

City Council Regular Meeting Session Transcript – 03/08/2018

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[10:10:34 AM]

>> Mayor Adler: Okay. Are with about ready -- are we about ready to move this forward? Before we begin the meeting let's do an invocation as -- is reverend Ferguson here? No, I'm sorry, reverend Mccormick. Reverend Mccormick. Everyone please rise. Reverend Mccormick is the associate minister at mount Zion Baptist church.

>> Good morning, everyone. And just so that no one is confused, I'm also the economic development liaison for the economic development department. That's where I serve on a day-to-day basis. Let us bow. Our father and our god, we gather here on this day because you sit high and look low and saw fit as our creator to grant us another day of living, and we say thank you. You have granted us a reasonable portion of health and we say thank you. Help us to remember with clarity and humility that we are nothing without you, that we have done all that we have done in the past, are doing attend will do in the in the days or years that you grant us are inextricably connected to your define will and inspiration upon our lives. For in you we live and move and have our being, thus we say thank you for being you. Thank you for the ability to be involved in useful work and for the honor of bearing appropriate responsibilities. Thank you for freedom, for the realization that freedom is not free. That everyone in the world is not free to even perform simple things in life, such as to freely come and go, to speak, to care, to love, to pray and to seek redress for their issues and grievances in the public square.

[10:12:48 AM]

Thus we say thank you for grace. Thank you for the many visitors in our city today and in the coming days during our annual festivities. We pray for their safety while here, we pray for the traveling grace and arriving mercy of all who are moving around during spring break. We want to especially say thank you for protecting our schools and public gathering places from tragedy thus far. We appeal to you, oh lord, to lend your strong arm and continue to place a hedge of protection around those gathering places and others. And around our first responders, police, firemen and women, any unsubpoenad heroes and sheros to give their lives for another. Thus we say thank you for mercy. In the scriptures you have said

that citizens ought to obey the governing authority since you have established those to promote peace and order and justice. Therefore I pray for our mayor, for the various levels of city officials and in particular for this assembled council and new city manager. I pray for the agenda set before us all today that the environment would include wisdom, a sense of welfare and understanding, justice, rightness, a sense for what is good and fitting with harmony, personal peace and joy in the -- personal peace and joy in the tasks. And now therefore it is in the name of your darling son Jesus Christ that I do pray and ask it all. Amen.

[10:14:50 AM]

Thank you.

>> Mayor Adler: All right. Before we get to the meeting, councilmember troxclair?

>> Troxclair: Yes. Thank you for allowing me a quick [mic feedback] Of personal privilege for this. Some of you may know that this is Michael Sorrell's last day in my office. I want to bring Michael up and embarrass him just for a moment. I wanted to -- he has been such an integral part of our office. He's been with me since the day that I started here and I'm so excited to see the bigger and better things that he's going to move on to, but we're very grateful for his service. I wanted to present him with this distinguished service award. For his tireless service and profound devotion to our citizens as a resolute Texan and during his tenure as an employee of the city of Austin, Michael Sorrell is deserving of public acclaim and recognition. This certificate is presented in acknowledgment and appreciation thereof on this 8th day of March, 2018. Signed by mayor Adler and the entire city council.

[Applause].

[10:17:00 AM]

>> Mayor Adler: Before we begin the meeting we have two birthdays that we want to acknowledge here on the dais. Two birthdays. The first birthday just passed was councilmember pool's birthday.

>> Pool: And I have a birthday wish that I would like to put out, but go ahead and tag the other person.

>> Mayor Adler: And the other birthday we have is Kay, Kay guadea.

[Applause]. So Kay I think is probably back there somewhere, probably anxiously awaiting for us to do a rendition of happy birthday.

>> Pool: So my birthday wish was no singing.

[Laughter].

>> Mayor Adler: But since Kay is on here now, I don't know what else to do. I think we should do this to Leslie and Kay. Ready? All right. Everybody turn off your mics.

[Laughter].

>> ♪ Happy birthday to you, happy birthday to you. Happy birthday dear Leslie and Kay, happy birthday to you ♪ ♪.

>> Mayor Adler: And then the last thing that I would point out is that tomorrow is atx detour day, always the first day of south-by is a horrible day on our streets downtown so we're urging everybody to telecommute tomorrow or to come in at off-peak hours or take the bus in or ride your bike or to jog. We did this once when the president came into town and there was no one on the roads, and it was miraculous. But we urge everybody to participate in atx detour day.

[10:19:00 AM]

And with all that done we will now convene our meeting meeting. So today is Thursday, March eighth, 2018. It is 10:18. We are in the city council chambers here at 301 west second street, Austin, Texas. We have a quorum present today. Everybody is on the dais except for Ms. Houston. So we're all here. Let's take a look at changes and corrections first. On changes and corrections it should be noted that on item number 2 on February 26, 2018 this recommend was recommended 8-0 by the utility commission, electric utility commission, commissioner ray absent. Two vacancies. Item number 13, councilmember kitchen is being added as a sponsor. Item number 30 is a duplicate so no action is required on item 30. So it will not be part of the consent agenda. Item number 33 is going to be at 4:00 when it gets called, just by way of notice. There's going to be a request to postpone that item to March 22nd. And item 34, when that is called sometime after 4:00 P.M., there's going to be a request to postpone that item to April 12th. We have a few items being pulled. Item number 4, the plan being pulled by the mayor pro tem. Item number 10 is going to be heard after executive session, so that's this.

[10:21:02 AM]

Afternoon. Item number 36 there's a request to hear it after 4:00 P.M. Yes, mayor pro tem?

>> Tovo: Mayor, I have a couple of questions. One is I have distributed amendments before, so if people are comfortable with them it doesn't necessarily need to be pulled. And then the second thing is we do have some items signed up to speak on item 10 and I'm the sure given our agenda today that it will actually be this afternoon before we come back before executive session. But in any case I would ask the council to hear those speakers this morning so that if they don't want to stay they don't have to.

>> That would be consistent with our practice, so we will hear the speakers this morning, but take a vote and discuss it when we get to executive session so they don't have to stay until this afternoon if they don't want to.

>> Tovo: But I'm thinking we may be able to break for executive session early this morning.

>> Mayor Adler: So let's make that call in a little bit, but thanks for heading that up. Mr. Casar?

>> Casar: Mayor, even they we've a three P.M. For number 36 we may be able to discuss it beforehand?

>> Mayor Adler: That's correct. We just won't hear it out here. So with respect to item number 4, I have two motion sheets, one from the mayor pro tem and one from councilmember Casar. I don't know if people have had a chance to see those. Do we want to just roll those both into the motion? Mayor pro tem?

>> Tovo: I'm sorry, I also see now that there are three speakers. So one way or the other it's pulled.

>> Mayor Adler: So we'll pull number 4. So the consent agenda is --

>> Kitchen: Mr. Mayor, I'm also understanding that item number 32 will be at 4:00, will be suggested for postponement -- or I think there's an agreement to postpone that one.

>> Mayor Adler: Okay.

[10:23:03 AM]

That one hasn't come to me yet. I heard there was some word of that. Is staff here on that? We have some indications that may be called up. Let's stay here. On the consent agenda, which is items number 1 through 14 and also item number 36, the following items have been

pulled: 4, 10 and 36. We have someone to speak on the consent agenda. I'm going to call that person now. Yes, councilmember alter.

>> Alter: I would like to -- I don't need to pull this from the consent agenda but I would like to add \$100 in fee waivers towards the library fees for the St. Luis house workshop on poverty and homelessness.

>> Mayor Adler: Okay. So noted for the St. Louis' house.

>> Alter: They do need funds if anybody else wants to.

>> Mayor Adler: And they're doing great work.

>> Pool: Mayor, I would be happy to put a similar amount in if I haven't already.

>> Mayor Adler: Councilmember pool putting in \$100 towards the St. Luis' house.

>> Casar: And mayor, I would like to put in \$100 from my office for item number 13 as we discussed.

>> Flannigan: Mayor, I would also like to add \$200 to item 13.

>> Mayor Adler: Okay. Those two are noted. Okay. So consent agenda, items number 1 through 14, the pulled items are 4 and 10. So it's been pointed out that we have two people that have added fees to item number 13, the March for our lives. Some people in work session had indicated intent to do that, but if you're going to do that you have to do it here.

[10:25:03 AM]

The earlier intent doesn't count.

>> Pool: I have just checked with my staff to find out where we are on defraying 100% of the cost. And if my office could let your offices know and then when we have another break we could identify the amounts of money. I don't right now know what the total is that we've achieved.

>> Mayor Adler: So councilmember Renteria also wants to contribute the same \$200. Councilmember Garza, same thing?

>> Garza: I was going to do 250, but yes.

>> Mayor Adler: Ms. Houston?

>> Houston: 125.

>> Mayor Adler: What we could do, I think, is 200 from Mr. Renteria, 250 from councilmember Garza, 125 from councilmember Houston, and if it goes -- and we've already heard the two 200s that are here. Councilmember alter?

>> Alter: I just wanted to clarify that I had raised mine up to 500 over the course of the week so I didn't know if I had to officially say that as well now.

>> Mayor Adler: Probably good to say it. Now it's in the record. And again, can we say that we'll take all that money if it's needed to defray costs and if it gets us over 100% then we just ask the clerk to proportionately reduce the -- can't do that? Can't do that.

[Laughter]. So let's just do it and if there's extra money we'll -- so what happens if councilmembers commit and there's more than --

>> Pool: I now have the sheet. And if you could run through -- let's see. It was 200 from councilmember Renteria, 250 from councilmember Garza, 125 from councilmember Houston, and it was 200 --

>> Mayor Adler: From Flannigan and Casar.

>> Pool: We're really close. We're almost at 100%.

>> Casar: How much are we off.

>> Pool: We're off by about -- 775 and the outstanding was 1,060.

[10:27:14 AM]

\$285.

>> Garza: I'll do the other 285. I've got it.

>> Pool: Brilliant. Thank you.

>> Mayor Adler: So Mr. Casar is at 485.

>> Pool: Brilliant. Thank you, everybody.

>> Houston: And I want you to know that I would give more, but I've got St. James for Alzheimer's on the list today so I can't give any more than that. St. James Baptist church.

>> Mayor Adler: Okay. Let's go ahead and hear prosecute the public. Mr. Pena, are you here? You want to speak to item number 7.

>> So when is 4 and 10 going to be heard?

>> Mayor Adler: Number 10 if speakers are here they're going to be given a chance to speak on it this morning?

>> Do you have a timetable.

>> Mayor Adler: People with can speak on number 10 this morning or this afternoon and people are speaking on number 4 probably in a minute.

>> I have a meeting at the capitol about 1:00 so I won't be here in the afternoon, so if I can speak on 10 let me know when it's appropriate. So number 7?

>> Mayor Adler: Yes, sir.

>> This is having to do with we call it car seats for babies. We thank the council for supporting this item. It's only 25,000, but we need more because a lot of low ses, socioeconomic families, don't have the money to buy the basics. What I did was veterans for progress had sponsored 100 families and we have some pretty rich people in our organization, so I said you can give some more. So I want to thank whoever thought about this and brought this up. This is outstanding. We don't want any children, babies hurt when they're in a car or a bus or whatever. Even in the bus you should have the babies in a car seat.

[10:29:16 AM]

Anyway, just I'll keep it brief and short, mayor. Just thank whoever it was that came up with this idea. It's an excellent idea and I'm sure one of these days that babies when they grow up to be adults will thank allayer much. Thank you.

>> Mayor Adler: Thank you. Councilmembers, any discussion or debate or notes to be made on the consent agenda, which is items 1 through 14, not including 4 and 10? Is there a motion to approve the consent agenda? Councilmember alter. Is there a second to that? Councilmember troxclair. Did you want to make some notes?

>> Troxclair: Yes. I just want to be shown voting no on items 2 and 3. Thank you.

>> Mayor Adler: All right. Let's take a vote on the consent agenda. Those in favor please raise your hand? Those opposed? It's unanimous on the dais with councilmember Renteria off. That then gets us to items that we can do this morning. There's no one to speak here on item number 15. 15 was the franchise agreement that we have to vote on in three successive days, can't vote on the same day. We had the public debate last time, we voted on first reading. Councilmember Garza makes the motion. Councilmember Houston seconds. Any discussion? Those in favor please raise your hand? Those opposed. Unanimous on the dais with Mr. Renteria gone. 15 passes. That gets us then to items 4 and to item 10. 10 we're going to do after executive session. That means we'll give people a chance to speak on that if they want to unless we break for executive session. Let's pull up item number 4. We have three people here to speak on item number 4. Before we do that,, Mr. Renteria, I didn't see him, he's voting in favor of the consent agenda.

[10:31:18 AM]

On the item number 4, do you want to explain the amendments you put out?

>> Casar: My amendments are the same as what I described in work session. First on income inequality, removing the recap metric because in Austin it's hard to know whether -- on our dashboard if the number of neighborhoods, poor neighborhoods of color is going up or going down, that isn't I think what it is that we are trying to measure. Again, in our gentrification pressures if that number goes down it's not necessarily a good thing. So instead I put in measures for integration and segregation. And the one amendment I would make to my amendment is I recently was told that the martin prosperity newt's measure of economic segregation is proprietary so for now we'll delete it and if they let us use it we'll add it back on. And under housing, I included a metric on how many less than 60 first mfi are -- 60% of mfi people are living inside of the city limits rather than outside and show the growing change of people pushed outside the city that are low income. On our potential future metrics section I added that we're investigating -- city staff has promised to investigate some new metrics on economic mobility and I thought it would be good to find out if we can have an overall economic mobility metric that is a proxy metric included. There is a lot of research that does show how in particular cities or if you go to particular colleges you have a higher chance of moving up the income bracket than others, but our staff hasn't figured out how to do that for Austin yet. This isn't actually a metric, it falls into the potential future metric section. As I brought up at a couple of our sessions, I think it's important in our administration of justice to measure the number and percentage of people that are incarcerated to try to drive that number downward.

[10:33:27 AM]

And then finally under the strategies portion of safety we've talked a lot about how it is that we can address root causes of harm and crime into prevention work in our safety section.

>> Mayor Adler: Okay, thank you. Mayor pro tem, do you want to outline your amendments?

>> Tovo: Sure. These were suggestions and I believe hopefully everybody heard from the ending community homelessness organization. They sent us some suggested edits as well as comments about why those suggested edits -- why they were suggesting those suggested edits and also very detailed information about where within the homelessness management information system that information can be found. But the amendments I'm making are really clarifications more than anything. In number one it expands to use not just the point in time count, but also the annual count of sheltered homeless persons and the homeless management information system. This is readily available information and often when we talk about homelessness and numbers in this community you will hear both of those information points cited so our metrics should capture both of those information points as well. Two stays the same. Three, just clarifies that by new people experiencing homelessness it's rewritten to number of persons who have not been served by the community's homeless system in the two years prior to entry into the homeless system. Again that makes it consistent with how other organizations in our city are tracking that information and how they're defining new people. Four, five and six are unchanged. And down in the metrics for homelessness as they fall under economic opportunity and affordability, it would alleged two new metrics. One is the supportive housing units for people experiencing homelessness. The council prior to any of us being here set as a goal a certain number of permanent supportive housing units and that helps us -- I think having this metric in here helps us know how close we are getting to that goal. So I think it's important to add that.

[10:35:31 AM]

Thin number 8 would be an additional one as well, the number of people who return to homelessness after moving into housing. This again is something that the community of housing providers are already tracking. They're required to by the federal government as part of the grants that they're receiving. So that is also a readily available information that we have and I think relevant to the discussion of how well -- how successfully we are ending homelessness in this community. And then there's just a footnote saying where the additional information can be found.

>> Mayor Adler: Great, thank you. Mr. Casar, on your amendment are we just striking the parenthetical phrase after 120%.

>> Casar: Right, we're just deleting that?

>> Mayor Adler: Those six words. Okay. Seven words. Ms. Houston?

>> Houston: May I ask mayor pro tem a question? Number 5 you're tracking the number of new permanent supportive housings. Dodo you also want to track where they're being located?

>> Tovo: That would be a question for staff because I didn't make any changes for that. That's how it appears currently in our strategic plan. We just --

>> The only reason I ask this is because one of our values is that we not put permanent supportive housing in segregated communities and we put them in high opportunity areas. So I think that would be something to track, but I don't know.

>> Tovo: And I apologize. I went back and forth to put the things on here we weren't changing, but my staff and I decided it might look odd just to have one in three. People might wonder where the other ones went. Anything that's not underlined we're not changing. So again, I would just defer to staff to answer that question about whether that would include geographic.

>> Kim la gar, chief performance officer. With these metrics and any of the metrics when we have the ability to show geographic information we would strive to do that. We will definitely look into the ability to get that information that we can communicate out to the public.

[10:37:38 AM]

>> Mayor Adler: Thank you. We have three people signed up to speak. Yes, councilmember alter?

>> Alter: I had a question for Ms. Alvarez. My question is on the number of the deleted tracks meeting the recap, the concern that Mr. Casar brought up when we had the process and the choice was made by staff to keep that metric as it is. And I'm totally fine with adding the other ones. I just wanted to have an opportunity to hear from staff about any concerns you might have about deleting this item under income equality, which is the third metric, number and percentage of census track for criteria in recently concentrated areas of poverty. I'm fine with the other part of adding the other PTSD, but I didn't know what we would be losing since you guys were the ones who had originally put that indicator in there in the first place.

>> Well, I will ask -- I do know with the added metric one of the things that we need to look into is the continued ability of that information. So we will in an attempt to balance the uncertainty on that one, we would be likely to track the other information so we have both pieces of information available. With the recap, that particular metric, we know that is readily available source of information so that's just one of the other reasons we would probably continue to track that supplementality to make sure we have both pieces of information. So would your recommendation be to not delete that, but add the one as an additional indicator?

[10:39:45 AM]

>> I think that is entirely up to council to make that decision. We're prepared to move forward on either metric. One of the things that we will do moving forward in the coming months is look at not only these metrics, but all of the metrics that have been proposed to make sure all the data sources that we felt like were available for them that they would continue to be available, the segment availability, all those aspects, we'll be digging into all those and come back to you in our future reports to let you know which ones may or may not be troublesome in the future.

>> Alter: So you think that the added one under number three may be problematic in the future?

>> At this point I can't say with certainty, but I think it's something for us to be looking to. But I don't want to make that decision for council at this point.

>> Alter: I guess my concern is if we can't measure number 3, the additional one, and we delete the other one. Obviously we can add the data at any point, but can we just add the other one and understanding that Mr. Casar's point that it's not the perfect measure because you could have displacement causing changes in that. I mean, for any one of our metrics, there were many metrics that you had to be careful which direction was the goal, but it was still nonetheless a data point that was going to provide us interesting information that would help us to make better policy.

>> Rosie Truelove, the director of neighborhood housing. With specifically with respect to our cap measure that is information that we will still have on hand. It's something that we include in our development information packets that come to council for all of our housing developments. So the information will still be available. We won't stop producing it, but whether it's an addition or a subtraction to the strategic outcome is I think council's prerogative.

[10:41:52 AM]

>> Casar: Mayor? So I mean, doesn't the demographer regularly have access to the sepsis data and the -- the census data and the race and median income by neighborhood?

>> I would think so, yes.

>> Casar: So how is that different than what you're saying it might be different than number three, which would be to find -- for example, finding census tracts that are not demographically reflective of the city and census tracts in high opportunity areas that have higher incomes or higher opportunities of low income residents.

>> That's a level of detail that we don't track right now that we can certainly put processes in place to help us capture that information. The measure is something that we already receive the information from the federal government. It's updated on an annual basis so that's readily available. And with the motion to remove the Martin Prosperity information, I think that covers the concerns that we had but again, whether you take away the R cap D cap measure is not staff's on position.

>> Casar: Understood. I think that ultimately producing that new information and tracking that is much more useful than the R cap V cap information in my view because I want us to have metrics that if we're going to pick just a few metrics that we're really going to highlight I want them to be ones that are useful to us. And I just don't know personally what knowing that there's a certain percentage of low income neighborhoods in our city that when the primary thing they're facing inside of the city is massive displacement, how useful the number is to us as opposed to it being an interesting number, as opposed to a metric where we're trying to move it in a particular direction. It's really not a big deal whether we remove it to replace it with this one or. No I just think that your point is really well taken which is that we aren't measuring integration and segregation very much and we're measuring what has been federally required of us from a different era where the challenge was, communities that were stubbornly low income and close to the central city whereas now we're just in a different moment with

our particular housing crisis and over the course of the next five years I just think the emphasis on how do we keep low income people inside the city rather than outside of the city and how do we integrate stubbornly high income areas I think are the challenges we face in the next five years.

[10:44:28 AM]

I really want the emphasis to be on this data we're currently not collecting. And I think by removing the R cap D cap we can remove some of that emphasis, but you will track it anyway so it's a moot point but I think it's -- a pat moot point.

>> Mayor Adler: Mayor pro tem?

>> Tovo: Can I just suggest that we add yours and keep the one that we have? It lengthens it a bit, but it seems -- I guess I would always opt for more information rather than less.

>> Mayor Adler: So you said you were okay with that. Are you okay with just adding the add? And I appreciate that. I understand what you're saying because if we add it as a metric and we do really well on that metric, somebody will think they've done they're job really well if they've moved that metric, but it may not be in the best have interest of the city.

>> Casar: Do we want it to go up or down.

>> Mayor Adler: I think since it's being tracked and there are so many people looking at this I'm comfortable with adding that, but with that understanding. Any objection to that being added as a metric. It will be added now instead of substituted. Let's have the folks come and speak that have signed up for this if they have a chance to do that. Mr. Pena, do you want a chance to speak on item number 4? David king is on deck and then Cathy Mitchell.

>> Mayor, council, you're looking at a guy that's known homelessness. You know my background. We've talked about that. A lot of stuff that y'all bring up about it here just awhile ago by metric, a lot of people don't understand that this backup doesn't tell you about what you just discussed. It should be included in the backup and I recommend it highly that it be input in there because it doesn't do me any good, okay? I'm a president and founder and co-founder, excuse me, of veterans for progress.

[10:46:30 AM]

We're a 7,552 strong and growing. We were born because a lot of veterans homelessness here in Austin, Texas. It states here in a the city of Austin has not had a strategic plan in place since the early 2000s. That's right. Will Wynn was one of the best mayors that included us back then in transitional housing. You can't just say okay. I have affordable housing here. I'm going to put a person here. Do they have wages? Do they have, you know, health care, other means in order to positive transition from homelessness to transition AI housing. That should be a metric. I nearly said a cuss word. My wife and my baby girl, I better keep is quiet. I think you know Richard hallpin. I think you have homes he bought

from hud for one dollars for housing and traditional housing for homeless and veterans also. He would I would recommend you call him. You know what, Austin has gotten too expensive, too expensive around here downtown and in our outlying areas. What's going to happen is you will go somewhere else, Round Rock, forget it, it's expensive. What I wanted to say is that we had enough planning. Let's get some action done instead of just planning, planning, and talk. We're sick and tired of talk, us veterans. I spoke again to Ben Carson, chief of staff, the current secretary of hud.

[10:48:35 AM]

I came back early in the morning, but I told him the problems that are here. Mayor, we have problems here that y'all don't even know about, you aren't even talking about how to transition from homelessness. I told you about that when we were campaigning. Remember, I told you about these issues that you needed to bring up about veterans being homeless. Okay? Let me tell you again one thing and I'll admonish you. I don't want to hear any more that we have -- I'll wrap up.

[Buzzer sounds] We don't have any more military veterans that are homeless just because we have programs. That's not true. Let's get going and be more honest about it. Thank you.

>> Mayor Adler: David king.

>> My main point is that the strategic 2023 plan looks at current businesses of Austin than future residences. It seems like over the past few decade, our land development policies, growth policies have been focused on those who are -- who may move here in the future. And not so much on those of us who are here, have been here. The same has been true for the population growth and the people moving here. Now that we see the impacts of those policies, now we care about displacement and gentrification. We should have understood those potential impacts from those policies prior to this impact. So now it's time to focus on those who have been here and invested in our neighborhoods and our communities? I'm not against people moving here. I was welcomed here. I'm glad people are moving here, but our policies need to reflect those that live here and invest in our communities and impacts that growth is having on those who are here. You know, you all pass ordinances and resolutions with the intention that they're going to help our communities and address these issues.

[10:50:41 AM]

But who is tracking to see that they're actually being followed through with. On the news this morning I heard that a policy on fair hiring that you all work so hard to pass, there's been no progress on that. That's an important priority for our community. So I think that part of the strategy should be to track an online tracking system so we can all see the extent to which your policies and your directives have been implemented. So we can see the progress or the lack of progress that's being made on those. And I also think that we need an online system to track metrics to show the extent to which those policies and strategies have benefited or maybe not benefited low and middle income families. You know, our

wealthy, affluent families are doing just fine and they're going to continue to do just fine and I'm glad for them. But we should be worrying about the low and middle income families. That should be our top priority. So I hope that that's reflected in the strategic plan and that we take care of those low middle income families and the families of color that have been discriminate the against for decades in our city. Thank you.

>> Mayor Adler: Thank you.

>> I'm Cathy Mitchell and here to talk about the public safety section although I have one overall comment that I think applies to the whole thing. Thank you for including use of force as a measure. Very glad to see it. I believe this might be the first time that that has been actually that has been enshrined in the plan. I think that early the

[inaudible] Like I would assume that the metric because we see [lapse in audio].

[10:52:45 AM]

I'd like to clarify, I think there were some challenges. We are at a time when crime is dropping and the infrastructures that we've created have basically stayed the same or grow. Sort of [lapse in audio] Crime rate and real reduction in crime is [lapse in audio] That's a challenge, identify changing community standards with respect to community expectations that they have from our public safety workforce and appropriately match our strategies to improve community relations. And -- [lapse in audio] To roll out their alternatives to arrest and booking for pot possession. That is something I think this community strongly supports. That should have implications for the behavior of or city police force. That is -- that sort of roll-up of a changing community standard, a set of new metrics and then a set of new community expectations of our public safety workers isn't really covered anywhere in the strategic plan as I read it. So I guess what I'm recommending is a couple of new challenges be recognized.

[10:54:48 AM]

Obviously there are more metrics, but the metrics are pretty broad and I think those could be added later. But one I want to highlight in terms of a broad strategy is that in criminal justice --

[buzzer sounding]

--

>> Mayor Adler: You can finish your thought.

>> Can I finish my sentence? One of the big problems is that nobody owns all the data, and that I would strongly recognize that the city get together with the county and try to develop improved data that takes you from arrest all the way to the end of a case so that we can actually start measuring things like whether arrests are resulting in dismissals or whether they are resulting in deferred adjudications and

whether our system is actually going in the direction we want but that requires data that we don't have right now.

>> Mayor Adler: Thank you very much. Council, that brings us back up to the dais on this item number 4. Any objection to including the amendments? We have done this, but in case we didn't those two amendments from the mayor pro tem and Mr. Casar are incorporated in item number 4. Councilmember kitchen.

>> Kitchen: I am interested in the suggestion for working on additional data that our previous speaker just brought up, so I would just like to ask our staff to look into that and get back to us about it.

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

>> Alter: This has been a long process, over a year, my first week as a councilmember, day-long meetings on the strategic plan, and I do a shout out for the staff engaged in this with us and with others across the city, interim city manager, bill Goodman and all the folks who led the project team.

[10:56:58 AM]

I'm really excited to see

[lapse in audio] There's still a lot of work to do, but I'm excited by the energy and the [lapse in audio] And the talent that has come to the forefront but also had an opportunity to grow through this process.

>> Mayor Adler: Members who have worked on this, please stand up so we can recognize you.

[Applause]

>> Mayor Adler: I think this could be a-men for the city and how we move forward. Great job. The city manager who I think took the greatest risk associated with putting us on this course because we didn't know what would happen so thank you.

>> Houston: I would like to thank our consultant who came down from the cold north country into a very different kind of environment and has been very courageous in leading us into new territory so I want to thank you.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I will join in the thanks that my colleagues have just expressed. I'm excited that this document is hopefully going to get us on the path of making sure that we are really data driven, making data driven decisions and aligning budget priorities with the things we want to improve in our community and that we're going to have some metrics to help us know where to best allocate our resources.

[10:59:04 AM]

But I have struggled this week with understanding just the document as a whole reading through it. So focused on basically what is the best way to allocate city resources, and I'm really struggling with the -- with where it is reflected -- where the priorities of the people in my district and across the city who think that the city should be doing less, should be collecting fewer taxes and should be having less programs -- I just don't know what the appropriate -- I don't see where that's reflected in the document as a whole. I understand it's hard to get 11 different councilmembers with different districts on the same page about what our priorities are for the city, but I do feel I have consistently tried to bring that issue to the front, to the forefront. There is a metric or two in the government section that I think speaks to property taxes, but ultimately going through the sections on affordability and some of the other -- some of the other sections, I don't know that because it is property taxes or -- because rising property taxes are a frustration with the city

[inaudible] The number one issue for my constituents, struggling with how this is reflected in this document. I want to support the direction we're moving and getting more information for today just for the reason I just mentioned.

>> Mayor Adler: I understand.

[11:01:08 AM]

Further discussion?

>> I want to echo the appreciation to elected officials engaging in the conversation. I think it's really important going forward as a city I want to thank [lapse in audio] Comments that something that will -- commitment to ensure that regular points and milestones to the council back to the community so we can reevaluate our direction of the city. This is a big -- but it's a step that fully [lapse in audio] As a community. So thanks to everyone.

>> Mayor Adler: Okay. All in favor raise your hand. Those opposed? Councilmember troxclair abstains. It passes. Thank you. I do want the opportunity for people to speak to sign up here before we go into executive session. Mr. Peña, do you want to speak on item 10?

>> Mayor, Gus Peña again. Distribution of affordable housing units. I didn't get any backup for this item so I'm not aware how to [lapse in audio]

[11:03:14 AM]

>> Mayor Adler: The resolution --

>> The resolution -- what is it that will happen on this? Distribution, I don't understand the resolution.

>> Mayor Adler: When we get back to the dais.

>> Let me give my point of view. So people can understand, I'm not dumb.

[Lapse in audio] Statement about the item in the agenda so I would recommend that. You know, I just can't make educated statements and rebuttals regarding just this verbiage without backup, so I would ask you to look into it. There should have been some backup on this so we can really understand. I'll leave it like that and listen to the other speakers.

>> Mayor Adler: Okay. Thank you. Mr. Hirsch and David King is on deck.

>> Mayor and members of the council, Stu from district 2. You often hear about the acrimony that occurs in this community but you don't hear about the collaboration that's successful and I'm hoping today's action which I embrace won't undo a successful collaboration that we've done previously. Several years ago we recognized that we were having a problem when veterans -- housing [lapse in audio] Coming off the streets.

[11:05:25 AM]

And we were successful. But at least for the year it was. I hope veterans at Fort Hood and facilities in Texas are precluded from being -- find that they need housing. And both -- served in the Navy. And I'm hoping that you don't undo good work by prioritizing -- I will tell you my commitment is so strong I wrote a song about it. Councilmember Pool may not want me to sing it, but it comes from our brothers and sisters in Scotland and goes something like this.

♪♪ You'll keep your old code, we'll write write a code and we'll build more housing before ye, the rules were fairer and simpler way back when as we try and remain and return to Austin please don't undo good work. Keep the principle but make shows who come out of state hospitals are not precluded what you are about to do on item 10.

>> Mayor Adler: Mr. King and then Susana Almanza is on deck.

>> Thank you, mayor, mayor pro tem, councilmembers. I'm -- I guess fortunate or unfortunate to follow Stu. I can't match his skills in singing, but, you know, I do think this is an important resolution and I know earlier in my comments I was concerned about the focus being, you know, not so much on those of us who are here, but this resolution does focus on those who are here and have been pushed out and I think this is really important and appreciate you taking the initiative to move this resolution forward to really focus on residents who are being -- who have been gentrified, been displaced.

[11:07:34 AM]

And this is a tough problem to solve, I understand that. But this is one of the first steps in solving that problem. And I think -- [lapse in audio] Policies that prevent displacement in the first place. I look

forward to seeing resolutions that will help address that aspect of our strategies here. Stop the displacement, help those who are been displaced give the opportunity to look back. And I hope to look at other tools. I shared with you [lapse in audio] Is to try to help the low-income families, help with the strategy and talk and focus -- as I mentioned earlier, the wealthy familiars are going to do just fine no matter what policies you pass, they are going to do fine. So I'd really appreciate focus on the families that are being gentrified and pushed out of our neighborhoods here. The -- I do think you need other tools, though, to look at, and as I mention, I don't think zoning is necessarily the way to get directly at those. I hope that you will really take an initiative and look at public owned properties that are in these neighborhoods of high opportunity and make them available for low-income housing as soon as possible. Use eminent domain to get land that we need and make it available to low-income housing. And I understand eminent domain is a very, very difficult topic to look at here, but if we look at the past, we've used eminent domain to push out those people, those families decades ago.

[11:09:39 AM]

Why aren't we willing to look at the same tools today to right that wrong? So if we're going to use zoning, we need to use eminent domain as well to make land available. That's the way to directly make - land is the biggest issue with the -- with displacement and affordability. It's the land that's expensive.

[Buzzer sounding] I hope you will consider other tools to help us solve this problem. Thank you.

>> Mayor Adler: Thank you. Susana Almanza,.

>> Good morning, mayor and city councilmembers. I'm Susana Almanza with poder, and poder supports item 10 and we would like to thank the sponsors, mayor pro tem tovo, Houston, Renteria, pool and kitchen for this. This particular item actually is one of the items that is on our six point peoples plan which is adopt the right to stay and right to return programs so east Austin residents. On mlk day we had a press conference, a coalition of people which included naacp, poder, eastern crescent rights, save the montopolis neighborhood school coalition and communities not commodities, and we kicked off with the poor people's campaign with the people's plan which lays out in detail six resolutions or draft ordinances that the city council can adopt and begin to implement. The solution is to enact specific programs that have worked in other cities that are making major public investments in low-income, affordable housing and restricting land use to prevent demolition and redevelopment of our neighborhoods. And these are the six points in the people's plan. One, create low-income housing trust fund and appropriations, establish a separate dedicated low-income housing trust fund in which all city housing funds are placed.

[11:11:45 AM]

Allocate 1% of the city's budget each year to the trust fund to construct or subsidize housing for low-income families. Also include 20% of all future general obligation bond elections would include low-

income housing. Two, adopt the right to stay and right to return programs for east Austin residents. Develop policies to reduce or freeze property taxes for low-income residents and seniors, create home repair programs, use public-owned land and property to build new land bank and land trust homes for low-income and former families of east Austin. Three, use city-owned land for low-income housing, identify eight properties owned by the city of Austin that can quickly be made available for building low-income housing. Four, expand the use of neighborhood conservation combined districts and historic districts. Apply tools to help conserve and preserve our neighborhoods and prevent gentrification and displacement. And five, establish interim development regulations in areas within adequate drainage. And six, implement Austin environmental quality review. And I just want to state that we're no longer using a term affordable housing because there's not been affordable for low-income working poor --

[buzzer sounding]

-- So we're using low-income from zero to 40% mfi. Thank you.

>> Mayor Adler: Thank you. Mr. Yanis.

>> Thank you, I'm Daniel yanis and it's a rare moment when I feel really happy and in this context, I mean. And I'm very, very grateful to councilmember tovo, councilmember Houston, councilmember Renteria, my councilmember, for once, and Leslie pool and Ann kitchen.

[11:13:53 AM]

I congratulate you all because this is absolutely the very first step that anyone on the council has taken to support the people's plan. Which Ms. Almanza just outlined to you. Has nothing to do with codenext. My neighborhood plan is part of this. The people's six-point plan could be applied today. It is real and it is something that we can do. And I will point out -- well, this resolution touches on number 2, but number 2 and number 3 are really big for us. And the mayor knows this, we in east Austin have been working on our housing plan, which I would love to meet with the rest of you councilmembers and show you this plan for alternative building systems, using a two-pronged partnership, one in the private sick, and think east project, that is the model in the private sector. A developer and the nonprofits. 600 units, 300 of those, half, are 60% and below. So that's the model in the private sector. In the public sector the model is to partner with the nonprofits and use city-owned land. So mayor, you know very well what I'm talking about, the people of our housing project. Councilmember Renteria, I would love to sit with you and discuss this. Like I said, it's one of the rare times I come up here and feel really good and congratulate you councilmembers who are listed here who are brave enough to take on systemic racism because that's what this addresses. As I said before, I'm hopeful for our town to leave its racist legacy behind and include everybody. And economics is one of the biggest ways to do it. So thank you very much. I really appreciate it. We need one more vote.

[Applause]

[11:15:53 AM]

>> Mayor Adler: Councilmembers, those are all the people signed up to speak on this. I'm looking at what we have up items 16 and 17?

>> Tovo: I wanted to thank the speakers who are here and support or for advancing this issue as well as the task force on institutional racism and systemic inequities for highlighting this as an important strategy Austin can use. Some of you may not have heard Tuesday's work session so I want to be sure you have an opportunity to hear my commitment to having a stakeholder process. We had it in the resolution and removed it because I think it will be most helpful about what is possible in Austin rather than bringing folks together how this program will look in the city of Austin. We'll get a better sense of what the legal parameters will need to be and then we'll have those public conversations about how to structure it here in the city of Austin. Taking into account some of the feedback that we've gotten as well as some of the concerns that Mr. Hirsch and others raised about how we balance generational ties alongside other criteria. So again thanks very much for being here today to participate in this conversation and hopefully there will be more conversations down the road once the city attorney has reported back, or city manager has reported back.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Yes.

>> Renteria: I have just a --

>> Kitchen: I have a few questions about the language, sort of clarification. Should we be doing that now, are we coming back to it later -- back to it later?

>> Mayor Adler: I would suggest we would do that next. And there's nothing else for us to do other than go into executive session. The next thing we have is citizen communication at noon, and, you know, my question here, is there anything to stop us from going into executive session to discuss this earlier than noon?

[11:18:01 AM]

No? Want to make sure. Councilmember pool.

>> Pool: I just wanted to make one comment on item number 10 and also extend my thank you to them for being here today and also mayor pro tem for bringing this item. A criticism I have long had with the city's attempts to provide lower cost housing, affordable housing, is that we never have -- we have never really challenged ourselves with regard to the percentages. It's always been 10%, you know. If we're lucky we might get to 15%. And 50% is huge. And I think that is actually where we should be aiming our -- that should be our focus. If we really want to make a difference and provide the housing for the people who are at the 40% mfi or 60% mfi, which we all say regularly on this dais, then that means that we will challenge the developers who come to town to build even the for-profit developments to provide that kind of a community benefit for us. Because 10% is not enough. 50%, on the other hand, would really, really make a difference. So thank you for the people's plan. I have asked staff to look at the additional

elements to see what we are doing already that you may not know about and that I can enlist your assistance on to support you and also to the mayor pro tem for her work over the many years that she's done in this -- in this area. On behalf of the community.

>> Renteria: Mayor?

>> Mayor Adler: Yes, Mr. Renteria.

>> Renteria: You know, that particular project was a very difficult project. They were requiring

[inaudible] To pay for the whole road improvement which was close to \$3 million. And fortunate for us during the transportation bond election we committed some cip money to finish that road so that we could have affordable units.

[11:20:01 AM]

We're also going to have Cesar Chavez nonprofit building corporation building there and also the Austin housing authority are going to be building units there. So this is a very big win. Unfortunately years ago that money that was dedicated to that road was used on another street in northwest Austin, and it never got built. And that has kept a lot of the projects on hold. I'm sure that yonis during the -- their contact probably about five years ago where that project came online and there was nothing we could help them on because they didn't have the funding to build that road required under our development code. So, you know, and I want to thank the mayor for helping us out on putting that mean into the improvements so we could continue building -- so we could build those affordable units here in the govalle neighborhood.

>> Mayor Adler: Thank you. With that said, we're going to break now, go into executive session. We'll be back out here at noon to do a citizen communication. At that point maybe we'll have a clear idea of where we are. Once we handle this item after executive session, the earliest we could do anything else on our agenda is 2:00 P.M. So just to keep that in mind. City council --

>> [Inaudible]

>> Mayor Adler: 3:00. City council will go into closed session to take up two items pursuant to the 551, personnel matters related to item 36, municipal court judge, judges appointment. And pursuant to 551.071 government code, city council will discuss legal matters related to item 10 which is distribution of affordable housing units for low and moderate income households.

[11:22:02 AM]

Without objection, it is 11:21 and we will recess for executive session.

[12:04:42 PM]

>>> >> >>>

[12:07:39 PM]

>> Mayor Adler: All right, council. It is still March 8th, 2018. It is 12:07. We just came out of executive session. When we were in executive session we discussed legal matters related to item number 10. We are now back out. We have a quorum present and we're going to continue with our agenda and we're going to begin with citizen communication. Do we have speaking here today Roya Johnson?

>> Yes.

>> Mayor Adler: Why don't you come down to a podium. You have three minutes. And Frank Harrison will be on deck. Ms. Johnson.

>> Honorable mayor, city councilmembers, my name is Roya Johnson. I have prepared letters with exhibit which outlines what I seek help with. Copy of this letter was mailed to each one of you certainly personally a year ago and also to honorable Lloyd Doggett's office since this is part of his district. We have lived in west Austin for the last 43 years. This all started in 2007, we bought a property at 3001 Manchaca Drive in Del Valle, which was annexed by the city approximately 40 years ago. Very quickly we learned a side of Austin we never knew existed. Neighborhood worse than third world countries and forgotten children. As we watched our neighbors struggle to keep their homes from being washed away because of the flooding due to no curbs, gutters and massive runoff and trash washing into Colorado River. We saw children stealing and dealing drugs in and out of jail and violations all over the place.

[12:09:45 PM]

Our reaching out, trying to work with the code department and others at the city only created code violations to stockholders who complained. We wanted to create a sustainable, happy place to share with these families by example. We put off building until the problem is addressed by the city. We believe that the city has ended up its citation to move our air stream. We have been paying for taxes, mortgage, utilities on the property since we bought it, including ICRA as we wait. We can move our air stream easily to other properties, no problem, but this is not the point. This neighborhood, families and children and other environment deserve better. Please see the map attached on exhibit 1, page 1 and 2 are the aerial photos of the neighborhood and also I have put a website together. You can see that at the website at the infrastructure. No infrastructure. This neighborhood is only nine miles east of Capitol and your offices. This neighborhood is example of why our jails are growing and our children spend

more time in jail than in schools or their neighborhoods. I have watched them being caught and put in jail for weeks and weeks and cried.

[Buzzer sounds] Lack of infrastructure --

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

>> -- Coupled with exploitation by the code department is unbelievable, please see slides 3 and had for the infrastructure and code enforcement problems.

[12:11:46 PM]

>> Mayor Adler: Thank you. You had three minutes and we have the materials.

>> Okay. And also the website you are welcome to look at it. And please help.

>> Mayor Adler: Thank you very much.

>> Mayor, somebody from my staff --

>> Mayor Adler: Ma'am.

>> The next speaker we have is Frank Harronren and then McCaleb Wicker. What about Eric Goff? You will be on deck.

>> So far the proposed code is a big fat zero. And the reason we have is a big fat zero is not because of the staff and consultants. It's because of the underlying policy of advocating against change something of which some of you are very guilty. Having said that I want to say a huge thank you to the gang of four, members, Casar, Flannigan, Renteria and Garza. Hang in there. What they need is for two of the rest of you to join them in their pledge to vote no unless and until the code makes a substantial improvement in don't and social equity in our neighborhoods. There's a basic rule regarding the cost of land in the creation of new housing. Whatever you have to do you pay for the housing units that total about four times that dollar amount. The median lot price in central Austin is about 500,000. That means for a feasible project the final sales price of whatever is built must be around two million. If that's divided into two units, which is the current draft-free proposal, each of those units will average a million dollars. If, however, each lot is allowed six units the cost of each must be around 325 to 350.

[12:13:50 PM]

As I've said many times from this podium we used to frequently allow five or six units per 50-foot lot back in the '60s, '70s and early '80s. Then the 1984 code was enacted at about the same time that ANC started having significant influence at city hall. Since that time Austin's construction of new housing has been significantly muted. Chris Riley has a powerpoint slide that shows this in graphic detail. In 1984 Austin was one of the most affordable cities in the country. Since we passed the current code and

started listening to the protectionist idea, affordability has gone continuously and dramatically downhill. Those of you who wish to call this a 35 year long coincidence keep dreaming. While I'm not saying that any of you are immoral, those of you who advocate for a lack of density in our neighborhoods and there by a lack of affordability are advocating for something that has morally wrong results that will exacerbate our already worst in the country segregation, and many of us are tired of it. It's time to get back to doing what's right, doing what works and what has already worked here in Austin. And that is to advocate for the buy right construction of small apartment buildings throughout our central city. Thank you.

>> Mayor Adler: Thank you. Mr. Goff.

>> Good afternoon, council. I hate to be the bearer of bad news, but it seems like Austin's plan to allow more families to own homes in central neighborhoods is as far away as ursa major.

[12:15:52 PM]

If we want something more than million dollars homes we need something more than codenext. I have been hyper nateing all winter. Friendly neighbors putting up more barricades to homes near them. That's why I'm happy codenext will allow more B units. You can't let opponents of new housing bury codenext in an unmarked grave. You need to stand up for homes if you want traffic to be bearable in the neighborhood. If you really care about equality you need to focus on providing housing, not just trying to find a middle ground that makes such debate unhappy. The development rules are bad news for everyone and it is up to you to fix it. If you want to avoid a future pandemonium act more decisively. Let's put the den in density.

[Laughter]

>> Mayor Adler: I love this city.

[Laughter]. All right. Is SHAWN Howard sneer come on down. Is Kate Pearson here? You will be up next.

>> Hello, good afternoon. My name is SHAWN Howard. I live in the Barton view neighborhood in Austin off of south Lamar. Last summer disgusted by the garbage under the highway for days and days near my home I took it upon myself to go out and pick it up. From Westgate all the way up to Ben white. It took me half a day, filled two 55-gallon bags chock full of trash. A lot of that garbage was caused by the homeless community that were residing there at the time. I called the city of Austin to try to find out what to do with that trash once I picked it up and there were no solutions other than for me to buy labels at H.E.B.

[12:17:59 PM]

And put on garbage bags by the curb, which I did. There was no problem with that. But that brought me up on the idea of actually employing the homeless to pick up trash. And I even thought of paying out of

my pocket instead of them panhandling to buy them ten dollars for every big bag of trash they could bring to me because I like to keep Austin clean. I will have to talk really fast to read this little speech. The city of Fort Worth has been trying a new way to get homeless people back on their feet while cleaning up the city and so far it's working. In cooperation with the presbyterian homeless shelter who helps run the program while the city of Fort Worth pays ten dollars an hour and gives them benefits of having a real job and developing a resume, last year the program employed 40 people who collected 305,856 tons of charge from the city. And people don't realize walking around the city, which I've done off of the green parkland areas, along the sides of the roads, out of the sight of your car, the garbage is everywhere in this city. And it gets washed into our waterways and into town lake and lady bird lake. And that's, what, 250 tons a year picked up by volunteers out at the lake? And a lot of that wouldn't be there if we picked it up before it got there. Going on, if a small and willing percentage of the homeless population participated in a program such as Fort Worth is doing, it would in fact help reduce the number of panhandlers, lead to a reduction in the number of homeless, and also have the amazing twofold effect of keeping Austin a city which prides itself on greenness and environmentalism clean. I feel that consideration of such a program, maybe consulting with cities such as Fort Worth, Albuquerque, New Mexico is another one to see how they're doing it and not reinvent the wheel. Of course, it would be unique problems in our city because we're different and unique.

[12:20:03 PM]

Anyway, I think it would be great to have the council consider such a program UT very much. Thank you very much.

>> Troxclair: Mayor, I just wanted to respond and let you know that we actually did pass a similar program based exactly on the Albuquerque model that has been really successful there. Several months ago. I think it was like last August now. We're still working to get it off the ground and the council didn't allocate specific funding for it in the budget cycle and I've been working with staff to try to get it going because it's actually a relative small start-up cost. Fort Worth is one of the cities that has called my office looking to Austin to how our program is going. It's just it's taken us longer than we thought to get it going. So I really appreciate that you are bringing this to our attention. I think it hopefully will help to inspire progress on the program.

>> That's encouraging. Thank you so much.

>> Troxclair: Yeah.

>> Good afternoon, my name is Kate Pearson. I'm here piggybacking my friend SHAWN Howard. I have always felt passionately about helping to bring solution to homelessness. I was given a feed in my social media a couple of years ago. This video has gone viral. Maybe you've seen it, which addresses the same sort of solution or infrastructure that can be placed into cities which help to provide homeless people with jobs by helping them to do cleanup, trash and working with landscape, hanging lights, things like that. They are given benefits. They get to begin to rebuild their resume. They're given a stable housing place to live.

[12:22:06 PM]

Cities such as Albuquerque, which are implementing this program a called a better way are following sort of a similar structure where they are providing buses to go pick up panhandlers, offering them a job, giving them minimum wage, providing them lunch and a way to kind of get their dignity back through work and through serving their community. Just wanted to bring this to the table as a way to help inspire and maybe spark new solutions and new ways of helping to motivate and move forward, sort of a problem that's very epidemic. That's all. Thank you.

>> Troxclair: Thanks. I -- that's what I was going to say is that Sarah Hensley is kind of overseeing the department that is putting this program in place so she can provide you more about the progress and what woo we're trying to do in Austin. I'm so grateful that you came out today to share your support.

>> Wonderful, thank you.

>> Mayor Adler: Council, that's all we have on citizens communication. We could certainly take up item number 10 if we wanted to take that up now. Mayor pro tem?

>> Tovo: I'd like to move approval of this item.

>> Mayor Adler: There's been a motion to approve number 10 S there a second to that? Mr. Renteria seconds that. Mayor pro tem, do you want to discuss it first? Discussion on the dais.

>> Tovo: I don't really have much to add to what we talked about on Tuesday or today. A very important policy for the city of Austin so have in its toolbox and I look forward to the city staff working on -- looking at some of how other cities have structured their programs to see how we can structure such a program here in the city of Austin that would help people who have been displaced from their communities or from Austin to return.

[12:24:11 PM]

>> Mayor Adler: Discussion on the dais. Councilmember Garza?

>> Garza: Mayor, I thought legal was going to provide some -- an amendment sheet. I'm just confused why we're bringing it up now.

>> Mayor Adler: I had forgotten that. So we'll pick this up -- because legal was going to give us a new wording for that one section. She was just with us. We may pick this up closer to 2:00. Beyond that, we need to give her time to be able to do that, okay? Mayor pro tem, I've handed out an amendment to this that adds a whereas clause that just makes reference to the anti-displacement task force and asking that the parameters or the rules or the indications also get communicated to that task force. Are you okay with this amendment?

>> Tovo: I'm completely okay with the whereas and I'm fine with the insertion into the be it further resolved with the understanding that to extent they're providing us with legal information that's attorney-client, I would -- obviously that would just go to the council and not to the anti-displacement task force.

>> Mayor Adler: Right. It would be appropriate to the body. So legal I think is advising or could advise the task force on what we could do or legally not do. So it would be whatever is appropriate for the body. Okay. Any objection to that amendment being included? Hearing none, that amendment is made part of this. Councilmembers, we -- there's nothing we can do until 2:00 unless -- other than this item number 10. We need to give legal time to do this. Do we want to come back at a few minutes before 2:00, like a quarter till?

>> Garza: I thought we were having executive session --

>> Mayor Adler: You're right, I forgot that too. So I think the goal -- we're going to go into executive session and then come out relatively close to 2:00.

[12:26:12 PM]

Mayor pro tem.

>> Tovo: I was just going to ask that we take a look at what we're doing at 2:00 to see if it's very short and if we can come back -- if we could let the public know that we would be back at 2:30. I wasn't sure how long that 2:00 agenda was --

>> Mayor Adler: The 2:00 could include the action on the judges. It could also include the four east cure issue which is the zoning case coming back to us. I think 2:00 might be right.

>> Tovo: That might take us an hour.

>> Mayor Adler: The judges can't be until 3:00 because we called that on a time. All we'll do when we come back is 10 and four is the cure and then we'll do judges at 3:00. All right. So now we're going to go into executive session pursuant to 551.074 government code to discuss personnel matters related to item 36, which is the appointment of municipal court judges. Without objection, and I hear none, we will recess and now go back into executive session.

[2:14:18 PM]

>> Mayor Adler: All right. We are out of executive session. In executive session we discussed personnel matters pursuant to 551.074, I think think. To discuss personnel matters. Related to numb item number 36. It is 2:15. We are back with our regular meeting. And the items in front of us to consider right now are item 4 and -- I'm sorry, item number 10 and -- 10 kick consider. We can also consider zoning cases. Why don't you take us through the consent zoning, Jerry, and we'll let some people go.

>> Mayor and council, Jerry rusthoven with the zoning and planning department. The first case is case c-14- c-14--2017 an 0133, I can consider that for consent agenda. Item number 19 is a discussion item. Councilmember kitchen wanted to discuss that.

>> Kitchen: Actually, no.

>> Item 19, c-14-2017-0118 I can offer for second and third readings. Item 20, c-14-20170122 I can offer for approval on all three readings. Items 21 and 22 are discuss. Item 23 and 24 are related, case npa-2017-0014.01 and c-14-2017-0010, those are both expected to postponement to April 12th.

[2:16:24 PM]

Item 25 is a discussion item. Item 26 is a related item also a discussion item. Case 27, staff is requesting a postponement to your April 12th meeting. Case 28 is C 814-2017-0001, case is requesting a postponement to your March 22nd agenda. Item number 29 staff is requesting a postponement to your April 12th agenda.

>> Pool: Mayor, on this one I'm going to ask for the postponement to be to April 12th.

>> That's what I said.

>> Pool: Did you?

>> Yes.

>> Pool: I was too busy turning on my microphone. Case number 30 is a duplicate of case number 27. It was a mistake. No action is required. Case number 31 is case c-14-2017-0136, staff is already requesting a postponement of this item to April 12th. Those are all the consent items.

>> Mayor Adler: Colleagues, I want to identify an issue with respect to the April 12th council meeting. The the mayor pro tem and I participated in a grant competition concerning a displacement effort with policy link. We've just gotten notice that we were awarded one of the cities to participate in a displacement work that's happening nationally to look at tools and other things. But that would require both the mayor pro tem and I to be gone on April 12th. We're trying to figure out what to do now. One possibility would be to do April 12th. I'm not sure if councilmember troxclair will be here, but you have the possibility of having a council meeting with only three people there.

[2:18:25 PM]

One alternative, if it works for people, the calendars is to move the April 12th meeting a week earlier to April 5th, but I didn't know what people's calendars looked like or whether people wanted to do something like that. Would we be able to move these items to April fifth as opposed to April 12th?

>> Mayor, you could as long as the motion was to move them to that date. Yes, mayor pro tem.

>> Tovo: So if we moved them to April fifth, but then we don't have a meeting on the 5th, if we're not able to have a meeting, then what happens.

>> The items that you're postponing today you can postpone April 5th instead of April 12th. What would be effective would be the items on previous agendas that you've already postponed to April 12th. We would have an issue on those because they're already set for April 12th so we would have to renotify those cases and they would be set behind. And then I may have cases that have already been notified for April 12th. I may have time to go ahead and renotify those cases for April 5th instead but the ones who have already been postponed to April 12th I presume I could renotify them for April 5th. I would have to go through -- I can't think the cases off the top of my head that we've already postponed.

>> Tovo: Thank you.

>> Mayor Adler: Yes, Leslie.

>> Pool: The two zoning cases that are district 7 my staff is notifying me that the April 5 date is a problem for them to move them earlier, but we may be able to move them to the second date in April if we are not having a meeting on the 12th.

>> Mayor Adler: I don't know yet what is set on April 12th so I don't know if there are items that are non-zoning that could be -- if we wanted to have a fuller council we could do a meeting on the 5th and handle those things that might require more votes.

[2:20:26 PM]

And then on April 12th if the mayor pro tem and I were not here you might be able to have a very short meeting with the things that were set on the 12th.

>> We're discussing this.

>> Alter: I have a conflict on the 5th, but I should be able to probably move it if I have to.

>> Mayor Adler: Okay.

>> Renteria: Mayor, and also that's the week that we're going to have the housing summit. So I don't know if I'm going to be here off and on, but I had planned to be at the event but I would have to check the schedule out because this is one of our events that I have been working on for last 10 months. So I really feel like I need to be there.

>> Mayor Adler: And it's on the 5th that's the Thursday. Do you know what days of the week that conference is? Do you know what days of the week that conference is?

>> Renteria: Yes. Yes, I do. It starts on the 4th and the 5th. Wednesday, Tuesday -- it's four days.

>> Mayor Adler: Okay. Sounds like the meeting still has to happen on the 12th.

>> Sounds like the meeting what?

>> Mayor Adler: Sounds like the meeting still has to happen on the 12th.

>> Garza: Sorry. I walked in late and heard the very end of the discussion. I don't know if we're at the same thing, but I will be in Chicago on the 12th for a policy thing. I don't know if it's the same thing. I will not be here on the 12th.

>> Mayor Adler: So that's four councilmembers that are gone on the 12th. I don't know if you will still be with us on the 12th. No.

[Laughter] So it sounds like you have seven councilmembers on the 12th.

[2:22:37 PM]

>> Pool: Mayor, I suppose what we might do is continue on April 12 and if it looks like things need to have the fuller dais that may require additional votes we can post then to the next meeting, which looks like April 26th, two weeks after that.

>> Mayor Adler: Yes, mayor pro tem.

>> Tovo: I wanted to mention, remember, you need at least six votes to postpone. And when we had three councilmembers gone from the dais we actually even had trouble taking action to postpone items on that day. So four councilmembers out is really very challenging number to go into a council meeting with. I would suggest we -- if we need to table the consent zoning or do whatever, I think we need to regroup and figure out a plan B.

>> Mayor, if I could add there were three items from your last meeting that were postponed to April 12th and I don't know if there were any council meetings before that.

>> Mayor Adler: Okay. So I want some time to think about this. So on the consent agenda I'm putting on everything except the postponements to the 12th so that we can think about that. So the items on the consent agenda are items number 18, 19, 20, 28, 29, -- I'm sorry?

>> 29 was to April 12th as well at the request of councilmember pool.

>> Mayor Adler: So not the 29th. And not the 31st. So the consent agenda is 18, 19, 20, 28.

[2:24:38 PM]

Is there a motion to approve the consent agenda? I'm sorry. Someone here to speak on an item? Is someone here to speak on item number 28? Mr. King, did you want to speak on 28? No. Thank you. Yes.

>> Houston: What happened to 23 and 24? Did I miss that.

>> Mayor Adler: 23 and 24 are not voting on right now because right now they will be postponed to the 12th, but I want a second to think about that. So I pulled off all the items that we think we're going to

postpone to the 12th and I'm not making them part of the consent agenda quite yet. And those would be items 23, 24, 27, 29 and 31. There's been a motion -- a motion to approve the consent agenda.

>> Pool: I think we need to put 32 on that as well. That one is postponed to the 22nd and -- I'm sorry, no. Wrong case.

>> Mayor Adler: Is there a motion to approve the consent agenda? Ms. Houston makes that motion. Ms. Garza seconds that motion. Again, the items on the consent agenda are items 18, 19, 20 and 28. Yes, Mr. Flannigan.

>> Flannigan: I would like to be shown as voting no on 18 and 20.

>> Mayor Adler: Okay. Any further discussion? Those in favor of the consent agenda please raise your hand? Those opposed? It's unanimous on the dais. Let me think about the scheduling thing. In the meantime let's go ahead, we have two things we're going to take up right now. One is the item number 10 and the four east cure matter. Anybody have a preference as to which one comes up first? Let's take up item number 10 and see if we can get it done.

[2:26:40 PM]

Mayor pro tem? Did we get this stuff back from legal?

>> Tovo: Yes, I am about to distribute it. We have two options. I'm going to distribute those and describe while they're coming down the way. If you look at that one, the only change -- in the first bullet changes census tracts to areas, in the second to areas. So there's that amended version.

>> Mayor Adler: So there are two things being handed out right now that unfortunately don't have a delineator on them.

>> Tovo: No, sorry. I was at a volleyball game.

>> Mayor Adler: My suggestion would be that the first thing you got handled, label that a, the first one that you got.

>> Tovo: We all got -- people got things at different times. How about we label -- let's label the one that changed from census tracts to areas with an a and the one that removed the three bullets and instead added some underscored text, how about that we call that one B? And thank you to Trish link for providing these two options. Either I believe -- in either case the staff are going to do the same analysis both preserve the look at generational ties, both provide staff flexibility to do the kind of analysis we want them to do and come back with our best options for constructing a program.

[2:28:42 PM]

So at this point I'm indifferent. I would probably keep it with version a and change census tracks to areas if that addresses the concerns that I've heard. So that would be my preference. And I think we already had a motion and a second. Yes, we had a motion and a second. So I guess I'll just ask my colleagues to provide input and then I'll make an amendment accordingly.

>> Mayor Adler: Yes, councilmember Garza.

>> Garza: Thank you for providing these two options. I like option B because, again, I -- it could just be legalese in the way I'm reading a, but I still feel like applying a policy to the boundaries of geographic locations as opposed to applying the policy to the people, I'd rather apply the policy to the person. That's why I prefer B. And I had a question for housing staff. If I can ask it.

>> Mayor Adler: Is our housing staff here?

>> Garza: Because it's my understanding that whatever policy law brings back will -- could only apply when it's a project that is purely city dollars.

>> That's my understanding as well. Mandy de mayo, neighborhood housing and community development. This would not be applying to projects that are receiving federal funds. So whether that's home, cdbg or tax credit.

>> Garza: So how many projects do we have that are purely city dollars?

>> Very few. We were just back in the staff full pen going -- bull pen going through projects. We identified a couple of projects in the last decade that were strictly just local funds. Most of our projects are layered funds, which include, whether they're federal low income housing tax credits combined with home cdbg.

[2:30:49 PM]

So really we could only come one a couple of projects that we have identified.

>> Garza: Thank you, I appreciate that. And I think this is -- I love the intention. I think it's a great idea. It's basically allowing folks to come back who have been displaced. I think it's -- we have such few tools to be able to use and a lot of times it's hard to explain that to the public. It's hard for the public to understand the limitations that we have with law. So I face the same issue with our flood policy. There's rules if there's federal dollars involved in buyouts for homes being bought out with federal dollars or regulations for city dollars only. And we do have some latitude, but I just want to point out that it seems like this would be a huge shift in the way our housing does things, which is good. Maybe that's where we need to go. Maybe that's what we need to do is a big shift in how we allocate funding, but the majority of times we would have to leverage our city dollars with other sources, private sources, federal sources, in order to build a lot. And the cases when it's purely city dollars are very, very small cases. I guess I just want to set a realistic expectation of how and when this could be applied.

>> Mayor Adler: Mr. Flannigan.

>> Flannigan: I share councilmember Garza's thoughts on that. I also support option B. I have other concerns with some of the language in the resolution but because it is really asking legal to come back with analysis I'll go ahead and support it today, but I have some concerns about how this -- the intent of this relates to other ordinances we've passed or resolutions about geographic distribution of affordable housing and wanting to have integrated neighborhoods and the income integrated neighborhoods and how these things interplay.

[2:32:59 PM]

So the analysis I think will be valuable to help either answer those questions in the affirmative or not. But I do support option more than option a.

-- B more than option a.

>> Tovo: Since they seem to be -- the concerns seem to be as subject assanged by option B. If anybody listening I want to be clear, the be it further resolved, the last line of it says very clearly the proposed policy must be designed to further the city's obligation to affirmatively further their housing. So this is not designed to override any of our council policies about geographic disbursement of affordable housing or federal guidelines on affirmatively furthering fair housing. That will be the work that's ahead of our legal department to find that balance and come back to us with a policy that allows us to consider generational ties among the other criteria.

>> Mayor Adler: Any objection to including -- making the one we're considering option B, which removes the three bullet points? Hearing no objection, that is then the motion in front of us. Mayor pro tem, I'm going to support this. I think this is a good thing for us to take a look at and try to do. There's an earlier resolution that you did on this that was resolution 2017-0803-58 that dealt with asking the staff to come up with a -- kind of a listing of affordable housing that was available and it seemed to also suggest the possibility of making a registry of people that were eligible for affordable housing.

[2:34:59 PM]

And I know in the last budget we did we approved some money for an app that would potentially identify to people in community where those options might be. It seems as if big picture on this issue with the work that you're doing today and on the work that you did earlier, the place that it seemed like we wanted to get to is a place where everybody who qualifies gets put on a registry somewhere. The opportunities are available so that when somebody, wherever they are, has a room that's available or a home that's available for someone, they go to the next person on the list to help ensure that wherever you are in the city you have the option to be able to get the next available space or at least to apply for it. And I know that it goes beyond the scope of what you're doing today, but if you were interested in trying to help pull together the larger thing, I would love to support you on that. Or to help in that in any way. I just think that that -- some cities do that, and that would I think address a lot of the problems and

challenges that we have in this city with respect to people going into affordable units that might not be the people that have waited longest or qualify or have long-term needs. So I just mention that because we seem to be hitting around this, and I want for us to actually figure out what is the really big holistic view.

>> Renteria: Mayor? I'm going to be supporting this because I think that we can use this tool to our benefits. We do have -- where we require the developers to provide 10% affordable units and it's all over the city that we're applying that and all around the transit units.

[2:37:03 PM]

And this gives us an opportunity to use this tool here, especially in east Austin where it's gentrifying very quickly. We have the homestead preservation act where we're recapturing some of the antigen extrafide tax money that we're getting because of the added value that these developments are going into our community. And it's a 10% that we're -- that we're getting off of the tax return on that value that we can invest that money into more affordable units. The boundaryies go from the north shores of town lake to manor, 35 and I think it takes in Chicon. So this is an opportunity to use those kind of resources that we can bring people that have lived in -- that grew up and have a generation tied to this community. And this is the area where it has been the most effective. Unfortunately we were going to expand our boundaries up further east. The governor vetoed that legislation, but we were -- we were able to correct some of the injustice that was done because there in the 60s and 70s that came into our neighborhood and with eminent domain and urban renewal and the intimate domain where Sanchez elementary is at, there was a neighborhood there that was lived in. There was a neighborhood there at martin park where they built the dam there, they went in and took it all away from the residents because they were going to make that boo a rec area and they had a potential of bringing in schlitterban at a time. And we fought that because we had the boat races at that time. And you can see in our neighborhood, they have a contact team here and there is no brown folks that live in that area.

[2:39:08 PM]

Very few. I think we can count out three people that's on that board that has ties to that community. And we're losing those people and that's why I've worked so hard to try because the only two that we have is density and providing that kind of -- with a tod district providing funds that we can reinvest and to bring in the generation that is tied to the neighborhood there that no longer can afford to live there. So we could use those funds and that's what I hope that when it comes back that we're going to be able to use that to bring people back into our neighborhood.

>> Mayor Adler: Okay. There's been a motion and a second for this draft. It's listed as B. We have one speaker that's signed up to speak. Is Monica Guzman here?

>> Thank you for affording me this last-minute sign-up and opportunity to speak. I didn't realize the other speakers got to speak earlier today. One, I'm here to support Susana Almanza, Daniel Yanez and David King in what they said this morning. Two, even though the people's plan is about east Austin, I always push a little bit broader the eastern crescent because when they were pushed out of the east they got pushed south and just west of the interstate. They got pushed north and just west of the interstate. So me personally I'm more focused on eastern crescent because of the relocation as well as displacement. The last thing is I often hear people talk about 150 people move to Austin everyday. We need to focus on the 10 that leave everyday. How many of them left because they had no choice, because they were displaced by gentrification, increased property taxes, wages that couldn't keep up with their living expenses.

[2:41:08 PM]

Thank you.

>> Mayor Adler: Thank you.

[Applause]. Okay. We'll go back up to item number 10. It's been moved and seconded? Discussion? Those in favor please raise your hand? Those opposed? Councilmember Troxclair voting no, the others voting aye. This passes. Okay. That gets us now to I think four east side, item number 21.

>> Good evening, mayor, council. Jerry Rusthoven, planning and zoning. Case 21 is npa 2017-002.041, and item 22, c-14-2017-0105. These are for the properties located at 1600, 1602, 1604, 1608 and 1710 east fourth street. The applicant is recommending a change from np to toed to np. The applicant is requesting two things from the city council. One, the proposed project is an office project that has no residential component to it. The plaza saltillo toed allows a density bonus height that would go from the existing 40-foot limit to 60-foot limit provided they pay a fee-in-lieu. The decision to pay the fee-in-lieu in lieu of affordable housing is up to the city council so that would need to be part of your motion today to accept that fee. The second part is to increase the height even above 60 feet. The original request was up to 90 feet. The staff is recommending 75 feet. I believe the applicant has amended his request to 72 feet.

[2:43:09 PM]

I believe the staff has an understanding that between 62 and 72 feet that the applicant would pay an additional fee-in-lieu for that additional height. I believe the applicant has an additional proposal he will be presenting here in a moment. And with that I'm happy to answer any questions.

>> Mayor Adler: We have some people signed up on this item. Do we want to hear from those folks first? Are we ready to go to the speakers first? Anything people want to add on the dais before I go out to the audience? Okay. So let's begin discussion then. Applicant has five minutes.

>> I think we have a handout. I don't know if it's been handed out. It's going to basically what I have on the screen is what's printed on this document that is circulating. Before I wanted to thank the neighborhood that has met numerous times with Tyler buckler from cielo on this matter. We had several proposals that we made and I know they're still not supporting it and understandable. And we just have a agreement. Disagreement. There are two issues for council action today. One is the vote for the fee-in-lieu to get up to 60 feet. And I know mayor pro tem you've mentioned before that -- and we would obviously agree that it remain office. It's not going to be converted to residential. It's going to be an office. And then second proposal that we've modified is to have creative art space on the ground floor. In order to go above 60 feet in the tod you have to use cure zoning. I know that is not helpful. It's a tool that has been misused in the past when there hasn't been any community benefit. I'm acknowledging that here at the dais. And that's why I think what you are going to see is extraordinary and meaningful community benefit that we're offering.

[2:45:14 PM]

So the land size as you saw from the aerial, it's very small, 36,528 square feet. Our baseline is 73,000 square feet and that's at the very top of your page that you've received. We need council approval for 60 feet for the fee-in-lieu. Our fee-in-lieu payment would be \$516,384 approximately. Back in January we had a discussion about an additional 12 feet to get to 72 feet and we voluntarily offered to double the fee, which would put that at about \$660,000 additional, above the 516, for a total of \$1.1 million to the housing trust fund. Tyler, the owner, will tell you a little bit more about what prompted the next proposal, which was on-site, meaningful community benefit. We'll still obviously with council approval, I hope we get for the 60 feet since we have most of the buildings around us are at 60 feet, which I can show you, get to 60 feet. And then for an additional 12 feet, we will set aside 9,000 square feet of affordable creative arts space. And there are several night team have signed up to talk to you about what can be put in that amount of space. There can be theater production, there can be up to 40 artists. I think the manager-owner, founder of pump projects here can talk about what a great opportunity can be had with 9,000 square feet. We would do this with a private restrictive covenant, with a non-profit that would be responsible. I haven't drafted that yet so I could get feedback if we're not going to get past first reading, not necessarily to develop benchmarks for who could use that space, but pump projects in that job. The value of of that space is \$946,000 for a total consideration of \$1.4 million. And the way we got there is we do the first two years would be at 50% of market, gross market rent.

[2:47:19 PM]

And the three years thereafter would be at 60% market rent. And the way -- and this is the math to get there. Rent in the area is about \$33 per square foot. Triple net, which is the taxes which cover about eight to ten dollars of that. And then insurance and maintenance is about 15 for a total gross rent of \$48. 9,000 square feet means your gross rent annually is \$430,000. Half of that would be 215. And 60% of that would be 258 and then you just do the math below to get to the \$946,000. So that's the proposal

to make this available to a non-profit to really utilize it. We've had lots of evidence in the last 60 days of what rent is doing to our creative folks here in Austin. And I think you've got to -- we'll hear a lot more talk about that in a moment, create lots of different spaces, some further out that might be even cheaper, but some closer in like this one is, which this is 140 feet away from the train station. So it's literally across the street from the train station on comal. Great opportunity for creative space and for opportunity for others beyond just downtown to use the train to get there. So that's our proposal, and I hope that helps. And obviously I'm available to answer any questions. Certainly on rebuttal I can show you on the Elmo the buildings around us include eastside station. Directly to the east is Chalmers court. Habitat will be 70 feet a block away. Future redevelopment across the way is 60 feet and the Arnold is 60 feet. Across the alley is a 40-foot condo as well. So that's what's around us. And that's what I have.

[2:49:21 PM]

Thank y'all very much.

>> Mayor Adler: Okay. Thank you. Questions? Yes, Mitch? Ms. Kitchen?

>> Houston: Do you have a picture of the site for people who don't know what you're talking about?

>> The site is right here and then directly catty-corner is the train station across comal right there. And surrounding it you can see surrounding it there's the subject site, which would be 72 Chalmers court right across and then you have the foundry future development. Eastside station, which is already built, the Arnold. And off of this, you do not see it, but habitat is 70 feet and it is right here here.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I just have a question. I'll lay it out and then if it's better to be discussed later we can do that. You had mentioned the potential for a private restrictive covenant with benchmarks. Could that include or are you open to including something that would provide for greater permanency than five years. So for example, is there potential for perhaps selling the -- selling the floor at some point in the future or some other kind of potential that could take it beyond five years?

>> Absolutely. I think -- and I think we're looking for direction from this council on first reading.

[2:51:26 PM]

It's only first reading. To truly dive in and explore that opportunity. It can be done several different ways. Maybe it starts as rent and then as a rofr, a right of first refusal, after a certain amount of time. And keep in mind we're making a proposal that rents as they exist now, even though this -- in the city it takes anywhere from two to three years to get all your permitting and get your cos. So it will be -- even then the rents will now probably be lower than the 50% and 60% that we're reflecting because it will be several years from now when it's finally open and occupiable.

>> Kitchen: Okay, thank you.

>> Mayor Adler: Mayor pro tem?

>> Tovo: You made a comment about residential. I want to be sure I understand. So this project doesn't include residential. It's all office.

>> It is all office, yes.

>> Tovo: I think I heard you saying something about restricting residential?

>> Yeah. I thought in the past I know I had another case where it was all office, council approved fee-in-lieu and we had agreed in the ordinance to make certain that if it changes from office to residential, it would come back to the council for consideration of the fee-in-lieu.

>> Tovo: I see. So that's one option. I think the other option that I would be interested in thinking about is stipulating that if the project changes from office to residential that your fee-in-lieu would change to units on site.

>> Yes.

>> Tovo: So I don't know if that's possible to build into our consideration that that would mean you wouldn't necessarily need to come back to council, but we don't use the opportunity for units on site, which is vastly better than having a fee-in-lieu in my opinion.

>> Yes. And it always depends on -- yes, and the context given all the residential. This is basically surrounded by residential. So I think a great opportunity for an office environment in that particular location. Right across the street from a railroad station and on the Lance Armstrong bike way.

[2:53:33 PM]

I didn't mention that will be running right along the alleyway, the bike way will be. I don't know of another site in central Texas where you can say there's a train station and bikeway adjacent to your property and we're fighting over 72 feet rather than 350 feet. But that's a different topic, a different day.

>> Tovo: I should clarify that by vastly preferred, I was talking about that I vastly preferred units on site to fee-in-lieu, not residential versus office.

>> I understand.

>> Tovo: I wasn't casting judgment on that choice, I was just talking about the units on site.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Even though we gave Austin housing authority the ability to go up 60 feet they're not going to go up that high. I think they're going 50 feet, three stories. And that's -- they don't have the money or the finance to go any higher than that.

>> Mayor Adler: Okay. More speakers? How about Gwen o'barr? You have time donated from David king?

>> Is this--

>> Mayor Adler: Come down and speak, you can. And because you have donated time you have five minutes.

>> Good afternoon and thank you for letting me speak. I didn't write a letter to prepare so that you all could read it ahead of time. I thought coming down here would show you how much I care. Fortunately this is close to 2:00, but typically that's not the case. And I've taken the time to come down and I hope that matters to you even though I didn't send a letter first. First of all, the group that bought this property knew the conditions when they bought it. And I believe that they can make money without asking for these additional requirements.

[2:55:37 PM]

If I look back to endeavor, which was a project I dealt with, there was so many things they said they couldn't do that they eventually did and they are still going to make money, and this group is going to make money too. I'm not against making money, I understand that. But when developers come in and they want to make money and it doesn't help the neighborhood. Ciello came before our team twice. I'm not a member of the team but I attend most of the meetings and they originally started with 90 feet. I think they did that because they were going to go for as much as they could get. If I were a developer and I was going to try to make money for investors, I would try to make as much as you could. I don't have a problem with that unless you go back to how this affects the neighborhood. And I think that the neighborhood is the most important thing in this project -- or in this particular discussion. I'm not going to talk about the height, which is so close to the homes, they still want 72 feet, or how this project actually destroyed five affordable houses. So here we're talking about an office building, and I know this council considers affordable housing important but we now just lost five more. I'm not going to discuss the fee in lieu. As mayor Adler said at the last meeting when it got postponed and they said we're going to double the fee in lieu, I think his comment was obviously our fee in lieu is too low. Obviously it is. So I think that's something that when you are talking about this, that the fee in lieu simply doesn't reflect what they are taking away from the neighborhood. Because what we're talking about is entitlements for the -- for the project. Titlements for the developer.

[2:57:39 PM]

And you are taking away things from the community, and there should be some community growth or community benefits from this. I'm not going to talk much about the rents for the artists that they are now offering. Something more they are offering to try to get you all to approve this additional height. This is only for five years. That building is going to be there for a long time. So they are offering very,

very little for not much community -- community growth or development. When I talk about cure, which is one of the things that they want, which I don't think is good for this area, it doesn't -- one of the things cure is supposed to do is supposed to support the developing neighborhoods. The goals it's supposed to help small businesses, it's supposed to enhance neighborhood stability, it's supposed to improve the natural environment, and it's supposed to help -- and it's supposed to be compatible. And none of these things does this project offer. And I think there will be other speakers who will be talking about this. What I think I really want to talk about is the transportation side of this. This is a building that's going to require a transportation analysis, and I think they've waived it, the staff has waived it because there was another one done not long ago for another project. That means 2,000 cars are going to be coming in. I want you to think about the size of the roads. Think about downtown where you have three, four lanes. Think about us where we've got a two-lane. Even Cesar Chavez, east Cesar Chavez is only 36 feet wide, which makes for two lanes and a turn lane or two lanes and parking. They are going to say, well -- or what they've said is we're going to put this kind of building, it's required because it's right near the train.

[2:59:40 PM]

Well, if it's so near the train, why are we going to have so many more cars? So you're going to be putting this building up, it's going to be bringing in over 2,000 cars. The roads that surround it --

[buzzer sounding]

>> Mayor Adler: Finish your thought.

>> The roads that surround it barely cover enough space for two cars to go through it. So if you bring a project like this in, the transportation portion is going to be so death detrimental to the neighborhood. I would thank you if you wouldn't support this project.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I just want to let you know council did away with cure. It's going to go into effect this month and cure is going to be gone.

>> So you are not going to put it for this project?

>> Renteria: Cure is going to be -- what I'm saying cure, we did away with the zoning cure.

>> But isn't this a request for cure?

>> Renteria: They are requesting cure, that's why they are here right now before it goes into effect.

>> Right, and I'm against that.

>> If I may clear up something. There was a resolution passed by council initiating amendment to remove cure from east Austin, however that item has not been brought back before you for the amendment to be passed. It will be soon though.

>> Mayor Adler: Thank you.

>> Houston: Excuse me, mayor. Before you sit down, when was it supposed to be brought back to council?

>> The day that's already gone by.

>> Houston: I need to hear the date.

>> I honestly can't recall. I can look it up real quick.

>> Houston: Please.

>> Mayor Adler: Mayor pro tem.

>> Tovo: It's actually on our agenda today. It's my understanding it's going to be postponed, but it's on the 4:00 agenda. To be postponed.

>> Mayor Adler: Is Sara fedrosa here? Thank you. And you have donated time so you have five minutes.

[3:01:41 PM]

>> Excellent. Thank you, council. I'm going to read and elaborate on a letter I sent last night to every councilmember and the mayor. My name is Christen Hennee. I am sector 8 representative for the east Cesar Chavez neighborhood plan contact team. I've been a resident of the neighborhood and of sector 8 since 2005, so for 13 years. Sector 8 is the area of the neighborhood plan that this project is in. I'm here to oppose the rezoning of this project to Todd, Cure and the proposal to go to 72 feet does not support the goals of Cure. Namely adding 12 feet or additional story does not support the sustainable redevelopment of homes, multi-family must go and small businesses in the Cesar Chavez neighborhood. The project does not include development of affordable housing and small businesses along principal transportation routes that serve our neighborhood. 12 feet does not improve the natural environment nor does it require or necessarily encourage architectural design and proportions that are compatible with the neighborhood. I am aware that an administrative approval of the fee in lieu of housing has been granted for the height variance from 40 feet to 60 feet and I do believe that you have the neighborhood support on that item. At our January meeting, the developer, Clo, offered an additional fee in lieu of \$660,000 to bring the total fee in lieu to \$1.1 million. This project displaces one duplex and three single-family residences, a total of five units in east Cesar Chavez neighborhood. We looked what it would cost to replace affordable regional units with similar affordable housing in a comparable area.

[3:03:47 PM]

A budget of 1.75 million might be enough to buy three lots at \$250,000 each and fund the construction of five units at roughly \$200,000 each. So a million dollars. Because the total fee in lieu offered did not cover the replacement cost of the housing lost in our neighborhood, the addition of 12 feet offered no affordable housing or affordable office tenant structures or other neighborhood benefit or compatibility

to the neighborhood, we oppose the cure zoning. On March 6, clo shared details of the new offer that was presented to you all today. And that offer eliminates the \$660,000 additional fee in lieu for housing and substitutes it with an on-site affordable artist creative space reduced rent consideration. The developer is currently offering 9,000 square feet of affordable creative art space at reduced rental rate of 50% for market value for years 1 and 2, 60% of market values for years 3, 4, 5. While we appreciate the intention here, again the tradeoffs do not match up, I would argue they are not extraordinary and meaningful as described. The swap of the \$660,000 fee in lieu in exchange for a temporary discounted rent value of \$946,000 looks like a bigger offer, but the long-term impact on the neighborhood and small businesses is not there. 9,000 square feet of affordable lease space represents only 30% of the additional 30,000 square feet that are gained in the 12-foot-height variance is approved. It represents only 6% of the total project square footage. The landlord retains full market rates for the additional 21,000 square feet, 70% of that new floor, and they get full market rates on the 9,000 square feet in just five years.

[3:05:48 PM]

What happens in five years when this tenant must absorb full market rates to stay? What happens when the property taxes increase year over year as they are likely to do in this area? A rental rate reduction plan that expires in five years and represents only 30% of the leasable area gained by approving this request should not qualify as sustainable redevelopment of small business. A 12-foot height variance is for the life of this building. It is not an adequate tradeoff nor does it provide a sustainable benefit to the east Cesar Chavez neighborhood. This is a short-term solution for a nonprofit or small business tenant with a long-term benefit to the developer and not the neighborhood. With regards to related cases, it's worth reiterating the planning commission's comments with regards to the height variance approvals for the nearby saltillo plaza endeavor project. This is a quote from the notes.

[Buzzer sounding]

>> Mayor Adler: Finish your thought.

>> Thank you. The planning commission does not intend for support of the height increase on this project to be considered a guiding precedent for the overall area. The commission supported the height request on these zoning cases because of this specific issues of the cases namely this is the saltillo plaza project owned by capital metro which has been planned for higher intensity. The project is located within a tod which was designated for higher density. The project is located within a cure district with which allows greater intensity in order to promote revitalization and the proposed 125-foot height limit is located close to I-35.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Hold on a moment, please. Mayor pro tem.

>> Tovo: I have a quick question for you. I just want to be sure I'm understanding some of what you said. Are you -- is there support for -- instead of the artist creative space converting that back into an additional affordable housing contribution?

[3:07:52 PM]

>> I think that we still have a concern that the original -- the additional payment of \$660,000 of the fee in lieu is not adequate to replace the five affordable houses that are leaving. So I think that I have -- I think that the team would agree that we don't see that as enough.

>> Tovo: I see. But -- but it's also part of your point the team would prefer to have the -- that the community benefits all focused on affordable housing rather than some on affordable housing and some on the creative space?

>> I don't necessarily think that's true. I think what we've seen so far in either offering is not apples to apples.

>> Tovo: Got it. In terms of the exchange --

>> There could be a combination, but the exchange -- for the height variance we're not seeing the benefit to the neighborhood based on the neighborhood plan and what cure is expended to do.

>> Tovo: Thanks for clarifying.

>> Renteria: Mayor pro tem, that -- those houses are an example why we need land trusts because those were -- Guadalupe houses one of them was sold to the resident there. Since we didn't have land trusts back then, we ended up losing an affordable unit there because of that.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is Jennifer say. Is Ms. Say here? Come on down. Is Katherine brimberry here? You'll be up next. You have three minutes.

>> Hi, thank you. I'm Jennifer see and I'm president of art plus artisans consulting. Our office has been located on the east side of Austin on east sixth street since 2004, and in that location I've had a birds eye view of the growth that has been happening there over the last 15 years.

[3:09:54 PM]

And the development has been incredible and has brought with it so many art studios and galleries and art spaces that have contributed to the resurgence of the east part of town. I was a participant in the very first east Austin studio tour. It began with only one weekend and about 23 artists participating and

a modest group of visitors that came down to check it out. And the feedback I heard repeatedly was wow, I had no idea this was going on on the east side. And I heard that same thing again and again for several years. Really the studio tour has grown to last over two weekend and visited by over 50,000 guests, and people are no longer surprised what's going on on the east side, but more eager to be involved with the revamped area. And I think a big part of this is due to the artists and culture and events that the east side has to offer to draw people out and to engage in the community. And it's very exciting to witness how vibrant our side of town has become, but at the same time it's very hard to read articles and talk to artists and studio owners who are losing their space because it's just gotten too expensive to stay. Everyone is aware of what a huge problem affordability has become. I was very pleased to read an article recently about clo properties proposing to offer artists studio space well below market cost in exchange for the zoning change that would allow them to add an extra floor to their building. Obviously the neighborhood has some concerns, but I hope their proposal at least continues the conversation to a resolution that everyone can be happy with. We as a community need to be coming up with these kinds of solutions to keep our artists and art spaces at the city's core, not only where they started and where they created their roots, but also where people want to come and spend time.

[3:12:02 PM]

Artists are a huge part of what makes the east side such a fun part of town and a wonderful place to spend the day, and if these artists and their Todd spaces are pushed out, then we as a city all lose a huge cultural element that makes Austin unique and brings such energy and so many visitors to our city center. So I think clo's proposal is a win-win for artists and for Austin and I wanted to come down and voice my support. Thank you.

>> Mayor Adler: Thank you.

>> Pool: Mayor, I have a question for the speaker.

[Buzzer sounding]

>> Mayor Adler: Yes.

>> Pool: Hi, thanks for coming. I had a question with regard to the artist space, the creative space. And I know that you are supportive of that, but did you understand about the short-term of the promise social security far as reduced rents?

>> I did hear that but it sounded like clo was open to starting a conversation and working out terms that will -- that will be of benefit both to the city and the artists more in the long term. So I think it's a good place to start the conversation.

>> Pool: And do you have some ideas about what long term -- how many years what that would look like?

>> I personally do not. I know there are other studios that are going to be speaking to that.

>> Pool: That would be great. Thank you.

>> Thank you for allowing me to speak. Let me introduce myself. I'm Katherine Brimberry, owner and operator of Flatbed Pressing Galleries over on East Side, 19 years now. And I came a few weeks ago. I'll be pushed out of my space in 2019. I'm looking for space now, actively looking for space to relocate us in and I'm finding the market is hard for us. We are a bustling business but we're not a super profitable one and so, of course, our space needs to be less than what you would find in normal retail.

[3:14:05 PM]

I want 10,000 square feet, I don't know where it's going to be, I want to establish a business that's going to be a little bit different than what we have. It will be a center for fine art print making similar to Minneapolis' High Point Center for print making. It's also going to have areas in it for education for children and open studio areas. I think wherever we locate we're going to be a big boon in asset to the people who own the property. That we will relocate in. But -- and so when I looked at the proposal and I see that it's limited, I think, yes, I think it needs to be -- I would like to start the conversation that it needs to go longer than five years. I think that we will bring business to wherever we happen to locate because I think what we do is attractive to the public and it adds a lot to the community that's around us. And since we are as much of an asset being located next to a park or a train station or a place where you can ride your bicycle, maybe even more so, I think that we need to have a longer conversation about years that might go on past maybe even ten years. A win-win situation for -- of having an arts organization in someone's building means it's an ongoing asset for them. It's not a depreciating one. In fact, it's a building asset for whoever owns the building to go include some -- to include artists and arts venues there. Thank you.

>> Mayor Adler: Thank you.

>> Pool: Mayor, could I ask the speaker the same question that I asked the last one, since you are a practitioner and five years is too short. Do you have a sense because it involves a lot of relocation and you have to accommodate a new environment and all of your patrons need to find where you are.

[3:16:12 PM]

So what is the number of years that really would -- that you would need if you were being realistic?

>> At least ten years at half market rate.

>> Pool: Great. That's really helpful.

>> And I think ongoing, negotiable ongoing for a lower rate because, as I said, I believe that we're more of an asset to any developer than anything they would build into the building and spend much money on.

>> Pool: That raises an issue for me that our staff, our legal staff may be able to help me understand, but is it also possible to make it difficult for you to be evicted or for your contract, your lease agreement to be elevated at such a quick rate that you are having -- that you have no other option but to leave? That's what I'm hearing a lot of in our creative community, that the rent space is just skyrocketing and it seems like that's really unfair. And it doesn't give anybody the opportunity to try to get ready for it or prepare for it or to accommodate it.

>> Right. My choice would be to buy a space. I was glad to hear that there might be some sort of flex agreement, rent with option to buy that the developer mentioned. In order to maintain that lower level of rent. Thanks.

>> Pool: Thank you.

>> Mayor Adler: Is Susan Benz here? Is Sara Pedrosa here? Okay. So continuing on here on debate on 21 and 22. I'm sorry, 22 and -- 21 and 22, that's correct. You have five minutes.

>> Thank you, Susan Benz, current chair of the east Cesar Chavez neighborhood plan contact team.

[3:18:13 PM]

I want to read to you a letter into the record that we sent to you last November and again an updated version in January regarding cure in our neighborhood. I'm writing on behalf of the east Cesar Chavez neighborhood plan contact team in regards to the rezoning request set forth in this case. At a special called meeting of the eccncpt which was held on November 13 to discuss the issue, the team voted unanimously to a pose the request to rezone this property to cure. The revision in November stated that our team has met yet again with the developer who has a revised request go from 90 feet to 72 feet height allowances and the team again voted to oppose this. Currently a maximum building height of 40 feet is allowable within the saltillo tod boundaries with 60 feet attainable if a developer and city agree to terms under the density bonus program. These maximum heights were designed with the entire neighborhood in mind and were intended to step down to a single-family neighborhood that bordered the saltillo tod where we all live. Requested zoning height in 90 feet and staff recommended change to 75 feet are radically out of step with these principles and would cut deeply into the heart of the single-family neighborhood.

>> Mayor Adler: Ms. Benz, Ms. Pedrosa had donated time to two people so you have two minutes left.

>> I then am going to skip to the end of this letter. Continuing to allow cure zoning in the east Cesar Chavez community will set a new precedent for height and density that will have a profoundly negative affect on the neighborhood that is arrest struggling to develop. The cure zoning dot not directly benefit the east Cesar Chavez community and will have a dramatic effect on traffic in an area composed of two-lane streets.

[3:20:14 PM]

The 1600 block of east fourth street is not situated -- but rather a two-lane street. This is very important to us. Our neighborhood consistently does our share to ensure that Austin continues to develop to a more mobile, connected and denser urban community, however, we are regularly called upon to carry the burden for our city's collective goals. Often more with -- often -- more often than any other central Austin neighborhood. We need your help and hope you will help us find the middle path here. And this middle path, one that will allow our neighborhood to be developed in the a way that best benefits on wider Austin and pursued that shared goal. We strongly urge you to oppose this rezoning request and please stop cure. Thank you.

>> Mayor Adler: Thank you. Is Tyler buckler here? Is Joshua green here? Joshua green, you will be on deck.

>> Tyler buckler. Clo property group. I wanted to walk you through how we ended up here, hopefully open to questions because I know there's been a lot of questions in terms of what we're willing to do on our part as the developer. So we have met with the neighborhood numerous times, as you've heard, we did start out at 90 feet. Feet we gained back from the neighborhood we did bring that down to 72 feet which he with felt was an appropriate -- an appropriate win-win or both parties. We have gone through the process of offering up numerous community benefits, starting out with just the fee in lieu, going to on the additional square footage going to a double fee in lieu, which we presented to the neighborhood and they decided to oppose.

[3:22:18 PM]

And through that process we saw the neighborhood actually support another project where on-site tangible benefits were happening. At that time a light bulb went off for us which us being office space and having no residential component, the one thing we can offer is space for commercial space. So we -- as we have all heard here, seen what is happening to the creative arts community, especially on the east side with rising rents, decided to pivot and say, hey, we have an opportunity to actually have an on-site benefit and we can do it in a way that benefits guys like Josh, that benefit fights these folks that seem to be getting pushed out because of the rising rents. So we did adjust. We are proposing 9,000 square feet of affordable space. As far as I know, there's not a good framework for this right now so we are totally an open book. We would love to have the opportunity to discuss this more, to really get down into the nuts and bolts of what works for the artist community. I know miss kitchen suggested a purchase option which I think is a great option. I think that's something we're totally open to as well. But to us we want it to be an open dialogue. We think this is a really good thing for a lot of reasons. We know that it is a bend to a certain extent with the neighborhood and we feel like there is enough on-site tangible community benefits to hopefully help everybody see this is a good project to support, even though it may have some holes in it right now.

>> Mayor Adler: Okay. Thank you. Mr. Green.

>> Hi, how are you?

>> Mayor Adler:

[Inaudible] Is on deck.

[3:24:19 PM]

Go ahead, sir.

>> How is everybody doing today? Just want to say thank you city council for keep pushing this ball forward here. Seems it's glacially slow. We have a complex on the east side, about 15,000 square feet. Right now we're kind of on month to month. So when this clo property proposition came across we definitely said hey, we're interested in it. Maybe the timing is not going to exactly work out for pump project, but the thing is we just keep getting news of other places closing so it's going to work out for somebody. You know, just saw the proposal and I just thought, help, this looks like a win-win for everybody. I probably agree with some of the other speakers, probably the time -- longer than five years because to move a whole operation is a lot of nuts and bolts literally so you want to kind of get your time in and it's really hard just kind of going five-year blocks at a time and we're kind of hoping that eventually, you know, like I think there's a proposal maybe be able to be bought with the creative land trust, that might happen, or maybe being sold to the artists themselves maybe on an individual basis so, you know, the model might not be perfect but it's a good start. It will be good once we can develop a program standard for all developers to follow just because it's going so fast right now, it's kind of making all our heads spoken. And I have been -- spin. I have been looking and it's not a lot out there. I've got five things maybes and have to see where everything lands. Fingers crossed we're going to get something going, but we'll see, and like I said, even if this place doesn't work out, I think the timing is going to work out for another group.

[3:26:20 PM]

So I think that's pretty much all I have to say.

>> Mayor Adler: Thank you very much. Ms. Kitchen.

>> Kitchen: So I have a question, the kind of price point that's being offered here for a location this close to town at 50% off and 60% off, is this the kind of price point that you would consider even doable for artist studios such as yours?

>> Well, it's more money than we're paying now, but we're not going to get that price again. I've been looking around. Moving to another city at this point. You know, if we can get it lower, that would be terrific, if we can figure out a way to subsidize individual artists, maybe artists getting their career started, there is a flexible price point at some point. You got some professional artists that will be a perfect ideal location and they will be thrilled to be in a location and pay those rates while others it might not be -- it would be a little too much. We're hoping to find a variety of spaces so people can kind

of find the space that meets their price point. This price is not perfect, we're hoping to get it more towards the canopy type model of some sort, you know, but, you know, just price are just high for everybody right now. So I mean I just can't find, you know, everything is equivalent to this price from what I'm looking at for the most part, little fluctuation.

>> Renteria: Thank you.

>> Brad Carlin, managing director for fuse box festival in town. We've spent the past four almost five years working closely with neighborhoods, arts organizations, music organizations and departments within the city on addressing affordability concerns for arts organizations. We've done a lot of work in the east side in and around I think east in the Springdale, go valley, Johnston terrace neighborhoods and done research in working to try to find these overlaps and this common ground that can exist.

[3:28:33 PM]

Within the challenges facing both the artist communities and long-term residents. I think what is interesting to us about this particular site and this particular proposal is the precedent that it could set and a model it could set for arts organizations working closely with developers to try to come up with solutions and get at affordability in some way. I feel like this is the kind of thing, although this particular -- the particular -- the particulars of this proposal have some work to do both in terms of term, maybe the size, the price rates, the support from the neighborhood, I think it would be important for an arts organization moving into feel as though they are being welcomed by that neighborhood. Many of the organizations we work with that would be important to them. And it would be difficult if a dolor made a site available yet that organization or artists did not feel welcome by the neighborhood. It would be important to try triangulate that between the artists and the neighborhood. But I think this is an important opportunity to get at things we have been working on to help move forward the chapter 380 agreement revisions, the creative omnibus to try to get at opportunities that don't just rely upon purely philanthropy, don't rely on handouts from the city but find public-private partnerships between organizations and developers to try to solve some of these issues. I'm encouraged by this as being a starting place as a conversation starter that we may be able to get one in place that we could build on and replicate elsewhere in the city. All that being said, there are some challenges and to be explored and conversation will continue to happen between the arts groups, the developers and neighborhood all together trying to make sure that artists want to be good neighbors as well and be sensitive and aware what's happening in the neighborhoods that we are contributing to at the same time.

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

>> Thanks.

>> Mayor Adler: Does the applicant want to close?

[3:30:37 PM]

You have three minutes.

>> Thank you. Michael Whellan on behalf of the applicant. First, I again want to apologize that the only tool that is available in the TOD is the central urban redevelopment combining district. I want to also make sure everybody knows this was filed in July well in advance of the discussion. And you can ask staff, well in advance of the discussion about the elimination of the central urban redevelopment combining district, which as I indicated initially obviously problematic number of reasons including the fact there's no community benefit, which I think we've solved here. I also want to point out the closest residential use is more than 400 feet away from this particular site. While also acknowledging there were four houses at this particular location. I also noted that the first speaker said that this is very, very little, quote unquote, for the additional 30,000 square feet, which is the one floor. And we know from other independent economic analysis that the city has done that 25,000 square feet came out to about \$800,000, so we're talking about \$946,000. That doesn't strike me as being very little. I think one reason why we've heard from the artist community wasn't -- we began a discussion with pump project and I think word got out that so much of life involves missing an opportunity. And I think people realized that like so many places in the world where there's conflict, it would be terrible to miss an opportunity to miss an opportunity. And here we are, it's going to be years, in my opinion, before we have a perfect system for creative space and bench marking and the forms necessary. And I think what we have here is truly -- it isn't perfect clearly, but an opportunity to do something creative with this space.

[3:32:47 PM]

If we don't do it, this building will get built and two years from now you will have an office building there and, you know, hopefully you will approve the fee in lieu so at least half a million dollars will go to the city at 60 feet. And we won't have that opportunity again. So even if -- and this would be where I would close, I would ask you to do two things to pass it on first reading only with approval of the fee in lieu up to 60 feet, which is part of the TOD, and to approve 72 feet and let us have an opportunity to continue to work on what a right of first refusal might look like, with the artist community and with the neighborhood so that we can find a way to take advantage of this opportunity before it's gone. And let's not let the perfect get in the way of the good. There's a real true opportunity for a meaningful community benefit which is not part of the conditional district -- the overlay district. Thank you all very much.

>> Mayor Adler: Thank you. Okay. Council, it's up to the dais. Discussion? Councilmember Pool.

>> Pool: Thanks, mayor. So what Mr. Whellan was saying about the cure application in July, we passed our resolution in October to remove the areas east of IH-35 from cure. That cure amendment has not yet come back to us. Mr. Rusthoven, when do you expect that to come to us?

>> It's on agenda later today for 4:00.

>> Pool: Oh, my gosh, it's today.

>> We're going to postpone until March 22. We didn't have a meeting in July, but -- I'm sorry, January, but -- but it's about hung up at the ordinances, planning commission and there was a notification issue.

[3:34:54 PM]

>> Pool: So the applicant is grandfathered on requesting the cure, but council does not need to grant it.

>> That is correct. The category exists today for someone to request but there's no obligation to grant the zoning.

>> Pool: And I notice the 72 feet seems to tower over the building that is directly adjacent to it which is - I don't have that picture anymore, but how tall was the shorter building next door?

>> A 60-foot and 40-foot across the street.

>> Pool: What?

>> 40 feet.

>> Pool: And then I have a question about the amount of money, the fee in lieu amounts of money. And I realize we've already set some of these fees, but I want to highlight some of this which makes it difficult for me as far as measuring community benefit. If I were to rent space in this building or a class a office building, can you tell me, do you know what the price per square foot would be?

>> I'm sorry, councilmember, I do not.

>> Pool: I am blind siding you with that question because it probably isn't part of your expertise, but I think -- the point that I want to make is that \$11 per square foot, which is what we are establishing the fee in lieu based on, and then even doubling that for the additional 12 feet at \$22 a square foot is really low. And if we are in fact going to ensure that there is a community benefit of the size commensurate to what the city would need in order to pay for buying down space, creative space or affordable housing space for people, \$11 or \$22 a square foot just isn't going to cut it. And it sounds like a lot of money when you add it all up, it's over a million dollars, but that million dollars if we were to put that back into anything would be gone in a jiffy. So just as a general point for organizing my thinking about this particular case, putting aside that I support doing away with cure ab -- and it's unfortunate the timing on this one is coming the same day we will be voting on doing away with cure, but the larger policy question that concerns me is the city's continued underestimating the actual value of the cost per square foot when we do our fee in lieu.

[3:37:21 PM]

It just isn't enough. And it isn't enough here, it won't provide the level of community benefit that I think our creatives if they were to move in here would need because the time isn't enough and amount of money wouldn't be enough to write down those rents. Thanks.

>> Mayor Adler: Thank you. Further discussion? Councilmember kitchen.

>> Kitchen: So I am -- I am very interested in finding a potential way to move forward with creative spaces. I agree with the person who spoke who talked in terms of this needs to be the kind of space that works for neighborhoods because our artists want to be -- would be part of that neighborhood. But I am intrigued and would like to have further conversation. And I'd like to see further conversation about a longer term, a right of first refusal, and I think that the neighborhood needs to be at the table as well as the artist community and the -- and the -- and the applicant. But I do think that this is an opportunity that I don't want to lose without at least exploring and having further conversation. I think that -- I agree that five years is not going to work. What we really need for creative spaces is somebody to buy them. And I'm not suggesting that's the city. That may just be ways in which the cultural -- the creative land trust that we're talking about creating can have a path to purchase or an artist community themselves can have a path to purchase, but at this point in time I don't want to foreclose that opportunity today. I'd like to have more conversation. I don't know if we can actually get there with this model or with this particular project, but I would be interested in having further conversation about it.

>> Mayor Adler: Mr. Renteria.

>> Renteria: You know, and this was -- this would be a good project if there was somewhere else.

[3:39:29 PM]

Unfortunately it's -- it butts up against a housing -- a condo development there that's only 40 feet. And I've had -- I've reached out to that particular housing development because my daughter lives there too so it's sort of like -- and she said there's no way no matter what that she would support a project like that, that high because they are already concerned about losing a lot of events around it by so many tall buildings that even that extra height would -- would -- delete some of the sunshine they are getting to their plaza so they are totally just against it. I know that it's a -- there's a lot of benefits that comes along with this added project, but unfortunately, you know, it's at the wrong spot, at the wrong location.

>> Mayor Adler: Further discussion on the dais?

>> Kitchen: I have a question.

>> Mayor Adler: Yes.

>> Kitchen: Councilmember lent, is that the 40-foot building that's across the street you are referring to?

>> Renteria: Yes, it's 40 feet.

>> Kitchen: Okay.

>> Mayor Adler: Further discussion on the dais? Mr. Casar.

>> Casar: Since this thing is still getting baked, I don't know if it makes -- I mean I hear the developers saying that they want to get some indication from us whether or not this makes sense, but also I don't know if it makes sense to punt the case and have folks try to work out some of those details beyond where we're at today.

>> Mayor Adler: You weren't on the microphone. Can you say one more time.

>> Casar: I just wanted to float the idea, I don't know what the time line on this is, but it's made some sense to me to have conversations continue for a while because it sounds like some of the artist space stuff isn't as worked out as I would like it to be for me to feel comfortable.

[3:41:44 PM]

I understand request is for first reading only, but also want to get a sense on the dais for that kind of option.

>> Mayor Adler: I'll tell you where I am on this. We wanted to end cure in this part of the city and the reason that I voted for that is there was no benefit associated with that. So that came from a time when we were giving greater density by ordinance because density by itself was something that they wanted to have in that area. What we learned from that is that if you had greater density or entitlements, but you don't require some kind of community benefit in exchange, then you don't get the community benefit. All you get is the greater size building that's not affordable, that doesn't drive the community benefits that we need. The -- we have height under this that I understand, Jerry -- are they entitled to that 60 feet if they pay that fee in lieu?

>> Yes, mayor, that's correct. The base height allowed under tod is 40. Density allows them to go to 60, provided council approves the fee in lieu.

>> Mayor Adler: That's how we've set that up and the problem we set the fee too low. Hopefully by the process we're doing we're going to be -- as part of what I hope is the land development code rewrite, we're going to calibrate that correctly so that developers are ambivalent as to whether or not they actually put it on site or whether they pay a fee in lieu because it costs the same. So we're just then talking about the 12 additional feet. Do we take the 12 additional feet. All things being equal, if that was the only issue, I'm not sure I would support 12 additional feet. But I also recognize the only way we're going to get affordable creative space and the only way we're going to get affordable housing in this part of the world is if we do use the tools that we have.

[3:43:53 PM]

The legislature has not given us many tools. One tool they have given us is the ability to give an additional height in exchange for community benefits, that if we don't do it this way, we will not have. And five years down the road and ten years down the road we'll have none of that in this neighborhood. This will be an expensive neighborhood for everybody who is there and we won't -- there will be no opportunity to be able to create any mixed income opportunities. So it comes down to in this case in this location is this an appropriate place to make that kind of exchange, and this is so close -- this is in the T.O.D. And so close to other kinds of development this may be an appropriate place, and it all comes down then to the deal. It all comes down to the community benefits that are achievable. And I -- I sit

where councilmember Casar said she was and councilmember kitchen said she was is I would give these people the opportunity to figure out what that is and then to see whether or not that's sufficient community benefit to drive what we want. Further testimony on the dais? Councilmember Garza.

>> Garza: I'm fine moving this on first reading. I make that motion.

>> Mayor Adler: It's been moved to approve this on first reading only.

>> Pool: Is there a motion --

>> Mayor Adler: That would be the planning commission recommendation on first reading.

>> Yes.

>> Mayor Adler: Is there a second to that? Councilmember Flannigan seconds that. Any discussions?

>> Renteria: What was the recommendation from the planning commission?

>> Mayor Adler: Did the planning commission reach a recommendation in this? What's the recommendation in front of us?

>> Mr. Mayor, the planning commission recommendation, the planning commission recommendation was to approve the rezoning with height of 72 feet.

[3:46:00 PM]

That failed. So therefore I would say that the recommendation was to deny. One second. It's a complicated motion. One second.

>> Mayor Adler: What's your motion? Hang on a second. Ms. Garza, what do you want to move.

>> Garza: The motion was the applicant -- 60 plus 12 with the continuing conversation with the artist community of what can be provided to them.

>> Pool: Mayor, to answer your question, there was no -- there were no recommendations.

>> Mayor Adler: So councilmember Garza's motion is approve 72 feet with a continued conversation about the benefit associated with the additional 12 --

>> The planning commission was not able to make a recommendation. All motions failed.

>> Mayor Adler: Councilmember Garza's motion is to do the 72 feet, to have conversations about additional community benefit for the 12 feet.

>> Renteria: Mayor, it sounds like it could pass on first reading, but if it does, I want to request my colleagues that if there are going to be creative people coming into that place, it should be creative people that have been displaced, that historically has -- sixth street has been used as an art gallery and theater and these kind of events, and those are the people that were displaced first by artists that have been coming in here just recently. So if -- if I get voted where it's going to continue at least we should

have that conversation because I don't think it's fair for us to, you know, go against a community like that and not provide real benefit by looking out for our artists that had grew up there and still live there in that area that are having a hard time finding a place. I would rather see we deny the 12 feet request, but I don't think I have the support here right now of my colleagues, but I'm going to make an alternative recommendation of saying we should just deny the added 12 feet and see where we go from there.

[3:48:15 PM]

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: This is a difficult one because I have a lot of creative spaces in district 1 who are looking for spaces, but I'm very concerned about the years. And in five years it looks like they will be out looking for spaces again. I would support your motion, councilmember Renteria, for them to go back and start having that conversation without taking a vote on first reading to make sure we're clear what the community benefit is when they come back on second and third reading. But, you know, half rent for two years and then 60% of the rent for three to five years and then after that. We'll be right back here or the next council will be right back here trying to figure out what to do then. And so if that's the only community benefit that we're going to get, then we need to make sure that that is solid before I'm willing to vote on it.

>> Mayor Adler: Okay. The motion in front of us is just approve on first reading only and have the additional conversation about what might be associated with that. Councilmember alter.

>> Alter: I didn't understand if councilmember Renteria made an alternative motion or not. And if so I didn't hear it.

>> Mayor Adler: I can go back -- are you saying discussion has to happen before it comes back for second reading?

>> Renteria: Talking to the neighborhood, the neighbors there and even the ones that's around it that live there right around that, they don't believe that they will be able to come up with a reasonable compromise on the 12-foot. They are pretty set on not having that just at 60-foot.

[3:50:17 PM]

And so my motion is going to be to deny the cure and leave it at 60 feet.

>> Mayor Adler: That is motion to vote no and a motion to vote no is not a proper substitute motion. To achieve your purpose, which is to dekenne it, I think the proper thing to do would be vote no which would leave this matter denied. Further discussion?

>> Casar: I would like to make a motion to postpone this to our last meeting in April.

>> Mayor Adler: Motion to postpone is in order. Councilmember alter. A chance to speak. Councilmember alter. Wait, wait, there's been a motion to postpone. Is there a second to the motion to postpone? Councilmember Garza seconds the motion to postpone. Debate now is on the motion to postpone. Debate on the motion to postpone. Councilmember alter.

>> Alter: I think this is germane to a motion to postpone, but would an alternative motion be to pass it only on the 60 feet for first reading?

>> Mayor Adler: That would be a proper substitute motion. That would be a proper motion.

>> Alter: Okay. I'm not sure if that was what --

>> Casar: Postpone is always going to go first.

>> Alter: I understood. I thought I understood councilmember Renteria to say that. That's why I was confused.

>> Mayor Adler: I heard him just saying I wanted to vote no on that, but yours is a proper -- that would be fine and that would be a proper amendment for Mr. Renteria to make. If I misunderstood you -- maybe I misunderstood that you were changing his motion to just be approval of the 60 feet. Is there a second to that? Okay. There's an amendment to do that. Mr. Casar moves to postpone. There's been a second to the motion to postpone. What we're discussing now is the motion to postpone.

[3:52:18 PM]

Councilmember Garza.

>> Garza: I would prefer not to postpone. For my motion was to try to keep -- move this along. I don't know if there are the votes right now, it doesn't sound like there's votes to just deny. My hope was move that forward. That being said, I would consider Pio's a friendly amount, move it 60 feet, allow discussion on artist space if we get there.

>> Mayor Adler: The motion in front of us is to postpone. That would be if this fails to postpone, then we can go back and change the motion. Councilmember pool.

>> Pool: I'm going to hold my comment for when we move off of the postponement because I want to speak to the main motion.

>> Mayor Adler: The motion in front of us is the motion to postpone.

>> Casar: I would withdraw my motion if the dais lets me.

>> Mayor Adler: Any objection? We'll -- withdrawn. We're now back to the motion which at this point is to approve on first reading only 60 feet. Councilmember kitchen.

>> Kitchen: Well, I think the motion was to improve only on -- to approve only on first reading the 60 feet but then to continue the conversation and I want to add what I think is a friendly amendment to the continue the conversation part of that motion. And that would be to continue the conversation to do at

least four things. Not to limit, but at least. And those would be to explore the possibility of a longer term on the dedication of the -- of the space for creative arts. Second, to consider the possibility of a right of first refusal so that the -- so that that space could be purchased at some point. The third is to -- to consider how to direct the use of that -- of that space for artists that have a connection to that community, which I think captures what councilmember Renteria was talking about.

[3:54:24 PM]

And last that there be conversations with all the stakeholders involved, which includes the artist community and the neighborhoods.

>> Mayor Adler: So the motion in front of us is to approve on first reading only the 60 feet. With added direction or request that in this intervening time before it comes back to us for second reading the applicant engage in those conversations. There's been a motion and second on approving on first reading only 60 feet --

>> Clarification, who is closing the public hearing?

>> Mayor Adler: Does that include closing the public hearing? Looks like no, it does not include closing the public hearing. Mayor pro tem.

>> Tovo: I wanted to make sure that, and I'd also like to request and I don't need to make this a formal amendment, but I think it would be helpful if we had language also that indicated if it changes back to -- if the case goes forward and approved but in the future it changes back to residential, that a certain percentage of units would be constructed on site as affordable housing. And I guess, you know, in the course of the conversation, I have to say I am -- I appreciate the comments that were made by the neighborhood that the benefits really do need to be commensurate with the increased entitlements so I'm going to do more thinking about that as well, whether whether what's been proposed is commensurate with that and I share concerns about the sustainability of this benefit, of the benefit that's associated with the creative space for five years. But I look forward to the continued conversation. I'm going to support this on first reading.

>> Mayor Adler: Okay. Motion is first reading, 60 feet. Questions? Councilmember pool.

>> Pool: Would it be possible just to get a head nod or a thumbs up or down from the neighbors who are here who have been working on this this amount of time just to kind of measure their willingness to continue to have the conversation with the developer?

[3:56:24 PM]

Okay. Is that shared by everybody who came?

[Laughter]

>> Mayor Adler: Of course at any time councilmember pool, you could always

[inaudible]. Councilmember Casar.

>> Casar: I appreciate the work on creative space, but a million and a half dollars can go a long way when leveraged against other affordable housing dollars. I heard there was a gndc moved from this location, Chalmers court across the street that's redeveloping. So if there was a significant chunk of money that went instead to a housing purpose, I would be interested in whether, you know, best possible housing outcomes, less creative artist spaces might be. A million and a half dollars could be a downpayment on some important stuff to have more houses for gndc.

>> Mayor Adler: Council?

>> I wanted to point out --

>> Mayor Adler: I don't think we have you on speaker.

>> Between this reading if it passes on second and third, there is some substantial legal concerns to be discussed and we will work on those before second reading. So just wanted to make sure that's clear.

>> Mayor Adler: Okay. It's been moved and seconded to approve on first reading, 60 feet, keeping the public hearing open. Councilmember pool.

>> Pool: I have one additional thing that I want to get some numbers on. The cost of the homes that were replaced. Councilmember Renteria said there were four homes that are going to be demolished or have been removed. And we have talked a lot about trying to avoid demolishing homes because they tend to be less expensive. I would like to have some sense of how much it costs to live in that home and then I want to make sure that whatever -- this should be part of the calculation for the community benefit.

[3:58:26 PM]

Four homes that are valued at X number of dollars and it costs someone some number of dollars to live in it every year, that should also be part of the calculation for giving back to the community because those four homes are now removed. I realize that's broad and probably a blunt object, but I would like to tie what we've lost and can have an assessment on how much are we receiving in return for those homes and those being removed and those people being displaced.

>> Mayor Adler: Thank you. Ready for a vote? Those in favor raise your hands? Those opposed? It's unanimous on the dais. Approved reading at 60 feet at first reading with the fee-in-lieu. Councilmembers, let's talk schedule here for a second on April 12th. It looks like we should have the meeting on April 12th. I've talked to the mayor pro tem. Because there are things already set for that day and would require noticing things. It is entirely possible that you have a council then that has seven people on that day. And it sounds like to me and mayor pro tem that that would work. If there was a general agreement that either things would be passed that could easily be passed, but if there were things that required amendments or if there were things that were in dispute, that -- as a courtesy to

the people that were not there that day those things would be postponed. And then whether or not we were okay with having a meeting on the 12th to handle those things that can be handled on that day. Does anybody have any reservation or objection to that? To that understanding? Councilmember alter.

>> Alter: Are you also having a meeting on the 5th or is this only the 12th?

>> Mayor Adler: Just on the 12th. It didn't sound like there were other people who sounded like they were gone on the 5th.

[4:00:28 PM]

We could certainly schedule on the 5th to see what we could handle that day too.

>> Alter: I'm not advocating the 5th.

>> Mayor Adler: I would be fine with setting a meeting on the 5th.

>> Alter: I would rather not have both, but I do have a conflict for a few hours on the 26th from after dinner until about 10:00. April 26.

>> Renteria: Mayor, would that be a problem to do it on the 19th?

>> Mayor Adler: Set a hearing on the 19th. I am not here the week of the 19th. All right. So what I would suggest is you have the meeting on the 12th because a lot of things have already been noticed on that day and it would require us to renote it.

>> Houston: So mayor, does that mean we won't be having public hearings because then we would have to repeat them for those people who are absent?

>> Mayor Adler: I think if it's a controversial or something like that, that would probably mean that. If it was people wanted to talk and they were all in favor of it and we have a lot of those here, you could probably do those. Yes, mayor pro tem.

>> Tovo: Or you could take the testimony, we watch the tape and we could all vote when we are back. That way if people want to come, which they likely will, they can be heard on the day it was scheduled. I had another comment but now I've forgotten it. Ah. We still need to come back to the consent zoning. I don't think that doesn't resolve what we wanted to do about the zoning. Do we postpone to April 12th or knowing that we will be missing four people for sure, do we postpone those items to the next council meeting, which would be the 26th?

>> Mayor Adler: Jerry, you want to, do you want to help us with this? So the question is do we postpone the items that were 23, 24, 27, 29 and 31?

[4:02:33 PM]

Do we postpone them to 4/12, recognizing that if they're contested they could be put off to the 26th or do we just set them for the 26th?

>> Mayor, I appreciate you meeting on the 26th -- on the 12th because that makes it easier for us not to have to renotify the cases that have already been postponed, but I would actually recommend, it's up to it the council, for the cases you're postponing today if you know you don't want to take anything controversial on the 12th, I would recommend that we postpone all those to the 26th.

>> Mayor Adler: Councilmember alter will not be here the evening of the 26th. If there's something in councilmember alter's district -- I don't know if there are things that you need to be here for. We could also hear testimony and do that and then hold votes so that you could run over and take votes?

>> Alter: Yes, I can come back after the awards ceremony.

>> Mayor Adler: The recommendation is to move on consent, postpone until April 26th items 23, 24, 27, 29 and 31. Is there a second to that? Is there a second to that? Councilmember Garza seconds that. Discussion? Mr. Flannigan.

>> Flannigan: I'm fine moving forward with this on the 12th, but I just want to make it clear the obvious that I don't think any of us predetermining our votes on the 12th before an agenda has been put out and I'm not going to predetermine whether or not I'm willing to postpone things on the 12th before I see an agenda put out. So I think judicious use of the message board in that two weeks prior is going to be essential to how we handle that meeting.

>> Mayor Adler: Okay. And I think that the only concern with that is that if there's inability to be able to get the votes necessary to postpone then something could fail for a lack of having the votes to come up. If we thought we would be putting the down into that position then I would be looking to postpone the meeting on the 12th altogether and ask them to just renote it for the 26th for fear that their votes wouldn't exist to postpone and something would die that we wouldn't want to die.

[4:04:39 PM]

And I don't know how else to handle that?

>> Flannigan: Mayor, I'm intimately familiar with that situation.

>> Mayor Adler: Yes. And we're trying to learn from it so we don't run into those situations again. Mayor pro tem?

>> Tovo: And that day the items that fail to be postponed at least could come back to us. The manager had the discretion of putting them back on the agenda or we could bring them back as ifcs, but if zoning cases go down on that day then we're putting all of those property owners and developers in the position of having to wait a year. So it really would be -- I think they would prefer we cancel the meeting if there's a chance of that happening.

>> Mayor Adler: So we have a meeting on March 22nd, is that right? Can you please put on to the agenda on March 22nd an item that would enable us to pull down a meeting on the 12th? And between

now and the 22nd we need to find out if we can have an agreement among the councilmembers to do what I described earlier. In the absence of that then I think we will need to postpone and just cancel the meeting on the 12th altogether. So we would make sure that's on the agenda for us to be able to consider that. Yes, Mr. Renteria.

>> Renteria: I would ask why are we postponing item 34 to 4/12?

>> Mayor Adler: We haven't gotten to there yet.

>> Renteria: But it's a postponement to --

>> Mayor Adler: But we can only consider that -- we'll call that in a second, okay? Pending right in front of us right now is the postponement of the consent items. Did we take a vote on this? We on got right up to the vote and haven't voted yet. We're postponing those five items to April 12th. Any discussion in those in favor raise your hand? Those opposed? We move them to the 12th. We'll put something on the agenda for the last week in March to decide whether or not to council the meeting on the the 12th altogether.

[4:06:43 PM]

All right. That I think takes care of all of those items. Does that get us -- having handled everything except for the things subject to the 4:00 P.M. Call? No, 3:00 P.M. Menumunicipal judge movements. Let's consider the issues on 32, 33, 34 now to decide whether we're going to postpone them. The first is a floodplain ordinance that city staff I understand has asked for this to be postponed.

>> Kitchen: Mr. Mayor, I understand the neighbors asked for a postponement which the developer has agreed to. They wanted more time. So I think we have an agreement to postpone item 32.

>> Mayor Adler: We also have thrasher to call up too. On this one, I'm sorry, councilmember kitchen, you said postponed until when?

>> Just by one meeting until March 22nd.

>> Mayor Adler: To March 22nd. Is there any objection, staff or otherwise, to postponing this item number 32 to March 22nd? Hearing no objection, that item is postponed to March 22nd. That gets us to item 33. Asking for this to be postponed until when?

>> This is to be postponed to March 22nd.

>> Mayor Adler: To March 22nd. Is there any objection to postponing this to March 22nd? We have someone here to testify on this. Mr. Pena? He's not here. Any objection to postponing this item to March 22nd? Hearing none, this item 33 is postponed to March 22nd March 22nd. That gets us up to item number 34.

>> Mayor, on this item staff is requesting a postponement to April 12th?

[4:08:44 PM]

>> Mayor Adler: Mr. Reason wanted to know why you were postponing this?

>> I'm actually texting my staff if I could get you back to that in a moment.

>> Mayor Adler: Okay.

>> Renteria: And if it's possible if we could move it to the 22nd.

>> It's actually on this agenda. So the only reason we would not be able to do that if it was waiting for planning commission action, but we do have a planning commission meeting next week so if you just table this one for just one moment I'll get an item for you.

>> Mayor Adler: We'll hold off on item 34. Let's consider the thrasher case, which is -- let's call up items 25 and 26.

>> Mayor and council, Jerry rusthoven again. This is item c-14-2017-01 too 25 for the property at 2514 thrasher. This is a part of a series of cases that we've had at thrasher lane recently. We've had three of them. At one point this was a case that was filed in 2016. This is a five acre tract that was the previous case was an eight-acre tract. At that time the staff was recommending the mu zoning for three acres, but not for five acres. The city council approved the zoning for the three-acre portion to add the mu but not for the other five-acre portion. Last year accountant approved an ordinance waiving the requirement that it not come back within a certain amount of time before the city council to allow this case to be filed. The case was filed and the applicant is requesting a cs-mu-np. The reason is proximity to a company called prax air, an industrial supply corporation. As we stated in the previous cases we are concerned about the proximity of this property to prax air and the type of chemicals and gases stored at that. We consider it to be a health-safety issue. We have had discussions with the fire department over the years in cases filed within this case. The fire department did recommend that if any residential is approved on this property that it be located at least 1,000 feet away from the prax air property.

[4:10:51 PM]

The planning commission recommended approval of the zoning case with the conditions of 1,000-foot, and traffic limited to 300 trips a day and additional right-of-way be on the thrasher site plan. It would be part of the larger residential case that would take access to montopolis and there is must the 300-foot limit. The staff cannot recommend this the same reason we did not recommend it last time, because of the gas company.

>> Mayor Adler: Councilmembers, we have some people signed up to speak on this. Do we want to hear from them? Let's start with the applicant. Is the applicant here on this case? You have five minutes. E hi, my name is Leah bojo representing the property owners of 2514 thrasher lane. I think I had some time dedicated to me. Is that right? Do I have five minutes?

>> Mayor Adler: Is is Andy Cantu here?

>> Yes.

>> Mayor Adler: You have seven minutes.

>> I'm going to follow up to what Jerry presented to you and I will tell you why we don't agree with the staff's recommendation. To deny and we're here to request your support. Like staff said this site is currently zoned cs-co-np with a conditional overlay that restrictive covenants uses and trips to 300 off of thrasher lane. We're asking to add the mixed use combining district. We're fine with keeping the list of prohibited uses. We're fine with keeping the trip cap of 300 trips on thrasher lane and we're even open to applying an access restriction for residential use on thrasher lane. And we are of course happy to comply with the fire department's recommended thousand foot buffer. We're also requesting that the Flum be changed from residential to mixed use.

[4:12:54 PM]

Far. So like Jerry mentioned, this case is very similar to a case I brought before you last summer on montopolis drive. That situation was also a cs-np site being rezoned. We had neighborhood support. We had staff opposition for the same reasons as we do for this case. Planning commission recommended it unanimously. And ultimately the council approved that case with the fire department's recommended buffer and a conditional overlay. To orient everyone to where this site is located, it's in central southeast Austin. This is a part of town that has been the recipient of a lot of industrial uses over the decades. The site is specifically between montopolis, Riverside and Ben white boulevard off of thrasher lane. It's currently vacant land, about five acres in size and it's in district 3. Our current access is only off of thrasher lane. Here's the zoning map. What I think is important about this zoning map is that you can see that this is -- the site is zoned cs, it's surrounded on three sides by cs-mu with multi-family development already on the ground or in the development stages. To put a commercial use in this place with access off of thrasher lane would be a major change to the character of thrasher. And given the current configuration of zoning I think it's fair to say that a commercial use in this place doesn't make sense. We've been working with the neighbors to try to come up with a solution that we can all live with. This is what the Flum looks like today. You can see that the commercial buffer that staff said they're trying to protect really does not exist anymore. The area has undergone significant changes since it was rezoned to cs in 2001 with the montopolis neighborhood plan. So the zoning history here is that this site was zoned sf-2 until 2001 when the montopolis neighborhood plan was adopted. It was rezoned to cs. Like Jerry mentioned, last year cs-mu was requested for this site and also for the two sites immediately to the north.

[4:15:01 PM]

The staff recommendation was to rezone the two to the north with the mu but to leave this one cs, and only to add a co to this site, which resulted in access restrictions and use restrictions and really also has ultimately resulted in this sort of commercial island that we have with access only to thrasher lane. So

now we're here to request the mixed use combining district which would allow multi-family and more importantly would allow this site to combine with one of the other multi-family or mu sites nearby to take access in a different direction. In your backup you can see we have neighborhood support for these changes. We had unanimous support for both the zoning and neighborhood plan amendment. But the support is conditional upon us not faking access to thrasher lane. While we cannot by law out right prohibit access to the only street we have frontage on, we are willing to prohibit access to thrasher lane for residential use. We don't prefer this option, but we are willing to do it in order to meet the neighborhood's request: Said another way, if the site was developed, what we're postponing is if the site was developed with a commercial use it would be subject to the current 300 trip limit on thrasher lane as exists now, but if it was developed as a residential use it would have to take access via whatever site it worked with or combined with to take access in a different direction. Because thrash certify the only access for this point, it is really the only way to keep cars off of thrasher line. With the way it's zoned right now this property really does not have any other options than to take access off of thrasher lane. So current access restrictions are a little complicated. They limit -- they limit all three of the properties that were rezoned last year to 300 trips total. 2500 and 2508 are under the site plan process. They have not taken any trips off thrasher lane so that leaves this site, 2514, with 300 commercial trips on thrasher lane.

[4:17:09 PM]

The 2017 ordinance also prohibits access to thrasher an sf-6 and we are proposing to maintain the 300 trip limit, but for limiting the access to residential use. Staff is recommending against this change due to its location near industrial use and zoning. The property that's the issue as far as use goes per the fire department's assessment is the prax air site as we discussed last summer. We can abide by the boundary that the fire department recommends as we did with the property on the northwest. No habitable buildings will be in that boundary and it is based on the 2016 emergency response guidebook. As you probably remember the fire department came to the last council meeting and support the this approach on that adjacent tract. As far as the zoning goes, while the tract to the south is zoned LI currently, what staff aren't considering is that there's also a public restrictive covenant on that site and that public restrictive covenant limits the site to commercial uses only unless a pda is entered into, which is something that would come before you. So while it does say Ia on the zoning map, this is effectively a commercial tract providing that commercial buffer that they're looking for. It's also worth noting that that site there to the east was recommended by staff in 2011 and is adjacent to the same LI zoned tract with the same restrictive covenant on it. Along the same lines the same property to the south that's currently zoned LI and has the commercial restrictive covenant is designated as industrial flex in codenext. Industrial flex is described as intended to be a less intense industrial zone to mix with office, service and retail uses, live, work and residential ads are permitted on that site.

[Buzzer sounds] So I think -- from a planning principle's perspective this is a very reasonable use to have adjacent to a multi-family.

>> Mayor Adler: Thank you very much.

[4:19:09 PM]

Mr. King, do you want to talk to us?

>> Pool: Mayor, I had a question. Thanks for being here. I was wondering how were your client -- will your client enforce the 300 trip a day prohibition on thrasher lane since there will be access there and that access may be available before any other access?

>> So if they proposed a commercial use, as it stands today, taking access off of thrasher lane, depending on what use they proposed, probably the size. Usually it's square footage, would be limited so that the international transportation engineer manual calculation puts it at or under 300 trips.

>> Pool: Is there any way that the developer can redirect the cars off -- so that they don't drive on thrasher lane and that they instead use the new access that may be available?

>> I think with a commercial use there's not really an alternative like that. I think that's why what we're getting at is the way to get -- the best way to get cars off of thrasher lane is to zone it mu, give it that residential option so that it can potentially work with one of the property owners and take access in a different direction. As it stands today there's not really a choice other than to take access off of thrasher, but if they're able to do a residential project they could potentially -- we can't promise it because it's working with other proceedings R. Folks, but the idea is that's what they would like to do is work with another property owner and take access in another direction.

>> Pool: All right. I realize that's about all you can say about that. But I do want to put a pin in it and identify that as a concern. And hopefully that everybody will work really hard to try to get that additional access so that thrasher lane isn't the sole ingress and egress for that site.

>> Mayor Adler: Okay.

[4:21:10 PM]

Is both the applicant and its neighborhood supportive of the planning commission recommendation?

>> Yes. The applicant and the -- the neighborhood letter has the caveat about thrasher lane, but yes.

>> Mayor Adler: Thank you. Is there a motion?

>> Renteria: I move to approve it.

>> Mayor Adler: Mr. Renteria moves to approve the planning commission recommendation. Is this for all three readings?

>> Mayor, would you like to read the additional condition by the applicant regarding the residential use to the property with access prohibited to and from thrasher lane must be taken through an additional property for residential use.

>> Mayor Adler: Mr. Renteria, are you including that? Yes. And it's to close the public hearing and to approve on all three readings. Is that correct?

>> Yes, it is, mayor.

>> Mayor Adler: It's been moved. Is there a second to that motion? Ms. Houston seconds that motion. Any discussion? Yes, Mr. Flannigan.

>> Flannigan: I had this item pulled for work session and staff wasn't available to answer questions. I wanted my questions answered on Tuesday instead of Thursday. I'm not going to apologize for it, but I wanted to let you know. I had a question about the thousand foot buffer because it sounds like a site plan requirement and not baked into a zoning. Can you step me if it's not possible to enforce it.

>> I don't think it would be possible to do it as part of the site plan because as far as I know it's not part of the current city code. So if you do it as conditioned with the zoning it would be part of the site plan, but if the site plan came in to my knowledge, it is not a requirement that would be enforced at the time of site plan.

>> So if the fire department is reviewing a site plan and they make a recommendation it's not enforceable?

>> If it's not in code, yes.

[4:23:12 PM]

>> Flannigan: That sounds a little scary to me actually. It seems like point of having the fire department view things is to catch health and safety things. Otherwise why would you have the fire department review it if only their recommendations can be what's already in the code?

>> They have codes that they enforce, the fire code, when they review things. To my knowledge that was not a part of that.

>> Flannigan: Something to look at.

>> Mayor pro tem.

>> Tovo: I wanted to indicate I'm not going to support for the same reasons I didn't support some of the similar cases. I will support the staff recommendation on the basis that I have concerns that they've articulated about having residential uses so close to prax air.

>> Mayor Adler: Any further discussion? Those in favor of the motion, please raise your hand? Those opposed? Mayor pro tem voting no. Councilmember pool abstaining. The others voting aye. It passes all three readings. Thank you.

>> Mayor, if we can go back to item 34, first.

>> Mayor Adler: That was items 25 and 26, by the way.

>> And closing the public hearing. The UT 34, the reason that we're asking for a postponement to 4/12, not 3/22, is one of the applicants, habitat for humanity, is not available on March 22nd, so we were asking for the postponement to April 12th. However again I would recommend that we probably do April 26 instead of April 12.

>> Mayor Adler: Councilmember Garza, do you want to make a motion? Motion postponed to --

>> Garza: 26th.

>> Mayor Adler: To April 26th. Any discussion? Seconded by councilmember Casar. Any discussion? Those this favor please raise your hand? Those opposed? It is postponed until April 26th.

>> Mayor Adler: Thank you.

>> Mayor Adler: Thank you. That gives us two items left on our agenda. Item number 35 is the water rate issue, and then we have the municipal court judge appointment issue.

[4:25:16 PM]

Let's do the water rate issue. Yes, Mr. Flannigan.

>> Flannigan: We had a 3:00 time certain and I've watched several people here left. I don't know how long water thing is going to take.

>> Mayor Adler: I would be fine with doing that. Is there a preference on the two items that we do first? Okay. Seems like -- we'll do number 36 first. Which is the judicial issue. We have a number of people signed up to speak. Let's start there. Let's go to the public. Robert Howell. Witcher Mccollough is on deck.

>> Thank you, mayor, members of the council. My name is Robert Howell. I'm a 40-year resident of Austin and a 37-year lawyer. I'm speaking today to oppose the judicial committee's recommendation because it was unfair and cloned with secrecy. The council tasked the judicial committee to make recommendations to the reappointment of 22 municipal judges. The committee then asked the presiding judge to form a review panel. Now, this was purely informal. Nowhere that I have been able to find in city records is there any identification of who made up this review panel.

[4:27:29 PM]

And the committee and the transcripts of its meetings, never mentioned who those people were. But that committee, pardon me, that panel made a recommendation to the committee and it's my belief

that the committee approve the recommendation without debate, without discussion and without changes. In other words, the panel -- the committee rubber stamped the panel. Now, I believe the recommendation was conveyed to the committee some time shortly before the committee's February 26th meeting. At February 26th meeting and some comments about the process and how great it was, they immediately voted to adopt the recommendation and that's what you're here today to discuss and vote on. Now, there's another possibility that the recommendation of this review panel, the secret panel, the panel who -- that we don't know the membership of was conveyed to the committee some time in advance. At the February 8th meeting the committee went into executive session for two hours. Did members of this informal committee come and address -- pardon me?

[4:29:34 PM]

[Buzzer sounds]

>> Mayor Adler: You can finish your thought.

>> Sure. The minutes don't indicate, but if the recommendation was conveyed over that executive session, that's a violation of the open meetings act law and the whole thing was cloaked in secrecy. The informal committee was no different than any other third-party coming before the committee to comment --

>> Mayor Adler: Thank you. Thank you, sir.

>> Good afternoon, mayor, council. My name is Witcher Mccollough. I feel that I've been very honored to serve the city as a menu judge for the last almost six years and as Mr. Howell pointed out, I've been very disappointed in the way that this was handled through a secret committee. I was not given an opportunity to know who they were, what they were listening to, to present any comments for any criticism that may have arisen, and learned surprisingly learned on February 26th that I was not going to be on this slate. And I tried to reach some of the people on this committee or panel, I'm sorry, and was told we had been sworn to secrecy. I don't know who swore them, but they were sworn to secrecy and couldn't give me any answers. I also tried to reach the judicial committee to find out why and was told that they had relied on the matrix. And I asked, may I see the matrix? No, we've given that back to hr. Called hr, said you will have to do an open records request. I have no clue why I was not included on this list. I have heard through the grapevine it was because I denied a bond that pretrial services had recommended.

[4:31:41 PM]

And I will tell you yes, I do do that. I do it maybe five percent of the time. All judges do. We have discretion. We use pretrial services as guidance. They do not mandate. We do have to look at each case and look at the statute and decide do they fit within a personal bond or not. And likewise I will tell you that many times a lawyer will come to me with something that says no bond and I will grant the bond.

So you can't please all the people all the time, but that is one of the things that happened. Now, should I be reappointed as a judge. I'll let you decide that. I feel like 40 years being a lawyer, starting out as a federal prosecutor many years ago and running a strike force for the department of justice, I have been associated with two of the five largest firms in the state of Texas. I think I've had a distinctive law career. I've been rated av, which I'm sure the mayor knows is the highest rating you can get in the legal directory for 39 years. The eight state bar presidents have appointed me to 25 years of grievance committees so I must be doing something fair and impartial to be able to judge lawyers. The supreme court has appointed me for over 20 years to serve on their unauthorized practice of law committee. And just by coincidence the same month that this all comes out, unsolicited I received notice from who is who that I had received a lifetime achievement award having been listed in over 20 who's who editions of who's who in America and who's who in the world.

[Buzzer sounds] So I guess the bottom line is I'm concerned with the secrecy and wait this was conducted. I do feel like I am -- would be -- it would be right to include me -- put me back on the list as being appointed this go around.

[4:33:42 PM]

Thank you very much for your time and consideration.

>> Mayor Adler: Is Gus Pena here? What about Olivia Reese?

>> [Inaudible].

>> Mayor Adler: On deck is Beverly Landers. Is Ms. Landers here. You will be up next.

>> Good afternoon, councilmembers. My name is Olivia Ruiz and I have been serving you also for approximately six years. Serving you as the city of Austin. As you know that I have shown almost all of you certain emails concerning certain actions that have not only bothered me, but several other people. This whole matter started or had its origins in 2014 when there was a special arrangement made -- done for judge Ron Meyers that he would get guaranteed hours. Never in the history of Austin has there been guaranteed hours for substitute judges. And the fact the presiding judge did not object to it went against the charter and when the charter requirements said it, she tried to equalize all our hours. In 2017 we found that judge Meyerson was going to try to get that same arrangement made again. That's when we started visiting councilmembers. Judge Landers, judge

[indiscernible] And I started visiting councilmembers to discuss that option. In that arrangement I know we have spoke to everyone that we met about our concerns for retaliation. That we were really concerned if the presiding judge or several other people found out that we were talking to you about this, that something would happen.

[4:35:43 PM]

That same in July is when the presiding judge sent out the survey. We don't know who it was sent to, nor were the judges' input included. Based on the survey comments it was clear to us that the B shift and C shift at magistration, most of the people there were not included in that. And most of the people that were not recommended for reappointment worked the B shift and the C shift. And the B shift is from 3:00 to 11:00. C shift is from 11:00 to 7:00 in the morning. Also my biggest concern was that the survey that was sent out in July by the municipal court did not include a single question about the indigentcy or the handling of indigent defendants, which is an issue that I know this particular council has identified as something very important to them. That was one of our concerns because that's the information we wanted feedback on and have never received feedback on. So in January it is my understanding through a -- through several board members that in January amber Bodie, who is a member of the review panel, sent out an awesome criminal defense lawyers' survey. That survey was not sanctioned by the board. And it involved 60 particular members. And she also -- I'm not quite sure whether she sent it out on accla's papers or whether she sent it out on the presiding judge's papers. I was told last night they are very good friends --

[buzzer sounds]

-- And I was given certain pictures to show you their kind of friendship. I refused to publish it, but I do have the actual photos if anyone wants to see them.

[4:37:44 PM]

>> Mayor Adler: Okay. You need to wrap up your thought.

>> Okay. I think the biggest thing we're asking when this whole thing started we were asking that this four judges just be reappointed. But after the disclosure, the unsanctioned survey, after the realization that indigent defendants were brought in, which would have been fine with us had we known who they were. And also the realization that the presiding judge told several judges before, the week before on February 26th, that they were not going to be reappointed, so they had opportunity to go and actually fight for the jobs, no one else did. So that kind of unfairness to me makes this whole process very poisonous.

>> Mayor Adler: Thank you very much.

>> Kitchen: Mr. Mayor, I have a question. I didn't understand what was being said about the survey. When you say it wasn't sanctioned, did you mean that it wasn't sent to all the lawyers or what did you mean?

>> No. My understanding through a board member was that the Austin criminal defense lawyers association survey that was sent out in January this year was not sanctioned by the board. They had been working on their own evaluation, but it was not sent out in time. So Ms. Bodie sent out her own. I don't know the 400 plus members who received it and who did not receive it. That was the one that was shared with the panel and with the committee.

>> Kitchen: Thank you.

>> Mayor Adler: Thank you. Mayor pro tem?

>> Tovo: Ms. Ruiz, I apologize.

>> I'm sorry, I don't know who --

>> Tovo: Over here. I didn't completely understand what you were saying about the ability to go -- that some individuals had an opportunity to go and plead, provide information on their behalf.

>> I was personally told by a judge who was first not going to be recommended for renewal or reappointment that judge statman told him you were on the list and you need to make the rounds and see if you can be back on the reappointment list.

[4:39:53 PM]

And he did make the rounds and he was reappointed. The five of us that were not recommended for reappointment never had that opportunity, judge statman never told us so we couldn't have the opportunity to meet with the panel members.

>> Tovo: Thank you.

>> Flannigan: What was the point of the photos you pointed out?

>> I was -- the point of the photos was sent to me to establish the relationship between amber Bodie and the presiding judge. I have them here and haven't published them anyway.

>> Flannigan: That is a real awkward thing to lay out in that chamber right now. I also don't appreciate the acers that you're making -- assertions that you're making about the process that I happen to know are not true.

>> I'm sorry that you don't appreciate that and I don't know what you might know about the photos. I didn't understand that.

>> Mayor Adler: Let's go on. Thank you. After Ms. Landers, then Mr. Pena will be the next speaker.

>> Kitchen: I can ask a question-- I'll ask a question later.

>> Mr. Pena Y on deck. Ms. Landers?

>> Good afternoon, mayor, councilmembers. I am Beverly J landers. Hopefully I will continue to be judge Beverly J landers. Municipal court judge for the city of Austin, substitute judge for the city of Austin. I have had the pleasure and the privilege of doing this for 21 plus years. It's 21 years and nine months. I say I've had the pleasure and the privilege because it was not easy to maintain a law practice where I had to take care and make enough to have a living and commit to be a substitute judge and do the job well, do the job right and have five of your predecessor councilmembers find me not only fit, but wise in judgment, sufficient enough in my knowledge and the ability to know both criminal law and civil law to keep putting me back there to do the right thing for their citizens.

[4:42:10 PM]

I, councilmember, will say yes, I have a problem with how the subcommittee was handling the information it was given and the way it was brought to you. And you may have a problem with me because I have a problem with that, but I know that I was one of the three strong judges that were whistle blowers that said -- whistle blowers, that said we don't want this council to pass an illegal ordinance the way the last one did as they were exiting. And that's why we went to several councilmembers and said we think this may be unconstitutional. And did it knowing that there could possibly be some repercussions and now I stand here because of that. Yes, there was an agenda from the beginning that no matter what. And I say for. And it was the four minority substitute judges, myself, judge Villareal and judge Ruiz. And because judge Witcher sympathized with us and his name was on one of the emails saying we were going to meet with a councilmember, he's crucified too. And yes, it does happen. And if we're going to have a transfer in government, what we tell our citizens, we ought to have people to be able to come and speak to their councilmembers and not be jeopardized for it when they have worked so hard for the citizens. It was no mistake that I was reappointed and reappointed, and then all of a sudden I'm unfit? That is an insult to your predecessors, it is an insult to me, it is an insult to our citizens. Why would someone want me gone that bad because I cannot be shut down when something is wrong. I will not do it. And if it takes me removing my name for you to see the wisdom in throwing out these recommendations, and at least allowing the others a chance, then so be it.

[4:44:11 PM]

[Buzzer sounds] I'll remove my name so you know how sincere I am about the citizens, about what's right, about transparency -- having a transparent government that we say to the people of Austin. But if you do this, what message do you send? And I know y'all have gotten letters and I don't know how many emails because they keep coming to me. I'm telling people stop. I know you've got them from citizens, every walk of life, telling you about judge landers. She is for real.

>> Mayor Adler: Thank you very much.

[Applause]. Mr. Pena, do you want to come on down? Is Cathy Mitchell here? You will be up next after Mr. Pena. You have three minutes.

>> Mayor and council, Gus Pena. I see some volatile issues in the Marine Corps in the last part of nam, but darn it, I didn't know I would have to put up with combat here. Anyway, I used to be a bailiff at municipal court, judge Murphy, Harry Murphy was our presiding judge, and also was promoted -- accepted at criminal district courts. And I attended the sheriff's academy for six weeks, and the judges didn't get my stipend in time for it so I had to withdraw and go through another class. I have heard a lot about what's going on in municipal court. I still have friends over there. They've been there for 25, 27, 30 years. And I'm like a husband with a wife, we're still separated, you know -- we're not separated, but

I'm -- as an example. I just -- I hear a lot of things. People call me. I don't know the straight skinny. And the straight skinny being what is right, what is wrong, what is inaccurate or accurate.

[4:46:15 PM]

It's volatile. But I see my good friend Bettie Blackwell she's still an attorney. She used to come to our courts. I knew her father very well, judge Tom Blackwell. I loved him very much. He treated me like I was an attorney. He said go to law school. I never did. I just want the right thing to happen. I know some of the people that were affected about some issues. I don't know exactly what happened. I do know judge statman, I do know judge coffee, I will tell you this much, when I have taken defendants over there to the courtroom -- and I've had some pretty rude judges. One that is going to be -- her first name is Barbara. Anyway, we'll leave her last name. It was disrespectful. I never treated a defendant bad whether guilty or not guilty. That's not for my discretion. The judges do that and the prosecutors. And I - - I've known a lot of prosecutors and a lot of das. But what I want to say is this, let's do the right thing. I know judge statman very well. I know judge coffee. I don't know what happened. All I can tell you is the benefits that I hear. You know, and personally what I have experienced is taking defendants down to municipal court. So I myself have not seen that going on. I have seen what they have done for the community. It's doing to be up to y'all to reappoint or make a decision. And I do -- I don't want anybody to disrespect --

[buzzer sounds] I'm keeping it brief. To disrespect councilmember Flannigan because he's a man of good faith. I just want to say do the right thing.

[4:48:17 PM]

>> Mayor Adler: Thank you.

>> That's all I want to be done. Thank you.

>> Mayor Adler: Thank you. After Cathy Mitchell, the next speaker is going to be Emily garrick. Are you here? And you have donated time from carney Joe Dixon and from Annette price? You will have five minutes when you come up.

>> Hi. My name is Cathy Mitchell and I am only here to say thank you for doing this process. Thank you for actually taking the time to try and evaluate the municipal court judges' based on what again I feel like -- I said this morning based on the kind of criteria that we're looking at now that may be different things than were looked at different years on ago. I want to say it's unusual to do an evaluation of municipal court judges at the city level. I think that this is the kind of thing cities all across the country should look to. I was surprised to hear from one of the first speakers that the panel was in secret. I'm not aware that it was a secret. And of course, the people who were on it, you probably well know. It was tcdla, it was democratic women's association, it was Betty Blackwell it was Emily garrick who is going to come after me. It was the board of the county bail bond board. It was the Asian bar association. It was

many people who are well respected and known in this community. I don't believe that they were in a secret process. I think quite the opposite, they were doing a process that was an attempt to evaluate all the judges along some of the same parameters. That is something that's very rare. Up until now this has been essentially -- it's a political appointment really. And that is not a process that lends itself to fair and equitable evaluation systems.

[4:50:17 PM]

When do you that evaluation and you find out something that's important to know, I think it's the next step to take to act on what you find. So I just want to say thank you for doing this process, thank you for showing vision and really taking leadership with respect to municipal courts, which are frankly very often kind of a backwater. So thank you.

>> Mayor Adler: Okay. Why don't you come on up. Is Morgan shellborn here? You will be up next. Go ahead.

>> Thank you, mayor and members. My name is Emily garrick. I was one of the members of the panel. I work for the Texas fair defense project, which is a small non-profit, and one of the things that we do is represent people who can't afford attorneys in the municipal court. And the reason that I was chosen for the panel is because our organization is the only organization that regularly does that. I can say that the panel members, it was not a secret process. We spent a really long time talking to the committee. We spent a really long time talking to each other. We got a huge amount of materials that we went through and we were all very diligent about it. And I thought it was a very thorough process with a lot of different people, a lot of different experiences. There were defense attorneys and prosecutors and then me. I can say for certain that there was never any discussion of an email about hours. I can also say that the accla-- I'm on the listserv as are many of the other panel members and it went out to the entire listserv. That was not a secret process either. And I can also say that we unanimously for these five judges that we did not recommend, it was completely unanimous. The defense attorneys, prosecutors. And there were no members of the panel that we -- I'm sorry, members of the judiciary that we initially thought shouldn't be recommended and then changed our minds. So I'm positive that didn't happen.

[4:52:22 PM]

And I wanted to talk about the reasons, some general reasons why we didn't appoint some of these judges. For me some of my reasons, and I sent a memo about this to all of your offices, there are judges who frequently jail defendants for not being able to pay traffic ticket without holding proper hearings and they jail them for days or weeks at a time and lots of my clients lost their jobs and housing as a result. Sometimes it's up to 43 days at a time. And I have clients who would have lost their children if we hadn't gotten them out of jail. Demeanor was also an aspect. We have complaints will judges yelling at defendants, belittling clients. Retaliation for them speaking, refusing to sign bond for attorneys they don't like, which takes out personal grudges on defendants who didn't even get to choose their own

attorneys. And leaving the jail without a magistrate by either being late to work, not showing up at all or just leaving for really long periods of time. You will hear today that the judicial positions are very, very important. The judges set bonds and sign warrants for everybody from capital murder to low level possession of marijuana cases. And with the wrong judge on the bench, even something as small as a class C misdemeanor ticket, like a speeding kinetic can actually ruin someone's life. The code of judicial conduct, by applying with the law and having confidence and integrity with the judiciary. We simply cannot afford to have people in these positions who routinely violent the -- violate the law, yell and curse at the defendants, act as beer tarps foment law enforcement, belittle the staff, making fun of their weight or refuse to sign bonds for attorneys they don't like. I'm happy to answer any questions that there are about the panel. I know a couple of other panel members are going to be here to speak. And I can also -- any questions you have I'm happy to answer.

[4:54:23 PM]

>> Mayor Adler: Yes, Ms. Kitchen?

>> Kitchen: Thank you. And thank you for your service. I know it took a lot time and was not an easy thing to do. I have a question. Did the panel interview or speak to any of the judges at all?

>> So the panel interviewed applicants because those applicants don't have a record of being a judge. Because the actual -- the people who were already judges already had that record we did not interview them because we already know knew what they would be like as judges. We felt that the interview process was to determine what an applicant might be like as a judge.

>> Kitchen: So the panel did not meet with any of the judges in.

>> No.

>> Kitchen: Except for the applicants, like you said.

>> Correct. And also I believe that some of the members of the panel have been on the panel previously and have recommended that judges not be reappointed and the judges stated on and been retaliated against. So I think for a lot of the maintains of the panel they were really sticking their necks out. For me I work in a non-profit so I'm a little more insulated, but for the defense attorneys especially and the prosecutors, I think that was something that was risky for them.

>> Kitchen: I was just trying to understand the process. So this was a process that -- so the panel review process was basically based on documentation or -- whatever documentation was in the file and the surveys. But no interviews.

>> No interviews, correct. Thank you.

>> Mayor Adler: After Michelle, is Malcolm Greenstein here? Is Roger Nichols here? You will be up next.

>> My name is Morgan shellborn and I'm here to speak in support of item 36. I'm a law student at the university of Texas, and an aspiring public defender. I have had the honor and privilege of helping represent poor people who are charged with crimes both in and outside of Austin.

[4:56:28 PM]

And I often appear in municipal court on behalf of clients of UT's criminal defense clinic. I'm here, however, speaking for myself as a resident of the city of Austin. And a person who is deeply and personally invested in serving my community. You've heard from previous speakers about this thorough and transparent review process, and I just want to say how much I appreciate the work that's been done by the judicial committee. And I also want to explain why I think this review process is so important to our community. The municipal judges appointed by this council play several very important gate-keeping roles in our community. Aside from setting bond, one of the most important gate-keeping functions that they play is when someone is arrested they go before a municipal court and here -- and hear for the first time exactly what they've been accused of. So why they've been put in handcuffs, why they've been separated from their families, why they were locked in the back of a police car, why they were put in jail, usually solitary confinement, four days. After that they go before a municipal judge and hear what they're accused of, what is happening to them and why, and what their rights are. That process is called magistration. I've never seen a magistration because unlike in most states, that proceeding is not transparent in Texas. Attorneys aren't allowed to be present for that proceeding. Magistration happens behind closed doors with very little oversight. Municipal judges also decide whether or not an arrest is legal. This is an incredibly important gate-keeping function, not only because of the inherent injustice of a wrongful arrest, but also because of the wasted community resources involved in arresting, prosecutoring and -- prosecuting and incarcerating an innocent person.

[4:58:41 PM]

Again, municipal judges make these determinations without an attorney present, which creates a huge risk for rubber stamping of what law enforcement is asking them to do. Finally, municipal judges usually just ticketable offenses but those offenses disproportionately affect poor people who can't afford tickets and often end up facing jail time as a result. A poor person charged with a crime --

[buzzer sounding]

>> Mayor Adler: You can finish your thought.

>> Sure. A poor person charged with a crime in municipal court has no right to an attorney and as a result rely on municipal judges to guide them through the process. In each of these roles, municipal judges appointed by this council have nearly unchecked power over the fate and liberty of poor people in Austin, which is why the work of the judicial committee represents a rare step towards accountability and transparency.

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

>> Thank you.

>> Mayor Adler: After Nichols, is lamario Smith here? You'll be up next. Sir.

>> Mr. Mayor, members of the council, Ms. Kitchen, my represent, my name is Roger Nichols. I've been an Austin resident for 14 years. I got here as quickly as I could. Oh, by the way, special thanks to Gus Pena for helping me use the screen out there. It was maddening. Until he helped me out. My exposure to municipal courts is very small and limited really to the overmagistration process. I shy away from cases in municipal court. It's not something I do. Most of my work is in front of the Texas board of pardons and paroles but occasionally I am engaged in getting bonds for folks and there's a delicate balance in that role.

[5:00:44 PM]

Probably the most delicate balance of all. Public safety versus the rights of the individual. And that's the first encounter so many of our citizens have with the judicial process. And if it's not handled with a certain delicacy and skill it sets a bad thing in motion that almost never stopped. I am breaking ranks with my members of the criminal defense lawyers to a degree. I concur in part and I dissent in part, if you will. I want qualified judeery, I want them -- judiciary. I want them properly vetted. But I think that I don't understand the process. I came in late to the game with a shock that my friends left. A fellow tech law graduate, though they want to tech law school decades after I. She works hard and overnight and those are the things I came to know her for. If I use an analogy, revolution and freezing, it's our revolution, and their treason. Some folks have chastised me for breaking rank saying that this rehearing is political. If they're doing it, it's political. If we're doing it, it's a process. Treason, revolution. Political. Process. And I think the balance of those concepts needs to be addressed by the council. My concern, if any, is that the delegation to the committee, then to a panel, without more integration by the end -- into the council's review might be a problem. I always want it to be transparent. I always want it to be fair. And I hope that the process was not political.

[5:02:51 PM]

>> Mayor Adler: Thank you. He Ms. Smith. Is Brian Mcgivern here? You'll be up next.

>> Good afternoon, Mr. Mayor, councilmembers. I'm preappreciative of the opportunity to address this -- Austin's governing board. I'm here to voice support for long-time civil servant judge Beverly landers and possible reappointment as a municipal court judge. While judge landers and I are friends, she, more importantly, is a friend to the city of Austin. By that I mean that she manages her court with a sense of compassion, a measure of accountability, and matured wisdom that only comes from experience. This balance is violate for the city's judicial compass, which judge landers renders regardless of the race or socioeconomic status. Her community involvement and commitment to the city of Austin is undeniable and I believe you witnessed some of that passion here today. In recent years, Austin has failed to secure a full-time African-American female judges and judge landers has been one of only two part-time female African-American judges. It would be a shame for the city, court's participants and the citizenry to lose

that diversity in Austin's city court system. After serving as a substitute judge for about the past 22 years, it is un-- inconcomprehensivale that her expertise would be so frivolously set aside. I implore your personal, thorough review of judge landers' record forrery appointment as city of Austin municipal court substitute judge if she is not among those judges recommended by the staff.

[5:05:04 PM]

I'm confident that you will find Austin deserving of the continued benefit of her prudence. Thank you for your time.

>> Mayor Adler: Thank you. Is amber Vasquez here? David king is giving you time. You'll have five examines you'll be next.

>> Thank you. I'm Brian McGovern. I've noticed a characteristic of the 10-1 council, both the current makeup and previous makeup. It's just my personal observation. Every time you have tackled a new issue, including issues that may have been presented to prior councils, I've observed you have a commitment to improving the process with greater deliberation, larger amounts of informed input from the people you represent. I think that that commitment has been good for the city, very good and I think what you have today is an example of that sort of process. The panel that was assembled to compile these recommendations, you've heard from emilys who is one, and you've heard from two others more than capable for speaking for themselves, they're immensely credentialed people from different areas of legal practice who represent a diverse array of constituencies. They reviewed a great deal of information over a significant amount of time to develop informed recommendations for you. And, you know, personnel decisions are hard. I think they are probably inevitably unvaluably emotionally charged in many respects. Hiring and firing sucks, if you'll excuse my language. I mean, that's unavoidable and the only way to approach it is a S with a smart, informed impartial process.

[5:07:05 PM]

I think that's what you have. Relying on input from a vast array of attorneys, court staff and other sources have come to the best set of recommendations you could hope to receive. To ensure that judges who are retained and those who are appointed in the future implement the law, enforce the law, based on the values of the community. And I think ensuring that they represent the values of the community is important. There's no election for these judges. There's no recall. There's no impeachment. The only thing that can be done to ensure they are acting in conformity with the values of the community is what you are doing here today. I used to work here not so long ago. Time increases every day. One of the things that I was most proud to have worked on while I was here was a resolution with regard to ensuring that court are not jailed unconstitutionally simply because they do not have the money to pay fines that have been assessed against them, a problem that existed in the past and is reducing, but still exists. . Of all the things I'm proud to have worked on while here I think I'm most proud of that but you need to understand that resolution and similar work is meaningless without

scrutiny to the people implementing those resolutions that you passed. The people you're talking about, as you heard, this isn't just traffic tickets. Muter judges wield immense power in many situations, people's freedom, their liberty. It's very important.

[Buzzer sounding] I didn't time this in advance but have faith in the course that you charted. I think it's a smart one.

>> Mayor Adler: Thank you. Ms. Vasquez and then Chris Harris. Is Chris Harris here on deck? You're up next.

>> Thank you, mayor, council, everyone that's participated. I want to share a little of the overview since I've been on -- asked by the city four different times to sit on interviewing panels for the municipal court.

[5:09:08 PM]

I think to start with I'm a board-certified criminal attorney, former president of the Austin criminal defense bar and have served on various reentry police accountability boards and various issues involving criminal justice. The process, bar none, has been the most thorough that I've ever seen in the four times that I've done it. In the past, the only review was for new applicants, were current judges that were applying for new positions. The judges that were already on never were reviewed by any panel that I'm aware of. And so the review process of the judges that were already appointed is new. And, quite frankly, when I first started offering my time on the panel, it was purely political and people were hired and fired as the council saw fit with no explanation whatsoever. And no explanation was expected. And the bar -- this was done at the Austin bar. And the second time I was on it, it was very hard to find people willing to do it because it was such a substantial time commitment and it wasn't seen as having any effect. It was seen as a rubber stamp for whatever political move the city council wanted to do and it was very difficult to get people to spend 15 hours interviewing people. The last round before this one became more substantive and we got more actual paperwork and documents, but it was still for current judges applying for new positions or new applicants. This process was a watershed moment for how we do things and I think Mr. McGivern summed it up pretty correctly.

[5:11:11 PM]

We were given a broad view of everyone on the bench and everyone that wanted to be on the bench, from court staff, police, attorneys they work with, from prosecutors, from many different sides. And it was thorough. We had a binder about 10 inches thick that most of us could barely carry, and it took me personally about ten hours over about a week to actually read the documents before we even got here, and then we spent approximately 15 to 20 hours in addition to that of our own volunteer time, reviewing each applicant, specifically having discussion. We've already talked about the people that were on the panel.

[Buzzer sounding] I ask that -- I ask that in the -- in honoring the honoring -- integrity of the process that the council adopt this it was thoughtful, thorough and absolutely where the city should be heading?

>> Casar: Thank you for participating so much times on the panel. Can you clarify for us the process that you guys underwent on who was recommended, who was recommended for review, or not recommended and how the sort of breakdown amongst the technical panelists worked in those situations?

>> Absolutely. There were prosecutors and defense and Ms. [Indiscernible] From the defense. We were either to be recommended or not recommended. We decided up front it had to be unanimous, all ten members. And some of the members deeply disagreed with each other on pretty much every issue under the sun. So it was very distinct when everyone came together immediately, but it was for a variety of reasons. And I'll be very clear. The email that was discussed never was a part of anything. This is literally the first time I've ever heard about judges going and talking about hours.

[5:13:16 PM]

But what we did is if anyone dissented and we had issues with any judge we recommended for further review to the council, to indicate that there was -- that there was a question. Even if we didn't agree. For instance, one of the judges, the prosecutors specifically had issue with. And no one else did. And even though some of us in defense bar felt that he was an amazing judge we all agreed per our process it would be further review and that's what we stuck to across the board. There was no situation in which there was one hold-out ever?

>> Is it fair that of the 22 judges there were 17 that had either the whole panel recommending them or some portion recommending them but of the five that we're not reappointing you had unanimous consent to not reappoint?

>> That is correct. It was helpful because we had the prosecutors who were actually in the municipal court trials every single day, for some people that only dealt with judges at image discrimination. Our agreement was that the only people we would even consider for not recommendation had to have distinct or problems in every single area of the job.

>> Mayor Adler: Mr. Flannigan.

>> Flannigan: I just want to confirm the example you gave that the prosecutors on the panel felt one way and the rest of the panel felt another way, your recommendation to the committee concluded with them being reappointed?

>> Correct.

>> Flannigan: That judge in question.

>> Correct.

>> Flannigan: To make it absolutely clear, the only ones left off of the appointment list were ones that were in unanimous agreement across the whole panel?

>> Yes, it was an absolute unanimous vote. Ms. Kitchen.

>> Kitchen: First off, I don't want say thank you for your time. I want to say thank you for your time. I know this was not easy. And my questions are just because I'm trying to -- you know, I have to --

[5:15:18 PM]

>> Of course.

>> Kitchen: I have to make an independent vote and think about things.

>> Sure.

>> Kitchen: One of the things that's been curious for me and something that's so hard for a panel to do is when you receive information that is -- I mean, I don't understand how you could understand if information -- how the Independence or accuracy of information without interviewing any of the judges. And that's one of the things that I'm curious about this process. Because I know -- I've been involved. I'm an attorney. I've been involved. I always -- I know there's always perception that's people see things through, and there's also more than one side. And so I just don't understand how you went about if you -- you know, if -- the kinds of concerns that someone mentioned earlier are the kind of concerns that I'm concerned about, too. I don't want to see judges that do the various list of things, but how do you know whether they did or not? If you're just looking at pieces of -- and I reviewed the record. So I'm just curious about -- because that's a tough thing. How do you ascertain, without talking to any of these judges, how could you possibly ascertain thoroughly the degree to which any of this information was accurate?

>> And your question is completely understandable. And I'd love to address it. One of the things that the judges provided to us was -- for the first time ever, a very thorough application where they articulated their position on things and answered very specific questions, way more than any interview process I had ever been involved in. As far as -- there was an essay portion that we read and, quite honestly, we had lengthy discussions about each and every person.

[5:17:21 PM]

And, you know, everyone on the -- not everyone. I would say about half the people on the panel had interacted with the judges, and everyone really focused on the totality of the circumstances, and that's what I can go, to is that there was not a single person that wasn't recommended that had, you know, one or two complaints that were isolated. The people that were not recommended -- and we kind of agreed to this up front because it's difficult and we know them and we didn't want it to be a popularity contest. So we wanted it to be empirical so we sort of agreed on the overall premise of, you know, we wanted to take in their -- their answers into account and we discussed them, as far as, you know, if someone had had issues with indigent defendants and how they treated them, we wanted to know -- I

mean, maybe we're missing something, so we discussed their answers and their viewpoints that were really thoroughly articulated, and a lot of times it still missed the mark to get us where we needed to go. Is that helpful?

>> Kitchen: Yeah, that's -- that's helpful. So if I'm understanding correctly, if there were particular concerns raised about a particular judge, you had information from that judge that addressed those specific concerns?

>> I would say in a general sense because of the questions and the essays that they provide, it did -- they touched on every issue that -- for instance, they mirrored what we ask the new candidates, for instance, and I think that that made me feel more consistent with the process. Because they were very -- they mirrored each other as far as the answers we were able to get from them.

>> Kitchen: Okay. So you had the general answers, but without interviews you didn't talk to them about specific circumstances?

>> No. We only spoke to them about pretty much the same issues that we spoke to the new applicants about.

[5:19:22 PM]

>> Kitchen: Okay. Thank you very much.

>> Thank you.

>> Mayor Adler: Thank you, Ms. Vasquez.

>> Thank you. Appreciate it.

>> Mayor Adler: After Chris Harris, then Ryan Phipps. Is Ryan Phipps here?

>> Mayor, I'd like to donate my time to Chris, please.

>> Mayor Adler: Okay. Roy Whaley donates his name to Mr. Harris. You have five minutes.

>> Chris Harris, thank you, councilmembers, I'm from district 1. I'm here to speak in favor of the judicial recommendations, and to emphasize the importance of judges and magistrates that don't contribute to mass incarceration, debtors prison and unnecessary pretrial detention. The [indiscernible] Advocates just won an important victory in having Travis county delay consideration of spending \$100 million on a new bigger women's jail. That just happened Tuesday. The commissioners court decision was ultimately based on an undeniable uniformly held belief that significant local jail population reduction is possible. It's possible because people are in our jail locally every night that should not be. It's possible in part because judges like those said to be replaced too often see fit to keep people in jail unnecessarily and they don't treat people with the same fairness y'all are treating them with today. Local jail population -- people in jail every night are there who are not a threat to public safety, that are not a flight risk, that are presumed innocent, that simply cannot afford to pay bail, that have been convicted of no crime or whose only crime is being homeless, having a mental health issue, or a substance use addiction. Local

jail population reduction is not just possible, but it's essential because without it -- because with it we keep families together, we keep caretakers with dependents, we keep people employed in their homes, able to pursue educational opportunities and ultimately more resilient.

[5:21:39 PM]

It also saves resources. So that we can make vital investments that we need in public health locally and ultimately create a better community. I believe a crucial step is for y'all to do what you can to ensure that we have the appropriate people overseeing our criminal justice system. Judges that selfishly leave the jail without a magistrate just leaving people in jail, judges that seldom if ever question bail decisions about pretrial, judges that set unreasonable and unachievable conditions and judges that jail people to settle grudges and without hearings hurt our community and contribute to mass incarceration. They also reinforce a two-tiered criminal justice system, one for those with means and ones for everyone else, one where the rich always achieve pretrial freedom, receive

[indiscernible] Defensive and ultimately the best possible outcome for themselves and one where the poor are often jailed pretrial, receive rushed and often inadequate defense, are too often coerced into guilty pleas simply to get out of jail and must suffer the consequence that's flow from a criminal record. Your vote today in favor of the judicial committee recommendations relating to the municipal court judges and magistrates is a vote in favor of a justice system ultimately more just, more equitable, and one that inspires more trust in our community. And I trust that you'll make the right choice. Thank you.

>> Mayor Adler: Thank you. Penny Blackwell will be on deck.

>> Good afternoon, mayor, council. My name is Ryan Phipps, chief of police for the manor police department, y'all's neighbor to the east. My department is a consumer of the professional services at the Austin municipal court within the Travis county jail.

[5:23:46 PM]

I'm in support of the judicial committee's recommendations, and I appreciate establishing evaluation criteria and the creation of the nine-member panel. I found myself with some concerns that I felt needed to be brought to the attention of the supervisor of a particular judge at the jail. I found myself unable to achieve that. So frustrating years and years of, in my opinion, inadequate magistration, I finally found out about the judicial committee and committed my concerns there. The concerns of no oversight. You have judges in the jail at night that don't answer to anybody except for every couple years when the judicial committee forms. And there was no availability for the law enforcement side of these services to voice their concerns. I think what we all want out of our judicial system, including the services provided by y'all's judges, is a fair and efficient justice system, and that's what I think you will achieve with the -- what y'all have formed. So thank you.

>> Mayor Adler: Thank you. Annette price is on deck after Ms. Blackwell.

>> Thank you. Betty Blackwell, local criminal defense lawyer. I think I'm the old person. I've been on this committee I think about 25 years of doing this judicial review. I have to say this one we got the most information that we've ever had. We had the largest number of attorneys with a cross-section from civil, criminal, prosecutor, Texas fair defense fund.

[5:25:48 PM]

It was an incredible group of people to work with. I was very privileged to work with them. We got the surveys information from the Austin police department, the manor police department, from the Travis county sheriffs deputies that work with judges, from the clerks that work with them in court, from the prosecutors. We really, really worked very hard to try to do a good job for the city council and I just want to say what an honor it was to serve and I'd ask you to accept our report. And answer any questions.

>> Mayor Adler: Mr. Casar.

>> Casar: Ms. Blackwell, thank you so much for your long service on the panel.

>> Sure.

>> Casar: Ms. Vasquez mentioned she hadn't seen a review the last four times, thorough review of existing judges on the bench. Since you've been doing this longer when was the last time --

>> No, we did not ever interview existing judges for their position. That just did not occur. In the old days what happened was they came and petitioned y'all and we would hear that somebody was in trouble and defense bar would come over and petition the city council. This has been much more of -- of a realistic with guidelines, with lots of information. We just did not ever interview a sitting judge for their position.

>> Casar: But apart from the interviewing, what about -- sorry --

>> Oh, even -- no, we did not make any recommendations to the city council because they felt like they knew them. Back then it was much smaller. We're talking more like eight to ten judges and a much smaller city council who did probably know them on a -- more of a personal level. And that was another issue. There was also a very time lined crunch on getting all of of this done that we were asked to do. I don't know how we would have interviewed 22 additional people.

>> Casar: Got it. Thank you.

>> Anything else?

>> Mayor Adler: Thank you. Last speaker.

[5:27:50 PM]

Annette price.

>> She had to leave.

>> Mayor Adler: She had to leave. Thank you very much. I'm sorry.

>> I would, like, to bring to the council's attention some new information. May I be recognized for 30 seconds?

>> Mayor Adler: Why don't ask you him a question.

>> Sir, I'm going to ask you a question so that you have the ability to answer it. Do you have any new information to bring to the council?

>> I do, mayor pro tem. I understand that the committee met in executive session with members of the review panel. I think on February 8. That's a violation of the open meetings act. I would refer you to sections 62 of the Texas municipal league's handbook. I would submit the council should defer a decision on the recommendation until it can consult with the city's attorney and at the very least the fruits of an open meetings act violation ought not be used. Thank you.

>> Tovo: Thank you.

>> Flannigan:thank you, Mr. Mayor. Last October, city council judicial committee was created with the primary task of appointing judges because the current term for these judges was scheduled to end at the end of 2017. I was asked to be the chair of this committee and was honored to take on this important responsibility with councilmember Casar's the advice vice chair and councilmembers Garza and pool. The time line was tight. If we didn't complete the process by the end of this month all the existing judges would be automatically reappointed for four more years and the charter does not provide very much oversight once a judge is in that four-year term. We also learned there was no recurring formal process in place to determine how we evaluate and appoint our municipal judges.

[5:29:57 PM]

It was created ad hoc every time. We sought to find good examples elsewhere, but we learned that there were no best practices or processes in place for municipal judges anywhere necessarily the country that we could emulate. As we delved deep -- delved deeply into the world much municipal courts it claim clear while most municipal judges are always difficult and often controversial what we were developing could be a model for the nation. The committee worked hard to develop goals and guidelines for the court. And they were approved at a council meeting in December. As the committee developed the process in a series of public meetings, we also kept the public and the council and the current judges and applicants updated through message board posts. We convened an independent review panel that included distinguished members from all areas of the legal realm, including prosecutors, defense attorneys, and indigent defendant okay,s. This diverse panel then used the council-approved criteria when reviewing hundreds of pages of information about all of our current judges, including the existing judges' responses to the council goals and guidelines and when evaluating and interviewing new applicants for potential vacancies. The committee members also spent many hours

reviewing those materials before meeting with panel members to discuss and found our analysis to be aligned. The recommendation of the committee -- that the committee brings you today represents an incredible amount of diligent, careful, and thoughtful review from the council judicial committee and the independent review panel. The committee and the panel's recommendations are unanimous. We are so grateful and impersonally grateful for the service of all of our municipal judges. The municipal court is the first and in many cases only place that most of our community members will experience the legal system.

[5:31:59 PM]

I am confident that what we present you today represents a fair, efficient, and equitable municipal court that embodies the values we set as a council. We still have several substitute judge vacancies to fill, and are accepting applications now. I look forward to completing this process with an additional round of appointments in the next few months. And I hope that my colleagues will join me in supporting the committee's municipal court judge recommendations.

[Applause] Fully.

>> Mayor Adler: Further discussion on the dais. Ms. Kitchen?

>> Kitchen: I just have a question about the item ordinance. Because part six says that -- maybe I'm not reading it right. But part six seems to say that there won't be any additional judges appointed. At least until 2021. Did I read that correctly?

>> Flannigan: So I would defer to legal's analysis on that. It was predetermined that we already have applications open. The job is already posted on the city website. I don't want to guess why legal wrote part six the way they wrote it.

>> Good afternoon, council, Lee Crawford with the law department. The reason for the language in part six, councilmember, is to avoid by implication reappointing judges who are not necessarily named in the ordinance because of the holeover provision as earlier mentioned, any judge who continues to hold their office for more than 91 days after their term expires are automatically reappointed. We put it this language in to make sure everyone was clear that we were not appointing at this time anybody who is not named specifically in the ordinance. This does not foreclose council's ability to appoint additional substitute or other judges at any time in the future.

>> Kitchen: Well, could it -- okay. Here's my concern.

[5:34:02 PM]

Or my question, actually. And this may be a question for councilmember Flannigan. I had understood that if any of the judges who are not being reappointed today chose to reapply that they could do so, but this makes it sound like they can't.

>> There's nothing in this language, councilmember, that would prevent anybody who otherwise meets the qualifications to be a judge from reapplying at any time in the future when there's an opening.

>> Kitchen: Okay. Then my question is for councilmember Flannigan: Could that be part of the process?

>> Flannigan: Absolutely. The applications are open. Anyone can apply. And go through the process that we've defined for new applicants, which does not include analysis of being a judge. It is more -- an evaluation of what we think their potential is. There's an application process, a review panel, and interview that are involved with new applicants.

>> Kitchen: Someone who went through this process would get an interview and that interview -- I'm sorry. You said this, but does this include the panel also? Process?

>> Flannigan: Yeah, there is the panel reviewed and will review all perspective members of our bench, whether or not they are current judges or new applicants. So moving forward, anyone who applies will go through this process, including a panel review, including a panel interview, and then through the committee.

>> Kitchen: And that includes a committee interview?

>> Flannigan: The committee has the option to interview.

>> Kitchen: Does the committee intend to interview?

>> Flannigan: It will depend on the applications.

>> Kitchen: Okay.

>> Mayor Adler: Further discussion on the dais? Councilmember alter.

>> Alter: I just wanted to thank the committee of my colleagues, councilmember Flannigan, councilmember Casar, councilmember pool, and councilmember Garza for their service and the review board for their contribution to helping us with this process.

[5:36:09 PM]

Appointments and stuff are really important, and I just wanted to thank you for moving forward with a process that was at the very least an improvement over where we've been. We may have learned some things for the future but I think it was an improvement over where we were. So thank you.

>> Mayor Adler: Thank you. Is there a motion? Councilmember Flannigan make a motion.

>> Flannigan: I'd like to move the committee's recommendation, the ordinance as provided by law.

>> Mayor Adler: I think that's been approached in the backup. There are compensation issues I want to read into the record, in part seven presiding judge is \$5,784 per pay period annualized to [indiscernible] Part eight, compensation for the associate judge \$5,016.80 analyzed to 130,436.80. Compensation for substitute judge is \$60.13 per hour. Provided compensation for substitute judge, Evelyn Mckee, Ronald

Meyers, \$62.71 per hour. Is there a second to that motion? Mr. Casar seconds that. Any further discussion? Yes, councilmember Garza and then councilmember kitchen.

>> Garza: I want to thank the panel for the work that they did and their input into this. I'll be honest I didn't want to serve on another committee, but I'm glad that I did. It was very eye-opening, especially as Brian mentioned my office was the one that led the indigent defendants' resolution under -- much of it was done by his work. And personnel issues are always talked about in executive session. This isn't something new. There was nothing secretive to this.

[5:38:09 PM]

We're allowed to have those discussions behind closed doors because they're personnel issues. You know, and any attorney that participated in this could face potentially some kind of backlash and so I thank them for serving, despite the fact that whatever happens on this committee could affect their practice. I want to say -- for the openings that are there, I think it's really important and I hope that we get some applicants that reflect the diversity of our community. I think it's really important to have a very diverse municipal judges, and I hope that, you know -- these jobs are not guaranteed to anybody. These are, as I said at our committee meeting, these are really powerful positions, and we expect a lot from the people that serve in these positions. And when I heard some of the scenarios about judge demeanor, it was very disappointing to hear. And so I hope that whoever puts in their application, that you know that this is not just a job. It's not just a part-time job. It's not -- it's something that you want to do because you care about people, you care about justice, and you -- and you have the compassion and the demeanor to be a judge. Yeah, so thanks to everybody who participated in this process. I support the panel's recommendations.

>> Mayor Adler: Thank you. Mr. Renteria -- I'm sorry, Ms. Kitchen was up next and then Mr. Renteria.

>> Kitchen: This one is a difficult one for me because I respect and appreciate all of the work that our panel did, and I hope you understand that I really do respect the work that everyone did, and I know that this is a difficult position. I also really believe and I think that I've shown by the work that I've done here and by my votes in the past that I do want a municipal court that treats defendants fairly and appropriately and where we have the appropriate judicial demeanor and level of expertise, and I don't want my vote to be taken as an assumption that I do not because do I.

[5:40:36 PM]

I am going to to abstain from this process because I am just not comfortable. I do believe that it is a better process and I'm very proud of my colleagues for working to improve this process. But my difficulty is that I just cannot -- I'm just not comfortable with the process where individuals that were -- where there were allegations that individuals were performing in a certain way and they never had the opportunity to address those allegations. I would never do that. I would never see that happen in a

personnel world. And so I just -- and I reviewed the record myself, and I didn't see the level of documentation that I would have wanted to take such an action in the background. Now, with that said, the -- I understand the constraints that my colleagues were under, and I think that the process was very much improved over what my understand -- my understanding of the previous process was, but it is just not to a level that I personally can be comfortable with so I'm going to abstain.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Yes. I'm going to join my colleague, councilmember kitchen, on abstaining also. I really felt very uncomfortable, very alarmed also besides the -- what Ann -- Ann kitchen said, I was concerned also when I saw a panel that -- the recommendation, and nothing against y'all but, you know, I just didn't see the diversity in that package there that reflects what Austin is. And I have a lot of concern about that. You know, I hope that when y'all look at the new hire that it does reflect.

[5:42:38 PM]

We've been having serious problems of invest Latino, Latinas, African-American, appointing them to -- keeping them employed in our departments. And I think we went in the past where we had to either -- you know,

[indiscernible] Because we didn't hire the diversity that we should be hiring. For this city. And I just can't believe that -- I hope that we can go out there. I know this city is big enough to have -- I know there's minority judges out there and I hope that y'all really look at that when you're considering hiring.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I wanted to add a few thank yous. First of all, I want to thank the panel, as others have done. I think this is a really thorough process and I appreciate the leadership and work you brought to this. I appreciate my colleagues who served on the committee and came up with a different process this time. I think it's very appropriate, and I think the -- I think it serves our city well to have this process and to look forward to something like that perhaps with some -- in the future as well. You know, this has been a very challenging issue. We've gotten lots of calls and lots of emails. I believe I've read all the correspondence that came in and I also sat down yesterday with a big 10-inch binder which was in a series-folder and spent a good deal time going through the folders as well so that I could juxtapose that with the conversation that we had with several of the panelists on Tuesday. And I want to say that I support the recommendations. I plan to vote for them. But I also want to thank the judges, those who have served in the past and may not be continuing on into the future, as well as our new ones. We're really well-served to have such a strong pool of candidates here in the city of Austin. I appreciate all of your work.

[5:44:46 PM]

>> Mayor Adler: Councilmember Casar.

>> Casar: You know, it's part of our responsibility to make these appointments for what are very powerful positions, and I believe that in the past we have failed in part at that responsibility by not doing a thorough review of sitting judges because our responsibility not just about new judges. It's all judges. So I would really like to thank councilmember Flannigan for chairing this committee and this new process, councilmember Garza for the ordinance change for indigent defendants, councilmember pool for going through this two times with me now, councilmember Houston, we missed you this time. I don't know if you missed us.

[Laughter] Because I think this is -- it's just so important and we can't forget this part of city government because ultimately it's not about us or about judges, it's about the tens of thousands of people that touch the criminal justice system every single year through magistration or through our municipal court, and so I think that this is a powerful way of taking on the responsibility that we were elected to take on. And to councilmember Renteria's point, with four vacancies, I think we can have a very strong bench and potentially an even more diverse bench than we have now.

>> Mayor Adler: Anything else on the dais? I will conclude with my thanks as well. I want to thank the judges that have served. It is an absolute give that you give to the community with this measure of public service. I want to thank the panel. Not easy work to do, and I know that it takes a long time. This process was different than processes have been in the past, and thank you for helping to develop that. I want to thank colleagues that served on this. This was, I think, a really good example of delegating to a subpart of this council to do work. While we can never just as a body accept what any subpart does, I think that over time this kind of thing is going to have to happen more and more given the workloads of the council.

[5:46:59 PM]

I think you all obviously worked really hard on this and added new innovation to the process, so thank you for that. There's been a motion and a second. Any further discussion? Those in favor please raise your hand. Those opposed. Those abstaining. Three abstentions, troxclair, kitchen, Renteria. The others voting aye. This matter passes. Thank you. Council, we have one last item, and we have music that is 20 minutes overdue. We have no proclamations this evening though. I'd suggest that we take a short break, let people go to the restroom, but that we come back after music and see if we can go straight into the water rates issue, which is the last thing that we have. So it's going to be about a 15-minute break, but I would certainly invite everyone to enjoy the music we're just about to have. It is 5:50 and we stand in recess.

[5:53:34 PM]

[Music check]

>> Mayor adler:all right.

[5:55:34 PM]

I think we're set. So as I was telling to Aaron here just a second ago, if you have had occasion to watch the last hour -- actually the last couple hours we've had on the personnel matter with judges, you understand just how -- and why it is important that we bring music into this place, to give us renewed spirit. This is the live music capitol of the world, and only fitting that at every one of our council meetings we break to have some music in here, and we try to press it into the walls, so what we get caught in those situations we can still enjoy it. We have a real gift for us today here from Aaron McDonnell. He is joining us. He's originally from Oregon. He began playing and releasing music in Seattle in 2006. He's also climbing the corporate ladder. After being prompted by his wife, Dani, he quit his job in 2013 to pursue music full-time, and the two moved to Austin. Only fitting and proper and a great choice. Since then he's released four solo eps, playing over 600 shows, and released two songs to the Texas radio charts, the last single being "Lucky me" which broke the top 40. Lookside some of the very best players in Austin, Aaron I and Dani continue to progress in making their mark on the Texas music scene. Please join me in welcoming Aaron McDonnell. Thank you.

>> Thank you very much. This song is about this beautiful place we live in. It's called "Hill country Saturday night."

[♪ Music ♪]

[5:58:03 PM]

[Music].

[6:01:00 PM]

>> Thank you.

[Applause].

>> Mayor Adler: Thank you. So if folks are in here right now or watching you on TV and they want to find you, do you have a website.

>> I do, and it's McDonnell, not McDonald's. And we're on iTunes, Spotify, all that sort of thing. Whatever you happen to listen to, we're there.

>> Mayor Adler: Okay. And if they want to come hear you... [Inaudible].

>> We're actually playing twice tonight. Swan dive at 10:00 and our white horse residency at 10:00.

>> Every Thursday at midnight.

>> Mayor Adler: Okay. I have a production proclamation, be it known that the city of Austin, Texas is blessed with many creative musicians who's talent extends to virtually every musical genre. And whereas our music scene drives because Austin audiences support good music, legends, favorites, newcomers alike. And whereas we are pleased to showcase and support our local artists. Now therefore I, Steve Adler, mayor of the live music capitol, do hereby proclaim March 8th of the year 2018 as Eric Aaron McDonnell day. I don't know why I keep saying that.

[Applause].

[6:11:40 PM]

>> Mayor Adler: All right. Let's go ahead and call this back in to meeting. Do we have six of us here? We do. It is 6:11. We have one more item less for us to talk about. It's item number -- one item left for to us talk about. It is item number 35. It continues to be March 8, 2018, we are still here at city council chambers. We have seven people set up here to speak. Do we want to just go straight to the speakers? Let's go ahead and do that. Is staff here who wants to open this or should we go straight to people who have signed up? Ellen is right there.

>> Mayor, Greg Meszaros, direct are of Austin water. We have a couple of slides to show you so if we could bring up our material. I can start while the material is coming up. So. Mayor and council, we're pleased here to be discussing a rate reduction for Austin water and wastewater rates. This rate reduction recommendation is the culmination of well over a year's work in a detailed and transparent cost of service study that we did and involved stakeholders from all across our customer base, representing all of our customer classes. And that resulted in our rate proposal today. The proposal before you is recommending a 27.6-million-dollar or 4.8% revenue reduction for a typical residential customer this would result in \$2.40 per month reduction in their bill.

[6:13:40 PM]

All customer classes, commercial, multi-family, large industrial, all are receiving a reduction and it varies based on their individual cost of service. This recommendation brings all of our customer classes to cost of service. We haven't always had that and so this is a positive step in that regard. But I want to point out, and this is in your packet too, our joint recommendation from the utility along with some of our stakeholders goes well beyond just a rate reduction. We are also proposing with this plan strengthening of our customer assistance program in addition to reducing rates, we're committing to assisting our low income customers with more service repairs, leak repairs and modernization of appliances for conservation purposes. We're also recommending and working with a commitment that we would not raise rates in 2017 and we would not raise rates in 2020, and we've also committed to enhance

communications and involvement with all of our customer classes as we move into the future. Should the council choose to support the rates, our goal would be to put these rate reductions in place by may 1st. All of this material in great detail is in your packet. This sums up each of our customer classes, their water reduction and wastewater rate reduction. I won't read all this for you, but this is the recommended rates. And again all of these customer classes will be at their cost of service. And with that, mayor, that's kind of our opening.

>> Mayor Adler: Okay. May I ask you, when was the last time Austin water lowered its rates?

>> Mayor, that's a good question. So we were looking and David anders is our finance Google. He's been with our utility 30 years and so we asked David when the last time we lowered rates.

[6:15:40 PM]

And he has no memory of lowering rates, so that's --

[laughter]. That's 30 years. As a matter of fact, we're almost drummed out of the utility club for lowering rates, but -- [laughter]. But it's been a very long time. And I think not only lowering the rates, but committing to flat rates in the next two years ahead, very promising for us from an affordability perspective.

>> Mayor Adler: Congratulations on being able to do that.

>> Thank you, mayor.

>> Mayor Adler: We have some people to speak in the public. I want to go ahead and call them. First they have Davey Todd -- I'm sorry, Todd Davey. And is Connor hilliard here?

>> Yes, sir.

>> Mayor Adler: You have five minutes.

>> Thank you, mayor, city council. My name is Todd Davey. I work for nxp and chair of the coalition for clean, reliable water. Thank you for taking the time to hear from me and we appreciate the Austin water to be involved in the process that was established up to this time. I would like to say, you know, Austin water manages over half a billion dollar annually, and we believe they have the fiduciary responsibility to manage the community's money effectively. Under Austin water's previous rate model, large industrial customers have paid more than our cost of service and our fair share to the tune of about four percent according to the utility, and that was what was referenced with one of the changes. We also have concerns in this model that in the past there was a percent premium above cost of service that was applied to every retail ratepayer. And I believe that that was most likely to cover some of the shortfall for wholesale customers.

[6:17:43 PM]

We feel that the cost of service model methodology still needs an independent third-party external review. Austin water did reference a public involvement committee or pic process, and they also committed at the end of that process that they would go through nihe, an independent hearings examiner process, to have a third-party review of the rates and have all the participants have the opportunity to explain what their positions were and then that party would make a resolution based on that similar to what Austin energy had. All of the public involvement participants have concerned with declining affordability of the water and wastewater rates in Austin. According to the 50 largest city waste and wastewater rates, their rates are significantly above peer cities. They are in the bottom quartile of affordability for all rate classes in Texas. They have the highest rates for major Texas cities and they rank 42nd to 45th of the highest cities and are 57 above the average in median rates. Fitch credit rating agency even mentioned the declining affordability of rates is a risk and cited monthly residential bills at an above average 2.1% of median household income as a concern for the utility. We believe it's essentially utility began benchmarking, targeting rates at 50% of median cities. Resale customers also have concerns with the utility's intent to collect from retail customers that are costs not associated with the retail cost of service. It was stated at times during the pic process that the city said revenues not record from wholesale customers would be recovered from retail customers.

[6:19:44 PM]

The PUC concluded that Austin water failed to meet its burden of proof required by Texas law to show their waste, wastewater rates for wholesale customers were just unreasonable, therefore requiring them to make adjustments to those rates, we don't think it's reasonable that retail customers should have to pay for anything on the wholesale side and we feel that having that review would be beneficial to make sure that the model is not doing that. All retail customers involved in the pic process expressed concerns with affordability. We're very happy that we're moving in the right direction without question. Down is certainly better than up. Given that in the last report I saw from councilmember, I think the rates on average increased four to five percent annually over the last 10 years from the utility. We ask that the utility not be allowed to do any future rate increases for any rate class or modify financial policies without an independent third-party review process. We asked for the utility to continue to work with us to evaluate how the model impact large industrial customers. We do not believe that the model is aligned to our consumption patterns and we are still paying above cost of service. And we ask the city council to continue to address the city's water, wastewater affordability issues that were recognized by all retail customers that participated the pic process, and the credit rating agencies. So thank you for your time and your consideration in this matter, we're certainly pleased to see that the utility has come forth and that rates are moving in the right direction. And we ask you for you to continually monitor that and do what you can do to do more.

>> Mayor Adler: Thank you. Is Bobby levinski here? Roy Whaley? You're on deck.

[6:21:50 PM]

>> Hello, mayor and council, I'm with the save our springs alliance. We sent you a letter yesterday with some comments, a joint letter between the Sierra club and the save our springs alliance. Mostly we're trying to urge caution toward lowering the rates, particularly for the highest users and to the customers within the water utility. It's fantastic that we've reached a point to which we're fiscally sound enough where we can consider rate reductions. That wasn't the case just a few years ago. Prior to this council's service we not only faced one of the worst droughts we had seen in the city, but highly volatile rates and it was through a lot of work by the prior council that we fixed our financial policies and increased the funds that were relatively stable and we can get our utility back on solid ground. The current rates are actually reflective of the conversations that occurred during that dialogue. They were designed to balance the conflicting priorities, including water conservation, affordability and the fiscal sustainability of the water utility. The council also gave direction to start a task force to really turn our -- turn water planning on its head and come up with new strategies on how we can be more efficient with our limited water resources. I want to remind you that at the time that the drought occurred we were actually talking about piping in water from other areas and that's not something to be reflected in a cost of service study. So we're in the seventh year of that process now and we actually only have to wait about three more months before water forward coarse comes up with its recommendations. Just to emphasize, we're what we suggested and there's many ways, is to lower the rates for the lowest users, the ones that are covering the single-family residence and reducing the off-peak for multi-family users, and then also to not lower the rates for the largest industrial users.

[6:24:02 PM]

There was a post on the message board that I think will be talked about with regard to one of the largest industrial scale users. There's significant cost there that aren't reflected in these rates and we're supportive of that suggestion that has been laid out there by the mayor pro tem. So just to reiterate, I understand that it's really great to lower rates. Everybody wants to do that. And especially for the residential users. But just keep in mind that it's not a question of when we'll have another water crisis or if we're going to have another water crisis, it's a question of when it's going to happen again. And we need to be a little bit cautious with our planning for the future. Thank you.

>> Mayor Adler: After Mr. Whaley speaks, Gus Pena will speak. Is he here? No? What about grant Haun? You will be up next. Mr. Whaley.

>> Howdy, y'all, I'm Roy Whaley, the conservation chair for the Sierra club. And I hope all of you have had a chance to review the letter that was sent to you earlier on this, our late water expert Ruthie red Monday was the -- Redmond was the author of that and it was authored by save our springs and the local conservation group and I was a signatory on that also. Ruthy is very deep in water, no pun intended. She has an excellent point of why we should lower tier rates, the lower income, the lower water use rates. When you have money in the bank you don't go out and spend it. Not if you're like me you try to hold on and save it.

[6:26:04 PM]

That's why we want to keep things on the upper end. Don't change the rates there. We have financial needs that will be coming up and we don't want to yo-yo the rates. Let's take what we have. We have the water forward recommendations that will be coming out in June, I believe. And before we change the income stream we need to see what those recommendations are, see how it plays into the codenext process so we would just like to go with, as the letter says, the alternative recommendation, base rate reduction to low volume, low users and keep the customer assistance program very, very robust. Just to mention that it is March and we are at 80% of capacity at lake Travis. It didn't take us long to drop down into the 30% range during our lost drought. We've had nice rain, it's not going to keep up. We need to focus on the water conservation programs and for us to do that effectively we need to be able to continue a strong income stream. So read the letter, thank you for your time and as always I trust y'all to make the right decision.

>> Good afternoon, my name is Grant Raven. We were hired by the city of Austin to serve in the role as the residential rate advocate in Austin water's review process. That included participating in the public involvement committee process. The conclusion of that process we provided a written report summarizing our views on the process and the positions on the process.

[6:28:18 PM]

While we do not agree with every single decision that may be underlying the analysis in the joint recommendation, we feel that the joint recommendation is a reasonable balance of the various issues in keeping with industry practices and importantly reflects cost of service principles. As a result of that Nugent strategies and solution as the residential rate advocate is a signatory to the joint agreement. So I wanted to make that statement and I would be happy to answer any questions you may have.

>> Mayor Adler: Thank you very much. I think you're set. The next speaker is David King.

>> David King is on deck, is that what you mean?

>> Mayor Adler: Yes, sorry.

>> I'm Barbara Sally from Lost Creek. I apologize for my clothes. My dog is having surgery tomorrow so I dressed in a dog shirt to impress my veterinarian. This rate decrease is long overdue. I'm wondering if we're doing this just because we're in danger of deregulation because our rates have gotten so high. But I'm not going to knock it, whenever the motivations are for it coming. Circle of Blue is a consumer group. It reported in November 2017 that the water bills in Austin had increased more than any other city in the United States, having gone up 31% in recent years. That's unacceptable. So any little mitigation of that is a step in the right direction. As another speaker discussed, our rates are also very high in Austin which really affects our affordability.

[6:30:21 PM]

This small reduction proposed is not justify any planned reviews of Austin water. I noted an independent hearing examiner review had been proposed and David anders says if rates are going down then an ih overview is overkill. I respectfully disagree. I believe that the independent hearing review is money well spent. We need more than just a rate review. We need a holistic review of the entire water bill. I don't want to hear from Austin water energy that our rates are somewhere in the middle if that is when you're only looking at the highest rates, how helpful is that. You need to look at all the rates, including the punitive rate tiers that Mr. Levinski champions and the fixed charges, the rate tier charges and any fees charged. Please, don't say again you can't compare apples to apples with other cities because some other cities don't have fees at all. That's kind of the point. When we consider rates we still need to have an open, honest discussion of the general revenue transfer from the utilities. The expected profit. This year up to 200 million if you look at economic incentives. Because it was at a codenext meeting, not a water meeting, I'm not going to name names, but I ask the councilmember about what was happening in Austin water and that member said I always say that the utility should charge what it costs to provide the services. Great. Then we're all in agreement. You know, I'll even spot you an appropriate reserve and the cost of infrastructure. So we're all together. Sadly, no. I immediately followed up with, what about the general revenue transfer. Does council we lie on this so hard that they are unable to do their job or protecting consumers by assuring the rates charged are truly for services delivered? My answer was so nice to see you again.

[6:32:23 PM]

So thank you for reducing the rates. It's a step in the right direction, but we have more work to do.

>> Mayor Adler: Thank you. Mr. King.

>> Thank you, mayor, mayor pro tem, councilmembers. Water is probably one of our most precious natural resources we have. And I believe is it Boone Pickens buying up all the water rights so he can have control over that commodity that we will all need? That's going to be more valuable than oil. So that's the reality. We're going to run out of water. Especially with our growth that we're seeing here and the droughts that we're seeing, there's no doubt with climate change so we have to be very careful and make sure that we're using our water wisely. To me that means conservation. That's a big part of it, conservation. So I am happy to see the rate reductions, but I hope those rate reductions are not going to encourage more use because the rates are lower now. So I can use -- I can waste more, I can use more. I think it's very important that we keep that in mind. And I hope that these rate reductions are focused more -- mostly on low income families and lower volume users. And so I would ask that we keep the current rates in place for the large volume users. To encourage conservation. And I hope that the rates for the wholesale users, the large volume industrial users, large volume commercial users and large volume residential users are not being subsidized by low income and lower volume users. Thank you very much.

>> Mayor Adler: Thank you. Council, that brings us up to the dais.

[6:34:34 PM]

Ms. Troxclair, do you want to make a motion?

>> Sure. Do you want it to approve item 35?

>> Mayor Adler: Yes.

>> Troxclair: I will make that motion.

>> Mayor Adler: Ms. Troxclair moves to approve the rates. Is there a second to that motion? Mr. Flannigan seconds that motion. We're now -- you want to speak first?

>> Troxclair: Sure. I passed out a motion sheet that you should all have in front of you that reads: Approve the latest staff recommended -- staff recommended rate reduction and associated budget amendments on all three readings with direction to staff that prior to any future rate changes being implemented the independent hearings process for Austin water will be completed as previously directed by council. Happy to expand on that if anybody has questions.

>> Mayor Adler: I distract by the mayor pro tem. Would you repeat that?

>> Troxclair: You should have a motion sheet in front of that you basically says that we would like to approve item number 35 on all three readings and additionally give direction to staff that prior to any future rate changes being implemented the independent hearings process for -- as previously directed by council will be completed.

>> Mayor Adler: Okay. That's been moved and seconded that's in front of us. Yes, mayor pro tem?

>> Tovo: So mayor, I have -- I'm not sure I'm on board with the independent hearings process necessarily being added to this motion. And so I'm going to make -- I'm going to make a motion that that be removed at least for the moment. I need to discuss it.

>> Mayor Adler: All right. And it would be appropriate to amend it to take that out? That was just the base motion in front of us.

>> Tovo: It sounds to me as if the base -- as if the councilmember integrated this amendment into the base motion. It's not what -- it is not the backup. It is -- she's now moved approval of the rate proposal with this embedded within it.

[6:36:40 PM]

>> Mayor Adler: That's correct.

>> Tovo: So my proposed amendment will be to remove that.

>> Flannigan: I seconded the motion, not including -- my understanding of the motion I seconded was just approval of the item. That's the motion that I seconded. Not with this additional language.

>> Mayor Adler: Okay.

>> Troxclair: It doesn't matter to me.

>> Mayor Adler: All right. So the motion -- if it's okay, let's just make the main motion and approval of the rates. And then --

>> Troxclair: And then making another motion to --

>> Mayor Adler: Then we can have the conversation. There's a motion and second to approve the rates. That's what's in front of us right now. Now I think people are going to bring teams to that. There's one amendment that's been handed out that deals with the surcharge for the ammonia issue, which I understand is something that's okay. I'm not sure there's disagreement with that. I don't think there's any disagreement with that. Mayor pro tem, do you want to make the motion relevant --

>> Tovo: Yes, I would be glad to make that amendment. I want to signal that we just got the Q and a back from staff and I really appreciate their hard work. I have some follow-up questions and want to discuss that issue. Probably the most appropriate place to discuss it would be after the amendment has been made for the surcharge. So that's -- sorry? I handed it out this morning. It's on yellow, and long, long ago.

>> Mayor Adler: So I'm confused.

>> Tovo: Seems like last week at this point.

>> Mayor Adler: This motion as I understand it is to immediately start charging the surcharge that was planned to be raised in like September or something like that.

>> Tovo: Correct, November, I think.

>> Mayor Adler: That's what this does.

>> Tovo: I believe this morning I gave the clerk a copy so perhaps we could put it up on the overhead. I'll just say that -- I'll move approval of this amendment and then explain why and then again I have some follow-up questions that probably would be most appropriate within the course of this discussion.

[6:38:47 PM]

>> Mayor Adler: About the ammonia surcharge?

>> Tovo: Yes. So just fair notice. I don't know if you want to take that amendment next or what the plan is.

>> Mayor Adler: So let's talk about the amendments we have. We have one amendment from the mayor pro tem that takes the ammonia surcharge that was supposed to start in September and says it should start now. That's one amendment. We have another amendment that talks about an independent hearing examiner situation. That's the second amendment. Ann?

>> Kitchen: I was just asking because I thought the mayor pro tem had two amendments on her sheet.

>> Mayor Adler: My understanding is they're is this comes from legal to affect the immediate issuing of the surcharge.

>> Kitchen: Okay. You have all seen this. Can we get him a copy of this? Are those the two amendments that we -- that we'll be considering here at this point? Okay. So let's call those up in turn. Mayor pro tem, why don't you do the ammonia surcharge.

>> Tovo: I am going to move approval of the amendments as laid out on my motion sheet that was prepared by law. The summary of what these achieve is what the mayor described. This would implement the ammonia surcharge when we implement the other rate changes in may rather than delaying until November. And I can explain why in the course of our conversation with our staff about -- about the question/answer.

>> Mayor Adler: It's been moved. Is there a second to this matter?

[6:40:49 PM]

Councilmember pool seconds it. Discussion on the amendment. Yes, councilmember kitchen. Mayor pro tem first and then we'll come back to you.

>> Tovo: I wanted to speak for a minute to my motion and then again I have some questions. I am extremely concerned that there have been high levels of ammonia discharged since 2011. It looks as if this has been going on since 2011. As I understand again the summary I have some follow-up questions, but the summary of what the staff told us that just got distributed is Austin water utility and our ratepayers have absorbed the cost of treating the water to remove those high levels of ammonia to the tune of I think it's \$3.2 million. So that was a cost that was distributed across all ratepayers rather than being assigned to the industrial companies and largely one company that was responsible for that discharge. So I am not at all comfortable waiting until November to implement a surcharge that would capture the cost of treating the ammonia and including the labor costs associated with that. So that's the intent of my change.

>> Mayor Adler: It's been moved and seconded -- is this something that -- there's a party involved here. This is --

>> Tovo: According to information we got back, it looks as if 97% of the discharge of ammonia, and I want to talk about sulfate too.

>> Mayor Adler: I understand. Samsung is okay with this? Samsung is okay with this. It's been moved and seconded. Any discussion before we take a vote. Ms. Kitchen?

>> Kitchen: Since I haven't had a chance to ask a question about this before, I want to make sure I'm understanding the part 1.

[6:42:51 PM]

So it's not intuitive to me so if you will bear with me for a minute. So we'll actually be getting additional dollars in, right, because we're charging Samsung. So I'm not sure how that addresses our revenue. So it reduces our revenue, increases debt service and it increases transfers out. So I'm understanding what we're doing with the dollars here.

>> Mayor Adler: Can legal come up and explain this? Water.

>> Implementing the surcharge in May would provide in this fiscal year about 1.3 million additional dollars that we would get in revenue. So this part 1 is actually saying that we would reduce our revenue by this amount and our ending balance by this amount. So as we're getting the additional 1.3 in revenue, you can see that instead of reducing it by 12,000,009, we're only reducing it by 11.6. So that's where that additional revenue comes in. So it's sort of counterintuitive because the part 1 is actually a reduction in rates and so we're reducing that reduction.

>> Mayor Adler: So the whole purpose of this is to reduce the total revenue but now we're adding revenue back in. So the revenue reduction is not as great as it was before because now we're getting some money that we weren't going to get. So the revenue is being reduced by less now because Samsung is going to pay more.

>> Kitchen: Take me out to the end of the thing. That means we have 1.3-million-dollar dollars to do something with. Are we saying we're using that 1.3 million more to reduce rates further or what are we doing with those dollars?

[6:44:55 PM]

Are we just keeping them?

>> The rates that we proposed for the retail customer classes assumed a full year implementation of the ammonia surcharge. So we were actually reducing the rates for our residential multi-family commercial customers starting in May assuming that we would have a full year worth of surcharge at that time. So we were going to absorb that reduction of about 1.3 million from those other customer classes during this fiscal year, but now we won't have to absorb that, but the rates for the other customer classes will remain the same because it already included that reduction.

>> Mayor Adler: Okay. This amendment has been moved and seconded. Further discussion? Councilmember alter.

>> Alter: So -- I'm not seeing -- I don't believe the ammonia surcharge amount was in our backup or I'm not seeing it. Can Austin water speak that this is the number that you guys are -- were planning to do in September. And this is the number that you provided? Through the course of the discussion?

>> Yes, that is correct. We expect that the ammonia surcharge would be around \$3.2 million on a full year annual basis and then we did work with our law department to craft these numbers into this proposal.

>> Alter: So I completely concur with mayor pro tem Tovo's direction. I just wanted to understand. So this is something that Austin water is totally comfortable with and it is not going to change other things other than the revenue reduction amounts with respect to the plan at this point, just has Samsung and other ammonia-nitrogen users paying sooner.

>> We are comfortable with this change to may.

[6:46:56 PM]

And as said, it will allow us to get that additional revenue and not have to sort of absorb the costs associated -- the reduction that was already built in to the other customer classes.

>> Alter: Okay. Thank you for that clarification.

>> Mayor Adler: Okay. Mayor pro tem and then Leslie.

>> Tovo: I'll make this quick, but I do have questions for the water utility. I guess my first is that the total costs are estimated at \$3.2 million to treat the high levels of ammonia, but I thought I just heard that same number for a full year treatment. So I guess the question I was really asking in the Q and A is what costs -- what are the total costs that the water utility has borne and really the ratepayers have borne from treating these high levels of ammonia for the last it looks like seven years?

>> At the current output levels of Samsung it's \$3.2 million per year.

>> Tovo: So then that would really be -- I don't know whether they've been consistently high since 2011 --

>> It's been a slow, steady climb as Samsung has -- Samsung has produced more chips and their business has grown, the amount of flows coming from their plant to our plant for treatment has slowly increased each year. A few years ago they were at roughly two million gallons a day. Now at about six million gallons a day. It's not as if the ammonia jumped suddenly and stayed at that. It's been a climb through the process.

>> Tovo: Except it sounds like in 2011 you noticed it because there was a significant jump that the water utility noticed when they were testing the water at the Walnut Creek wastewater plant. So there was enough after jump that it was noticeable in the testing.

>> That we started our work to better define where that ammonia was coming from, yes.

>> Tovo: So I guess -- so again, in number 4 I really -- in number 4 and in number 8 I was really trying to get a sense of the total costs that the water still has borne for treating in the high levels of discharge from ammonia from Samsung.

[6:49:05 PM]

At this point it's 3.2 annually, but if we went back in time for each of a year there was a cost. Do you have a sense of what the total costs have been?

>> I wouldn't be able to just calculate that here on the fly.

>> Tovo: I would ask if you could -- I'll explain why that was relevant information. If you could provide us with that information as soon as possible I am interested in the total costs and if you could help us understand what the impact has been on say an average residential ratepayer of absorbing those additional costs that the water utility has incurred from treating those levels.

>> Let me take a moment to respond with regards to impacts. One of the things I want to be clear on is that we didn't pollute the river that our ammonia permit is very stringent, it's five milligrams per liter, and that all the wastewater that came to our plant was treated and discharged in compliance with our permits. And so I just in terms of impacts, this is more of a financial issue than a pollution of the river issue. I just wanted to make that clear. I think you understand that.

>> Tovo: Yes. And by impact I was specifically talking about the financial impact because you did in compliance with your permits treat the water or in excess of the standard it needed to be before it was as he leased, but to do that was a cost that the water utility bore.

>> And councilmember, we can go back and try to calculate that cost, but there are some complexities to that. Our plants are built to treat ammonia at a certain level so as ammonias are increasing we're able to treat that. We don't have to use a new chemical system, but once the ammonia, here more recently, as the ammonia has increased we have to erect a new chemical system, use more chemicals that we had. So the cost is significantly higher today than it was say a few years ago. So when we provide that calculation I want to let you know it's going to be -- it's non-uniform and it will be some estimations of that.

>> Mayor Adler: Sure.

[6:51:05 PM]

That would be helpful.

--

>> Tovo: Sure, that would be helpful. It's my understanding that we need to buy chemicals to treat the water and some other costs associated with that. It would be very helpful to have a sense of what those total. It's also my understanding that sulfates are also -- have also been higher than regular levels. Do we have the ability to treat the water to remove those?

>> Sulfates is not a chemical that we can treat at our plant. That's not typically the way municipal plants are constructed to treat things like sulfates so that's not a treatable process for us.

>> Tovo: So what happens then when you have a company as we do know that is discharging high levels of sulfates into their wastewater?

>> We've been regularly engaged with Samsung on sulfates and sulfate discharges and again, these are not polluting the river where we're creating significant harm although their sulfates have been increasing steadily as their production has increasing from roughly two million gallons a day up to six million gallons a day. A sulfate strategy -- and we itemize that a little bit in our response, is going to require the utility to do additional sampling all across our system to establish a better baseline of sulfates and then ultimately come up with a sulfate limit that we could apply to customers that larger dischargers, in this case like Samsung. That process is going to take at least a year to do and would also involve tceq as well as probably amendments to some codes with the council.

>> Tovo: I'm really interested in amending the codes with the council. So to the extent that that will take some time I would say that we should make that a real priority.

>> We are going to be very proactive there, councilmember, and seeing that we work to make that happen.

>> Tovo: Can I ask you about the answer to number 9. I had asked the question, if you could help us, understanding as I thought I did, and you just confirmed it, that we don't have the ability to treat for increased level of sulfates.

[6:53:16 PM]

I had asked the question of what -- really what was the extent of the increased levels. So it talks about the concentrations fluctuating between 50 and 100 -- is that milligrams per liter? Until 2010. And then in the beginning of the third quarter of 2010, so quite a long time ago, eight years, sevenish at least, sulfate concentrations began to increase, but you haven't provided the information about how substantially they began to increase and if it fluctuated through the year how often those levels were beyond what was normal.

>> Well, we can provide a graph that would show sulfate levels over a period of time. The sulfate levels, again, I kind of keep repeating myself, but it wasn't a sudden jump. It's been a slow progression, as a correlation to the amount of flow that Samsung produces, as well as sometimes they change processes and that can result in changes in some of the wastewater stream. The sulfates have essentially not been above stream standards for the bulk of that period. We have a couple of instances where they were slightly above stream standards, but they are getting to the point where they're approaching a more

regular high level that we're concerned with. And so that's why we're going to be working with Samsung and other dischargers on managing their sulfates and ultimately developing a limit for that. So when we say things like sulfate levels vary between 50 to 100, that doesn't mean that they were above stream standard, that just means that we were seeing increased sulfates at our plant, but that's not a violation of a permit or a violation of a permit at Samsung. That was what we do is we monitor these things.

>> Tovo: Okay. So I think I just need to ask you, you know, this seems to have been a problem that was noted awhile ago.

[6:55:25 PM]

And I understand what you're saying, that it wasn't necessarily immediately a cost to the water utility of \$3.2 million, but I'm assuming if you did notice a spike in the levels of ammonia that we immediately began to have to employ extra techniques to lower those levels. And so it sound to me as if, you know, as early as 2011 the water utility has been incurring extra costs to treat this excess discharge. So why has it -- I guess I just need to ask you very candidly, why has it taken so long to address what would seem to be a very reasonable solution of applying a surcharge to recoup some of those costs?

>> Well, I think it's an orderly process that we go through. In this particular instance we were not -- we were not sure where ammonia was coming from in our system. As I mentioned, ammonias across the industry has been increasing. It's a factor of conservation and low efficiency appliances. When I first started in the utility business ammonias might be as low as 20 milligrams per liter. Today they average in the 30 range or even 35. So we hired a UT professor to assist us in modeling and determining where ammonias were coming from in our system. Was this just a natural part of conservation programs. We had done a lot of I and I with the Austin clean water program. Ultimately that indicated that it was likely coming from large industrial customers. We did additional sampling on our own. Ultimately developed more of a model and a sense of where these were coming from, particularly with Samsung as they were growing their facility, that that was producing more ammonia loadings. We engaged with Samsung and made them aware of this. There was indication -- as a matter of fact, they did a pilot project experimenting on some ammonia loadings. We had some thoughts that that would take care of some of the problem, although it never kind of came into fruition. As we were engaged with Samsung, there was concerns about, you know, total cost to the utility, our rates.

[6:57:29 PM]

We had a lot of discussions about that, including the need for them to invest in ammonia control. That was when we were beginning cost of service work and we thought in 2016 that that would be the appropriate forum to examine all cost allocations, we would have all stakeholders at the table, including Samsung, residential, everyone, and that we would work through the cost allocation methods with regard to how to treat ammonia. Because there's other ways to treat ammonia and cost structures and that ultimately led to the recommendation that we have today on the ammonia surcharge.

Councilmember, it's a fair criticism that I as the utility director, could have acted sooner to impose a surcharge on Samsung or recommend that. You know, we work in partnership with all of our customers, including Samsung, for these things. And we don't immediately jump to trying to -- to fines or surcharges if we believe we can ultimately stabilize that ammonia and other related matters. You know, ammonia is not -- we have imperfect data at times. Sometimes the ammonia went down for a few years and we're like maybe the problem is okay, but it was really when they were kind of retooling the fab and it started to go back up again. So there's a little fog of war here sometimes with these things, but we're here today to really, you know, that's why we made the recommendation because we think it's time for that to happen.

>> Tovo: Okay. Well, I appreciate the conversation. And, you know, I think I'm glad that we're doing something about it. I would say it is of real interest to me to see what the costs have been year to year and what those levels have been year to year. And I've asked our city attorney to see whether we have options for recouping some of those past costs. You know, I appreciate Samsung being in our community. I'm glad you're here. I appreciate the jobs you bring, but I do think this was a cost that should have been borne by Samsung and not by the water utility ratepayers.

[6:59:35 PM]

So if there are options for us recouping some of those costs, I hope that we will better understand what those might be and move forward with those.

>> Councilmember, I

>> Sorry to interrupt, the point was made and I want to make it, too, Samsung was above cost for their - not on the wastewater side but on the water side for many, many years, paying more than their cost of service, so sometimes scales are balanced. I'm not advocating that they should pollute without having to pay, but I just would point that out, too, that they did pay more water rates than their cost of service would indicate for many years, and so, you know, that was something to just put on the council's thought too.

>> Tovo: Okay. It doesn't seem as if there's a snappy resolution to the sulfates and that concerns me, too, so I don't know if there's an opportunity to do the process that concerns the water utility in terms of measuring rate and setting that limit but it would seem a very high priority since this has been going on, as I see it looks like that study came back in 2012. I don't know if that was also -- if that was focused just on ammonia or also focused on sulfates but we've had some of this information for a while. It would seem suggest the limits for sulfate and holding our industrial partners to that standard immediately is really important. Again, I'm happy to do what we need to do at council to implement those limits and so I would say the sooner you are able to get there, the better. And I think a year sounds like a long time. And so, city manager, I would ask that you see how soon that can be accomplished.

>> Mayor Adler: Councilmember pool.

>> Pool: I appreciate the mayor pro tem asking these questions and digging into the ammonia issue and the sulfate, and I share her concern about this. I wonder, is there a way that we can ask our corporate

neighbors, Samsung and any others, when they -- they know they are making changes to their processes and they know that it's going to have some implications to, for example, increased levels of ammonia and sulfates in the water, is there an sunt maybe that this information could be passed along to our staff sooner?

[7:01:54 PM]

And then the second part of that question is, for me to Mr. Mazaros, it seems -- it strikes me odd that council wasn't informed about any of this until now and that if they were -- if Samsung were paying more earlier and then there was a cost offset with the ammonia cost, which the rest of the city is paying, socializing, then then Austin water utility evidently made a decision about whether or when to share the information with council, and I share the mayor pro tem's concern that this has been going on for some time and we didn't know about it and didn't have an opportunity to have a sit-down to try to rectify and balance out the scales. And I understand that the money that is being paid is in order to pay back the ratepayers or to pay forward the cost of removing the ammonia from the water before it gets into our system, but I really think that -- that responsibility belongs to our corporate partners who are creating the problem in the first place. It sounds like they agree, and that we're moving in that direction. So two points. One is, is there a way that Samsung, for example, can give us a -- just an early warning when changes to their processes are on tap so that we are ready for it and then, second, commit to keeping council apprised when these sorts of imbalances occur so that we know what's going on and can maybe lend our voices in support of a decision.

>> Councilmember, I think that one of the follow-ups from our whole cost of service and this ammonia surcharge issue is a regular engagement with higher levels at Samsung.

[7:03:54 PM]

Our technical staffs engage and talking on a regular basis but talking at a hereby level with the Samsung leadership time as we have a better sense of where they're going with their facility. You know, it's a very unique facility, probably the only one in the nation that is this kind of scale of a fab and this modern of a fab, and so it is very demanding. As a utility we just can't go to other how do you handle a fab of this nature because we're alone, and so it does I think I am part a need for us to gauge at a rich level with Samsung. We're committed to that. Myself and senior leadership team are going out to their plant in a few weeks so we can start that dialogue and get ready to have a better future for them and we'll do better engaging the council and having them help us as we're encountering challenges of this nature in the future.

>> Pool: That's really great. Samsung is indeed a very valued member of our community. Thanks.

>> Mayor Adler: Councilmember alter.

>> Alter: Thank you. I appreciate mayor pro tem tovo's questioning here. I wanted to go in a slightly different direction. If I'm understanding the math correctly, there's \$1.3 million that you guys were going to absorb that is now going to be paid by the industrial waste use. And so my question is if you have that \$1.3 million still, can we reallocate that to the customer assistance program or to water conservation or the sustainability program? Because you can budget that money. We're now saving \$1.3 million that could be applied in some other way that would benefit the city.

>> I think the short answer would be yes, that -- obviously the \$1.3 million isn't going to pop in tomorrow. It will be spread out over the next six months.

>> Alter: Sure.

>> But under this change, if council approves moving up the surcharge, \$1.3 million would accrue additionally, we estimate, to our ending balance.

[7:05:59 PM]

Typically we would end the year with that additional revenue and use it to say -- do a debt defeasance the following year, add money to continue some rate reduction or rate stabilization process but certainly the council could direct us to use ending-fund balance in a different way, you know, within legal reason.

>> Alter: So I understand that if it were there it would end up -- your ending fund balance. I might ask the city manager if tonight would be an appropriate place to say where that money would go or would it be preferable to take a little bit of time to look? I'm interested, you know, in thinking about this either -- you know, we have folks who have been asking us to lower the rates more. It could go into the customer assistance program to help people in need. Could we also -- we also have people here asking us to address conservation issue. It could go into that. It could go into saving our pools, who need help with our water usage. I mean, I'm not sure what would be the most appropriate way to be thinking about it. It also could go into defease expense help things over the long-term but I don't want to let that \$1.3 million be absorbed into the budget and not make note of that being a significant change in the budget.

>> My preference would be the later, with the direction you're indicating here. So knowing that part of the value that we'd be recovering with this additional funds and what we would want to get out of it as a result of it would be part of the conversation we could have through the budget process.

>> Alter: Do you think that can be done in a transparent way?

>> Absolutely.

>> Alter: Okay. Thank you.

>> Mayor Adler: Okay. Further discussion on the dais as concerns the mayor pro tem's amendment? Councilmember kitchen.

>> Kitchen: I just wanted to say that I support the amendment and I appreciate the mayor pro tem bringing it forward.

[7:08:02 PM]

I also appreciate our city manager, as well as councilmember alter, to talk about how we might think about the additional 1.3. I think that the budget process could be a very interesting and a relevant time to talk about this. You know, we are moving toward a new process, and we're moving towards aligning how we invest our dollars as part of the budget process. So this will be -- and to align it with the goals we're trying to achieve so I think this would be a good thing to discuss during that process.

>> Mayor Adler: Amendment in front of us, it's been moved and seconded. Further discussion? Those in favor please raise your hand. Those opposed. The amendment is added. Further discussion on the dais? Councilmember troxclair.

>> Troxclair: Okay. So I guess I'll move again my amendment that gives direction to staff that prior to any future retail rates -- changes being implemented the independent hearings process for Austin water will be completed.

>> Mayor Adler: Hang on. Is there a second to this amendment? Councilmember kitchen seconds this. You want to talk about it?

>> Troxclair: I think that this is what we're adopting today, absolutely a step in the right direction. So glad that we are able to reduce rates and have come to this agreement. I -- but I, along with the other councilmembers that are listed at the top of the sheet, councilmember alter, kitchen, and pool, agree that for the sake of transparency and public trust that an independent hearings process is still really important. It provides another aspect of kind of public input and just making sure that we have the most fair and -- fair rates possible.

[7:10:03 PM]

So we've already -- I mean, council has already given us direction to -- this direction to staff, and we have already budgeted for an approved the cost for the independent heart attacks examiner, so -- the cost for the independent hearings examiner so before they come back to us with future rate increases we wanted to make clear that we still expect the independent hearings process to be completed.

>> Mayor Adler: Okay. Discussion on the dais? Mayor pro tem.

>> Tovo: Yeah. I'd like to ask our staff who have been involved in this last process to weigh in on this. And I say this as somebody who helped support, in fact I think I cosponsored a resolution about having an independent hearings examiner process for Austin energy. I believe in that process. I think it's very useful. It was a great suggestion somebody had brought to us. However, it seems to me you achieved extremely good results here without using an independent hearings examiner so I'm not sure I'm ready to sign off on a blanket amendment to hauls do it. We would have incurred a pretty big cost had we done an independent hearings examiner and it sounded to me like you had great consensus from a lot

of different parties, including those representing consumer advocates. Can you speak to how we got to the place we are today, who was involved and to what extent there was consensus across the different customer groups?

>> Troxclair: Just a quick clarification, I want to make sure this doesn't say that they would always do it. This is just a one-time -- I mean, we directed them last year to go forward with this one-time process, and this is just a one-time amendment.

>> Tovo: , Well it says prior to any future rate changes. That would seem to me to be any time they're coming forward with a rate change.

>> Troxclair: It means prior to the next -- prior to the next time they come to us with an increase. But not ongoing in the future. So thank you for pointing that out. I'm happy to --

>> Tovo: It also doesn't say an increase.

[7:12:04 PM]

I mean, so if they're going to lower rates again we can incur a million dollar process to do a hearings examination for the lowering of rates. So to me this is not saying what you seem to be suggesting it is.

>> Troxclair: Well, lowering rates -- I mean, councilmember, do you want to --

>> Mayor Adler: Leslie. Councilmember pool.

>> Pool: Did we budget for the hearings examiner in our current budget? My understanding is I think --

>> I believe it's in our current budget or was it in last year's budget?

>> Good evening, Joseph Gonzalez, Austin water finance. The impartial hearings examiner process is budgeted in our current capital budget because we did anticipate that it would extend over a year in time. It's not in our current operating budget.

>> Mayor Adler: But it remains in your capital budget?

>> Correct.

>> Pool: So that would be a transfer of funds from your capital budget to your operating budget?

>> At the end of the day, yes.

>> Pool: Okay. And I just bring that up because I want to make sure that the panel, the dais, understands that the water utility not going to have to -- if we decide to direct them to use an impartial hearings examiner like we did with the Austin energy rate case, which I thought was a successful and inclusive process and transparent and accountable that if we do decide to vote today to direct them to do that the money does exist. We are not going to have to look for it, allocate it or pass a resolution to direct them to find the funding for it. We already did that in our current budget work last year.

>> That is correct.

>> Pool: Thanks. Mr. Mazaros, would you answer -- the mayor pro tem I think asked you generally to speaking to the issue of independent hearing examiner, given the experience that you've had.

>> Tovo: And just to add to that, and whether one had been used in this case and if not why not?

[7:14:08 PM]

>> So I think what happened here is, you know, we had a very inclusive and transparent and robust cost service process, that all the decisions we made were discussed with our public involvement committee, that we shared our cost of service model with all parties, we in many ways it kind of emulated the transparency of, you know, the ihe. We had many post-meetings with various stakeholders. And I think you see the value of that. The recommendation of the rate reduction comes with a joint remittance that was signed on by Ms. Cooper. You all know how tough she is. She supported our recommendation. She was on our committee. Also grant Rayburn, he was a paid residential rate advocate. He recommended this. All of the multi-family representatives recommended this. The commission, your appointed commission, all recommended this and recommended it with a recommendation not to do an ihe. And I think probably some of your commissioners may have even talked to you about that. So we thought we arrived at a very sound recommendation that had broad support. Not perfect support, you know, but broad support. You know, and ihe, beside the cost -- and it is expensive and even though we budgeted for it that's money that we wouldn't have to spend. But the other thing is it would take thousands of hours of staff time literally to go through the ihe. We want to move forward, mayor. We appreciate so much you mentioning our water forward program coming out in June, hundred year water plan. We want to engage on that. We're doing an affordability benchmark study. We want to engage on that. We have all the demands of running the utility. We think we have a great proposal here that would allow us to move forward without additional overhead of an intense ihe. The other piece I want to make you aware of this is all retail rates and our wholesale market is an area that is well below cost.

[7:16:12 PM]

You know, we serve mids in smaller communities and many of those, our largest wholesale customers are still on 2012 rates. And the only way -- now, we're six years into that. The only way we can get that wholesale rate base closer to their cost of service is to engage with them and maybe ultimately go back to the state of Texas through a rate case hearing. We can't conduct both of those at the same time. So the choice is going to be if we go threw an ihe today, you know, we're going to have to put some things on the back burner. The other thing I will say -- I didn't go through the Austin energy ihe and I'd ask my colleague, Thomas who helped lead that effort to maybe step to the dais to help answer on that too P essentially an ihe seeks to simulate a state of Texas puc-like hearing where you have a judge, a lawyer that you hire and he preside over the hearing and he certainly is informed by testimony, but ultimately that one individual renders an opinion on utility rates that goes to the council. And in certain ways I think, you know, that's -- you know, that's not as transparent as what we did, you know? Everyone

involved, all the stakeholders involved. I think in certain ways, too, that favors parties that can bring to bear additional legal and consulting services to present their testimony to that ihe. And I think you should only use those in circumstances where there's a lot at stake. A really large rate increase, conflict across multiple customer classes. You don't have that here. And that's, again, another reason why we're recommending that this isn't maybe the right match. I really appreciate councilmember troxclair's resolution. I think it's not directing us to do that but it's like if you raise rates again consider that. I might add a little context to that, is that, you know, we might have to do some small maintenance rates and we might want to think through, what is the best match for an ihe? Is it for any rate increase or is it for bigerate increases?

[7:18:17 PM]

That's something to get on the radar screen, too.

>> Mayor Adler: Have you thought about that? My only interest in that is when we went through the Austin energy issue we actually had all of the rate classes agreeing to the end result. And that was one of the things, it really put us in good sted here locally, helped us with the legislature when all of the classes agreed. You've gone through a process where you have done really well, gotten most people involved but not all of the rate classes. And I feel like at some level we said a year ago or a year and a half ago when we talked about this, setting up this process, that was something that we would do. And I think that's where we began. So if you were to take a look at what came from councilmember troxclair and put in that kind of caveat with it, what would -- what would this look like? I mean, would you say if we did a rate increase that was a certain amount we would do that so that you didn't have to do it on a small one? Have you looked at that issue to see what those permanent might -- permanent might.

>> Yes. There's been a lot of discussion the last few days. We've been thinking about things. I think for me, a rate increase of 3% or less is like a general maintenance rate increase. So I don't think you'd want to go through a year-long million and a half dollar ihe proceeding to maybe do a maintenance rate increase of 2-3%. I can appreciate what about if the utility does 3% a year forever. That doesn't sound fun. You can look at a cumulative cap, we were thinking our five-year rate looking forward that if the cumulative rates were any -- in any one year above 3% or cumulative, if we ever went over 7% cumulative over that five-year period those would be trig ebbs for an ihe. In any one year anything over three would be a prospective and if combined over five years we exceeded combined 7%.

[7:20:22 PM]

That would be a starting point for us we'd recommend thinking about that.

>> Mayor Adler: Okay. Councilmember kitchen.

>> Kitchen: Well, I have some concerns about changing this in the way that you're suggesting right now. For a couple reasons. You know, I agree and I understand what you're saying, that at times particularly

when we're talking about a reduction and if we're not talking about a lot than maybe this process is not appropriate, but what concerns me is we haven't -- if I'm understanding correctly we haven't actually ever done one, one of these processes for water. We've done the internal cost of service study but we haven't actually done an independent hearings process, and I think when we talked about this last year or whenever it was when we talked about having funding for this and proceeding with it that the goal is an independent and impartial review. Of data and the rates. That's important to do from time to time so I'm concerned about -- I certainly would be concerned about a 7%, and I have concern about putting parameters on it like you're suggesting. So -- I had thought that this was -- I had thought because we had the dollars in it and had previously already designated that we already had an understanding that you guys were fine with proceeding with -- in the future with an independent hearings process.

>> Well, I'm not arguing that it's a bad process or that we're against any ihe ever. So if that came across that wasn't what I was saying. I was trying to give it a little bit of context about, you know, just when you invoke it.

>> Kitchen: Okay. I thought we had this conversation really already. Because we've talked in the past about the need to do this at some point in the future. It sounded to me like you were suggesting that perhaps we didn't ever need to do it.

>> No. I think there will be a day when we'll have rate increases that will be more substantial again, and that, you know, this is a way to kind of be more -- to be get another opinion outside of our traditional processes for that.

[7:22:35 PM]

>> Kitchen: Okay. But we haven't ever done that ourself so far, right? We haven't had an impartial review of the water rates, right?

>> Well, in a way, at least with the wholesale rates, we went through a P.U.C. Commission hearing on wholesale rates, and they rendered the P.U.C. Opinion on dysthymia allowances and that was a thing that -- disallowance that's including a lot of general fund transfers and other things of that nature. I don't know if you consider that an independent review. So we had that for just wholesale. But we have not done it for the retail side.

>> Kitchen: Okay.

>> Like ae has done.

>> Kitchen: Okay.

>> Mayor Adler: Mayor pro tem.

>> Tovo: Yeah. I think -- thank you for the additional information, and, you know, I'm now remembering some of what we discussed during the independent hearings examination process for Austin energy, and, you know, we were in touch with a lot of groups that were involved in that and were filing information and participating in that. It is -- I am thrilled that we did it for Austin energy. It made a lot of

sense. It made our work at council far easier, but it seems to me only something -- something we should only undertake and ask our community partners to undertake when we are looking at a substantial rate increase, in my opinion. So I can't support the amendment.

>> Kitchen: Well --

>> Mayor Adler: Mr. Flannigan, I can't tell if you're --

>> Flannigan: Sorry.

>> Mayor Adler: That's okay. Mr. Flannigan.

>> Flannigan: I share the mayor pro tem's concerns on this and I would support amending the amendment to make it just about increases and to have more clarity about just being the next Stephanie. It sound a little like all future, but I would support that, mayor pro tem, if you would like to make that amendment. Jete can't decide if I want to make that amendment or leave it to some further discussion that we might have if -- you know, we usually have a pretty clear indication if we're about to undertake a rate process and the staff could come to us and we could talk about the scale or the scope or whether those rates are going up and down and then we would know whether it's appropriate to do an independent hearings exam.

[7:24:53 PM]

But I would say if there's a will on council to pass something related to this, then taking Mr. Mazaros' suggestions to say something like any future rate increases, as you suggested, along the lines of the parameters Mr. Mazaros suggested would be the way to go but I'm not so on board with that that I feel I can make that amendment.

>> Mayor Adler: Yes, councilmember pool.

>> Pool: The reason why I was keen to have the independent -- to have the rate case and independent consumer advocate was because the Austin energy case was so successful and we really benefited from it. The mayor pro tem really makes some good points, however, saying that we are not looking at a rate increase, and that's very true. So I think I am -- I am feeling that if we were looking at a rate increase maybe that is one of the bedrock criteria for engaging the consumer advocate. The other side of the question -- of the point for me, though, is the transparency/accountability piece, which I feel like this came at us sort San Francisco out of a black -- sort of out of a black box and we didn't have enough information about it as I feel like we should have early enough, including the situation with the ammonia levels and that was also feeding into my desire to have a more public and open rate discussion. So at this point I'm on the fence and will continue to listen to what the rest of y'all have to say on the dais.

>> Mayor Adler: I think we said we would do an independent hearings examiner process and I think we should offer that possibility when we have a rate increase. I think it should relate to rate increases. But I hear our staff saying it shouldn't be done for a small increase, and that makes sense to me too.

[7:27:01 PM]

So having some kind of threshold. I'm not sure what the appropriate numbers would be seems to me to be the appropriate place between the two positions. Councilmember troxclair.

>> Troxclair: So my perspective is that this is something that is really needed either way. If we -- I mean, the reason that the council already directed -- I mean, we already directed Austin water to do this after we went through the successful independent hearings process with Austin energy because it worked so well and was so transparent and everybody did get on board so I don't feel like we're directing them to do anything different. We have already -- money is already budgeted, and we have community stakeholders asking us to do it. So I don't know -- and it would only increase transparency. We're not saying they have to do it right away but the next time they come to us for a rate change, I think this is an important process for us to have been through so that we have information -- I mean, we've been talking so much recently as a council about being data-driven and really having all the information that we need to make good fact-based decisions, and all this will do is ensure that we have the information that we need to make a really important decision that affects every single one of our residents, of the people in our districts. I am very uncomfortable with the mayor's suggestion -- or some kind of threshold of 7%. That is a huge increase. And I think the reason that we wanted to do this in the first place is because it's never been done before and we felt like that independent perspective would bring something valuable to the utility and to the public, again, regardless of whether -- what level of potential increase or decrease we were facing.

[7:29:09 PM]

So I think that this is valuable to the community either way, and I think I want to vote on the amendment as-is. I'm comfortable adding -- or maybe just clarifying that this was just meant for the -- before they come to us this next time, not into perpetuity. I'm fine with clarifying that. But other than that, I want to --

>> Mayor Adler: Mayor pro tem.

>> Tovo: I think if we're moving toward a vote on the motion in front of us then I am going to move to amend it. And my amendment would be -- and I guess I would ask Mr. Mazaros to help me out here, but I think what I would do is I guess we're providing direction to staff. It's not entirely clear to me how we're doing this within the context of what we're voting on, which is a rate change. In any case, we are providing -- we're voting on direction to staff that prior to any future rate increases in the range of 3% annually or 7% over five years the independent hearings process for Austin water will be completed. Does that capture what you were describing?

>> Yes.

>> Tovo: Okay. I think it's not quite grammatical but maybe somebody else can jump in and fix that part.

>> Can I help on language?

>> Tovo: Yes, thanks. I took only half of councilmember troxclair's sentence. I didn't make a complete one myself.

>> Since you already have a motion on the table the amendment would be to council directs the manager to engage in independent hearing examiner process prior to proposing a rate increase to council if the rate increase is 3% per year or 7% over five years.

>> Yes, although I would say 3% or greater. I wouldn't say exactly 3%.

[7:31:10 PM]

Then we'd go 7. No, no, no.

>> Mayor Adler: A second?

>> Tovo: Can can just ask Mr. Mazaros, were you saying more than 3% would be beyond a maintenance? Where is 3%? Should it be more than 3%?

>> 3% or less, I'm termination that as a maintenance level rate, inplacing level rate. As you get into bigerates that that would trigger an ihe or if you had a string of smaller rates and they added up to over 7% before we could cross over that threshold of accumulative rates over a five-year period we would have to do an ihe.

>> Mayor Adler: Mayor pro tem makes that amendment. Is there a second to that? Councilmember Garza seconds that. Mayor pro tem, you can go first if you want to say anything further. We're on the dais, discussing the amendment. Councilmember kitchen.

>> Kitchen: I'm -- I appreciate the concerns that everyone is raising but I'm going to have to oppose the amendment because, you know, we've just been having some conversations about transparency in our financial structure, in our assets. We had lots of concerns just recently raised about the cost of the -- of what we were bearing for Samsung over the years. So to now turn in the direction of not being transparent doesn't make sense to me. And I think that particularly in a context where we haven't done this kind of independent impartial review before. And to me it doesn't make a difference whether we're talking about a rate increase or a decrease. I think that's important. And I think that to talk in terms of a certain percent over a certain period of time, we're -- causes us to start losing the value of an independent impartial review. And I think that -- I want to stick with what we had talked about previously, that this was an important approach to take.

[7:33:17 PM]

It's what we're hearing from at least some members of the public that they would be interested in this. And I think that there's a -- you know, there's a value and a purpose to doing these kind of things that

just makes us all stronger. And as well as the public. And so I'm not going to be able to support the amendment.

>> Mayor Adler: The amendment to the amendment. Councilmember alter.

>> Alter: I support the amendment as it is -- the original amendment as it is, not the amendment of the amendment. We don't know what we don't know and we've never done one of these rate studies and, you know, over the course of the conversation we've seen one example with the ammonia. This opportunity to even have a rate reduction is because people said we needed to be managing growth responsibly and making our developments pay more for their water services. Well, how do I know they're paying what they should be paying for their water services? That would seem to be part of the rate hearing as well. And if we have another reduction, while that would be great, to me that woulding also a siphon maybe we don't have things -- sign of maybe we don't have things all that well calibrated because costs will go up over time. And so I support the amendment as-is. And I think it's important and humbling for us to remember that we don't know what we don't know.

>> Mayor Adler: Further discussion on the dais? I guess my concern on it is that I like the original amendment, I think we need to do the study. I haven't have it triggered with any increase.

[7:35:18 PM]

It seems to me there's an appropriate threshold before we spend a million dollars for something like that. I think that the 3% and 7% is too high. So if there were other people on the council that wanted to join in a lower threshold I would support that. We can't amend the amendment to do that because you can't do that. We have to take a vote on this and then if there's interest I would support T. If I'm the only one that would do that I'll support the amendment the way that it is. Any further discussion? This is the mayor pro tem's amendment to add the 3% and 7% thresholds? Let's take a vote. Those in favor please raise your hand. Flannigan, mayor pro tem, Renteria, Garza and Houston. Those opposed? It's the other five on the dais with councilmember Casar gone. The amendment does not pass. The amendment to the amendment does not pass. Sorry. We are now on the amendment. I would propose something that was smaller. I don't know what the appropriate thing would be. We're talking about no rate increases in the next two years, right?

>> That's correct.

>> Mayor Adler: Okay. So we're talking about something that at this point is going to be fairly far out in time. So I don't know what the appropriate numbers would be. To have some kind of threshold on that. Yes, Ms. Kitchen?

>> Kitchen: Well, I'm uncomfortable with setting a threshold, and I mentioned that before, because I just want to reiterate what councilmember alter said. We don't know what we don't know. To wait and say we have to have a certain threshold and we don't even know what that threshold should be I think is not the direction I would prefer to go in. So...

[7:37:20 PM]

>> Mayor Adler: Mayor pro tem.

>> Tovo: Mayor, if I may, I think since we had five votes and it would pass with six and you said you would support it with some sort of thresholds if you had some to propose that would move us forward here.

>> Mayor Adler: Do you have a suggestion for us? I mean, I recognize that from -- and I understand the staff's recommendation. I think that the -- there's a majority of the council that wants to have an independent hearing examiner process sooner than what staff would do. We put a greater value in that, and I think we've indicated that we would have that process. At the same time, there's obviously not a majority of the council that's going to support it at the 3% and 7% level. I think it need to be a lower standard, and I don't know if 1% and 3% or -- I don't know what it would be. Do you have any advice or suggestions on what we should do here? Yes, councilmember troxclair.

>> Troxclair: I don't think you're asking me, but --

[laughter]

>> Mayor Adler: I'll take help here.

>> Troxclair: But my suggestion would do be maybe we should just call the question. Maybe it will pass. If it doesn't pass you can propose something else.

>> Mayor Adler: I'm going to -- I'm going to move to amend it so if it's more than 1% in any given year and more than 3% in any five years. That would be my amendment. Is there a second to my amendment? Mr. Flannigan seconds that amendment. Is there any discussion? Ready to take a vote?

>> Wait, wait, wait.

>> Houston: How did you come up with that? Did you just --

[laughter]

>> Mayor Adler: I came up with that because I think that -- I think we said we would have a hearing examiner process IFS we were substantially raising rates.

[7:39:23 PM]

In this case I think we came very close but didn't have everybody that was on board with it but close enough that the people seemed to be willing to go along with it this time but they have asked us to say that if we do rate increases in the future they'd like to have the hearing. That makes sense to me to do so I'd like to vote in favor of that. I also hear our staff saying that it will incur a million dollars for a hearing examiner case there ought to be some measure of rate increase that justifies that. So I hear that, and that making sense to me too. But I would make the threshold lower so that we would get into

the hearing examiner process sooner. 1-3% sounded right to me because I'm -- I just -- that to me is an indication of more than a de minimus rate increase and I think it would have us doing well on the promise that we had -- or the indication we had earlier made. Councilmember alter.

>> Alter: I'm not sure I want to bring this up because I don't want to be here all night, but if the purpose of the hearing is to help you figure out what the appropriate rate is how do you know what the percentage of the rate increase is if you don't do the hearing process?

>> Mayor Adler: The way that it stands right now with the amendment that's on the floor, any -- the only time you do a hearing examiner -- it's triggered by a change in rates. And what I was saying was since you have it set so that it's triggered by a change in rates, I think it ought to be a change in rates that justifies spending a million dollars for a hearing examiner. That's why. You didn't set in your amendment that we should have a hearing examiner process in a year or in two years regardless of where we were. You triggered it to a change. I think it ought to be more than a de minimus change. Mr. Renteria.

[7:41:24 PM]

>> Renteria: I'm very concerned about your amendment there because, you know, they were saying that there's normal maintenance costs associated, and it could go up 1% or 2%. Does that mean every time it goes up 1% we're going to trigger an examiner?

>> Mayor Adler: I think that's better than having it triggered if there's a rate increase that's less than that. And the amendment that's currently in front of us would be one that has it triggered with a rate increase that's less than that.

>> Renteria: I'm really concerned about spending over a million dollars just to have that -- I'm just not going to be able to support that.

>> Mayor Adler: I understand.

>> Kitchen: Can I ask a question?

>> Mayor Adler: Yes.

>> Kitchen: Where did the million dollars come from? Are we sure that the scope has to be a million dollars?

>> Mayor Adler: Do you want to talk to us about what a independent hearing examiner would cost?

>> Kitchen: Can't you do an independent review that's scoped to what you're looking at? I mean, I'm not sure where the million dollars came from.

>> Yeah. Our estimate was one to 1.5 million, and that came from our consultations with Austin energy on the cost that they incurred. To hire and pay the independent hearing examiner, to hire and pay a residential rate advocate to represent the case for residential customers in front of that hearing examiner, as well as the payment of cost of service rate consultant accountants that the utility uses, and that is the outside cost. That doesn't count the cost of the staff time, but we came up with that in

consultation with Austin energy. David, if I'm wrong or not -- oh, and outside counsel, that's right. We would also have just like ae did, they had outside counsel representing them in the rate hearing also, and so that include that cost also.

[7:43:26 PM]

So we kind of ran the same playbook that ae did to come up with that cost.

>> Kitchen: You're thinking it would be comparable even though you're not exactly the same size?

>> Well, we have a lot of complexities. You know, \$650 million and. . .

>> Mayor Adler: All right. So the amendment in front of us -- the amendment in front of us is to change it to an increase that's 1% in a year or 3% over five years. Any further discussion before we take a vote on that? Councilmember troxclair.

>> Troxclair: I just had a question for Mr. Mazaros. How much is a change in 1% or -- and or a change in 3%?

>> I'm sorry, councilmember?

>> Troxclair: How much revenue is a change in 1%?

>> A 1% revenue change would be \$6,400,000.

>> Troxclair: So I -- okay. So I can't make -- I can't make an amendment to your amendment now?

>> Mayor Adler: No. But I'll give you another chance when mine goes up or down.

>> Troxclair: If your -- I think that maybe a good compromise, if people are worried about the cost, which I don't think we should be since we've already made this decision once and budgeted for it, but a good compromise might be that if rates change by a total of a million dollars or more. So then you're making -- then you trigger the independent hearings examiner. So that money is invested in that process instead of in a rate increase.

>> Mayor Adler: Yes?

>> Tovo: I'm not sure about this but I think we would have triggered an independent hearing examiner based on the amendment we just passed, right? That changed the rates by about a million dollars, a million point two or three.

>> Mayor Adler: Only if you applied that to the rates as opposed to the ending balance.

>> Tovo: Right.

>> Troxclair: Again, to councilmember Renteria's question and for everybody's clarity this is a one-time thing so that we have a base of information, not an ongoing process.

[7:45:29 PM]

>> Mayor Adler: Yes. It's -- in the next -- I guess what we're saying here is in the next five years in rates go up 1% in a year or 3% in that five-year period of time and it would begin -- since we know it will not happen in the first two years it will begin in three year. So it would be for that five-year period of time. Any further discussion? Councilmember alter.

>> Alter: Since the rates differ across all of the classes and then within users for volume, I'm a little bit concerned that I don't know what it means if they change by that. Percentage because it might go up for one class, might go down for another class. So I just want to understand, you know -- revenue overall for a function of the rate changes? It's not really 1%, the rate is changing 1%. It's the revenue of the rates changing a person percentage.

>> Mr. Mazaros, what if we had 1% and 3% in any rate class? Mayor, can you say that again?

>> Mayor Adler: 1% a year or 3% over five years in any rate class.

>> Few thoughts there.

[Indiscernible] I think our threshold would be 2%. I mean, I can't imagine us, like, trying to raise rates at 1%. It just seems such a tiny fraction. So that would be a part of my sense. Another thought I had there is another way to approach this would be at the forecast, when you see the forecast each year for utility rates you could also make a decision then to say, hey, looks like if the forecast is indicating higher rates, we're uncomfortable with that let's do an independent heart attack examiner. So other than the forecast -- that would be maybe another approach to do that.

[7:47:35 PM]

>> Mayor Adler: All right. So --

>> Mayor, I think if it's tied to individual customer classes that would be very complicated for us. We would probably just have to do an ihe. I think it could just change. So it would be difficult. I mean, even if you changed the block rate differently that could trigger it.

>> Mayor Adler: So I think what I probably feel most comfortable with is to take the amendment the way that councilmember troxclair presented it but with the default -- in essence the default assumption being if you're going to raise rates, since you're not going to do it unless there's a substantial rate to make and then come back to the council and then ask the council at that point. But the default is going to be there's going to be an independent hearing examiner. I also recognize that this council can't dictate that for a future council so it's going to come back. Sop at some point in the future I think if you're raising rates you come back to the council and say there was a council two years ago that said we had to do the independent hearing examiner that's going to be the default situation but we don't think we should do it in this case for these reasons and I think that's probably the better way to go. So I would withdraw my amendment if no one has an objection to me withdrawing it. Otherwise I'll vote against it.

Any objection to it being withdrawn? Hearing none, what is in front of us is the troxclair amendment.
Discussion on the troxclair amendment?

>> Tovo: Which just to clarify says we're going to do it whether there's an increase -- I mean, it has no changes, whether there's -- to any future rate changes up or down.

>> Mayor Adler: What's the basis for saying on a change if it's down? Do we need it to incur the hearing examiner cost if it's not a rate increase?

>> Troxclair: Well, I think the consensus was that this was information that we wanted going forward regardless.

[7:49:35 PM]

I mean, the only reason that I -- that we tied it to any kind of rate change was because we wanted to respect the work that they just did with this current rate change. Instead of saying -- I mean, just go down it right now, we just wanted to make sure it was done before any other changes were made in the future.

>> Mayor Adler: The reason --

>> Troxclair: I think that we need the information regardless.

>> Mayor Adler: The reason I think it's appropriate to do that is because if there's a rate increase what you might want to have in front of the examiner is the amount of the rate decrease, which is the situation that we're in right now. So I think the wording that you had was correct. We're back to the -- to say the next prior to -- prior to the next rate change? Is that right? Prior to the next rate change. Any objection that's then included. Voting on the troxclair amendment, those in favor please raise your hand. Those opposed. Mayor pro tem and Mr. Renteria voting no. Ms. Garza and Casar off the dice. Now let's vote on the main motion, accepting the rate increases with the troxclair amendment. Those in favor please raise your hand. Those opposed. Unanimous on the dais with Garza and Casar off the dais. I think this is a really big deal. This is the first order rate decrease -- water rate decrease I don't know if we can say fairly -- in anyone's memory, in anyone's memory. This is a really big day and really appreciate it?

[Applause]

>> Mayor Adler: Those are all the advertisements that we have. It is 7:51. And this meeting is adjourned.

[Adjourned]