dais. Now, this is identical to the item that is in the Austin Austin housing finance corporation agenda so I am going to recess our -- can't until 3:00?

[11:08:22 AM]

So we'll come back and do that then. That gets us then to item number which is the manager search item. Dr. Washington.

>> Thank you, mayor. We had an opportunity to brief the council as everyone is aware this past week and we heard some of the concerns expressed by the council regarding the staff recommendation and we were asked to go back and evaluate some other considerations. And we know that public engagement is very important to the council and making sure that there is a process for citizen engagement. We know that having a search firm that will be able to assist the city in not only having a good feel for the talent in the public sector is important, but what we heard was that there is also some desire by some of the members of council to ensure that the firm that is used is -- has expertise in sourcing talent from the private sector and C suite our talent from the private sector.

[11:10:31 AM]

We were asked to consider the possibility -- [lapse in audio] The city find talent from private sector organizations. And the staff has gone back and has done some preliminary assessment of that in both talking to the recommended firm that we have in the rca today, Ralph Anderson associates, to see -- to gauge their interest in partnering with the private sector firm. There was also a list of -- excuse me, some suggested companies that have a renowned reputation on the private sector side, and we attempted to make contact with those firms as well. There was also some discussions about the -- the process, maintaining the integrity of the rfq process, and I will ask our purchasing officer, James Scarbrough, to talk about that, but just the macro picture, just to be responsive to the interest of the recommended firm and whether or not they have interest in as well as the other firms that did not, I will ask Ms. Hays to come and update the council on the outcome of those discussions.

>> Good morning, Joya Hays, director of human resources. As a part of the conversation that we had on Tuesday, there were three pieces that were relative to take-backs that you wanted from human resources. The first came from councilmember Pool relative to information of the source. The city, the form of government and the budgets for which we have calculated for today and have those as late backup. We were not able to complete that in time for the backup to council, but we do have that today.

[11:12:32 AM]

In addition you requested that we try to reach out to the firms to determine if there was some opportunity for collaboration. We were not able because we were part of the assessment team to reach out to Ralph Anderson so the purchasing office completed that and can discuss that with you. As you recall on Tuesday I communicated to you that we had proactively wanted to reach out to those firms in preparation for the communication. They responded from that initial communication from last week this week. Two of the firms indicated that that was not in their line of business and after further assessment within the organizations they did not identify anyone who would be interested because that was not their line of business. And one company said while that isn't their line of business, they could potentially be interested and said they would ask us to submit a job description so they can review that. With additional time we will have opportunity to go back to the two firms who communicated initial disinterest to determine if there is any additional interest based on the clarifying questions that came up Tuesday relative to them not having to be an expert within public sector and also possible collaboration with another firm. So we will attempt to get that information to you. There are different sources to determine who are the top private sector firms and so staff has gone back and tried to identify the most common top ten so when we do come back to you we will not focus just on those four but provide you information relative to firms that are private sector that could possible or potential be ones you could evaluate. With that time we will come being bazitski and provide you those details.

-- Come back and provide you those details.

>> Mayor Adler: My sense is rather than acting today there be more time being taken to kind of answer the overall questions. And I think there are three things, as I understand it, from our conversations from learning from you as well as discussions we've had on the dais where we originally set this up in terms of what I think we're trying to get to.

[11:14:40 AM]

The first is we obviously have a public engagement process in this and some firms handle those and know how to handle those and others do not. The ones that deal with public administrators know how to do that because that's part of their Normal course of business. Those that do not may or may not have the same kind of expertise. The second is we want to make sure that we have, you know, one of the top and best opportunities to have someone who has a rolodex for people who are the traditional public administrator functions. They know who the people are and who are skilled throughout the community and they do that and can help us find and recruit that best candidate whether or not they apply for the job or would think that they would be interested until we found them. And then the third thing was that same function in number 2 but for the private market. A couple months ago when we were together we also expressed a keen desire in making sure that whatever search firm we had or process we had also had someone advising us that had access to a rolodex of those people who are at the C level or management level or even academics that might be involved with city planning or operation that may have had, you know, skills in the past or been in public and private administration, but we wanted to have a different rolodex and a different expertise weighing in on the job. So I think with the questions that were raised earlier this week were consistent with what we had talked about a couple months ago and I appreciate and I think the council appreciate the steps you are taking now to engage in those conversations. And what we would be looking for, I think, is after having had that conversation, what is the best recommendation from you to give us all three of those things because how do we solve for having all three of those things because we want all three of those things.

[11:16:52 AM]

And then the last thing before I send it back to you is the question of budget was also something that was raised. And my sense is what the council is saying is we don't know what the appropriate budget should be until you come back to us and tell us this is the different ways that you might be able to solve for giving us all three things that we want and discussing the budget in the context of that I think we might be able to give you the clearest direction. And I want to make sure that order of process also works for you.

>> Yes, mayor, we are very committed to understanding the needs of council and trying to provide those to you. I think it's very important though at this point just based on the 24 plus hours that we've had to do some initial research that it's important to point out we did ask the purchasing office to reach out to Ralph Anderson. I believe they are signed to speak to this item. In speaking to them, they were not willing to do the subcontractor component and some of the things they articulated to us is that in order to create such a relationship, they would have to expose their processes, procedures and as a competitor creating that opportunity it was not something they were interested in doing. And I think just as experts in this particular field it's important for us to point out that while we have not -- heard that formally from the other entities, we are concerned about rung into concerns relative to trying to create an industry where we're having competitors one public and one private try to do subcontract to go meet it. With that being said, we want to just point out to you that we'll certainly go back, do as much research as we possibly can and bring forth some options or recommendations that closely align with what your intent is as possible for your consideration.

>> Mayor Adler: And it may be that after doing this analysis you come back and say you can only have expertise in public administration areas or only have expertise in private and you can't have expertise in both, or you could come back to us and say this is how you maximize in each of these three areas and this is your best option for being able to do them both.

[11:19:08 AM]

I would hope maybe there's a way -- if Ralph Anderson is the preferred public administrator official, my hope would be -- firm, my hope would be there would be some way and I guess if that person is signed up we can ask that question in a moment, whether there's a way for council like ours to also meet that other objective as well. So we're asking for kind of solutions. I recognize what we're asking is atypical and may involve something [lapse in audio] Here now. I know from my colleagues there's a desire to make sure if we can that we have real expertise in all three of those areas.

>> Thank you very much and I think it's important from human resources perspective to say we are very in tune to what you are looking for, we're trying to look outside the box, provide you our expertise but also provide you the flexibility to ask for atypical things and we can try to accommodate. And we thank you for the opportunity to really explain just initially our concerns with the process and the complexities that it requires and the time it will take us to do some additional research and bring you some options.

>> Mayor Adler: And then at that point you could then recommend to us whether -- and we could hear from the people who are speaking, you need to tell us whether you need anything from us, do we need to restart the rfq process, do you want to have these conversations while the rfq process is still pending? Given the fact we're trying to hit all three of these areas, what's the best path forward for us.

>> I think you might want to withdraw the solicitation and have folks just speak to them directly. The process has been good to this point. We've gotten a lot of information, or you keep the process in place, postpone it for a week and then add on. But -- to find somebody separate from the group of people who are part of the solicitation right now.

[11:21:12 AM]

>> Mayor Adler: Okay. Do you want to address this before we hear -- I'll give you a chance as well.

>> Mayor, councilmembers, James score borrow, purchasing, I would concur with the comments of the law department. The process that is associated, the procurement process associated with this item today was conducted based on a description of steps and consideration that were set forth in the solicitation. We received responses back November 1st and they have been evaluated. To discuss approaches and consideration and talking to other firms about what they could and possibly can't do, I would recommend that to preserve the most amount of options for the mayor and council that it would probably make sense and my recommendation we set this whole station aside, follow up with all the respondents, let them know if they would wish to continue to be considered that we could continue to do so. But that would then broaden our ability to consider other approaches, talk to other firms without the constraints that are placed upon us by matter of the process in the solicitation document.

>> Mayor Adler: Okay.

>> The only other comment I made relative to city attorney's comment, we believe it will take at least two to three weeks and with the holidays and the time it takes to get responses from the private sector, so I know there was a question relative to whether or not we could have information for you next week. We would certainly work towards that, but I believe we will need additional time to work through the ideas and come with some recommendations.

>> Mayor Adler: Would you need the council's authorization to start the process again if that was the direction to go or is that something you could initiate on your own?

>> So I believe if you are asking whether or not the city employees can go forward and talk to people, they certainly can. You don't need to initiate a process again.

[11:23:13 AM]

You don't need to do an rfq. You can ask them to go forward and talk to companies that might be appropriate for this. This is exempt under state law for the procurement. We did the rfq because that's what we believe the council wanted, but you don't have to do it that way. So you can just continue with this process, you can can draw the solicitation.

>> Mayor Adler: And handle taking any action, we don't handcuff you or the staff in terms of being able to try to drive to the three or more goals that we have.

>> Mayor, that is correct. It would involve, however, and I would recommend the safest way to do so would be to withdraw the solicitation and therefore we could explore all options. That would not mean we would have to restart another solicitation, it would just mean that we would not be tied to the process description set forth in the solicitation.

>> Mayor Adler: Gotcha. If we were to do that, could we do that today as posted or would we need to post that for next week in order to take that action?

>> [Inaudible]

>> Mayor Adler: We could do that today. I think I understand the parameters. There are some people that we'll get to them after we have questions from the dais.

>> So I want to better understand what you are planning to come back to us with or do you not quite know? Are you going to come back and say here are our top three picks? It was suggested to me that possibly the council review information and pick top two and staff review information and pick their top two and then maybe the council and staff could be involved in interviews of the firms? I don't know how deeply my colleagues want to get involved in the process, but I do want to make sure there is some accountability to council when we get to the end. So I guess what I'm asking is what do you -- when you do come back after you have time to reach out to these other firms and do more research, et cetera, what are you envisioning right now that you will come back to us with?

[11:25:23 AM]

>> I think, council, what we would find out if there's interest, number one, among both the public firms and private sector firms and we would explore as Ms. Hays said the possibilities. And if there is interest, we would bring those interested proposals back to the council for you to recommend. We never talked about a governing process where it would be a subcommittee, couple of councilmembers. So if council wants us to vet these through a portion of the council, full council, we would need further direction. We were going to replicate the process we have before us and envision it will require more than city manager's authority to get the funding to bring recommendation back to council.

>> Troxclair: So what you are envisioning right now is similar to what you brought today which is recommending one -- recommending the top firm and based on your research?

>> I think we would -- and what options that would avail itself to the process. It may be the top firm, it may be a combination, some combinations of firms. But at this point without going through the process, we just don't know that we can guarantee we would bring back since this is pretty uncharted territory.

>> Troxclair: Okay. Well, I appreciate you accommodating our requests and I know -- yes, it is uncharted territory so I'm not sure exactly what I'm requesting either, but if there is an opportunity or if there is interest from the rest of the dais in having council maybe be more involved in the process so that we don't have the same issue in January and there's a firm that's recommended and we feel like maybe we wanted to have more information or something like that, I don't know if that's something appropriate for us to talk about today, but I'm worried that we're sending them back out and that we may not be happy with what we have presented to us at the end of January.

[11:27:30 AM]

>> Mayor Adler: Yes, Ms. Kitchen, then Ms. Gallo.

>> Kitchen: Perhaps one way to do that to address that is somewhere in the middle of this process you are going through, you can come back and talk with us more about it. That might be one way to deal with it so that you are not coming back at the end of your process, you know, for example, you know, without information, my initial reaction would be we're better off with one firm than a combination of firms, but that's just an initial reaction without information. So -- so it may be that we can have that kind of conversation after you have a better idea what might be possible. But before the end of the day. You know, in terms of our vote. Does that work or --

>> Mayor Adler: You know, we as a council have our retreat set for the 11th and 12th. If you want we could earmark 15 minutes of one of those days for staff to come back to brief us to the progress of this process at that point. So we don't have to wait until the end of the month. Ms. Gallo.

>> Gallo: You know, we are looking at an executive search for the most important position in our city and I think that the appropriate process for us to consider would be that what comes back to the council for discussion is -- is not just one applicant, one recommendation, but I think the council should be in a position to be able to look at two to three to four of your recommended top applicants because the -- this is really critical. This will be the person that moves us forward in a direction that is going to be responsive to the council's concerns, the council's interest in what type of person and what characteristics and talents that person brings to the council. And I think all of us that have worked these last couple of years with the former city manager kind of understand and have in our mind the things specifically we're looking for, but I do think that I would be more comfortable and I think it's appropriate for the council to look at the top recommendations, not just the top recommendation.

[11:29:46 AM]

And I think that's an appropriate place for the person, these are one of the few -- this position is one of the few positions that the council actually hires as a council, and I think that we particularly towards the end of this search need to be involved not just in the final yes and no of a recommended one candidate, but the top two or three or four. That would be my suggestion. And however we want to make that, make that work.

>> Mayor Adler: Okay. We have some people to testify publicly. Should we call that? And unless there be any question, Dr. Washington and Joya, I was real impressed with the person that you chose and selected and I think that there was real strong basis for the recommendation that you made. So nothing we're doing here should be taken as -- for me and from others I think, some others on the dais, that it was in any way a rejection of that. We're just trying to make sure we hit a really -- maybe a broader perspective. But we can hear about that.

>> Mayor, thank you for saying that because I didn't want what I said to come out not appreciating the work that was done. I think there's a lot of different views up here and a lot of priorities we would need to discuss. But I mirror that.

>> Mayor Adler: We have a couple people signed up. Let's call for them. Is Greg Nelson here?

>> Good morning, Mr. Mayor, members of council, city attorney. My name is Greg Nelson, I'm with Ralph appearedder -- Anderson and I wanted to use the speaking time first to let you know I'm here and available to answer questions you may have. And while I'm up here just give you a real brief history of our firm and answer what I think is a looming misconception.

[11:31:50 AM]

Ralph Anderson and associates has been doing [inaudible] Over 44 years. And we're quite prepared to do this search for you. And I also want to point out the city of Austin [inaudible]. Really what you get in an executive. When you gauge a -- [inaudible]. But there's a process and you are also buying the process. The process has to be well thought out and understood and balancing transparency with [inaudible]. Third, you are also getting our expert advice along the way. But I think because we operate in the public process, that's our expertise is operating in the public process, there's a misconception we're limited to public sector candidates and that's not the case. We have access to candidates from the private sector as anyone else. In fact, I'm prepared to give you some [inaudible] -- Are we on the clock?

>> Mayor Adler: You are, but I'll probably give you -- I will ask questions to allow you to finish.

>> I'll give you some examples of very successful large scale public sector recruitments

[inaudible] Private sector talent, and it's an area not often requested in the public sector. There are usually large enterprises [lapse in audio] We can deliver success. And I just wanted to be available to answer any questions.

>> Mayor Adler: Would you talk about your experience other than [inaudible]?

>> No, we are a public sector search -- the vast majority of our work in serving public sector clients, but some examples, San Francisco airport wanted to build -- its own five star hotel on property, they wanted a private sector manager or executive to do that and we successfully [inaudible].

[11:34:17 AM]

The port of Los Angeles wanted to see both public and private and they selected a private executive from an international [inaudible]. Phoenix international airport -- [buzzer sounding]

--

>> Mayor Adler: Keep going.



>> -- We placed a CEO from Abu Dhabi and same is true for our positions where we've been able to reach internationally. We placed a private sector talent at San Francisco international tarrant again to lead their international marketing effort. And, you know, another example is the state of California, the procurement office or just public buyer [inaudible]. The reaction to the meeting -- really quickly --

>> Mayor Adler: What do you think about the topic generally when -- we're a city council, we're filling a city manager position. In your experience in filling city manager or city administrator positions, have you worked with cities that have considered applicants for that job that do not come from the public sector for that kind of position? And does that -- does that work? Is it a good area for us to also be looking for candidates for the position? Do you have an opinion on that generally?

>> I do. And certainly would be part of delivering expert advice. During recruitment we would tell you some of the advantages and disadvantages of [lapse in audio] There are beat. There are advantages. But there are disadvantages and operating in a system that has more rules lapse and there's challenges.

[11:36:20 AM]

Some executives -- that's part of the discussion and dialogue to determine what you want in a candidate pool.

>> Mayor Adler: And we listen to advice -- if we come back and say the best candidates in each one because it may be at that point personality driven or individual -- individual specific. Does your firm have greater expertise, better rolodex for public administrators or private managers or both or --

>> Might be helpful if I just explain. We source our candidates in four ways. So when we begin a recruitment and identify what you are looking for in terms of your candidate pool, number one we place advertisements in the relevant places, and we do that because we should, but that's not the best source. Oftentimes the most talented people are not looking for work and they don't see the ads and that's really where we earn our money is the other three ways and that is in personal outreach. So number 1, I utilize my own personal outreach of public sector professionals. Number 2, I use sort of the source multiplier of a team of recruiters and placements and our contacts in the industry to solicit nominations for talent. And then finally we have staff, research staff that will identify candidates by name based on what you are looking for. If you are looking for a certain segment of talent, we'll identify these candidates by name and personally make contact to solicit their interest.

>> Mayor Adler: Further questions on the dais? Mr. Zimmerman.

>> Zimmerman: Thank you very much for being here. Let me just read real quickly what my concerns are and why I brought this up. I'm reading from your website, the Ralph anderson.com about under human resources

[11:38:26 AM]

[inaudible] It reads Ralph Anderson and associates a leader in provide contemporary resources [lapse in audio] To the unique needs of public [inaudible].

>> That's correct.

>> Zimmerman: What I -- is a very remarkable difference. The need of the constituent versus the needs of bureaucracy. I'll give you one quick one. Transportation. We have a transportation traffic congestion crisis. The public agency meaning the city government is opposed to the constituents that pay the taxes. They want more roadways built and they want traffic congestion relief, but the city government wants more dense housing, public transportation, trains, bicycles, sidewalks, everything except what the constituents are asking for. That's why I think that your firm in this case, in my view, should be disqualified. We need somebody who understands the best interests of the constituents, not the best

interests of the public agency. And they are divergent goals. That's why I'm not supporting your company. So thank you for being here.

>> Sure. Further questions?

>> Mayor Adler: Ms. Kitchen? We appreciate your opportunity. We appreciate you making yourself available for you and I think there are many of us on here that look at your credentials and find them very strong.

>> Kitchen: Thank you, yes, I was also going to say that I think, you know, we know at the end of the day that you are looking for the person. And the combination of the person's skills and experience is what we're looking for and I think that's what you said. Whether that person is in -- in the private sector or has been in the public sector, you cannot make -- you know, you can't slot people.

[11:40:30 AM]

You have to reach out to them and then look at a combination of their experience. I think that's what I heard you say.

>> It is. And also echoing back on the comment sometimes when there is a desire -- have a desire for private sector talent, finding candidates that blend most is usually the most successful.

>> Kitchen: From my perspective, I want to see the whole person and what their experience is that alliance with what we're looking for. To me that's what I'm going to be looking for. That might be a person -- it might be in the public sector, might be a combination, but there's no way to make that decision [lapse in audio].

>> Mayor Adler: Any further comment from the dais? Thank you very much. Is David king here?

>> Thank you, mayor. My name is Mike abear. In the 40 years I've been in Austin I've seen a lot of change. I've observed many things have not changed. The decision to select the manager is the most important choice this council makes. Mayor, I agree with you. Please follow the advice -- please reach out and choose a major search firm. Austin is a \$3.7 billion enterprise. It includes our airport, it includes Austin energy.

[11:42:34 AM]

This is a big job. We need to reach out to a much broad broader pool of people. Including private sector, nonprofit sector, big nonprofit organizations that could provide the type of talent that we need. And, of course, business. Because this is a \$3.7 billion enterprise. I'm going to be frank. We can't afford to experiment with some assistant city manager from anywhere in America to take on this job. We cannot roll the dice. We must be very, very careful in the selection, but most importantly in the process. All of the city management experts say don't get in a hurry. The international city/county management association says a successful recruitment takes time and is complex. Experts advise that there should not be a rush to make a decision. Time should be allowed for full intensive vetting and for specific objectives to be clearly defined. Clarity can lead to inferior succession. Please take your time to get this right. September 1st you had an item that you discussed, it was a draft resolution that outlined a process for the entire selection process. That action was deferred. To my knowledge, it's not come back up to the council again. Apparently the staff proceeded on its own motion based on its own process which it had submitted to you in a different document, and as we now know based on some erroneous assumptions. Some of the details of the rfq that's before you now really need to be deliberated by this council.

[11:44:38 AM]

And particularly the public input process and the need to deserve the privacy of candidates throughout the process so that at the end of the process we don't have candidates who are saying I don't want to start at the beginning because that's going to violate my privacy. Experts, expert search firms know how to handle this. I submit to you calls for deviation from our historical practices. We need very heavy public input, transparent public input at the outset of this, but at the end we need to make sure we have a process that demonstrates our canned very best are going to come forward and they will not be subject to character attack just because they raise their hand and say I want this job. I urge you to take cell of this process -- control of this process. Pull down this rfq. And participate in drafting an rfq that maximizes the chance of getting a top slight search firm. I also urge you to appoint the council designated group that you talked about previously. Do it now and get it involved in this process. This process takes a lot of work, and you all are very, very busy. You've already agreed we need to have a representative body of our citizens who are skilled at dealing with selecting someone to run a \$3.7 billion enterprise. I urge you to go ahead and complete that job and put them in place so they can possibly help you make the decision on the selection of a search firm. If we want to have a world cast city, we need to have the very best people advising us. We have here in Austin professionals who know about engaging search firms. I've been advised by one, very skilled, who says that you can find a top tier firm for a fee in the range of 75 to 90 thousand dollars.

[11:46:43 AM]

With expenses of an additional \$25,000 capped. That's quite doable. Top tier firms have both private sector and public sector departments. Some do, some don't. But just take a look at the top ten and see what's available to you because I think we've been making some false assumptions there as well. If we don't get a top flight firm, we're going to end up with run of the mill candidates. We're not going to reach world class status that way. Thank you.

>> Mayor Adler: Questions for Mr. Abear? Thank you, sir. So my sense is council is not ready to adopt the resolution. And I don't know if it makes sense for us to put this back on the agenda next week for you to come back to talk to us or whether we should reject the process now or waive it, disband it, whatever the right words were, anticipating that you would come back to talk to us on the 11th or 12th. What would you recommend for us for a way forward?

>> A couple of things, mayor. I thought in terms of helping with process the council was most interested in -- or was agreeable with securing a search firm that will be able to advise accordingly on process so the search firm would be the most important step. I want to clarify if it was not clear before my understanding in terms of the possibility of combination the recommended firm we have today Ralph Anderson, and they can speak for themselves, but if we were not to award them the contract that they would not have interest in partnering with a private sector search firm.

[11:48:53 AM]

I just wanted to make that clear for the council as well.

>> Mayor Adler: And I understood that. At some point you are going to come to us and say we understand your three objectives and we have found the perfect solution to that or you are going to come back and say we couldn't find the perfect solution and here are options given those three things. And it could be that Ralph Anderson firm fits in with one, two of those and not three of those, or it could be in the intervening period of time there's a creative solution that comes up so as to expand that rolodex. But I understood what you said, but even with that, I don't sense that the council is ready to execute on that until you've had a chance to take a look at those three objectives to come back to us with a way to maximize that. But I think that the sense of council at this point unless it changes is for you

to come back to council with recommendations with respect to search firms. You've been asked to come back with a recommendation or an allowance for more than one and a mid process touch with the council at the -- at the retreat. I think that's still the course of action. Manager?

>> Mayor, if I may, I think at this point we would ask the council to close this rfq and allow the staff to work on identifying the options, either one or more search firms. We have the exemption to go out and bring back, do that work and bring back recommendations for you, but I think it's best now processwise that we close this rfq. We can still use the information that we got from the rfq to either include or exclude those firms as well as adding others to consider, but I think that would be my recommendation is close this and not bring it back next week.

[11:51:06 AM]

>> Mayor Adler: Okay. Is there --

>> Zimmerman: Mr. Mayor, I was going to make that motion that we reject -- is it number tlf0305, I wanted to make the motion we reject that at the dais. If I get a second, I'll explain why.

>> Mayor Adler: What I would entertain now is a motion to close the process rather than to reject. Ms. Pool makes the motion to close. Is there a second? Mr. Casar seconds that. Discussion on that item? Mr. Zimmerman.

>> Zimmerman: Point of inquiry, I guess what does it mean to close as opposed to rejecting the staff's recommendation.

>> Mayor Adler: I used the words the manager gave us.

>> Zimmerman: So what will the difference be between closing it and rejecting it?

>> In my estimation, purchasing manager may want to come down and correct, but if we close it, we've just solicited information from the vendor public and we've said thank you, we followed our process, we're not pursuing this -- the process that we outlined in our rfq so we're closing that process, we're beginning a brand new process that we're allowed to under state law, professional services agreement, that we would go find a search firm or more than one using the same process we typically do. We did an rfq in this case to identify their qualifications. That's all we asked for was qualifications. We also did a selection process and identified the top firm that we began negotiations with on a price. So we are closing that process. We are beginning a brand new process. We will be notifying all the firms that responded to the rfq that it is closed. We can still use that information. We may choose to include any or none of those respondents in our next process as well as add other firms that you may ask us to add.

[11:53:14 AM]

I hope that answers your questions.

>> Mayor Adler: Okay. It's been moved and seconded to close the process that we're in. Further discussion? Those in favor please raise your hand. Those opposed? Unanimous on the dais with the mayor pro tem off. My understanding is we'll hear next from you guys at the retreat so let's make sure that we notice the retreat in a way that allows for us to have that briefing. And discussion. Either in executive session or not as council indicates is appropriate, probably not but just to check that. Thank you very much for the work you are doing on this and I have every confidence that the process we've set off is going to work really well. Thank you. All right. Item number 11 is a small cell network. It's 11:54. We have citizens communication today at noon. Is there anything we could do on here that might be quick? Do you want to do boards and commission? Let's call up item number 12. And we have one speaker. Let's go through first --

>> Kitchen: Do you want to speak to the first part about the appointment first and then I'll speak to the other part?

>> Mayor Adler: Yes, my understanding is I can do this real fast and Ms. Troxclair might want to as well so we can have a fuller bond election advisory task force at its meeting next week. Given this is a task force and not a committee or a board or commission, I would like bringing up the amendments that were brought back by staff are to add a flood mitigation me. There are several purposes to that committee, but the purposes include monitoring and making recommendations regarding implementation of the 2016 flood mitigation task force report.

[11:56:57 AM]

So the language I'm proposing to add to that, it's on your light yellow sheet -- I'll read it, then I'll explain it, is just to add language that certain named leaders from the 2016 flood mitigation task force would be able to participate as non-voting ex officio participants. The purpose of doing that, as you all know, the flood mitigation task force was a huge issue on a very difficult and important topic for our community. So now, as they hand off to the environmental commission, the next steps on the recommendation, this is an approach that allows a very small number of those -- I think it's two or three of those leaders from the task force to participate with the environmental commission on their committee as they move forward with these recommendations. So we were very careful to put together the language in a way that it is compliant with our code with regard to how these commissions work, so what that means is, these are not members, they're not members of this environmental commission, they don't vote, they participate, they're ex officio. So we're not in a situation -- and I want to say I appreciate the information that we received from our staff. I appreciate our staff bringing forward the concerns that we don't want to do anything that doesn't comply with how we normally work with commissions, and so we were very careful to work with our legal staff to make sure that it's clear here, that we're not appointing members. The other thing is, we're not creating a precedent. This is an unusual situation. It's a very high profile, very important task force, and so this is a mechanism that we can use in the simplest way possible to work for that transition.

[11:59:01 AM]

So that's why the language is as it is, and I'm very confident that the -- that the small number of leaders from this task force will work very well with the environmental commission members. The environmental commission members have the lead on this because they're members and they vote. And so these individuals from the task force will be a fabulous resource for them, and I expect this to work very well. So that's why I'm bringing this forward. And so I guess -- I forgot to make the motion. So I will make a motion -- sorry. I will make a motion that the language on the yellow sheet, the light yellow sheet, be added to the language that staff brought forward to us. And so I'd like to make that motion.

>> Mayor Adler: So this is amending the previous --

>> Kitchen: Could I have a second first and then I'll explain it?

>> Mayor Adler: I want to make sure I understand it first. So what you're doing is, you're taking the environmental commission, which in existing ordinance, lists several subcommittees, and you are adding ex officio or other participants to one of the subcommittees under environmental commission.

>> Kitchen: No. The environmental commission doesn't have -- this is a new committee to the environmental commission. So the original language in our backup added the new committee, so I'm simply adding language to what they brought forward to us to add the committee. So, yes, I'm simply adding clarification to the committee that the environmental commission is asking to create.

>> Mayor Adler: The environmental commission is can go to add a new committee, which requires city council action.

>> Kitchen: Right.

>> Mayor Adler: And in addition to authorizing them to have this committee, you're saying it will have two other participants that are ex officio participants.

>> Kitchen: Yeah. Not members. Not voting.

[12:01:01 PM]

>> Mayor Adler: I understand that.

>> Kitchen: Okay.

>> Mayor Adler: Is there a second to the motion? Ms. Pool.

>> Kitchen: There's actually three. Yeah. Thank you.

>> Mayor Adler: Okay. Is there discussion? These people are serving as resources to the committee. By doing this -- let me ask the question differently. In the committee wanted to -- if there was this committee that was formed, the drainage infrastructure and flood mitigation committee, or any committee, is there anything to stop any of the committees right now from bringing in as resources other -- the chairs of any other committee? Could they -- is there any committee that wouldn't have the ability to do that?

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

>> Mayor Adler: Okay. Staff is shaking their head no. There wouldn't be a prohibition no a committee --

>> Kitchen: No, there wouldn't be a prohibition, but that's not what I'm doing here. What we're doing, we're stating as a council, as a policy matter, because of the importance of that flood mitigation task force, we're stating that we want these folks. We're just making that statement right now so as a clarification, to make it very clear, that we want these folks to be able to participate. So it's not left to the environmental commission to ask for it. And, frankly, I don't understand why the environmental commission wouldn't want to do that.

>> Mayor Adler: I don't have a problem with that. You said this doesn't have any precedence value. I want to be very clear that even though we're designating that to happen here, that shouldn't be taken in any way as a prohibition against any committee anywhere in the city of Austin --

>> Kitchen: Agreed.

>> Mayor Adler: -- Where they feel like they have to come to council to ask a commission chair or another chair to participate or serve as a resource to them.

>> Kitchen: No, there's nothing in this language that says that.

[12:03:04 PM]

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: And I think for a little background on this, there were discussions when the flood mitigation task force was still doing its work, there was agreement that it seemed a good place for them their work in concert with the work that the environmental commission does, of all the commissions that are out there. And there was some hope originally that members of that task force could join in the committee work even if they weren't appointed to the environmental commission. And that -- that piece there kept them from joining the committee as members because they're not -- because they're not a member -- appointed member to the environmental commission. Does that make sense? The only people who could be appointed to a committee of the environmental commission or any commission is someone who's already appointed to it. And then we found that we could do that as ex officio. So it formalizes and underscores the importance of their participation, and it allows them to formally participate if without a vote by doing it this way, by having them be ex officio. I think there was interest on both sides, was my understanding, at least originally. Aimed, too, be interested in hearing what any objections may be.

>> Mayor Adler: Maybe we should get to that.

>> My name is Marissa morales. I'm chair of the commission. I accidentally stated I'm from district 4, I reside? District 3 and I reside? District 2. Just to kind of provide some background, the environmental commission already addresses issues that are -- well, we work in concert with the watershed protection department, so we already addressed many of the issues that -- that the watershed protection department addresses, including drainage, drainage infrastructure, erosion, and flooding.

[12:05:10 PM]

And one of the ways in which we address that is when we consider their budget proposal. So after the task force presented their report to the environmental commission, we saw this as an opportunity to dive deeper into those issues. I think a lot of times when we talk about environmental issues, we consider things like trees and green space and water quality and sometimes it's easy to forget about the drainage infrastructure aspect of the environmental responsibilities. And so the intent here was to create a forum or a committee that would consist of a subset of the environmental commissioners, so it's not every member of the environmental commission. We have other committees that are devoted to other types of issues, and so this would be something similar, providing a forum so that we could address in particular drainage infrastructure and flooding, which are rather broad issues, and then within that broad scope, we would also make sure that we were keeping up with the implementation of the recommendations of the flood mitigation task force report. So it's not -- this committee was not intended only to keep -- keep up-to-date with implementation of that task force report, it was intended as a committee that would provide the commissioners an opportunity to hear more about what the watershed protection department does related to drainage and drainage infrastructure and erosion and flooding, provide the commissioners with some ground information so that they can fully address those issues when they come before the environmental commission, provide a forum for members of the public to come and present issues related to drainage infrastructure and flooding, and also address issues related to the flood mitigation task force report. It has always been our intention to provide a forum that would allow robust discussion with former members of the task force, and we have a pretty lengthy list of stakeholders that participated in that task force and ex task force members that we intend to continue to notify about all of our committee meetings so that they have an opportunity to provide that input.

[12:07:25 PM]

I think as to some of the questions, mayor, that you were asking, you're right, there's nothing to prevent -- and we wouldn't ever want to prevent any members who participated in the task force from fully participating in any of our committee meetings, which is why we would notify them of our meetings.

[Buzzer sounding]

>> Mayor Adler: Okay.

>> And I'm happy to answer questions.

>> Mayor Adler: So are you and the committee comfortable with the language that's being proposed here, the language from councilmember kitchen?

>> Well, I am -- I'm comfortable, and in part, I'm comfortable because it's my understanding that, a, they wouldn't be voting members. I think that might complicate things, if they were.

>> Kitchen: That's right, they won't.

>> We would still have -- we being the environmental commission and members of the committee, whoever decides to volunteer for it -- would still have full control of setting the meetings, the meeting dates, the locations, the times. I mean, all of us are volunteers, so it's imperative that we're all able to

set meetings at times and locations that are convenient to us, and that we'll still have control of setting the agenda. And so with that understanding, I think that is good idea.

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

>> Zimmerman: Just one more really quick question. So is there no budget impact to this that you know of? Or has anybody looked at potential cost increases or --

>> I don't believe there would be a budget impact. You know, I don't work for the city so I can't say for sure, but we have our committees, and so --

>> Chuck Lesniak, environmental officer. I'm also executive liaison to the environmental commission. No, we already have staff dedicated to setting these meetings up. It's three more people that we notify and have to juggle schedules a little bit, a little bit more. But -- make scheduling a little bit more difficult, but overall there shouldn't be a budget problem.

>> Zimmerman: Okay. Thank you.

>> Mayor Adler: It's been moved and seconded. Any further discussion? All those in favor please raise your hand.

[12:09:27 PM]

Opposed? Unanimous on the dais, mayor pro tem off. Thank you very much. We'll now go to citizens communication. First speak is osaekeme ebomwonyi. I'm sure I didn't pronounce that correctly, but hopefully I came close enough. Second person is Sylvia Mendoza. Third person would be statyy Wagner.

>> Staryn.

>> Mayor Adler: Staryn. I'm sorry.

>> That's okay.

>> I appreciate the time to speak to you. I know you guys have a lot going on. My name is staryn Wagner. I'm a citizen who lives in the neighborhood east of I-35 and I've been there for more than a few years next to my neighbors that I'm here to talk about today. It somewhat addresses affordable housing, and I appreciate everything that you do that can help out in affordable housing. Austin is seeing an amazing surge right now, and it's just, you know, head over heels for people living here. And that's -- all the services are very useful, and they work fairly well for people who have it all together.

[12:11:33 PM]

But not everybody has everything in order or life going as well as some that makes it easier for them to stay established where they already are. The family that I'd like to talk about has been my neighbor since 2003, which is when I moved in next to them. Roamero Monday Toya brought the house in 1976 after being in the military, marrying his wife, and he's been in that house as a husband, as a father, as a grandfather, and as a great grandfather. All different levels of that family have lived in that house as well. And he's an amazing man who's done a lot, very supportive of all the family members, and amazingly so all because he has, himself, no children. Right now, what they're facing is foreclosure. And it was just cancelled. It was due to set in on December 6th. The bank, for whatever reason, cancelled it until December 31st, probably just giving them a reprieve for the holidays. Right now, Romero is 76. His wife is roughly 85. She has dementia. Their adult son just came back from the hospital three days ago with terminal cancer, three weeks to a month to live, so he's back in the home. They took custody of their three great grandchildren in 2004, who are -- pardon me. I was hoping to keep it together -- who have been children to me as well. I'll cut it short. Their losing the house. Anything you can do to help families like this in Austin -- Romero was born just on the other side of the creek on Pennsylvania avenue, so he's lived here his entire life.



[12:13:44 PM]

His family is from here. He's an outstanding family member, an outstanding community person. In the neighborhood, we've started a fund-raiser to try to help them buy back the house from the bank. They're in the situation they're in because of predatory lending, which he was paying back a loan he took out to pay federal taxes, and had a stroke, missed two payments. They took over the house, sold the house out from under them. He was able to get it back because what they did was illegal. At the moment, we've got them with crisis counseling.

[Buzzer sounding] We have them with volunteer legal services. I ask that you do anything you can to help as a councilmember and just as a citizen, help out with the fund-raiser, share it. Thank you. Are there any questions? All right.

>> Mayor Adler: Hang on, please. Mr. Wagner?

>> Mr. Wagner, if you can get with my staff, Jason Alexander there and provide him with the contact information, we'll see that we get the right city staff with you and/or the family to see what additional services we can help them with.

>> Okay.

>> If you can get with the gentleman right there, Jason in the blue coat, he'll see what we can do to help out.

>> Okay. And I've been in touch with Ora Houston and she's helped out as well. A shameless plug, it's go fund me home-not-homeless. Thanks.

>> Houston: Mayor?

>> Mayor Adler: Thank you.

>> Houston: Mayor and city manager, we've got him connected with health and human services.

Neighborhood ever neighborhood housing is involved. So city staff are working. It's a very complex situation as far as who actually owns the home. So that's why legal services is involved.

[12:15:48 PM]

>> Mayor Adler: Okay. Thank you. Paul Robbins.

>> Good afternoon, council. As you know, for the past two years, customer assistance program is went to give money to low income people to help utility bill payments, has been inadvertently giving money to customers living in high income home. There was an effort by Austin energy to ask these wealthier customers to opt out, so it has run its course. It has been partially but not wholly successful. The way it is trending, you're going to find somewhere between 120 and maybe 300 customers still on the rolls. Austin energy, on the customer assistance program rolls, when it is all said and done. Austin energy has known about this problem since I informed them in September 2014. Public has known about it since it was covered in the media in December 2014. I'm sorry if I misspoke, Austin energy has known about it since September of 2014. After all this time, the problem really needs to be fixed. Council, there is no group of poor people paying me on commission to get their money back. I have spent several months of collective free time trying to fix this program. This melodrama really needs to end.

[12:17:50 PM]

You're going to need a simple tariff change to do it and I'm asking you to compliment this tariff change as soon as humanly possible so we can move on to other things. On another related subject, as you know, I was at your Austin energy committee meeting November 30 to ask you to change the tier 1 rates. I guess I should feel honored that [inaudible] Spent 30 minutes drubbing me, politely, okay. But I was not given three minutes to respond. I do want to point out three things the brief amount of time

allotted for me. One, their analysis left out 35% of Austin energy residential customers. Two, they were not broken out by zip codes, so you could not see if poor -- zip codes where poor people were living were benefiting or not and -- well, I guess my third point has been made.

[Buzzer sounding] It would not have -- would not have killed you to give me two or three minutes to respond to a 30-minute presentation. Thank you for your attention. Merry Christmas.

>> Mayor Adler: Thank you, and you too. The next speaker we have, citizen communication, is John Horne.

>> Good afternoon. I need to get these pad out to passed outto the council, please. I am pastor John Horne, restoration temple of deliverance ministries here in Austin, Texas.

[12:19:57 PM]

Thank you, mayor and council for allowing me this space. I have two, I think, very important issues to bring forth to the council in the development of our church. We've been building a church, 6301 moon glow drive, since 2014. We ran across a lot of issues, but we're finally on the downward climb. We have the approval for our site work. It's been approved, red sample approved, and we're ready to start our site work. The first issue is in the process of trying to get our building permit, we ran across the water tap fees. I talked to Mr. Tom abbon. He runs an assistant program that helps, I guess, residents, but not commercial or churches or non-profits. And I was just wondering, is there any type programs -- because we haven't even started construction, and those water tap fees are around \$58,000 that we have to pay up front before we can get that permit. So I guess I'm wondering, is there any type program that the council can help non-profits, churches, with, assistant program, maybe defer that cost until the building permit, occupancy permit is given, or something like that? The second thing is probably a little bit more complicated, is pretty much concerning a landlock maybe issue or a safety issue with entering our church. That piece of paper that I gave you is a civil engineering plan that has been approved by the city of Austin to enter into -- for moon glow. There are two ways into our property. It's a four and a half piece of ground in senderra hills.

[12:22:04 PM]

Councilmember -- council woman Ora Houston has been working with me on this. And we've been approved to enter moon glow, but as you can see, it's a very unsafe entrance. There's a neighborhood there and we have been approved for like 40, 45 cars, and can you imagine 45 cars coming up that street, with children and everything involved? There's another street west of that property, I have that X there, that's sanchoff street. We can't get an entrance there because someone in 2008 sold habitat for humanity a five-foot strip of property.

[Buzzer sounding]

-- Right there, an easement, habitat, pleaded with them, done what they asked, when we did that, they asked us to do more, and they just would not give us permission to put a drive through there. That's simply all we want. Because of unsafe reasons, we have been approved, but we need to get that entrance from sanchoff into and out of our church. And I'm not sure what you can do about that, but maybe a meeting or maybe we all can get habitat -- I'm not sure why they won't give us that -- that right to do that, but they will not do it.

>> Mayor Adler: Okay. I think as to the first matter, the city manager has suggested that you give him your name to take a look at it. And why don't you reach out to me on the second matter, and I'll see if I can get you a better answer from habitat for humanity.

>> So who do I set an appointment with?

>> Mayor Adler: Call Leslie in my office.

>> Okay. Will somebody write that down for me and give it to me?  
>> Mayor Adler: Thank you.  
>> Thank you.  
>> Mayor Adler: Okay. Next speaker that we have is Adam Cahn.  
>> Hi.

[12:24:06 PM]

I wanted to address satanic invocation that was supposed to be said at last week's council meeting. I'll start with a confession. When I signed up to do this, I didn't realize it had actually been withdrawn from last week, so I thought this was going to be a response, and I was going to come down here with a fair amount of fire and brimstone in responding to that. That is not obviously necessary now because it didn't, but I still want to issue a very serious warning on this subject. If you go forward with this, it -- it won't be good. This is the type of thing that may not seem like much to us, but it's very important to god, and he will see this and he will notice this I could give a half-hour theology on this. I don't think this is the appropriate setting for that. I'll leave it at galatians 6: 7. Do not be deceived. God is not mocked. So do you sow, so shall you reap. It's a fairly common verse. I've had my areas of disagreement with this council over the last few years, I don't think that's really a secret. But this is not a bond. This is not tncs. This is not the short-term rentals. This is a lot more serious than that, and I just want to urge this council and the city government to be extremely careful in how you handle this situation. I understand that it is fraught and politically sensitive. So I'm sensitive to the fact that you are -- have pressures coming from you from various directions, and I get that, but I just want to urge a lot of caution in how you choose to move forward with this.

[12:26:15 PM]

And I can answer any other questions, or if anyone wants to follow up for a deeper discussion, that's fine. But in the meantime, just be incredibly careful.

>> Mayor Adler: Mr. Zimmerman?  
>> Zimmerman: Thank you, Mr. Mayor. So I posted on the Austin council forum.org draft ordinance regarding council meeting invocation offerings. Did you notice that?  
>> No. I have really only seen the press coverage of it. I haven't looked at the message board.  
>> Zimmerman: That's Austin council forum.org. I'd like to get your feedback on that when you get a chance to look at it.  
>> Sure.  
>> Zimmerman: I posted that Monday, November 28th.  
>> Okay.  
>> Zimmerman: And it basically says anybody -- it would be an ordinance that says anybody who is invited to give an invocation would be invited by one of the elected councilmembers. Pretty simple. That's all it says. But another note I would make to you is, you know, you're a bible guy, and first -- is it first Samuel, chapter 8, about the kings, when Israel asked for the kings, you don't want that. But god gave them what they asked for, which was a bat idea.  
>> And I will simply -- you know, I will say while we're on the subject, Ezekiel says that it's the responsibility of the watchmen to issue the warning, and whether or not the warning is actually listened to is the responsibility of the person who is hearing it. So I'm sure that we will move on, and I'm sure that I will be back here on various other political issues at various points in time. Just be incredibly careful with this one.  
>> Mayor Adler: Got you.

>> And know that if consequences do happen, they may not be political.

>> Mayor Adler: Thank you. The next speaker we have is Renee Fuqua. S Ms. Fuqua here? Then I think we're done with citizen communication. We have executive session items.

[12:28:25 PM]

So it is 12:30. We're going to go into executive session on item number -- says 50 -- 51? , Which is different from 57. How do those two relate to each other?

>> 57 is the public ordinance.

>> It's the same matter?

>> Yes.

>> Mayor Adler: Okay. We're going to go to executive session on 51 ever so briefly, council, pursuant to section 551.086, items 50, 52, and 53 have been Braun. 556 an withdrawn. Welling into executive session, which will not take long, probably five minutes tops. We have a couple items on the agenda that have speakers signed up for them. We have about a half dozen to speak on the small cell issue. We also have a group of people to speak on the park master plan issue. Other than that, doesn't look like we have a lot of speakers, but we are set with time certain over the course of the day. I think we would probably be fine coming back at 1:30. Does that sound good to everybody? All right. So with that said, with no objection going into executive session on the item announced, we will now go into executive session. Be back here as close to 1:30 as we can. Thank you.

[12:57:39 PM]

[ Executive session ]

[1:45:47 PM]

[ 🎵 Music 🎵 ]

>> Mayor Adler: all right. I think we have a quorum present. We're going to go back into this agenda. I'm going to call up first the Lamar beach master plan matter, which is item number 16 because we have some other public officials that are here. Then I'll double back and call up the small cell network, and then it's my intention to call up the briefing, which is item number 58 on the addendum agenda. So let's begin with the Lamar beach master plan, item number 16.

>> Good afternoon, mayor, councilmembers. My name is Ricardo Soliz can the parks and recreation department. I am here today to introduce item 16, master plan for the park called Lamar beach. For your approval and adoption. In 2014, the city council asked pard to master plan Lamar beach park because of several initiatives and planned approximates targeted for Lamar beach. Some of these items included a long-term agreement with the Austin -- with the west Austin youth association for improvements of the ball fields, as well as a planned roadway extension of Presler road, which would bisect the parkland.

[1:47:56 PM]

The council's goal was to complete a community-involved master planning process to best accommodate all of these initiatives and planned improvements. Pard was fortunate to contract with design workshop to lead a master planning effort. Today I have Rebecca Leonard with design workshop that will present the planning process and the preferred plan recommendation that's received overwhelmingly support. So thank you for your time. Rebecca?

>> Thank you very much for the opportunity today to talk about alarm -- Lamar beach. I'm trying to pull my slides up. When the slide comes up you'll see that Lamar beach is a 65-acre park north of Lady Bird Lake bounded by Lamar Boulevard to the right -- or to the east. The park itself is bisected by Cesar Chavez as Ricardo mentioned essentially two separate parks with separate audits. There's not a lot of -- the park is home to and used by many organizations including city's animal services, Austin Pets Alive, the West Austin Youth Association, the YMCA, the Texas Rowing Center and Austin High School which uses some of the park's fields for its sports activities. In 2014, city council passed a resolution to initiate the master plan because there was already quite a bit of activity happening here, including agreements with some of the organizations and several entities were ready to spend money on improvements like Waya, YMCA, Pressler Street extension. The surrounding community and stakeholders displayed a desire for comprehensive vision.

[1:50:09 PM]

I'll go over some of these in a little more detail in a minute but I wanted to give you a brief overview of the time line. As noted the master plan project began in June of 2014, with the initiation by council and between February and July the parks department --

[ buzzer sounding ]

>> Mayor Adler: You can keep going.

>> Okay. The parks department procured our company to do this master plan. We began in earnest in August of 2015 gathering site information and performing site analysis. Between September and January we had multiple stakeholder events, several public workshops, many stakeholder interviews. In March a draft plan was submitted to the parks department, and they cycled it around the various city departments, and we've revised that and have since been going through the boards and commission meetings with the hope of bringing this to you today. In general, the parks department was looking for a plan to provide a vision to guide the future development of Lamar Beach, more specifically the goals shown here were developed early in the master planning process with the help of our team and many of the stakeholders who are here today. The size and order of them represents the priority that was expressed to us by the users. Goal number 1, to maintain the current uses by the many organizations mentioned earlier, but also open up the park for more use by the general public. So there was that dual thing we wrestled with constantly of trying to keep all the existing uses in place while also opening it up for additional just public access. Goal number 2, gain support from the affected stakeholders. This was key for any park master plan but especially this one, when so many of those stakeholders kind of bump into each other in a very close space. Goal three was to enhance the natural assets and improve the environmental characteristics of the park, such as drainageways, riparian area around the lake, tree cover and general human comfort of the park.

[1:52:12 PM]

Goal four was to provide safe connections to and through the park, not only for vehicles but pedestrians and cyclists were also high priorities. And connecting from the park into the existing neighborhoods. Goal five is to ensure financial sustainability of the park and goal six is to solidify the identity of the park. From some of the early meetings many of the people didn't know the name of the park was Lamar Beach. They just thought it was a piece of town lake. This slide here describes some of the metrics around stakeholder engagement. We had a web page on the city's website that had over 8200 clicks on it, starting in September 2015. We issued -- we always replicated each meeting with online tools, so if people couldn't make it to the meeting they could still participate in a very meaningful way, and we had over 1500 people participate in these online polls. We had 300 people, sorry, 300 people show up

at the workshops. I'll highlight that a little bit more in a second. We had stakeholder group meetings with every key stakeholder. And we also have a technical advisory committee that met regularly in this process. As you can see on the slide, they met six times during this nine month process and provided technical support. It included parks and rec, animal services due to the use of the animal facility and their relationship with Apa, transportation, watershed protection due to the park's relationship with lady bird lake, public works and the water utility due to a number of large waterlines that run through the park. Other public entities involved in the technical advisory group include txdot who has the right-of-way along a portion of Cesar Chavez through the park. The central Texas regional mobility authority because of all the planning they're doing for the mopac express lanes and the future toll lanes. And aisd due to Austin high's strong relationship with Lamar beach.

[1:54:15 PM]

The master planning team also held many focus groups with other stakeholders that use the park, and you can see some of them listed there on the slide. The three key, excuse me, touch points with the public were these workshops that were very well attended. In October of 2015, we held the first workshop to introduce the team and present the project approach. We shared and validated the goals for the master plan and that's led to the priority that you saw in previous slides. The workshop consisted of an open house with interactive mapping tools but key pad polling, so everyone that showed up actually had a chance to weigh in on the process. The second meeting was held in December and at that time -- we discovered in the first meeting that there were so many ideas for how to solve all the challenges in the park that we decided to just draw them all so we drew six different alternatives for the stakeholders to weigh in on. Options included keeping the current alignment of Cesar Chavez with the more efficient arrangement of park elements. So much emphasis was put on transportation during that first meeting that some of the other options vastly changed some of the transportation's options there, including taking Cesar Chavez and making it a downtown type street. Cesar Chavez isn't as much of a barrier between the downtown and the lake right here because you have crosswalks and stoplights every, you know, 300, 400 feet. There, we had about a mile-long exit ramp, and we clocked people with our -- with our radar gun going about 55 miles an hour through here when it wasn't high traffic times. So a third option was to move Cesar Chavez to the north of the park. We had an option that put it at the toe of the foothills and then we had an option that elevated it to the top of the foothill. Finally there was an option to tunnel under the park, tunnel Cesar Chavez under the park. We had a variety of metrics for each of these, and after gathering additional feedback on this, a few of them fell off the radar.

[1:56:24 PM]

And so at the third workshop we brought back four alternatives. And provided detail costs and benefits of each design. The design team also presented more details on phasing and funding strategies for the improvements. Participants shared their thoughts and we took away from that a preferred alternative, which you see here on the screen. Some of the highlights of that alternative are that it would reorganize waya fields in a more efficient manner. Taking out the parking that's kind of informally sprinkled throughout their baseball diamonds and other fields. We kept the same number of fields in place, but because of some of the other structural changes, we actually gained back some acreage to park use. So we could interject several neighborhood -- we call them in the master plan neighborhood amenity areas, elements that the neighborhood to the north and the downtown neighborhood might want and need in this park. And those might include playscapes or sport courts or shelters or pavilions of some sort. The big move with this alternative was to push Cesar Chavez up to the north of the park, elevate it at the level of the cliff above for the portion that is directly in alignment Pressler. By moving Cesar Chavez up

there on to a new elevated platform, we would be able to take the existing Cesar Chavez, put it on a road diet bring speeds to 15 to 20 instead of 40 to 55, which we were clocking folks at. This would allow significant improvements to Lamar boulevard that would allow for a turn lane with more stacking potential and also a right turn for more stacking potential for B.R. Reynolds.

[1:58:27 PM]

This would require a board walk that would go into the lake under the Lamar boulevard bridge. And then, finally, it would allow Pressler to connect directly in at the top of the cliff there and not ever have to come into the park with traffic. We do have in there that there would be bike and ped connections to the park, however. Some of the environmental improvements are that it moved some of the active recreation programming that was directly along the lake with thort field being one of those and it would move it north, transcribe allowing us to restore much more riparian area and provide more diversity and experience on the butler trail. We remain about equal with impervious cover in this alternative. Some of the key benefits are that it increases parkland by about seven acres and that increase comes mainly from that what we called the grade separated oval about that's there by the high school now. If we could get rid of all of those elevation changes and the on and off ramps, it clears up about seven acres of land there. It maintains the current recreational uses but puts them in more efficient layout and increases like general open play areas, playscapes, picnic areas and many other programming opportunities. Some of the mobility benefits are that it provides pedestrian and bicycle access from the old west Austin neighborhood. This was one of the most important things to the neighborhood. They've lived next to this park for so many years and it's very difficult, it's about a mile, mile and a half out of their way to actually get to the park in a safe manner.

[2:00:27 PM]

It improves pedestrian access through the parks with sidewalks and trails, creates downtown connections at Pressler street, provides left-turn opportunities at Sandra muraida and right-turn opportunities at br Reynolds. This -- the community benefits are that we built a lot of consensus around this plan during this process, meeting with the stakeholders and really trying to understand their issues. We improved connections between the high school and the park. They've mentioned to us on many occasions that they have about a third of the land a typical high school today that's full service would use, and so they really rely on this park to provide some of that overflow space. Increased user capacity of the park and the area around it provides environmental benefits as I mentioned before and economic benefits by moving Cesar Chavez to the north, fifth and sixth street are more accessible to this park. So this slide represents what we call part 1, and really the only difference between part 1 and part 2 is the moving of the road. We wanted to make sure that knowing that that was going to be a big ticket item and also challenging to deliver, that we wanted to be able to achieve many of the plan's goals even in the first phase which would be before this road was moved. And so you can see from the costs here that many of them are shared by the partners that were part of this effort. In fact, about 30 million of the 28 to 37 -- \$37 million worth of projects you see in phase 1, about 30 million of that would be direct expense to the partners and not to the city. Phase 2, as I mentioned, would be after the road is moved. And it allows us to do a few more things, put the last baseball field in, put some more improvements for parking, put the existing Cesar Chavez alignment on a road dyad.

[2:02:35 PM]

This second phase would 37 to 50 million. This slide here shows you the breakdown of partnerships and what they would be contributing or expected to contract to the implementation of this plan over time and also the phase in which we anticipate that happening. So the west Austin youth association, according to their agreement with the city, would be required to put some improvements in place right away and so they would be looking at paying for 5 to 7 1/2 million dollars of this. Austin pets alive is in a substandard building token their use. It floods, it's not the right size and isn't works ago efficiently for them as they would like so they have shown an enormous amount of enthusiasm about raising the 18 to 25 million for relocating at that building. So with that I'll close and I'm here for any questions. Thank you.

>> Mayor Adler: Anybody have any questions or comments? Ms. Pool.

>> Pool: Rebecca, thank you so much for bringing this and making the presentation. I just wanted to give a shout out to all the stakeholders who happen to be here today and thank them really. It was pretty remarkable watching the different phases of the negotiation and the conversation and how it evolved and changed and brought everybody together. And this is a beautiful, beautiful plan and a really nice forward-looking document to take us into the future. I look forward to hearing the testimony from the various people who are fundamentally involved and really their support for all of this is really important. So thank you for leading off.

>> Thank you.

>> Mayor Adler: Ms. Garza.

>> Garza: This is mostly a process question. We heard this presentation at open space, I don't believe there's been any substantive change to it, and we also took public testimony at open space, and I thought that the -- with all due respect to everybody that's here, the point of the committee system was to have this -- most of it vetted.

[2:04:55 PM]

While I will say this is an important master plan and maybe we should have heard it in front of the entire council, I just want to remind everyone this did go through the committee process and public testimony was taken. And my concern mostly is there because I'm the one who says I don't want to cut off public testimony is the public knowing that they have to come twice. They came before a committee and they - - and a lot of the public is confused when sometimes they are told, you know, there's going to be limited public testimony at the council level. So just for uniformity going forward, I think it's important to have a uniform process.

>> Mayor Adler: Good point, and I think there's a rule about testimony when the item comes to us from a committee. Mr. Zimmerman. While I look for that.

>> Zimmerman: Just a quick question not related to your work, per se, but I know that aid has been looking at ways to raise funds and to solve some of the financial problems they have with declining enrollment and what have you. Did the high school discussion ever come up in any conversations that aid might consider letting go of that high school? Because that property is worth a staggering amount of money in redevelopment for the dense housing that a lot of downtown dwellers would like to see. Did it ever come up that they could repurpose that high school, sell the property and use it to build other schools or what have you?

>> I believe the question was raised by other stakeholders at different periods of time, but the -- but -- and maybe they will be able to speak if they speak later, but that their point of view that's a very important location for them given who they serve and being in the heart and the middle of the area that they serve. And they are going through a facilities master planning effort right now on that piece of land.

[2:06:56 PM]



So we saw no sign they are any time soon talking about vacating that parcel. Given that it's not actually on parkland, it's just neighboring parkland, we didn't envision a future without them.

>> Zimmerman: I guess by the same token if there were some decision made and that were turned into high density housing, that could definitely affect the wisdom of the planning in the area, right? Common sense, right? If there's going to be more people living on that site, that could affect the master plan.

>> Yes, yeah. And you know, master plans are tools for decision making. Like I said when this project was first conceived, there were already people making decisions about what to happen out there on Lamar beach and they were making it without a vision of any sort to move forward with. This is a cohesive vision for now, but there might be things that happen in the future that would make it worthwhile to revisit this vision.

>> Houston: Mayor?

>> Pool: Mayor?

>> Houston: While you are looking, may I ask a question? You may have said this and I missed it. For both phases, what time period are we looking at?

>> Right. We were reluctant really to call them phase 1 and phase 1. We basically just said what -- what things could be done prior to moving a road and what things needed to wait until the road was moved. Knowing that moving that road would probably be a long process, the funds would have to be identified and earmarked and perhaps even an election held for the bond and things, so there might -- that might be an indefinite period down the road, and we wanted to make sure a significant amount of the improvements could still be done in the meanwhile. So there's no time frame really, but I would say a minimum of probably seven years. Seven to eight years.

>> Houston: But you use the term phase 1 and phase 2. That's how I got --

>> I mixed them up because in most projects there is a phase 1 and 2.

[2:09:01 PM]

We tried to think of it as part 1 and part 2.

>> Houston: In part 1, what is the time frame you are looking at for part 1 and what is the time frame for part 2?

>> That's a great question. So in part 1 there are things that I believe could get going right away. Waya as part of their agreement is responsible for upgrading fields and so I know that they are anxious and interested in moving forward quickly. The ymca and Apa have all expressed interest in getting -- moving on their areas of the plan pretty quick. So the park improvements that would need to happen here would be organized and prioritized at a later date with the parks department, and then the earliest that I could see that road moving in rosy conditions would probably be seven or eight years. So --

>> Houston: And one other question. The -- the shelter, the Austin pets alive shelter is moving up north of that. Will there be any runoff from -- because it used to flood where it is. Will there be any runoff from the adjacent buildings up on Pressler and all the development that's going there?

>> Well, when they get into site design for that facility, they would have to do all the detailed analysis for something like that.

>> Houston: I guess I'm asking you what is your -- feeling about the runoff into the new location, that's all.

>> Sure. Its current location is out of the flood plain and so is the proposed location, which is further away from the lake. It's both -- both of them are near that creek that comes down so the drainage problems that they are experiencing could be a little bit runoff and backup from that creek. It could also be internal to their site, some drainage challenges, old building, needs a lot of repair, that kind of thing. The location that we have shown them in at this level of analysis would say to me that it's feasible that that would be a very appropriate place for them.

[2:11:10 PM]

It's out of the flood plain and if designed well the drainage issues could be dealt with from the very beginning.

>> Houston: Okay. Thank you.

>> Mayor Adler: Okay. So council, just to remember, we had originally had a rule when something came from committee that it had less speaking time than something otherwise, but we changed that rule and we made that the public speaking for something that had been to committee or not committee the same. And at the time that we did that, we said the first 20 speakers would speak for three minutes each and every thereafter would speak for a minute. We wouldn't go over 90 minutes except in those instances we need to. In this case we won't get to the 20 speakers in terms of the people signed up so we'll go ahead and call the speakers if you are ready. The first speaker will be Joan Norton.

>> [Inaudible]

>> Mayor Adler: You have three minutes if you want to take it.

>> Thank you.

>> Mayor Adler: On deck is Georgette Bogart.

>> When I retired last year from the city of Austin and the city of Austin employees retirement system, I wanted to be part of the Austin volunteer community. I chose Austin pets alive because -- sorry. Because of my history with the town lake animal center. I had adopted my first dog there and I adopted my recent dog from Austin pets alive. And I was thinking about what different experiences they were. The first time I went and got Emma, it was so stressful because I knew any dog I didn't pick would be killed most likely. Lola was a completely different experience. She was hard to adopt because even though she was adorable and nine months old, she was profoundly deaf and just needed more time. We're thrilled to have her. When I retired, that's where I went. I also meet adopters because our [inaudible] Are so vibrant we get stopped a lot and they have been coming for generations to that animal shelter, 60-something years.

[2:13:16 PM]

They don't even know it's not a city shelterer they just know when you want a dog or cat you go to the town lake animal center. It's important to meet them and have that community relationship with town lake. I'm also part of the rough tail runner program. That was a group that was started to try to get citizens to come to the shelter, take some pressure off the staff and walk the dogs. And they started on the manchaca location, but it didn't do very well. They had maybe four or six people sign up. There was no place to walk. They tried Leander loop and when the city animal center, same problem, not a lot of place to walk. Now they routinely train 20 people a month, that's their limit, who come, who live in these areas who can't have big dogs or can't have dogs and come there, pick up a dog, go on the trail, get their exercise and enjoy their community. So I'm thrilled as a city employee this process is amazing to see everybody work so well together. The parks board has been awesome and all the different groups I've gotten to meet coming to all the committee meetings and I really hope you adopt the plan. It's an exciting plan and someone who lives in the area and who will use the park, I'm just thrilled that it's there. Thank you.

>> Mayor Adler: Georgette Hovard.

>> I'm going to donate my time.

>> Mayor Adler: To?

>> [Inaudible]

>> Mayor Adler: What about Liz Carasco? Is David king here? , If no? Is --

>> I'm donating my time.

>> Mayor Adler: Wanted to make sure you were here. You have six minutes.

>> Councilmembers and mayor, thank you. I'm here before you in regards specifically to the Apa funds that you are willing to work with on this plan.

[2:15:26 PM]

And I wanted to say to you that before you approve these funds designated to Apa, I ask you to look into the agreement between both the city and Apa. We all know that Apa is the reason Austin achieved no kill, and we want to keep it that way. We also want Apa to have some stipulations from the city. Of Austin for the following reasons. For months now Apa has cut back in the number of animals that they have been pulling from the Austin animal center. This was confirmed to me yesterday by staff. They go out into surrounding areas outside of Austin and pull from shelters. Not only have they cut back on the number of animals they have pulled from the Austin animal center, but they have declined to take certain animals into their program which has led to several animals being euthanized at the Austin animal center. The last 12 months I've been advocating for sterilization for dogs who end up at the shelter. Which I strongly believe will help our city shelters crisis. We now know that Austin animal center's claim is that they are not set up for a high -- for high volume surgeries. Yesterday staff said that they would like to be able to send out less intact animals into the community. In fact, Dr. Alan Jefferson voiced concerns about resources for more sterilizations with the current wait time. She is quoted saying you have to have the capacity to do that which means hiring more veterinarians, getting more spaces to do the surgeries, and I don't think that the city has that right now. So if the city is wanting to fund Apa's makeover, that's great.

[2:17:28 PM]

However, I would urge you to look at the bigger picture, allocate some of that to Austin's city shelter to help our shelter who is in crisis. We closed our doors. Apa, it does need improvements, however, they have an amazing outreach, they have an amazing foster program, and we all can be certain that Apa's animals will be safe during floods. We've seen them. They all go to foster homes during those floods. Austin animal center closes its doors. People release, people dump animals out into the street. Does the city care about the fate of these animals? Is council concerned about that issue at all? You may not be, but here is an opportunity for you to show Austin's reality of its actions in addressing the crisis. Will you give city money away just because it's available? I would hope that you would want to make sure that these funds will have a positive impact for all of Austin's homeless pets, not just Apa considering the partnership.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is Melissa Mauro.

>> Hello, thank you for being here. Really appreciate all the service and time that you all put into this. I'm the executive director of the west Austin youth association. Waya supports having a plan and more importantly we support this master plan. For over 50 years youth sports have been played at Lamar beach and since 1982 waya has been a partner with the city to provide youth programs for the public on these fields. Waya serves over 5,000 kids annually from over 50 zip codes bringing kids from all over Austin together to play, learn and grow.

[2:19:33 PM]

In August of 2013, way and the city of Austin signed an agreement that solidified the future of that partnership by allowing way to have access to the Lamar beach fields for the next 25 years in return for way committing to making a significant investment in the fields and the adjacent amenities including the fields, the crow's nest and the concession stands. A month after we signed these agreements we were surprised to receive an invitation by the city of Austin transportation to participate in a stakeholder meeting concerning the extension of Pressler street. At those meetings we discovered a new street was going to go right through the park. Austin high and aid were not even notified of these stakeholder meetings and they were only known after the chapter 26 dedicated the parkland to transportation had already occurred which seemed completely backward. In the spring of 2014 way along with several other stakeholders on Lamar beach, aid, Austin high, ymca, Austin pets alive, iwan a and adjacent neighbors were concerned about the effects of the proposed extension of Pressler street through the park and its impact on the safety and current uses of the park. And so as a very desperate group we came to city council and asked to have funds allocated toward a Lamar beach master plan and have thoughtful, intentional design guidance on behalf of the park and the community. A resolution was passed by city council to complete a traffic impact analysis and to fund a master plan. The parks department along with design workshop has spent the better part of a year informing citizens about the project, conducting stakeholder meetings, online surveys, developing a series of alternatives followed by more community meetings, a final recommendation and more input. It was truly an inclusive process. A very visionary process. These plans reflect a thoughtful and intention will approach to the park that incorporates amenities and green space.

[2:21:37 PM]

They have diligently followed urban design guidelines. This plan embodies many of the design bid lines values. It supports density, diversity, unique character and obvious connection to outdoors. At the same time that it recaptures seven acres of parkland. It's an amazing --  
[buzzer sounding]

-- Thing. While adding natural areas, this has great pedestrian bike path, my main point having a plan is better than no plan at all. And this is an excellent plan. Thank you.

>> Mayor Adler: Thank you. Pat Valteras. Faith Valicek is on deck. You're next.

>> Thank you, mayor and councilmembers. I also want to speak to the issues that Liz brought up about Austin pets alive; however, I have a little different angle on it. I joined the animal movement in the 1990s when many, many animals were being killed at the town lake animal center, which back then was being operated by the Austin humane society. I agree with one of the earlier speakers, I believe her name was Joan Morton, that things are much, much better now and I would like them to remain that way. I would like our city to remain no kill. What happened in the early 1990s when the Austin humane society was on a long-term lease at the town lake animal center is that whenever an issue came up about funding for puppies and kittens, they would come to city council and they would talk about how, you know, we can't kill puppies and kittens, but then a lot of times that money was not being managed well.

[2:23:47 PM]

The animal advisory commission was created as a result of that and one of the things that the city ended up doing was canceling the 50-year lease, buying out the Austin humane society and setting us on a path to no kill. I'm very glad we were on and I'm glad we are here. This past year we've been trying to focus on spay neuter. We had a particular proposal to do spay-neuter on first impoundment that was simple and straightforward and Austin pets alive opposed us on that. We then heard there was some

amendments by councilmember Garza and we approved them and came back and had some other proposals and it looked today like we weren't going to get that to happen so I'm glad you withdrew that item. My concern is when we do our 50-year planning for an animal shelter, I would really like to you take into consideration spay-neuter and I would like you to take into consideration how we address preventing more animals from coming to the animal shelter instead of building it for a program that I'm hoping we don't need as much of. I'd like to you balance prevention funding with what we're doing now, which is the most expensive form of saving animals, which is sheltering them for long periods of time and then adopting them. Again, I fully support sheltering the ones that have already been born. I do really truly want you to save every animal that is on this planet right now. I mean in the city of Austin anyway. What I want us to also do is prevent so many from being born so we don't have to keep building and building and building and doing it in the most expensive way possible.

[Buzzer sounding]

>> Thank you.

>> Mayor Adler: Thank you. Faith Ellis son. And is Christa Nolan here? You have six minutes.

[2:25:48 PM]

>> Good afternoon, councilmembers. It's nice to meet you all. I am the facilities and legal services manager for Austin pets alive. I want to reiterate what has already been said, everybody involved in the development plan. We are very proud that Apa's model has attracted national and citywide attention. We've gotten national attention to the city of Austin, people from all over the country and even out of the country have sought out Austin pets alive. They've come to our conversations, contacted us how they can get our model, how they can do this in their cities. Our executive director was awarded award for outstanding leadership in the lifesaving operations. This was given to her by Maddie's fund. We have moved beyond a city partner and become a national leader in animal welfare and it's attracting much positive attention to Austin. I can say we are very excited about being able to get a capital campaign up and going so we can build our own building. We're excited about being able to design a first-of-its-kind shelter that meets the goals of no kill sheltering. We're excited the groups looking to Austin as a model for no kill will also be able to see how a nonprofit shelter can be built with no kill in mind. Our current shelter drainage is old, outdated and definitely a problem. We are super excited we'll be able to be involved in the designing of a new facility that will have drainage that can keep up with rain flow problems and be able to handle when we have significant rainfall. Right now if it rains too hard, our drains are so old they can't handle it. And we also are excited about the Pressler street extension. We're very happy that phase 1 has added in the pedestrian and bike way access so people from the iwana neighborhood has access down into the parks. And that way we have time to get to phase 2 where actual Cesar Chavez will be moved.

[2:27:52 PM]

So we're really excited about everything. We thank you guys for listening to us at all the committee meetings as well as today. Thank you all very much.

>> Mayor Adler: Thank you. Next speaker is -- did I call amber ellings? I did not. Welcome.

>> Thank you all for letting me come here today. I am amber ellings, the school board trustee who represents the students and families who attend Austin high school. I'm really here today, I've not been deep in the woods for this for the last year and a half because luckily our board met about a year and a half ago the spring and came together and decided that this was a big enough project that we really thought our district needed to get involved and to invest some time and energy into it. And since that time our principallal Austin high has been on the technical committee advisory group as well as a district

employee. So I did want you to know that the district is paying attention and invested in this work. And we are very excited with where things have fallen out because, as you've heard, we were not included initially when the Pressler road conversations were started, and that was going to have great impact on our schools. And this new plan is really, really so much safer and in a much better position for this -- for this program for our 2200 students that really come from about boundaries of seven of you, they are in seven of your district. So that makes it difficult for us to advocate because that is a quorum of your membership and so you don't see me up here much, but I know they are working really hard. And I did want you to know that the consultants have been extraordinary.

[2:29:59 PM]

I also remember seeing many of you at Austin high at at least one of these committee meetings. They've been extraordinary getting out into the community, getting input. There were hundreds of people at most of these meetings which I know when we go out to get community engagement and input we would take that any day. I'm trying to think, is there anything I've missed? I do want to address a little bit the point that -- if we were to build a high school today, we would be looking for 100 acres. We have 33 acres down there. When you hear some people have voiced concern there's already enough parkland in central part, so much of that is really being used in partnership with the school and the parks department and we very much appreciate that. That happens all around the city. And so it is a great relationship that we want to continue and I will address, we have not discussed getting rid of this high school. It is the oldest high school west of the Mississippi and the oldest in the state -- public school in the state of Texas. We have got demographic reports that show this population in this part of town is pretty stable over the next 20 years, so at a minimum, you know, someone could suggest moving it, but we would need land and we would need a bond to build something like that and we would be looking for 100 acres and that's hard to find in central Austin these days.

[Buzzer sounding] We do hope you support this plan. We're very much in favor of it.

>> Mayor Adler: Thank you. Amy Taylor. Robert Corbin is on deck.

>> Hi, thank you, mayor, councilmembers. I am the principal of Austin high school, I'm proud to be here today. Austin high is the oldest public high school in the state of Texas. It was founded in 1881 and it is in a very unique location. It's located in the middle of what many refer to as zilker park, however, it's actually close to Lamar beach.

[2:32:05 PM]

Moat comprehensive high to fully compete in uil, fine arts and academics. Excuse me, athletics. Aisd owns approximately 33 acres mind the defined Lamar beach for which Austin high educates over 2100 students per day. Our school is surrounded by roadway, operated by various jurisdictions including city of Austin transportation, txdot and ctrma. The current construction on mopac, the traffic under the mopac bridge and high traffic on Cesar Chavez all contribute to significant congestion around the property of Austin high. Safety of our students is a top priority. We have young drivers navigating intense traffic, students walking and biking in all directions, and use of alternative transportation such as aid bus and cap metro services. The parks and rec department has been wonderful to work with regards to shared space and coordination of city events such as marathons, the acl music festival and the trail of lights that have an impact on road closures in our area. In addition the pard has worked closely with Austin high to share the tennis courts and baseball fields including and also way with our lacrosse program. I did serve on the Lamar beach technical advisory committee. They did allow Austin high and various other stakeholders to collaborate on a shared design for both the citizens of Austin and the 3,000 students, animals, rowers, runners and ymca members that commute to this area daily. Austin

high is committed to sharing the Lamar beach space with the citizens of Austin and we would like to thank Charles Mayberry, Sara Hensley, the design workshop and way, ymca and Austin pets alive for their contribution to this design. Phase 2 of the plan reflects an increase in parkland, playing fields, parking and elevates Cesar Chavez so that traffic is above the parkland.

[2:34:10 PM]

As a result of the elevated roadway in phase 2, students and citizens can enjoy the newly developed park while families who live north have direct access to Cesar Chavez through a Pressler extension, but without the high traffic volume from Cesar Chavez that would invade Lamar beach. It is my pleasure to be a contributing member of the Lamar beach phases presented today and I represent Austin high in showing my full support for the plans. Thank you.

>> Mayor Adler: Thank you. Robert Corbin. And then Ellen Jefferson is on deck.

>> Starting off I brought exhibit a here for some people. Thank you letter from one of the premier animal rights organizations in the United States, the world, that I contributed \$500 recently to them. I oppose two major facets of the Lamar beach master plan. The proposed plan maintains fenced off some of our most valuable and strategically located public lands. The plan's main beneficiaries are two well connected and organized private groups, way and Apa. With the vast majority of Austin citizens receive in return is little or dubious value. My November letter to all of you states the obvious, that that area known as Lamar beach should be one great lawn on the north shore of our lake. Present obstacles to that vision are way and Apa that presently use lands and defend their continued use. But Austin is changed hugely in 50 years and lands once good for fenced in ballfields and fenced in dog shelters are way to precious for you councilmembers to vote for that possibility. A vote in favor of the proposed plan would be betrayal of your important duties to protect and enhance our city. As the last -- at the last parks board meeting for keeping Apa in its present location, Apa proponents argued thus, it's always been on the lake, it's convenient for roll tear dog walkers -- volume talk walkers, no other city in the neighborhood wants this near them.

[2:36:29 PM]

That should be a tipoff to you wise people that the Apa operation is not held in such high regard by any Austin neighborhood. Consider if Apa plans and promises to raise \$20 million to build a new shelter on the lake, why can't they raise 4 million more to buy their own land. Answer Apa believes they can sucker punch council handing over land word 10 to \$20 million. I bet if you are to approve this plan, they will be back in a couple of years saying something like we've raised 10 million to build. We want 10 million from the city. Another Apa proponent stated reason Apa operations saved Austin millions have is diametrically opposed to the really of what happened. The truth is Apa and its programs have been a financial disaster for the city. Every year animal services seeks and receives huge budget increases with no end in sight. Maybe Apa adoption center lady telling me our dog selection is real good right now because we just received a truckload of dogs in from San Antonio has something to do with it. Or another Apa lady telling me one resident shelter dog had been kenneled there and shuttled around the shelter system for the last 1200 days. Ahh, my tax dollars working for me.

[Buzzer sounding] To assure that my taxes continue to increase until I'll qualify for affordable housing.

>> Mayor Adler: You can go ahead and finish your thought.

>> Please vote against this plan.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. Mr. Corbin, I appreciate the voice of dissent even when I dissent. Most of the remarks are neutral. Let me say this about zilker park. We have a lot of neighbors already complaining that zilker park is fenced off for so much of the year with big events like Austin city limits.

[2:38:30 PM]

So your points are very well made, but even if we didn't have way or the Apa, what guarantee would citizens have that the city itself or pard wouldn't be fencing it off routinely for big special events?

>> That's a good point N the letter that I did write to you all that I don't know how many of you actually did read it, but thank you very much.

>> Zimmerman: I appreciate -- I appreciate the voice of dissent.

>> And I proposed -- you know, for Apa to move out of that area. All they got to do is come up with three or four million dollars of their own money and they can do that. I'm sure there's plenty of places on the outskirts of town, big areas that they could put their kennels. As far as way, I suggest some areas right along mopac on the other side or even you could have some ballfields in the great lawn area I'm proposing that would be open to all the citizens of Austin. So you know, everybody could, so to speak, have their cake and eat it too on this. I just think this particular plan is a bad one and you guys should vote against it.

>> Zimmerman: Thank you.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Ms. Jefferson. Georgette hogarth is here. Lisa Maxwell. Is Ms. Maxwell here?

>> I don't think I'll need that much.

>> Mayor Adler: You have nine minutes.

>> I'm Ellen Jefferson, executive director of Austin pets alive. I wanted to echo what Melissa maries said. This is a really great plan. We came together groups kind of fighting each other for our each parcel of property and what the parks department and design workshop has been able to do is pull us all together and basically please everybody. I think that this addresses the needs of the public with sports, the schools, parks, pets and exercise and also it's going to be a beautiful park.

[2:40:34 PM]

And it's going to get the highway away from the lake. I think this is a great plan. And I'd like to thank everybody that made this possible. I wanted to start with a brief synopsis of how Apa got into the plan. The shelter has been at that location for 60 years. You guys already know that. In 2007 Apa started rescues -- rescuing animals with the city and the city at that point was killing 55% of the animals coming into the shelter. So not very long ago. That immediately changed with our programs that we were able to launch, and by 2010 the city was at only 20% death rate or 80% save rate. In 2010 the city council passed a no kill resolution man at a timing a 90% save rate for our city which is still in effect. And the city now does an amazing job saving lives and we work very closely with them. We have an amazing public-private partnership. And it's leading the country. It truly is. There is no city like Austin out there in the world. And our part of the public-private partnership is we take 20 to 25% of the animals that come into the city shelter and we find live outcomes for them, adopt them out. The remarkable thing is these animals are the ones that are the most challenged. They are not the top 20 to 25%, they are the bottom 20 to 25%. And so as we've been looking for other properties over the last several years, what we've run into, as you heard, is that neighborhoods have overlays, in every neighborhood plan there's an overlay that prohibits annual shelters or kennels from being built in their neighborhoods. Everywhere we have gone we've been struck down because the neighborhoods already have laws in place and they are not



willing to overturn them. It's not because of Apa, it's because they don't want a kennel in their neighborhood.

[2:42:34 PM]

Iwana is the only one who embraces the shelter. It's been there, part of their history and support us staying there. So we are really lucky that we have one neighborhood willing to do this. And the thing that is important about this location for us is that because we're taking the bottom 20 to 25% of the animals, they need the most foot traffic. These are not the ones that are going to fly off the shelves through the internet and people sharing Facebook photos. These are the ones that really need people, a lot of people to see them before that one special adopter comes forward and adopts that pet. So by being in a location like this we offer that foot traffic for those animals. If we lose this space, we know that we won't be successful in a far-off location. We know the public won't come, the foot traffic won't be there, and we know that volunteers won't be there. We know we'll lose fosters, donations. If that happens, the city would be forced to either increase the city shelter's budget tremendously or violate the mandate of 90%. And in fact if we weren't here just doing the math, the city is at a 96% save right right now and it would be closer to 75% if we weren't here. There's been a lot of concern about the cost that the city has with Austin pets alive staying at this location. So I want to be very clear that the city -- there's no extra land lost. The land is actually -- you get a slightly a little bit more land than what you currently have for the rest of the park. Apa would be taking up less than 5% of the property. The city will not be responsible for any of the fundraising to build the new shelter. So that is all the responsibility of Austin pets alive to do the capital campaign. The numbers that she put in 18 to 24 million, that's all on us. So there's no city dollars going to that. And I want to reiterate that we spend \$3 million a year of donor funds to save city animals. So we're actually giving you money every year to help this cause.

[2:44:39 PM]

There's other public-private partnerships like. This the sunshine camps have a public-private partnership on parkland. The way does in the long center. So we wanted to point out this is not unique. And our board chair rusty tally was the board chair for the long center that raised \$75 million for their capital campaign so he feels confident we'll be able to do this. We will not be back asking you for money to build the facility for us. And the thing that is the most important to us with the plan that has been laid out by design workshop is that we can start immediately. Everybody knows that the shelter is in bad disrepair. It's not -- it is better than being dead for those animals, but we can do a lot better by them. And the faster we can start raising the found to rebuild, the better we will have -- it will be for animal welfare. So we ask that you pass this today. And that's it. Thank you.

>> Mayor Adler: Thank you. Sara Marler. Is David king here? James fink is on deck.

>> Hello, Sara Marler. I'm a parent at Austin high, a parks advocate. Thank you for your service and time. I was on the parks and recreation board until 2011. I'm currently chair of the Austin parks foundation as well. Who is committed to parks and programs all over the city. I was asked to help by a group ever parents when I had a middle schooler who is now a junior in high school because the parents were sort of miffed they weren't included in discussion about Pressler extension and they said please help us. So now as my daughter says I can't believe it's still going on, I'm in 8th grade and I'm in 11th grade. We're here at the end and I'm here to support it. Austin high is very diverse, seven different districts. We are also, I want to point out to Mr. Zimmerman, your question about moving the property, I'm an Austin high alum, my mother is.

[2:46:48 PM]

That property specifically is maxed out impervious cover and much of it is in the flood plain that it's not built on. It is also in the capitol view corridor so there's lots of ideas and options, but there are barriers to building out and up. We are very efficiently -- use our land very efficiently as said by principal Taylor, we're on 33 acres. The only reason we can be a comprehensive high school which means competes in uil sports, tennis, baseball, band, you name it is because we have shared services with pard. Which is actually many, many schools in the district have shared facilities with pard. And it's very important, if I can just take off my Austin high hat and put on my parks hat bus we do a lot, Austin parks foundation does a lot for schools. It is very important to always keep the perspective as a city that we have these shared facilities and what can we do to maximize taxpayer value in that. We are in support of this plan. Mostly all related to safety. Road safety, high speed drivers around 16-year-old drivers is not that great. Connection to iwana, Clarksville, I'm sorry councilmember tovo couldn't be there, it's important to us to get our students safely to the school. The condensed athletic area where they can cross over with a low speed area and pedestrian, bike, you name it. After this whole plan came through and the addition of seven acres of parkland is amazing because we call that the loop de loop because that's the access that's pretty astounding. We are just very supportive of design work shop. They came with a thoughtful master plan. All of the pard staff and every single one of the stakeholders appreciate your looking at this and supporting it. Thank you.

>> Mayor Adler: Thank you.

[2:48:53 PM]

Mr. Fink is our last speaker. You have three minutes.

>> You saved the best for last. Honorable mayor, distinguished members of council, my name is James fink, president and CEO for the ynca. I'm here to speak for this project because I think it represents the best of what we want to be as a city. Youth development, healthy living, social responsibility. As you guys know, it's better than most. Groups coming together or people coming together and giving up some things to look at the greater good is not always the easiest thing in which to achieve. In fact, most of the time it's dead on arrival. With this one I think that's the magic in this. When we were able to look at something that was going to benefit the whole and not just ourselves, we got to work and we have been working extremely hard on this. I would say that this corridor is the true gateway to downtown. And if we want for our city to be known for -- for something, I think it's -- it's that type of -- this type of planning and that type of vision which creates you don't have to say any words to explain it because people will understand it when they see it themselves. So for those reasons I strongly encourage you to let us get to work. Thank you.

>> Mayor Adler: Thank you. We're back up to the dais. Any further comments, questions? Yes, Ms. Gallo.

>> Gallo: I want to say thank you to all of the stakeholders and people that have worked on this. So much of this impacts a lot of district 10 even though Austin high and this area is not in district 10.

[2:50:54 PM]

Way is based in district 10. A lot of the students that go to Austin high come from district 10. Everyone knows I'm a big dog, cat, pet person so it was important to make sure we continue to have that facility. But as the speaker that we last heard from just said, you know, this is one of those situations where everyone was willing to come to the table and figure out the best compromise to get what would be best for the community. And you know, we often think as we approach discussions on everything we talk about that unless we can get 100%, we've lost, we haven't won. And that's not good for healthy conversation when we have a diversity of stakeholders and interests. So I really applaud the results of

this because I think it is a perfect camp of how good policy is made and how we as a community can strike a balance so that everyone wins. And I just, I just really want to say thank you to all the people who have spent a lot of time on this and I know a lot of you are people that live in district 10 and a lot of you are not. I'm really sorry mayor pro tem tovo cannot be here because I think she would mirror those words. I think I speak for both of us. I hope she doesn't mind me saying that on behalf of her, but I think she would say exactly the same thing. Big thank yous to everyone who has participated and our staff who has worked so hard to try to make this see and make this happen.

>> Houston: I have a question for staff if it's appropriate at this time.

>> Mayor Adler: Yes.

>> Houston: Park staff. Mr. Solis. Or Ms. Hensley, whichever. It doesn't bother me. Thank you, thank you so much. I've got two questions. One is how does parks and recreation decide the length of leases on parkland? A voter -- a variety of leases and the length are very different.

[2:52:59 PM]

>> I don't want to speak for Ms. Hensley, but it depends on the type of agreement that we're talking about and so --

>> You're right. Sara Hensley, director of parks and recreation. It does depend on the parties we're working with obviously. When we negotiated the agreement with the sunshine camp, for example, and obviously any of that has to come through council for a decision. We work with the law department who helps us decide if it should be a longer term. And in some cases, quite frankly, for them to raise the kind of cap take that we're talking about. For instance with the sunshine camp, it was a major campaign, but they raised it all and put the infrastructure in to serve the most needy of children in our community. They raised the funds, but to do that they asked for a longer term lease. So we work with them within the parameters that are set by the city and certainly by the advisement of our law department. And we have done 50-year agreements. Some cases the law department prefers no more than 25 and have to be renewed at 25 and that's sort of what we're working with now.

>> Houston: So that's the current practice is 25 and then renew at the -- at what stage do you talk about renewal with an additional 25? Is that five years out or ten years out or when does that option become available?

>> Well, we do -- it's been written several ways and currently the law department has recommended to me, you know, we don't want to try to do 100-year cases. In some cases I have brought longer terms because as department head and closely working with individual groups, they can't raise capital -- no one wants to give 5, \$10 million forwards an agreement if they know their investment won't be there in ten years. What we did was 25 with a renewable 25 and that kicks in, sometimes it's written five years before the 25 years comes up, you have to look at the next 25 years.

[2:55:08 PM]

>> Houston: So -- thank you for that. So what is the sunshine camp's --

>> It's a 50-year lease. With a renewallable 50 years.

>> Houston: We'll all be dead by then.

>> I will be too.

>> Houston: What about west Austin youth association?

>> Pool: 25.

>> 25 with a 10-year extension option.

>> Houston: And Austin pets alive?

>> Currently their lease ends in 2018.

>> 2020.

>> 2020. And that was extended. It was to end in may of 2015, it was extended -- or 14 maybe, by the previous council who gave it to 2020.

>> Houston: Okay, thank you. On another question that I have is the recreation facilities that will be on Lamar beach, are they open to the public?

>> The -- we work with the west Austin youth association to make sure field uses available to the public. Obviously as you heard from principal Taylor they are open for the school district to use them and then we will be putting in amenities that will be open to the public as well as the Y puts in some amenities, then it's all public access. When west Austin youth is using those facilities, which is a lot of time, they have a lot of programs serving young people all over the city, won't be open because they are being used for programming purposes.

>> Houston: So the answer is maybe, they are available to the public if -- if they are open and kids who are just driving decide to play some ball know that whether or not they are open or not.

>> Council, I want to say with the plan we're envisioning, we would be gaining a lot more open play. You know, at least a minimum of six acres that we would be adding to the park that would be more of open play family day area we're talking about adding.

[2:57:14 PM]

So "-

>> Houston: I'm talking about things like baseball and softball. You will be adding additional park --

>> Park amenities.

>> Houston: Amenities. So that the public can use those but not the ones that are identified for west Austin youth association and Austin high.

>> Correct.

>> Houston: Am I correct about that?

>> Yes.

>> Mayor Adler: Has the transportation staff looked at the reuse of --

>> Yes, I'm sorry Rob is not here today. Rob attended the parks and recreation board meeting and I can't speak for Rob, but we spent an extensive amount of time with the transportation department even working in public works to hire an additional consultant to look at the numbers and to ensure that what was being proposed would make sense. Rob's answer when someone asks him would the movement of Cesar Chavez make a difference and the answer yes, it would make a difference. Does it improve it by a large degree of traffic movement? The answer is no. It's not a move to solve the traffic but there's better ingress and egress from the high school and particularly from a safety from Pressler. That was his biggest issue dealing with the Pressler extension and the outfall not supported by the school district and this was everybody coming to the table with a win-win.

>> Mayor Adler: Does it still handle the amount of cars --

>> I'm going to have to let Rebecca answer that.

>> Yes, it does in that it's kind of maxed out now, so it's going to be maxed out even then. But one of the things that it does is it slows traffic down so there -- the first stop will be at Pressler, then another stop at B.R. Reynolds and Sandra muraida as well.

[2:59:14 PM]

And so that starts to make it more pedestrian friendly and things along the way. So it's got added mobility for other types of transportation.

>> Mayor Adler: Okay. Further questions, comments? Do you want to talk to us about the committee and make a motion? Mishouston.

>> Houston: I want to thank Dr. Jeffries for her comments because on the open space amenities it doesn't say animal service facility, and you clarified that's Austin pets alive and that you guys will be responsible for the fundraising of the 18 to 24 million. It wasn't clear in their report so thank you for sharing that.

>> Mayor, I need to

>> Mayor, I need to correct something, it's a 25 year renewal. I don't want to mislead.

>> Mayor Adler: Thank you. Ms. Policy, you want to make a motion?

>> Pool: Yes. I would like to move approval of item 16, which is the Lamar beach master planning report. Do I need to read that?

>> Mayor Adler: There's a motion to approve item number 16. Is there a second?

>> Gallo: Second.

>> Mayor Adler: Ms. Gallo seconds. Any discussion? Do you want to talk, Ms. Pool?

>> Pool: Yeah. I just wanted to say that we did have a nice presentation a couple months ago in the committee, and that's kind of the plus and minus of the committee process. It gave us an opportunity early on to look and see what was going on and to ask some really targeted questions in a public meeting so we could dig into it. Of course the other side is, we may, in a larger setting with the full dais, we knew that this was an issue that was important to the entire council because it affects the entire city, and so it's important to have this presentation for the entire council to hear and also ask questions.

[3:01:14 PM]

One -- one of the remarkable things about the work that was done with design works and our staff and our stakeholders was when -- when the presentation was made to the open space committee, this agreement had already been struck. And that wasn't necessarily the case a month before when we put it on the agenda to hear. When they came to us, it was pretty remarkable and a nice -- a nice energy and nice, positive vibe in the room coming from all the various fairly desperate stakeholders and everybody came in support. I'm really happy to say the three of us on the dais for the open space committee, while we good take formal action because we wanted it to be heard by the full dais, we were in support. I think this is a great opportunity for everybody here today to hear what -- all the work that has gone on before us, in various in-the-weeds kind of actions and information-digging that was done throughout the entire time. And just kudos all around to all the folks who were involved in bringing this together and to fruition for this vote here today. I thank you, all of you.

>> Mayor Adler: Any further discussion? Yes. Ms. Garza?

>> Garza: I guess the key to this is that this is not funded, so it would require, I believe, a bond vote to fund this. So I guess my question is, I'm thinking of the Mexican American culture center and the master plan there, and because of the pocket park controversy, I think part of it was funding a new master plan?

>> Yes. For the additional part of the Mexican American culture center, yes.

>> Garza: Okay. So is it possible that -- I mean I don't want to say that this is going to happen, but like for Austin pets alive, they're funding their building, is that going to happen regardless, if the rest of the funding is here, or will it take a bond measure to trigger them being able to -- to improve the center?

[3:03:30 PM]

>> The portions of this, the commitment for those -- our partners is to move forward. The -- James, I'm on speed dial, and they have needsha tth want to move forward with and are going to raise the capital.

Austin pets alive has made a commitment and working closely with rusty, they want to raise the money to work with the Y and with the city to make that happen. There are things we can do as a parks & recreation department, and your answer to your question is, absolutely, we will have to put some funding in another bond if there's a bond, when it does go, if it's approved. Then of course rob has committed to work with us in the future for the reworking of the Cesar Chavez when pard would not have to pay for that but it would have to be a mixture of funds. Austin high is looking at what they can do right now through their facilities task force. Rich Depaula who serves on this is vice chair, and we have worked very closely. I meet -- I'm meeting with the school to look at how we can better reuse things and partner for a future bond program together. When school puts money in, we put more money in so we get more bang for our buck. And way is ready to raise their money. With the passing of this, there will be entities that move forward to raise their capital. That's what they needed was the, yes, go ahead. We don't have our money yet and we will have to put it in a bond. That's the answer.

>> Garza: I guess if the scenario is that there isn't a bond in five years, do the other pieces move forward with whatever they're doing, or does it have to happen altogether?

>> I'm -- the answer to that -- my answer would be, no, it does not. Each piece can move separately, and then we'll all work to try to raise that money.

>> Yeah. I think in the case of Apa, ymca, and the park, those three might need to work together to get land swaps and stuff like that happening, but waya could move forward at their own pace, and animals -  
- Apa could move forward at their own pace as well, so ...

[3:05:50 PM]

>> Garza: Okay. Thanks.

>> Mayor Adler: So it would appear to me that everything that is in phase I would be able to move forward, but the phase II things would be contingent on a bond and approvals, the characterization of the roads, classification of the road, all that would ultimately be determined later in conjunction with the bond. The work that could move forward now would be the land uses and the partners for what you showed in phase I. Is that correct?

>> That's correct. That is absolutely correct.

>> Mayor Adler: Okay. Any further discussion?

>> Renteria: Yes, mayor. I am going to support this, but, you know, there -- just for our information, is that there's a big master plan for the east side of that town lake also, so there's -- there's a big need in order to accomplish all that development, redevelopment of our parks in town lake, it's going to be a substantial amount of money that's going to have to -- we're going to have to ask the voters to support us on that because it really is a big asset. You know, all of town lake is, all the way around. And, you know, there's also a big need for a pedestrian/bicycle bridge on the east end of lady bird lake so we're definitely going to be looking at the whole picture.

>> Mayor Adler: Further discussion? It's been moved and seconded to adopt the master plan. This is item number 16. All those in favor please raise your hand. Those opposed? Unanimous on the dais with the mayor pro tem gone.

[3:07:50 PM]

Thank you for this work. We're going to do the small cell networks item number 11. Does staff want to lay this out for us?

>> Good afternoon, mayor, council, Jason --

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

>> Sorry.

>> Mayor Adler: Thank you.

>> Good afternoon. I'm Jason [inaudible] With the Austin transportation department. Do you want an explanation of the fees that are being proposed?

>> Mayor Adler: Yeah. Just a real high level, real brief description. If the people in the back of the chamber could move out so that we could hear, that would be great. Thank you. Sir?

>> Okay.

>> Mayor Adler: Got.

>> We're proposing a \$12550 application fee per antenna installation. We're proposing a \$1,500 attachment rental fee for attaching to the traffic signal pole and we're also proposing a linear footage charge for installing fiber in the right-of-way.

>> Mayor Adler: Okay. There were a large number of stakeholders which were interested in this that gathered together to talk about it. At this point, where are you with respect to all the stakeholders?

>> We have support from a couple of -- most of the stakeholders. There are a few that are still not pleased with the fiber fee that we're proposing.

>> Mayor Adler: Okay. All right. Does council have any questions before we go to speakers signed up? Mr. Zimmerman.

>> Zimmerman: Yeah, thanks. I appreciate this coming up when it did. I think they were concerned that we wouldn't have it in time for south by southwest, but I guess it's cutting it pretty close here, but is it your understanding that if this is approved, they'll be able to move ahead with construction and be ready for south by southwest?

[3:09:53 PM]

>> We'll be ready to take applications. We don't know -- there are carriers saying they are ready to deploy, so we believe so.

>> Zimmerman: Okay. One other quick question. How do these fees compare with other Texas cities, San Antonio and Dallas, say?

>> So our fee model is very similar to the San Antonio model now.

>> Zimmerman: Okay. So are we going to be probably maybe the highest fees? Are we somewhere in between something or --

>> We're right in the same range as San Antonio now.

>> Zimmerman: Okay. Okay. Thanks.

>> Uh-huh.

>> Mayor Adler: Okay. We'll call the speakers. Ms. Houston?

>> Houston: Yes. Excuse me, sir, I'm sorry, I didn't catch your name.

>> I'm sorry, Jason Redford.

>> Houston: Nice to meet you. I know this is primarily for downtown and south by southwest, but are there any conversations with any of the carriers about when we're going to be able to move this technology further into the areas that don't have very good service?

>> So this is a pilot program, and we're going to deploy 25 sites per carrier. Once those 25 sites have been launched and we've evaluated the program, we will look at unrolling it and moving into other geographic areas.

>> Houston: Thank you.

>> Yes, ma'am.

>> Mayor Adler: Okay. Ms. Gallo?

>> Gallo: So do we -- do we have the policy that is governing this that we're setting the fees for, that you're recommending we set the fees for?

>> So we have a rules posting process that is in -- that's going on right now. We stopped taking rules comments by tomorrow, and then from there, we'll vet those comments, we'll respond to those who have commented on our rules and so the rules aren't set in place yet, but we think that the rules and the fees will go hand in hand.

>> Gallo: So I guess my question would be, is it your recommendation we set the rules before we have the policy in place, or it would be more appropriate to have the policy in place before we set the rules?

[3:12:02 PM]

And if it's more appropriate to have the policy in place before we -- I mean set the fees, not the rules. Before we set the fees, then is there any particular reason that we need to set the fees before the policy and rules are in place?

>> We're trying to get the fees in place as quickly as possible so that we can take applications so that we can start processing, so we can look at sites, so that we can get deployed for south by southwest. And so the policy or the rules and the fees are independent of each other, and so I don't see an issue with us approving the fees first and then the rules after that.

>> Gallo: But do the applications, the applicants, need to know the rules before your process of approving the applications occur?

>> So they won't be able -- technically, they won't be able to apply for an application until the rules are done.

>> Gallo: Okay.

>> I think I may have said that wrong previously, so we need --

>> Gallo: I'm going to go back to more a basic question then. It sounds like we've got a situation where the rules/policy is not in place yet.

>> Correct.

>> Gallo: And we're setting fees for a process that the rules and policy is not in place yet.

>> Correct.

>> Gallo: The applicants won't be able to play until the rules are in place.

>> True.

>> Gallo: So, once again, I guess what I'm asking is, are we putting the cart before the horse? Should we be setting the fees before we've done the policy and rules? Is there a reason that we're needing to set the fees right now, today?

>> No. Not that I can think of, no.

>> Gallo: Okay. I mean, I don't want to delay forward movement, but --

>> Well, right. Yeah, we've been trying to move this forward for, I guess, since the middle of October, and we're continually trying to push this process forward. So this is just part of that program.

[3:14:06 PM]

>> Gallo: So the deadline for comments is when?

>> Is tomorrow.

>> Gallo: Is tomorrow. So how long after the comments --

>> So we'll have until the first part of February to either enact the rule, or if we don't enact the rule, then all of that goes away. So we'll have until the first part of February to address comments and get those rules in place by the first part of February.

>> Gallo: But you govern that schedule. So if you're trying to move things forward as quickly as possible, you could certainly get that done --



>> Absolutely. Next week we're looking at compiling the comments and working together as staff to try and get all of those issues addressed and get comments back as quickly as possible.

>> Gallo: So the concern by having everything in place by south by southwest is also dependent on y'all being able to get the rules and policy in place.

>> Correct.

>> Gallo: Okay. I just -- I'm just trying to understand why we're setting fees before -- if there's not a critical need to set the fees right now, it just seems like that that would be done at the same time -- does the policy and rule come back to the council, or is that something you do internally?

>> The policy or the rules are an administrative process, handled by staff.

>> Gallo: Okay. So those would be my questions and my concerns. I know we have speakers, so I think maybe some of the speakers will address that, but I'm just trying to understand how this -- without delaying the process because we all want this to be in place by south by southwest. I have no interest in trying to delay that, but I'm just trying to understand, in the scope of a nothing process, it seems like those two are more connected than doing something now and then doing the other later, but perhaps the speakers will address that.

>> Mayor Adler: Ms. Pool?

>> Pool: So my question is, if council doesn't see the policy, are you needing us to vote on the fees so that that can then be inserted into the policy so we -- or the piece -- the rules that are writing? Is that why -- so -- it sounds like it's a timing issue.

[3:16:09 PM]

You want this to be accomplished well in advance of south by southwest.

>> Correct.

>> Pool: So that access to this -- this tool would be available.

>> Correct.

>> Pool: Are you thinking that if we don't approve fees today, that we won't be able to do it in time to get that done before south by southwest, irrespective of the piece -- the additional pieces that you have to work on that we will not see? In other words, why is it -- why is it imperative for us to do this today, or could we postpone this until on the date? What's your time frame?

>> So if we postpone the item and we worked on the rules and we implemented both at the same time, then there wouldn't be an issue with that. It's just we've -- this is -- we keep coming back and postponing, and so we're just -- we keep telling council we're going to come back with the fees and that what we're --

>> Pool: Okay. I think the piece about the additional steps that you all need to take, separate from what we're doing, hasn't really been made clear to us before now, aside from the other complexities of the small cell issue.

>> Excuse me. If I may just add a couple comments, I'm with telecommunications and regulatory affairs office. One of the fees in this ordinance is for an application fee, and of course we need to have an application fee before we can accept applications. And the other two fees are in the master right-of-way license agreement and the site-specific applications that will be -- that will be in an agreement that's signed. So they are elements of the master right-of-way agreement, which is part of the administrative rules that are entered, that agreement entered between the city and the companies.

>> Pool: And in order to publish the rules accurately, you would need us to give you the the dollar figure to the application to be put in the rules?

>> The administrative rules do not include --

>> Pool: Okay.

>> -- The dollar amount. But the application fee, which is under consideration today -- we need to have that fee in place and adopted by council so that we can accept an application.

[3:18:17 PM]

And that -- I mean, plus, I mean, you know, we are really trying to, you know, get the process, get the fees. We've come back to you a couple of times and we've come back and worked with the companies in the spirit of working together and coming up with a fee structure that most of -- most of the companies agree is fair, and we believe is reasonable.

>> Mayor Adler: Is there a relationship between the fee charged and the rules that are still under discussion?

>> No.

>> No.

>> There's not.

>> Mayor Adler: One is -- one is not dependent on the other.

>> Correct.

>> Mayor Adler: Okay.

>> Pool: And then we got a -- we got a memo that talked -- I don't know if it was from you, Mr. Redford or Mr. Spillar, I think it was Mr. Spillar, saying you had looked at the charges of the application and everything and reduced those to be more in line with fees that are more prevalent statewide. Is that correct?

>> That is correct.

>> Pool: And are those the numbers that you are recommending here today?

>> Yes, ma'am.

>> Pool: Thank you.

>> Mayor Adler: Okay. Do we want to hear from the public? Yes, Mr. Renteria.

>> Renteria: On this -- I notice on the fee schedule, you have new fees in there. Has that been approved already, or will this action approve the new fees?

>> This action will approve those fees. Trends new ones.

>> Yes, sir.

>> Renteria: Okay.

>> Mayor Adler: Let's go ahead and hear from the public. Thank you. Melissa malarkey. Is another Huber here? You have six minutes. Take your time.

>> Hi. Melissa malarkey, director of government relations for mobility. We are setting for two carriers in this market and we're here to speak in support of what's pending in front of you, which is most relevant, the fee schedule. A couple of points I want to highlight is to why we're speaking in support of it and we're urging passage today, and really three point.

[3:20:18 PM]

The process that is taking place in the city has been a transparent, good process. The fee schedule reflects a compromise, and the third is that we want to highlight the phasing approach that the city has decided to take and really encourage? Elements of that phasing and make sure that they're noted. So first on process, we've been in this process for a year. It's been a transparent process, and I think by and large, it reflects really good policy-making because the city staff has been responsive, they've listened to to your concerns, they've responded to our concerns. Mayor Adler, I want to thank you for your involvement. You've been directly involved and it's, I think, helped along the process. Jason has been fantastic.

[Inaudible] Hawkins has been great. We have not gotten everything we wanted out of this, but that's why it's a compromise. So the fees that are pending right now reflect city staff really listening over the past few months because they've moved quite a bit from where things were at at the -- in the third quarter, and it's now put Austin in a place where the fees are in line with other large jurisdictions in Texas, and I think namely probably the most notable is San Antonio, which is why we're supportive of this because there has been movement, and it's been movement that's been thoughtful. And the piece on the fees that's been most important for us is that staff has provided detail as to how the fees correlate to cost. And so there has actually been justification for the application fee, probably most notably for the application fee, but also for the site fee, as to how it correlates to the city's cost to administer. I would also note that arrow has been very helpful in facilitating that. So the fees are a compromise, which is why we're supportive of it. And I think the third point is, as it relates to the phasing, while the process could be improved if it was all lumped in together and we were talking right now about the mla and the terms, along with the fee schedule, that's not what's pending right now.

[3:22:32 PM]

So we're focused on making sure that this gets passed today, and we're able to deploy for phase I, which is really deployments in the central business district, and allow us to be in a situation where we execute an mla in the month of December so that we could be in a position to submit permits in January, which would allow us to stay on track for deployments by south by southwest. The stars really have to align for that to happen. And that's why there could be ways to improve processwise what's pending before you, but right now, done is better than perfect. We've been in this process for a year. There's certainly more tinkering that can happen and because staff has been so helpful and constructive to work with, they're going to continue that process, we feel fairly confident about that. So we're eager to get going on phase I, but would also note that as it relates to phase II, which would allow us to deploy throughout the rest of the city, we really want to encourage the time and commitment the staff has been taking up until now to continue so that we can move into the phase II rule making very early in 2017 because the needs to deploy fracture in the city of Austin are not just limit to the central business district, they're throughout the city, and we really need the rule making to allow us to deploy throughout the city to commence very early in 2017. So that's all I have. Thank you.

>> Mayor Adler: Okay. Questions? Thank you. Michael Allen. You have three minutes.

>> Thank you. Michael Whelan on behalf of Verizon wireless. First he agree that the rules and fee should be done together because the fee is supposed to contain the bundle of rights that you're getting and you don't know what that bundle is until you see the rules, obviously. Also, one reason I'm going to be focusing on the trenching fee, which is in your packet, is because it does give a competitive advantage to certain people, like Ms. Malarkey's client, which would have a competitive advantage if others are hit with a trenching fee, which is why you're going to hear me propose an all inclusive fee that includes trenching like San Antonio.

[3:24:49 PM]

So we're going to get to talk about all that quickly. So the city -- we have been working, we appreciate the city staff, they've been great to continue to work through this I would point out that they made an initial positive move to \$1,500. We believe that based on the proposed rules, a thousand dollars would be more appropriate, based on the bundle of rights that you'd be getting, but if the city does approve \$1,500, we would ask that it be an all inclusive annual attachment fee that includes the right-of-way rental for small self-cabling similar to San Antonio. Actually, San Antonio gives you a little bit more rights than we would be getting. The multiple cabling trenching per linear foot per year fee creates confusion,

additional staffing, when an all inclusive fee can achieve the same goal and is legal and constitutionally approved, at least in San Antonio and Houston. Right now, the current fee, by the way, went up because you have to pay for existing conduit. The city is going to charge for existing conduit, which is actually different from what the staff recommendation said, and if you look, I'm going to show you on the screen, the staff recommendation was very clear. Our recommendation is that to the extent the small cell licensee is utilizing ctp -- and ctp is certified telecommunication provider -- that already has a relationship with the city of Austin and pays the city of Austin for right-of-way access, there is no additional charge for the small cell licensee by the coa. For the small cell licensee to pay the certified telecommunication provider to provide services and then pay the city for those services greatly disadvantages small cell employment. And as you can see from mobility's support of this, creates an unfair and uneven playing field. So, again, we would ask you to eliminate the cable and trenching fee to streamline the process. It will eliminate some litigation risks that is kind of stewing out there by doing that. You would be consistent with the consultant's recommendation.

[3:26:52 PM]

At the very least, you include a statement that you don't have to pay twice if you are using a ctp, a certified telecommunication provider. So the bottom line is by making the attachment fee truly an all inclusive fee that includes all of the right-of-way, including the fiber fee, the fee will become competitively neutral and would be consistent with treatment afforded to local exchange carriers. [Buzzer sounding] So I hope you'll please either postpone this or be sure you include a statement about the ctp or ultimately make it an all inclusive fee. Thank you.

>> Mayor Adler: So fees are supposed to bear relationship to the costs incurred by the city.

>> Correct.

>> Mayor Adler: Is there a cost incurred by the city associated with trenching?

>> With trenching? You would be paying by having an all inclusive fee by perhaps increasing the 1500 if you wanted to capture that value, I think you would -- you would be able to do that.

>> Mayor Adler: My question though was, was there a cost associated with trenching?

>> With the actual trenching costs or right-of-way costs? No cost to the city for trenching. We are using your right-of-way.

>> Mayor Adler: So at some point when staff comes back up, I mean on the one hand it would be fair to make sure that everybody is paying the same amount, unless some people are requiring greater services or are greater time or greater expense or receiving greater value from the city, in which case the difference in fee being paid is one that's directly related to what fees are supposed to pay for. And if you have someone who's dealing with the city and competing against somebody else and one of them requires more from the city or is getting more rights from the city, even though they're competitors, you would expect that person to pay more, and the differential wouldn't be related to what the fee -- it would be related to one competitor has a better technology that puts a less burden on the city, and, therefore, pays less in fee. So -- so you have to look at both those. You have to look at -- the competitive advantage shouldn't be created by what the city does, but the city could recognize in its fee structure that some people create greater burdens or receive greater benefits than others, and then the advantage comes to the technology as opposed to the -- to the fee.

[3:29:11 PM]

>> Yes, and I think to level that playing field, to add something in there at the very least about certified telecommunication providers, if there's fiber already in the ground, you shouldn't be -- well, I think you'll just get -- I think you'd be better to simply -- to not be charging for the use of that fiber, if it's

already in the ground. Right now, you're charging a fee for existing conduit. Even if there's conduit in the ground and you're already paying the city for that conduit, the city is now going to charge you for running fiber in the conduit you've already put into the ground. That just -- I mean, that just doesn't seem to be right, I mean if you've already got conduit in the ground, you've already paid the city for that conduit in the ground, to now be adding a charge for pulling fiber. I think that's where there's going to be problems ultimately. At the very least, the recommendation from your own consultants should be adopted and accepted on that portion of the fees, the trenching and cabling fee, at least some of the intent of what the -- of what was being suggested by the arrow. Let me see the name -- it's arrow -- excuse me -- aero solutions, the consultant should be included.

>> Mayor Adler: Further questions on the dais? Yes, Mr. Zimmerman?

>> Zimmerman: I put up -- I think this is what you're referring to, Mr. Whelan, the last part. I noticed that, too, when I looked at it. I said, what could possibly be the justification for a fee for conduit that's already in place? How could there be a cost to the city? Because the fees, right -- I heard the word transparent mentioned several times.

>> I think staff will explain this because they had to explain it to me because I didn't catch this nuance. On the left where it says renters it says row use for new fiber cabling. They're saying the you're going to pull cabling through existing conduit, just empty holes in the ground, they're going to charge you for that even though you're already being charged for using the right-of-way with the conduit.

[3:31:14 PM]

>> Zimmerman: Right. That's why I'm struggling to understand why that would be legal, because there's no cost to the city -- if you use your existing conduit and pull another line through it, how does that charge -- how does that cost the city something that they could charge you in return?

>> I am not the condemnation expert in this room so I'm not --

>> Zimmerman: Okay. Maybe the city can explain that.

>> Councilmember Zimmerman used the magic word legal. Assistant city attorney Kirk Cornwell. There are situations in which a provider or telecommunications company may buy existing conduit that belongs to another interest. Right now there is that situation exactly. That occupation of the right-of-way is what is the charge. The city of Austin cannot constitutionally give away the use of public right-of-way to a private entity without charge. The existing conduit would become the owned conduit, but use of the right-of-way is the trigger. It is a scope of typically like an easement, but this is a license similar -- similar scenario. So the additional use is what the charge -- if you'll notice, that is the lowest charge. We've reduced that charge down to the lowest amount because we -- we feel like it is appropriate to reduce the price for the least impacting use of city right-of-way. So that's -- that's the -- that's the distinction. If they're laying new fiber in existing conduit, then there would be a charge for that new use, that is new fiber.

>> Zimmerman: Because what is the city's cost -- what's the cost -- in other words, if I've already got an empty conduit that I've paid for, I've got a pipe and there's maybe something in it, maybe there's no, I'm already paying for that, I've already paid for the right-of-way, conduit is already there, and I've run a new cable through it, why does that cost the city money that they can --

>> That's a red herring. Cost is not the issue. The city is not recouping cost. This is use of city property.

[3:33:16 PM]

It is a rent. So it's not the city's cost of a service to provide to someone else. We're not providing a service to someone.

>> Zimmerman: I'm sorry --

>> We're affording the right to use public right-of-way and public infrastructure to a private entity, and we have to be -- we have to recover our fee.

>> Zimmerman: But for those who have not run conduit before because I have, when you run conduit, you put a physical piece of piping, it can be empty, but it's a channel and you've paid for it. Whether you have nothing in it or one cable or a thousand cables, it's a piece of conduit, it's a volume of space that's already been allocated. Is your position that every time a new piece of equipment or fiber channel runs through there, that there's another rent that's owed?

>> It's an additional use to the existing use that's going on now.

>> Zimmerman: Okay. I don't know how you would win that in court if somebody challenged you, because I'm a technical guy.

>> Mayor Adler: I think I may have precipitated this by my question, but what you said makes sense to me.

>> Okay.

>> Mayor Adler: If I'm selling someone an easement across my property to be able to traverse it and I charged that person for that ability to be able to do that, if somebody else comes in, wants an easement on top of that other easement to also traverse, I'm going to charge that person, too. And I understand it's that use designation that you're talking about here.

>> So I wanted to point out, it's not cost, it's a rent fee. Also on the disparate treatment by Mr. Whelan's proposal to put a flat fee on, I just want to point out that that creates more issues for the city potentially because it rewards those who have a longer fiber use, fiber run of right-of-way, as opposed to those who have a shorter run. So one entity may want to run 20 feet of fiber in order to connect. The other entity may want to -- may need to run 2000 feet. That flat fee would be applied equally to each one, and that is arguably discrimination among two different providers in a competing market.

[3:35:21 PM]

So that is why we have proposed and recommended a per linear foot fee, true fee, true rent for use of the right away. If you have any other questions I'll be glad to try to answer them.

>> Mayor Adler: We also have some additional speakers to speak, public. Amanda Derr? Ms. Derr. Is Lee -- Leah -- okay. You have six minutes.

>> Thank you. Good afternoon, Mr. Mayor, councilmembers. My name is Amanda Derr, I'm the relations manager for ground castle. I've spoken to you over the past year and a half, it's been that long since we've been working on this issue. I would like to say and thank the direction of the mayor and the council as well as the work that aero solutions has done, the consultant, and the city staff, really, in temples trying to work towards an agreement and proposed fee schedule that will work for everyone. Just as a reminder -- and we've been speaking about it -- the whole goal that we've been working towards and the city policy, at your direction, is to attempt to get a small cell network in before south by southwest. We've worked with city staff, aero solutions, and with -- with y'all, especially at the direction of the mayor, the meeting he set up on October 28th, and there still is, as you can hear, some confusion in -- between the proposed fees and with the agreement. With respect to the fees, the real issue that -- and I think we've been touching on this -- is the proposed cabling conduit fee that you've been discussing. And I can tell you right now that crown castle, as the nation's leading provider of wireless infrastructure, we built 23,000 nodes throughout the country.

[3:37:24 PM]

We have 40,000 cell towers. We have 17,000 miles of fiber supporting our small cell networks throughout the country, 400 agreements throughout the country with cities. The issue -- we will be the

company that's going to be building most of these small cells in Austin and throughout the country. Now, obviously we have competitors. Mobility is obviously one of them, but we are the leader in this industry. And I can tell you right now that as currently proposed, we will not be able to sign this agreement if these proposed -- these proposed fees are approved. And the issue relates to this fiber fee. That's what it comes down to. We are unable to agree to this because we are, right now, involved in a dispute and the city attorney and city staff is well aware of the dispute that's going on over a state law, and I won't get into the minutia of it, but we're involved in a complaint at the public utility commission right now regarding this exact fiber fee that the city of Dallas that's proposed that's making its way through the PUC as we speak and is going to be resolved most likely in the first quarter of next year. So my recommendation to you would be -- and it's the same recommendation Mr. Whelan made -- is that we move towards an all inclusive fee which allows for attachment to city infrastructure for the nodes and that will also include access into the right-of-way for the fiber fee. If we can do that, we are willing to sign this agreement right away and get these nodes deployed, hopefully before south by southwest. I'd like to also point out the excellent questions that councilmember Gallo and councilmember pool brought up regarding bifurcation between the agreement itself and the rule and the fees. We have a significant issue with having fees approved before we know the bundle of rights that is associated with them. I don't know if this is a great analogy or not, but it's almost like agreeing to a mortgage for a house before you know how many bathrooms and bedrooms are in the house.

[3:39:32 PM]

We want to know exactly what we're signing up for here, and waiting a week, if there's another council hearing next week, or waiting until these rules are approved -- we haven't heard any comments back from city staff on the actual agreement itself. So we would like to somehow find a way to have not only council input on the actual agreement itself but if we can find a way to come together on the fees and the agreement being tied into each other, as they should be, as every other city that we've dealt with in Texas has done, I think that would be a step in the right direction.

>> Mayor Adler: Accept Dallas.

>> Except for Dallas, correct, where we are involved in litigation. And I should also, if I can, make one other point, Mr. Mayor.

>> Mayor Adler: Go ahead.

>> The good thing is, if we move forward with one fee, one node fee, that captures the attachment to city-owned infrastructure and the right-of-way fee for fiber, the agreement itself, as well as city code, allows for the council to come back on the second anniversary of the agreement and amend the fee structure. So as this legal issue plays out at the PUC and we're also working on statewide legislation as city staff knows -- they were in a meeting with us the other day with respect to that -- as that all plays out, if the legal issues are worked out and the PUC or the statewide legislation that indicates there must be a specific fee for access to the right-of-way to deploy fiber, then you all have the ability to come back and amend the fees. It's a win-win.

>> Mayor Adler: Does it work the other way, too? If we were to adopt what it is that staff proposes, and then in January the PUC says that the way that Austin did it and the way that Dallas did it is not correct, then I imagine it would revert at that point -- if the legislature preempts -- does that convert --

[3:41:45 PM]

>> I think it would.

>> Mayor Adler: Why would that stop you from signing it if in fact you presale at the PUC, then you get the relief you seek.

>> Because we'd essentially be giving up our rights to challenge at the PUC, which we already are there now.

>> Mayor Adler: Is that true? Can we enable these folks to be able to enter into this without waiving their right to challenge it at the PUC?

[Buzzer sounding]

>> Mayor Adler: Is that appropriate? But this, if the PUC rules in their favor so that they're not prejudiced here so the PUC says it's knots appropriate, then our agreement would be that we would then adjust to be consistent with what with PUC says? Can we do that so that they're protected, they're not prejudicing themselves by beginning the process?

>> Mayor, practically speaking, if the PUC or the state legislature were to adopt an order or legislation that ruled against the city, we would bring those modifications back to the city. These are -- these are contracts that -- subject to the fee; I mean I think what Mr. Derr is referring to is the fee. If they were to say the fee was inappropriate, the city would be able to adjust the fee on the next annual cycle, based on whatever the preemptive law was that came out of the PUC or the leg. I can't advise them on whether or not, you know, the creates a liability for them, but I do know that -- that three other -- three of the other -- the major carriers, of which there are four, three are okay with this fee structure.

>> Mayor Adler: But it sounds like they have different technologies, they're different systems.

>> No.

>> Mayor Adler: No?

>> That's not the case. It's that they have a fundamental issue with the way the state law reads now on whether or not they can -- whether or not they have to pay for right-of-way use for fiber.

>> Mayor Adler: Okay. And in this case, if they were to sign this contract and it was determined by the PUC or the state preemted, we would go back and be adjusting the fees for these folks, too, even if they signed it.

[3:43:56 PM]

>> Yes. Correct.

>> Mayor Adler: Okay. Mr. Zimmerman?

>> Zimmerman: Yeah. I understand that, but conversely, we could also go ahead and take these fees out, and then if the PUC says, well, we think these are justified and legal fees, we could also add them back in. There's no need for us to impose these right now, and go ahead and move forward. I'm not quite done yet.

>> Absolutely.

>> Zimmerman: Just this past summer we were involved in a PUC challenge with our Austin water utility, which is overcharged for municipal utility districts in the north. The city disagreed. They sued. The PUC ruled against the city. The city decided to fight them in court, and this has just been dragging out for years. There are millions of dollars at stake here. So I don't buy the argument that the city would just -- oh, these fees aren't right; let's remedy the situation. Would they refund the money? Northside, there's already precedence that says the city would necessarily comply with what the PUC dictates. So I think it would be better for everyone if we just took these conduit fees out, then if the PUC says it's okay, we can add them in later.

>> The only issues are that current city code requires us to charge 5% of the value of the real estate next to it, so we have an obligation now -- this was a concession to make it easier for a one-time fee for providers, and so that they wouldn't have to pay 5% of the value of the neighboring property, which, in turn, requires each property along which a fiber run goes to be assessed for its value, and 5% of that to be determined, and then a fee remitted. So as the code stands now, we don't have a choice. We have to charge the fee, and it has to be 5%. This is a substitute fee to allow this to take place for fiber runs.



>> Well, if that, if I may respond to that, without getting into too much of the legal minutia here, there's also a section in the city code that says certified telecommunications providers, which we are, has to pay access line fees.

[3:46:01 PM]

Now, the dispute in -- with the city of Dallas is whether that applies to wireless fiber or just wire line, typical telephone cabling. So if it's going to be cited that there's a section in the code that says 5% of the market value of the land adjacent to the right-of-way, there's a fee that's required there, our argument would be that there's also a section of the code, 15-8, which applies this state law, these access line fees, and that applies to us. And we should be paying that, not the 5%. So there's also a dispute to that. And I think the point that councilmember Zimmerman was making is that if we want to deploy by south by southwest, the only way that we're going to be able to go forward, crown castle, is if there is not a conduit fee in that -- in the proposed fees, and we'd be signing an agreement, which essentially agrees to pay that fee. And that totally undermines our position as to state law that's being disputed at the PUC right now.

>> Mayor Adler: What if there was a way for you to sign it where you were explicitly saying we don't think this is proper, we have a pending case in front of the PUC, our intention is to enter the market but we reserve and the city recognizes that we have a right to be able to adjust to conform with the PUC, should the PUC rule that we're right?

>> So our legal advice is, we would not be able to take that position by signing this agreement.

>> Mayor Adler: Yet you could --

>> That's our advice from corporate.

>> Mayor Adler: Okay. Do you know why?

>> Well, again, it undermines our position -- assigning -- having a provision in there that says that we don't waive any rights at the PUC, is not compliant by signing this agreement, why would we agree to that?

[3:48:03 PM]

>> Mayor Adler: You'd be signing something with the city of Austin that said with the city of Austin, that they gave you the ability that guaranteed you the right to have your fee adjusted, here, if the PUC rules that you were correct.

>> So, in other words, we would potentially get a rebate of what we -- what we're paying for the new trenching --

>> Mayor Adler: If it was --

>> If there's already existing conduit?

>> Mayor Adler: If it was charged inappropriately.

>> I think we would -- we would certainly still have an issue with that. It doesn't seem to me that you need to go down that path when there's a much easier path of making sure -- of making sure that this -- these networks get deployed, and if the PUC comes back and says no, you actually have to pay these fiber fees, we'll pay the fiber fees. You have the ability to do that under city code and as the language stands in the agreement now.

>> Mayor Adler: Thank you, Mr. Derr. Next speaker is Dave Anderson. Did you want to say something?

>> Zimmerman: I was going to make a motion. I thought we were done with speakers, but we have more speakers.

>> Mayor Adler: Dave Anderson.

>> Mr. Mayor, council, my name is Dave Anderson. I work for the Drenner group. We're here representing crown castle. You just heard from Mr. Derr. I'm going to keep it very quick, very brief. My comments focus after 15 years as a commissioner with the city of Austin, looking at hundreds of ordinances, making sure that we've asked the right questions, take staff has asked the right questions about impact -- fiscal impact on the city to compliment the fees that they are appropriation. Is there a fiscal note that's gone along with it? We've talked about the administrative costs and there being backup for that. I've reviewed that. It's fantastic. But I think the appropriate question is what is the cost for -- the administration cost, the enforcement cost of the fees as they're proposed versus a combined fee on a per-node basis.

[3:50:13 PM]

So that's one thing I'd put in your minds. Another issue, I agree that you sometimes don't want to sacrifice the perfect for the good, but are we also -- we need to ask ourselves a question of, from a public policy perspective, to councilmember Gallo's point, is it true that the fees and rules are independent, and should one be -- should the rules be known in detail before you make a decision on the fees? What I've heard today is that the application fee is the driver for the timing. One thing to consider -- and there's a lot of disagreement on different directions we can go granted, we've talked about this for a long time, but is it possible that you just vote on the application fee and let -- tonight, or today, and let -- let discussions continue to see if we can get closer to a resolution? The last point that I'd make is to get an understanding from staff whether the fees proposed are for phase I downtown. I'm not clear from the ordinance. Or is this being proposed for future phases as well? Will there be an opportunity -- a built-in mechanism where staff is going to go back, where the council is going to go back and look at those fees to make sure they're appropriate fees, case notwithstanding. So those are my councilmember. I would welcome questions, or I'll sit down.

>> Mayor Adler: We're fine. Thank you.

>> Thank you.

>> Mayor Adler: Ms. Gallo, hang on.

>> Gallo: One second.

>> Mayor Adler: Hang on, Mr. Anderson.

>> Gallo: So I'm trying to understand what you were proposing and all these numbers. So from the site -- so what you're saying is, possibly one thing for us to consider would be approving the site location application fee, but not waiting on doing the rent fees until the policy is in place?

[3:52:22 PM]

I mean, is that -- is that kind of summarizing what you were talking --

>> Yes, ma'am. Mr. Whelan referred to the bundle of rights that users would be getting for the fees that they paid for and having a full understanding of those bundle of rights before fees would be decided upon. So I don't know if it's possible, but one of the thoughts that I had was, if the application fee -- what I heard from staff is that the application fee is what's driving everybody making the south by southwest deadline. Can you just vote on that and continue discussions on the other? Just a thought.

>> Gallo: So we would need to have the application fee in order for the applicants to apply. I guess that's kind of a staff question at the same time. So we would need to have -- we would need to determine an application fee for the applicants to be able to apply.

>> Uh-huh.

>> Gallo: Would you -- would we need to, at that same time, have the rent fees established for them to apply?

>> Those fees do not need to be in place for an application -- we need the application fee, but we really would like to have the whole set of fees to be this process -- we do have, you know, three -- three companies, three carriers that are willing to move forward, and I believe, you know, that's important to note.

>> Gallo: But in addition to the application fee, what I'm also hearing is that you should have the rules and policies in place to -- before people can apply?

>> The -- excuse me.

>> I'm sorry. I'm going to clarify something. The rules have been posted for about a month. It is -- it's pretty clear what the bundle of rights are. There are no major issues or comments that we received up to the day before the deadline for filing comments has been relating to -- there is one comment I think staff has been willing to concede on, or one point, and even though it's outside the administrative process, there was a question about the bundle of rights.

[3:54:23 PM]

To there proposed term was a little bit shorter in the proposed process. I think the staff is ready to agree to a ten-year term with a five-year renewal option. I think that was the biggest one, and I think that's the only thing that we consider as a major cost driver that would be something to negotiate against a fee. So I don't think that is the issue. I think the issue is that -- or the issue that is created by passing one application fee and not the fee that the providers or carriers can determine what the outlay is going to be, they submit permits starting the date that we have a permit fee available. That should probably be before the end of December. Now, Jason mentioned that we have up until February. He was just stating what the rules allow. I believe the staff would be able to process the rules and get a final rule in place before the end of December.

>> Gallo: Okay. Thank you for clarifying because that wasn't making a connection either. It seems like if we had a rule process that was going to take us through February and you needed that in place for the applicants to understand the rules --

>> No, the rules are laid out very clearly. The proposed rules have been on the books for a month. I don't think that's an issue. I think it's just a matter of deferral because, honestly, after months and months of looking at this I don't think staff or its consultants is going to be able to change much in the way of its recommendation on the fees. It's already come down to an amount based on recommendation to something half of what was originally proposed, based on staff's analysis of right-of-way -- right-of-way rents. So I don't think it's going to change.

>> Mayor Adler: So it seems as if there's a legal issue here that ultimately is going to get decided by the PUC that determines really what's at issue here. But there's an additional resource person in the room that I'd like to call up. When we started this process, the stakeholders wanted to get the consultant more engaged, involved more in the process, and staff did that.

[3:56:23 PM]

Is that consultant here today?

>> Zimmerman: Mr. Mayor, if I could, too, seems like there's a disagreement about what's contained in the so-called bundle of rights. That's very clear, there's a disagreement there.

>> Mayor Adler: I wasn't as clear on that as you were.

>> Zimmerman: Oh, yeah. Very clear. They said multiple times they didn't know what they were getting.

>> Mayor Adler: I'd like to hear what your advice or thoughts are, your read on where we are.

>> Mayor and city council, I appreciate the opportunity to talk to you again. Everything goes back in October that we talked last time. It's been a great opportunity to work with city staff and also with the

wireless industry in terms of working through this. We spent quite a bit of time looking at multiple cities, 20-plus cities in terms of what their fee structures were, how it fit in terms of the agreement, other things. I can tell you the fees that we've proposed here, we're very supportive of, at arrow, it's a recommendation that we've made, I believe the city staff has incorporated that into what's been proposed. There's one really important point because there seems like there's a question about what the timing is for all this. And the reason that we're asking for the fees to be approved today is that to really meet the schedule for south by southwest, we do need to get things in place so that we've got applications that are flowing through by early next year. I guess my understanding would be that if we aren't able to approve the fees today, and hopefully we can get the actual moa out in the next -- before the end of the year --

>> Mayor Adler: An mla is what?

>> The master license agreement that's been worked, that's been on public notice for quite a while, that we won't. I mean, it would have to come to the January meeting that we'd finally have a chance to really get everything put together with you guys. And then I have very little doubt that -- or very little hope that we'd make the south by southwest. So I really think that what's been proposed is very accept to believe, as it's been mentioned, three of the four carriers. I think we can move this forward and adjust as needed based on output.

[3:58:27 PM]

So my recommendation would be that we move forward.

>> Zimmerman: I'd like to make a motion if I could. If I could get the overhead put back up, I'd like to move that we approve the ordinance, minus the fees for the conduit. If you could -- there. So I put a highlight around that bottom part in your backup material where it talks about conduit. And of course there's one about the existing conduit at the lower right corner. So my position is to approve the at the top and omit the part at the bottom.

>> Mayor Adler: Mr. Zimmerman moves passage of item number 11 with the exception of the conduit fee. Is there a second to Ms. Troxclair seconds that

>> Zimmerman: I'd like to go back quickly to that question of the bundle of rights and see, you know, what the feedback is from the interested parties. If Mr. Anderson or Mr. Durr could speak to this a little more. Or you could as well.

>> Hi, thanks. Just a few clarifications. I think it's been raised by a few of the other commenters, including Mr. Whalen. There are four large carriers in terms of the bundle of rights that phase one offers. It's for 25 attachments per carrier in the CBD to traffic lights. Mobility is citing having of those, so of the hundred, mobility represents 50. And the bundle of rights we're getting in exchange for the phase 1cbd for the fees that are currently proposed is acceptable. So I want to just clarify that as it relates to half of the total sites that staff is making available, mobility is citing those. The other piece as I think there was an element raised as a type of back hall, there are certainly fiber options, fiber fiber -- mobility will be subject to the fiber fees.

[4:00:34 PM]

So there is no different type of treatment that would be applied to the way mobility is siting, which I think an earlier commenter raised which we support as proposed.

>> Zimmerman: Just to clarify, it sounds like you're in contention. You don't think you have any market advantage under the agreement that was here. Somebody made the comment that --

>> And I think that was alluding to wireless backhaul, one of the customers we're siting for is -- meaning they're not fiber fee or nodes, so in the case of that customer, they're getting the advantage of

deploying a wireless backhaul solution. In the case of the other customer we're doing a fiber solution for the backhaul. Thank you.

>> Mayor Adler: Thank you.

>> Zimmerman: I want to ask quickly.

>> Mayor Adler: Go ahead.

>> Zimmerman: What your comments are about what this might do and if this is a reasonable way to move forward from your viewpoint and answer quickly about the bundle of rights with the fees. Because it seems like there's still contention.

>> Yeah. We do think it's a reasonable way to move forward. One thing I would point out this ordinance on the screen right now is an older version of the ordinance. If you notice it has the 2500 per pole attachment per year, that's actually 1500. That was just an old version. The new version was only posted last night, by the way, as well as the arrow citizens report was posted last night.

>> Zimmerman: Can we get clarification from staff. Was that supposed to be 1500 instead of 2500.

>> Mayor Adler: We weren't adopting this exhibit. Your motion as I understood it was to adopt what was being proposed less the conduit.

>> Zimmerman: Minus the conduit, yeah. It looks like that's not the number, what I'm hearing.

>> Mayor Adler: Whatever the right number is, your motion is to adopt the fee schedule but not to --

>> Zimmerman: Minus the right-of-way right now, pending the PUC discussion. Decision.

>> Mayor Adler: It was seconded. Is there any further discussion on this? Yes, Ms. Pool. And I would entertain an amendment to enter back in the conduit.

[4:02:38 PM]

>> Pool: I wanted to make an amendment to add that back in.

>> Mayor Adler: There's a motion to enter back in the conduit fees. Is there a second to that? Ms. Garza seconds that. Okay. Debate on the amendment.

>> Pool: I reason why I want to do that is because I want to -- I don't want to give or take competitive advantage through our fee structure. We are required by law to try to capture what our costs are for rentals in the right-of-way. In fact it has been implicated if the PUC comes in and strikes this down or has a different ruling we can come back in later and make that amendment. In fact we annually review and analyze all our fees and make changes predictably and regularly, and I would like to stay with that accepted and prescribed precedent in this instance, especially because of how complicated this is, frankly. Thank you. And I appreciate all the input from all the different parties.

>> Mayor Adler: Any further discussion on the amendment to add back in the conduit fee? Mr. Renteria.

>> Renteria: Mayor, with this amendment, will all the fee structure, if it passes, will go into effect? Can I ask the staff something about the -- the special event new fee that you have on there? Is that something you? Is that something new?

>> That special event fee is not related to this action.

>> Renteria: Not what?

>> It's not -- there's, I think, a plan fee or something that you may be referring to.

>> Renteria: Plan registration.

>> That's not being voted on today in this action.

>> Renteria: Okay. So that's --

>> Something separate.

>> Renteria: Okay. Thank you.

>> Yes, sir.

>> Mayor Adler: Any further discussion on the amendment to add back in the conduit fee?

[4:04:39 PM]

Yes, Mrs. Gallo.

>> Gallo: Could I help -- so I may ask for a friendly amendment to the amendment because it was my understanding that the -- in the consultant's report there was a recommendation that the certified telecommunication providers with end user access do not have to pay the fiber fee. So could the consultant address that? Sounded like that was something that was in the report but maybe it hasn't made it to us as part of what we're voting on. And if it hasn't, then I'd like to make a friendly amendment that if we are voting to put that back in, that it includes that language too.

>> First of all, I apologize for not saying my name before, Keith with arrow solutions. I think [indiscernible] Relative to the certified telecommunications provider is really something better handled by legal. I think what our main message there was if someone is already paying for access to fiber, they shouldn't have -- paying the city for access to it, they shouldn't have to then pay on top of that the city. So it's not double-dipping is kind of, I guess, the main message we're trying to get across, independent of whether there are cpt or whatever status they have.

>> Pool: But if I could clarify that, the someone, you are saying if person a is already paying the rental you shouldn't charge that person a a rental a second time but if person B needs to rent the right-of-way that person B should pay if person B has not paid?

>> Correct. So we --

>> Pool: I think that really needs to be clarified because it almost sounded like you were saying as long as one person has rented the right-of-way then nobody else needs to, and I think that we have been clearly advised by our legal team that, no, everybody who is using it really gets to share because that is actually the fair way to go about it.

>> Right. Just to make sure, absolutely, you're absolutely right, that if someone is already paying the city for access to that and then they're using, you know -- they're buying that right from the city, then pagan top of that would be sort of double payment, right.

[4:06:40 PM]

>> Pool: A second time.

>> Yes, a second time for that same person, for that same carrier, yes.

>> Pool: Then I'd like to ask our law department the definition with between the fiber and the conduit. Are those two different things or the same thing.

>> I guess fiber is the actual -- fiber optic cabling use towed transmit the signal. The conduit is just merely the protective sheeting around that cabling.

>> Pool: Okay. Is the rental that we're chargerring, the fee, is it for the conduit or the fiber in the conduit?

>> It's for the use to place conduit in the right-of-way.

>> Pool: Okay.

>> And sometimes it's placed -- almost always placed in conduit. So if there's conduit in the ground that's empty and the new use is to place fiber cabling, fiber optic cabling in that conduit, then that is a use that has to be charged.

>> Pool: Would we charge the same person twice for that fiber.

>> Absolutely not, we could not. That's a clarification for your question, councilmember Gallo, is that there are other entities that are franchised by the state of that fiber optic cabling in the right-of-way under state law and if that use allows them to carry the traffic of a small cell network provider then we would not charge for that because they are already compensating the state under state law for that

same use. So this is for a use that falls outside of that state franchise. That's what the term cpt are used for, certified telecommunications --

>> Gallo: So the recommendation in the consultant's report would be addressed in what you just said?

>> It is addressed in the administrative process and in the proposed fee, correct. We cannot charge on top of what the state already charges for that same use.

>> Mayor Adler: Ms. Houston.

>> Houston: And, sir, before you sit down, I'm not sure that you're the appropriate person, but someone talked earlier about -- was it a microwave option rather than the fiber?

[4:08:46 PM]

And is that part of this conversation that y'all are having?

>> It's not a conversation related to fiber because it does not require fiber to send the signal. It's using air waves or microwaves to transmit the signal from the pole to another source. It does not use the right-of-way for fiber cabling so it would not have to pay for the right-of-way use.

>> Houston: But is that something that we're considering in this small cell technology?

>> Yes, one of the providers does provide that backhaul method. So they'd benefit indirectly by -- well, benefit, I don't know if it's a big benefit to them, the technology may cost more actually for them. It may be a wash. But they don't have to pay because they do not use the right-of-way for a fiber optic cable.

>> Houston: Okay. And so have there -- and this may be something for the consultant. Have there been studies done regarding this kind of technology and the impact it has on just everyday folks that. . .

>> Our study did not have that.

>> Houston: Oh, okay.

>> The work that they did for us did not encompass microwave study on impacts for microwave no,.

>> Houston: Okay.

>> And I think it would be most appropriate for the actual carrier to speak to that issue but they make trade-offs you're right of cost, performance and reliability that are all part of that decision-making that goes on in terms of microwave versus fiber.

>> Houston: Well, I just ask the question because Austin is very sensitive to some things like fluoride and microwaves going around and so I think we need to be aware of that so that when someone comes and asks us, we have a response to the safety of microwaves.

>> Sure. I'm sure it's been addressed by the carrier.

>> Garza: I'm just trying to understand the different parties because I heard in the beginning that there's four carriers, three of them have agreed to these fees.

[4:10:47 PM]

Is that right? So then are the -- Mr. Anderson and Mr. Whalen and the folks sitting right there, y'all represent the same carrier. Is that right? No? So then I'm confused.

>> If I can explain, the four carriers are AT&T, sprint, T-Mobile and Verizon. Four carriers. There are third-party companies that build these systems and lease it out to the carriers. So you've got the mobility. You've got background castle, exter net, there's a series. Wireless carriers provide the direct service to you and I as a customer and the third parties, they don't provide direct services to you and I, customers, but they provide service to the wireless carrier to provide the service to the customer.

>> Garza: So of the -- of those four, three of them, through their sub that's going to install them are okay with this?

>> Three carriers are in agreement with it, with --

>> Garza: With the fees.

>> With the fees.

>> Garza: Okay, thanks.

>> Casar: Sorry, not to put them on the spot but who is the carrier that's still out.

>> Verizon.

>> Casar: Oh, yeah. That's right. Hey, Whalen.

[ Laughter ]

>> Mayor Adler: We have an amendment to add back in the fee that was omitted by Mr. Zimmerman. That amendment was moved and seconded. We'll take a vote. Those in favor of putting it --

>> Zimmerman: I was gonna mention the reason I'm going to vote against that, I want to go back to what happened with our north Austin muds, the Austin water utility decided in their system to overcharge the muds, muds protested, they had to incur tremendous financial cost for legal fees, PUC case, they won the case and the city said no, we're gonna appeal. So I don't like this situation of let's go ahead and charge the fees and if the PUC rules against us we'll not give the money back, we'll fight them in court, drag it on for years.

[4:12:54 PM]

I don't want to see that happen again so I'm voting against this.

>> Mayor Adler: Okay. Take a vote. Those in favor of the amendment please raise your hand. Those opposed. Zimmerman, troxclair voting no. Mayor pro tem off the dais. Others voting aye. Amendment passes. We're now back to this item number 11 as it was proposed by staff. Is there any further discussion? Those in favor of item number 11 are please raise your hand. Those opposed. Mr. Zimmerman voting no. Others voting aye. Mayor pro tem off the dais. This item passes. Thank you. I think that gets us now to does number 15?

-- Is it number 15? Mm-mm? Oh, the briefing we said we were gonna take at this point, I'm sorry. It was the housing lending advisory group report to the city, is that right? This is item 58 in the addendum to the agenda.

>> Good afternoon, mayor, council. My name is Erica leak, I'm with the neighborhood housing and community development department. I'm here today to report back on a resolution 2016 106-050 whichd that we create a housing lending advisory group to talk about whether there is a need for additional lending sources or financing tools for people wishing to be homeowners who are between 80-120% of the median family income.

[4:15:13 PM]

That income range is approximately 62,000 up to approximately 93,000 a year for a family of four. So we were directed to have that advisory group meet and provide recommendations and provide information about existing lending sources, potential recommendations for new funding sources, and what challenges people in this income category face. So we did get together a group of folks who provided input on these issues, as you can see here. And we had a few of them here this morning to answer questions, but they had to leave. However, if you do have further questions, we can certainly get you in touch with those folks. What we found is that there are actually quite a few funding programs for people in this income category, and we created a summary sheet that should be up on the dais. It was handed out this morning. That provides some of those lending tools. And, again, if you're interested in more details, we can certainly get those to you. But the group basically said that there are tools available. The real challenge is that there are not enough houses that are affordable to people in this income category. Someone gave the example that if someone bought a lot for \$100,000 and then just built a house at the current construction costs, that gets you to 300,000, just having the developer break



even. And as we'll see in a minute, 300,000 is basically above the amount that people in this income category can afford to pay.

[4:17:18 PM]

So there's just a mismatch between how much housing is costing right now and people in this income category. So I'll take you through a quick example, and I'm gonna focus on a 3-person household and this shows the price of house that they could afford at different median family income categories from 80 up to 120, and some options with down payment assistance. So even if they were accessing down payment assistance, the maximum amount the 3-person household could afford is 335,000. So abor, Austin board of realtors, was able to pull some data about how many houses have been sold this year in these various income brackets, and in terms of detached single family, approximately 44% of the houses sold this year fell within a price that people at 120% of the median family income could afford with down payment assistance. So there's obviously some inventory there. However, if you look at attached housing -- and that could be -- that could be a half a duplex, condo, town home, 66% of those units were affordable to people in this category. So as you can see, the attached housing products are more affordable. We also had the real estate department look at what's on the market right now, and they have obviously been looking at this in terms of flood buyouts, and so this is looking at 3-bedroom homes, so these are single-family homes, but right now there are 388 homes that would be available to people at 120% of the median family income and, again, that's with down payment assistance.

[4:19:46 PM]

So what we're really seeing is that there just aren't a lot of houses available in these price ranges. And then if we look even more specifically at a geographic level, what we find is those that are affordable are mostly in east Austin. East of I-35. So I've highlighted in red the categories that -- where the average surprise is -- sales price is falling generally into what's affordable to people with 120% median family income and those largely fall in northeast, southeast Austin. If you look at condos, again, there is more variety and a larger range of prices. So a couple of other limitations related to this. One of them is the fact that federal funds can only be used to benefit households up to 80% of the median family income. So federal funds corroborate used for higher--- cannot be used for higher income households. We did look at other cities and generally they are using for higher income households and so even with the creation of potential new tools in Austin, they may not be overall effective due to the -- overly effective due to the lack of supply of product at this price point. We did also talk with folks who are trying to make it easier to build accessory dwelling units, either for lower income households or to serve lower income households, and there are a number of challenges with that related to lending.

[4:21:57 PM]

And so that is a good challenge. And if anyone would like more information about that, we can put you in touch with the folks who have more information on that front.

>> Gallo: Mayor, can I just make a comment at this point? And I appreciate you bringing that up, because having a background in residential lending, the issue when you start talking about someone qualifying for a two dwelling versus a single family dwelling is when they are qualifying them based on income that they get credit for a percentage of the rent that comes in on the other unit and it is much more difficult to qualify for the same dollar amount with a two net payment amount so it's much more difficult to qualify for a two family dwelling. Same issues, they don't have landlord history, there's a possibility none of the rent can be included, it has to be a lease for a certain amount of time over the

other dwelling units. As we focus on that as an opportunity I think we have to be very realistic that it is much more difficult for someone to qualify for a two unit even though there's rental income coming in to offset some of the cost of the mortgage payment.

>> Thank you. I appreciate that.

>> Gallo: Thank you.

>> So there were a few other additional ideas. There could be more education, both for potential buyers, as well as realtors who perhaps could become more familiar with some of the lending products that do exist. But in general, in terms of, you know, how would you actually enable more people within this income category to be able to afford houses, recommendations include looking at the strategic housing plan that we'll be bringing to you in the new year and some of the recommendations included in that, which includes -- I'm looking at a greater variety of missing middle housing types that could be implemented through codenext.

[4:24:14 PM]

As we've seen through this information, it is the missing middle, the attached products that are more affordable at this income level. So that will be a very important discussion. In addition, certainly you've talked about leveraging public lands. I know that's already ongoing. How can we utilize -- better utilize community land trusts and shared equity. That is one way to create units at this level. Partnerships? And think about future funding mechanisms. If you have any questions, I'd be happy to answer.

>> Mayor Adler: Ms. Garza.

>> Garza: With regards to ads, I've asked questions about adus, my understanding is you can't -- and I thought it was -- and I don't know if it's a bank regulation or federal regulation, but you can't use the income from the Adu as rental income until it's been rental income for two years. So you basically have to qualify as a homeowner to be able to pay the mortgage on your home and then pay for the construction of the Adu and the fact that you would -- you build that to get rental income to help you stay in your home, you can't use that rental income as income for two years. Is it a bank requirement or is that a federal requirement of some sort?

>> I think councilmember Gallo could probably answer that.

>> Gallo: So that's an underwriting guideline, and it moves around a little bit. If it's someone that's actually been a landlord, then they can. And if they have been a landlord, the lease has to be for a certain amount of time. So it would have to be at least a year's lease. So there's provisions. There's layered-on provisions that keep a hundred percent of the rental income from being able to be applied.

[4:26:21 PM]

So even if a person had been a landlord and even if they had a year's lease, then there is a deduction for vacancy and maintenance also from the rental amount. So tenancy becomes more difficult for -- it just becomes more difficult for someone to qualify for a owner-occupied duplex where they would live in one side and rent the other out.

>> Garza: I guess I was hoping this working group would be talking about those kinds of solutions as well. If the answer is by a bank or an underwriter, no, we would never consider a more flexible policy, then I understand that. But was that discussion had at the stakeholder group?

>> We did talk about it to some extent. And, again, the people who could probably tell you more details about this, they're with the Austin community design and development center because they really specialize in doing this. I think the issue is that it's probably just not going to have broad applicability and it may work for some households and our current -- the city's current smart housing program has been a program that's actually been used to help support the production of accessory dwelling units for people

at approximately 80% of the median family income. So we do have some tools available already, but it doesn't seem like it's something that would be very easy to scale. And if you're looking to provide a greater number of units for people to be affordable at this income level, it may be one of the more challenging ways to go about it.

[4:28:22 PM]

>> Gallo: It is. Councilmember Garza, it's -- those are the underwriting guidelines that the majority of loans are written under, so that would be Fannie Mae, Freddy Mac, if you had a community lender that could fund those loans without having to sell them to those entities, that might be a possibility but that would be a very limited source. You know, probably the best way to impact lower-income qualifying buyers would be to allow us to have a stock of inventory that are smaller properties, smaller houses that are built at less value and less price ranges that are single family so those smaller homes on the smaller lots, condos, townhomes, those are really probably gonna be our best resource to ramp up as much production as possible that would be able to be approved and qualified for lower-income buyers.

>> Garza: Were there lenders in this group?

>> There were. And they were the people who identified that the problem was really not lack of financial tools. It was that people didn't qualify for the price of most of the housing that we have in Austin.

>> Garza: I think that's part of it, but I think -- councilmember Gallo just gave an example that it's possible if you had a community bank that did not use the federal big mortgage companies to underwrite their loans, you could change those underwriting rules. And so I guess -- I guess we don't have that community bank here? And I'd hope that part of the conversation was to -- could we somehow create that community bank or how we create that community bank. Because I think we all know that it's a supply issue, and that's -- we knew that, I guess.

[4:30:28 PM]

Okay.

>> Mayor Adler: Ms. Pool.

>> Pool: I think that would be great to dig into a community bank, but I also recognize that these would be potentially riskier loans. There's all kinds of criteria that lenders look at in order to determine whether to make a loan and, if they do, what guarantees do they put in place in the form of, like, there rates, for example, and collateral and downpayments in order to ensure that those loans are paid. So there's a surety that's expected there. The part that -- so you have a question for you on -- when you talk about missing middle, are you talking about incomes or are you talking about size of -- number of bedrooms in the housing units? Because it's used both ways generally.

>> So I was using it in the context of the types of units. So anything between a duplex and a larger apartment complex. So it's something where you --

>> Pool: That would be, like, a third thing then. It's a variety of types of housing, and I'm looking more at how many bedrooms. Because we're also really interested in making sure that families did find a place to live. Not just single or studio, single bedroom or studio.

>> Right. So these -- you know, from a duplex to a town home to a condo, those could be of any size of a unit. I mean, you could have a 3-bedroom town home with no problem. So the missing middle doesn't really speak to the size of the unit. It speaks to kind of the construction type and, you know, whether they're attached or not attached, and how many units are attached to one another.

>> Pool: Okay. All right. And then the other piece that I'm interested in, and councilmember Garza touched on this, and that is pricing housing so that people in middle incomes and working class and middle class incomes can afford.

[4:32:42 PM]

One of the things that I know builders will do in order to keep the prices low on new construction, be it infield or green field, is they build more cheaply. And I don't know how we really attack that, but it is true that a more cheaply built structure, a home or an apartment complex, will not last as long as something that is built more substantially. And I think that's also something that we need to talk about because we could see an influx of cheaply built units and they could be duplexes, they could be townhomes, they could be single family, they could be attached or deattached, doesn't matter. But if they aren't built with quality materials and if they're not built to last, then that investment while you may be able to get memo it, it's gonna start -- get into it, it's gonna start deteriorating quickly and you won't be able to gain the equity in that unit at the same pace you would if you build more substantially. We haven't really engaged in that piece of the conversation but I think that that's an element that also needs to be out there and considered in order to make sure that if we are housing folks -- that the housing will last and that it's not cheaply built and they'll find their maintenance bills to be skyrocketing, which also is a drain on a limited income. So it's not only the purchase price. It's not only the mortgage. But it's also the amount of money that you need to put into it in order to maintain and keep up the property. So I would just offer that piece up. And urge that to be also a part of the conversation. And I don't know exactly how on a policy level we get there, but I do think it's important because the housing also needs to be built to last, and so. . .

>> Mayor Adler: Sorry. There's also a handout that you've given to us up here on the dais that is a front and back page, which lists resources and programs available to home buyers between 80% and 120% of median family income.

[4:34:48 PM]

This is not posted in backup. Is there a way to post this on the website so someone watching this would be able to access this information? Where we were refer people to it? So if you would post this as backup for this item, then we know we can make a link to it and send it to people that inquire. Mr. Casar. Good work by the way.

>> Casar: Thank you. I mostly wanted to chime in to thank you all for the work that you've done. Councilmember Garza, given some of your questions, it doesn't remind me that we were cut short, I forget if it was in the housing committee or in planning and neighborhoods committee on the report back from the alley flat initiative, which I think is the initiative of one of the groups that you referenced, who are successfully helping lower-income folks stay on a piece of property by having income-restricted garage apartments, and I think that they do have some recommendations on how we can keep on refining our city regulations to best enable their work. And so I think that maybe we can just bug them to send additional recommendations on how we can keep supporting them because it seems like they -- they're the only group that I've seen sort of unlock with the Guadalupe neighborhood development corporation how to do some of the work that I think you're angling for us to do better on. But I think that it's a good start. I also really -- I had not seen the chart on page 8 showing how much cheaper attached housing has sold for year to date because here you actually have the median person, 100% mfi, as long as they've got down payment assistance accessing 52.6% of attached housing types being sold, which is -- which is, you know -- I had not seen that number before, and I think that that's an important message for us to get across, because even if we do make it easier offend build attached housing, I

understand that it may be more expensive at first when it's brand-new but if we don't build more eventually we won't have the older attached housing that people at 80 and 100% mfi are actually able to purchase so this stands out to me as something that we should talk about more, about how you actually have housing available to the median person for homeownership in the city, but it seems a lot more -- obviously much more prevalent if it's attached as opposed to the detached housing type.

[4:37:25 PM]

So thank you for bringing that forward to us.

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

>> Garza: I wanted to respond to what councilmember pool said because I just wanted to -- when people are listening I'm afraid of what they could interpret things as but there are minimum building standards can't build a house -- you can't get a permit to build a house with something that is not safe or allowed. So -- and nobody is in any way -- I'm not saying was that councilmember pool was saying. Just sometimes people are listening. Nobody in S in any way advocating for us to build substandard structures to house folks. I was wondering if there was -- I thank you for putting this information together because that was just a big piece of the resolution, as well as that there's programs in different spots and stuff. And it's a -- it's good to have them all together and maybe this is all together on the internet but somebody might not have access to the internet. Is there a way to also in this include, like, a legend or definitions? Because, frankly, I didn't know a lot of these terms until I became a councilmember. And so, you know, one of the programs talks about -- covers down payment and deferred 0 percent interest loan for first time buyers, to explain exactly what that means because I think that would help people who -- you know, when I bought my first home, I had to do a lot of research, but I'm the type of person that does research and, you know, some people can't do that. But they could -- it's all about education. And I know that there are families out there who are renting right now who could qualify for this program but they have no idea, you know, that they can qualify and they may be living in their own home or condo right now. So whatever we can do to further educate and help them understand the process. But thank you for your work on this.

[4:39:28 PM]

>> Mayor Adler: Okay. Mr. Casar.

>> Casar: And to that point, I do think that -- and would continue to urge that we get to a place where the community can see more of the work that we are doing and have done. I know that the department is working hard on, you know, listing all of those affordable units that are locked in in different buildings. I didn't even know some of the buildings I walk by when I go get coffee around here have affordable units in them or where the down payment -- how the down payment assistance works. I think to councilmember Garza's point, there is a lot that we have done and just being able to make sure people know where that is would be helpful. And my last comment on this is that I have generally sometimes felt that it's hard to think about subsidizing housing at 80 or 100% mfi knowing how much dire need there is at 30 and 40% but I do think the advocacy for all different folks under the median income is important, and I think with some of this information out I would be interested and very comfortable supporting maybe figuring out how we get more of those attached housing types in that small down payment assistance that gets people into homeownership and freeze up units. So my thought process on this is evolving. When we've got folks homestead at 30% mfi it's hard to think about subsidizing housing that could be affordable without subsidy but maybe as we start identifying whacked get people right over that line maybe it does ultimately serve the whole spectrum of people given our lack of housing supply. So thank you all for asking for this report and thank you for putting it together.

>> Kitchen: I'd like to ask if you can provide more information not now but you could send to us with regard to the two down payment assistance programs. There's a city of Austin down payment assistance program. There's also a Travis county down payment assistance program, and they seem different, you know, in terms of what their requirements are, and I would be there in energy more about both of those programs, both in terms of total dollar amounts that are available under them, what their record is, you know, in terms of who they've served, and if there's any kind of relationship between them.

[4:41:47 PM]

Or if they've just carved out the geography so they're covering different areas or what. So is it possible for you to provide more information about those two programs for us?

>> I can certainly see what we can find.

>> Kitchen: Okay. Thank you very much.

>> Mayor Adler: In that regard, just to mention, I think that well-being has a program -- Wells Fargo has a program operating in our city where they've granted our city \$5 million in down payment assistance. Why they've gone out to the public and tried to make people aware of it. I think they have \$3 million of it left. So if anybody is watching this and looking at that, there is money that Wells Fargo is offering to our community and people should seek it out. Anyone watching this that needs a contact, they can contact my office.

>> Pool: I just had one last question, and it kind of bounces off what councilmember kitchen was saying. Is there one central location where someone can go and get access to all the different programs? Or would folks need to know about all the variety of different programs and go to each of the different lenders, for example, or governmental entities?

>> So I am not aware of any centralized location, but with -- like with the city's down payment assistance program we actually work with a number of different lenders, and so people will come to us if they qualify for the down payment assistance. We will find a lender that will work with that household and so there are sections, and I think if people are seeking assistance, likely if they come to the city, we could figure out, you know, do they qualify for our program. If not, we may be able to refer them to other entities.

[4:43:52 PM]

>> Pool: And then is there a place maybe on the city web -- this is a really great list of all the different resources where -- like a one-stop house or clearinghouse where all of this information is available and folks would have access to that information?

>> I was just pointed to, on page 2 of this, three quarters of the way down, there's something called a Texas financial toolbox, and that may be a location where it does have information about a variety of tools that people can access. I think actually also the aunt Bertha 211 severance, aunt Bertha and 211 service, they may be able to connect folks with different services as well.

>> Mayor Adler: Okay. Thank you. Ms. Kitchen.

>> Kitchen: One thing to think about when you put together the information about the two down payment assistance programs, what I'm trying to think about and what I'll be thinking about and looking at is we've got two programs for two different government entities through the city and the county. Is there something we should do for better synergies between them is one of the things I'll be thinking about. So just if you can put some information together and if you have any recommendations about how those work together that could be made to work better, you can let us know that too.

>> I am guessing -- I'm fairly certain, and maybe I'll get a nod or not, I think that the Travis county program probably mostly serves areas outside the city limits.

>> Kitchen: So you think they're pretty defined?

>> Lauren avioli, planner with neighborhood housing. From my understanding, the hill country down payment assistance program that Travis county administers, it can be used on housing anywhere in the county that's even in an incorporated area.

[4:45:57 PM]

We can double-check on that but I think there are opportunities layer. It's just there are limitations. For instance the city's down payment assistance program I think it's up to \$15,000 is how high you can go.

>> Kitchen: Okay.

>> So there might be limitation there's.

>> Kitchen: Okay. That will be helpful to get some additional information. Thank you very much.

>> Mayor Adler: Thank you very much for the briefing. There are a couple items on the agenda I think we could blow through here quickly. Item number 15 is something that came to us from the audit and finance committee. It's a name change for the downtown Austin community court advisory committee. It expands the mission to include the -- advising the council on policies and operations of the court. Is there a motion to approve item number 15? Ms. Troxclair makes the motion, secretaries by Ms. -- Second by Ms. Pool. Any discussion some those in favor please raise your hand.

>> Zimmerman: Sorry, which item again?

>> Mayor Adler: This is 15.

>> Zimmerman: 15.

>> Mayor Adler: 15. It changes the name of the advisory committee, downtown community court advisory committee and expands its scope. Those in favor please raise your hand. Those opposed. It's unanimous on the dais with mayor pro tem off. And Ms. Gallo off. It was [indiscernible]. The next item let's call the Austin housing finance corporation. I'm gonna recess the regular meeting here at 4:47. I'm going to call us into the meeting of the Austin housing finance corporation board of directors. Today is the eighth of December.

[4:48:00 PM]

It is 4:47. We're in the council chambers. We have two items on the agenda. The first one is approving the minutes.

>> Yes, that is correct. And the second item is the companion piece to the item the city council passed earlier today and they are both available for consent.

>> Mayor Adler: And it's the companion piece to making the bids on the aid properties that we approved earlier today. First take a vote, is there a motion to approve the minutes? Ms. Pool moves. Ms. Garza seconds. Any discussion? Those in favor raise your hand. Those opposed. Unanimous on the dais with the mayor pro tem, Casar and Ms. Gallo off. The second item is the companion piece for the aid making that offer. Is there a motion to make those offers consistent with what we did earlier? Ms. Pool. Is there a second to that? Mr. Renteria. Any discussion? Those in favor please raise your hand. Those opposed. Mr. Zimmerman voting no. Troxclair voting no. The others on the dais voting aye. With Mr. Casar and mayor pro tem off. So the vote was seven in favor. It passes. Is that all the business we have?

>> That's all the business we have.

>> Mayor Adler: Okay. Sorry you were sitting here so long.

>> That's okay.

>> Mayor Adler: But thank you.

>> Thank you.

>> Mayor Adler: Let's go ahead now and go to the Austin energy piece. I adjourn the meeting of the Austin housing and finance corporation board of directors and pull us back from recess into our regular meeting here on December 8 of the city council. It is 4:49. We're still in city council chambers. This pulls up item number 57.

[4:50:02 PM]

This is for a public hearing. I see no speakers present. Seeing none, is there a motion to close the public hearing on item 57. Mr. Zimmerman moves. Is there a second? Ms. Gallo. Those in favor raise your hand. Those opposed. Unanimous on the dais, mayor pro tem and Mr. Casar off. Now we take action on adopting the proposal of the tariff.

>> [Off mic]

>> Mayor Adler: If he's here that might be good. This is item 57. I said pesach it's not. It's establishing contract electric rates for a certain state of Texas facilities. As contained in the backup. Does the backup contain the information relative to it? All right. It's been moved and seconded. Those in favor -- oops, discussion. Mr. Zimmerman.

>> Zimmerman: Sorry, I'd like to be recognized, Mr. Mayor, briefly to speak against the measure.

>> Mayor Adler: Okay.

>> Zimmerman: And when I ran a little more than two years ago, I made a pledge to voters to work to abolish Austin energy for a number of reasons. I think that our Austin energy staff did a reasonable job working on this matter, and I don't understand how they could be expected to negotiate rates fairly, put that in quotation marks, fairly, when the state of Texas essentially has the power to dissolve Austin energy. It's an uncomfortable situation so I'm gonna vote no on this. This is no criticism of the Austin energy staff. It's just that I -- I'm not comfortable with the way the Austin energy monopoly is set up, and I still think ultimately from a policy point of view Austin energy should be broken up in some way so that's why I'm voting know.

[4:52:11 PM]

>> Mayor Adler: Okay. Any further discussion? Then we'll take a vote. Those in favor of item 57 please raise your hand. Those opposed. Mr. Zimmerman votes no. Mayor pro tem is off the dais. The others voting aye. And Ms. Garza abstains. The others voting aye. Okay. That one passes as well. Item 49 is withdrawn. That was the briefing. That means we have three things that are -- I'm sorry?

-- Item number 45 we've already done. Item 54 we've already done. Wait, wait. 55 and -- 55 and 56 are the ones that are left. I see now. Is 56 going to be postponed?

>> Staff is requesting postponement until next week's meeting.

>> Mayor Adler: 12/15, okay. Without objection, that item will be postponed to 12/15.

>> Houston: That was 56.

>> Mayor Adler: That was 56.

>> Houston: Thanks.

>> Mayor Adler: That means we are left with the last item on our agenda, which is item 55. Staff want to lay this out for us? We have some folks here to speak in favor of this. Please.

>> Thank you, Mr. Mayor, city council, Kevin Shunk, flood plan and watershed protection department. The item before you today is a floodplain variance request for a property at 4515 avenue D, which is in Hyde park in the waller creek watershed.

[4:54:24 PM]



Here's a picture of the area in general, bounded by Guadalupe there on the far left-hand side of the page. To the west, middle of the page, is 45th street. Speedway is to the east and 46th street is up to the north part. The land that doesn't have any development or buildings on it there to the north is the UT intermural fields that is and that runs through Hyde park taking a significant turn there to the east as it flows downstream. As you can see, there are significant number of properties in the floodplain in this portion of waller creek on the order of around 150 properties just within this specific area. There are four streets of that significant flood risk. The watershed protection department prioritizes flood risk throughout the city and we use that priority methodology to determine and guide us in where and when we are going to do -- look at flood mitigation projects. So obviously we're aware of the flood concerns, flood risk, I'm sorry, flood risks at this location, however it doesn't reach to the level of priority with the various flood risks we have in the city for us at this time. We have not pursued flood mitigation alternative for this particular area of waller creek. Here's a more zoomed up picture. As you can see it's entirely within the 25 and hundred year floodplains. The darker area is the 25 year floodplain, with the lighter area being the 100 year floodplain. There is a house on the property that is in use today. It's about a 900 square foot home built in 1935. The existing house is approximately 2 feet below the 100 year floodplain floodplain so we would expect if there was a hundred year flood in this portion of waller creek this house would be inundated with possibly up to 2 feet of water.

[4:56:39 PM]

Just a couple pictures to show historic photos of flooding that has happened directly within this neighborhood. This is a picture, the arrow point to go a waterline marked on the vehicle, the vehicle isn't properly parked on the street because it floated into that position. This is a storm in November 2004. It was actually two separate rain events, both of which were about a ten-year flood. This is about three lots north of the lot in question, so this is a picture on avenue D itself. This is another picture, July 17, 2014, storm event. Some localized flooding. Waller did get out of its banks in a few areas and we did have 45th and speedway had some flooding within the area as well. The applicant is proposing to demolish the existing single-family home and build a new single family residence, one story single family residence. It will be about 3300 square feet with 100 square foot patio. They're proposing the finished floor elevation of the home to be 2 feet above the hundred year floodplain. So essentially 4 feet higher than what the existing home is. Their proposed home is -- their foundation of the home is pier and beam, essentially meaning there's crawl space or void space underneath the house that allows for the passage of flood waters and it doesn't compensate for as much floodplain volume. So the applicant's engineer submitted information to the city showing that the proposed development will not cause adverse flooding impacts on other properties, in other words, it's not increasing the flood -- the flood levels. However, the property in the development is entirely within the floodplain. Being that the case, the property doesn't meet the safe access rule so that's one of the requested variances, safe access.

[4:58:40 PM]

In addition to those by proposing a viewer that has -- structure that has more square feet, staff considers that to be increasing its existing nonconformity because it's more density within the floodplain, and then the other variance and Q is for the drainage easement to excludes the proposed footprint from the drainage easement itself but the remained of the property because it's all in the floodplain will be within the drainage easement. We've talked about the safe access rule. I've been told by so many people that they didn't have this video the last point I was here so I guaranteed I'd put it in this time. This is a picture of the onion creek flood Halloween 2013. It is the best representation I've seen of why the safe access rule is important, taken from somebody's home standing in their doorway,

looking out opposite side of the way the creek is. They're looking in the opposite direction and significant water flowing down the street. So the safe access rule is important for first responders to be able to access properties, as well as the occupants that are inside to have egress out of the home during a time of flood. Safe access rule is trying to prevent islands, if you will, to build a property that's elevated high enough up but you can't get in or out of the property safely during time of flood. The nonconforming use criteria essentially is saying that the existing use of the site does not conform to the floodplain rules. Now, that's fine for the use to exist, but if you intend to change that use or increase its nonconformity, that's another variance, floodplain variance, and that's what they're doing with the increase in square footage of the building, they're therefore increasing density and the ability to have more people inside the building at the time of flood. Now the intent of that is to try to minimize food hazards for redevelopment that happens where we already have buildings that are in the floodplain.

[5:00:45 PM]

Just a quick summary of the findings for this particular request. Again, we talked about the fact that there's no safe access for this particular development. However, the finished floor requirement is actually above the minimum, the minimum is 1 foot above and they're proposing it to be 2 feet above. Hardship condition exists because of the fact that there's no safe access -- no way for them to gain safe access out of the property itself. Because of our evaluation of the flood risk for this particular property, staff is recommending denial of the floodplain variance. I'm happy to talk through that a little bit with you if you'd like. We do have a draft ordinance in your backup packet, just wanted to address two things that are the conditions of that floodplain ordinance if you do so desire to pass it, one of them is the requirement to have a drainage easement to the limitation of the hundred year floodplain, save and accept the building itself. And then the requirement to submit an elevation certificate, which is essentially our way of confirming that the building was built at the height that they proposed it to be built at. That's all I have. I'm happy to answer questions, and I do believe the applicant is here to speak as well.

>> Mayor Adler: Mr. Casar.

>> Casar: So can you help us understand, you know, oftentimes when we've had these particular floodplain variances before us, it's to not incentivize there can more people, for example, in a floodplain, but right now you have, I think, from your presentation, you said there's a single-family home there right now that's currently 58 habitable and has folks in it.

>> Correct.

>> Casar: I'm seeing heads shaking behind us. Long story short is if we were to deny this, then they would still just have the light to try to remodel this -- to fix up this damaged home? Is that what they're -

>> So with the remodel, the consideration is if someone proposes a remodel for a property that's in the floodplain, if the remodel is less than 50% of the value of the building itself, not the lot, just the building itself, then they're not required to bring the property completely up to standard of the floodplain regulations.

[5:03:01 PM]

If they're proposing a remodel that's more than 50% of the value, we call that substantial improvement, and if it's a substantial improvement they're required to bring the entire property into compliance with the floodplain rules.

>> Casar: I guess what I'm trying to understand is what behavior we are trying to incentivize by denying the variance? Our hope is to -- I guess your recommendation is no and so then what are we hoping will

happen with the property given that it's single family zoned in the middle of a single family neighborhood and it's got a single family house on it?

>> Sure. I think the comparison of what's there now and what's being proposed is certainly something that we consider when we are looking at these variance and talking about to the applicants about them. There are a lot of positive things happening with this development, the fact they're raising it 4 feet above where it is now is a very positive step to minimize risk to the building itself and certainly the occupants as well to create a refuge in place sort of environment. However, when we are looking at our recommendations from the risk perspective, we are looking at the fact that this building, the occupants of the building would have to walk through about 3 feet of water in order to get out of the floodplain during that time of flood. So it's just that risk evaluation. But the comparison of the existing to proposed, there are some positive things with the application.

>> Casar: So long story short, we -- they're improving on an existing condition, but under staff recommendation we wish they would do more?

>> As far as the floodplain variance of the safe access, there's nothing they could do to meet that variance.

>> Casar: There's nothing -- hold on. So there's nothing they could do to get staff's recommendation -- to get staff's recommendation?

>> There's nothing they could do to get safe access, and so, therefore, we've assessed the risk to be enough that we would recommend denial.

>> Casar: So what could -- what would this property owner be able to do to get recommendation -- the staff's recommendation, which is -- if you could not speak when I'm speaking that that would be appreciated because I just want the question answered.

[5:05:17 PM]

So if we could -- so there's nothing the property owner could do to get staff's recommendation because they would have to meet all three criteria to get staff's recommendation?

>> That's correct.

>> Casar: And so what -- the behavior we're trying to incentivize then is for this to not be a single-family home? I guess I'm just trying to understand what the ends is of denying the floodplain variance?

>> Well, the staff recommendation for denial again is just risk based, an assessment of the risk. Again, we see that there could be some benefits, positive things that could happen if it's redeveloped at a higher elevation. Now, from a floodplain management standpoint, I mean, the best solution to me would be to mitigate the flooding for all the properties. I mean, that's where our department -- the goal of our department is to mitigate those risks.

>> Casar: So essentially to hope that it becomes eventually a market interest to sell it to the city for drainage essentially?

>> The property itself?

>> Casar: I guess I'm just trying to understand if somebody can't ever -- all they can do is remodel it substantially or not -- remodel it not substantially then eventually the hope and drive of our policy is for folks to just continue doing that?

>> Right.

>> Casar: Okay.

>> Mayor Adler: So in essence, just to follow up on that so I understand how you're using risk, you're saying there's risk present -- if someone were to take this house and elevate it by 3 feet, so it takes it out of the floodplain and that was new construction, I don't want to get lost in reconstruction, if they were to elevate it 3 feet there are still risks present so you would be recommending that they not be allowed to move it up 3 feet?

>> There's a chance they could actually elevate it and not be a substantial improvement and no additions to the building.

[5:07:18 PM]

You're just elevating it up.

>> Mayor Adler: But the risk is still there, it's still risk to the safety of the people, still unsafe access, but the standard that you use, you would be recommending not to let them raise it 3 feet?

>> If they required a variance, yes.

>> Mayor Adler: Which, right, if if they required a variance, you would be saying can't raise it 3 feet, even though the risk isn't any greater, even though emergency personnel would still need to get there, even though the only thing they're doing is potentially making it safer if the flood was there and didn't enter the house, based on how you -- all you're saying is to the council there's risk afterwards?

>> Yes.

>> Mayor Adler: Okay. Ms. Houston and then Ms. Kitchen.

>> Houston: Thank you, mayor. You may have discussed this while I was off the dais. When did the owner purchase this property?

>> I don't exactly know. The owner is here and maybe they could either answer it now or when they come up.

>> Houston: Ongoing.

>> Houston: Okay.

>> Two and a half years ago they purchased it.

>> Houston: So this is probably not a question for you either. Was there the disclosure that this was in a flood zone when that was purchased? I'm understanding from my real estate councilmembers that they always are given a statement that this is in the hundred and 25 year floodplain. Maybe I'll ask the realtors, is that correct?

>> Gallo: You mean the councilmember?

>> Houston: Councilmember.

>> Gallo: Thank you.

>> Houston: Clarification.

>> Gallo: My history is a residential realtor but I'm a councilmember now. I mean, I think we should ask the applicant that question.

>> Houston: That's fine.

>> Gallo: If financing was required the lender would require flood insurance, which would be indicated on the site plan about elevation. So it depends on the circumstances. If they paid cash for it, then it probably was not required.

[5:09:19 PM]

And could have even not been disclosed. But certainly with the lender, the lender would have a flood elevation and if it was shown to be in the floodplain would require flood insurance, which obviously would be the trigger that the buyer would know that it was in a flood zone.

>> Mayor Adler: Ms. Kitchen, then Mr. Zimmerman.

>> Kitchen: I guess I would think about it this way, in terms of y'all's recommendation. Basically, you have -- you know, you're assessing risk on the three items, you know, that you're reporting back to us. I think it's a policy decision, you know, in how we apply those, because it's -- it doesn't -- not in all circumstances does it make sense to, you know, to -- I mean, I guess what I'm saying is you're making a recommendation based on the risks and that's what we're asking you to do. It's up to us, you know, to

make the policy decision. So I wouldn't expect you to make a recommendation in circumstances like this. Basically the situation is the person, if they make the changes are actually safer and they're -- as you were saying there's absolutely no way that they can make changes to have -- to meet the standard, to meet the criteria for safe access. So that's what it looks like to me.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Quick technical question and you may not know, but you mentioned the house dates back over 80 years. That's amazing, right? Long period of time. So the -- is there any way to know how the floodplain has changed over that 80 years? Because, I mean, maybe it was in a hundred year floodplain 80 years ago, maybe not. Do we have data that kind of analyzes that?

>> We have floodplain data that dates back to 1981 that we can compare what the '81 floodplain looked like, when we entered the national flood insurance program and how it has changed over the years.

>> Zimmerman: So there isn't archived data of what the floodplain -- maybe they didn't survey floodplains in 1930s.

[5:11:26 PM]

What has the tendency looked like in that area by waller creek as far as the velocity and depth of the floodplains? 25 and hundred years. Common sense would say it's gotten worse over the decades, but is that what the data shows?

>> Not exactly sure what the floodplain looked like in '81. I don't know exactly what the map would be. I think looking at the velocities and picture that I showed of the 2004 event enough to -- high enough to float the car, fast enough to move the car. So as an indication of some of that risk.

>> Zimmerman: I looked at it on Google maps, it is pretty close to waller creek. We've had some of these things come up in front of council and the problem for me is just the destruction of the value of the property. And it's kind of a tragedy. Then there's the other issue of downstream flooding, right? As you say if they increase the size of the building, you know, it could make flooding problems worse for others. But to that point, I'm sure you've seen those homes at the coast, Texas coast line, they're just properties up on telephone poles, up on stilts, eight or 10 feet off the ground. So if this 3-foot elevation that we're talking about, if it were really pier and beam if there were no skirt on the bottom, that would actually -- wouldn't that provide a benefit so that you would actually reduce downstream flooding risk by construction in that fashion?

>> Because of their pier and beam proposed foundation they're indicating they don't have a impact on flood heights to other properties.

>> Zimmerman: It doesn't?

>> It does not.

>> Zimmerman: Really what's left is the safe access.

>> Correct.

>> Zimmerman: Okay. Thank you.

>> Mayor Adler: Mr. Casar.

>> Casar: And I think to the point that I think councilmember kitchen has made clear, is that our policy makes it so that we incentivize on redevelopment meeting all of those criteria not adding to the floodplain, getting the people inside the building safe and having safe access.

[5:13:34 PM]

What's interesting is when you have a building where you can't get to one of those points and you can't get a recommendation, there's a gradient of improvement that you can make, and I think what I was trying to get from staff and what is just interesting to me, well, of course you could make it a little bit

better, you could get it up a foot or get it up three or five with additional drainage and easements, so in the cases where somebody can't meet all three criteria in the beginning, it would be helpful for me to understand how much -- how significantly better the redevelopment would be. Because it's always easy for somebody to say I'm gonna make it better. The question is, is it so much better that it's worth granting it this time or do we want to send them back and make it even better than that. I'm inclined based on the information we've got to support this with the amendments from staff, but just as we continue to think about these, it might be helpful for me to understand from the staff whether the improvement being granted is small or really significant, especially in the cases where they can't meet the three requirements.

>> Kitchen: Mr. Mayor.

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: That makes sense. I guess my thought is that the other two criteria are met, you know? Which raising it a certain amount, I forget the criterias Kevin -- Mr. Shunk described it, but they are getting above the level that is set in the criteria.

>> Pool: So I think the piece that I'm interested in is the access, and if the owner were to raise up the property, I think it was -- was it 4 feet or 3 feet? It doesn't really matter at this point, but if he would still be isolated in a big flood and so that creates an issue for our first responders either to get access or for people to come out.

[5:15:44 PM]

And while the gentleman who is buying it and making these proposals of changes may be well aware of that, the day will come when he's not in that house anymore and the next owner or renter would be in that same hazardous situation and may not have the ability to get out or in and if it's someone who has a medical condition -- there's all kinds of liabilities I think out there which I think is what the staff -- the reason for the staff making the -- saying that the access piece is so important. We have to have -- so absent a bridge across to higher ground somewhere and wherever that landing point would be, I could see where that would continue to be a hazard that would not be able to be mitigated very easily because we don't know 50 years down the road how high the -- you might raise it up 4 feet but the new floods that come through there with additional impervious cover may be even higher. And I think that's what these recommendations from staff are trying to guard against.

>> If I may add one thing, councilmember Gallo spoke about the purchase process when you have a lender and the disclosure. One of the reasons for the drainage easement requirement is if there is a drainage easement now, save and except the house, it doesn't, again, cash buyer may not see it, but there's -- it's more likely that the next buyer will see it. If they don't get a federally backed loan, federal flood insurance may not be required, maybe they won't know but at least they'll see there's an easement on their property. That's just another way of letting future owners know that there is flood risk on the property.

>> Mayor Adler: We have some public testimony here that I'll call up. Before we do, I'm taken by what Mr. Casar said. I mean, we have a situation here where we're not exacerbating an unsafe condition. We wanted to incentivize people curing those elements that present risk.

[5:17:45 PM]

In this case, this person can help in two of three ways, can't help in the third way, but that third way is the same whether he builds or not. I guess I would be inclined to say then do what you can do because it makes it safer. As opposed to someone who has a vacant redact wanting to build -- tract wanting to build on it or want to go do something that exacerbates or increases an unsafe condition.

>> Casar: Because it seems to me, just hearing at least the staff's presentation, that we have two choices. One is to not grant it and to just say we want you to keep slightly remodeling this home deep near the floodplain, where you don't have safe access, or please remodel this home and lift it up and still not have safe access. So I guess that's where we're at.

>> Mayor Adler: Before we go to public testimony, yes, Ms. Gallo.

>> Gallo: I was going to wait until after public testimony before you said that, but the reality is that this application is to increase the square footage of the house almost four times and that means that there will be more people living in it, more people at risk, and as we struggle with flood mitigation and buyouts -- and this is also in the 25 year floodplain, not the hundred year floodplain, I think that we have to figure out a way forward that we're not encouraging people to continue to invest money in properties that are in particularly the 25 year floodplain. But I think the fact that we're not talking about remodelling the existing structure but I think we are talking about expanding dramatically the existing structure is really problematic for me.

>> Casar: I think that's an important point and would it be useful also in staff's explanation to us how many additional people we might be getting in the floodplain when we do -- might be getting in the floodplain when we do this? So I'll think on that now.

>> Mayor Adler: Okay. Let's go to public hearing.

[5:19:45 PM]

Phil moncata.

>> Good evening honorable mayor and members of the Austin city council. My name is Phil moncata. I'm an environmental consultant and a permit expeditor here in Austin, Texas. I'm the agent speaking on behalf of my client, Jay made, as it relates to our request for a variance to allow construction of a single-family home located at 4515 avenue D. I apologize for the late backup. But I decided it would be in my client's best interests for me to go ahead and try to secure as many letters of support I could -- as we could gather from the surrounding neighborhoods and also provide y'all pictures of the structure that I need to speak to based on everything and all the discussion I've been-I've been hearing. In addition to the support letters I've provided you, I also have a letter sealed by a professional structural engineer stating the structure is not sound enough to rebuild. My client has already secured the required approvals to demolish the structure from the city of Austin's historic land commission over a year ago, even though this property was not in a historic district, we went that extra step because of the age of the structure. The owner wishes to demolish the existing 912 square foot structure and replace it with one that is about 3300 square feet with 108 square foot patio. I do want to emphasize, though, that the design for this house will now be on a pier and beam, which will elevate it out of the floodplain. In addition to that, we will be reducing the impact on the floodplain approximately 75% because now the structure being elevated and having an opportunity for water to go underneath it will not create additional adverse conditions downstream.

[5:21:50 PM]

In addition to that, I think it might be a good idea to ask the floodplain administrator whether this is the head waters of waller or further downstream where the city has already invested millions of dollars in doing the waller creek tunnel to address flooding in those particular areas for redevelopment. Do I want to emphasize that the 2016 tcad records clearly show the value of this structure at only being about \$53,250. The reason I bring that to your attention is based on city regulations. We could only do about 50% of the market value of improvements to that property, which would amount to about \$26,000. The letter provided by the structural engineer, Jay girmano specifically shows that the house is unsound, it

has no crawl space underneath it, it has no opportunity for hvac because of the height of the existing ceilings. One of the photos that I included for you, you can still clearly see.

[ Buzzer sounding ] That there's two window units, and I do have the owner here as well, and one of the letters that has been provided to y'all from Mr. Connor, who he has been meeting with, who is with the Hyde park neighborhood association. Available to answer any questions.

>> Mayor Adler: Okay. I'm gonna treat this as the applicant's opening, which is a five-minute allotment, so the buzzer went off but I'll give you more time if you want it. Otherwise we can combo to questions.

>> I think I'm ready, sir, for any questions you may have.

>> Mayor Adler: We have other people here to speak.

>> I do want to state one last thing.

>> Mayor Adler: Yes, sir.

>> The hardship I heard, there might have been some confusion about here. My client could do everything he needed to do to meet the intent of building a structure in the floodplain, but we have no control over the infrastructure that the city of Austin is responsible for maintaining, and by that I mean the elevation of the roadway, the number of inlets that are there that convey water to a waterway, but I do have in one of those backup letters -- and Mr. Connors is here and he can speak for himself, but Mr. Shunk stated that there was no plans for any future improvements in this area, but at their December meeting of the neighborhood, watershed protection department stated there were some -- some type of discussions for improvements to help the drainage in that area.

[5:24:24 PM]

So this isn't something that's in a vacuum. Eventually these areas that are currently in the inner city, where we need more single-family homes -- by the way, we're going only from a two bedroom thousands a three bedroom house -- two bedroom house to a three bedroom house. The plans for the duplex, we threw them out the window trying to gain additional support from the staff and I think that's everything I needed to really say.

>> Mayor Adler: Thank you. Mr. Amade. And then Mr. Connors.

>> Mayor, Adler, ladies and gentlemen of the staff, my name is Jay, I'm the owner of 4515 avenue D. I'm here today to ask for a variance to build myself a single-family home. I've owned the house for about two and a half years and in those two and a half years I've never had a flood or flood water in my homes. The house is 80 plus years old, it's still here whether flood waters have subdied as far as intensity and veracity, I don't know, but in 80 plus years, the home is still there. I had considered trying to remodel the home, but after polling several structural engineers, the consensus was that that house is not salvageable. Even if I was to spend all of the \$26,000 that I could to elevate it out of the floodway, I would not be able to accomplish that for \$26,000. It would be more of a 40, 50, \$60,000 deal and I'd still have a house structurally unsound and might not even survive the process of being lifted. The other thing that I wanted to bring to your attention is the house was never in use since I've had it. There's two hardships that exist for me. One I cannot physically raise the height of the city's street, and, two, I would be put under hardship if I cannot remodel or replace or actually just replace that house. It's not habitable at all. There's no ac. It doesn't seal. It's unfortunately just a run-down home and I went through a lot of expense and time to get the historic landmark commission to approve -- Steve Sadowski to approve.

[5:26:39 PM]

I was happy to have purchased a lot in Austin, Texas. It's a wonderful place to live. Another thing to consider is that the size of this lot is pretty large. Over 9,000 square feet, nearly 10,000, and by city code



I would build a duplex, possibly condoize it and get more units and build more structure. I am simply trying to build a house that is not only drastically under impervious cover but grossly under gross floor area so I'm building a house that could theoretically be over a thousand feet greater. I'm going from two bedrooms to three. The amount of people would be in it is the same whether two or three bedrooms. What else? What can I think of? I think that's all I've got on the top of my head. I'm really just detailing for y'all's support and ability -- just asking for support and ability to build my house. I'm over thousands and thousands of dollars just to get here and it's been over two years just to get to this point to ask y'all, plead with you, to let me build on my lot. Thank you for your time. Any questions also I'd be happy to answer, please.

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

>> Houston: Thank you. Thank you so much, assist, for coming out -- sir, for coming out tonight. The question I asked earlier, you've had the property for about two and a half years is that correct?

>> Correct.

>> Houston: Were you told it was in the 25 and hundred year floodplain.

>> It tells you it is in the FEMA floodplain. The difference between the 25 and hundred year floodplain if I'm not mistaken is just a small amount of inches, less than six if I recall correctly, I could be mistaken. They're very close do each other. The overlays are nearly identical. Another thing that brings another point, the waters that are there are never raging rapids that was shown in that video. The video shown was not in Hyde park but another area and it's very stagnant water that rises. If there was the situation in a one and 25 or one in 100 year event that something was to happen, whether you need ems, fire, police, you're not gonna be forwarding the Oregon trail.

[5:28:47 PM]

It's just slow moving water.

>> Houston: I guess I should ask you have been here when the creek does flood?

>> I've been here when the creek does flood. Flood water has never been in the house as far as I've owned it. That house has been there 80 years and even through every horrible flood it still exists and has original siding as far as I'm aware and original flooring as far as I'm aware. If you have really terrible flood waters people typically take out flooring, siding, replace it because it starts to mold and mildew. The house has its original keepings.

>> Houston: I understand you have a personal hardship but as a councilmember, I have to make a decision, and if I vote for this the way you would like me to vote for and something should happen and that hundred year flood does come and you and your family are the next -- or the next family that lives there or the renters or the people that lease there get hurt, that's on me. So I won't be able to support it. I need you to know that now.

>> I understand.

>> Houston: You knew it was in a floodplain

>> Houston: You knew it was in a floodplain and that's a decision you made based upon where you wanted to go and what you wanted to do. I don't see that as a hardship, because you knew that going in, that this was in a floodplain.

>> I understand. Thank you.

>> Mayor Adler: Ms. Pool?

>> Pool: I was just looking at the architectural engineer's report for Mr. Jermanio, and it describes the home as in pretty bad shape so my guess is, in reading this, that probably some of the reason, specifically, the flooring is perceptibly out of level, low and spongy, damage to the floor from insects, it's possible it wasn't from flooding but you don't really have a way to know that it wasn't, and it is smack-dab in the middle of that floodplain.

>> Correct.

>> Pool: So -- and then I have -- I have additional questions for staff, but thank you.

[5:30:47 PM]

>> Sure.

>> Mayor Adler: Okay. Any further questions? Ms. Kitchen?

>> Kitchen: I am somewhat torn as everyone is, but I'm also just did you understand, it's like, what's going to happen to that house? I mean, what's going to happen to the potential for housing on that property? There's no solution here. If we -- if we turn down this request, then we have an uninhabited house. Well, you know -- I don't know. It just it causes me concerns because I think that -- I think we don't have a method to look at the big picture here. So ...

>> Mayor Adler: Ms. Garza?

>> Garza: I always prefer to do discussion after the speakers, but just to respond, you don't have a vacant house. We saw the -- that presentation, cat presentation that homes in the floodplain are selling at market rate. So the floodplain doesn't affect their market rate. So he -- if -- I don't know where I am yet on this, but if this gentleman decides, he could silt probably at the market rate, premium in that area, to another -- to another person, so --

>> Kitchen: But you can't live in it now. That's my point is, there's no one living in it now because it's not habitable, so they have to make some kind of changes. If I'm understanding correctly, you'd have to make only \$25,000 in change -- in changes because of the value, and -- well, let me just ask this question. Could you make it habitable with 25,000?

>> Absolutely not. There's no possible way.

>> Kitchen: So that's what I'm struggling with.

>> Garza: And councilmember Casar was asking what's the annual result. I mean, I know someone who's invested in a home doesn't want to hear this, but my hope would be the end result is to not have families living in floodplains.

[5:32:48 PM]

So at some point, somebody has to -- you know, and my assumption would be, you could sell it on the -- you could put that home on the market right now, and it would sell --

>> I don't think it would sell because it's in -- it's in the floodplain. I bought it understanding that it's in the floodplain, and cities like Houston, for example, all the time simply elevate out of the floodplain. I would not be putting a family in the floodplain. A family living in that house right now, if there was one, which there's not, would be living in the floodplain, two feet underneath the Florida I'm going to elevate it four feet outside of the floodplain, and the cities association that I'm increasing non-conformity, in my opinion, isn't true, families living, standing in their kitchen, is no longer in the Florida they're outside of the floodplain by two feet.

>> Garza: I understand that, but we had a presentation by the Travis county appraisal district that homes are selling in the floodplain right now throughout Austin at the market rate, not a lower rate because people are buying -- paying less for it, because the assumption would be you're going to pay less for a home in the floodplain. That's not happening. They're -- I have a lot of floodplains in my district. There are -- there's parts of my district that are in a buyout process right now that -- people are still selling those homes to people who want to live there so --

>> I don't want to sell my home and I don't want to be forced to sell my home.

>> Garza: I understand that, but the other side is just not that it's going to be vacant. And if it is, I always look through the lens of a former public safety person, and putting -- I absolutely see the side in this. We

had a case before last time that the mayor pointed out where actually -- by okaying this, we're actually making this person safer. It's the safest place in his house. I remember that, and I see that side of it too, but I also see the side of -- I think we eventually need to get to where we're not helping someone stay in the floodplain.

[5:34:51 PM]

I don't know exactly how to do that, but I'll continue to listen to conversation. What I would suggest is, in another -- for us to think about, in another floodplain variance that is in consideration, they have suggested adding in their -- that they will not -- and I forgot how it was, but it was they will not -- they will -- the city can't buy them out. Like they promised that if the city allows us variance, they will never be part of a buyout program. And I think that that is a fair amendment to be made. If you come to council and say I want a floodplain variance, and it's given, then you also have to agree to that home will never be part of a buyout program.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I just want to say very, very quickly, finally something I'm in very strong agreement with councilmember Garza. Absolutely. And I'm going to say what has inflated the value of floodplain-prone properties is council agreeing to bail out properties and buy out properties in the flood zone, so we're responsible for some of that inflated market value for homes in floodplains because we promised to buy them out. So your point is well made, if we were to approve this one, absolutely, positively, you will never be bought out. Period.

>> I have no interest in being bought out.

>> Mayor Adler: We understand.

>> Zimmerman: So I think we could if I can say that problem, but, look, I'm looking at the backup material. If you take a look at this, we're not talking about one home. We're talking about a lot of people that are next to waller creek here that are kind of in the same boat. And whenever the people pass away or they move out, it's the same problem all over again. It's not one property, it's a bunch of properties.

>> Those properties in that area will become blighted.

>> Zimmerman: They'll become blighted, if there's no way to rebuild their homes or lift them up, they'll turn into slums.

>> Mayor Adler: I think you can sit down.

>> Zimmerman: They're going to turn into slums.

>> Mayor Adler: Ms. Pool, then back to Mr. Casar.

[5:36:51 PM]

>> Pool: So I just had a legal question, if we have -- and this legal question is, can we bind -- can we put some kind of covenant that property so that any successor owners would never, ever be bought out under flood conditions?

>> Chad Shaw, law department. My -- my reservation in suggesting what you've just -- what you've just mentioned is that I don't think -- I think council would want to hesitate and think about binding future councils.

>> Pool: Right.

>> Future councils might have a very good reason for wanting a particular property to participate in a buyout program, so I would hesitate to recommend that this council attempt to limit future councils on that.

>> Mayor Adler: It wouldn't be binding the council, it would be binding him.

>> Him, yeah.

>> Kitchen: But I think what he is saying, if that home were in the middle of a proposed buyout, council may want to buy that out, and so we can't stop future councils from having a different take on it and make a different decision.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I think the suggestion was to bind him, where he couldn't.

>> Pool: And that was my question.

>> Kitchen: No, your question was a little different, binding the city not to buy out.

>> Pool: No, actually our law department gentleman changed my question. My question was, is there a way for us through a covenant to bind the owner and his successors from never asking or taking a buyout from the city. That was my question.

>> Kitchen: Can I just -- can I ask councilmember Garza, are you -- I was trying to remember what you said, were you aware of that being the case previously, or -- and then --

>> Garza: The variance, the one I'm considering that was -- it was postponed, I think. We haven't made a decision.

>> Kitchen: Okay.

>> Garza: But that's something that he actually offered.

>> Kitchen: Okay.

[5:38:51 PM]

>> Garza: They said, give us this variance, we'll never ask for -- we'll never accept a buyout.

>> Pool: And the difference in that case is, that's an office, and this is a residence, in case this is a difference for you, but they're two different kinds -- two different types of uses.

>> Mayor Adler: Mr. Casar?

>> Pool: I don't think I got an answer to my question.

>> And I apologize any turned the question on Ted. Actually, to understand the details of the buyout program, which I'm not intimately familiar with, Mr. Shaw might be more useful, but at the same time I don't think anyone has a right to be bought out on, so a simple request -- I would hesitate, again, to recommend that people cannot consult with their councilmembers, with city staff to inquire about the possibility of a buyout, they could never, I believe, come in and claim a right to a buyout. So to say that they would limit their ability to be bought out, they didn't have that right in the first place, so we can't take that away from them. Does that make sense?

>> Pool: And we -- so we can't take it away from them because we can't give it to them?

>> Well, we can't take it away from them because they didn't have that right in the first place. What you're suggesting -- and correct me if I'm wrong -- is that they would not even approach the city to inquire about a buyout?

>> Pool: Well, and to make it even further, not only this person owning it, the next person who may own it because he won't live there forever. He may live there for his entire lifetime, but that home will have someone in it after him. And so what -- what the proposal is, that that particular structure is never construed in any kind of buyout from the city.

>> And I see -- I would want to see the specific language we're time, I would see some difficulty in enforcing that particular restriction, particular against a future owner, not be able to avail themselves of a city process that every other citizen could.

[5:40:52 PM]

>> Mayor Adler: You don't think that somebody could put a deed restriction on their property that says in exchange for being able to build in this instance, I recognize that, for me and for my successors, that

we're not entitled to fair market value for this property in the event of a buyout, which would still give the city the right to be able to do it, but at that point someone who was buying that property in the marketplace would know that that was a remedy in the future that they might not be entitled to, which might very well impact its market value? I imagine it would. And if there was a buyout at some point in the future, I think the city would have a very good argument to be made that in buying out that property, its market value, because of restriction placed on the property by the property owner, diminished its market value in this instance, and, therefore, if the city decided to do it, it would have a different valuation. I just think that there are things you can do -- I mean, I would think through that, but I think there would probably be things you could do to impact that equation down the road.

>> And if I may, it was just pointed out to me that perhaps the more appropriate take would be that a policy as articulated by council, as you have said, if people receive these variances, they should not expect to be bought out. That would be a policy that would be appropriate for council to make -- to adopt, if you so wished, and make known, so that when people came back, they would have that expectation.

>> Mayor Adler: And you could also put that on a deed restriction, so that if someone was buying that property in the future, who may not know about the city policy, would have been put on fair notice because it would be on a filed document in the chain of title.

>> So they would know a variance had been granted and a city policy exist. That might very well be a possibility.

>> Mayor Adler: Okay.

>> Mayor Adler: I'm going to go to Mr. Casar and then back.

>> Casar: I wanted to just confirm something with our staff that we heard from the speaker. So I -- my sense at first was that us voting no on this would likely result in a continued locked in by the city, uninhabitable home, but I guess my -- because it seems to me that looking at the picture of this house, \$26,000, half the value of the house would not get this up to code and habitable.

[5:43:04 PM]

Is there -- but I don't understand the whole process. Is it possible for this 900-something-square-foot home to become habitable without getting a variance, as far as we can tell?

>> I can only rely on the information the applicant has submitted. We haven't done our own assessment. Based upon what the applicant has submitted and the improvement that would need to be made, it seems like it's not possible with that 26,000. Now --

>> Casar: I mean looking at the picture, it seems to me that \$26,000 would not get the --

>> And I'll say that when applicants come in and we're reviewing remodels, typically we start with the Travis county appraisal district value of the property. If the applicant wants to do an appraisal for the property and submit a new number, we will allow that and we'll look at that. So I'm not saying it's -- could be more than 50,000, the value of the building, but it might be, so the 26,000 is based upon the cat value today.

>> Casar: Sure. It just seems to me that based on spongy floors and sheetrock and just the dilapidated condition of the house, and having to raise it out of the floodplain -- right? -- Is what you have to do to get no variance, based on, again, what the applicants provided, the tcad property improvement value and this signed letter from an engineer, in my very limited experience with home remodels, seems like \$26,000, there's no way this would be a habitable home. So to answer councilmember kitchen's point, it seems to me -- I'm still not sure what the right thing is to do. I'm trying to work this thing through with y'all, that a vote yes would result in a bigger house lifted up outside the floodplain with some benefit, but a vote no would be to continue a policy which may be the right one, which is that we want an uninhabited, broken-down, 900-square-foot house, likely with nobody living in it, until we've gotten

folks out of an area where there's not safe access, and maybe he sells it to a bank who sits on it for years, hoping that eventually we do enough drain mitigation that they can make a return once it's out of the flood plain, or the city buys it for a park or drainage thing.

[5:45:23 PM]

But that seems to me to be the decision points we're at. Do we want a house on it now where people live there understand a meet two out of the three criteria, or it seems to me -- do we just want a structure, uninhabited to exist there for some period of time and he'll have to find something to -- somebody to get it off his hands with. My last question, too, for legal, but I know you guys have other questions, is if we can limit the square footage if we do end up granting this.

>> Councilmember, Chad Shaw, law department. Yes, you can limit the square footage.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I have two questions. I was after Greg.

>> Mayor Adler: I think you guys have actually been bouncing back and forth. Ms. Kitchen and Ms. Pool.

>> Kitchen: I just wanted to go back to the deed restriction question. I've heard varying responses on whether the city acknowledges or enforces deed restrictions, around it was offered that we could put a deed restriction on the property to ensure that the owner would never apply for a buyout. So I just wanted to ask a in-the-weeds question, the standing that the city gives generally or by policy or by practice to deed restrictions.

>> If you're asking about a private deed restriction, we do not enforce them. I think that's the history that you've heard before. That's different from if the city entered into an agreement. And if it was the council's intention to do something like that, I would suggest we not do it tonight so we could actually look into exactly what kind of language we want to use. If you want to take some kind of vote and give direction, that's one thing, but I would be needing some time to come up with the appropriate language.

>> Mayor Adler: So when the county -- when the city is valuing property for a buyout or to condemn it, does it take into account deed restrictions?

[5:47:26 PM]

As they might impact market value? I think that's the question, not that we would be enforcing it, but we would put a restriction on the property that would impact its market value.

>> Like having -- like it being in a floodplain or something.

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

>> Kitchen: I would like to suggest, and I'm not trying to just punt this down the road, but I am interested in understanding the extent to which we can put the kind of restriction that the mayor is talking about on property. And the reason I'm interested is because I don't -- I get it and I don't want to be in a position to approve variances and then end up down the line adding that property to the list of buyouts. On the other hand, I'm reluctant in a community where we're worried about housing, I'm reluctant to just leave a situation like this with no options. And so I would like to understand the scope of what our options are from a legal perspective on -- I'll just call it deed restriction, for lack of a better term at this point. So I don't know if there's any appetite on the council's part, but I would be interested in allowing us enough time to have that come back to us so that we could understand whether we could actually do it. So I guess --

>> Mayor Adler: So let's go ahead -- let's hear from Mr. Connor, then pull it back up to the dais. Mr. Corner, you have three minutes.

>> Thank you. My name is David Connor. I am the homeowner in Hyde park. I've been past Hyde park development committee chair for the past ten years. I've been past Hyde park president of the

neighborhood association. We've been working for the applicant for the past two years when he bought the property. We knew it was in a floodplain. Councilmember Houston, when these real estate listings do come up, we check them. They do say they're in a floodplain, but they also sometimes say it's very easy to get flood variances.

[5:49:27 PM]

I called those realtors understand a said please take that off the listing. That is incorrect. It's very hard, very expensive, and we don't like going through these things. I would be very cautioned about buying out lots, 10,000-square-foot lots in Hyde park. They're very expensive, even in the floodplain. This area of Hyde park, people are not flooding, they're not drowning. It's a very vibrant area of Hyde park. People are buying these lots and they're building beautiful homes, and that's what we want. 10,000-square-foot lot, if you're a developer, you have a variance looking for three units on that property. He's building a single-family home. He wanted to buy a condo, you kind of talked him out of it. We want single-family homes. Like I said, he's a developer. He will have three units on that lot. That's what's happening in Hyde park. That being said, we understand there's been flooding, there's been flooding, a lot of rain in the past two years. The flooding is along avenue B, along Guadalupe, on the south of 45th. That's where people's houses are being flooded. I can't remember any houses on avenue D, avenue C that are flooded. Waller creek does come up. It goes down immediately. Like you said, we do have a watershed protection person at our neighborhood meeting Monday. There are some plans to correct the Guadalupe flooding issue, and we will support that. But with the case to you, we hope you do issue the flood variance. The house there is a blighted property. It's more dangerous there than an empty lot. If a big flood does come in, the house is gone. It's gone down waller creek into south Hyde park. A lot of problems. Anyway, if you have any questions, feel free to ask. You know, like you said, we are -- the drc did not oppose this. I'm not speaking for the Hyde park steering committee, but they decided to stay neutral because of all of the flooding issues and all that. But his plans met our review guidelines, even though it's not his district.

[5:51:33 PM]

So we hope you do approve this, and going forward, we will work with the city about any other new properties coming up. Because, like I said, this part of Hyde park is very active. People are moving in because they're more affordable than the south -- the historic district area. So that being said --  
>> Mayor Adler: Thank you. Probably if there's a way to -- I probably would go along with Ms. Kitchen and Morgan's suggestion to take a look at this and this would be my issues on it. If they were coming along asking to do a 900-square-foot home on this exact place but they were going to raise it up two feet and get it two feet out of the water, I would say please go ahead and do that because whoever is in that house is in a safer place than they would be. I would be concerned that if it rained and we didn't do that and someone got swept away and they could have been saved if they were two feet higher, I would feel responsible for that. That said, I go back to the question I was asked earlier where it's going up to 3,000 square feet. So you're increasing the size and maybe there's a smaller house that would feel better than -- because it's not 900 square feet. It's bigger than 900 square feet. But I would want to know that any money that's being put into this property is not something that the city would be on the - on the tab in the future in case there was a buyout so that that risk would be associated with the owner of the property, and I would want to have some notice of some kind in a title change so that if someone were buying it, they would know what it was that they were buying and they would be put on notice. Mr. Casar.

>> Casar: And I'd like to ask the owner about the square footage issue, if that's okay.

>> Yes.  
>> Casar: So you're saying you want to build yourself a home, so this is a home for yourself?  
>> Correct.  
>> Casar: And your family?  
>> Correct. And 3,000 pooh square feet meets my needs while 912 does not.

[5:53:35 PM]

>> Casar: And if this council were to put a restriction on -- we haven't come up with a number because it sounds like we're going to need more time, but if we were to put a restriction on it to keep a more modest size home, maybe not 900 square feet, but smaller than 3,000 square feet, because it's really not about you, unfortunately, it is about a structure. We aren't regulating a person, we're regulating a structure, and 3,000 square feet, many more folks could live there where there's not [inaudible] As opposed to fewer, what would happen?  
>> I understand your point. I could, like Mr. Connor said, be building three condos at greater square footage.  
>> Casar: No, but you couldn't because you couldn't spend more than \$26,000.  
>> If I was a savvy developer, to speak to his point, well versed in construction and et cetera, I could theoretically be building three condos.  
>> Casar: But that's if it weren't in the floodplain.  
>> Correct.  
>> Casar: And this one is. Those savvy developers have not passed any of those variances.  
>> I'm not a savvy developer.  
>> Casar: I understand. I guess the point is, you couldn't. You can't, and I empathize with you, you can't remodel this house under our rules. You also can't build three condo units under our rules. As a matter of fact, seems like you can't do anything under our with that. The challenge is, I feel reluctant to allow such a bigger structure here, or multiple -- I'm actually an advocate for having multiple structures on lots.  
>> Sure.  
>> Casar: But I'm reluctant to put multiple instructs on this lot because you're in a 25-year floodplain and would be more comfortable putting potentially a smaller house there when we come back. Because -- and ultimately if that doesn't suit your needs, then it may suit the needs of another family.  
>> I understand that. Based on the square footage of the lot, I could have come to you guys with like a 4200-square-foot house and said I want to build a 4200-square-foot house and suits my needs. I picked what I felt was a very modest size home to fit my needs and design, I made a lot of design concession in order to do that.

[5:55:38 PM]

I made it a one story house as opposed to two. I could have -- because it's not in a historic district, chosen a different kind of facade, made a different look of the house but I kept it with Hyde park anesthetic, I'm hoping you guys will give me the opportunity to build a house that will suit me and my family.  
>> Casar: I understand that. I appreciate your frankness with the request, and understand right now under our rules, it looks like nobody can live there, and figuring out what the appropriate way is to have people live there is, I imagine, what we will be thinking about between now and when we vote on it.  
>> Okay. Thank you.  
>> Garza: Mayor, I have a question. Sir?



>> Mayor Adler: Yeah, Ms. Garza.

>> Garza: You said it took you how long to get here?

>> Two and a half years.

>> Garza: So you purchased it knowing you were going to seek a variance.

>> Correct. And I did not think that having to go through these many engineers to go through the watershed protection department over and over and over again -- I think I started with them last December, the watershed department, last December, is what I started, and here we are December, a year just going through city --

>> Garza: Have you ever lived in that house?

>> No. Never.

>> Garza: Okay.

>> Mayor Adler: Yes. Mr. Zimmerman.

>> Zimmerman: Thank you. I have one point of information here to share. I went to the tcad records and I compared 40 -- 45 -- 4515, there's 4515 avenue D. I moved over one street to 4515 avenue C, and I compared the tax roll for the square footage for the land value. So one street over, the land value is \$41.70. One street over. And yours is at \$21.80 so if you just go one street over, out of the floodplain, the property is worth nearly twice as much. And, frankly, I'm surprised that it's valued at that height because, as we pointed out, you don't get a floodplain variance. Your property is worthless.

>> Exactly.

>> Zimmerman: So it's big trouble for you.

[5:57:39 PM]

Okay? So I empathize with you. I wish we could get this flood variance pad but I don't know -- I don't know if there's any will for that to happen here.

>> Mayor Adler: Any other comments? Ms. Troxclair?

>> Troxclair: I understand councilmember kitchen and others' interest in creating a policy going forward. I think my preference would be to go ahead and vote on this one and to work on that so that we have a policy in place for the next time. I just -- I hate to have someone who has been going through the process for two and a half years to kind of be held up even further while we -- while we craft a new process. So my preference would be to go ahead and vote on this one and work on that for future cases.

>> Casar: Mayor, I've landed where I'm comfortable, which is I'd be comfortable granting this if we had, you know, a 1200-square-foot house and 800-square-foot smart housing in the back or something like that. That's it.

>> Mayor Adler: You would do what?

>> Casar: I would feel comfortable if this was like a 1200-square-foot house with a 800-square-foot smart housing unit or just a 1200 or 1500-square-foot house so we're not incentivizing the risky work of purchasing cheap land and bringing these things through two-year processes with a lot of bureaucracy and coming to us to ultimately have 3400 -- 3400, 3300-square-foot asset purchased at half the land price.

>> Mayor Adler: But if you were to be able to consider that option, you would have to postpone this because, as it stands now, you have either a yes/no vote on a 3,000-plus-square-foot house. Someone would need to bring a motion that would postpone it.

>> Casar: That's right.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Okay. I can't tell where everybody is at, but I'm just going to bring this motion anyway.

[5:59:40 PM]

I'm going to move that we postpone, and the reason I'm moving to postpone from my perspective -- it may be different from others' perspective -- is that I would like to understand better if we -- you know, I'd like to give legal the time to come back and tell us whether we could put that restriction, because in my mind I am concerned about the buyout issue. That's why I will make a motion to postpone.

>> Mayor Adler: Okay. It's been moved to postpone. There's been a second. I'm going to give the applicant or his designee or agent the opportunity to close.

>> Zimmerman: A point of inquiry. On the postponement, councilmember kitchen, would that be indefinite or to next week or in January or --

>> Kitchen: I think it depends on how long legal needs to think about this. This.

>> Zimmerman: Well, we have an attorney here who's the mayor and when he told me about those potential legal things we could do, it made perfect sense that we could just do it without asking for more advice.

>> Mayor Adler: I'd prefer to have legal on it.

>> Kitchen: He's not acting as our attorney.

>> Mayor Adler: But I understand from the -- from our attorney that next week would be viable.

>> Kitchen: Okay. All right. Then I amend my motion to postpone till the 15th.

>> Mayor Adler: It's been moved to postpone till next week. Mr. Zimmerman seconds that. I'm going to give you a chance to close and then we'll be back up in the dais.

>> Mayor, I want to thank you for the opportunity to have presented this case on behalf of my client and I want to thank all the councilmembers. But I do want to bring something up for everyone to consider, since this case is probably going to be postponed, and Mr. Shaw can verify what I'm about to state. I hope everyone sitting on this dais is fully aware that all of the city offices located at 505 Barton springs are located in the hundred-year floodplain, and there is a requirement to stay and post a sign in that front parking lot where the public and city staff come to work every

[6:01:58 PM]

day stating: This area is subject to flooding during heavy rain events. But that still has not been done. I brought that to someone's attention when I was still sitting on the city of Austin's environmental board, but nothing happened. So I just want -- I understand the need for understanding the FEMA flood plan, and I understand why some of these structures in the past were built before these FEMA maps were even generated, but I do want to emphasize -- I know we've had a lot of rain. I'm a native austinite. I've been here all my life. But this past year, lake Travis filled up. So did like Buchanan. And the reason for that was because of the significant rain we continued to have that saturated these soils, and even with this occurring, my client and Mr. Connor, who's here, again have stated that the roadway did not flood. The structure has not flooded. There was some surcharge from waller creek located directly behind this lot, but it does -- recedes very quickly back into waller creek. So I want to thank y'all for your time again.

>> Mayor Adler: Okay. We're back up to the dais. There's been a motion to postpone this till next week. It's been moved and seconded. Is there further discussion? Ms. Houston?

>> Houston: Mayor, I don't know that the postponement will change my view of the safety risk and my responsibility for that. The other thing is I don't want to incentivize other people buying lots in the flood zone. And if we do this, we will get more and more people who come in and say, we bought this lot, and now you need to give us a variance, when they knew it was in the floodplain, 2500, and we will have set a precedent by saying we're going to give variances because it's a hardship, but you knew that going in, that this was a problem.

[6:04:01 PM]

So I don't -- I will vote for the postponement, but I'm not sure that -- that I will change the way I feel about this.

>> Mayor Adler: Further discussion on the dais? Mr. Zimmerman?

>> Zimmerman: I want to just say one really, really quick thing. This is more than about -- there's an issue of precedence. Councilmember Houston is absolutely correct about that. But I want to talk about the thousands of people who own homes right now that are in these 25 and 100-year floodplains. And a lot has been said about the people -- well, if you're buying the property, you knew it was in a floodplain. What about the people that have paid off their homes, they're retired, 70, 80 years old. Are we going to tell them that your property is now worthless because you find yourself in a 25- on or hundred-year floodplain, so the property you paid off that's on the tax rolls at \$300,000 is now worthless? So we can't do that. We just can't do that. So I'm glad that it's coming back next week, but people have to be informed. There has to be disclosure. We can't destroy people's property value. We're talking about thousands of properties, really.

>> Mayor Adler: Yes. Ms. Gallo.

>> Gallo: I just -- councilmember Zimmerman brought up a question that I'd like to ask staff. So if a person owns a home in a floodplain, would they be able to get a permit to remodel that house if they were not adding additional square footage without a waiver? So what is -- what requires a waiver? If they were going to go in and remodel their bathroom to be Ada compliant but do everything within the footprint of the existing house.

>> So an interior remodel that's less than 50% of the value of the building, they would be allowed to do.

>> Gallo: Without a waiver.

[6:06:01 PM]

>> Now if you did less than 50% but you're adding on a bathroom, you're extending the footprint and --

>> Gallo: So within the same footprint, as long as the remodel job is not more than 50% the value of the house.

>> Adding a second level, again you're increasing, that's a variance also.

>> Garza: Mayor, what sets that requirement? Is that FEMA?

>> FEMA's minimum standards create the substantial improvement rule, so that's a FEMA basic requirement. Any community in the country who's part of the national insurance program has the substantial improvement rule in their -- in their code. Ours does go a little bit above and beyond the minimum rule because instead of just -- the FEMA minimum standard says 50% of the value of that particular improvement. You could come back the next year and do another 40 -- 40% one year and 40% the next year and you'd be okay with the FEMA rules. The city rules take into account a ten-year active percentage. So you do 40% in year 1, and then year eight, you want to do 20%, that would be 60%, you have to wait until you get to the 10-year mark when the 40% falls off. It is a FEMA rule but the city's rule be expands it to be cumulative for ten years.

>> Garza: So we could change the way we do that, to where if it's a retired family that wants to remodel, or any family that wants to remodel, they could do a 40% one year and 40% the next year, which would essentially be 80% of their remodel. Right? The city could change that policy.

>> As a rule change. As a land development code change, it certainly is possible.

>> Garza: So there is the opportunity to solve the issue that councilmember Zimmerman tried -- I just thought since we were having this discussion, we needed to point that out.

>> Mayor Adler: Okay.

[6:08:06 PM]

Ms. Pool.

>> Pool: There's a -- there are a couple of neighborhoods in central Austin in district 7 that are subject to flooding, and with the changes to the FEMA flood maps, recognize that they would be locked in on the footprint and the valuation, and also having to buy flood insurance that they didn't ever have to buy before. So we've recognized that this is absolutely a really tough knot that on a policy level, we haven't addressed it to try to untangle it. Mr. Shunk and his staff have come out to district 7 on at least two occasions to have town hall conversations and forums with folks who have had this happen to them. So the city staff is working pretty hard to educate people on the changes to the flood map, and these are -- I don't know how new the changes are in Hyde park, but a new flood map was recently released within the last couple of years that updated the flood maps over -- and Kevin can give us the specifics, but it's not a -- it's not a static thing, the flood maps. They do change and evolve, and FEMA updates them periodically. So people not in the floodplain may be in the the next time flute maps are changed. I don't know if anybody does go out of them, but I know that it has some relation to how we develop. And the hot spots tend to be where we haven't adequately provided for drainage or there's too much impervious cover, or the changes to the topography of the land may cause flooding to go one direction, and it may have gone a different direction before. There are some things the city can do. I agree we need to look at the policies as far as whether we are incentivizing people to buy in areas that then would be subject to buyouts. That was what our flood mitigation task force was asked to dig into these really difficult questions. I'm just now I think working through, understanding all the recommendations and accommodating and adopting inadopting all the ones we can.

[6:10:15 PM]

And it is an expensive proposition, too. So it's a hard, hard question for this property owner. And I sympathize with you. I have residents who lock to me for assistance in the very same issues. And what I have done consistently is urged them, please don't buy. If you're thinking about buying in a floodplain, really be aware of what you are doing. And I have rarely voted yes to -- not -- or no, not to approve a floodplain variance just because -- especially in a residential situation, because the lives of the residents are at stake, and it could happen at 2:00 in the morning, and you've got babies, and you can't get out. And there's no way for us to ensure that you wouldn't be put in that position. So it's a really, really difficult proposition that we're faced with. I'll go ahead and support the delay so that we can get some additional law analysis, but my -- my strong inclination is to deny the variance request.

>> Mayor Adler: Any further discussion? There's been a motion and second to postpone till next week. All those in favor please raise your hand. Those opposed? It's unanimous on the dais with the mayor pro tem gone. That is everything on our agenda. This meeting stands adjourned.

>> Gallo: You know, mayor, we probably set a record this week. We had two council meetings and we didn't have -- I did not have to vote no to extend anything beyond the 10 o'clock. I appreciate I