

Closed Caption Log, Council Meeting, 01/12/12

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>> Good morning, I'm austin mayor lee leffingwell, we will begin today with the invocation by pastor a.l. Sneed, ii from the south austin community church, please rise. Let us pray. Father, we thank you and we praise you today for the manifold blessings for today. We thank you for how you have blessed us and carried us through 2011, and we thank you in advance for how you will bless us in 2012. We pray only today that you would give wisdom to the mayor and to the city manager and to each councilmember, pray that you will pull out of your spirit and grant keen insight into the affairs of today and of this year. We pray that you would be glorified and pleased, that you may cause this city and our community to prosper. We pray, lord god, that you would call us all to prosper and to be in health, even as our soul months speakers. We ask -- prospers, we ask these things in the marvelous name of jesus, amen and thank god.

>> Mayor Leffingwell: Thank you, pastor, please be seated. Quorum is present. So I will call this meeting of the austin city council to order on thursday, JANUARY 12th, 2012. We're meeting in the council chambers. Austin city hall. 301 West second street. Austin, texas. The time is 10:05 a.m. Believe we begin with changes and corrections. Before I do that, I want to remind everyone beginning today you have to have your parking stub, if you park at city hall, you have to have that validated. Otherwise you will have to pay on exiting city hall. There's a desk right outside in the atrium set up to stamp your validation cards. Corrections to today's agenda. Item no. 11, is withdrawn. 15, delete the word downtown austin, and insert the words austin downtown. Item no. 26 is withdrawn. 36 add the phrase recommended by the water and wastewater commission. On item 53, delete the amount at the end, delete \$2,529 insert the amount \$2,529,000. Items number 65 and 66, are withdrawn. And will be reposted on JANUARY 26th. Item 67, as an additional co-sponsor, add councilmember tovo. Item 69 add as an additional co-sponsor, councilmember spelman. Item no. 104 is withdrawn. 107 please note that will be likely be postponed, the public hearing will likely be postponed for a time instead , but we can't take that formal action until 4:00 p.m. Our time certain items today 30 a briefing by the postal service on the post office in downtown austin. At 12 noon we will take up our general citizens communications. 00, we will take up our zoning matters. At 4:00, public hearings. 30, live music and proclamations and musician for today is c.j. vinson. The consent agenda is items 1 through 74, with several exceptions that are pulled off of that agenda. I will go through those in a moment. First I want to read our appointments to the boards and commissions which is 51 which will remain on the consent agenda. To the commission on immigrant affairs, james kerr nominated by councilmember riley. To the community development commission, cassandra taylor, nominated by councilmember spelman. To the design commission, hope hasbrook nominated by councilmember spelman. To the library commission, sharon kahn by councilmember tovo, to the solid waste advisory commission, kathy

[indiscernible], nominated by councilmember morrison and james

[indiscernible] nominated by -- excuse me, mayor pro tem cole. Nominations to task forces to the comprehensive plan citizens advisory task force, greg beajuis nominated to the council. To intergovernmental bodies we are approving a resolution reappointing mayor pro tem cole to the lone star rail district board of directors for a two-year term. Also included are waivers, approve a waiver of the attendance requirement in section 2126 of the city code for roland hays, charles -- charles miles and allan weeks, service on the comprehensive plan citizens advisory task force, the waiver includes absences through today's date. Those are all of the -- all of the nominations and waivers on item no. 61. Following items are pulled off the consent agenda by councilmember tovo, pulling off 55 and 57, mayor pro tem cole pulling item 6, 56 and 57, those three are grouped together along with 6, mayor pro tem. And also item 40. Items number 68 and 74, are pulled off the consent agenda due to two or more speakers. In addition councilmember tovo is pulling items

[indiscernible] and

[indiscernible] off the consent agenda. 7 -- Correction. Instead of 40, that is item 49 that is pulled off the consent agenda by mayor pro tem cole. So that is the consent agenda, items 1 through 74 with those items that I just called off that are -- that have been pulled either by councilmembers or by two or more speakers. Before we intobtain a motion on the approval, we have several single speakers, according to new laws beginning today, they will allowed to speak on the consent agenda for a total of three minutes, first is clay defoe. You have a total of -- of three minutes to speak on any items on the consent agenda. You have listed items 8 and 13.

>> Tovo: Mayor I washed for mention on two of those items, 56 and 57, I just have very quick comments if you want to leave them on the consent agenda.

>> We will go ahead and pull them off [indiscernible]

>> thank you, council, first I want to say I resent these new procedures, it's been 20 years since they've been changed and just the fact that you want to limit hearing why your own citizens I find very disrespectful and disconcerting. I will try to get them as much as I can. Item 8 is negotiation and execution of a lease agreement with the united states transportation security administration for administrative office and support space at abia for five years. Now, this is a revenue item. It's going to generate 2.4 million over five years. \$487,000 Reportedly for fiscal year 2012-2013, recommended by your airport advisory commission. May I remind you this is the same commission that voted 7-0 in december of 2010 for a resolution that the city council stop the deployment of the advanced imaging technology body scanners that have now been deployed in recent months at abia. Because the commission saw how many questions remained on the health effects, in screening effectiveness of the scanners, they voted to stop the implementation of them at our airports. Yet the council has done nothing for over a year. The tsa has continued unhealthy and unlawful practices. That not only violate our citizens fourth amendment rights, but also put the most vulnerable of us at risk by having the children, the elderly, and those pregnant with child going through the scanners. A professor emeritus at university california berkeley who studied the effect of body scanners concluded that the radiation from these millimeter and back scatter machines concentrate high doses of radiation into the skin cells as the rays do not pass through the skin as a normal x ray would. In summary,

he described the process as one that literally unzips the molecules of your d.n.a. The tsa has gone too far in pursuing a paranoiac war on terror that includes physical harassment of americans who want nothing but to travel to their destinations safely. I hate to break it to you, but the tsa has become one big gigantic joke of the american people in recent times. It would be funny if the ramifications of the policy were not so far reaching and dangerous. The drastic change in procedures from docile security to active pat-down searches has frightened the american people and abused them of their generations hard fought god rights. By arranging this so-called administrative and support space to the tsa, you are in effect saying that we must protect the government's harassment of citizens at the expense of their liberty. Your job, I reminds you, is to protect our rights --

>> Mayor Leffingwell: Your time expired.

>> In 13, thank you.

>> Mayor Leffingwell: Next speaker is gus pena. Signed up on item 22, you have three minutes.

>> Good morning, gus pena, proud east austin active, native east austin night active, marine corps veteran. 22 has to do with a certain amount of funding states to appropriate the delivery of homeless services. Council, we do know this -- this well spent money or intended to be spent wisely and prudent. I always told y'all that direct services, direct services, direct services. It's okay to have construction costs, et cetera, to repairs, maintenance, area repairs, but ladies and gentlemen we are losing a lot of families and people to homeless ranks. This is not acceptable. This is what -- this is supposed to be a top notch city. I consider the best city in the world. I love my city. I give my life for my city. I served in the marine corps during vietnam for my country. But I will tell you this, we're doing a bad job of helping the homeless. A lot of veterans, with families that are becoming homeless. Yes, we need repairs, construction, when you have a certain amount of money going to evaluate I think case management, case workers, you know, it's necessary, but direct services to help people out, you call caritas, you all call it caritas, we call it 00 you can't get in. 59, If you call your phone call is disallowed. A lot of people need help. I know this council is proactive. I do know that. I know you all have good hearts. I have been tough on y'all. I'm going to continue to be tough on y'all. Because sometimes you are not educated by your staff of the needs of the community and we are doing a bad job of it, mayor. There's a lot of need out there, not getting the funding out there to direct services, veterans. You are a veteran yourself. Council, I just want to let you -- I'll, you know, i said enough on this, but please, please, more money for direct services. A lot of people in motels need help, also. It's hard to get help like that. Please donate to house the homeless and salvation army, blankets, thermal underwear, gloves for people on the streets. I met a proud african-american gentleman that said you know what we need? We need to improve the arch. But you know what we need? I said yeah I know you need a job but also a place that has a telephone so they can call you when they are referring you for jobs. ott, thank you very much for your support on these issues, i know that you have done a good job, I appreciate you very much and all of the staff, keep up the good work, direct services, more money for the homeless veterans with families, also, homeless veterans as a whole. We need this. Growing unemployment. Thank you very much.

>> Mayor Leffingwell: Next SPEAKER IS will McCloud. Will signed up on item 50, you have three minutes.

>> Good morning, mayor, city council, first of all, i would like to voice my 50 in which the city of austin is attempting to enter a contract with the sherrri matthews marketing of austin, texas, in an estimated amount not to exceed \$1 million. Notice the amount is estimated, meaning it could cost more or less, not to exceed, \$3,842,994. This is simply a product disparagement campaign against tobacco. Many times where jobs are scarce, we must protect our farmers, whether it be the fruits, vegetables and by the way, yes, it can be a vegetable. It all depends on how it's prepared. I know that the democrats in the obama reelection campaign would want to spend thousands of dollars to stop pizza from being offered in classroom. Even though I believe it's the parents' responsibility to teach their children of their choice, it's not the government unless we want to live under soviet rule. I understand when you run for council or mayor you are sworn to uphold the laws of the united states and most importantly the constitution. If we were to decline this contract, you are accepting the appropriate message to that we have a conservative penny pinching council, just like the same message we voters sent to washington back in 2010. In the area of deficits and the simple fact that the national debt is about the same as washington is taking in, I'm worried about this nation's sovereignty and what we are going to tell our offspring. I don't want to tell future children and grandchildren our government

[indiscernible] because we bankrupted a nation. We can save a lot of money today and avoid potential product disparagement lawsuits of our nation's tobacco farmers by voting against this contract and save even more money and promote health by eliminating the additive sodium fluoride for our water supply. I urge you to look at my handouts. We need to fix the sidewalks, too, a million, four million, that's a whole lot of sidewalks to be built. That's a whole lot of homeless people to be fed. Think about it. Thank you.

>> Mayor Leffingwell: Thank you, those are all of the speakers that we have signed up to speak on the consent agenda. I will entertain a motion for approval. Councilmember morrison moves approval. Councilmember riley seconds. Any discussion? All in favor say aye.

>> Aye.

>> Mayor Leffingwell: Passes on a vote of 7-0. Council, we have just a few items that promise to be very short. If there's no objection, we can take up -- take those up first. Councilmember tovo had a quick question on item 55, i believe.

>> Tovo: I do, thank you. This is an item -- this is a purchasing request for street lights. I would like to ask staff just for a little bit of information and perhaps you could just arrange --

>> Mayor Leffingwell: Excuse me, sorry, could we hold it down as you exit the chamber. So that we can hear the speakers. Just -- just hold your conversations until you get out of the chamber, thank you. Sorry. Go ahead.

>> Tovo: Thanks. I just have a quick question about how decisions are made with regard to the location of street lights. If you need to follow up with more information after this hearing, that

would be fine. I guess in particular I'm wondering how closely you are working with the police department to identify high crime areas that could benefit from additional street lights.

>> Councilmember tovo, council, jeff weiss government relations with austin energy. I know that we do have processes in place for where we locate street lights. We have processes in case citizens want to request a location and we do of course coordinate with the other departments. With regards to the placement -- we will follow up with that.

>> Tovo: That would be great, thank you, appreciate that. Mayor, I move approval of this item.

>> Mayor, I have a question.

[Multiple voices]

>> Mayor Leffingwell: Just a second. Councilmember tovo moves approval. Do we have a second?

>> Second.

>> Mayor Leffingwell: Seconded by councilmember spelman. Councilmember martinez.

>> Martinez: Sorry about that. Jeff? Appreciate the follow-up, if you could copy all of us. More specifically, I want to know if any of this particular expenditure item will go towards the rainy street area. In terms of approving the lighting in the rainy street area, we've been discussing this for quite some time. Austin energy has been working with stakeholders and property owners around that area. And it's -- it's certainly -- there are many targeted areas I realize around the city that need better lighting. But this is one

[indiscernible]

>> councilmember, this item really just has to do with us distributing the stock of the street lights with the inventory. But I will check in terms of that report back what's going on in the rainy street area.

>> Martinez: These aren't -- this isn't a purchase [indiscernible]

>> just additional stock.

>> Yes, sir.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: You mentioned you coordinated with other departments. To your knowledge, has the police department ever ask that a street light be placed in a certain area for crime prevention areas.

>> [Indiscernible]

>> we have someone that could help me right here.

>> I apologize, good rmin yes, we do work with the police department we may have a request if they have an area they feel needs additional lighting. We do work with them to install lighting if requested.

>> Those requests do actually come in.

>> They do?

>> Cole: Good, thank you.

>> Mayor Leffingwell: Further comments. All in favor of the motion say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 7-0.

>> Mayor Leffingwell: Did you have a comment on 67.

>> Tovo: I have a quick question for the parks staff. We receive a memo related to the aquatics plans and so i wanted to ask our park staff -- a member coming down. The memo we received had an estimate for a consultant. That the parks department is contemplating hiring. I just wanted to verify with you that today's resolution in no way involves authorizing that expenditure or even contemplates the hi -- of an outside consultant.

>> Kimberly mneely, assistant director of parks and recreation. The memo that was sent to mayor and council was sent prior to any knowledge of that resolution being written and so all of the research related to the aquatics assessment and the costs associated with that were operational decisions that the department had made. Does that answer your question?

>> Tovo: To some extent. Will that be coming to council for approval and authorization --

>> whatever it is, we will be following the appropriate purchasing guidelines and so I believe that -- that contracts that are over 55,000 do need to come before council for approval, so the answer would be yes.

>> Tovo: Okay. Good, I look forward to a discussion on that. I'm very supportive of today's resolution, I'm a co-sponsor, I want to develop a master plan but i was a little surprised by the costs in the memo that were contemplated for an outside consultant. So I look forward to a healthy dialogue on that issue. Thanks.

>> Okay.

>> Mayor Leffingwell: Councilmember tovo did you move approval.

>> Tovo: I thought that i would allow the sponsor of the resolution.

>> Mayor Leffingwell: Sure. Councilmember morrison moves approval seconded by councilmember tovo. Further discussion? All in favor say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 7-0. Councilmember cole, you had 6, we are taking 6, 56, 57 altogether.

>> Cole: Are the three speakers signed up? Go ahead --

>> Mayor Leffingwell: There -- there are three speakers signed up, yes. We will hear from those first. mayor, councilmembers, I'm carol

[indiscernible] executive director of texas rate pairs payiers to save energy. I was here in december to complain about a mishap that caused \$400,000 in weatherization funding to sort of like be lost by the city. I was very happy to see that there was some -- some very heroic efforts that were apparently made by people to -- to obtain some additional funds in the amount of \$900,000. Which -- which does not to me excuse what happened in december, but I have to admit it is a nice save. So thank you to -- to everyone who was involved in this. From the -- from the description of the -- of the agenda item, there will be 282 low income apartment units, weatherized, with these funds and that is wonderful for all of the people who will live in those apartments over the next 20 years or so. This is a great benefit. I do not want to -- to delay the approval of this agenda item that I just -- but i just wanted to step up and say thank you for the save.

>> Mayor Leffingwell: Thank you, carol. Carol hadnot.

>> Councilmembers and the mayor, going backwards, anyway, I'm representing the austin area black contractors association. And the hispanic contractors association. And we do support this item today. We never was opposed to it. It was just the process. And the exclusion of minority contracting participation. We would like to thank anthony snipes for taking the initiative to get the departments together to work out the recommendations that we had submitted. And we have reviewed the document. And -- and most -- most of the items have been -- well, a great deal of them have been incorporated into the current program. However, many of them were not. So hopefully with new funding because we don't want to see this continue to be amended or mended because we will never be able to get these other items included. So the new rfp process for any future funding we would like to see all of the incorporated. I will be remiss. I should have also mentioned that anthony didn't do this alone. Austin energy, smbr and purchasing participated and we do appreciate that as well. The thing that we were concerned about was the multi-family units is that the city -- we know that the people need this -- the retrofitting. However, the city has given up this kind of money to a property owner without asking for any kind of benefits or concessions. I mean, hopefully the next go around you would at least ask that they would give

some kind of like child care or after care benefits to those people who are residing in those facilities are those buildings because just to give somebody \$370,000 to -- to retrofit their property and we think that there should be some other kinds of concessions. So with that, we do - - we do approve of the rebate. To -- for the retrofit for this project.

>> Mayor Leffingwell: Thank you. Paul saldana. Everyone so far has signed up in favor, by the way.

>> Good morning, mayor, councilmembers, my name is paul saldana, speaking on hispanic contractors association. We wanted to go on record in support of the acceptance of the grant and the items that are posted before you. However, I do have a couple of handsouts for you. One is a memo that it's DATED NOVEMBER 1st, 2011. And I want to call your attention to -- to the item that's highlighted, chicagos back to the original -- which goes back to the original procurement process when these contracts were put out for proposal and for bid. In the -- in the purchasing requirement and the scope of work, it specifically indicates that in order for you to serve as a prime or contractor on this, that you must possess the bpi resident certification. You have six primes in the other attachment to your handout I passed out as a legal form document, the proposed assignment of work. For the six firms that are listed as prime. It turns out that four of those six did not possess that specific requirement that's laid out in the scope of work for you to possess the bpi or resident to serve as a prime. So that has been part of our point of contention for the last two years. You may recall back in april we had references, 15 recommend indications, that were -- recommendations that were developed in partnership by the weatherization subcommittee subcommittees, we were told those recommendations had been implemented. We received a memo on tuesday afternoon from the city manager's office and it turns out that seven of those 15 recommendations have not been implemented or only partially implemented. The first one specifically talks about an equitable distribution of work. And so my point here is that -- that we have an inconsistent manner in which -- I guess imposing requirements, those who served as primes, I think give -- get a favorable decision from staff. And the subcontractors don't. So we are -- I guess inequity equally or very selectively enforcing what's required of this process and that gets down to the bottom line. Members of the m.b.e. w.b.e. Subcommittee heard this on tuesday, we still have subcontractors who have yet to be paid for work they performed february of last year. We have other subcontractors who have received threats from some of the firms listed as primes. There's a gentleman here today so intimidated by the prime contractors that he doesn't even actually want to speak to you today. He's here in the chambers but he asked me to say that. The smbr was designed to serve as a liaison should any issues come up. There was a meeting that took place at dsmb a few months ago that prime contractor waited for that individual in the parking lot and threatened him and said if you continue to come, you are not going to get any more work from me.

>> Mayor Leffingwell: Thank you, paul.

>> Why are we awarding the primes when we have subcontractors that continue to have issues.

>> Mayor Leffingwell: Thank you, also isaac harrington is signed up in favor not wishing to speak. I really want to recognize the city manager and his staff and austin energy staff for working very hard, basically at light speed, for a city bureaucracy to get these funds reinstated,

not only what we had previously turned down, but -- but additional funds as well. So good job done by all. I will also add briefly in saldana's comments, to say that we will continue to work on the process going forward. Mayor pro tem cole?

>> Cole: Mayor, you basically stated the reason that I pulled this item because again I wanted to congratulate staff as carol mentioned for their heroic efforts. But I did also have a couple of questions -- is [indiscernible] here, veronica?

[Indiscernible]

>> director small minority business resources department. When we receive information about payment concerns on this contract or any contract, we work closely with the contract management department to ensure that that [indiscernible] is made and in this particular case we have received concerns about lack of payment. Austin energy has been working with the subcontractors in particular who have raised these concerns to identify specific projects, specific addresses, where these instances have occurred and do research to determine why payment has not been made.

>> Cole: I'm very pleased that you all are making process because we here in subcommittee about this issue frequently. I am also pleased that the african-american contractors as well as the hispanic contractors are still supporting this item. I also wanted to get a brief snipes about some of the work that he's done and is working with the contractors on in this regard.

>> Mayor pro tem, I think -- I think we have a collective team approach. I can't be up here without recognizing larry weiss, general manager for austin energy. He has really worked very hard to pull his team together and we've been -- over the course of the last three weeks, we've been working with the law department, purchasing, city manager's office to look at how we can move forward to effectively address some of the concerns not only for the minority trade associations, but also meeting with the primes to talk with them about some of their concerns and issues. But I think if we move forward, whether that's public grant funding in the future or current weatherization funding, our hope is that we will be able to -- to establish a program that all of -- all of us will be proud of and address most of the issues that have been brought fort today.

>> Thank you, mr. snipes.

>> Mr. weeks, is he here? There you are. I had a brief question for you and to -- to also again applaud you and the city manager on all of your efforts. But I notice that we are having an audit - - on items 56 and 57 in connection with this item, an audit of the weatherization procedure. I would like you to briefly explain what that involves.

>> I don't know that I can answer all of it. But my understanding is that we're going to have an audit of the entire program. Not only by -- by ourselves but we will probably have federal and -- and, you know, audit because it is federal funds and we've already had a couple of those I think. But the two purchasing items, 56 and 57 are for contractors that do test in and test out. So it's not directly

[indiscernible]

>> right. The test in-test out audits that are done, so there's a separate company that's involved with doing those -- those two contract items.

>> Cole: Okay. I was just glad to see that we were doing our due diligence on our internal control [indiscernible] when we -- when we renewed the extra amount of money as we go about this process. Move approval, mayor.

>> Mayor Leffingwell: We do have one more speaker that just signed up. I will recognize you for making that motion after she speak, susan meredith. Also signed up in favor. Try to talk us out of it right quick.

>> Seems to be a perception that -- that austin energy or this program is not supporting the -- the , you know, goals and we are a w.b.e. Prime contractor. prime contractor. And so a third of the money and companies and the way this works is that it's not put in as, you know, part of the goals, but we definitely are still small and minority businesses and so I want to really just say that austin energy in our experience, we've expressed it to some of you just recently, has been really great about working with this program and that perception doesn't seem to be out there. So -- so we've gone through a whole bunch, you know, trying to get subcontractors and has expressed the fact that there are not enough qualified minority businesses that can do this work. And I just want to say that the fact that you don't want to work with a specific contract -- subcontractors does not mean that you're not supporting the goals. I mean there's reasons that you may not want to, that doesn't mean that you have anything against minority to not want to work with a specific company. So, you know, there's some perceptions out there that i really want to have corrected, which is that this program has been a tremendous success. On so many levels, including the smbr goals. Thanks.

>> Mayor Leffingwell: Thank you, mayor pro tem cole those are all of the speakers that we have now.

>> Cole: Move approval.

>> Mayor Leffingwell: Mayor pro tem cole moves approval of items 6, 56 and 57. Seconded by councilmember spelman. Further discussion? Councilmember tovo.

>> Tovo: I have a lost question. At our -- a last question. At our subcommittee meeting earlier this week, we talked about the provisions for keeping those unit affordable, really in response to the question -- hadnot raised today. snipes if you could speak about the memo that you just provided us with. Also we did get a follow-up email from one of our staff members talking about this issue as well.

>> Currently we do have available an agreement between the city of austin via austin energy and any of the potential owners of the multi-family units. That agreement calls for one year that the rents will remain the same. At the same time it's any individuals who are deemed eligible, income eligible and they leave that property, those particular designated apartments will remain

income eligible for that 12-month period. If by chance the homeowner, I'm sorry the property opener decides to sell the property, liens can be placed on that property until acceptance by the new owners, sends all of the terms [indiscernible] that's the standard agreement through tdhca that austin energy uses currently with the multi-family

[indiscernible]

>>

>> Tovo: Does the city have any ability to -- i think the answer is no based on the information we received in our email about the federal guidelines. But does the city have any ability to extend that beyond a year and say to the property owner of the multi-family properties. If we invest this money in your property, we would like to see those units remain affordable for the next 10 years?

>> Councilmember, that's one of the things that we're in the process of investigating and looking at as we move forward. The question that staff is exploring. I can defer that to austin energy. If they have an answer from that, I know from our standpoint we're in the process of trying to work with tdhca look at is there some flexibility to modify this agreement

[indiscernible] at the same time we don't want to disincentivize the property owners because a large amount of these properties are in horrible shape and this is -- this is a program that I think would benefit the citizens that are living in some of these multi-family [indiscernible] something that we are currently investigating.

>> Tovo: I absolutely agree. We don't want to make it so onerous for the property owners that they don't want to participate because i think it really will benefit the owners living in these units. We don't want to incentivize property owners to raise rents as they get this kind of substantial investment in their property and get new families in there who are -- I appreciate you looking into it. I would just say that I'm glad that you are operating from that perspective of -- of doing everything we can with the city to make sure that those units remain affordable for the families who are living there.

>> Thank you very much.

>> Mayor?

>> Councilmember martinez?

>> Martinez: Thank you, mayor, I'll be really brief. There's a really interesting point being made on this project that continues to up in our holly good neighborhood program. When we make a substantial investment in the property, we have expectations of the property owners, to either one stay in that dwelling, maintain ownership and to receive that benefit or have a lien placed on it if you want to turn the property over. So I just want to remind my colleagues that issue keeps coming up. But here's a direct example. I certainly appreciate the fact that we remain complete flexibility as a council on the holly good neighborhood program. But it's modeled in sound

principle just like these programs that are coming before us today. I just wants to keep that in our colleague's minds, every year when we allocate the holly fund the lien becomes a big issue. There are practical reasons for that. That is so owners don't flip flop these and take advantage of the improvements that are made. So I just wanted to point that out. We model it after sound principle [indiscernible]

[sound issues]

>> all in favor say aye.

>> Opposed say no. Passes on a vote of 7-0. 30 briefing scheduled, update on the downtown post office, without objection we will go to that directly.

>> Cole: Excuse me. I believe that I only moved approval of item 6, but not also 56 and 57. So I would like to --

>> Mayor Leffingwell: That was corrected. I asked you 56 and 57.

>> Cole: Thank you, mayor.

>> My name is sandy

[indiscernible], a representative of the united states postal service real estate department in dallas. I'd like to take this opportunity to brief you on a project for our austin downtown station located at 510 guadalupe street.

[Volume very low] I would like to share some of the details between the public notification process. As part of the sale, we plan to relocate the retail and boxes to a different location. The location of the retail will be determined by a competitive bidding process. The location of the delivery unit will be relocated to our south congress station located at 3903 south congress avenue. Now, our notification procedures entail first public notification at this public meeting. Second, following this meeting, we will take into account the views expressed by the city officials as well as the community. Once this step has been accomplished we will formalize this by sending written notification to the mayor. This will be posted in the lobby of the post office or the community to view. We will review comments received from the mayor or the community based on this final decision. Providing there is no opposition, we will proceed to advertise for existing space, alternate quarters, retail only. At the close of the advertising period, we will conduct a site selection with postal service officials to evaluate all sites offered. Following this step we will send a letter to the mayor outlining both contending and not contending sites. Again, we will post this letter in the lobby of the once a final decision has been made, we will begin send a letter to the mayor asking for comments of the selected sites. Again this letter will be posted in the lobby

[indiscernible] at this point we consider our notification process to be complete. However, we will continue to keep the channels of communication open throughout the entire process.

>> Thank you.

>> Any questions? Let me just say thank you, we have looked forward to this happening for a very long time. Redevelopment of your post office site, no offense, the post office, but we look forward to -- to having a more intense development on this site and we wish you the best and hope we can get through this process as expeditiously as possible. Councilmember riley.

>> Riley: I want to join in the mayor's comments, i have a question for you. I certainly appreciate the information and frankly glad to see some progress on this. But I do have a question on behalf of those who are interested in maintaining some degree of services that are currently provided at that location. I know you are going through a very competitive process to find the new location. For those who are interested in ensuring that some comparable especially the retail services remain available downtown or in the central place, is there any assurance that you can provide in terms of your expectation and in terms of having a central location available to provide the kind of services that are now available at the current location?

>> There is a point that will be seriously considered for alternate retail services. As far as assurances, i mean, without having study completed, I can't provide assurances, but absolutely we will continue to make sure we have the proper retail services available to the community in the downtown area.

>> Riley: I believe you mentioned there will be opportunities to comment on the new location. Thanks very much.

>> Cole: Mayor, I have a brief question.

>> Mayor Leffingwell: Mayor pro tem?

>> Cole: I have a brief question. What time lines are we looking at for the new downtown post office?

>> Well, when you say the new downtown post office, we are in the process of selling the existing downtown post office.

>> Cole: But are you going to have another one downtown, has that been determined.

>> This competitive bidding process that I have explained will be for alternate quarters for a new retail location. It may not -- that particular location may not necessarily be located in the downtown area. The preferred area has not yet been established.

>> Cole: So it has not been established. Well, I know that this was a very major initiative of mayor will wynn, so i appreciate that it is coming forward now and thank you for your hard work.

>> Mayor Leffingwell: Thank you, further -- councilmember spelman.

>> Spelman: Question for you, mayor. It is evidently post office procedure that the mayor be the single point of contact for conversations and comments. Reasonably presume mayor when you receive communications from the post office that you will send a copy to the rest of us to allow us to comment if any comments are necessary.

>> Mayor Leffingwell: I will make sure that the council is fully informed. Informed.

>> Spelman: Great, thanks very much.

>> Mayor Leffingwell: Thank you. We will go back to our consent agenda. There are a number of folks signed up on 74. There may be some confusion, I want to remind you that this is a discussion only about the date and time of the action on electric rates. It's not a discussion on the merits, pro or con or any aspect of the electric rates. Discussion will be limited to the date and time. With that comment, we will go now to item 7, pulled by councilmember tovo and we have one speaker. Andrew hawkins.

>> Thank you, mayor, council. Andrew hawkins here on behalf of save our springs alliance. I spoke on this service extension request or spoke against it in front of the environmental board and also submitted comments at the water and wastewater commission. My main comments to both of those bodies were first if you look at the watershed protection staff questions, the answers to the questions in your backup, you will see that all of those answers are unfavorable to the applicant for this service extension request. And there really is a -- is no rationale for granting it. We think approving the service extension request is basically enabling an environmentally destructive grandfathered project over the northern edwards. As you all know this is an incredibly extensive area both because of the karst system and also the jollyville salamander habitat. In fact it's so sensitive that the city has told us in the past that we couldn't build the volley village transmission main in this area. Now, of course, we are apparently having a water line in the same area. That's a larger question, but I think it's something that we need to look at. Something we need to look at in this case. What are the environmental studies being done for the water line. And how is it that we are -- that we can approve a service extension request in this area? Simply doesn't make any sense. The one main rationale that's come up for approving the extension request, we approved they're going to drill a well into the northern edwards. That seems highly unlikely given that there's not going to be enough water for a well to serve a commercial development and that's highly unlikely as well that you will be able to get financing for a commercial development based on the well in this area. Of course, keep in mind that it just really a matter of time as to when the jollyville plateau salamander is put on the endangered species list, it's going to happen and it's going to happen soon. Again, it's another factor that makes that commercial development highly unlikely and also something that we need to more carefully consider. So -- so given that's the only rationale and a very flimsy one for granting the extension request, we urge you to deny the request. Simply not enough to overcome the strong city policy that's embodied in the city code that we do not want to facilitate grandfathered development over the drinking water protection zone. Which is precisely what this is. I just remind you that the development that's proposed for this area is -- is going to be a 54% impervious cover when I believe it's 40% is the maximum under the code, and there's not going to be any treatment for storm water and there's not going to be any buffers from critical environmental features, so again we urge you to deny it, thank you for your time.

>> Mayor Leffingwell: Thank you, mr. hawkins. Those are I believe all of the speakers that we have on this item. Councilmember tovo?

>> I have some questions for staff. Some relate to the issues hawkins was just talking about regarding infrastructure. Actually regarding the -- the relationships between the -- between the development and the jollyville salamander.

>> [Indiscernible] we have a whole bunch of staff. If you ask your question

[indiscernible]

>> Tovo: Sure, has there been an environmental assessment done?

>> [Indiscernible]

>> Tovo: It's my understanding based on the code that an approval of a service extension request 25-9-36 talks about the environment for an environmental assessment.

>> [Indiscernible] watershed protection department. It's typically done for when a site plan is submitted. They are required to submit

[indiscernible] I don't know if one has been done for this project specifically. This wasn't in the questions that we had gotten previously. And I can make a quick phone call to find out from the case manager very quickly.

>> Tovo: Great. Yeah, as I said, 29, what i I guess what prompted this question 25-9-36, part a, says an applicant for a service extension request shall perform an environment -- I think they mean environmental assessment if required as part of the city's review of an application.

>> Yes. So if that's the case, I'm certain one has been submitted and reviewed. Is there a specific question related to the salamander?

>> Tovo: Sure. We've heard concerns from some citizens about the impact of additional development because of the jollyville salamander which is expected to be listed. I wonder since you've been so involved in this issue, if you provided it, did you provide any information to the environmental board or water and wastewater about that issue?

>> Not on salamanders specifically. This issue was taken up before the environmental board and the wastewater commission prior to my being appointed environmental officer, so I wasn't involved at the time. But the salamander development is obviously a significant issue and is one of the threats that was described in the fish and wildlife service. Making a finding that listing was warranted or concluded several years ago. So development certainly is a concern in general. And this is -- this is in the bull creek watershed and the headquarters of the bull creek watershed and development is a concern. But it's also in an area that has significant surrounding development already. And -- and so -- so whether -- whether this specific development makes a significant difference or not, I'm not able to say.

>> Tovo: There is significant development in that area, but in such a critical environmental spot one would think additional development would have additional contact on the karst, cave habitat.

>> Possibly.

>> It's my understanding that the site is exempt from water quality requirements because it was grandfathered?

>> Yes, back to 1974 or 6.

>> Tovo: And I believe the backup material that we've got talks about what some of those differences are, mr. Hawkins highlighted a few, impervious cover, is 54% current requirements would be 40, is that -- is that about right? What are some other differences?

>> That's correct. That's the major difference. The requirements are water quality and the additional impervious cover that could develop up to -- under the rules that were in place that has been grandfathered back to could develop up to 70% impervious cover.

>> Tovo: Okay. I have a question about the question and answer that was provided to the -- let's see, the environmental board. Question number 3 talks about ask the question is the site in an area in which we are encouraging development. The answer really doesn't -- the response doesn't give a direct answer to that. It talks about in the drinking water protection zone, only oversized water infrastructure is eligible for cost participation and reimbursement. So I guess that I'm interested in a direct answer to that question. Is this -- is the site in an area in which we are encouraging development. And it's my understanding that this is in an area that is not the desired development zone, it's in the drinking water protection zone.

>> Yes.

>> Tovo: So I would assume the answer to that question is no. Would you say that's right.

>> I would say that would be the correct answer. Then I guess my next question is probably one for -- thank you very much. I have a question for legal staff. It's my understanding that -- that the council or the city is obligated to provide service within certain areas of our city, but that this is without -- this is outside of the area where we are required to -- to provide a service extension.

>> That's correct. This is [indiscernible] with the city law department. This property is not within a ccn area. So -- so that restriction that we are required to serve is not on this particular property.

>> Thank you, can you -- i know you told me what that stood for this morning, but I have forgotten --

>> certificate of public convenience and necessity. It's a license to serve. But comes with the obligation, also, to serve.

>> Tovo: This falls outside of that area?

>> That's correct.

>> Tovo: Thank you, I'm sure other councilmembers may have questions and then I'm [indiscernible]

>> Mayor Leffingwell: I lesniak if he's still here, out. He's probably trying to get an answer to your question. Seems to me the -- the key question is not how much impervious cover that is -- that would be entitled with or without the water service.

>> That's correct.

>> So the key question to me is the city of austin water service or if there's going to be a well.

>> That's correct.

>> Mayor Leffingwell: So assuming that the water service is denied and they drill the well, it also seems intuitively to me that would be a more hazardous to the environment than would the extension of the water service.

>> It does provide additional routes for contaminants to go to i don't understand water in the area. There are a -- to go to ground water in the area. There are a number of wells in the area. If they are designed and maintained properly, it should not be a significant risk, but generally centralized water service is a better option.

>> Mayor Leffingwell: All right. There are lots of unknowns as we know when you drill a hole in the ground. You don't always know exactly what you are going to get. We also know that -- that in the current circumstances, there are new water wells being drilled all over western travis county due to water restrictions and other factors. That in fact a lot of them in my neighborhood, I live in the city. So -- so there's -- there's really no way to limit that. So given the fact that they have the grandfathered entitlement, they can do the development, it seems to me the choice is which is the least intrusive. Providing water service or having a water well on the property and it seems to me that -- that the least intrusive would be to provide water service. Councilmember morrison.

>> Morrison: I am glad you brought up that point. I think it's a critical issue here, a question we asked and haven't gotten an answer to is whether or not they could drill a well that would provide enough water for a relatively large commercial development. And if they could not, then, you know, that makes a significant impact on -- on our decision here. We have asked staff in staff memos, they don't have adequate information in order to do that. So my question for staff is if they could provide a little bit of context for me to understand what it takes to determine whether or not there would be adequate water if the well was drilled.

>> Councilmember, while we don't have -- we haven't looked at that site specifically. It's a very site specific question. The applicant has looked at that, has had a water well driller look at that, i think she can let you know what her consultant told her.

>> Morrison: That would be great.

>> Hi, my name is bobby joe

[indiscernible] with sight specifics. Site specifics. After the last meeting we did have our general contractor consult with the drilling company. They said yes we could drill a well, about 900 feet, the cost is less than what we would spend on the utility extension that we are asking for today. The client still would prefer city water, but already has everything in place and will drill the well. To get the permit, the registered drilling company goes and gets that permit and then drills for the well.

>> Morrison: So you said that -- that it will could less to do it via a well, but you still prefer city services.

>> Yes.

>> Morrison: Can you explain the --

>> just because it's easier, there's no maintenance, with the well there is maintenance.

>> Morrison: So the contractor was able to do an assessment of how much water was available, the water flow and was able to confirm that there would be adequate water available?

>> There are other wells in very, very close proximity that he has actually drilled and has studied and has determined there's water in this area.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: The memo from staff notes that the applicant doesn't necessarily have a permit from the well. We have just heard that the company [indiscernible] would get a permit. Can you shed any light on what degree of scrutiny an application for a permit receives? Would environmental considerations be a part of that decision?

>> I don't know the details of the permit review. But I wouldn't expect that it would -- it's generally permits are about the construction of the well itself. Water availability and doesn't get into an environmental review.

>> Riley: So your advice would be to assume that the applicant could readily obtain a permit for a well? Okay, thanks.

>> I think [indiscernible] appropriate [indiscernible]

>> Riley: Okay.

>> Mayor Leffingwell: Those are all of the speakers that we have. I will entertain a motion on item no. 7. Councilmember riley moves approval. I will second. Any further discussion in. Councilmember morrison?

>> Morrison: I'm not going to be able to support this motion. I just feel like there's too much that -- that -- such a sensitive area and that there is too much unknown that we do have serious consequences, potentially, consequences and outcomes from this action. Councilmember spelman.

>> Spelman: I will be supporting the motion, not because I want the development to come in, not even because I'm concerned about this particular well, but because I'm concerned about additional wells being drilled along 620. One well is probably not going to duane an aquifer, but several well -- to drain an aquifer, but several wells or a series of wells because we aren't able to extend the water services, may very well have an effect on the amount of

[indiscernible] about one little [indiscernible] line.

>> Mayor Leffingwell: Further discussion? Councilmember tovo.

>> Tovo: I'll just add that I'm not going to be supporting the motion, either. I don't -- I have grave concerns about a development that's going to be moving forward under a 35-year-old code regulation rather than our existing water quality provisions. So I will not be voting to extend service.

>> Councilmember riley.

>> Riley: I want to echo councilmember spelman's comments. I am not eager to see development in this area, but staff advises us that poorly constructed or aging ground water wells can provide pathways to pollutants and degrade ground water [indiscernible] from an environmental standpoint it's a difficult to call [indiscernible] to the environment is posed by fostering the continued reliance on [indiscernible] wells being drilled in this sensitive area. Obviously I will

[indiscernible] supporting the motion.

>> Mayor Leffingwell: Obviously I'm going to be supporting it. There was a -- I was the second on this. I think all of us would prefer that this particular tract not be developed at all, that it remain undeveloped. But that's not the choice before us. The choice and my responsibility is to ensure to the greatest degree of environmental protection and I believe taking the course of action of -- of providing water service instead of water well does that. So I will -- I will obviously support it. All in favor say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 4-2, with councilmember morrison and tovo voting no and councilmember martinez off the dais.

>> Mayor Leffingwell: That brings us to them number 49, pulled by councilmember cole. No speakers.

>> Cole: I just had a couple of quick questions about -- about what you do when you are purchasing items to -- to not -- to not purchase too many degrees of

[indiscernible]

>> byron johnson, purchasing office. This is a short-term contract. We have worked with building services and also other departments to try to determine what products are eco friendly, meet the seal of green approval. We also are working with the office of sustainability to come up with guidelines and so this is an interim contract that we put into place using guidelines that we developed about two years ago trying to encourage people to go with different products. Then we have a longer term contract that we will be working with that will have very specific requirements and actually do a limit to what items people could not purchase and so we see this as a bridge between where we were to what the new guidelines that we will be doing with the office of sustainability.

>> This is similar to the analysis that you make in the grocery store between a cheaper product that -- what does not have as many sustainability factors, but -- but costs less in a more -- more eco friendly product.

>> That is correct. We have actually worked over the past three years to come up with the way we can buy volume the green products to keep that cost down and in some cases we've actually been able to reduce costs with some of the green products through our volume pricing. So we're real excited about going forward with the new contract.

>> Cole: Thank you, byron, good job.

>> Mayor Leffingwell: Mayor pro tem moves approval of item no. 49. Seconded by councilmember riley. Discussion? All in favor say aye.

>> Opposed say no. Passes on a vote of 6-0 with councilmember spelman off the dais. Brings us to item 68. We have a number of speakers signed up. We will go directly to the speakers unless some councilmember wants to make a comment. First is blake gillett. Signed up against. You have three minutes. Good morning, mayor, members of the council, my name is blake [indiscernible] I guess that I'm here today representing this citizen of austin. I worked with the planning commission working group from beginning on this proposed ordinance. I was chosen to be part of the six -- six folks, neighborhood folks against the -- against the commercial str's. Work closely with the

[indiscernible] subcommittee. I guess my concern with the proposal this morning is that the -- is that the city manager is being asked to stop the process and basically it will put us back to square one. I think that's very unfortunate. I personally put in maybe over 100 hours of this over this last year. I know other citizens of austin on both sides have been on this, involved in this. We're asking at least what I'm asking is that -- that if appear audit needs to be -- to be done, it can run

concurrently with allowing the process to go forward. Let city staff finish their job, let it go to the planning commission, let's get a document we can all look at. The council -- the council takes recommendations from the planning commission. It would be nice if there was a document that we could all look at. We can parse it, if we need to tinker, adjust it some, let's do it here on this level. I would ask us if the audit was as quick as possible, it could be focused, too, a little bit more focused maybe than for the entire city there are certain neighborhoods that we can focus on. The audit could focus on. Theory talking about three months, that -- they're talking about three months, that would give us to the end of april. Probably not going to get a document from the planning commission probably finalized document until pretty close to that time. I think that we're just asking basically the -- the request for audit, we understand that. Going back a couple of years. I think that will give us really good data. But we're asking that the process not be stopped. I mean that's -- you know, folks -- it makes it -- it's very frustrating to go through this long -- both sides have done this. We've gone through this for over almost a year. You know, people talk about how they get frustrated with the government, frustrated with the politicians. This is a real good example. I wanted to almost bite myself when I saw this. It's almost like I've done this last whole year for nothing. And I do not appreciate that. And I really, really appreciate it if you all would -- would find a way to come forward, go forward with this. Thank you very much.

[Buzzer sounding]

[one moment please for change in captioners]

>> yes, sir. Perhaps if it is allowed to go concurrently, perhaps the city staff would be able to -- they've given direction -- they've given a document to city staff outlining the provision such as insurance requirements. Well, they can go ahead and figure all this out, they could have a range, so it could be -- once the city auditor's information is there, perhaps it could be done very quickly and you can get a document off that fairly quickly. We've had tremendous amount of public input. Marilyn moritz we can continue to gather public input, but not take any action on it until they get all the information available.

>> I'll leave it up to you. .>> Leffingwell: Councilmember spelman was next.

>> Spelman: In writing this particular section of resolution, it was not my intention to prevent the planning and development review department from continuing to do the work that they were doing. To write that ordinance up. It was only my intention to prevent a final decision being made on that ordinance until this information became available.

>> I understand that. And I think it was just there's some miscommunication and I know that's why a lot of the folks are here today is because they were uncertain of where we were going with this.

>> Spelman: So it meant moving to a final decision, not continuing to do the work to support the work that's already been done by the planning commission.

>> Thank you very much.

>> Leffingwell: Thank you. Councilmember tovo.

>> Tovo: I have a quick guernsey to the point that we just discussed -- or mr. rusthoven. It was my understanding that they were going to talk about their recommendations on the 26th of january, is that correct?

>> The planning and development review. We're in the process right now that the working group has finished their recommendation. The ordinance and subcommittee presented their recommendation and we were prepared to take it to the full planning commission on january the 24th.

>> Tovo: 24Th, I'm sorry. So I wanted to correct that because there is something in the earlier -- in the conversation that just immediately precede this had about them being halfway through. And they're really at the end of their process.

>> Mayor Leffingwell:.

>> That was me and I would add that's anecdotal.

>> Tovo: I didn't want to finger you, but I remembered that you were the one that said it. But I wanted to clarify they are at the final stage, having begun this process in july of 2010. So anyway, thanks very much. So they're scheduled to vote on the codes and ordinances, voted on the recommendations and they are moving forward to the full planning commission on the 24th.

>> Yes. And we have not scheduled it. Our intention is to have an ordinance to put in front of them on january 24th, but we have not scheduled a council date because we are uncertain, given the amount of time that this has taken, which has been over a year so far. I'm not entirely confident that january 24th they will make a decision. So we haven't done anything beyond putting on the january 24th agenda at this point.

>> Tovo: It might take them a couple of meetings.

>> I would not be surprised.

>> Spelman: Since rusthoven is here, so save you an extra step or two, if this resolution were to pass in its current form, I just want to clarify my intention -- I'm not sure this is fully the intention of the rest of the council, but mine in writing this up is regardless of what the planning commission does on the 24th or a subsequent date, that the planning commission recommendation, whatever it is, not come back to the city council until after we have received the information from the auditor called for in this resolution. But that it do come back to the city council as soon as we have received that information from the city auditor.

>> That's understood. One thing that I think we need a bit of clarification from is that if you would want us to postpone any final action, any planning commission vote on the matter, until they had the same information that we be presenting to council. Or if you would be okay with the

planning commission taking a vote and we not coming to council until that information is available.

>> Spelman: Let me ask you it's my understanding that on an issue like this, the planning commission's decision would be advisory, but would not be binding on the city.

>> That's correct.

>> Spelman: So from my point of view, I think they should be free to offer advice, although I would like to believe that they have the same concerns that I do about having good data to work with. And if they agree with me, then they might agree that it's a good idea for them to postpone making a decision on the advice they give to us until that information is available. But if they feel comfortable giving us advice in advance, I won't stop them.

>> Understood.

>> Mayor Leffingwell: Next speaker is helen rockenbaugh. Also against. And you have three minutes.

>> Thank you. I don't think I will need three minutes, but I will lower the microphone way down here. Again, I have spent literally hundreds and hundreds of hours on this issue, and I would appreciate the other people in the work group, time and efforts being recognized and not holding up the process any longer. I think that the city can ask the auditor's office whatever information can be gathered in the shortest amount or period of time. Possibly 45 days instead of the 90 that they proposed, which would probably over 90 days. And that the data collection go on concurrently with whatever processes are work along in the city. And obviously we're opposed to having commercial str's in the city limits. I would just like to note that since steve allah man is not here, that the anc resolution was 22 in favor of the resolution asking that commercial str's not be available in the zoning. So it gives a clear message to the neighborhoods on what we would like. Thanks.

>> Mayor Leffingwell: Thank you.

>> Good morning, mayor leffingwell, city manager riley, members of the council. I want the planning commission process and the city staff process to continue and not be stopped by this audit. And I want to make one point that down the road when the city council finally decides on this matter, I don't want it hinged entirely on how many 911 calls and how many 311 calls were generated by commercial short-term rentals. I think that totally fog the problem and obfuscates the issue. The issue is that short-term rentals in neighborhoods are illegal. And it's an incompatible land use of residential property. I think that's something we need to remember. The board of adjustment has said so. I question the audit department to adequately gather any concise data on what amounts to a growing problem here. Resolution 68 allows for more commercial short-term rentals to develop and further corrupt our neighborhoods while this audit continues. So let me be clear. I consider them illegal. The city of austin considers them illegal. I do not know why we should start from a 11 of accommodation -- from a level of accommodation of these when the board of adjustment has said so or said just the opposite. Thank you very much.

>> Mayor Leffingwell: Thank you. Joyce bothiano. Signed up against. And you have three minutes.

>> Mayor leffingwell and city councilmembers, i really don't have much more to add to what the others were saying, but I do want to reiterate that the fundamental issue is the commercial use of single-family residential zoned properties in our neighborhoods. And I think councilmember morrison in the statesman noted that this is the issue that will have the most negative and far reaching effects in our neighborhoods. And there is definitely in central austin right now great concern for safety. Thank you.

>> Mayor Leffingwell: Thank you. Clay dafoe signed up against. You have three minutes.

>> Thank you. I rise in opposition to this resolution to direct the city manager to suspend the code amendment process that has been initiated relating to short-term rentals and directing a new study. And that's something I kind of take beef with here. Whenever you guys are unsure about a policy to take or a way to go, you always need more information, but you have to remember, conducting studies doesn't necessarily solve problems, all it does is grow government at an unnecessary expense. In the resolution the study should include an investigation in analysis of the number and general locations of the short-term rentals, a review and compilation of 311 and 911 calls for service as well as police and code compliance citations issued in the calendar year. And this is not the way to go. As the gentleman spoke earlier, even if you were doing an honest study, why would you base it on 311 and 911 calls? I think what we're really looking at here is the impact of south by southwest and how that's contributed a lot to short-term rentals being affected here in austin. I don't think we should criminalize or make illegal such economic activity. We don't need to regulate ourselves to death here. People want to come and stay for a week or two. I don't think there's anything wrong with that. I think we need to respect our citizens, how they want to use their properties. We don't need to micromanage their lives or how they rent or whatever they do with their property. And I find this is just another resolution to grow government. We don't need more studies. We're hurting enough. There are serious issues that you guys deal with everyday, whether it's police brutality, hundreds of millions in corporate subsidies you give out every year. We have to start looking at these hard issues. And I find your focus on the short-term rental issue shows that you're not in touch with what's really important to austinites and to our community. And this is only going to contribute to the growing of government and the overregulation of us. So I really hope you reconsider this and leave us alone. Stop looking into this. Thank you so much. Appreciate it.

>> Mayor Leffingwell: Next speaker is nickelle meade, signed up for. And you have three minutes.

>> Good morning, mayor and councilmembers. Nikelle meade, and I'm actually with respect to this issue respecting homeaway. We are in favor of this resolution. I participated in the entire process that you've heard a lot about. And to be 100% honest, that process was really about gathering the opinions and feelings of stakeholders and not a lot about information. So we think it's a wise move for the council to ask for additional information. And I would argue that if the council feels like additional information is warranted, it is illogical to not suspend the process. The planning commission's role is to advise you guys on issues, code amendment issues and

issues of this nature. And so I don't understand why the council would want a recommendation from the planning commission that didn't take into account that additional information, if council, which I think I hear you saying, thinks that additional information is warranted. So asking for the additional information, yet letting the process continue, really in my opinion seems illogical. I think there isn't any urgency. I haven't heard anybody articulate legitimately what the urgency would be if there is some. And I agree with the other stakeholders who have spoken that there is a lot of information gathered during those sessions. As I see I think it was 95% opinions and feelings of stakeholders, but all of that information will still be just as legitimate and valuable after the auditors finish this process. So I would urge the council to adopt the resolution as it is, suspend the process while this information is gathered so that when planning commission does consider this, they really have the benefit of that information in their and I don't think that means they have to stop taking input, staff has to stop gathering the information that it's gathering, staff has to stop doing the work that it's doing, but I don't think it makes sense to continue with public hearings, those processes and the planning commission recommendation, if you want that information. Thank you.

>> Tovo: Thanks for being here. I'm just looking through some notes. You and I have met a few times about this issue. And I want to be sure my notes are accurate. Within the Austin area, homeaway lists about 400 properties?

>> Roughly I think when we met the number was 370. Of course that morphs and changes all the time. So 400 is -- approximately an accurate number.

>> Tovo: Do you have a sense of how that may have changed over the last number of years? Has it remained consistent? Did it start out as a smaller number and increase?

>> I think it's been pretty consistent over the last few years. I mean, we can tell you pretty precisely what that change has been over the last two years. But from what I understand, it's been pretty consistent. There hasn't been the huge proliferation that people are saying all of a sudden the past several months.

>> Tovo: And I think you estimated, and again, this was in response to a question I think I asked you what homeaway would estimate in terms of the number within Austin. I believe the number you suggested was about 600.

>> Yeah, that's sort of ballpark. But again, that's not based on any real study. To other sites to pull that information. We've just kind of based on what we were aware of and what we knew about, that was our best guess. So I wouldn't tell the council to say that's the be all and the end all of that number.

>> Tovo: I appreciate that explanation, but I assume that homeaway does some think being that to figure out how much of the market they've captured and what other opportunity is out there.

>> Right.

>> Tovo: Of that, say, 400 properties, I would assume that homeaway has pretty detailed information about where they're located throughout the city. Is that information that you would be willing and able to share with the auditor's office?

>> Yeah, sure. Not every property list odd our site has an address listed. We typically will know the general area where that property is, but any information that we have that's not protected by our privacy agreement with our customers, we would be absolutely share. We'll work with the auditor and the council and we've worked with the planning commission this far and the staff on those issues as well.

>> Tovo: Thanks. I think that would be of enormous value. Of those 400 properties, do you have a sense of how many are unique owners?

>> I do not, councilmember tovo. I think you -- we have talked about that question in the past. I don't know if we were able to come up with a number, but just on our sites as a whole, our owners own an average of 1.2 residences. So if you look at that number, it suggests that the majority of those listings are going to be unique owners. It's not going to typically be one person owning four, it will be one person owning one.

>> Tovo: But that's internationally. It's not necessarily what's going on in austin.

>> Correct, although we don't have any reason to believe the trend in austin would be any different from anywhere else in the world.

>> Tovo: I don't want to put you on the spot, but i would think that would be information that would be valuable for the audit to share if homeaway is willing to share.

>> Definitely. When you posed that question before, if we didn't get you an answer to that question, I think we maybe had some -- there was a reason why that information was difficult to gather. We will go back and circle back to that and look at it. Yeah, if that's something we can discern, we would definitely be willing to give that to the auditor.

>> Tovo: Great. Thank you.

>> Mayor Leffingwell: Sue long? Is she in the chamber? Signed up for. Bob easter. Bob easter signed up for. You have three minutes. mayor, pro tem mayor and the city councilmembers, thank you for the opportunity to speak. I am a homestead owner and also an owner of short-term rental property in austin. I have attended each and every planning commissioner meeting that has been held SINCE JULY THE 10th. And I was one of the six owners that represented the homeowners -- property owners of these properties. And what the planning commissioner came up with after the process had ended, was not exactly what we agreed upon. The neighborhood associations were able to add additional restrictions and requirements after that process ended with us. So I'm here today to give a voice to those people who were not hurt. I don't know if you are aware or not, but as a homeowner and as a property owner in my neighborhood association, I do not have a right to vote. I do not have a right in those neighborhood associations to carry a vote. And I was quite surprised at our last meeting we were having an election, and I'm a

member of that association, but as a property owner who did not reside in that neighborhood association, I could not vote. So I want to give a voice to those property owners. We have 354,000 housing units in the city of austin, 53 percent of those housing units are investment properties. They should have a right to vote in those neighborhood associations. But they do not on many of our neighborhood associations. What facts -- I'm here to speak for the motion to let the city auditor actually find the facts and the figures for this motion. As a business person, I just can't imagine making the decision without facts. I just don't think that's the way that any business is run. And it brings to mind is what is the problem of receiving facts? What are the problems? What person would not want to make a decision based on facts? So I agree that the city auditor's office will be able to bring a new factual information to the process. The council will also have actual data to determine the number of str's in austin and how many owners are paying taxes and where they are located. The auditor's office will bring in an independent report to you. We've had discussions --

[buzzer sounds] thank you very much. Speaking as a property owner and a homeowner, i appreciate your time.

>> Mayor Leffingwell: Thank you. Joel rasmussen is signed up for. And you have three minutes.

>> Good morning. Thank you, mayor. Thank you, members of the council. I'll be brief. I'm a property owner here and I also speak on behalf of the austin rental alliance, which is an association that represents 131 owners of furnished rentals here in austin. And we fully support this amendment. Our frustration I think with the process up to this point has been is that it's been driven largely by anecdote and emotion and we definitely welcome the introduction of real data into this conversation and we think that looking at the data will give us a much clearer picture about what is actually appropriate legislation for short-term rentals. We believe, again, just to state for the record, that every owner in austin who rents their property on a short-term basis is required to, and we strongly support the collection of hotel occupancy tax. And I know we've updated you on the work we've been doing to bring owners who are either not aware of that requirement or having trouble with that into the fold. And we'd like the opportunity to continue that work. But really more than anything, we want this conversation to be based on what are the real facts on the ground rather than a lot of very emotional and anecdotal conversation.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: as must 17, i just want to review with you something that you said. You have how many owners?

>> 131 Members in the association. He.

>> Tovo: Has your newly formed alliance done any collection about how many properties each of those -- how it breaks down in terms of the number of -- the average number of properties that each of your members owns?

>> I can do it in my head. It's probably very close to 1 or 1.2. There are certainly no corporations that we're aware of. I know that's an allegation thrown around that corporations were coming in

and buying property for short-term rental. It doesn't make sense for an investment. There's no corporation that we're aware of that owns short-term rental properties. I would say the average is probably just over one.

>> Tovo: How many do you own?

>> How many properties or short-term rentals?

>> I own four and I'm unusual.

>> Tovo: Okay. I have heard of some others that are documented that own more than 1.2. But I understand the way averages work. Thank you very much.

>> I'm not the average.

>> Tovo: Thanks.

>> Mayor Leffingwell: Garrettelsey. He signed up for. He didn't indicate if he wanted to speak or not, but you're welcome to speak.

>> Council, mayor, I'm here basically to answer questions. The foregoing people have essentially said what I was going to say. I would like to point out that it's like 354,000 housing units in the city of Austin, and we're talking about plus or minus 500 possible short-term rentals. As a proponent who owns a long-term rental, I have a great deal of difficulty perceiving the difference between short-term and long-term rentals in terms of being, quote, commercial, unquote. Also, short-term and long-term rentals morph back and forth. A short-term rental this month can be a long-term rental next month. So the distinction is hard to make and calling it a commercial situation, it's no more commercial than any rental is where I'm coming from. And now I'll answer any questions you might have.

>> Mayor Leffingwell: Questions? Thank you, ma'am. So that's everyone that we have signed up that wants to speak. The following are signed up in favor, not wishing to speak. That would be Steve Crossland, Christian Ericsson, Richard Ryan, Theresa Scott Gibbs, Stacy Bass, Judy Walsh, Judy Cotton, Patsy Tankersly, Cindy Hill, Allison Allen, Sharon Walker, Cynthia Peach, Holly Wall, Elliott Mitchell, Anna Maria Garcia, Sylvia Gates, BJ Heinely, Jack Armstrong, Barrett McMillan, Gina Berkenhall, Sherri Mitchell, Kerry Price, Kathleen Cook, Adam Gates, Gregory Cribbs, David Got Freed, Rachel Nation, Nick Butto, Alexander Straus, George Click, Rick Haven, Charles Jones, Doug Fike, Bryan Bowers, Christiana Ortiz and Aaron Farmer. Those are all the speakers that I have. Councilmember Spelman.

>> Spelman: I probably have more to say later, but let me just put the motion on the table. I move approval of the resolution.

>> Mayor Leffingwell: Councilmember Spelman moves approval. Seconded by Councilmember Riley. Discussion? Councilmember Spelman -- Mayor pro tem?

>> Cole: Yes. It's making its way down the dais. I wanted to give this whole discussion some context for both the speakers for and against and what the public may or may not remember. This first came up in audit and finance out of a concern about the collection of the hotel occupancy tax. And that's when we began the ball rolling to try to wrap our brains around that and the auditor's office in how we could accurately collect that. And I think all of the stakeholders recognized that as being very, very important and crucial to not just this analysis, but to the city in general. So I am proposing an amendment that is not dealing with the issue of additional information or designation -- zoning designation between the commercial property or a single-family residence, but recognizing that there has been considerable work done by the auditor's office and by the comptroller and others to try to collect more of the hotel occupancy tax. And I would like that to happen with all deliberate speed as the former justice brenham would say. And that is what this amendment does.

>> Mayor Leffingwell: I thought that was admiral fairgate that said that?

>> Do I have the wrong justice? Which justice was it?

>> Spelman: Actually, it was earl warren.

>> Mayor Leffingwell: Is that acceptable to the maker? And to the second? The amendment is adopted as part of the main motion. Councilmember tovo.

>> Tovo: I was going to point out we're still trying to get enough copies for this side of the dais. If you've got any more.

>> Mayor Leffingwell: Here.

>> Cole: And I believe the -- mayor, I believe the clerk has a copy of the amendment and it simply refers to the communication and coordination to continue, but to implement the procedures that have already been determined and to work on a registration process.

>> Tovo: So mayor pro tem, as I read this amendment, it is affirming the auditor's past work in this area of collecting hotel-motel taxes and encouraging the auditor to proceed on and continue doing so. Are there any substantial -- and you're asking for improved collections.

>> Cole: I would give additional direction to the short-term rental owners, if that's not clear, to cooperate with the auditor's office so that that information can be reported. As it says on the city's website, but gleaned from their website.

>> Morrison: I see.

>> Mayor Leffingwell: I don't think we can give direction to the short-term rental owners. Oak hill.

>> Cole: Just to work with the -- for the city auditor's office to approach those stakeholders with a firm commitment to obtain that information.

>> Mayor Leffingwell: Understood. Councilmember tovo.

>> Tovo: We don't need to vote on that. It just got accepted. Okay. I have just a couple of -- well, I'll pass them out and hope that it might be an amendment, and if not, we can talk further.

>> Mayor Leffingwell: Councilmember tovo has the floor. Councilmember martinez.

>> Martinez: Thanks, mayor and councilmember tovo. It's actually going back to the previously proposed amendment. Where exactly in the resolution would this amendment be inserted. And secondly, what in this amendment isn't already being conducted by the city?

>> I believe it should be inserted --

>> Cole: I believe it should be inserted in the be it further resolved clause. And I do not believe that there has been any formalized from council direction for the auditor to obtain information and work with the comptroller's office. Or for them to report that on the city's website, the hotel occupancy tax to be reported on the city website.

>> Martinez: Right. And that's a great point. I don't think we have anything on the website, but as far as hotel occupancy tax and working with the comptroller's office, that's state statute and I don't think it would require any council direction. It must be complied with according to state law.

>> Cole: Let me ask the aher a question just on that -- the auditor a question just on that note. Good morning. I just want to -- for you to clarify how you work with the comptroller's office in obtaining information about the hotel occupancy tax and why we had problems in the past of collecting that tax.

>> It is two questions. We have been working with the comptroller's office and they are here to answer any direct questions you might have. And we've also had discussions with the code compliance folks about how to preach it. We've provided the information and obviously as an operating department they need to implement that. But my understanding is it's still not on the website at this point, but I think diana would be better suited to answer that question. With regard to getting people to pay it, I guess it's very much like when you're dealing with income taxes. There's a lot of voluntary compliance of people doing it out there, and best that we can do is do some heavy outreach to let them know that they have to pay it, work with the management companies, work with the controller's department, work with the visitors' bureau overall for hotels and short-term rentals and get the word out. And now with the new groups that have been formed to deal with short-term rentals we could work with them as well. From my perspective we made the recommendation. Our part of it is doing the audits. That we do two or three a year each year to let people know that we're looking at them, doing some education and encouraging them to pay their taxes.

>> Cole: Maybe I need to ask diane a couple of questions then.

>> Good morning, councilmembers. Diana thomas, city controller.

>> Cole: I want to make sure that I haven't left out any language in this amendment that we need to strengthen our ability to obtain information from either the short-term rental of commercial providers or the comptroller's office. What is your relationship with the comptroller and what information do you receive?

>> We gather information from the comptroller's website about citizens who are -- entities that are reporting hotel occupancy tax to the state. And we use that as one of our checks to make sure that people who are collecting hotel occupancy tax in the city of austin and remitting it to the state are also remitting it to the city.

>> Cole: And remitting to the state is based on the tax id number, is that correct?

>> I don't know that they do it through -- I'm not sure how that process works with the state. I know that they list the business names and we use those -- typically use those business names to match against our business records.

>> Cole: Let me ask you hasn't the comptroller made some recommendations to you about how to increase the collection procedures?

>> No, it's not any recollection that they have shared that with us. The auditor's office has made some recommendations to our office at the city on things that we could do as a city to increase our collection rates. And we have been implementing those.

>>

>> Cole: And do those recommendations require working with the comptroller's office?

>> No, they do not.

>> Cole: Does the comptroller's office have additional information that we do not have?

>> They would have people who are registered with the state and remit access to the state. But again that information is provided on the state's website. So we have access to that and can gather that information. For anyone who is listed in austin, and that doesn't necessarily mean even that they're listed in austin on the state's website does not necessarily mean that they're in our jurisdiction. They could be outside of our jurisdiction, but listed as the austin area because they have an austin mailing address.

>> Cole: Okay. It's my understanding that you have increased the number of short-term rentals that you recognize. How did you do that?

>> That is correct. Before the auditors started their work we had 80 short-term rentals who were remitting tax to the city of austin. We're now at 136. Of those properties.

>> Cole: Are we collecting hotel occupancy tax on those additional short-term rentals that we have identified?

>> Yes. And when we identify additional rentals by comparing our list to the state's list, we reach out to those individuals or those businesses and provide them our packet of information so that they can remit tax to constituent as well.

>> Cole: Okay. I would like that process to continue and to increase.

>> Absolutely.

>> Mayor Leffingwell: Okay. That discussion was again about a friendly amendment that has already been adopted by the maker, accepted by the maker and by the second. Anything further? Councilmember tovo.

>> Tovo: I have a question murray of the auditor's office. I have distributed on the dais what I'm going to suggest as an amendment, which is to shrink down the area of study to a very specific geographical location. Not because there aren't short-term rentals across our city and we need to better understand what that landscape looks like, but just in the interest of time to focus it in on the northern half of 78704. And I would like to see that information available by march. Do you think that's feasible? I know that your study certainly included that area as one of your areas where you knew short-term rentals were and where it might be most efficient to look there first in terms of collecting hotel, motel taxes. There's also been substantial research from some of the neighbors in area and I know there are some questions about the validity of that, but they would have time to sit down with you and show you what their process looks like. Do you think that is doable to return maybe not a thorough, comprehensive analysis of what the short-term rental situation is in that neighborhood, but just give us some picture of what it looks like in that narrow geographic area?

>> Let me ask you this -- let me answer this like i usually answer these questions. On any audit or review that we do, if we walk in and have good data and good records, we can do it very quickly. Or if we walk in and the data is very bad, it will take a long time. We don't know the situation of some of this data. It's certainly possible. Our three-month effort was an educated estimate that we put out based on what we know and some of the data that's there. But until we get into the data and start looking at it at this point, certainly if we've got full cooperation from homeaway, from the group of citizens, the various organizations, and they've got information that we can validate as opposed to try to find it ourselves, that would be helpful. I would say probably the more difficult part of it is when we initially start looking for these short-term rentals that they're not coming from a group that has them. We don't know where they're at. They usually don't have the address on them. We have to try to locate the address on them. And that takes time. But it's certainly possible. So again, I want to emphasize three months was an estimate. And it could be shorter, it could be long he. It really depends on what we find and how much you want. And what level of assurance you want from us.

>> Tovo: Right. I appreciate that. And certainly your data you feel confident in, so we have a base of data in that area that is veer able to and verified and my hope is that after sitting down with some of the neighbors and talking about their process and collecting it, they used a pretty methodical approach of looking at the different sites and then comparing it to google earth and then going address by address and figuring out which houses and comparing it to tcad

information. So they have a pretty good process going. And my hope is that in working with those neighbors who have done that groundwork and with home away, and I appreciate meade's offer of supplying the information, that you could do at least a snapshot of the city and give us some sense of that. So I'll tell you, I'll explain now to my colleagues my rationale for that. And just in backing up, in looking at some of the articles about this subject, nationally -- and this is of course a national issue. Many municipalities are talking about it. I don't want to get into talking about the merits of it right now. I know we'll have plenty of opportunity about that later. But I came across an article from the statesman talking about -- it was about rolling wood's ordinance. Rollingwood had passed a ban on short-term rentals and one of the subheads is austin still studies as neighbor acts. And this was from october of 2010. So I would like for us to move beyond the studying into the acting period. And I think we're well positioned to do that. We've had a stakeholder process that has been going on for a long time. The planning commission initiated a code amendment on this back in july of 2010. And I do think it's time now for action. And certainly information is valuable. I appreciate councilmember spelman's desire and interest in getting good data on this. I think it is important. We do need to know where the short-term rentals are in our city and how many there are. And we need to be able to collect taxes from them and make sure they're in compliance with the law. Do we know exactly now how many there are? No. Do we know exactly where everyone is? No. But if you look at the maps we've been provided by -- that the auditor has provided us with, and in looking at some of the maps that neighbors have done, there's there's a fairly good correspondence at this level. And what I think will hold true, no matter how many we have, I think the clustering is what we should be most concerned with. Because in the end this is a planning decision. This is a land use decision about what we want our neighbors, our central neighborhoods to look like. And the clustering is of great concern to me. And I believe should be a concern to all of us who want to make sure that our central city remains a mix of household types. That we're doing everything we can to further the city's adopted goal of making sure that families with children continue to see austin central city as a viable one and again work, as I said at the work session, work towards reversing the trend of families with children moving out of the central city and it shows that short-term rentals doesn't do that. It puts a single-family structure as a hotel-motel use. And the clustering is what i think we should be concerned about because it shows that certain neighborhoods are going to be more impacted by short-term rentals than some others and the clustering could really add up to a significant factor. We'll have an opportunity when we have the fuller discussion about short-term rentals. I hope we'll have an opportunity to talk with our city demographer. I speak with him this week and I know he has made this comment to the austin board of realtors as well. And it is not a primary factor as he explained it, but he does believe as a demographer that he can point to short-term rentals as a factor in why we're seeing some population loss in 78704 and some other neighborhoods that are very -- are very popular right now. So my intent here is to keep as close to councilmember spelman's resolution as possible, honor the process of getting more information, but make it very clear that our code amendment process is going to continue and will not be stalled or delayed or postponed, it will continue to proceed. I hope planning commission will be able to come up with their -- finalize their recommendations in short order and be able to send it on to us to have that fuller discussion. And my hope is that the auditor, looking at it more narrowly photo cussed geographic area might give us good data that will at least tell us the scope of the problem in that neighborhood or I should say the scope of the situation. I've been asked by city legal to change the director of code enforcement to the city manager. I think it's helpful to have the 311 information. It is not relevant to the land use

decision that is going to be before us, but it is useful information and information that the council feels they need to have, then I support the collection of it. Again, I would just narrow the focus in the interest of moving more expeditiously. So I would just ask the makers of the -- the proposers of the resolution if they would accept it.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Allow me if i could to clarify some of the things that you're asking, you're suggesting here. The first section changes the current first be it resolved clause from city manager is here by directed to temporarily suspend the code amendment process to city manager is directed to continue the code amendment process. So it sounds like you want to go the opposite direction.

>> Tovo: That's right.

>> Spelman: Let me offer a suggestion as maybe a compromise language. My intention was not to have this thing grind to a halt, but only to prevent this proposed amendment to the code to come back to the council until after we've received information from the auditor, whenever we receive it in whatever form we receive it. Would your language have this come back to the council in advance of our getting the auditor's results or would you agree to having the proposed amendment come back to us afterwards?

>> Tovo: I am happy for that information to proceed or come back at the same time that we're being asked to vote on a code amendment. I would just -- but I do not -- I don't want the auditor's timetable to drive the code amendment timetable. So if we could agree on -- I've thrown out march 1st as a suggested return date for the auditor to come back to wuss the information that is available and the city manager to come back to us with the information that's available on 311/911, because that is my estimatetation of how soon that code amendment would come to council for consideration, assuming that it goes, as we discussed earlier, it goes to planning commission for a final vote on -- or excuse me, for full consideration of the full planning commission on the 24th of january, and assuming it might take them a couple of meetings to move through it, it might be time to come to council around march. And one of the things about planning commission is that the codes and ordinances really does the hard work of hashing through our code amendments and ordinances. So it may not take more than a meeting or two at planning commission for them to agree on a recommendation related to those codes and ordinance recommendations. rusthoven has a comment.

>> We have not started setting a council date because I'm not sure of what the planning commission will do. Once the planning commission takes action, there are some other steps I have to do, such as doing an rca to set the public hearing and taking out a newspaper notice, etcetera. So I can't promise you we **WILL BE BACK BY MARCH 1st**, But as soon as the planning commission takes action, we will start getting it ready for a council date.

>> Tovo: Would it be back **ANY SOONER THAN MARCH 1st**? It doesn't sound like it would hit before march south first.

>> No. Generally speaking the deadlines that I have to meet, internal deadlines with regard to the statesman notice, etcetera, is 30 days out I have to pick the date for the setting of the public hearing and then the public hearing has to be 30 days after that. So generally speaking it will take me two months after I get the planning commission action to get it on to the council agenda. Unless I set the date now and I'm hesitant to do that because I'm not certain of what date the planning commission will take action.

>> Tovo: So if I may clarify, you're saying even if they heard it on the 24th of January, because you haven't yet set a council date, it's possible it wouldn't get to us until the end of April?

>> I would say probably over the course of January, February, end of March at the soonest, yes. The tail end of March.

>> Tovo: I guess, again, I think this has been on the table for a long time. It took a couple of years for it to rise to the level where the planning commission began the process. They started it in 2010 of July. I would like to see you go ahead and set a council date so we can begin the discussion here, if planning commission is ready to send it on, we'll be ready to move on it as well. But anyway, in answer to your question, I'm happy to have -- as long as we have a short time available for that analysis, I'm happy for that. I think it's appropriate for that analysis to come before we vote on it.

>> Mayor Leffingwell: I'm trying to follow and I want the rest of the council to try to follow what the current proposal for friendly amendment is.

>> Spelman: It's here.

>> Mayor Leffingwell: What's here is your current proposal?

>> Spelman: I have not yet accepted or rejected the friendly amendment. I'm still trying to flesh out what the implications of it are. And if the earliest date that we could expect to get this, even if the planning commission felt it had sufficient information to give advice on the 24th is the end of March, about 60 days after that. And that certainly gives the auditor more time than I think any of us expected they would have to complete the work that I was asking for them to do. And perhaps more time for them to complete the somewhat more intensive, but limited geographic scope work that councilmember Tovo is asking for them. I would like to ask a question about that to Morery or someone else in the audit staff if I could.

>> Mayor Leffingwell: Before you answer that question, I would like to bring up the fact that we're overdue for citizens communication. I don't mind going a few more minutes, but if there's - - it sounds like there's going to be quite a bit of deliberation and we might be better advised to go ahead and table this item until after we have citizens communication and executive session.

>> Spelman: Would you like a motion on the table afterwards?

>> Mayor Leffingwell: We can do it by unanimous consent, if there's no objection. We can table it now and go to citizens communication. So the first speaker is Bob Batran. The topic is the rate

increase for austin energy. And sir, you are aware that we have public hearing tonight on this same subject.

>> My name is bob batran. I am an austin interfaith leader and I am here representing the 30-plus member institutions. Austin interfaith is concerned about the impact of the rate increase on households with low income and on houses of worship. The proposed rate increase for customers with low levels of consumption will create hardships for low income customers and make it more expensive on to maintain a home in austin. The rate approach more than trip else the monthly fixed cost for residential customers before the first kilo watt hour is consumed. Austin interfaith appreciates the proposal by austin energy to increase the number of households eligible for the customer assistance program. However, even with the increased coverage, tens of thousands of households needing assistance will be faced with a total impact of the rate increase. Austin interfaith suggests that austin energy enroll all households eligible for snap in the customer assistance program or offer an equivalent remedy. The proposal moves worship space - houses of worre hip from a residential classification to a commercial one. The increase will cause severe financial distress. This will certainly force houses of worship to reduce their funds available for programs to assist those in need. The net dollar impact of these changes on houses of worship has been subject to debate. Numbers from austin energy and others range from an average of 20% to an average of 80 percent after the full impact after three years. However, as with all averages, individual houses of worship will be subject to higher percentage increases. The impact of after three years would be overwhelming. Part of the increase in the proposal is due to higher usage rates. In the proposal worship space would be subject to cost based upon peak demand. The rationale is to compensate austin energy for customer contribution in the peak demand of the system, resulting in the need for additional infrastructure, however, peak demand occurs during the business week. Those houses of worship whose demand is concentrated on the sabbath are severely impacted. Worship space should not be subject to these additional charges. Austin energy could create a separate rate class for houses of worship in which they are not penalized for off-peak demand that occurs on the sabbath and which caps the increase at a reasonable level. Austin energy currently provides great service at a fair price. With time a rate increase proposal can be created that will recover appropriate austin energy costs and be fair to households and businesses. The current proposal is not fair to low income households or houses of worship. Thank you.

>> Mayor Leffingwell: Thank you. And a lot of the things you suggested, sir, are under consideration in the proposal at this point is very fluid. We've got a ways to go. Phillip green? Phillip green's topic is water quality. Is phillip green in the chamber?

>> Thank you, council. I'm sure you're all aware of recent drug recalls, particularly biox was recently recalled, after clinical studies found an increase in heart attacks and strokes. Well, there have been no clinical studies for hydro fluoric is a list sick acid. It has not been approve by as a drug and it is a drug. It is being used to treat the disease of dental carries, which any dentist will tell you is a disease. It has been used as a drug to treat hyper thyroidism at relatively low levels of two to 10 parts per million. The nrcnas reports that looked into calcium fluoride and sodium grade fluoride of medical grade showed links to not only mental disorders, diabetic complications, gi disorders, endocrine and thyroid dysfunction as well as skeletal disease. And this was at relatively low levels, two to four parts per million. The report goes on to say on page

576 that this report does not examine the health risks or benefits of artificially fluoridated water that millions of americans drink. End quote. That's because the report was looking at calcium fluoride and medical grade sodium fluoride. The substance that austin adds to its drinking water is hydro floricalsalic acid. It is not off or effective. We spend hundreds of thousands of dollars every year to prevent dental carries with a non-f.d.a. Approved drug with no control of dosage. That has been stated by the cdc as predominantly effective through topical application, not ingestion. The little data that we do have on the acid comes from the msps report released by the company. It states, prolonged or repeated overexposure to fluoride compounds may cause fluorosis. Changes in the skeletal system consisting of he's tow sclerosis and by discoloration of the enamel of the tooth tooth. Temperatures may be bone pain. Conditions limited by exposure, not overexposure, may include skin and asthmalike disorders. That's from the mfd's report from the company. That's the warning that you refused to present to the public of austin. That's the warning that you refused to inform parents that their children are being poisoned by the substance. That the public at large is being poisoned by the substance. That the own company admits is toxic. This is a quote from the environmental protection agency. A recent animal study conducted by scientists at the environmental protection agency, this was 1998, reported that exposure to just one part per million of fluoride caused kidney damage in rats.

[Buzzer sounds]

>> Cole: Thank you, mr. green. Next we have darcy bloom. Welcome, mr. bloom. You have three minutes.

>> On the city of austin's website in the water utility page under water quality, there is a titled section called fluoride in drinking water. Which gives a history of fluoride so to speak where it states in 1945 municipalities began adding fluoride to drinking water to fight -- water to fight tooth decay. Follow-ups in the communities in the 15 years later showed a reduction in cavities. That's well and good, though interesting enough, the nylon toothbrush was invented in 1938 and it wasn't until after world war ii that americans started taking hygiene more seriously of the tooth. It was an influence from the soldiers daily routine in service. The use of the nylon brush was adopted widely as well because of this which spurred the development of better brushes. So do you see this parallel? These growing practices and the start of fluoridation. It basically started at the same exact time. No wonder there is a seven percent or so reduction in cavities. The city's website obviously misleads anyone reading it by stating fluoride is a naturally occurring compound found in many ground waters. True, but mom on. It's hydro fluoric is a list sick acid that is put in your public water system. It's like one ear, out the other. It's totally misleading that it's okay, it's the same stuff in our groundwater, our foods, but it's not. This stuff is screwing with our internal systems. It's going into our bodies in addition to the natural compound we all receive everyday from other sources and it's just too much. You all voted to keep this lie alive. I know where you stand, i know who you stand for. I get it. Is it ego or something larger? Is this toothbrush history lesson I've got going on here crazy or insignificant? I really think it speaks volumes. Are you just trying to wear us down, the opposition to fluoride? Your attempt to, I guess, whatever to compromise with us was pretty lame. The professionals and dent activities that come up here to support this practice, the drones that repeat whatever the ada says, or what they think the cdc says, which they usually always leave out that fluoride is really only beneficial topically and not by ingesting it over and over. I'm not making this stuff up. I believe this is a

serious problem or else I would not be coming up here all the time. Just like the toothbrush lesson, put fluoridation in the past. Make it history. Because it's really -- it's got to go.

[Buzzer sounds]

>> Mayor Leffingwell: Good timing. Thank you. John bush. Topic is free speech issues.

>> Good afternoon. It's good to be back at city hall. To answer your question, darcy, I think the question why they ignore us on the fluoride issue is they depend on federal grants to keep things going in this city and they know the feds may cut them off if they step out of that. That's my theory. I would like to start my address today by pointing out exactly what was perpetrated against myself by the mayor, city manager, the people on the city council, austin police department as well. I was threatened if I come back here and exercise my first amendment right to petition my government for redress of grievance I would be thrown in a cage by armed men. I've been arrested twice in the city of austin in the past two years, both for first amendment protected activity with no victim. And I can say it's demoralizing, it's dehumanizing. It's down right did he grading to be put in travis county lockup. It's dirty, filthy. The guards are authoritarian. There are screams in the background of people in pain that or people having blood forcibly drawn from them. On top of that they just got a body scanner from a federal pilot program. There's the feds in austin again. So they're forcing people to the radiation body scan that the mayor said austinites will just have to deal with. And they're additionally forcing people to a retinal scan. That's what I was threatened with. My daughter who was born three months ago was threatened with having her daddy taken away from her if I go to my government to try to create a better austin for her to grow up in. I was threatened with that. It was entirely unlawful. The mayor and the rest of the cohorts acted outside of their authority and so you ask how were they able to act outside of their authority. It's obvious that there was no authority because there weren't even guidelines for this criminal trespass warning when it was issued. So I would say that they acted out of their authority because the city of austin incorporated has the power of the gun in the room. What's the gun in the room? Often democratic socialists, progressives and liberals fail to recognize the gun in room. Let's look at how many are in the room right now? One, two, three, four, five over here. is the hired violence agent of the austin police department that allows the city of austin to continue to operate a monopoly on a variety of services from austin energy where you cover up studies that were paid for by the taxpayers to the austin police department, the only defense agency allowed in this city. And that's why they're able to abuse the citizens. That's why you guys are able to cover stuff up, to cover up the facts about what's happening with these corporations that you're the head of. It's because you exercise a monopoly. And if we choose to compete with you, you'll send out the agents with the gun in the room. And I don't much appreciate it. And a lot of people are beginning to see through veil of legitimacy and the authority. I have predictions for 2012. The economy will continue to deeder rate. You will continue to overleverage debt and the people of austin, hopefully they will start seeing the gun in the room and that the emperor wears no close. And you will continue to act up because you're scared of your position of authority that you're trying to protect, which is crumbling before your very eyes.

>> Mayor Leffingwell: Okay. Bryan bowers. Bryan bowers. Topic is short-term rentals. Bryan bowers is not in the room. We'll go to david orshalick. Topic is new city website evaluation.

>> Hi. I'm david. I'm here today to talk about the new city website. And the reason I'm here today, and we've got several handouts coming around, is because the city manager until yesterday had a message on the new city website that said the new city website was going to be presented to the city council today. And then yesterday that date was changed to two weeks from today. But I'll go ahead and take advantage of the time that i have here. I can't talk about the new city website during a briefing because it's not an action item before the city council. So I'm forced to do it during citizen communication. I will try to make it brief. There are a lot of things to say, but I'll keep my comments limited today. I had a talk with the communications director, doug matthews, and he told me that one of the objectives of the new city website was to design a modern looking site that focuses on external users and is not dependent on an understanding of the city's structure. And from jacob nielson who is a well-known usability expert, on the web he has five components of usability. And those are learnability, efficiency, memorability and satisfaction. And satisfaction includes how pleasant is it to use the design. And then if we look at a very brief customer experience scorecard, just use these three criteria and no more, we can look at any web page on the new city website and ask these what's this all about? What's in it for me? And how do I use it or how does it work? And I think that you will find that one or more of these questions is not immediately answered when you go to the city website. Now, in all fairness, most websites fail on the web. It's very hard to do this. And I'll get into that in a minute. Now I want to go over one example from the new city website. What I'm calling the tip of the iceberg. If you would look at the screen shot that shows the departments' page of the new city website, you get there by clicking on that department's link in the second navigation bar and you will see an alphabetically listing of the departments and then on the left a drop down list that I've dropped down here that has another listing of the departments. So if you look at this table of four different alphabetical listings of departments and offices in the city, you will see that none of them agree with each other. So my question is, two are from the old website, two are from the new website. If the city can't even get its own act together, if there is this level of a lack of attention to detail, just in a list of the departments and offices of the city, what does that say about us? What is it that say about the people who are taking care of our website? So I have these recommendations, that we recognize that the city website reflects our brand.

[Buzzer sounds] our greatest public relations tool and only entrusted the brand to qualified staff.

>> Mayor Leffingwell: Your time has expired.

>> Please look at the rest.

>> Morrison: Mayor? Thank you. I just wanted to make one comment and that is i appreciate you coming down. I know that there's a lot of getting used to the new website and a lot of good input. And reaction to that. The council has an emerging technology and telecommunications committee that I'm on along with councilmember spelman and riley. And I believe at our meeting later in the month that we're going to be having a discussion about this, as to the status and the new city website. I wanted to invite you call my office and we'll get the date on that and confirm. And if you're available maybe you could come down.

>> I'll make myself available. Thank you very much.

>> Mayor Leffingwell: David, one more comment. I appreciate councilmember morrison's suggestion. I think that's an excellent one. But I also want to tell everyone that we've been working on this revision of the city's website for over four years now. And throughout that entire time we did -- in the beginning we did a lot of public outreach and we actively solicited a lot of public input and we got a lot of public input. That doesn't mean we don't need more. So I encourage you to take councilmember morrison up on her offer and come down and offer your suggestions.

>> I will. Thank you.

>> Spelman: Mayor? If I could also -- sir? If I could just point something out. I understand the tip of the iceberg example you gave us. I think I agree it's confusing, but I think it's confusing for a somewhat different reason than you identified. The left-hand side is a list of services that people could get from the city. Not necessarily based on the organization of the city's administration. The right-hand side is departments of the city based on our administrative organization.

>> There are two drop down lists. One is select a service. The second one is departments. It's labeled departments. It's supposed to be departments. And if you look at the table --

>> Spelman: Not completely, yes.

>> Spelman: I think it's confusing. I agree with you on the confusion issue. We ought to pick one or the other and not try to mix apples and originals on the same page. Is that where you were going?

>> It's worse than that. If you look at the top brand bar on the new website, even some of those items are not in either one of these lists. I looked up parks and recreation and couldn't find it because it was under austin parks and recreation.

>> Spelman: Good point.

>> Mayor Leffingwell: Johnette mason. She is not in the chamber. Alfred credibles. The subject is proposed electricity rate increase.

>> Mayor and council, my name is fred credibles, I'm pastor of prince of peace lieutenant ran church and leader of austin interfaith, an organization that represents over 50,000 people in our city. The first speaker on this bob batran, already spoke as an austin interfaith leader, concerning the serious financial impact of the proposed rate increase on low income households and on houses of worship. I wish to emphasize the deep human realities. Thousands of low income families and individuals are even now struggling to pay their rents and to maintain their homes. An increase which will disproportionately affect them is clearly unjust, unhealthy, stressful and not advantageous to austin. Let me illustrate. A congregation in southwest austin is serving over 400 families per month from its food pantry. Another congregation in south central austin is serving 6,345 individuals per month from its pantry. These illustrate the get financial situations which many are living under and also how much assistance the faith communities are giving and

countless forms. Not only with food pantries, but often bus passes, clothing, space for meals a wheels, soup kitchens, transportation, lodging, spiritual counseling, day care, health clinics and the list goes on. Because the rate proposal changes worship space from residential classification to commercial classification, the resulting increase will cause severe financial distress for many houses of worship. With congregations already doing an incredible amount to fill in gaps in the social service system, this proposal would clearly put them in the position of having to reduce their funds to assist those in need. I ask you is this justice or fair or healthy to anyone or to austin as a whole? The ill effects of this proposal will go far beyond congregations, even beyond individual households. The community effects could include many more children going to school hungry and are already overburdened medical facilities being filled far beyond capacity. It could mean more people homeless on the street, mean more people working two to three jobs to make ends meet with less time for family life and for training of children to be good citizens. This proposal prevents religious communities from carrying out their missions. We believe that with more time and public input, a more carefully designed rate increase proposal can be designed which will recover appropriate austin energy costs and be fair to households and businesses. The current proposal is not fair or just to low income households or houses of worship.

[Buzzer sounds]

>> Mayor Leffingwell: Thank you, reverend. Allison schultz. Allison schultz? Okay. Topic is lack of pedestrian bridges and lighted cross walks in south austin.

>> Yes. I'm a mom and I live in south austin. And last week two teenagers died trying to cross the street. I think that we need to have more pedestrian bridges and I know those are expensive. So if we can't have more of those, at least more flashing cross walks. And more no right turn on reds. Three times I've tried to go from my neighborhood to cross the street, to cross william cannon to go over to a big shopping center with a big walking trail around it, and three times we've almost been hit by cars. Because the crosswalk says it's time to go and then the cars are turning on no right turn on red -- on right turn on red, and they're not paying attention. The drivers in austin just kind of ignore the crosswalks. And it's a big problem obviously if kids have died. And I don't want to see any more kids die. Also I think whenever the city enters into a contract with the billing retailer like whole foods or costco or whoever, they should have some kind of clause in the contract that says for the retailer to be responsible for adding more pedestrian crossings to their shopping center because they're increasing all this traffic and they want us to come shop there, but there's no way to get there. And austin is listed I think as number nine on the most pedestrian friendly cities, but as a citizen living in south austin, I can tell you that I don't feel safe i don't crossing the street. If we're going to be green and going to promote diabetes awareness and walking, we have to have a way to get across the street. So I don't know if we have a committee on safe sidewalks. I've seen that some of the cities that are promoting that do think that would be good, but -- yeah. More pedestrian bridges, more flashing cross walks and no right turn on red. I think that would help out the city a lot. Thank you.

>> Mayor Leffingwell: I've got a couple of responses to you. First of all, that was a tragic incident that happened a few weeks ago. And I went out there along with councilmember martinez and visited with the folks who were making known their problems with the lack of some kind of assistance. And it is a marked crosswalk on a very busy, high speed street. And I

have, and I know councilmember martinez has also, requested that the city take a look at this particular intersection. That study is underway now. And I hope that results in some improvement. I think it needs to be addressed on a very busy street like that. The middle school is there across the street from the walking sidewalk. The right on red is a national initiative. It is assumed right on red unless posted. And our traffic department is constantly reviewing those. And I'm sure they would be receptive to any particular complaints you had about a particular intersection, but that would have to be evaluated on an intersection by intersection initiative because it is a national plan. You for anywhere in the country, if you don't see that sign that says right on red, you can make a right on red.

>> So how would I go about expressing concern for a particular intersection?

>> Mayor Leffingwell: You can contact any one of the council offices and contact my office. I would be glad to forward it on.

>> Thank you.

>> Mayor Leffingwell: And we have a staff person in the back that you can talk to right now.

>> Tovo: Mayor, i appreciate the comments and thank you for bringing this important subject up. I would just add we also need to continue to educate drivers that it's illegal to drive through a crosswalk if there's a pedestrian in it. I had this experience just yesterday on south congress where a driver actually sped up, was doing a right turn on red and actually sped up through the intersection and I was about midway through it. So I think this is an education issue as well.

>> We need more media attention to the problem. It's a big problem with austin drivers ignoring cross walks.

>> Mayor Leffingwell: You are absolutely right. Councilmember morrison.

>> Morrison: Mayor, i wanted to make one other comment. First I want to thank you for coming down and expressing the concern and raising the awareness for all of us.

>> I'm a mom. I don't want to see any more kids die.

>> Morrison: No, i appreciate that. But one of the things i wanted to highlight that you mentioned. I think if you get with our transportation department, if you could also connect in with what possibilities, i think when a new development is coming in they usually have to do a traffic impact assessment. So what possibilities there might be to help us raise awareness of starting to ask for more pedestrian improvements. For instance, lighted cross walks, I think you and i could identify 10 locations where we think they would be good. That's another opportunity to focus in on those. So hopefully that conversation with include potential outcomes from tia.

>> Thank you.

>> Mayor Leffingwell: Councilmember martinez. Don't go too far.

>> Thank you.

>> Martinez: It's okay, ms. schultz. I will ask staff to come up. I don't have a question for you. Just wanted to thank you for bringing some of these issues forward. And I'm just a dad.

>> Thank you.

>> Martinez: Specifically, spillar, a couple of weeks ago the mayor and i went out to the intersection where these two young folks unfortunately died due to someone running through the crosswalk. What has transpired specifically with that intersection? schultz brought up a host of issues that hopefully we can talk for her about, but specifically to the south first street intersection by bedichek where these kids were hit.

>> Thank you, councilmember and mayor, robert spillar, transportation department. That site is under investigation. School just started last week, if I remember correctly. So we wanted to get into a full week of school to begin to collect some of the data. So that analysis is very active right now. The devices that I think folks are pointing to are the new hybrid bee cons. Those are actually new devices that until this year were not legalized by the state. So your city department along with the other municipal departments in the state will get those devices to be able to implement them ourselves because they're an engineering device that you put on there. So we have been this year actively putting in about 20 of them. We now have some good experience, so we're applying -- we're developing some standards for where we would put those. The specific site that you're looking at, there is no denying that it was a tragic accident. We are working with the police to understand from eyewitnesses what the circumstances were. When we look at this particular site, yes, it is across a four lane, fairly high speed crossing at a middle school. It is not an intersection where we have had a history of concerns. There seems to be good visibility. So we are looking at the cause and what the best response would be. Because it's an engineering device, it takes a little time to go through the proper process to decide what the best response is. I want to assure you that we're doing that as quickly and expeditiously as possible. It was a tragic accident. I think -- I forget which councilmember said we need to do a better job of educating the drivers. There's another part of the story. We need to do a better job of educating pedestrians too about safe pedestrian crossings and making sure that people are observant and making sure that they have the attention of the driver when they're about to cross. And so that's what we're working on.

>> Martinez: Thanks. I really appreciate the focus and the attention. Is there any way you can give us a timelines on so when we might have --

>> we expect to have the data complete this had week. The protests going on at that intersection are complicating it because those do by itself affect the traffic a little bit. We've got the data we think by the end of this week. It will take us about a week to look at it and then we'll be make something additional recommendations. As we move through the city, as I said, we've built about 20 of the new hybrid beacons right now. Predominantly at high volume. High volume pedestrian areas. You've seen the first ones in south austin. They were actually the first ones built along barton springs and then up and down

(indiscernible) close in. So we're gradually working our way through the system evaluating those. That result, as we start to think about the 2013 budget, we're starting to think about maybe we need to go through the entire system, review all the cross walks to make sure we know where they are, given we have some new tools to think about how to use them. Some of the tools we've had in the past, the blinking lights and the pavement, we find are not really successful in getting the level of safety that we wanted. Similarly the blinking yellow lights warning drivers that there's a crosswalk have some utility, but we want to think about how now that we have a new tool, how best to use that.

>> Martinez: So we have at some cross walks, we have some new devices that are actually flashing red lights that require the driver to stop. Now, my question is do you stop and wait for the light to cease flashing or do you stop and if the crosswalk is clear, proceed with caution?

>> Let me explain. Actually what happens is the pedestrian -- the light is dark, when it's not in use. The pedestrian walks up and pushes the button, the light starts blinking yellow, goes to a solid yellow just like a regular signal and then turns solid red. At that point when it turns solid red the pedestrian has a walk sign and the driver is supposed to stop just like a red light. Somewhere during that process the assumption is the pedestrian's cross part of the street, light starts blinking red. That is the same as a blinking red light when you approach it normally. So if it's clear, the driver after they've stopped, may proceed through the light. So it's to reduce that delay. What we've found is this year we went back and changed the signage at those new devices and we're finding much better compliance and understanding. The sign actually says solid red, stop. Flashing red, stop and then go.

>> Martinez: Really appreciate it.

>> They're really quality, new devices.

>> Martinez: Well, I think there's still a little bit of confusion, at least on my part.

>> It's a learning process.

>> Martinez: But when it's flashing red I promise you I'm stopping trying to figure out what's going on. I think what happens is we've allowed enough time for folks to cross the crosswalk and sometimes it's confusing because there's no one there any longer.

>> Absolutely. And get back to the pedestrians, making sure they're not running at the last minute to try to cross because they know the light is blinking and again, that's a dangerous activity on the part of the pedestrian. They need to stop and wait for another signal.

>> Martinez: Appreciate all your work on this.

>> Thank you, sir.

>> Mayor Leffingwell: Okay. We'll go back to i understand japan johnette mason is here. Johnette mason. Okay. So those are all the speakers that we have. Rae in additionler olenick, water fluoridation.

>> Good afternoon, mayor and councilmembers. It's 2012 and as you can see we're back. The austin chronicle just named water fluoridation one of the top 10 environmental stories of the year. They list it at number seven. Recognizing fluoride as the legitimate environmental concern it is, chronicle news department managing smith, wrote that the issue refuses to die. She also noted that it has risen to the level of a campaign topic in the forthcoming council election. Her words echoed my husband walt's observation that councils come and go, but the fluoride issues endures. A good point. Councils change regularly and we sometimes have a hand in that change. Come june this council could be very different, but either way we'll continue working toward our goals and to quote victor hugh go, no army with stop an idea whose time has come. And abandoning the practice of dumping unrefined toxic waste into the city's drinking water and calling it medicine is definitely an idea whose time has come. So we really have no choice but to be here. Fluoridation is a health issue affecting all of us. It's also fundamentally different from most issues the council wrestles with. The council in its day-to-day proceedings is concerned primarily with finance. It takes money to run a government. So most of the matters before you involve collecting spending our, the taxpayers' money. The fluoridation isn't about spending. On the contrary, it would save money. It's about health of future generations. Average citizens busy with their lives will put up with a lot, but it's one thing to make us pay for projects most of us don't want, toll roads, race tracks, unnecessary water plants, the red line, the domain, and quite another to spike our water with a non-poison. That is a natural place to draw the line. And that's why we don't plan to quit until we finish the job that we've started. Thank you and happy new year.

>> Mayor Leffingwell: Thank you. Happy new year. Johnette mason. Topic is ada compliance.

[One moment, please, for change in captioners]

>> so thank you for letting me speak.

>> Thank you. I've got a question for you. From councilmember tovo.

>> I appreciate you raising this issue. I would just ask as you have specific examples, please feel free to share them with my office, councilmember tovo, and we would be happy to -- to -- kathy tovo and we would be happy to talk with the library about -- about that.

>> Mayor Leffingwell: Those are all of the speakers that we have. So without objection, the city council will willing into closed session to take up two items. 071 of the government code, council will consult with legal counsel regarding the following items, item 76, to discuss legal issues related to open government matters, item 77 discuss legal issues related to chandler et al versus the city of austin. Is there any objection to going into executive session on these items? Hearing none, the council will now go into executive session. When we return, we'll take up the item that was tabled.

[Rumbling] Announcer: What if a disaster strikes without warning? What if life as you know it has completely turned on its head? What if everything familiar becomes anything but? Before a disaster turns your family's world upside down, it's up to you to be ready. Get a kit. make a plan. be informed today.

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>>> test test test this is a test, abcdefg, abcdefg, abc ab we are out of closed session, in closed session we took up items related to 76 and 77. 68 was put on the table. Before we went to citizens communications, without objection we will take that item up now. Just to review, our status is there's a motion with a second on the table to -- to 68, the resolution by councilmember spelman. Seconded by councilmember riley. And there was the ongoing discussion at the time of the potential amendment. Proposed by councilmember tovo, I believe it's suggested that -- that in view of the fact that there's substantial difference, in fact, 180-degree difference between the --

between the amendment and the original motion, it might be more appropriate to -- if it's your desire, to offer that as a -- as a substitute motion.

>> Spelman: Mayor, I'm generally comfortable with that.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Thank you. I would like to state that of these three, there is one section here which I think is a dramatic improvement on the current resolution, i would happily accept it as friendly at least in part. I don't know what's proper for that, the second be it resolved where the investigation analysis would be conducted in collaboration with neighbors and industrial professionals who have access to or compiled data on this subject I think is an improvement. I wasn't intending to give that direction to the auditor from the dais, there's no reason in the world we should not get that in writing, I would happily incorporate that in the resolution.

>> Mayor Leffingwell: If councilmember tovo is willing to offer that part as a friendly amendment, councilmember spelman has indicated that he would accept, I believe that's -- that's item 1 under be it further resolved, the first be it further resolved.

>> Spelman: That of course would not preclude councilmember tovo from offering the rest of the amendments as well.

>> Tovo: I'm happy for you to borrow that language. I think instead I will make a substitute motion.

>> Mayor Leffingwell: First, let's get this on the table. Councilmember spelman accepts your friendly amendment to incorporate this one paragraph into the main motion and councilmember riley, too you accept that -- do you accept that, also?

>> Okay.

>> Mayor Leffingwell: Okay. We now have a main motion amended by a friendly amendment on the table and recognize councilmember tovo.

>> Tovo: I would like to offer actually a slightly different version of what you saw earlier as a substitute motion. The one that I'm contributing now made -- made a couple of quick changes. I'll pass it out and then explain what those are.

>> Mayor Leffingwell: Go ahead.

>> Tovo: On the original version I handed out said director of code enforcement. Should have said director of code compliance. Really what it should have said it the city manager. Really what you have in front of you, the last be it resolved clause has made that correction, now directing the city manager to provide the number of and type of 311 et cetera calls. I've also made one wording change in the first, in the second resolve clause, that is a wording change to review. I have forgotten what the first wording was. But in any case, so what you see before you,

again, would make a few substantial changes to the resolution that we have to the main motion. In the main is includes i think the spirit of what councilmember riley and councilmember spelman have proposed. It does support the collection of data. It -- I would be happy to -- to accept as a friendly amendment mayor pro tem cole's amendment regarding hotel/motel taxes. It makes it very clear that the city manager will continue the code amendment process, but we will not do anything to delay what has begun at the planning commission. It narrows the focus of the auditor's inquiry to the northern portion of 78704. Now, again, I want to be very clear. I understand short-term rentals are throughout our city. I know that we've had interest and concerns from neighbors throughout our city about short-term rentals in their neighborhoods and -- and this is a city-wide issue. Not specifically limited to this area. However, in the interest of time and in the interest of -- of efficiency and the interest of not slowing down the process and frankly not overtaxing our city resources, we got an estimate from the city auditor's office yesterday that had a figure in the neighborhood of \$60,000 of -- in terms of the staff resources that would be -- that would need to be applied to do a city-wide analysis. So -- so for all of those reasons I'm suggesting that we narrow our focus on the specific geographic area. Work with -- work with the people we know have done some of this groundwork already, neighbors and -- and industry professionals. And then do the same for the 311, 911 information. Again, narrow the geographic focus on that same area of the city. And -- and in this case again not to overtax the city auditor, I think this is information that could be forthcoming from our department rather than the city auditor's office. So that is the intention here.

>> Mayor Leffingwell: Is the substitute motion to adopt this?

>> Mayor Leffingwell: It is the substitute motion to adopt, to replace -- let's see. Yeah. This was -- this was intended to be -- to replace certain sections of the resolution in front of us. ...

>> Mayor Leffingwell: If you enumerate those for us, please.

>> Tovo: It would include the same four whereas clauses in item 68. It would replace the first be it resolved clause with what you see here, the city manager is directed to continue the code amendment process that's been initiated. T would replace the other further resolved, be it further resolved clauses with what you see here.

>> Mayor Leffingwell: So the be it resolved and the to be it further resolveds are all new and replace the existing resolves.

>> Tovo: That's a good summary --

>> Mayor Leffingwell: Basically [multiple voices]

>> that's right. The first half is the same, the second half is what you see in front of you.

>> Mayor Leffingwell: Is there a second for that motion? Councilmember morrison.

>> Morrison: I wonder -- let me ask you. There -- I wanted to actually make a couple of suggested changes to this to try to find something a little bit more -- more in between the two. I wonder --

>> Mayor Leffingwell: Would you be willing to make a second for purposes of discussion?

>> Morrison: If that doesn't remove --

>> Mayor Leffingwell: It does not. Councilmember morrison and you have the floor.

>> Morrison: Okay. I really appreciate the effort to try to pull this together and I -- I -- find something that we could all maybe work towards. And I've come to understand a little bit better, i think, what councilmember spelman is considering, especially with the comments earlier today that -- that the proposal, the original proposal was not -- meant, correct me if I'm wrong, to bring everything to a screeching halt. The planning commission can go ahead and do what they feel is appropriate. That's your understanding? That's the understanding? And so -- so I think that -- that therefore I don't see any difference between the city manager directing them to continue. It sounds like that -- it sounds like the city manager is directed to temporarily suspend has now morphed into directed to continue.

[Multiple voices]

>> is that a question?

[Multiple voices]

>> that is not accurate.

>> I guess that I would like to understand the difference then in your mind.

>> Spelman: To continue means keep on going. If you are done in the planning commission, for example, the planning commission says we support the ordinance or we -- we advise the council to adopt the ordinance, then it would come to us and -- in 60 days, what we were told earlier today, we would get it, vote on it yes or no, regardless of whether or not we had continued the -- obtained the information from the -- from the auditor's review. What I had in mind was for jerry and the dr staff to continue what they are doing. Codify as necessary. Bring it before the planning commission for their consideration, on the usual time table. But not to bring it before us, to us the city council, regardless of what the planning commission advised, until the auditor was done with his work.

>> Morrison: I guess one of the challenges that we have here is -- is it can take a month or something once the planning commission is done. To get to us. So the question is can the -- in your mind, can the -- can the staff continue to keep it on its path to get to us and then just hold it up if the date is not here. But notice is done and so we're ready as soon as the data is here.

>> Spelman: I did not have the floor for this purpose earlier, but what I was going to suggest is we elide the language in the earlier version that said temporarily suspends, this is not the way that I would have worded it but the simplest way, the city manager is hereby directed to postpone final action on the code amendment process, which is I think a tolerably expedient but clear way of saying don't bring it to us until we have actually heard from the auditor. We would be the final action.

>> Mayor Leffingwell: Councilmember -- [multiple voices] table --

>> Mayor Leffingwell: It's in order to discuss both motions at the same time. There's nothing wrong with that. I just wondered if you were talking about amending your own motion, the main motion, if you --

>> Morrison: We were talking about the substitute motion right now.

>> Mayor Leffingwell: Well, I said discussion of both motions is in order.

>> Spelman: If we're --

>> Mayor Leffingwell: You don't necessarily have to.

>> Morrison: I understand.

>> Mayor Leffingwell: Have discussion on one and then the other.

>> Spelman: Mayor, if it were in order I would ask to -- I have not had a chance to discuss this in any detail, so this is the first [multiple voices]

>> Mayor Leffingwell: Looks like the city attorney is about to reverse me.

>> My robert' expert is right down there. If there are two inconsistent motions, i don't believe you can discuss them. You've got to take up one or the other at a time. Here he comes, maybe to correct me, mayor.

>> Chad shaw, law department. That is a correct statement and I would -- although again it's obviously up to the chair. It does seem that it -- i would deal with the substitute motion first knowing that you want to come back, whatever state is arrives and clarify. That's just a suggestion, but the city attorney is absolutely right we cannot have conflicting motions.

>> Spelman: Rather than state that in the form of what I would do. Let me just say that I don't believe that continuing code amendment process without any caveats or conditions was not consistent with my original intention.

>> Morrison: Thank you, i appreciate that, that's very helpful. From my perspective, the council has the authority to postpone final actions that's completely within our purview, so -- so in -- in some way I feel like this is -- this is in the same spirit as what was original. And -- and what --

one of the things that I -- that I -- that I appreciate in this resolution is that we have narrowed down the geographic area because the \$63,000 cost estimate was very, very worrisome to me. I think that we -- that if we adopt that and we -- if that's the cost that we incur, our -- our auditor's resources are finite. It means that we are going to be talking about, we're going to have to be deciding what audit on our service plan is not going to happen or where are we going to get those resources. So -- so I -- you know, there are different views on the dais here, as i understand it, about whether this information is necessary to make a decision. And for me, I think that it's a planning and policy decision, and this would be helpful information for -- for figuring out how to enforce optimally, potentially an ordinance. So -- so I would prefer -- really prefer, I think it would be an appropriate approach to -- to minimize the amount of information that has to be gathered, it also would therefore minimize the time. So I would like to offer -- I would like to offer a way that might be a compromise and that is to -- to say no LATER THAN MARCH 1st, IF At all feasible, and -- and that would be -- that would be a motion for an amendment and in addition to the northern portion of the 7 will 704 zip code, add -- add plus -- plus an additional zip code or area as selected by the auditor. Preferably north of the river just as an aside, so that we can get a little bit of a broader perspective. So that we're -- we're picking two areas as opposed to trying to do an exhaustive approach. And then the last one, the last thing that I'm going to suggest is in the -- in the last further be it further resolved, that we would say, you'll see on the third line there, it says it's doing this work within this specific geographic location. I would like to change that to -- to for all known str locations, this is just pulling data. 311 And 911 data for a known set of addresses at that point. That shouldn't be too labor intensive. So -- so that's -- that's three and then I would like to -- to also add mayor pro tem's amendments. As a be it resolved to this.

>> Mayor, I have something to say about that.

>> Morrison: Let me just -- just to sum up, i wanted to -- to add another geographic area subject to the judgment of the auditor, if at all feasible, and -- and make it -- make the 311 or the 911 calls for -- for all known str locations. So those are -- those are proposed amendments to the substitute motion with the seconder -- which the seconder accepts.

>> Mayor Leffingwell: And does the maker accept those?

>> Tovo: I have just a couple of questions. If at all feasible, adding if at all feasible to both dates is fine with me as long as the understanding is that we want this information as soon as absolutely possible. As I said earlier, you know, I would hate to delay the process further waiting for information so -- so if we can see where we are on MARCH 1st, THAT WOULD BE My preference, but I'm happy to add that language, have that language added. Adding in for all known str locations is fine with me. The 311 and 911 clauses, I'm very comfortable adding in mayor pro tem cole's amendment. The one issue that I would like to take a little bit about is plus an additional zip code. I think that makes good sense, gives us more information, allows us to see what the pattern might look like in two different areas and if -- if it's possible to look north of the river that would give us a sense of what it looks like in two reasonably different geographic locations. I assume that the auditor would have the discretion to identify an area where -- where that office already has some existing data. So they wouldn't be starting from scratch.

>> Correct.

>> So it would be entirely left open to the auditor's discretion.

>> Yes.

>> Okay.

>> And could be -- could be restricted to an extent that it is feasible within this time frame.

>> Morrison: Yes, although there's a little bit of a circular feasibility here since we are saying march 1st if at all feasible. I get the sense of what we are talking about.

>> Right, rather than taking out a whole zip code, rather than a whole zip code or portion of a neighborhood.

>> Right.

>> I'm comfortable with that. I think again the intent is to look at one area and if -- with this amendment that would be a couple of areas to see some of the patterns. It's not going to be an exhaustive study of the data, but I think we'll get enough information to understand how this kind of use affects land use patterns. So -- so I'm comfortable with all of those.

>> Mayor Leffingwell: Okay. Accepted by the maker and the second. It does seem a little bit confusing to me to say no LATER THAN MARCH 1st, IF That's feasible. But I would ask the -- i would ask the city auditor to comment on how he interprets that.

>> Tovo: We could say by march 1st if feasible. Switch it a little so it makes more logical sense.

>> Mayor Leffingwell: It's still sort of the same. I would ask the staff auditor to --

>> we can certainly could it BY MAY 1st --

>> March.

>> Excuse me, what did i say.

>> May.

>> OH, BY MARCH 1st. I don't need that much time, I don't think. It really depends on, you know, the quality of the information that we're getting. I did have a couple more -- couple of other points, if i may, with regard to the amendment. One is if we could make sure it doesn't say study or investigation, it says a review, those have specific meaning to us. So that that would be preferable. Also it would be, it might be easier for us to look at the whole zip code. If we could have the flexibility of even looking at the neighborhood convention or the whole zip code it

might make it faster for us to get it to you at that point. Then we could all -- you know, we could hone it down if we needed to. Thank you.

>> And do you think that -- that that instruction would provide you with a valid statistical sample of the entire city. Are you willing to weigh in on that subject?

>> I don't think it would give me a valid statistical sample of the who committee. It would give us information about those one or two.

>> Is that a problem if we're basing a decision that affects the entire city on an invalid sample that includes restricted areas?

>> I don't know if I want to tell you that it's a problem for you. I think that's a decision that you need to make. You know, if you are looking for a valid statistical sample, I would not be able to give you that with just these two. If you want information about those two zip codes, you believe those are represented of the city and I don't know that, then yes you could use it under that condition. At this point I could not tell you that it would be.

>> Mayor Leffingwell: Okay.

>> Mayor?

>> Tovo: Councilmember tovo. murray, when we talked about the hotel/motel tax. You said that you did not -- your office did not look at the entire city. You looked at zip codes where you thought these were more likely to exist.

>> That's correct.

>> So there's a which a common sense approach that there are some zip codes where we might see more where we will and are seeing more short-term rentals than other areas of town.

>> That is correct.

>> Tovo: I guess mayor i would say I'm not sure that looking, trying to get a statistically valid sample is necessarily the aim. I think that we gain a lot from looking at areas where these tend to be located. I mean, we have some real hot spots throughout the city where short-term rentals are increasing. These are areas near the festivals, areas in the 78704 neighborhood near the park, near barton springs, near south congress, I mean, there are and then allendale, so we -- there are central city neighborhoods that are seeing a lot of growth in short-term rentals and then areas of our city where we may see very, very few because of their proximity. I think approaching it this direction we will get a lot of information about areas of the city where short-term rentals are more likely to occur.

>> Mayor Leffingwell: I agree that we may intuitively know that or think we know that. But what about -- I'm just concerned about the fairness aspect. Because we didn't look at the entire

city to ensure i mean you probably have have somewhat of an eye on the entire city to be able to focus in on these particular areas.

>> Well, when we looked at them, we focused primarily on one management company that has most of them out there. The memo that I sent to y'all yesterday indicates the zip codes we looked at. That's not all of the zip codes, but appears to be for a lot of --

>> okay.

>> The items are. The ones we selected for our revenue audit were not across all of those zip codes. We selected where people say where the beef is at. Which would be the ones with the larger numbers.

>> Mayor Leffingwell: I just want to try to preserve the perception of fairness as we go through this process.

>> Mayor, I would just say, you know, certainly whatever we adopt as city will apply to the whole city. It will be fairly applied across the city and I think again we are thinking about a land use decision in this. So --

>> I'm not necessarily disagreeing with you, councilmember. I'm just voicing my thoughts and opinions again on the perception of fairness.

>> All right. Thanks.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I would just like to say that I realize that we have a divided council in some ways that's clearly what came out of our tuesday discussion. I think that the attempt here, the substitute motion, that -- that as amended really is meant to try to strike a balance and to be -- to bring with a special -- with a special perspective on -- on the practicalities of what we are looking at here, because it allows us, what I'm afraid of, is that we will get to the point where the -- where the -- where we have like a two-month gap or something like that, where we could be moving forward, but because of -- because of any -- any particular date structures put in place we can't be moving forward. We could end up with a situation where all of the data that anyone could ever want is available and we still now need to wait for two months before we can even bring it in front of council. So I -- I think that if we say let's go ahead with it, we know -- if it goes to the planning commission, the planning commission will be fully aware of this conversation that we've had, they can do with it what we will. Then it continues to move forward and if it gets to council and the data is not there yet, if it's the will of the council we will can say postpone. But it allows us to continue to move forward smoothly, but still be in complete control and finding a balance in the data that is being asked for and the practical nature of how expensive or challenging it would be to try to be exhaustive. So that's the attempt here to find out that.

>> Spelman: I have a couple of questions for ken and a couple of questions for jerry. Ken is walking so I will ask you first. You sent us a note yesterday saying that the cost of the audit not in the substitute motion but the original motion is going to be \$63,000, am I right?

>> That's our estimate, yes.

>> And what is the unanticipated budgetary impact of this audit?

>> At this point it would be, there would be no budgetary impact because we would be moving to some of the other audits to a future period.

>> Spelman: The \$63,000 is basically, that's the value of audits that we wouldn't be doing because we were doing this.

>> Yeah, you could say that. We maybe use temporary help that we have budget money for.

>> That would be the financial cost of the audits we would be doing.

>> It would be an opportunity cost of audits not being done.

>> Sure.

>> Do you have a sense for what, if we were to task you with either the -- the smaller version that councilmember tovo was talking about and this amendment or the larger version that I was talking about a little bit earlier, do you have a sense for what it is that you would not be doing, what would be supplanted from your current schedule to make way for this.

>> I don't have that at this point, because we need to look at the whole plan, some sample audits or representative sample might be we were going to be looking at evidence room, for example, might be one of them that we may be able to postpone, some costs that may be for contracting issues that we have, those type of audits. We would look at. It would be ones that we would think are not time sensitive. There are important audits that need to be done because we need to take a look at it. There's no time pressure because the decision is pending before the city council.

>> Spelman: Okay. I think your judgment is -- is exactly the way that i would be thinking about it. There's some things which although important don't have to be done right now. This is something that is both important and does have to be done right now. So I understand what -- why you would be choosing to -- to move some of the audits around. Can you get done two zip CODES BY MARCH 1st?

>> March 1st may be problematic for us because getting started up and talking to the people. We would do our very best to try to meet take date. But I do have concerns about having the quality of audit that we need to give you all comfort that we can give reasonable assurance that you can rely on this information. It is possible, but we have to get into it to determine that. I can certainly give you a status on it or give the

[indiscernible] a status on it as we go through it. But I really have to look at it and get into to tell you that but I do have concerns.

>> Spelman: I understand. One of the useful things in working with you and your staff on the subject is because you're very good about what you can and can't say. And sometimes you will say we can be reasonably assured that thus and such is true. Sometimes if you can't be reasonably assured for whatever reason, you will issue the appropriate caveats. We're not sure for example that we have all of the short-term rentals in thus and such a zip code or they are following other threats to the validity of the results that we've got. Am I accurately characterizing what is it that you guys do?

>> Yes, you are.

>> Is it -- okay. We have to go another step further, I'm going to ask you the same question. Would it be an inaccurate characterization to say that if you did not believe -- if IT GOT TO BE MARCH 1st, You had work done that you weren't sure was accurate, you would be telling us we're not sure this is accurate, we're not sure we've got them all, we're not sure we've got all of the information on the ones that we have identified, you would say that, wouldn't you?

>> Yes, sir.

>> Is it likely in your very, very preliminary opinion, do you think that it is likely that you will have to give us that kind of a -- kind of a -- only partially accurate or uncertain accuracy kind of opinion if we -- if we held your feet to the fire, got IT DONE BY MARCH 1st?

>> I'm pretty certain that i would have to put caveats around it or limitations. I don't know what I would say as far as whether it's reasonable or not. Certainly have a caveat. In the very end I may have to do that anyway, particularly if you are asking me to provide a universe, I don't think that I would be able to find a universe, it's going to have to be a subset of that universe that is nope. I guess the known universe of str is what we would be shooting for.

>> Last question, separate subject. Is there a way to choose a zip code north of the river or someplace other than the northern section of the 04 zip code that you could be reasonably assured would balance your total sample in such a way that it was representative of the entire city?

>> I don't know if I can do that at this point. I would have to take a look at it. I suspect not because they are clustered. But I don't know. I would have to take a look at that.

>> Spelman: Okay. Thanks, I also have a couple of questions of jerry, if i could. There's been a lot of, i think some of us were surprised when you said there might be a 60 day lag between when the planning commission took action and when you could get it on the council agenda. Let me give you a scenario, tell me what it is that you could do to reduce the time frame. I would -- in my perfect world, what I would like to see happen is for ken and his people to do the audit that we originally suggested which could go as long as 90 days, may not go quite so long. As soon as that information is available, it was provided to the council and to the planning commission. And

the planning commission was invited to provide advice on the problem of short-term rentals, particularly on the -- on the ordinance as you -- that you guys have been working is there a way, at the point which they provided advice, you were saying well typically there's a 60 day period after the advice is given before you get something else on the agenda. Is there anything that you can do to shorten that time period if you had some advance notice from the auditor as to when the auditor's information was going to be made available to the planning commission?

>> Certainly we could. The 60 days is just because one it's because of internal deadlines that we have as staff to doing council action. If we knew that the auditor was going to finish around a certain date, planning commission was going to act shortly thereafter we could, you know, back step to a time in the near future to go ahead and do this, set the public hearing, set the public hearing for a date that would be, you know, around that time. That would not be a problem at all.

>> Spelman: Okay. For example, we could set the public hearing even in advance of the planning commission's looking at the situation and giving advice on it. Wouldn't have to wait for the planning commission to provide advice to us before we set the public hearing.

>> Correct. We would not have to. In this particular case the way we were headed right now, I was a little uncertain to what the planning commission was going to do, so I was hesitant to set it if I knew that we were going to have to postpone it.

>> How much advance notice would you need, jerry.

>> If I'm told tonight, today, that y'all, that we would be coming back on whatever date that is, i could go ahead and now and look at a calendar, I could go ahead and get the wheels in motion to go ahead and have that ready for shortly after the -- I would set it for whatever the first council date is after the planning would be. So I could do that right now.

>> Okay. How much advance notice do you need to set a public hearing?

>> I need 30 days ahead of the date to set the public hearing and I need 30 days between the date we set the public hearing and the date of the public hearing. Is there not legal requirements -- these are not legal requirements, just requirements that have been set by internal policy.

>> Spelman: This is council policy?

>> I wouldn't say council policy. Because of something that was brought to the council's attention one time when a citizen received a notice of a public hearing, showed up at the city council that day and the council set the public hearing that day, she wanted to know why she got the notice before the council actually set it. So at that time we changed it so that there -- so it was certain we were not mailing out the notices until after the council had taken action on the set date.

>> Spelman: I'm very happy you changed that.

>> So it's not a legal requirement. It's simply the internal deadlines that we have.

>> So effectively you need something like 60 days notice as to when the information is going to drop from the auditor's office. If you had 60 days notice on that, then we could set up a public hearing for the week afterwards, for example week afterwards.

>> That would be no problem. I need to take a newspaper out. I need time to do that, i would have plenty of time to do that.

>> Spelman: Okay. Let me talk to ken, if i could. I don't see any -- any value in -- in needless delay, but I do see some tremendous value in getting the information that we were asking you to provide for us. Is it possible -- do you believe it will be possible in the next few weeks, if we were to ask you to do either the short version or the long version of this stuff, after a few weeks of -- of doing what it is that you are doing, you expect to have to do to identify where the short-term rentals are, to -- to differentiate between commercial and owner-occupied short-term rentals, do you think that you would be able to identify when your expected time of completion would be. 60 Days in advance of completion or is that just too difficult of a job to do.

>> I think that we would have -- so if we gave you 30 days to get started and say yeah we will be done, 60 days we [indiscernible]

>> that's what you could do.

>> I think we could do that.

>> You could provide jerry with that information 60 days in advance of being completed but a few weeks from now when you actually have a chance to get work started with it.

>> Say that again please.

>> Spelman: Let me try again. Today we give you a task to do this.

>> Yes.

>> Spelman: After three or four weeks you have a better sense -- after three or four weeks you have a better sense of what it's going to take.

>> Yes.

>> You could say yeah we'll be done in 30, 45, 60, 120 days whatever it is going to be, you will have an estimate. Can you give us an estimate for your time of completion, 60 days in advance, any of that.

>> Yes. I do want the councilmembers to understand that we understand the sense of urgency. This is not something that we're going because we have a deadline we're going to wait for that deadline. We are going to be as expeditious as we can in trying to get it completed. March 1st is probably, well, may or may not be doable for the shorter version. But for the longer version you believe you could actually get the entire city covered in a 90 day period.

>> That is our estimate at this points, yes.

>> Again, another three or four weeks you'll have a better sense for whether or not that is doable or not.

>> Yes.

>> Okay. It seems to me that if our primary concern is getting this issue dispatched as quickly as possible, from my point of view it is a combination of dispatching this issue, responding appropriately to this problem as quickly as we can, but -- but also doing so with sufficient information to be sure that we've actually solved the problem that is actually imposed by short-term rentals. I don't know what that problem is going to be yet. It seems to me that if the auditor can be done with the longer version at 90 days, then that means that we could -- within three or four weeks, could signal to -- to planning development and review that he will be able to hit that 90 day mark, the only effect of this would be to extend the total length of time taken to consider this issue by about 30 days. Not by 60 days or a longer period. Am I doing my math right? You do this in 90 days, the next week you set a public hearing for us. We're basically talking an extra 30 days added to the end rather than 60 days from THE 24th, WHICH IS THE Earliest the planning commission can consider this. Is that accurate?

>> Yes, it is. The -- the -- I agree with your dates. The only thing would be if the planning commission, if you want to go forward with the planning commission next week hearing or if we wanted to wait or give the planning commission the option of deciding whether they want to move forward as we discussed earlier or wait until they had the data. Either way, though, we already have it set, notified for planning commission next week. So if the planning commission chooses to postpone it, that would be no problem, either, I would agree with your dates. That we would not have that significant of an impact on what day we come back, as long as we know ahead of time about when they are going to be done.

>> Spelman: Okay.

>> This is a long, long preamble. I want to make sure this proposal is actually going to work. The primary difference between the substitute and original motion is 30 days, that's the time cost. But in exchange for the time cost we would be getting information on all short-term rentals differentiated between commercial and owner occupied throughout the entire city, not just in a couple of neighborhoods that we are not at all sure would be representative of the entire city. We have to make it for the whole city, the code amendment we pass or whatever response to the problem we take is going to be a city-wide response, not a zilker and allendale response, but a city-wide response. Seems to me that it's a very good idea for us to have information on what it looks like from a city-wide not two neighborhood perspective. Did I miss something?

[One moment please for change in captioners]

>>

>> Mayor Leffingwell: And then on the other hand, later we're directed to provide the number and type of 311 and 911 calls for service, etcetera, etcetera, within this location. And the number and type of citations for the neighborhood area generally, is that -- are those two things consistent? Do you see any problem there?

>> They need to be for the areas that we've selected. Is that what you're asking?

>> Is that what you understand by this paragraph, that that would also be confined, the 311 and 911 calls?

>> I was understanding that, but now you have me doubting whether --

>> Mayor Leffingwell: But you wouldn't be doing the overall city 311 under the substitute motion?

>> It would make sense to me that you would do it for the areas that we're looking at and confirming that it was a valid, you know, picture.

>> Mayor Leffingwell: It seems to me that that could be a valuable tool and not too onerous to do that for the entire city, just an analysis of 311 and 911 calls. And it might really provide some insight as to where else we might need to look. Just a comment. Councilmember tovo was next and then you. Councilmember morrison.

>> Morrison: I wanted to clarify, mayor, in response to your comment, I had made a motion where we were in that very section that instead of looking at the 311 and 911 calls for that -- for the str's in that specific geographic area that I change that had to all known str's. At that point we would know them in the two geographic areas, plus you have knowledge of other ones around the city.

>> Mayor Leffingwell: So you would do the entire city for this part and the rest of the survey for only two zip codes.

>> Morrison: Although you've pointed out a good at one point versus the number and citations for the neighborhood area generally, certainly for that comparison could be done for the two areas that we know of. I don't know if it would be onerous to do it for the whole city, neighborhood by neighborhood.

>> But what I'm concerned about with regard to the whole city is if we don't do a verification of the addresses of the whole city, then it's going to be difficult to determine the citations that belong to str's. Sorry.

>> Morrison: The reason -- we do have some knowledge of str's across the city. Well documented knowledge based on registration and the work that you've already done. So the thought was we could least for the extra work that you're doing in two particular geographic areas, you will have several of the addresses for the rest of the city. You have the data that you already know.

>> Yes, we do have that. What I want to make sure that the council understands is, for example, we have 250 identified last year. We just recently went and identified this probably 350. We're not sure that the 250 are -- it's just a 100. It may be some went away and some new ones came on board. So whatever we give you on seetations will be based on data that's a year old and may be substantially inaccurate as to what str's are out there. I don't know one way or the other. It may be perfectly all right, but there's some problems with the data. And if that's of value to you, we can certainly do that.

>> Morrison: One other point I wanted to ask you about, you were mentioning a statistically valid sampling would be one way to go about this. How do you do that if you don't have a known university?

>> Well, we have to go through the known universe, try to locate the known universe and do the sampling of that known universe. For example, if I'm able to identify 450 of them, then I'll go and identify what sample size do I need to make sure that I have 90% confidence or 85% confidence with a plus five percent error rate in it, which is normally what a lot of people -- all of y'all Ph.D'S AND STUFF SO I KNOW You're very familiar with this.

>> I'm getting a little confused because the biggest challenge in this effort from my perspective is actually the identifying where the str's are. So once you've identified where they are, you have your known universe and you're done with your job except for pulling the 311 and the 911 calls. But I see corey shaking her head.

>> No. I think some of the problems that you run into, number one, for the exemptions that you have, homeowners exemptions, sometimes we have a speaker earlier this morning that talked about that it's more than one percent, but then he had four. Well, we believe that there's risk that people have more than one property and claim the homeowner's exemption on all four or there's people living in california, I'll throw that out as soon as I came from california to here, that also have homeowners exemption here, but live in california. We would have to validate that. See, that's the kind of work to make sure that the data that you're getting as you mentioned previously, is good enough for you to base a decision on. It may not be perfect, but we've cleaned it up. So if we had absolutely clean data that we're pulling from the databases, etcetera, this would be a slum done, but we'll have to do some work to give you good data. And it may still end up the same answer. I don't know yet.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: Ken, I understand the difference and difficulties with sampling and the known universe, but you're going to have to work with the police department, right, on these 311 and 911 calls?

>> That's correct.

>> Cole: And have you worked with them before?

>> Not in this situation, we have not worked with them.

>> Cole: But have you worked with them with 311 and 911 calls?

>> I know we've done some 311. Maybe corey can come up here.

>> Cole: Let me tell you what I'm getting at. I don't see anything anyone from that department. I know that some officers are dedicated to certain areas like the charlie sector. And we have neighborhood officers. And I'm really -- not to make any amendment, but i just want to know how this would work because one is the primary concerns that I've heard from the neighborhoods about str's and the reason we're doing the 311 and 911 calls is just problems with code enforcement. So I think it would be very helpful to work with them to see how much coverage we had based on what you determined the sampling to be. Mark, can you shed any light on that? What do we do with our code enforcement offices? Are they dispatched all over the city?

>> I don't have an answer for you. I don't know whether they're dispatched based upon reaction to complaints or whether or not they divide up into sectors similar to the way that you were , the way that a.p.d. does that. It's just something that we will have to get back to you and the council and let you know.

>> Okay. I would just appreciate that information and just the only direction is to work with them in that regard because I think that information would be very helpful to council in making a policy decision about handling the code compliance complaints with str's.

>> I do see our director of smart, is here. He can probably answer that question for you.

>> Carl smart, director of code compliance department. Our officers are assigned by districts. We have split up the city into an east and west district with north, south, east and west. And they are assigned into geographical areas, very similar to your neighborhood police officers. And so any complaints that come in from within that geographical error, they will actually be the ones that would respond and check out that complaint.

>> Cole: And how many officers do you have citywide?

>> Approximately 38 officers city-wide at this point. I don't have an exact number, but approximately.

>> Cole: And do you monitor how many you have in each location based on the number of calls, incidents?

>> I understand the question. Yes, we know how many complaints per geographical error that come in that are handled by a particular officer. I can tell you that on the str complaints we don't have a large number of str complaints. We're looking at approximately 10 to 15 that we can identify at this point. Because a lot of the complaints that come in don't necessarily specify that they're str's. The complaint might be in reference to parking or trash debris or noise or a problem that would go to a.p.d. But it doesn't necessarily specify it as an str.

>> Cole: I'm going to ask you to work with auditor and , and get us back some information by our march 1st meeting so that we're able to determine based on the auditor's work, the primary areas that we have str's and then look at that and divide that into where we are having the most code compliance or police complaints, and then look at that based on where do we have the code enforcement officers and a.p.d. Assigned.

>> We will certainly work with the auditor's office to do that. Our complaints generally come in through 311 and we'll work with them to make sure we get the information and get it timely.

>> Okay. Thank you. May mayor and the direction properly directed to the city manager.

>> Cole: Yes, promptly.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I had a question. Hopefully one more. I just want to point out one difference between the motion we're considering now, the substitute motion, and the main motion, has to do with there's no timetable specified in the original motion. You testified it would be about three months. The substitute motion names march 1st as the date and that's about 49 days. So we give or take 50 days, two neighborhoods, 90 days, whole city. I'm having trouble understanding, I guess, whether that's really feasible to do in 90 days with just really one additional month. And so I guess I'm trying to find a way to come to a resolution here that we can all feel good about. If we pass the substitute motion, will the work that you do in response to this just looking at a few geographic areas, impede you in any way from doing the rest of the city? In other words, would that be time wasted? Would you approach it differently if you were looking at the whole city, would you approach those first 49 days differently or would this just be a useful STEP, AND ON MARCH 1st, IF You return the data and we all look at it and say gosh, we really do need to look at the rest and see what's going on, wouldn't we have that option of saying okay, let's delay this decision a little further, look at some other areas. We don't have everything we need to know.

>> A couple of steps in doing that. One, we'll have to survey the whole city to determine all the str's that we're seeing on the website or where we're getting them from, ire respective of how we do it. The second issue is if we'll do shorter one we'll probably do a census. We'll do 100% what's there. If we do the city we're suggesting that you allow us to do a sample, a scientifically valid sample where we select sample sizes representative of the city as a whole. Not necessarily knees neighborhoods alone. But it will be an answer to the whole city. So the answer is yes, it will be a different approach, but we could still do the first one and then go to a sample after that and just use the ones we already had within that sample. But it would take a little bit more time to do that.

>> Tovo: I guess I'm still trying to figure out what a statistically valid sample would look like and how we might use that information differently. If we're interested in knowing about clustering and the clustering patterns, it seems to me the 100% census would be more valuable, if we really want to know what the neighborhood level impact is of short term rentals in some of the areas where they are most likely to locate, looking at those as a census rather than a sampling would be more useful. Do you think that's --

>> I think if you want to look just at the particular neighborhoods, I think you're right, you want to look at those neighborhoods. If you want a citywide perspective, I think the sampling would work.

>> Would the citywide sampling tell us about clustering? It would give us some sense of where there might be clusters, but not necessarily the extent of the clustering in particular areas.

>> That's correct, it won't.

>> Tovo: All right, thank you.

>> Mayor Leffingwell: Further discussion? So in trying to sort this out, with your -- the timetables you were laying out, it's a little bit different from what I heard from councilmember spelman. What he's saying is that i think whenever the process is complete is when it will be complete but the difference basically is 30 days. But take as much as 30 days longer to do the entire city and have a comprehensive set of data to base this decision on. To me we don't know where future clusters might be. There might be, for example, be a lot of clusters potentially in east austin as venues change and south by southwest and acl expand and go into other parts of the city. So to me that's the trade-off. For 30 days it seems like you get a comprehensive set of data, even though based on a statistically valid sample and not all of the houses in the entire city, that's a trade-off, a full set of data for 30 days it seems to me like. So councilmember riley.

>> Riley: I'm not going to be able to support the substitute motion, in large part because of the practical issues that the city auditor has identified. Once we undertake to identify the locations of an str, it makes sense to make use of that data. And when you just look at the listing you may not know that it's in a particular zip code. If you go to all the trouble to investigate it and you get a location, why not make use of that data. And the only way to do that in a meaningful way is i think to just find the known universe to include the whole city. I think that will be very helpful. And not only will it help us make a good decision on what to do about short-term rentals, but it will also put us in a position going forward for monitoring and enforcement of whatever rules we come out with. Assuming we end up allowing some short-term rentals of some kind, we want to make sure that we're in a position to see that all the short term rentals are paying the appropriate registration fees, if we have registration fees, and that they're paying their hotel occupancy taxes. And if we take the trouble to arm ourselves with a comprehensive inventory of the short term rentals that we can find out there, then I think we'll be in a good position to stay on top of all those issues going forward. So I would really rather take the extra 30 days to do a more comprehensive assessment of the short term rentals that are out there across the whole city.

>> Mayor Leffingwell: Just to add very briefly, the main motion does contemplate the processes going forward as it is in the planning commission. There's no suspension and it will be attended to as soon as possible by the respective bodies, by the planning commission and by the city council. Further discussion? Mayor pro tem?

>> Cole: I just have one brief change, a clerical, friendly amendment. Instead of comptroller in the third line to my amendment, it should say controller. Controller. The city controller.

>> Mayor Leffingwell: So that is actually in both the substitute and the main motions that the point. Correction noted. We're voting on the substitute motion. Councilmember morrison.

>> Morrison: Thank you. I wanted to make one other comment. I appreciate the folks coming down here. I know there's been a ton of work done by the neighbors for quite a long time. I appreciate the new organizations, the austin rental alliance, and the work that they do. Because I think that's, for instance, going to help the city quite a bit and I know a lot of their effort is about helping the city and getting the str's owners to understand their responsibilities in terms of registration. I did want to comment on one thing, and that was -- that is that there were some comments that were made that said that the many, many months of discussion have been based on -- not been based on information, they've been based on emotion. And I wanted to just back off, see if we can back off on that a little bit because I think that when people are talking about -- I think it's probably both sides of the issue. Things that are very, very important to them personally, to their values, to their community and certainly understand the passion that neighborhoods have for the sustainability of their neighborhoods. They're speaking, of course, with some emotion, but they're speaking from an incredible base of knowledge. And it's information. And it's experience. And it's understanding social fabric and the understanding of that. So I just wanted to see if we could make -- I wanted to point that out because i think in a way it's -- it somewhat means the participation that folks have had. And I don't think that that's really the best way to go forward. And so I will be supporting this motion. And I appreciate everybody's work. And the challenge that we have up here trying to find something that works. Mayor all in favor of the substitute motion say aye. Opposed say no. The motion fails on a vote of five-two with councilmembers riley, martinez, myself and councilmember spelman and mayor pro tem cole voting no. So now we're -- we have the main motion on the table. Which is basically the same motion, but with the additional amendment on the yellow sheet by mayor pro tem cole. And the additional clarification. I guess it would be an amendment, councilmember spelman.

>> Spelman: Let me put it in the form of an amendment if I might.

>> Mayor Leffingwell: Go ahead.

>> Spelman: The first be it resolved, current version is city manager is here by directed to temporarily suspend. My apologies to anyone who read those literally. That wasn't my intention. I think my intention is much closer to the following: The city manager is here by directed to postpone final action on the code amendment process, and so on.

>> Mayor Leffingwell: You understand the amendment, councilmember riley, and accept the amendment?

>> Spelman: I believe councilmember riley has an amendment as well.

>> Mayor Leffingwell: Councilmember riley would like to speak for himself on that.

>> Riley: I do.

[Laughter] I've written out one more amendment and I've distributed that. It's on the dais. This is just one additional line to go in paragraph 1 in the second be it further resolved. No, in the be it further resolved section. The line simply reads as the paragraph currently reads that we'd like to see a review and analysis and a number of general locations in short term rentals, distinguishing the short term rentals where the homeowner lives on site from those where the homeowner does not live on-site. And my amendment would simply add one more sentence. It would say, for those instances in which the homeowner does not live on site, the review should include some analysis of patterns regarding the distances between the locations of the rentals and their owners. Right now the ordinance just contemplates a distinction between those that are owner occupied and everything else. I think there would be some value in looking -- in looking at patterns regarding other situations. There are a number of cases in which the owner of a rental may live next door, around the corner, in the same neighborhood. And to me there is some qualitative difference between that situation and an owner who lives, say, out of state. And it would be -- I'm not looking for an exhaustive, empirical study of exactly what the distances are between the rentals and their owners, but I would be interested in some patterns. If we see an overwhelming majority of out of state owners, for instance, that would be interesting to see if there are patterns of -- where you have people living very close to the short-term rentals, that would also be interesting to see. So, for instance, you might come back and say well, we found that in 40 percent of the cases the owner lived within a smile of the short-term rental. That would be interesting information to know. And so it just sort of -- I'm hopeful that this -- I've left this fairly general because I don't want to see this take a lot more time than the study is already taking, so I'm leaving a lot of room for judgment on the part of the auditor to do what they can to shed any light on patterns that they see in the course of this work in terms of where the owners live in relation to the rentals. I think that would be pretty useful information to have as we make our decision.

>> Mayor Leffingwell: Councilmember spelman accepts.

>> Spelman: You betcha.

>> Mayor Leffingwell: The friendly amendment to shed additional light. So we have basically three amendments to the published original motion, main motion.

>> Can I ask a question? Councilmember spelman, earlier you indicated that you would like to add language from councilmember tovo's substitute motion that the review analysis be conducted in collaboration with neighbors and industry professionals who have --

>> Spelman: Thank you for the reminder. Yes.

>> Mayor Leffingwell: Councilmember spelman accepts. And councilmember riley, the additional amendment. Further discussion? Councilmember tovo.

>> Tovo: Mayor, I would like to propose what I hope will be a friendly amendment.

>> Spelman: We'll see.

>> Tovo: Since there's been a lot of discussion about timing and a lot of discussion about what 30 more days will get us, and that is a comprehensive analysis, I would like to propose that we add in to the second be it resolved clause to the end of the first sentence and to report back on or before april 12th.

>> Mayor Leffingwell: So to add report back on or before april 12th.

>> Tovo: How about to be concluded by. No, I would like for it to be concluded by april 12th. I mean, again, since the timing is critical and we've talked a lot about it and it seems to be feasible to do 30 more days, I would like this to be tied to some kind of timetable that codphize that.

>> Spelman: What day of the week is that?

>> Tovo: It's a council meeting.

>> Spelman: I'll happily accept that.

>> Mayor Leffingwell: With the understanding that if the auditor is not ready, the council could cost pony on that date, but there will be a schedule for april 12th. I believe he's already stated he can't say with any certainty how long it will take until he gets into it. All in favor of the motion --

>> Morrison: Mayor? I have a question. Does that mean that we can go ahead and ask staff to plan for our public hearing on -- at council on april 12th? And of course we could postpone it by a vote, of course.

>> Spelman: Given the requirements to notify in the newspaper and other forms, which I only dimly understand, you may not want to be wrong about this. It seems like it might be valuable for us to get the benefit of the auditor's sticking his toe in the water first and verifying if april 12th is in fact going to be a live date.

>> I would just ask, if i understand the question, but one stipulation is that if the planning commission -- i don't know yet, but if the planning commission does want to have the auditor's data before they make their decision, and the auditor is required to have their information done by april 12th, then it would still need to go to the planning commission after that because the planning commission action is actually required on a code amendment. So I cannot take it to y'all without their action. So if they choose to wait to have the data, it may be a little while after that. But I can certainly, again, set the wheels in motion for setting a public hearing at the council for a date shortly thereafter with the anticipation that the planning commission would be done and if they were not, again, we could postpone it.

>> Mayor Leffingwell: It seems to me that the clear direction is to do it as soon as possible. Have a public hearing and hear it as soon as possible. I really don't know how much value it adds to have a particular date in there. Since it's subject to a lot of yet to be determined, but again, I think everybody understands there's no wasted time in efforts?

>> Spelman: It seems like it may be a needless step, given that we're in a hurry and want to deal with this as soon as possible, just have it come back to all of us.

>> I just wanted clarification.

>> Mayor Leffingwell: So i need to understand, did you accept that proposal by councilmember tovo?

>> Spelman: The proposal for april 12th? That is acceptable, yes.

>> Mayor Leffingwell: And to the second? I guess we're ready. Councilmember martinez.

>> Martinez: I'm supportive of both sides of this. I've met with the short-term rental owners and I believe that there is a level of compliance and registration and activity that can be regulated and monitored. And I don't think they're opposed to that. Bad actors need to be held accountable. I'm also supportive of councilmembers wanting more information. Lord knows this body asks for a lot of information, a whole lot. And I've also met with the neighborhoods, who really brought some concerns forward that they feel like are really detrimental to their livelihoods, to their quality of life. So much so that this is a direct example. The reason I'm going to bring this up is because I'm not making this up. This was said to me in a meeting. And the example that was brought forward was we don't know who these folks are. We don't know if they are drug users, drug dealers or sex offenders. And so I said wow, you would want to know that. For sure. So I did some research and in the zip code that i happen to live in there are 144 registered sex offenders. In 78704 there's 39. But we don't have a resolution before us dealing with that issue. And we don't have a study before us addressing those concerns. In two other sip codes, east and west of downtown, 78703 has two. 78702, That I used to live in, and will shortly move back into, has 102. Likewise when you compare controlled substance calls by a.p.d. Not calls, arrests, and marijuana possession arrests, comparing the exact same two zip codes, 23 and 04, 23 is exponentially higher. These are real issues. These are the issues that were brought forward in a short-term rental debate. But regardless of the short-term rental debate, these issues are still here. And they're important. They're important to your property values, they're important to your quality of life. There are only -- as a matter of fact, there are less than five short term rentals in the zip code i happen to live in, 23. It's not coincidental. The things that we're worried about and the things that we're trying to address -- and I firmly believe that this is an important issue. I absolutely know it is. But I just want to put some context to it. Because if you look at my facebook status today, i asked for input on council agenda items. And literally I posted it seven hours ago. It says all items are equally important to each individual. So I don't believe that one forsakes the other, but they're all important. But yet, we have no rush to create some massive policy to deal with what I see, when I just do a google search, of some severe inequities here in our own city within those two comparative zip codes. So I just want to be mindful of that. I realize that there are a host of issues we're working on. But you would think that 144 registered sex offenders comparatively to 39 in other zip code within our community, there would be a severe call to action because that was the exact example that was given to me in relation to short term rentals. I'll be supporting this item. I am supportive of some regulation on short term rentals. I do believe that it does need to be addressed, but i did want to make those comments here because i think you have to bring this down to a level where there are a lot of folks in the

town who have issues pending on the table and they would sure love for us to spend three and a half hours trying to figure it out on a thursday afternoon. I'll be supporting the motion.

>> Mayor Leffingwell: All in favor say aye? Opposed say no? It passes on a vote of five to two with councilmembers councilmember tovo and morrison voting no. Item 74, which is an item to set the public hearing for possible action, I believe, it is, amending the electric rate schedule. We have several people signed up to speak. And you're very welcome to speak, but again, the subject here is setting the date and time and not the merits of the rate increase or decrease, whatever it is in particular. And before we delve into this item the posting language says december 26, 2012. I will not -- I will be out of the country on that date and I think it would be visible to -- advisable to have a full council for an item as important as this. I will leave that on the table like that. So I'll call the speakers. Again, speaking only on the date and time to set the -- since the public hearing in consideration of the amendment. Paul workman. Is not here. Allen cooper. Allen cooper is not here. Both signed up against. Joel greenburg. He is signed up neutral. Not here. James casey. James casey. Not here. Will mccleod. He is signed up against. And you have three minutes. And again, whether you're for or against, we're talking only about the date and time.

>> Yes. I rise in opposition against the current date and time, which is january 26th, 2012 at four p.m. We need to have not just one public hearing, but we need to have multiple public hearings. We need to have public hearings on saturdays, public hearings on mondays where people have a chance to voice their opposition or in support of. Thursdays don't work for a lot of people because i work. A lot of people work. And when you work retail you have to continue to, you know -- you can't really take that much time off. Now, I'm only speaking on the date and time. I'm not going to get into too many details. In closing, let me summarize this by saying, hey, we need to have multiple hearings and not just here at city council, but online and by telephone as well, like a telephone conference. Because not everyone can come all the way here from the booneys to get here to city hall to make their voice heard. And let's make sure we have all of the citizens input heard on this matter. Thank you.

>> Mayor Leffingwell: Thank you. Reverend lou sneed. Reverend sneed is not in the chamber. So those are all the speakers that we have signed up. And we'll entertain a discussion or a motion on item 74. Councilmember spelman.

>> Spelman: So mayor, when are you coming back into town?

>> Mayor Leffingwell: I will be back in town for the following council meeting.

>> Spelman: Okay.

>> Mayor Leffingwell: I don't know when that is.

>> Spelman: We have two councilmembers back to back immediately afterwards. The 2nd and the ninth of february.

>> Mayor Leffingwell: I'll BE BACK FOR THE 2nd.

>> Spelman: Allow me to PROPOSE FEBRUARY 2nd, 2012 As the date for the public hearing.

>> Mayor Leffingwell: Is that a valid council meeting? That's okay, I believe you. February 2nd at 4:00 p.m. ?

>> Spelman: I would prefer ?

>> Mayor Leffingwell: All right. So that's a motion by councilmember spelman to set the public hearing and consider the ordinance amendment on february 2nd at six p.m. Seconded by councilmember martinez.

>> Cole: Mayor, I have a question. Let me ask legal, would it be employer main to the posting to discuss possible alternative locations for that hearing? I had in mind we might go to carver, go to east austin.

>> Mayor Leffingwell: City attorney, are you talking about moving the entire council meeting?

>> Cole: No. Just -- well, you know, motor I think about it, i know myself that this is not germane because I wanted to talk to y'all just about having a public hearing at a different location, not necessarily this one. So we can't do that.

>> What you can do is direct that that issue be -- ask that that issue are brought back for the council to discuss.

>> Cole: Let's do that at our work session. An item placed on the work session agenda to discuss alternate locations for conducting austin energy rate hearings. Okay.

>> Mayor Leffingwell: And that would be on JANUARY 31st?

>> Correct.

>> Mayor Leffingwell: Okay. And our setting this public hearing in no way restricts, we could decide to hold additional public hearings after that and we will have a better feel for that after we consider -- after the work session on JANUARY 31st. So that's a motion on the table and a second. Councilmember morrison?

>> Morrison: I think that we could actually discuss the alternate location at our work session on january 24th, which might give us a little more lead time.

>> Cole: Mayor, are you going to be here?

>> Mayor Leffingwell: I will not be here.

>> Morrison: But we're talking about having a discussion about additional locations. Maybe that would be okay to do?

>> Mor Leffingwell: I thought we just decided part of this was to have that discussion about additional LOCATIONS ON JANUARY 31st.

>> Morrison: And I'm suggesting we think about -- we also consider doing that instead also on January 24th. That will allow us more time.

>> Mayor Leffingwell: So a friendly amendment to change the direction for the work session to January 24th INSTEAD OF THE 31st. Do you accept that?

>> Cole: Mayor, are you fine with that?

>> Mayor Leffingwell: No, I'm fine with it.

>> Cole: Okay. Just you won't be there.

>> Mayor Leffingwell: And councilmember Martinez? He's fine too. Okay. So all in favor of that motion, say aye. Opposed say no. It passes on a vote of seven to zero.

>> Mayor Leffingwell: And that brings us to our 2:00 p.m. zoning cases.

>> Thank you, Mayor and Council. Greg Guernsey, Planning and Development Review Department. 00 zoning and neighborhood plan amendment items. These are where the public hearings are open and there's possible action. The first item I'd like to offer for consent is item number 78, case npa-2011-0015.01. This is for the property located at 64 of 06 Garden View Drive. This neighborhood plan amendment staff is requesting a postponement of THIS ITEM TO FEBRUARY 2nd. Item 79 is case c-14-2011-0086 for the property again at 6406 Garden View Drive. This is the related zoning case and staff is requesting a postponement of this item TO FEBRUARY 2nd. Item number 80 is case npa 01 for the property at 5702 and a half Jan Lane. Staff is requesting a postponement of this neighborhood plan amendment and staff is also requesting postponement of item 81, case c-14-2011-0082 for the same property at 5702 and a half Jane Lane. Item number 82, npa 02 for the property at 5509 to 5609 Stewart Circle. Staff is requesting a postponement of this master plan amendment to your February 2nd agenda. Related item, item 83, is case c-14-2011-0083. This is for the property located at 5200 Bottom Road to 5509 to 5609 Stewart Circle. Staff is requesting a postponement of this zoning case to your February 2nd agenda. Item number 84 is case npa 0 one for the property located at 6500 Manor Road and 6502 Manor Road. Staff is requesting a postponement of this neighborhood plan amendment to your February 2nd agenda. Item number 85 is case c-14--2011-0087 for its property located at 6500 Manor Road. Staff is requesting a postponement of this zoning case amendment to February second. Item 86 is case c-14-01-0046.01. This is for the Hyde Park NCCD. This is an amendment to that change to change zoning from neighborhood conservation district to NCCD district to change conditions of zoning. It's been recommended to you by the Planning Commission and is ready for consent approval on all three readings. Item number 87 is case 03 for the North Hyde Park NCCD. This is an amendment to their NCCD to change zoning from neighborhood conservation combining district neighborhood plan or NCCD MP, to NCCD MP to change conditions of zoning. This is also recommended to you by the Planning Commission and ready for consent approval on all three readings. Item number 88 is case c-14-2011-0016 for the

property located at 201 east 34th street. Staff is requesting a postponement of this item to your march 22nd agenda. Item number 89 is case c-14-2011-0047 for the lot located at 801 south lamar. This is to change the zoning from family residence to general commercial services vertical mixed use building combined district zoning. The planning commission recommendation was to grant the cs-v combining district zoning. This is ready for consent approval on first reading only. First reading only. Item number 90 is case c-14-2011-0055 for the property located at 12502 tom then trail. Change the zoning to neighborhood office mixed use combined district zoning. The zoning and platting commission's recommendation was to forward this to you without a recommendation. If you would like to consider possibly the staff recommendation and take this on consent I could offer that or you could consider this as a discussion item. That's up to you. The applicant is agreeable to the staff recommendation.

>> Mayor Leffingwell: So just -- is the zap recommendation because they were dead looked on this and couldn't achieve a vote? We're not going to get another consideration?

>> No, and this one back to the commission once before. There's a staff recommendation and it has less intense zoning than they originally asked. Staff is recommending if the applicant is agreeable you have no zap recommendation and if you would like you could take this on consent.

>> Mayor Leffingwell: First or all three?

>> It would be for I believe all three -- first reading.

>> Mayor Leffingwell: First reading. Okay.

>> Mayor Leffingwell: We'll consider that for the time being.

>> Item number 91 is case c-14-2011-0065, the property at 800 and 804 congress avenue. Staff is requesting a postponement of this item to your february 2nd agenda. Item number 92 for the property located at 3707 manchaca road. This is a zoning change request to multi-family residence immediate density zoning. The planning commission's recommendation was to grant limited office, conditional overlay combining district zoning for tract 1. Multi-family residence low density conditional overlay zoning for tract 2. And multi-family residence medium density combining district zoning for tract 3. Staff could offer this consent for third reading. We do have one citizen that would like to pull this off the agenda if they could speak briefly. We could leave it on the consent agenda and they would have no objection letting it go on consent. And that's entirely up to you if you would like to hear the one individual, otherwise they would like to have it as a discussion.

>> Mayor Leffingwell: You're proposing it for consent on all three readings, but you want somebody to speak on it?

>> Yes. There's a -- mayor, i bob thompson was here. He's still here.

>> Mayor Leffingwell: If he wants to speak we have to pull it off the consent.

>> Item number 93 will be a discussion item. Item number 94 is case c-14-2011-0143 for the property at 8115 altaoa drive. This is to change the zoning to limited industrial district zoning. The planning commission's recommendation is to grant the li zoning with the conditional overlay in accordance with the staff recommendation. This is ready for consent approval on all three readings. Item number 95 is case c-14-2011-0144. This is for the property located at 801 to # 21 patton avenue to zone the property to public district zoning. The planning commission recommendation was to grant the p district zoning and this is ready for consent approval on all 3d readings. Item number 96 is case c-14-2011-0145. This is to zone the property to p district zoning. The zoning and platting commission recommendation was to grant p district zoning and this is ready for consent approval on all three readings. Item number 97 is case c-14-2011-0148. This is for the property located at 14926 north fm 620 road. The zoning change request is to general commercial services district zoning. The zoning and platting commission -- actually, this case staff is requesting a postponement to your january 26th agenda. Item number 98 is case c-14-2011-0151 for the property located at 12407 north mopac expressway northbound, unit 275 to zone the property to commercial liquor sales district zoning. Zoning and platting commission's recommendation was to grant the cs 1 district zoning and this is ready for consent approval on all three readings. Items 99 and 100 are related. And let me read both of those into the record. And mayor, the applicant just has a quick comment. And then I could offer that as a consent item as well. This is to rezone the property to multi-family residence highest density, conditional overlay combined district zoning. The planning commission recommendation was to grant the mf 6-co combined district zoning and that is ready for consent approval on first reading only. The related item is item 100, case c-14-2011-0154 for the property at 903 and 905 south lamar boulevard to zone mf 6-co combining district zoning. The planning commission was to grant the district zoning. This is ready for consent approval on first reading. As I said, I will note that the applicant had a quick comment on his items.

>> Mayor Leffingwell: We'll pull it off if anyone wants to speak.

>> That's items 99 and 100. Item number 101 is case c-14-2011-0159. This is for the property located at 801 and one half south first street. This is to zone the property to neighborhood office, neighborhood plan combined district zoning. The planning commission recommendation was to grant the neighborhood office, neighborhood plan combining district zoning. This is ready for consent approval on all three readings. Again, I'll note that the address was 80 world cup and not 5801. 801 And a half south first street. Last item is also a discussion item, mayor. And that concludes the items that I can offer for consent at this time.

>> Mayor Leffingwell: So the consent agenda is to postpone items 78, 79, 80, 81, 82, 83, and 85 until FEBRUARY 2nd. And to close the public hearing and approve on all three readings the planning commission recommendation for 86 and 87. To postpone item 88 until, i BELIEVE IT'S MARCH 1st -- YOU READ MARCH 2nd, BUT That's a friday.

>> I believe march 22nd is the postponement date.

>> Mayor Leffingwell: MARCH 22nd.

>> That's correct.

>> Mayor Leffingwell: To close the public hearing and approve on first reading only the zoning and platting commission recommendation for 89 and 90.

>> And the planning commission recommendation on 89 -- 90 is that one that I --

>> Mayor Leffingwell: The zoning and platting commission did not have a recommendation on item 90. There's a staff recommendation on item 90, but first reading only add the public hearing closed.

>> That's correct.

>> Mayor Leffingwell: To postpone item 91 until FEBRUARY 2nd. To close the public hearing and approve on all three readings item 94, planning commission recommendation, 95, zoning and platting commission recommendation. To close the public hearing and approve on all 3d readings the zoning and platting commission recommendation for 96 also. To postpone until january 26th item 97. To close the public hearing and approve on all three readings the zoning and platting commission recommendation for number 98. To close the public hearing and approve on all three readings the planning commission recommendation for 101 and to postpone 102 to january 26.

>> No, mayor. On the last one, 102, that would be a discussion item.

>> Mayor Leffingwell: Correction, item 102 is off of the consent agenda. So if with I'll entertain a motion for the consent agenda. Mayor pro tem cole moves approval. Seconded by councilmember morrison. Discussion?

>> Tovo: Quick question for mr. guernsey.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: guernsey, 78, 79, 80, 81, 82, 83, has been on our agenda and postponed many times. I wonder if you could give us a sense of why and if they will be ready in february.

>> I think they will be ready in february. We've been working with park staff. I think there's been some questions about housing issues and a couple of things. I think we're still working through those. I think with the community and working with the parks department. Hopefully on ground hog day we'll be able to deal with it.

>> Tovo: Great. We have gotten questions about why there are people who really want to see that completed. So I just wanted an idea of where we were.

>> I'm getting acknowledgment from the parks staff that are here nodding their heads that they think it will go.

>> Tovo: We look forward to seeing that in february.

>> Mayor Leffingwell: All in favor say aye.

>> Spelman: Mayor? Before we vote, please show me recused on items 86 and 87. That's my homestead in hyde park.

>> Mayor Leffingwell: All right, the clerk will show councilmember spelman recused on items 86 and 87. All in favor say aye? Opposed say no. It passes on a vote of seven to zero with councilmember spelman recused on 86 and 87. And with that, council, if we can, out of order, take up item 107, a proposal to hold the public hearing -- 00 time certain. Is there a motion to approve that? Councilmember spelman? Councilmember morrison second. All in favor say aye? Opposed say no. It passes on a vote of seven to zero. We'll go back to our zoning cases.

>> Mayor, would you like to take the ones that just have one citizen to speak and then the applicant to speak? Mayor pair if there's no objection, we'll take that item up now.

>> Item number 92 is case c-14-2011-0093 located for the property at 3707 manchaca road. The commission did recommend lo-co zoning for tract 1, mf-2 zoning for tract 2 and mf 3-co district zoning for tract 3. And there's a citizen by the name of bob thompson that would like to briefly address out this item.

>> Mayor Leffingwell: This is on 92?

>> It's 92, already for consent approval on all three readings.

>> Mayor Leffingwell: I'm not showing anybody to speak on this. Did you sign up on the machine?

>> I did not sign up on the machine. I spoke with --

>> Mayor Leffingwell: Go ahead and take your three minutes and sign up with the clerk after you get through so we will have you on the record.

>> My name is bob thompson, mayor and councilmembers. I was the case manager on this case for south lamar neighborhood association. I just wanted to comment that this case has been cooking for about six months. I support, by the way, the planning commission recommendation along with the applicant. And am in favor of this being approve on all three readings tonight. I just want to point out that this is kind of the holy grail of zoning cases in which two neighborhood associations, south lamar and barton oaks neighborhood association, worked harmoniously with the applicant and with city staff. It took a long time to solve some technical issues, but we finally came to a win-win-win agreement. And this is the way our neighborhood would like to see all zoning cases proceed. The unique feature of this zoning case is that the applicants were seeking slight densification above this that presently existed or that could be achieved under the existing zoning. But they were only wanting a mild increase in density of about 10% above those levels. And in return to us granting them the neighborhoods going along with the increased densification, they were willing to get some concessions in return to the neighborhoods. And we reached that agreement in principle very early and spent the rest of the

time solving the technical issues to make the zoning compliant with the land development code. Unfortunately many other cases had come before our neighborhood for up zonings. The situation is that the present zoning would allow the density to be doubled or more without any up zoning. The developers is requesting up zoning, but often want more than just a mild 10 percent or so increase above the upzoning. And sometimes they're not willing to give anything in return for massive increases in density. These applicants were very ungreedy and so we quickly reached an agreement and i just wish that the other applicants that come before our neighborhood would be similarly ungreedy. And if that were the case, our neighborhood, as demonstrated in this case, is more than willing to cooperate or proactively, and do everything we can to reach a win-win agreement as we did in this case. I just wanted to point out the lesson that can be learned from this case that would apply to many other cases. And thank you for your time.

>> Mayor Leffingwell: Thank you. And sir, would you please check in with the clerk and get your name on the record? Over here. Mr. guernsey.

>> That was item number 92. And we could offer that for consent approval on three readings.

>> Mayor Leffingwell: So is there a motion on item number 92? Councilmember morrison moves to close the public hearing and approve item number 92 on all three readlings. Seconded by councilmember spelman. All in favor say aye? Opposed say no? It passes on a vote of seven to zero. And members, item 106 has a bunch of people signed up to speak, but they're all in favor. If we could do to that public hearing I think we could get this out of the way quickly, unless there's any discussion or desire to have discussion on the part of councilmembers.

>> Morrison: Mayor?

>> Mayor Leffingwell: Would you prefer to contemplate discussion? If so, we can put it off?

>> Morrison: I didn't, but I wanted to mention that i know that there's just one statement to be made on items 99 and 100.

>> Mayor Leffingwell: Okay. We can go to those next. And wife the requirements of city code section 25-1-903-a. At this time I would like to introduce nikki holder with our department. She's going to give you a very brief review of that item.

>> Mayor Leffingwell: Okay.

>> And show you one slide. And if everybody is in favor, I guess it will be a short hearing.

>> Good evening, council and mayor and councilmembers. My name is nikki holter and I'm with the planning and planning and development review department. And before you is an interlocal agreement between the city of austin and aisd. The item is to allow two practice builds to be exclusively used by bowie high school students. It's located on slaughter lane directly to the west of brodie. And across the street from bowie high school. I have a powerpoint so we can see the location of the area. The agreement will minimize the impact on the sensitive area surrounding the residences. It is located in the barton springs zone. It's also located in slaughter creek

watershed and within the circle stratus agreement. I would like to point out that the agreement is not amending or changing the stratus agreement or s.o.s. Or the s.o.s. ordinance. In fact, it's actually putting additional restrictions on the property. So aisd and the city will understand what it is and how it can be developed. And this is the site here. It's a 45-acre site located at slaughter and brodie lane. You can see here right to the west is bowie high school. Brodie lane. And right on the corner is the cvs and the bank and so forth. The 45-acre tract was donated by stratus development. There is only about 1300 square feet of impervious cover that can be developed on this site. That's all that's allocated for this tract. And directly to the north of this tract is another piece of land donated by stratus to the city of austin, which will be utilized as preserve. And so it seems like a win-win for everybody. There is several karst features on the preserve, so this would allow the city to maintain and manage those karst features. Let's see. There are no variances for this tract that staff has identified. A site plan will be required to construct the practice fields. And that's about it. Thanks.

>> Mayor Leffingwell: Okay. Thank you. We have several folks signed up in favor. Is anyone wishing to speak? Dean goodnight, carolyn merit, steve

(indiscernible). Casey beasley. John grimm, joseph lourit, amos luzader. Anyone else in the chamber that wishes to speak? Those are all the speakers that we have. I'll entertain a motion to close the public hearing and approve the ordinance. Councilmember morrison so moves. And that will be on all three readings. Seconded by the mayor pro tem. Councilmember tovo.

>> Tovo: I have a question for ms. holder, please. On slide 7 it talks about the practice fields are only to be used by bowie high school. Will it be open to the public to use the sports fields or let another band come in there? Is that a hard and fast requirement?

>> Yes, it is a restriction. It's only for bowie high school and only for practice. So they can't bring -- they can't have scrimmages against other schools. They can't let the public use it or any other schools use it. It's strictly for bowie and for practice fields.

>> Tovo: And the rationale was to limit the use of it? Because it is a sensitive area. Okay.

>> Yes.

>> Tovo: All right. Thank you.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I just wanted to comment that I appreciate aisd working with us and going through this process because I think it was just about three years ago or two years ago that we decided it really made sense when we were entering into development agreements with other governmental entities to actually go through something like a zoning process. And I just wanted to comment that we appreciate the -- those other entities participating with us.

>> Mayor Leffingwell: All in favor of the motion say aye. Opposed say no. It passes on a vote of seven to zero. If there's no objection, councilmember morrison would like to take up items 99 and 100 next.

>> Thank you, mayor and council. Items 99 and 100 are related. Item 99 is case c-14-2011-07053. This is for row own ing of -- zoning of property on south lamar boulevard. Item number 100 is case c-14-2011-0154 for the property located at 903 and 905 south lamar boulevard. They were both recommended to you by the planning commission and they are both ready for first reading only this evening. And the applicant's agent, steve metcalf, is here, and just would like to briefly have some comments on both of these two cases.

>> Mayor Leffingwell: Item 99? And you are not signed up either. But you're the applicant?

>> Yes.

>> Mayor Leffingwell: Go ahead.

>> Thanks. Thanks, mayor, councilmembers. Just real briefly, the first reading only. We have neighborhood support from the zilker neighborhood association. The representative from zilker could not be here tonight. He wanted to let you know e have worked out a restrictive covenant. We're finalizing it. That's why we're not going on all three readings. And just to point out a couple of things in it. One is we're zoning part of both of these tracts ms 6, bute're agreeing to affordability on those tracts. Overall we're agreeing to do affordability at the level of 60% of the total amount of units in the project at 60 percent mfi and 40% of the total amount of units in the project at 80% mfi. And so just wanted to read that into the record. Before we go on to second and third reading, at which point we'll have the restrictive covenant. All that will be finalized and documented with the neighborhood, but they wanted to make sure you guys had heard that before we moved on to second and third reading. And that's really all we had to say.

>> Mayor Leffingwell: All right. We don't have any speakers signed up on item 99. I'll entertain a motion. Councilmember morrison.

>> Morrison: I do have a question for you, steve. When you said 60% of the units, you meant 60% of all the units?

>> You're right. All right. Very good point. Thank you.

>> Morrison: I would have loved to have that slip by.

>> We have three formulas here, but basically it's 60 percent of the affordable units, which is 10 percent of the overall project.

>> Morrison: Exactly.

>> Will be affordable. Thank you. 60% Mfi. You were going to let me do that. 40% Of the affordable units will -- of the 10 percent affordable units will be affordable at 80% mfi. Did I say that better?

>> Morrison: Yes. I think that's what you meant. It's not so much better, but it's what you meant. And could you also speak a little bit about an educational impact study and your intention on that?

>> Yes. Although the way our tract oke out we had two separate zoning cases, neither one of them by themselves would have reached the requirement of the community impact study. When you combine them together, it would -- for second and third reading we will submit a community --

>> Morrison: I appreciate you working with us on this. My office on this. Because one of the challenges here, this was a complicated tract. It's a mish-mash of different zoning. Everything from rr and sf to cs-v. And there were questions about whether there were actually errors in some of the non-fee tracts which would have kicked off affordability requirements and all. And so one of the concerns i had is that we're using mf-6 to attain the density that is like vertical mixed use density, but also with the affordability requirements. So I understand there are special situations here, but I just want to -- address that.

[One moment, please, for change in captioners] member morrison was talking about is not part of this motion. It's a private restrictive covenant, and although it's nice to know it's not part of our motion. All in favor say aye -- council member tovo. I want to say thank you. I appreciate your willingness to go and do the -- I think it's a project we can learn something from it and i think despite the fact it's two different tracts I think it may be appropriate. So thank you for your willingness to do this. I have a question for mr. guernsey or rusthoven. It was my understanding that the language of the educational impact talked about project, and i apologize I didn't look at it again. I'm wondering why the staff determined that this didn't need to complete an eis? with regard to project, we have two individual zoning cases here and although they're related they are separate zoning cases, so it's not possible for us under the existing rules to require them to do an eis even though we knowhat the fit you're going to combine three chinks of land, and do a project over 300 eis. The rule says that if the individual case before us is less than 300 units multi-family or 100 single-family, we can not require it. So it's just the fact there had to be a threshold somewhere and even though -- we have a similar issues WITH TIAs THAT SOMETIMES Comes up with sometimes 2,00on two tracks but we may know in the future they come together. Similar issue.

>> So we would need to tweak the language to address that issue if there were a will to do that.

>> It's pretty rare something like this happens, but most of the time it's one piece of property --

>> I seem to remember another case that was like that that dwen didn't trigger it because it was two separate zoning cases rather than one. I want to be sure, he is especially if we have property owners to do a project that meets that threshold they do need to amalgamate a couple different properties. That seems like it could be the case more often than not and it would go -- not

necessarily comply with the intent of the ordinance which is to make sure of when big projects are coming forward we have a sense of the impact on the schools and the school district are aware of them. That may be something we need to figure out. Thanks. all in favor of the motion say aye.

>> Mayor leffingwell: aye. Opposed say no, passes on a vote of 7-0. Item 100. Is there any additional briefing from the staff or the applicant on this related item? Okay. Council member morrison moves to close the hearing, approval item 100 on first hearing. Second by spelman. Discussion? All in favor say aye. Aye. Opposed say no. Passes on a vote of 70. And I've been asked to mention for your information if you're waiting for item 104, that was withdrawn on changes and corrections at 10:00 this morning. So I think that takes us -- mr. guernsey, to item 92? Or 93. 93.

>> Thank you, mayor and council. c14-2011 h 0536, traywick 3. For the property at 2105 and 2107 west slaughter lane, and 2109 riddle road. The property is about 37,500 square feet in size and the applicant is requesting to zone -- or ezone the property to lr-co, retail former zoning. The request is to rezone the property to use it possibly in the future for office and retail uses. Currently on the property it's in development and there's an existing residence on a portion of the property. It was recommended for go-mu-co district zoning for tract 1 by the zoning and platting commission and lo-mu-co zoning for tract 2. This was the staff recommendation. On tract 1 the conditions on the conditional overlay spoke to allowing personnel services, medical offices and all over no uses -- all over no uses. The other track, 2107 west slaughter lane, 2901 river road, portion of the tract to allow medical offices and all over no uses. The property currently contains two platted lots. To the north of the site is an existing shopping center with retail offices and restaurant uses, auto repair, liquor store. To the south there are existing single-family residences. To the east zoned go-mu-co and no-co. There's -- and a vacant single-family residence and personal service use, and to the west is sf-2 no and office and single-family uses. The applicant is not in agreement with the staff recommendation commission's recommendation, and I'll let , I think, jim bennett come forward and explain his rationale for his disagreement. If you have any questions of staff I'll be happy to answer them at this time. Questi questi ons of staff? Okay. In that case we'll go to the applicant. And are you the applicant, mr. bennett? Representing the applicant? Okay. You'll have five minutes.

>> Mayor, I believe you also have some traywick is signed up to speak as well. he is signed up to speak and he'll be after you.

>> Thank you. Mayor, council members, jim bennett. I'm here tonight on behalf of this request for lr zoning. We are requesting to modify our application to lr-co mu, with a conditional overlays would be limited to 2,000 trips and that the only lr uses be the general retail sales convenience, and if you look at those definitions they tend to be smaller more boutique type uses such as jewelry stores, perhaps hair salons, retail sales of a small nature, versus the general, which is your bigger shopping centers and big-box items. So that would be with general retail sales convenience, and with restaurant limited, we think that there perhaps might be a need for a small coffee shop, not one of your national chain coffee shops but a -- more of a neighborhood-type coffee shop. And all those are go uses. guernsey indicated to you the property is at riddle road and slaughter lane, right -- that is a controlled access intersection. We are proposing for our

traffic to exit to that intersection. The properties on both sides are zoned office. One is actually used currently to the west as office, so relative to the traffic, our -- our traffic should only have to go in front of the one office and then go to the intersection that would allow to go east or west on slaughter lane, which is -- on slaughter lane, which is designed to carry heavy traffic. Slaughter varies but it's four lanes and six lanes and turning and medians until it intersects with 35 and manchaca road further to the west it goes to the bowie high school and then on over to brodie. All of that is also additionally four lanes. We have not -- four lanes. We have not had any negative response from any of the neighbors. This property or this area was annexed into the city, and as you can see on the overhead before you, those lots to the south are large lots. The one neighborhood behind us I think has a commercial looking building and his house. He repairs some automobiles. The larger white building on the overlay -- overhead that you have is an existing bar that was there before it came in the city. So with all these large lots there are residential with some -- some of them have some commercial aspects of businesses going on that would meet the requirements for the small business deal. Once again, there's been no opposition to it. With the conditions that we've imposed allowing the retail convenience and the restaurant, we think that it's a reasonable opportunity. There is a lot of office zoning existing already along the south sides of manchaca -- I'm sorry, wh slaughter, not just at this location but further east and west of us, and we feel that a sprinkling of some retail would not be adverse to the neighborhood or to the traffic counts. I'll be available should i have any questions and i think the owner would like to address council. Thank you. Questi questi ons of the applicant?

>> Mayor? council member riley. I just have one question. The zoning and platting commission and the -- and the staff are recommending go on one tract and lo on the other. Do you see any reason why we should distinguish between the two tracts in terms of the allowable uses?

>> Nos. it will be a unified development with all three tracts. With the development. Access points, the trees, we think that the building will probably be built on the eastern portion of the site with parking and ponds on the rest of the site. We still have to have our site plan get engineered, but that's conceptually what we're looking at.

>> Riley: okay. Thanks. council member morrison?

>> Morrison: mr. bennett? One question I wanted to ask is if we were -- I was guessing that the staff was recommending maintaining office because there's office anywhere and that's where the conflict is here is that you're interested in a small amount of retail. Would it work for your client if, in fact, we were to -- if we were to zone the larger tract l_r with the conditions and the smaller tract l_o? So that we would still sort of maintain as much as possible an l_o and show an intent of transition to that?

>> Council members, we -- we have a conceptual site plan, and that site plan shows the approximately 5,000-square-foot building to be on the eastern or large lot that I think you're referring to.

>> Morrison: that's tract 1.

>> It does encroach over --

>> morrison: on to tract 2.

>> -- On to the other tract, the center tract, if you will, slightly, so it would be heart to do it. I think by -- hard to do t i think by t time we have to build our ponds and compatibility because there are residential units that are also behind us back there on alred, we think that probably parking is going to be in the most western portion of the site, but to absolutely say exactly right here, until we get our engineered plans, I'm kind of reluctant to say that.

>> Morrison: okay. Thank you.

>> Mayor leffingwell: mr. Traywick?

>> And before you start, traywick, I want to say that I'm going to have to recuse myself on this item from the discussion and the vote, so, mayor pro tem, I'd ask you to take this over.

>> Mayor and council members, thank you very much for your consideration today. My name is randall traywick. I am the owner and the developer of the property in question. I inherited this land from my grandparents. It was left to me and my mother, so my mother and my wife are my partners on this development. My grandparents owned this property, 2107 slaughter lane, from the early '60s. I grew up on this property. I used to explore the field across slaughter that -- slaughter used to be two-lane and where the sits I used to roam that acreage and play. My intent with this development has -- back in 2008 when we were -- we asked the council to -- we rezoned the property for limited office with medical usage, we tried some different scenarios there, weren't able to make anything work. Since then I've been able to require through some -- through the death of rtan -- I've been able to acquire the two adjacent properties. My intent with this property is to add value to this neighborhood. We amended our application from lr to these overlays to make clear that we intend very limited retail. The overlay that general retail sales convenience is mainly targeted towards small apparel, jewelry, boutique-type shops. My vision is to have a nice mixture of professional, a couple of professional offices with maybe a big and tall men's store or a lady's boutique. I also think that there's a real need in this area for maybe a boutique/coffee shop or an amy's ice cream, something along those lines, but nothing that's going to -- I think what wasn't understood by -- and this is purely conjecture -- what wasn't understood by staff in our application was that when we asked for limited retail that we might be considering putting a gas station, convenience store type, big-box store. Our lot doesn't permit that. I'm under an acre. I've done quite a bit of work with mf hart engineering and mervin fatt architects to design a tasteful, nicely constructed building, somewhat similar to this, that will be both an asset to this area aesthetically, job-wise, revenue-wise, and my plea is, is that you all will give me the opportunit to -- to do something meaningful and purposeful with my family's land. And I thank you for your time. thank you, mr. traywick. We appreciate your comments and understand your strong sentiments about the property. bennett, you are applicant, correct? Do you have a rebuttal?

>> Mayor pro tem, unless you have some questions I don't think there's anything about that we need to do.

>> Cole: any questions? I do have one question. council member riley. bennett, i think what I understood that you're requesting is lr-co-mu with the co impose ag limitation of 2,000 trips and

the use is limited to general retail sales, convenience, restaurant and all other go uses. Is that correct?

>> Right. now, the zoning would have the mu on it. I know you haven't discussed residential uses and that traywick has in mind, but I still wanted to just ask if -- is it your intention with the mu on there that residential uses would be allowed in addition to those that we have discussed?

>> Council member, I only added the mu in case there might be a live/work situation where somebody might want to live on the second floor and work on the first floor. sure, and i applaud that. I just want --

>> we can take it off -- no, I applaud that. I wanted to make sure were when we considered limiting it all the go uses, since residential is not within any of those uses, you're not asking that we prohibit residential use?

>> No, with the mu component. your expectation is residential would be allowed in addition to those uses.

>> In connection with the mu, yes.

>> Riley: thanks. council member tovo?

>> Tovo: one quick question. Did you say restaurant general or restaurant limited?

>> Limited.

>> Tovo: limited thanks. And then I have a quick question for staff, please. guernsey, I wonder if you could give me a sense of the staff's rationale for the recommendation and what some of the considerations were.

>> Guernsey: certainly. When we took a look at the case we were looking at the land use and existing zoning and the recommendation that we gave the commission and we pass on to you recognizes that the tracts to the west that are no in existence and to the gr-mu-co to the east would be similar to those -- what we're actually recommending on this property. Although the property does front on slaughter lane it still backs up to single-family residences. I know that there's a notation in the bar that bennett spoke of that bar has been there. It's a small neighborhood bar. It's been there for a very long time, but the character of the street behind on alred is really single-family homes, just attached single-family homes. The -- there is a slight access issue when you come off of this property. The zoning map really doesn't reflect it. The aerial photography probably better explains it, where you'd have a portion of that tract, if they were developed, not as a single property. The western most tract would take access to riddle road, which is still a small two-lane road and go back towards the neighborhood and then would come back out on to slaughter. The remaindzer of the property has direct frontage on to slaughter, so we felt the more intense go zoning, would be a similar location, similar circumstance, directly to the east was deserving of the go zoning. And to to be consistent with the adjacent land use, consistent with the zoning, it's already been approved by council in the

past, we recommended the zoning that we did. Basically spelled that out between the variations on the no and go zoning.

>> Thank you. council member spelman? craig, it's my understanding if we consider this to be one lot instead of three, one way of handling the traffic pattern would be to have a way in on slaughter and a way out on riddle and then you can't get back on to slaughter going in either direction at the light at riddle at slaughter right across from the McDonald's. Did you guys consider that?

>> I think we took a look at the issue of having more traffic that would come down that road. He did mention that they limited the property to 2,000 trips. Most likely a restaurant or a business would not generate an inordinate amount of traffic that would consider a tia. Just because of the size of the site. I think we did consider those uses when we took in the recommendation but we were really looking at the existing zoning that was already in place on that property. Certainly expanding the zoning to cover the whole lot would make it easier for them to develop. They're still subject to compatibility standards along the rear of the property for the [inaudible] parking and the structures that would go in because it would be a change of project on this property. spell would it be more difficult to build out lr on that lot and maintain compatibility with the ngo or the other way around.

>> The impervious cover you're talking about is very similar. The no would definitely be more restrictive than the go or the lr as far as impervious cover is concerned.

>> Spelman: okay. If I could talk to the applicant or mr. bennett. You've got a conceptual site plan, you were saying. What impervious cover is your site plan calling for?

>> Council members, it's from the architect. I don't believe it even has the calculations for it. It does show that the building size is about 5,000 square feet, and then we pond and parked at 5,000 square feet. We have 88 -- just short of an acre, so 43,000 square feet of land. It's going to be probably -- building size doesn't take into account parking, of course?

>> Sir? the building size of course does not take into account building and driveways?

>> That's correct. greg, perhaps you could help me with this just to --

>> I was going to say, both go and lr have 80% impervious cover limit aigs and [inaudible] has 60 so that gives you some indication if they went to go or lr they could utilize 80% impervious cover. would it be permissible for us to grant lr zoning but with the 60% impervious cover limitation? That would be consistent with the adjacent lots on either signed zoned no, wouldn't it?

>> The go is to the east is 80.

>> Spelman: I see. It's a mix of no and go along this stretch, isn't it?

>> There is. When you look at the tract that's further to the west, that no doesn't really have a direct access to slaughter, and originally this tract that's furthest to the west will take access on riddle, not to slaughter. By the purchase of the additional lots that was added to the tract to make, I guess, into three parts, the two lots, there's a possibility of having access directly to slaughter for all those properties.

>> Spelman: right. And your recommendation was go for tract 1 and for the two lots furthest west you're recommending no. Primarily for the purposes -- the uses are going to be the same, primarily for the purposes of maintaining more impervious cover on those western two lots.

>> Because of the compatibility of zoning and the compatibility of existing zoning on the adjacent properties. bennett, you've had a chance to take a look at it. Can you do this with 60% impervious cover?

>> That would probably be pretty close to it, council members -- I mean, council member. guernsey indicated we've got 80% allowed to the east of us and 60 to the west? Do you want to compromise at 70? Because I don't have the calculations. I don't have the calculation on here. Just eyeballing it it looks like we probably could. I don't know if you can see this, but we have greenbelt here and we have compatibility, greenbelt here. So it looks like it probably could. But if we went with the 70 that would give us a little bit of playroom either way.

>> Council member, I just want to make sure I was clear too. The no is 60. I didn't speak to lo. Lo is 70, and go is 80. So based on the staff recommendation, commission's recommendation, it's 70 and 0% for the impervious cover. The no I was speaking to is the tract that's immediately to the of both these properties being rezoned and that's no is 60.

>> So 70 wouldn't seem too much out of line. it seems to me, maybe this is a distinction that doesn't make any difference. Mayor, pro tem, I would move to close the public hearing and adopt the recommendation -- well, not the recommendation, adopt the applicant's request.

>> Cole: is there a second? Second by council member riley, a motion made by council member spelman. Any further comments? The lawyer,.

>> Mayor pro tem, I want to guernsey that we're only ready for first reading on this item.

>> Right, we're only ready for first reading and i understand the applicant has amended their request today to be lr-mu-co with a 2,000-trip cap, and the only lr uses would be those uses that would be for general retail sales limited and restaurant limited, and i guess all other go uses?

>> Riley: if I may?

>> General retail sales convenience and all other go uses? we're going to ask the maker to restate the motion. It's my understanding that the applicant has requested lr with general retail uses, nuco and a two trip cap but we're still going to have the maker restate the motion. sounds like some sort of a memory test. Let's see how well I do. Mayor pro tem, I move to close the public hearing and adopt the applicant's request, which as I see it is lr-mu-co with a 2,000 vehicle trip

per day cap and its use is limited to restaurant limited, and convenience. And all go uses would be permitted on this tract. Is that appropriate? do you have a second? Council member riley -- oh, council member martinez. first reading only.

>> Cole: first reading only. Council member riley, you second? Any other comments? Council member riley? I would just add that I have visited with the applicant about the potential for using pervious pavers on this site, and he expressed interest in that so I'm hopeful that would soften the impact of the impervious cover. if I may add one more thing. councilmember spelman. just because we have a lot of office on this side of the street doesn't mean we have to have only office on this side of the street. People working in these offices have to have someplace to eat lunch and have a cup of coffee and that sounds like a good opportunity to mix our land uses up in a way that's not going to be very obtrusive. I would note that it's significant that this would proceed retail opportunity in the area that has little that is -- that is convenient for pedestrians in the area and the only input we've gotten from the neighborhood is one statement from a neighbor saying this would better this area, that the applicant's request would better the area. So I see no reason why we would -- why we would stop this neighborhood amenity from taking shape. any further comments, colleagues? There has been a motion and there has been a second, and mayor leffingwell has recused him and is off the dais. Now we will take a vote. All those in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. That passes unanimously with mayor leffingwell off the dais. guernsey, I have 102, a public hearing with no citizens signed up. 102 is case c14h-2011-0001, two properties on wood street. At this time I'll introduce steve sadowsky, our historic reservation officer, to present this item.

>> Good afternoon, mayor, mayor pro tem, council member, steve sadowsky of the historic preservation office, planning and development review department. This is case c14h-2011-0001. It involves two very small houses at 623 and 702 wood street, which is right behind the old whole foods. It's actually on the old McMORRIS PARKING LOT AREA. I'm going to start off by saying -- there we go. There's the map showing where these houses are located. And they're located right on shoal creek. And let -- shoal creek let me start by saying i recognize these houses don't look like much. These are little two and three room houses. This is the one at 702. Here's the one at 623 wood street. They were built around 1908. They have a surprising amount of original historic fabric left on them. I think most evident here, if you look at the photograph to the lower right, it shows the old board and batten siding that's still on the house at 702 wood street. Both houses date from 1908 and they represent a vanishing chapter in austin's history in that these houses were built on the banks of shoal creek in a neighborhood that came about around 1908, and as you can see from this 1935 sand born map, they were clustered almost in what we would call a colony. They're not on individual lots. There's three houses on one lot, two houses on another. And you can see how much different they are on the surrounding houses on both wood and henderson street, which is the street to the left, or the west of this. This type neighborhood was very typical around the turn the cenry and actually all the way through the 1940s, being built in creek bottoms like shoal creek, we find that there were neighborhoods like this in clarksville, in east austin these generally would have been alley houses built behind the

main houses on the street. So it's very unusual to still find two intact remnants of a neighborhood, especially in this area, right on Shoal Creek. This case came about to the landmark commission because code compliance sent a letter to the owner saying that they are in disrepair and need to be either repaired or torn down. He filed an application for demolition. We referred it to the landmark commission, which initiated the historic zoning case and recommended these houses for historic zoning. The history of this little neighborhood is also very interesting. Around 1908 there was a mix of Anglos, African-Americans and Mexican-Americans in this neighborhood, that it then became almost exclusively African-American until about 1928, which coincides with the same year of the adoption of the Austin City Plan, which moved all facilities for African-Americans to the east side. By 1929, according to city directories, this had become exclusively Hispanic, Mexican-American families, blue collar workers, all renters, nobody owned these houses, and they maintained until -- Hispanic community here with occasional incursions of African-Americans until the 1980s WHEN ALL BUT THESE Two houses were removed. Could be due to flooding, we don't even have any records of why these houses were taken out. These neighborhoods, as I wanted, grew up in creek bottoms, generally because these were the least desirable areas of the city. They were subject to flooding, and where we see them in Clarksville also along the creeks, next to the old city dump in Clarksville is where these houses grew up, these are two of the very last left in the city of Austin. What staff's recommendation and hope is is that these can be relocated. This case is before you on first reading only because staff is requesting direction from the council for two things. If you all are interested in the preservation of these houses, then staff is going to pursue relocating the houses, perhaps to city property directly across Shoal Creek to keep them in their historic context and adaptive reuse, perhaps as bathrooms, park facilities for the BMX park that's across the street. If they are designated as historic landmarks then they become eligible for the target for grants, for rehabilitation. So we could have an opportunity to do some really good preservation work here, preserve these houses in their context and preserve what is really the very last of a type of neighborhood and a type of housing in the city. Thank you. Questions for staff? Council member Riley. Steve, your idea was that the houses could be moved to the BMX park; is that right?

>> Well, the BMX park is right across Shoal Creek from here, so if they became -- if they were moved to city property then the city could apply for grants for rehabilitation, is what I was thinking. and so we would approve this on first reading and then apply for the grants. Are you suggesting that we would go ahead and -- would the -- would this proceed before third reading or do you think we would go ahead and landmark them and then they would be -- you'd seek the grants?

>> Most of the grant applications that I've worked with require that the houses be designated. So what I'm asking for now is basically just direction from the council, if you all want to pursue this idea, let's open the door and see what the feasibility is of moving them either to private property, in which case the private property owner would be responsible for rehabilitating them, or to city property, in which case -- I'm trying to recall other instances in which we have moved houses after they've been landmarked. I guess the Castle Man Bowl house -- was that landmarked before it was moved?

>> Yes. Also the house that is the old roy thomas house on san antonio street was landmarked and then moved. We've had a couple of -- couple of occasions for this and what it requires it a certificate of appropriateness from the landmark commission to allow the relocation.

>> Riley: okay. But it would be moved to city property, that's the idea? One last question, I have to ask this. I hadn't realized until i saw the old sanborn maps that wood street used to snake through and connect up with henderson street. Do you -- obviously there's no such connection now except for the shoal creek trail, which still does snake through and connect over to henderson street. Do you happen to know when that street connection was vacated?

>> I don't.

>> Riley: okay. Thanks.

>> Council member, actually it looks like -- from the sanborn maps, it's hard to tell from this, but it's doubtful that that end of wood street where these houses are located was ever paved. It probably ended where the limit of the anglo houses on wood and henderson.

>> Riley: one last question. There were some houses in the area. Isn't that correct? So the neighborhood actually dates back --

>> neighborhood dates back to about 1908. We did -- I did research through city directories of all the houses that are located -- that were located there before they were taken out, and that's where I came up with the information about the composition of the neighborhood, social, economic and racial composition of the neighborhood. And there was nothing there prior to -- or in the 1906, 1907 directory. They first show up in the 1909, 1910 directory.

>> Riley: okay. Thanks. no speakers signed up for this public hearing, so ins it's ready for first reading only?

>> Yes, sir. Entert entert ain a motion. Council member morrison moves to close the public hearing, approve on first reading only, approved by council member martinez. Did you have something to say?

>> One statement real quick. The idea of moving the houses on to preliminary property is preliminary at this point. We haven't had in-depth discussions with other departments at this point, so even if you approved on first reading we would have those discussions but I want to let you know that nothing is set in stone at this point. thank you.

>> Mayor? for discussion, council member morrison. I just want to thank you for that, terry. I realize that things don't happen fast around the city, but steve, I wanted to thank you for being creative about this and for appreciate appreciating what these two houses bring to the community, and it really sort of highlights some of the discussion we had over the past year in terms of expanding our -- what we're embracing as landmarks and all, to make sure that we're able to appreciate things that are not necessarily just grand old homes but really reflect community spirit. So I thank you for your work.

>> Mayor leffingwell: okay. All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0.

>> Thank you. first reading. We'll go to 103.

>> Mayor, mayor pro tem, and council members, I'm michael knox, economics growth are not than and redevelopment services office. It's part of the annual funding office for the east sixth street public improvement district. On december 8 you approved the service plan for the district. The council also approved the 2012 paid assessment right of 15 cents per \$100 of valuation and and the 2012 assessment role. Stay law requires the public hearing to consider the proposed assessment, approval of the assessment rate and proposed rule, notices to be mailed to property owners to review their assessments prior to the hearing. This hearing this evening allows property owners to challenge the proposed assessment of individual properties. Following the public hearing the council will consider approval of an ordinance adopting the 2012 assessment roll and levying of assessments. If there are any questions I'll be happy to answer them. If not, we're ready for the public hearing. Questions for staff? No speakers signed up in the public hearing. So I'll entertain a motion on item 103. Council member martinez moves to close the public hearing and approve the ordinance on all three readings. Second by the mayor pro tem. Discussion? All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. Opposed say no, passes on a vote of 7-0. 104 Has been withdrawn. So 105. mayor, council members, my name is kevin chunk, watershed protection office floodplain office. The item before you today is a floodplain variance request at the address of 5506 windward drive, which is in the fort branch watershed. Here's an aerial view of the property itself. This is just northeast of the miller property being to get your bearings a little bit, kind of on the upper branch. You can see the area highlighted in the red polygon. The property itself is completely inundated by the 25 and 100-year floodplains. The street is as well. As you can see, windward drive. The application itself is a residential building permit application, and the owner of the property is submitting that application in order to convert 210 square feet, which is the existing garage space into conditioned space within the house itself, so the garage itself will be converted into kitchen space. The garage door will remain as it is, they'll build an internal wall to close off that area as well. Here's a picture of the existing house. Like I said, the garage door itself will remain the same. This application does not propose any change in the footprint of the house whatsoever. It's all interior remodels only. Being that it is in the 25 and hundred year floodplains, there are some restrictions and prohibitions on remodels within the floodplain, and so that's what the variance request come to you for. Essentially there are four variance requests. Really, the two I would say -- I would say the two main variance requests are the top two there. This property being in the floodplain and the fact that the finished floor elevation of the house is below the 100-year floodplain, just barely, but it is below it, this is an existing nonconforming structure. And the floodplain restrictions say that you can't increase the nonconformity of an existing nonconforming structure and we apply those regulations to say if you're going to add

conditioned space to a house you're increasing the nonconformity because you're increasing the amount of conditioned space, which this property doesn't have safe access out of the floodplain, having more conditioned space could have more inhabitants in the house itself. In addition, the area that they are transitioning, the garage area, as I said, is below the floodplain elevation, and the floodplain regulations would say that that area that they are actually changing needs to meet the minimum finished floor requirements which is 1 foot above the 100-year floodplain. So the garage itself is actually 6 inches below and the garage would need to meet the regs, would need to be 1 foot above the 100-year floodplain. As I said, there's no safe access out of the floodplain. The entire street, as you saw on the aerial view, the entire street in front of the house is inundated by the 25 and 100-year floodplain itself and also they're requesting a variance from the drainage easement requirement to exclude the house footprint from the drainage easement itself. Just wanted to talk a little bit about the nonconforming use criteria. Again, as I stated, with existing nonconforming uses the floodplain regulations prohibit you increasing the nonconformity of that. The purpose of that item is that regulation -- of that regulation really to minimize flood hazards, so if somebody wants to renovate a house, add on to a house that is nonconforming, whether it be -- it doesn't have safe access or it's below the floodplain elevation, what we want to try to get people to do is if they're going to renovate it, make the renovations so they are flood safe so they do meet the floodplain requirements to minimize flood risk and flood damages to that property owner in addition to not -- you know, if you have more space inside the house, you could have more inhabitants inside the house, and that could come into factor when we're doing some rescues or evacuations. Again, the proposed development is increasing the conditioned area of the lot, and as I said, the finish-out of the garage is about 6 inches below the 100-year floodplain. Just a quick summary of findings, again, as I stated, there's no increase in the footprint of the structure so there's no change to the floodplain -- there will be no increase in flood height so there's no adverse flooding on other property caused by this development. However, the finished floor elevation of the house and the garage is below the 100-year floodplain elevation, adding conditioned space adds additional occupancy in the floodplain. When we look at the hardship conditions for floodplain variances, we see that obviously there's a house on that lot now, and it's usable. It's livable, and so there isn't necessarily a hardship condition to convert the garage over to more living space, and again, no safe access out of the floodplain. My time is almost up.

>> Mayor leffingwell: sorry.

[Chuckle] I don't know what happened there.

>> No problem. Just wanted to point out in the -- we did provide a draft ordinance in your packet. There are two conditions on that ordinance itself. One is the dedication of the drainage easement, with the variance request of removing the footprint of the house itself, and the second condition is an elevation certificate. We did receive an elevation certificate from the owner. There just needs to be a for you modifications to that certificate in order to make it comply with the elevation certificate requirements. If you have any other questions I'm happy to answer them. I do believe that the owner intended to be here. I'm not sure if you --

>> mayor leffingwell: yes.

>> If they're here to respond as well but I can answer questions if you have them. Ques questi for staff? We'll go ahead and hear from the applicant. There's only one speaker signed up, rick kovaniak.

>> Are you rick?

>> No, I'm the applicant count the homeowner.

>> You'll have to give your name to the clerk because we don't have you signed up. When you get through speaking you can do that.

>> I'm brian treat. I like to thank the mayor and council members for your time today. I have a powerpoint presentation as well, i believe, which hopefully will come up here. you have five minutes.

>> I'm starting now. Okay. 5506 Windward was the property built in 1961. My family and I purchased this property in -- there it is, in the spring of 2011 in the hopes of finding a nice home in a developing neighborhood that we could live in for a longer period of time. When we purchased it last spring it was something akin to a bomb shelter. It had been foreclosed upon and was in fairly rough shape. This was a picture that was taken much more recently. That's, you know, the same picture that you were just shown a moment ago, who it was when we oh how it was when we purchased it. Over the course of the last nine months we've gone through a considerable amount of effort and love and manual labor. We're on hold pending this hearing on our garage space, we'd like to make additional living space. I have here a couple pictures, sort of before's and after's, without pictures of the garage per se. The issue as you just heard is, you know, are we truly creating an adverse circumstance here for ourselves or for any of our neighbors by virtue of converting this additional space, 210 square feet, into an additional living room. The city's representative, you heard him make that case. It appears as though we are. The occupancy in this house will be the same regardless of the outcome of the hearing, there's still going to be two adults, two children, two dogs, two cats, living in this house, either way. We did a lot of legwork speaking to our neighbors, speaking to the neighborhood association and found no one willing to come forward and say that they are opposed to this request or find any problem with it whatsoever. Again, wind wood drive is short, onto six houses on the street. Four neighbors voiced their support for this variance being approved and we have the support of the neighborhood association as well and rick will speak to that here in a moment. In doing some digging and research prior to coming to this hearing today, I found out that stubbs barton creek obtained a similar variance, similar in that it's a floodplain, it's commercial endeavor, not residential endeavor. They requested that variance and surely stubbs is placing far greater people in harm's way than our little house in windsor park. So, you know, in short, converting a one car garage into additional living space, you know, is hardly a risk to ourselves or to our neighbors. This slab already exists. It's existed for 50 years. We're adding no new impervious coverage. So I find it hard to believe in the event of a flood, anyone is going to be at greater risk than they are already. Our neighbors support this. Our neighborhood association and I would hate to have to sell this house because I can't convert this garage. I'm happy to take your questions if you have any. any questions? Council member morrison. thank you, mr. treat. How -- so you've owned this property since -- about a year now and you're working on --

>> nine months. and how many square feet is it not including the garage?

>> The current improved space is 1210 square feet and the garage is an additional 210. and that photograph in the beginning had a lot of really cute-looking children. Are those your children --

>> yes. or were they imported for the photograph?

[Laughter]

>> that was not a photo i downloaded. one of the comments made by our staff is the level is 6 inches below the floodplain level. Is there any mechanism for raising it you mean and putting something in so that you can actually get above the floodplain level? Have you looked at that?

>> Not with any reasonable ease. After going through -- we did obviously a fairly extensive remodel on this property and had to go through many, many trips to city permitting and to ask all these questions. This is the first time I've gone through a remodel on any property so I am not a handyman. I am totally incapable in those regards. So after many meetings there when this first issue with regard to being in a floodplain came to light, someone in the floodplain review area suggested to us that one potential outcome would be pouring in a slab in that garage space to bring it up to code. I don't have the numbers in front of me. I believe it's the case you have to pour 18 or 24 inches to bring it up to a sufficient level, which sounds expensive. I don't know. And we would certainly not be something we would endeavor to do. That was just make the space sort of peculiar looking and largely dysfunctional. We'd probably just convert it back to being a garage.

>> Morrison: okay. Thank you.

>> Mayor leffingwell: okay. We do have one speaker signed up. Rick crovaniak. Welcome. You have three months signed up in favor of the request.

>> Thank you, mayor. Mayor pro tem, council members, I'm here today just as a neighbor to help brian out. I own a house that's within about a thousand feet of this. It's the same plan. If you have any questions about the house, I can answer those too because I'm very familiar with the plan. It's got 8-foot ceilings, it's a 50-year-old house. There's no easy way to raise a slab. So there's all of those issues that are present in a huge area of windsor park. This is kind of a fragile neighborhood. We've got a family moving in improving a property significantly. This place was really, really run down, and it's looking really good right now. So brian mentioned the neighborhood association. I did talk to the president, janette swenson on the phone this morning. She was glad I was coming down here. I'm not really representing the neighborhood association but there is support there. And I just wanted to say that, you know, again, this is a fragile neighborhood. We've got a huge stock of houses that are 50 years old. They have -- there's a lot of clay in the neighborhood. I'll be facing similar issues. I'm not in the floodplain but I have to do foundation repairs myself. There's a lot of houses in the neighborhood that have to deal with that and the city will have to look for -- this is an affordable neighborhood and, you know, it's -- this is a place where you can make a little bit of a difference. It's 200 square feet, an existing one-car garage. I can't see that it's going to make a huge amount of difference in affecting the floodplain

and safety. So thank you. those are all the speakers we've got signed up. I have one question for staff. Just to confirm, your recommendation is to approve the variance request with conditions?

>> We didn't come with a recommendation from staff either way on this one. We provide the draft ordinance for your condition -- but you did recommend two conditions? One was --

>> well, we placed those conditions -- yeah, we placed the conditions on the ordinance. However, we didn't provide the staff recommendation for the variances either way. and there's no objection to the conditions that you suggested?

>> That's correct. all right. Thank you. Entertain a motion on item 105. Council member morrison moves to close the public hearing and approve the ordinance on all three readings. Council member martinez seconds. Is there any further discussion? Council member spelman. I have a question of staff. The applicant brought us that the soon to be famous case of stubbs is where we approved a similar request. Of course stubbs may be in the floodplain now but in the foreseeable future it will not be in the floodplain because of the activity we're undertaking now in waller creek. There's a large section of this neighborhood which is underwater in a hundred year flood. There are a lot of people who I imagine would like to add conditioned space to their houses in the same way that they would like to, but they're all in the same position, because they're all going to be underwater in a hundred year flood. Is there anything we can do with the ford branch creek that would reduce the size of that floodplain?

>> Yes, thank you for bringing that up. This is an area that the city -- we know of that it is a floodplain. As you said, there are many houses, many residential properties that are in the floodplain. We categorize and prioritize all of the areas within the city that are floodplain and how we prioritize projects is based on how often it floods, the depth of flooding within houses, the depth of flooding over roads. And so this certainly is in our plan, and I would say probably in six to ten-year time frame we would be looking at trying to get a solution for this problem itself. So it is on our radar. It is -- it has been prioritized. We do -- you know, we know about it but it's about a six to ten-year time frame. six to ten-year time frame for considering it or a six to ten-year time frame for actually solving the problem and --

>> for action. could you give me very briefly a sense for what kind of actions you might be taking?

>> Our flood improvements could be home buy-outs, for example. It could be maybe some larger channels. It could be maybe some bypasses, maybe adding another channel in another section of the neighborhood. Those are -- in this case those would be three scenarios that I would see, but certainly a home buyout situation, we've done those in the past and would consider that also. it seems to me that we've got very different policy implications depending on what it is you do. If you're doing home buy-outs that suggests that this council should not be approving addition of conditioned space because we're increasing what we have to buy out later on. Alternatively if you're doing something with the channel, if does somebody to the floodplain and able for people to keep their houses, that's an argument to take the stubbs exception and say sure we'll do this because we're going to solve the problem in a few years. Which do you think it will be?

>> I'm not dpeact sure. Exactly sure. What I would say is with home buy-outs, when we're doing them with city or grant money, those structures are probably flooded in, say, the ten-year -- or the 25-year flood. This property in particular, because I can speak to it specifically, maybe not the neighborhood in general, but this property, the finished floor elevation is essentially right at the 100-year floodplain.

>> Spelman: right.

>> So if you take that in consideration, it may be this one or it may be the neighborhood might not be the best buyout solution but again we haven't evaluated it completely.

>> Seems like a cheaper solution is something relatively small could be done to the channel which would remove a large number of houses from the 100-year floodplain, if we could do that. That's what it looked like on the basis of that map. Is that roughly accurate?

>> That's true, both -- it's actually a tributary of fort branch behind the house. Both of those channels are engineered channels. You can see from the channel they're straight as an arrow. They have been engineered before. Could they be engineered again? That's certainly a solution.

>> Spelman: thank you, sir. i would add there's another possibility under consideration right now are the ordinances for watershed regulations that would particularly affect the east side, potentially, and possibly affect the floodplain, to increase protection for smaller upstream tributaries especially. Okay. All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Without objection we are in 00 or shortly thereafter.

>> Are you ready, steve in good evening, everyone. 30 on thursday at city hall and that means it's time for live music. Each week we provide live music from some of our local artists and and today joining us is cj vinson. Let's -- let's give him a hand. Cj is a singer songwriter music producer and cofounder of the concert video series known as the sessions. He along with cofounder loren vukari has devoted lives to discussing new exciting music and sharing with the world. Cj wrote and wrote two cd, alphabet and city coffee shop can be purchased on iTunes. Over 75 live videos produced by cj and the sessions. Please join me in welcoming cj vinson.

>> Thank you very much.

[Cheers and applause]

[🎵 music playing 🎵]

[🎵 music playing 🎵]

[cheers and applause] that was awesome, c.j. That was so prophetic for this room. If you listen to the lyrics of that song it really could have been written about public servants and our citizenry and this room is full of sound, but if we ever let them down we're going to have to be the council members that lift them up. So I just love that song. It was really good. , introduce your band mates to us.

>> [Inaudible] who is a local singer songwriter. And on backup vocals I have wendy kolona who is an unbelievable jazz singer. I'm so happy to have them both with me.

>> Where are you guys going to be performing next?

>> Actually right now it's been -- we're working on new material and I have nothing on the books. However, I will be over at the w after this kind of hanging out by the fireplace, if anyone wants to come. Might play some guitar.

>> We'll be hanging out here. We have a four-hour public hearing ahead of us. But I promise you I'm going to go on itunes to get some of your music and go to the sessions.com. , I have one last presentation for you. This is a proclamation from the mayor and council, and it reads, be it known whereas the city of austin texas is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our music scene thrives bow austin audiences support good music produced by legends, local favorites and newcomers alike and we are pleased to showcase and support our local artists, now I lee leffingwell, mayor of the live music capital of the world, do hereby proclaim january 12, 2012 at vinson day in austin, texas.

[Cheers and applause] come on up. Debby? Welcom e, everybody. It's my pleasure tonight to present a proclamation in honor of harmony public schools. Harmony has been a bright spot in a sometimes dismal picture in our education picture across the entire united states. They specialize in the stem studies, science, technology, engineering and math, and we know that's what we need desperately in this country, so we appreciate what you do. They've been in operation for more than a decade and have more than 20,000 students. I am told, you'll have to verify this for me, but you haven't have any dropouts and you've got 100% acceptance rate into colleges. That's remarkable. Let's give them a big hand.

[Cheers and applause] so the proclamation reads as harmony public schools are high performing k through 12 college preparatory charter schools that focus on math, science, engineering and computer technologies, and whereas for more than a decade harmony schools have provided students living in underserved communities the opportunity to excel in their studies in a small classroom environment, focused on providing the skills they need to succeed later in life, and whereas with 20,000 students on 36 campuses, harmony schools have an enviable record of a 100% college acceptance rate. There it is, right there. And a zero dropout rate. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim january 13 through the 20th, 2012 as harmony public schools week in austin, texas. So congratulations.

[Applause] debby, on behalf of the school, this is presented to you. Thank you very much. Debby mclure.

>> Good evening. Thank you so much for this opportunity. As mayor leffingwell put we are a college preparatory school here in austin, texas. We have 30 schools, five here in the city of austin. I would like to introduce you to one of our principals. She has an amazing school off of rundberg. gina gregory. If you will all give her a hand, please.

[Applause]

>> harmony's theme is excellence is our standard, and it's reflected in the culture of the highest standards and expectations for our students. Some of harmony's proven models of success is reflected in the following achievements. Harmony rundberg campus in 1 middle school in central texas in 2009 according to the children at risk site. In 2011, two harmony public schools are ranked among the top public high schools in the nation. According to newsweek's best high schools in america list. According to the newsweek's 6 was harmony science academy, austin. In 2011 three of our high schools, one being here in austin, were ranked among the top public high schools according to the washington post. And like was stated, we do have 100% college acceptance rate and a zero percent dropout rate. In 2011, 33 harmony schools received ratings from the texas education agency, and 64% of all harmony public schools received an exemplary or recognized rating. One of the 52 schools nationwide and the only charter school to receive the title 1 national distinguished school award. In 2010 harmony science academy in houston listed by news and world report" as one of the best high schools in the nation. Harmony believes in parental involvement as a core value and is dedicate -- its dedicated teachers work with students and their families to help all students achieve to their highest potential. We currently have over 2500 students enrolled in the austin area, and with your support we know that that will only continue to grow, and for that we want to say thank you.

[Applause]

>> I just want to take one last second to present this amazing piece of artwork that was put together by some of our students at harmony, and this is a show of appreciation for everything you do for us here in the city of austin. Thank you. thank you. Thank you guys. I appreciate it.

[Applause]

>> Mayor Leffingwell: If i could have your attention, we're out of recess and about to take up our public hearing on electric rates. It will not be the last public hearing. We do have a number of people signed up to speak, approximately 6 hours of testimony. A little bit less than six hours. Also I have to advise that mayor pro tem cole is off the dais. She's attending to some other business and she has said she would be back in about 45 minutes. In addition to that, throughout the evening, throughout the course of the evening, councilmembers may leave the dais for a short time to go eat dinner in the back. I want to assure you that there are television monitors back there and we'll be paying attention, if they're off the dais, they'll be watching the testimony from the back. So with that said we'll go ahead and get started. Without objection, council, I would like to call on representative paul workman to speak first.

>> I am paul workman, the state representative for district 47 for south and southwest travis county. Thank you for holding this important public hearing on austin energy's rate increase

proposal and for allowing me to speak tonight. Tonight I am not addressing the issue of whether the rate increase is justifiable to the city of Austin residents. I think you will hear that from plenty of other people. My purpose is to address the charging of out of city limit customers more than is required to cover the cost of service. I've been watching this issue for several months and am concerned about the proposed path forward. As you know, the state legislative district I represent extends from Onion Creek all the way to the western Travis County line and up to Lake Travis. And then under the new redistricting we'll go all the way to the northern Travis County line. There are a thousand of constituents who reside outside of the city limits of Austin, but within Austin Energy's service area. ON DECEMBER THE 1st, I Sent you a letter highlighting my concerns about a proposed rate increase when transfers are being made from the Austin Energy to the city general revenue fund. Last year 105 million of Austin Energy's gross 1 percent, was transferred from the utility to the city for general spending purposes. One of the principal issues for these out of city rate payers, churches, water districts and schools in my district, is the fact that they do not have the ability to vote on or have input with the council -- councilmembers who are making the decision on this rate increase. Because of the large fund transfer, which subsidizes the services of the citizens within your corporate limits, this amounts to nothing less than taxation without representation. It is true that I have constituents within the corporate limits who will also suffer from the rate increases. And they're of course not happy about it, but they do have the ability to vote for the councilmembers who are acting on this rate increase. And I recognize that the constituents outside of the city should pay for the services that they get from Austin Energy. But a municipal utility should not have to make a profit on its customers to feed the general revenue of its host city. This profit simply amounts to a tax. Simply put, it's not right to ask people outside of the city to pay for the city services that come from the profits of the utility. As you know, my letter suggested a two-tiered rate structure for those within the city and those outside of the city. Austin Energy currently provides different and discounted rates to many of its customers, including those with low income, with churches, businesses, and even the state of Texas. It seems to me that if the accounting department can do that, they certainly should be able to set up specific rates for out of city customers. I understand that the city of Austin and Austin Energy are working to be at the forefront of introducing new technologies, including an aggressive renewable energy program. However laudable that might be, ratepayers outside of your limits may not agree with this and yet they are forced to pay for this program. By adopting the rate increase and by the large fund balance transfers, the out of city limit customers are in fact subsidizing the policies and programs --

[buzzer sounds] -- of the city. There are approximately 45,000 people living outside of the limits, but within the Austin Energy service area. As you know, under the state law ratepayers can appeal any approved rate increase to the Texas Public Utility Commission, which is empowered to determine whether rates are fair and reasonable. And I'm sure that you realize by now that there is a petition drive underway to force that rate here. But this is expensive and it's a burden that --

>> Mayor Leffingwell: Sir?

>> It's a burden that neither the ratepayers nor a utility should have to bear. I do not support moving the municipally owned utilities to the competitive market at this time, but redefining the service area of municipally owned utilities to the corporate city limits are putting them under a

competitive rate market is something that should be considered. I urge you to adopt a two-tiered rate structure for those folks that live outside of the city. Thank you very much.

>> Mayor Leffingwell: council, I've had a request from a couple representing austin churches who have asked to be considered together so that they can provide a coordinated message, if there's no objection. I'll take those folks next, beginning with mayor ron mullen.

>> Thank you, mayor, thank you, council for your service. I really do appreciate it. And I want to tell you this, I have a great deal of empathy for you because i sat there and I know what you're going through. I will tell you this also, we had a 22 hour meeting one time, so I hope it's just six. After that I did my greatest service to this city, we set the three-minute time limit.

[Laughter] and I'm going to try and live by that too. So quickly let me say this, when it comes to houses of worship, I believe they should be treated differently because of what they contribute to the community. Many numbers -- much information is going to be given to you real quickly on the next five people. Many of the services that the churches provide are done so, and if they're not done so is the city going to pick them up? Like one church serving 135,000 meals to the poor every year? In addition to that, if you have the city doing this job, these jobs, you don't get the volunteers. I think it's extremely important instead of having a government employee provide the services that churches do, to have the city have the churches being able to afford to do what they do. The 600 churches, I want to say this, and y'all may probably know everything I'm saying, but there's one thing I want you to think about. 600 Churches contribute 5 percent, it's my understanding, to the bottom line of the utility system. If you raise the churches 30%, and some of them are going up 80%. If you raise them 30%, it affects the bottom line by 1.5 percent. And I would submit to you folks that the churches are worth you giving them a different category. So for the services provided to this city, this community, I strongly believe houses of worship should be placed in the category by themselves and the rate increase should be much less than the utility has recommended. Thank you.

>> Mayor Leffingwell: Thank you. Steven reeves. And following steven will be gary brown.

>> Spelman: Mayor? reeves comes up, i would like to say, if anyone wants to hear it, I will be in the back room and watching on television. I will be back shortly.

>> Mayor Leffingwell: And we did make that announcement, councilmember, that all of us will be back and forth.

>> Good evening, councilmembers. Thank you so much for the time this evening. I really appreciate the consideration. My name is steven reeves and I serve as legislative council for the texas baptist christian life commission. We're a statewide organization and typically do our work at the state legislature on matters of ethics and public policy for over 5,000 texas baptist churches. One area that we do advocate on is environmental issues. And as we've condition bandera doing that, we've been looking more and more into how churches use energy and asking them to be better stewards of energy. Including energy efficiencies. However, we've recently seen a negative consequence to rate increases, first in el paso and now this one. Our request tonight is not that there be no rate increase for houses of worship, but only that any increase be

proportionate to all other rate classes. Under the proposed rate, 600 plus churches would move from residential to commercial class and incur demand charges for the first time. They will sustain disproportionately large increase to any other classes. The weightiest average increase will be 80%. Based on Austin energy calculations, over 42% of these churches will see an increase of 49% or more. And 36% of these churches will see an increase of at least 147% by phase 3. The greatest percentage impact will be seen by small churches with low load factors. And these are churches with likely no paid staff in the building during the week and only using energy on Sunday and Wednesday evenings. And they'll have the hardest time making changes or increasing efficiency to combat these higher rates. And it may seem like low numbers and low dollars to folks, but for a church that has no paid staff it's a lot of money. 157 Churches or 20% of those being reassigned will see an average increase of \$3,166 a year. And nine houses of worship with the higher peak demand, yet still a low load factor will see an increase of \$36,000 per year by phase three. No rate increase should have this effect no matter how few churches experience this increase. In conducting our own projections, we've seen churches using their past year bills, we've seen increases from seven percent roughly in line with a lot of the other classes, up to 271%. The rates that have been established for worship facilities are lower because they are off-peak users. They are not going to contribute to a need for extra generation when so much of their use comes on Sundays. We would like you to consider a fix similar to El Paso where they capped an increase at 20%. And I understand that time of use rate is also a possibility. That could be an improvement for churches, but at this point we don't have the data and Austin Energy has said that --

>> Mayor Leffingwell: You have six additional comments. McCaul Johnson, are you in the chamber? Okay. And Roy Kimball? Okay. You have six additional minutes.

>> Thank you very much, sir. Appreciate it, Mr. Mayor. Time of use rates are also on the table and those may end up being beneficial to churches, but at this point we don't have data. I believe of the 39 churches that data was collected on, still two out of three churches were going to see an increase of over 33% in the first phase. There needs to be more data before we decide if time of use is going to be a better solution for them. You have the opportunity to void what happened in El Paso. You can avoid the negative press and backlash that happened in El Paso that resulted in them having to make a change. We ask that you either institute a cap that will prevent the most egregious rate increases or slow down this process and take the time necessary so that all councilmembers, churches and citizens with better understand what this rate increase will mean for them. Thank you very much for your time. Appreciate it.

>> Mayor Leffingwell: Next is Gary Brown. Gary, I understood all of you were going to speak for three minutes, but you do have someone signed up donating three to you. Anne Olson. Is she here? Okay. So technically you have six minutes if you need it. Mayor and to the councilmembers. Thank you for this opportunity to address you. With reference to the utility rate increase. I've been serving in the role of pastor of Friendship Community Church for the past 11 years. Our church, prince of

(indiscernible) and one other church, used the same facility, and it takes all three of us working in unison in order to minister to the people of our community, but more so to maintain the facilities. I'm bivocational. We have no paid staff. Everything is volunteer. For the past two

years, we have implemented the following just to reduce the cost of utility usage. No use of the sanctuary except on sundays. No fellowship meals in our dining room if it requires heating or air conditioning. Many of our children's youth activities have been moved to our homes and backyards. We have no weekly meetings during the week of spring break, the week after easter, the week of thanksgiving, and from the middle of july until the first of september we have no meetings. From the middle of december until the last week of january we have no weekly meetings. We have cut everywhere we can just to pay the bare necessities to minister on the less fortunate in our community. These rates are -- if these rates are phased in, our church will go from \$7,440 to \$11,021 per year. That's a 48% increase. Now, that may not seem much to austin energy, but that is a big deal to us. These increases will certainly drive us out of business. This means no more utility assistance to the single mom with two, three or four children who comes to us with a disconnect notice asking us for help. I got two such calls today. What do we do? I ask the council to distribute the rates fairly and equally to all austin energy customers. These rates, honestly speaking, is a nail in our coffin. If they're implemented over three years, it's worse. I ask the council, if you put these into effect, do it all at once. Help us die quickly. Thank you.

>> Mayor Leffingwell:

[Inaudible]. You have three minutes.

>> Thank you for allowing us to speak on the rates. I'm cliff wells, the administrative director of a church in northwest austin. We're a 112,000-dollar austin energy customer. There's a misconception that all campuses are on the rate. Our campus have six buildings. Five are on the commercial rate and one, the sanctuary is on the sanctuary rate. We had all of our rates analyzed, every one of our buildings has separate meters. We had the impact analyzed and the five buildings on the commercial demand rate went up 7.8%. A 7,000-dollar increase. They represent 86% of our space, our square footage. The sanctuary, after three years, went up 54% or \$12,000, and that's 14% of our space. This illustrates the point that the dollar increase on houses of worship is far from fair. Much has been made about the three year stage rate increases to allow us to implement energy reduction manages to smooth out demand. We consistently and constantly have had energy management. We've had austin energy out twice for surveys. We engage add private service to come out and help us to improve ourselves even more. Most of our buildings, including our sanctuary, are on a computer management, energy management system that sequences the air conditioning to reduce demand spikes. The 54% cost increase will not be mitigated much after this three years because we've already incorporated many energy saving practices. Time of use rates are touted as possible solutions. We're certainly willing to see if they help by forgiving weekend demand use. However I want to point out that our house of worship works all week, not just on weekends serving our congregation and the community. For example, memorial services and special community events don't often occur on weekends. Many of our benevolence recipients come in seeking dollar help on their electric bills. Okay. In closing, we understand the rate increases are needed, however, the phased community, especially houses of worship, will bear more than their share. Number one, please do not increase our costs greater than the average of the other users. Two, don't put demand rates on facilities that mostly rate in off-peak demand times. We actually help level out your overall demand by our use on weekends. Three, don't use a three-year phase-in to seek energy efficiency. Most of us have done much

already. As you've already heard from pastor brown. This just kicks the can down the road and I'm scared of the impact of the faith community on people who are already partnering with you. So please consider the consequences both intended and unintended on the rate structure proposed for houses of worship and please act responsibly. Thank you very much.

>> Mayor Leffingwell: Thank you. Jean sha pell. Following jean will be bruce murray. And you can get ready on this podium over here if you like to save us some time. Go ahead. Three minutes.

>> Thank you, mayor and council. My name is jean chapel. I'm the business administrator at hillcrest baptist church in northwest austin. An analysis based on our uses for the past year indicates that we will experience a 44% increase under the new rate system since we use our facility throughout the week, we are much less affected than some of the smaller churches such as gary just told you about. So the demand charge will not hit us as hard. A church is not a commercial entity. Our finances are zero sum. When there's an added cost, it requires us to not do something we are currently doing. We can't raise our prices. Our people give. There's a reason it's called giving. We can't raise the rate they give. We just use what they give us. We can't charge them more to come see us on sunday. We can't distribute less profits to our shareholders or owners. We have none. By definition, we're nonprofit. The proposed increase will 5% the total budget that we have at hillcrest for our ministries. We currently spend four percent of our budget for electricity. The proposed increase will 5%, which will make it the largest expense we have excluding personnel. We have multiple groups that are not part of our direct ministry that use our buildings free of charge on a regular basis. We have three aisd schools that regularly have used our facility. Anderson high school, murchison middle school and hill elementary. We have five homeowners associations, a prison ministry, non-denominational bible study and the list goes on. We will have to cut back on allowing our facility to be used like it is now or begin charging these groups. In addition to making fairly severe internal cuts in our own ministries. At hillcrest if one of our employees were to come forward with a budget request for an increase that 5% of our total budget in today's economic times, we would have to say absolutely not. Find another way. Austin energy is owned by the citizens of austin and are therefore our employee, if you will. You as the council are our representatives. As our representatives, we ask you say to our employee, austin energy, absolutely not. An 80% average increase is unacceptable. It is not reasonable or fair to the houses of worship. Find another way. Thank you.

>> Mayor and councilmembers, my name is bruce murray, I'm a retired pastor, former austin community college board of trustee member and chairman of that board. I serve in my retirement a number of ministries in this city, one which of is for the austin bat association where I manage the sky view ministry center. In that center we house five organizations. The fellowship of christian athletes. We have a portuguese speaking brazilian church, an american-korean church that speaks english, an hispanic church and an english speaking church. Under the new rates over the next three years the utility bills in that facility are anticipated to raise 270%. In the may-june of 2009 the utility bill for 1680-kilo watt hours was \$175. On the june-july billing of that same year, that facility used 3160-kilo watt hours and the bill was 4,176 and 50 cents. I called austin energy. They told me that I had been placed on a commercial on demand rate for that facility because we did not have worship in that facility. I assured them that we had worship in that facility. They made a refund. Nevertheless the illustration is there. I also work for another

ministry that feeds needy people. We fed 135,000 hot meals last year. We fed 11,000 boxes of groceries for needy families last year. If these rates and the placing of churches on the commercial on demand rate are passed I believe that we will have to close the skyview center. Perhaps the city can provide places for those people to meet. Much of the money to feed the needy will have to come from the city or the needy individual and families will go hungry. I implore the council not to increase the rates on the houses of worship more than the average utility users, including the large commercial users. To not adopt these three-year rate increase structure until more data can be provided on the effect that it will have. And to not place houses of worship on the on demand rate as the greatest demand to them is on the day that the least demand is on the city. Thank you very much.

>> Mayor Leffingwell: Paul robbins. Donating time is randi clarke-burton. Does anybody see her?

>>

>> [inaudible - no mic].

>> Mayor Leffingwell: Claire deyoung? Are you here? Carolyn croom? Okay. So far you have six minutes. And if brandy shows up you can have another three.

>> There are a couple other people that said they would donate time. Is ron peel here? Okay. And is lauren ross here? Is russell smith here? Okay. We have four.

>> Mayor Leffingwell: So russell smith? And carolyn croom are here. Claire deyoung, are you here yet? No. So I only have three. You have nine minutes so far. If they show up we'll give you additional time.

>> Okay. Russell, lauren --

>> Mayor Leffingwell: I didn't see lauren here.

>> Russell, ron and carolyn? So that would be three plus myself. That would be 12.

>> Mayor Leffingwell: Well, I don't have all those people here. I have russell smith, carolyn croom --

>> and ron beal raised his hand just a minute ago. Lauren ross. Okay.

>> Mayor Leffingwell: Okay.

>> Here we go.

>> Mayor Leffingwell: So you have 12 minutes.

>> Thank you. I'm Paul Robbins. Since 1977 I've been an environmental activist and consumer advocate. Before I say another word I want to tell -- I want to thank all the people that came here to oppose part or all of this rate increase. And I would like to let you know that since this hearing is going on awhile, we brought food. Lots of it. And it's at the north end in the breakroom, just at the north end of the building, just go left. Y'all are welcome. I oppose this Austin energy rate increase and the mangled process that brought it about. It is upside down and backwards. In some ways it is even extremist. The utility proposes to change rates that inflate the need for more revenue, penalize low income people and discourage energy conservation. First, there was no professional to advocate for small customers. It is usually for a consumer advocate for the small commercial classes to be hired to independently assess the merits of a proposal. It is assumed that large commercial and industrial class customers can afford money to pay their own experts, but small customers need a publicly funded advocate. Unfortunately for us, the utility hired a, quote, rate advisor, unquote, that ultimately works for them and that was ultimately chosen for them.

>> The charges are totally on the outside. They are the churches and church groups you just heard from. They are environmental and consumer groups. We are the real consumer advocates. We become the defacto consumer advocates. The environmental and consumer groups include the Austin Tenants' Council, the Gray Panthers of Texas, Public Citizens Texas Office, Sierra Club, Texas Legal Services Center and the Texas Ratepayers Organization to Save Energy. Second, the facts were not properly relayed in context. To say statements made by the utility were lies would be a bit exaggerated, but they were not the full truth either. And let me give you a few examples. Could I have the slides, please? This is from Austin Energy. They attempted to prove that their rate proposal does not harm the poor. It surveys the 2009 consumption of low income program participants, customer assistance program participants, and attempts to show that these people actually use slightly more than the average customer. And if you did not have a background in utilities, it would lead you to believe that low income people would not be any more adversely affected by the rate proposal than the average customer. Austin Energy has circulated this information to the media and it is in rate presentations to the council. And you can see in the second column average use, average residential, 943. Low income cap, 1,023. However, this goes against common, well-known trends in the industry that consumption follows income. And this slide that you're seeing, this study only used a 1.4% sample of customers. After Austin Energy released this information to the media, I sought to obtain energy use by zip code in the service area and match it with census data for income. I was able to estimate for 93 percent of the customers. Here is my estimate. Next slide. Next slide. The top quarter tile making 88,000 a year uses almost twice as much electricity as the bottom quarter tile, making only \$37,000 a year. The statement was not a lie, but not the truth either. Another out of context fact has to do with adequate funding of the customer assistance program. Austin Energy has tried to justify its regressive rates by saying the funding for low income assistance will double. Since the current funding is for 10,000 people and the proposed increase is for 20%, this means the new funding will assist about 16,000 people at this same percentage of assistance, but in the analysis I just showed you, the bottom quarter tile alone, and this is \$37,000 a year, it represents over 90,000 customers. There's no way that customer assistance program can help all these people. Please consider that a two person household making \$37,000 a year is equivalent to two people making slightly above minimum wage. Again, it's not a lie, but it's not the truth either. Austin Energy has asked for a blustering increase in customer fees. Customers will be asked to pay another \$162 a

month -- \$16 a month. The fees are out of line with other municipalities in 50 cents to nine dollars a month. Next slide. And this has all the big municipal utilities in Texas. When recently questioned about this by a city councilmember, an Austin energy spokesperson with a straight face tried to compare the increase to what customers at Pedernales electric co-op and Bluebonnet electric co-op are already paying. The councilmember was assured that these two are also public utilities. Austin energy failed to state that these were rural electric co-ops whose transmission and distribution systems were scattered over thousands of square miles. Next slide. Pedernales has a customer density of about three percent of Austin's. Bluebonnet has a customer density of about two percent of Austin. Again, not a lie, but not the truth either. On another point, I believe that the proposal discriminates against clean energy. Many utilities have community benefit charges that fund energy efficiency programs, renewable energy and bill payment assistance for the poor. Questions that arise in rates and budgets include how adequate the funding is and how it will be collected. Austin has one of the longest running clean energy programs in the country. In addition to funding these programs adequately, there's a concern that Austin energy's proposal breaks these programs out as line items on the bill. This discriminates against green programs by calling them out as a typical -- atypical and not part of the cost of the utility. Well, the majority of Austin's population is generally supportive of these programs during times of economic stress, fiscal conservatives will seize on line item charges as unnecessary and costly. To give a good example of the problems with this approach of line item, Austin energy has 131 staff members who make over \$100,000 a year. If this money were apportioned by volume, that average Austin residential 27 per month for their collective salaries. Having a line item for, quote, executive salaries, unquote, would create resentment from a certain percentage of the population. And tellingly, you don't see Austin energy proposing this as a line item on the bill. Why should environmental programs be treated any differently?

[Applause] to give you another example, what if we line itemed city council office salaries on property tax bills. Now, council salaries, as you know, are relatively a small fraction of the overall city budget. By the time you dilute them with other taxes, it amounts to only three, four dollars a year, and it really 07 of one percent of my overall property taxes. Yet if this were standing out on a line item by itself, you can bet you would hear complaints. I might acknowledge Bill Spelman is the only councilmember that doesn't pull a salary. I have no problem at all with disclosure of these program's budgets. Maybe there should be a website -- I'm sorry, do you not get a salary either? Okay. You were raising your hand.

[Laughter]

>> Mayor Leffingwell: And in fairness, Paul, you should (indiscernible) state law.

>> Because of state law Bill Spelman does not get a salary. I have no problem with disclosure of these program's budgets. Maybe there should be a website breaking out all the utility's costs, including executive salaries. And maybe there should even be a once a year bill stuffer that has this. But to have us singled out is really galling. That concludes my remarks. I appreciate your time. Enjoy the evening.

>> Mayor Leffingwell: Next speaker is Tom Smith. Donating time to Tom is Sheryl Dagger. You said you were through. You have three more minutes.

>> Then lauren ross can give her time to someone else. Thank you, council.

>> Mayor Leffingwell: Tom smith. Donating time, carol geiger. Is carol in the room? Okay. So you have six minutes.

>> Thank you, mayor, members of council. And we appreciate your having this hearing so people can be heard tonight. This is a very controversial issue. And it should be because this is going to affect our city in a variety of different ways. In terms of the affordability of our energy in the city, not only for residential consumers, but industrial customers. But the kind of city we want to become and the kinds of industry we attract here. You're going to hear from a number of people tonight in far greater detail than I'll be able to go into or really have the expertise to go into. But there are a number of problems with this rate case. And you've heard the punch line from t paul and you will hear it from a lot of I think this rate case is upside down and whack backwards. And basically what we think is the first problem with this case is that we have yet to demonstrate that what austin energy is asking for in terms after rate increase is justified. The second is that the allocation methodology that they're using is an appropriate one and you will hear from myself and others that we think this this is basically a corporate welfare program and that shifts a lot of the cost to the -- from the biggest users to the small residential customer. We think there are issues with the way the blocks are set, that they actually don't do what austin energy hopes they will do, which is encourage conservation and renewables and in fact would discourage them. And that they are unfair to the lowest income and smallest users. The first point, however, is most important. Typically when a regulatory body like yourself convenes a rate case, they have an independent auditor who has gone over the proposal of an electric utility. I've been in this business as a consumer advocate for 26, 27 years now, and it's been my experience that every utility goes into their regulatory body asking for at least twice what they need.

[One moment, please, for change in captioners]

>> the second is that there is significant debate about the cost of service model, and this is a very complex issue, but basically boils down to who pays for various components of the system, who pays for the big transformers and the distribution centers, the large industrial customers use, that are many more times as expensive as the average residential consumer. How do we allocate costs between the people who use power at peak versus those who use them 24 hours a day? And this is a debate that is critically important, and depending whose numbers you use and what time the study is done it could be as much as 20% done in the costs paid between the largest industrial consumers and the residential consumers. And if you look at the data and the rate package provided by austin energy, what you see is a significant decline in the co-s paid by the largest industrial users and an increase in the costs paid by the residential consumers using the cost of service model they are using. The third issue is when you look at the rate costs, going to these big block base rates, the cost of service rates, raising them from 6 up to \$22, makes the cost of getting services in austin significantly more expensive. A little chart down here, we looked at how much the monthly costs are for your water bill, for your gas bill and for austin energy, and just by turning on those services, right now you're paying about \$630 a year. If you increase the rate the way austin energy, it's almost \$800 a year, just for being attached to one of the lines. Now, austin energy makes a good point, that we're going to need some way to assure that if we

all go solar or if we all begin to become more efficient we'll have to pay for the system but when you look at the number of people who benefit from these services today it's an infinitesimal small number of clients and we think they should recover from the people who benefit. There are a number of solutions on the back page. The biggest one is we like what they're doing in terms of increasing the rates on the largest users within the residential blocks and we think that will make a difference. We think we ought to authorize pilot programs that can be adjusted to recover those people who do efficiency and renewables. We think we ought to expand the low income programs. You'll hear much greater detail about that but one of the other things we think we ought to be doing here is saying if you qualify for low income programs, we ought to get an energy efficiency automatic out there and we ought to come up with ways to do energy efficiency programs for the low income people who are tenants. Let's see. And the last thing I would like to suggest is that you begin to look at increasing the solar program. As you heard yesterday, San Antonio announced that they're doing 400 megawatts of solar and we don't want to lose our reputation as being the greenest city in the United States to San Antonio. Thank you all very much.

[Applause]

[inaud]

[inaudible] Cooper? Linettea Cooper in the chamber? Donating time is Judy Duran. Judy Duran. Okay. So you have six minutes, and following Linettea will be Cyrus read on this mic.

>> Thank you, members of the council. I'm Linettea Cooper, here on behalf of Texas Legal Center, Great Panthers of Texas and Texas Rose. We're here to ask you to turn the rate case back to Austin Energy and direct that a transparent filing be made. I've handed you two exhibits. They've been passed out. One is actually the documentation to support a memo I circulated to you all through email last week and also for your convenience I attached a hard copy of the memo. And the second one is a page from the rate filing package that shows the billing impact, and if you'll notice that the way the current rate structure is done, until you get to 1250-kilowatt hours a month we have a declining block rate structure and I really think that's why we need a five block, and that's really because of the high fixed cost. Now, several things are wrong with the rate filing package. First, even though Austin Energy has stated that they are going to separate out the fuel factor from the base rate it has not been separated out in the rate filing package. They are still commingling the fuel costs and revenues, even to the point of weather normalizing 2009 fuel revenues. Now, in fuel cases fuel revenues are not weather normalized. Actual revenues provide either more revenues than the cost or less revenues or the same revenues. That difference between costs and revenues are factored into a surcharge or a credit, and that difference is used in setting the new fuel factor. Fuel factors are set estimating both the cost and the usage during the time that the rates will be in effect. They're temporary rates, they're based on a future test year. Base rates are set on a historical test year. So weather normalizing fuel revenues is inappropriate, and so that's just one major what -- what we find as one major error with the rate filing package and it makes it very opaque. You cannot see and understand exactly the base rate case because of the fuel revenue. Second, just like the separation -- the lack of separation of the fuel costs and revenues, there is also a lack of separation of the cost and revenues related to all these riders they want, and that's very important to have a detailed separation of the cost by ferc

account because that's the only way the council or the public can determine whether they've actually removed the appropriate costs and that the cost of service has been adjusted appropriately. Third, the [inaudible] increase is simply too high and is calling current rate payers to subsidize new development in two primaries. The first way is simply not providing adequate charges for new development, such as hook-up fees. Instead current rate payers' rates are increased to recover this cost. The second way is requiring a large part of the construction projects supporting new development to be paid for in cash up front instead of debt financing, which would push the cost off into -- so new development would actually pay, paying a high level of cash causes rates to go up. Decreasing percentage of rate to debt financing in this case from 50/50 to 70/30 would increase the revenue increase by \$30 million, representing about 30% of the rate increase. 30% Could be better spent in rate payers pockets instead of new development now. It should be adjusted to provide a fair share between current rate payers and future payers. The abundant number in reserve accounts austin has included in facts has resulted in increasing the debt service coverage from 37 in the rate filing package presented to the council 42 in the rate filing package presented to you, even though there's been a \$5 million reduction in the revenue requirement. Well, what's causing that is these huge reserve funds. 42 debt service coverage means austin energy will receive enough money from its rates to pay for all of its operating cost, all of its debt requirements, all of its interest and then have left over to pay for another year and almost a half of the mortgage -- the debt and interest costs, and that's just fundamentally too high, especially in today's economic times. Instead, austin should be utilizing the bottom end of range of the financial policy choices, not its top end. The result is millions of added dollars to austin energy customer rates without any added actual cost or assets to benefit the rate payer today. The rate filing package should be sent back and adjusted to reduce the amount of money set aside in these reserve accounts and to increase the number of years used to replenish these funds. And while it is true that base rates have not increased since 1994, rate payer rates have increased since 1994, because many of these costs have been funneled through the fuel factor. In fact, at one time the rates were 30% higher than in 1994. Austin energy is proposing to continue this ability to pass through millions of dollars of costs. The utility is changing its pricing by adding two new surcharges, called a fuel adjustment charge and a regulatory charge, to supposedly replace the fuel adjustment factor. However, we are going to still have a fuel adjustment factor for the special contract customers, and this creates, to me, a very regulatory policy concern. There is nothing in the rate filing package to ensure the council or the public that some of the costs that are currently being recovered in the special contracts fuel charges will continue to be recovered there or will move over to these two new regulatory charges. This creates a lot of public policy and that's the -- one of the reasons why the rate filing package shouldn't -- thank you.

[Applause] cyrus reed. Following cyrus will be joshua houston on this poamed over here, and there are several people donating time. I'll call those numbers when we get to you.

>> La fuente was going to donate time to me as well. they're not signed up that way. What's the name?

>> Flavia de la fuente.

>> Flavia, are you here? Yes. you have six minutes.

>> I'm cyrus read, lone star chapter of the sierra club, I'm a homeowner in austin, have three kids, two of which are in aisd. As smitty said earlier we're in act two. Ablght one was the puc meetings, the eic meetings. I'm not sure the proposal before you really reflects all of the input of those processes and we're still very concerned with these proposal before you the first point I wanted to make is the rate design and the rate proposal should reflect what you guys did nearly a year ago in passing the austin generation plant, which committed austin energy to move toward energy efficiency, clean energy and away from their use of coal. We don't think this particular proposal meets either of those clean energy goals or the affordability goals that you put into that plan. In particular, we're very concerned with this large fixed cost that all residential homeowners would need to pay. It would increase from \$6 a month currently to \$22. We are particularly concerned with the \$10 delivery fee that would be put on every residential customer. What this really does is provides a disincentive to conservation because no matter how much you use you're going to pay that fixed cost, and as t paul mentioned earlier it goes against other municipal industry practice and I can tell you as an observer of the puc, every time an investor owned university or others have come before the puc and tried to put a fixed delivery cost they've shot it down. And I think it's likely that this eventually will end up at the puc. So that's something to keep in mind. As I mentioned, it's really a disincentive to conservation, and the second main point I'd make is we do think this main proposal is just too much too soon. It's a 10% overall increase, but it's really 20% on residential users. It's going to be subject to the puc, and potentially it's subject to input from the legislature as well, and I think if we're going to go into a puc case with a lot of us who are normally on the side of austin energy and the city of austin concerned about the rates, it's not going to be good for the city of austin. So I would say have some concern about the present proposal. That's not to say there aren't good ideas for this proposal. The teared rates for energy is a incentive for energy. Austin energy provided one solar option. We'd like to see an additional solar option, community solar option, for those who don't want to put solar in their homes but want to support solar with their money. There's suggestions of pilot programs for time of use, for green choice. What I'm trying to say is there's some good in this proposal, but the overall large fixed cost and the overall huge ask for over \$100 million in revenue is just too much too soon and wouldn't support the clean energy plan. The options are you go back to the drawing board and you tell them to redo it, or come up with a much smaller, fairer increase with not such a large fixed cost on residential consumers, and one way to do that would be simply to eliminate the delivery charge, which i think is the main concern for a lot of folks. So those would be my comments and we look forward to working with all of you. Thank you. thank you.

[Applause] amanda robinson. Is amanda robinson -- okay. Andrea earl here? Salina xie? Salina? Okay. Gotcha. Kara kiado. Okay. So joshua, you have up to 15 minutes.

>> I am joshua houston, I'm general council of texas impact and texas impact is a statewide interfaith nonprofit that represents congregations and denominations on issues of public policy. Texas impact cannot support austin energy's rate hike unless things are changes. The customer assistance program for low rate payers must be funded to cover everybody in snap. There needs to be equity in programming for energy fish and the line item. Third the increase to worship facilities must be comparable to other customer classes. Our initial interest in this rate review was on behalf of low income rate payers, but since I have several members here tonight that are going to address that issue, I'm going to spend the majority of my time focused on the technical

issues pertaining to worship facilities. If we could go to the first slide -- or I guess the next slide, texas impact has worked in consultation with some energy professionals to project and -- about an average 80% increase on worship facilities as a class. This is based on data we've obtained from austin energy through open records request. In fact, all the data you have we have obtained through austin energy at their open records request. The reason for this is the imposition, for this 80% number is the imposition of demand charges on low load factor customers, which include worship facilities. This does not just affect worship facilities but any customer who has a low profile like a worship facility, such as a community theater or a baseball field. Under these rates the more one peaks at any one moment in time, the more severe the rate shock compared to the previous rates. What we need to be clear about is when austin energy says a 33% increase, they are talking about year one of a three-year phase-in of demand charges. Our projections are based on year 3, which will be the rates we will live under for the next 10 to 20 years. What is particularly unfair to worship facilities is the imposition of demand charges without any consideration for when it is that the customer peaks. If we could go to the next slide. This is the load profile for our customer class. As you can see, the average worship facility has nearly twice the demand on a sunday that it has on a weekday. This is important because the rationale for demand charge is that it is to pay for the generation, transmission and distribution necessary to meet system peak demand, and system peak demand is that hottest day on an august weekday afternoon. When the utility they have to have enough generation available to meet the demand on that hottest of weekday. The weekend, however, is considered off peak. Ercot doesn't worry about weekends, especially weekend mornings when it is that our customer class is peaking. This is a serious flaw in austin energy's cost of service analysis. You may have heard them say that this is simply bringing worship facilities up to their cost of service. This is a little bit disingenuous. A cost of service analysis is an art, not a hard-and-fast science. There are different methodologies. The methodology austin energy picked makes the erroneous assumption that a customer class's peak equals the system peak. The technical term is coincidence peak. Which means a customer's peak demand that does not coincide with the system peak. If they had used another methodology like the bip methodology or 4 cp, cp means that coincident peak, our cost of service would be much lower. They would only be using our peak demands on monday through friday which are about 40% lower on average to determine our cost of service, rather than our weekend peaks. Another thing that austin energy has said before at euc motion is that worship facilities just don't use power like we think they do. They have preschools and day cares and they run all day long. Well, as we can see from this low profile of the class, this is erroneous. The load profile, as the class, is exactly like one would think. For the sake of argument, however, if we were to assume that this was true, then the rate design itself fails to get at the problem that they seek to remedy. And the rate design itself is based upon a cost of service analysis. So -- next slide, please. This is the billing data for the first united methodist church whose pastor you will hear from later. They have two different meters. One is attached to a preschool and assange sherri, which using assange sherri, which uses power six days a week the other attached to a family life center, uses power very much like an average church. They're open on sundays, weeknights, wednesday nights, special events weekends and weddings and funerals, and also to serve the homeless. The preschool, the one that austin energy claims is the problem and the reason for the rate design, sees only about a 4% increase. Their family life center on the next slide sees a 48% increase. This doesn't make sense if their goal is to account for those using weekday power. If we could go to -- actually skip over two slides to the first eu slide. Tonight you're going to hear from many of our green minded congregations. This is one of them. They

have installed solar panels on their roof about two or three years ago. They see a 60% increase on their bill, and this is entirely from demand charges, about which the solar panels can do very little. Churches are ideal solar customers. They produce power when the grid needs it the most at system peak demand, and consume power when it's cheap to supply on weekends. However, with half of their bill now coming from these demand charges, instead of the energy charges, the value of their solar panel has been cut in half. It pains me to say this because we're an organization that has -- that the legislation repeatedly lobbied to the state legislature for statewide rps for renewables and also for solar rebate bills, but if one of my member of congregations came to me and said should I go solar, I'd have to tell them no. While the residential solar rate is excellent, on the commercial side where congregations now are, ae, austin energy just doubled the pay-back period. Again, this doesn't make sense and does the opposite of what is fair, affordable and what a green rate design should be encouraging. If we could go to the next slide, the first baptist church of austin. Another rationale that austin energy has used is to say that demand charges send a pricing signal to the customer to get them to reduce demand and stress to the grid. Again, there is a fundamental flaw in the rate design. This is the first baptist church of austin and I would like to direct your attention to the huge increases that they see in the winter months, and then to the decreases that they see in the summer months. Remember, system peak demand is in the summer. This is when utilities should want customers to shed load. However, customers above 40% load factor see summer decreases, and, in fact, all houses of worship tend to see less of an increase in the summer as compared to the winter. This just doesn't make sense and is the opposite of a what a rate design should be encouraging. So let's talk about some solutions. You may have heard that austin energy has proposed a time of use option, and is rolling out time of use meters on all worship facilities. Frankly, this is not a solution. It does not address the core issue, which are the charges based on off-peak demand. This is the fundamental flaw of their rate design and their cost of service analysis. Out of one side of their mouth they say worship facilities don't use power like they think we do with preschools and day cares, and then out of the other side they say we lack the data and roll out use studies. Which is it? Austin energy's time of use if you read it were designed to be a experiment ool design program. Illustrates not prudent to gamble a -- it's not prudent for gamble a vital part of austin's social safety net on an experiment. We don't know for sure what would happen and we don't know if it would be beneficial. So I have two possible solutions. If we could skill over one more slide. The first -- actually back up one more, I'm sorry. Notice the first is just to allow self-selection and what I mean by that is let congregations choose whether it's better for them to be residential or commercial. I would direct your attention to the first baptist church of austin. I ran their numbers. If they were treated as a residential customer, as you can see, they would see about a 29% increase. If they were left commercial, they would see about a 10% increase. outliers this is one of the big commercial type congregations that would do better under the commercial rates. The big congregations that do better under commercial would self-select under commercial. If we could advance to the next slide. Anyway, the next slide you have in your handout, I'll move on. The next slide is for saint christopher's episcopal church. They would see a 129% increase on their bill. This actsz like a big house. If you go to the next page where I ran the san christopher's under the residential rate they would decrease to about a 20 to 21% increase. christopher's is a church very much like a big house. And so they would self-select the rate for them which would be residential. Skip over one more to -- one slide past that. If worship facilities were allowed to select, this is basically a projection of what all 621 worship facilities would look like if they were kept in the residential class. If they were all kept in the residential class they would see

somewhere between a 20 and 25% increase as a class. This would actually be lower if they were allowed to self-select because the big churches like first baptist and first united methodist with the preschool would pick the commercial class. This would be more fair increase across the board. Another alternative, if we go to the next slide, is to create a separate class, just send it back to the drawing board, create a separate class, that more accurately accounts for the need of low load factor users, or create a subcategory that measures nand demand on weekdays only. Throughout this process we've argued for fairness. Not against a rate increase, just that it be fair. If a congregation is using power and is contributing to system peak demand on a weekday, then it would be fair that they pay for the stress that they put on the grid. However, if we were to do it this way, I'd like to direct your attention to the smallest of customers between zero and 30 kilowatts. The euc recommendation was to exempt anybody under 20 kw. I would recommend to exempt anybody under 30 kw based on that third number there. There is -- if you were to go -- let me back up and say, if you were to measure demand only monday to friday, the smallest customers under 30 kw would still see a disproportionate increase -- disproportionate burden on them. They would bear a larger percent of the increase on the class as a larger customer would. Therefore, you could alleviate this by simply exempting anybody that the euc recommended times zero to exempt anybody under 20 kw or 30 kw from demand charges entirely. I mean, after all if michael dell's house is residential, why can't they little churches be residential as well. And I would make --

[applause] and I would make one last recommendation. This is of a political nature to any elected official. There are many congregations who are totally unaware that we're here tonight. They won't be aware of this until they get their first bill. They probably are going to be very mad about whatever the increase turns out to be, even if it is a reasonable 20%, and I would suggest one way to mitigate that problem, a political problem, is to instruct the utility to create a program for worship facilities which helps them with energy efficiency, with load management, and with solar programs. That way you can have something you can point angry constituents to when they call that can help them mitigate the increase and does something good for the environment and their financial bottom line. Texas impact has worked at the state level to pass measures that helps them implement this, and we'd be happy to help implement this among our members. Thank you.

>> Thank you.

[Cheers and applause] carol rujitsky. Carol? Donating time is elliott fontnet. Elliott? Okay. See you, wynn jacobs. So you'll have nine minutes. After carol on this podium over here will be david dixon. mayor, city council members being. My name is carol bojtky. I'm the executive director of texas rose, which stands for race payers' organization to save energy. And I'm here tonight as a member of a very loosely knit group. We call ourselves affordable energy for austin, and i have given you one of our handouts here that we have had posted. We've had it posted on the internet for quite some time, trying to inform the public about this rate increase proposal. There are four big issues that we all agree on. One is that the -- that the fees, the monthly fees, are way too high and unfair, that the rate design does not encourage energy efficiency in a manner that we would like it to, that there is too much cost that was shifted from residential -- from industrial customers on to residential customers because of the model that was chosen, and that ultimately we think some very legitimate questions have been raised, some of them have been raised by us, about whether or not austin energy actually needs all the money that it's asking

for in order to stay whole. We -- I myself am interested in having a healthy utility. I don't want austin energy to go bankrupt. I don't want anything bad to happen to our utility, but we do believe that there are other ways that we can approach this rate-making process which are better for, like, all customers on the system. One of the things that i want to emphasize as I'm speaking with you this evening is the customer assistance program. Now, you've heard time and again that this rate increase proposal is upside down and backwards, and it is. Now, low-income families are already having a problem paying their electric bills. We hear -- we've heard that on many occasions this evening from the churches who say that they frequently get requests from members of their congregation for help in paying their bills. Now, if people are having trouble paying their bills now, how are they going to be able to withstand an increase from \$6 to \$22 in monthly fees and the new higher fuel factor that's been proposed plus these other surcharges that will be assessed on the bills if the rate increase proposal is approved as it was submitted? Now, we know that over a third of the households in austin are barely scraping by and that the very poorest households spend 40% of their income on their electricity bill. The average residential 72% and that comes straight out of the austin energy's affordability study. Now, this proposal is shortchanging all residential customers but especially the low income customers, and this shortchanging is happening to protect the large commercial and industrial customers on the system. It's a fact. The 14 largest customers and the state of texas are protected from any increases until 2015. Because of this residential customers are expected to pay 70% of the total 14 million -- \$145 million annual rate increase that austin energy is seeking. Now, while the larger customers are guaranteed that they won't get a rate increase, there is no guarantee that the customer assistance program benefit will keep up with the rate increase to minimize the harm to that program's participants. This is indeed upside down and backwards. Now, the cap needs to be expanded. There are many low income households in austin that do not qualify for cap benefits who should. We have been asking that customers who qualify for snap, which is supplemental nutritional assistance program, otherwise known as food stamps, be eligible for the program. We would also like to see customers who qualify for telephone lifeline benefits. Today we have less than 10,000 customers on the customer assistance program, and we know there are probably about 50,000 customers who receive snap in the service area. So we have a lot of people who are low income who are not receiving any benefit from the programs that are currently in place. So we would like to see this -- the eligibility expanded, plus we would like to see an automated enrollment program put in place that's operated by a third-party provider so that we can reach more people, reach more of the eligible population with the program. Now, it's been mentioned before, austin energy has 3 million in its annual rates to cover the costs of consultants and legal counsel in this rate case, and I object -- i strongly object to having residential and low income customers pay these fees in their rate because the consultants and the legal counsel did little or nothing to protect the residential and low income rate payers, so I don't think that we should have to pay for that. I think that in order to get this cap program straightened out, that you as city council, you need to take charge and you have to explain how you would like for it to be and just tell them to do it. Because we've been trying for years to get it changed and that hasn't been getting us very far. So that's what I would ask you to do as a part of this rate case, is to decide how this cap program should work and just tell austin energy to implement it in the way that you would like for it to be. I do have some ideas about what we should do, however. As I said earlier, I would like to see eligibility expanded to include snap and telephone lifeline benefits. This would make the program eligibility requirements equivalent to the programs that are in effect in other parts of the state. There's a precedent for using this population -- this particular standard to

identify the population. We would like to see a third-party automatic enrollment process implemented like one seen and used by the Austin Utility Commission and that should have low costs in the long-term from what we have seen from programs that are in place in other places. We would like to see the average dollar amount of the monthly benefit for the customer assistance program increased by a percentage that is no less than the percentage amount of the rate increase. People who are low income that qualify for this program should not be losers in this whole process. I still am asking that the -- we dedicate money to low income weatherization, one of my favorite subjects, as you well know, and the stimulus money was providing 9 million a year for low income weatherization, the Generation Resource Plan recommended that those levels of weatherization be continued, and we would like to see those continued in this rate increase proposal. And we also asked for in the Generation Resource Plan and you approved a proposal to look into developing an energy efficiency program for people who have incomes between 200 and 400% of the poverty guideline. These are people who have jobs, they have a place to live, but they probably don't have any money left over to spend on energy efficiency when they get done paying their bills every month, and there's, I think, a lot of potential in that particular sector of the population to achieve a lot of energy savings for the utility. So that's what we would like to see done for low income programs. I'm also very concerned about the proposals that Austin Energy has made concerning surcharges. Those were mentioned before. There's going to be a surcharge for community benefit, and -- oh -- and regulatory fuel factor. These are charges that the utility can easily increase, and we would like that higher standard to have to be in effect in order to raise rates for residential rate payers. Thank you.

[Applause] David Dixon? Donating time is Hattie Vick and David Thomas. David is here, so you have up to nine minutes.

>> David Dixon and I'm an owner of Hill Country Eco Power, an Austin company of 14 employees, installs renewable energy systems in central Texas. I'm here to talk about a tremendous opportunity that is before City Council today. I'm here to propose city investment in a 300-megawatt of distributed rooftop solar generation. The city, the state, the country and the world are in the midst of a changing energy economy. We are transitioning from fossil fuel based energy to renewable sources. Look at wind power in Texas. At the time of the Lacerate Iewld wind power was measured in mirror kilowatts. Today we have over 10 gig watts of wind power in the state. In the solar industry, and Texas is poised for similar dramatic as well. Next slide. Solar market grew 6 billion industry in 2009 to \$6 billion in 2010, and now employs over 100,000 workers. It is one of the fastest growing sectors of the national economy. It is predicted to become the largest solar market in the world, and Austin has the opportunity right now to not just tepidly participate but lead in this new economy. San Antonio, guided by their Mission Verde sustainability plan has already taken bold steps forward. Enact CSP just announced the winner of the megawatt venture. Much of that event focus on the financial and economic benefits of San Antonio. Over \$100 million in capital investment, over 800 jobs and over \$40 million in payroll. Those are just the immediate benefits being brought in by this contract. The investment will create a multiplier effect and the economic boon realized by San Antonio will be much much greater than these initial estimates suggest. Austin is in a position to reach similar benefit. In fact, I would argue that Austin can do better. Thanks to the 8-year-old solar rebate program the city has spawned a few dozen solar integration companies and laid the framework for successful transition to a 300 megawatt program. We have a citizenry that

supports distributed generation. All that we need is new vision. Austin energy's current solar goals consist of 180 megawatts of utility scale solar but it only calls for an additional 14 megawatts of distributed rooftop solar over what has already been installed. We would like to maintain that utility scale solar target but see that paltry rooftop goal expand to 300 megawatts in line with the recommendations of the 2009 generation resource plan task force, just think, a 300-megawatt distributed rooftop power plant within austin city limits. The key word here is distributed. Distributed means that energy generation is installed on rooftops throughout austin. Distributed means that money is invested in the community into local businesses and local jobs. And distributed means that the local citizens become engaged energy consumers, and maybe most importantly for revenue requirements, distributed means that private investment will cover much of the up front capital cost. Keeping within the framework of this austin energy rate case proposal, funding the rooftop power plant could be partially accounted for by the value of solar reimbursement rate being proposed. My primary concern with this rate is it doesn't adequately capture the fair value of solar both to the utility and the city at large. The value of solar as proposed doesn't consider its benefits equitably or at all such benefit as the jobs and growth created, water savings, fuel hedge savings, environmental benefits, grid security and the conservation gains driven by the reuprate program itself. I would like to see this value of solar rate reevaluated to address the overall benefit that distributed energy brings to bear. Other studies such as one recently completed for the state of new york pegged the value of solar conservative between 15 and 41 cents a kilowatt hour, well above 6 cents a kilowatt hour austin energy is proposing. If all this value is not added back to the value of solar rate it could be captured in the current solar rebate structure. Keep in mind that investing in distributed energy generation through a rebate is a cost-effective investment. Next slide, please? For example, if you'd take 50 per cent rebate that's currently offered and divide by the expected energy output of a solar system over 25 years, that yields a cost of about 8 cents a kilowatt hour, which is already on par or cheaper than the all in cost requirements for many other sources of power. Shown on the slide. Moving forward, as the install costs come down and the rebate levels reduce, that cost per kilowatt hour will continue to decrease. You might notice too in the slide there is a solar item listed on that chart. That's actually kind of dated utility scale solar pricing. It doesn't represent current distributed solar pricing. Meeting a 300-megawatt goal will require residential, commercial, community and municipal projects. The demand is out there. We just need to remove program obstacles to make this work. Austin energy's recent decision to expand the commercial cap from 20 to 2000 kilowatts is a step in the right direction but more steps are required. There are easily over a thousand solar-related jobs currently in austin, and a long-term investment in distributed generation will not only keep current companies from migrating to san antonio and beyond, it will create thousands of additional jobs locally as well. Provide a long-term funding plan for distributed solar and you will create a stable business climate that will ensure continued business investment in austin from the solar industry. Next slide, please? Let's make austin solar and let's ensure that austin maintains its leadership position in this new economy. Hill country power and i support 300 megawatts of rooftop energy generation and a long-term funding plan to make it a reality. Thank you.

>> Cole: thank you.

[Applause] next we have jess cotton and after him we have bill oakley. tothen, you have three minutes.

>> Mayor and council members, my name is Jess Totten. He spent 23 years as a lawyer and manager at the public utility commission and I'm speaking tonight on behalf of the -- of my church, University United Methodist Church and Austin Interfaith. We are concerned about two aspects of the Austin Energy rate proposal, the increase in electricity costs for low income customers and for houses of worship. The change in the residential rate structure, particularly the fixed monthly charge of \$22, will significantly increase costs for low income customers. We're also concerned about the higher charges for houses of worship. These facilities, as you know, are being moved from a residential rate to a commercial rate with an entirely different rate structure. Texas Impact has calculated that this new rate will result in an average increase of 80% for houses of worship over a three-year period. My suburb serves broadcast breakfast and lunch to our homeless brothers and sisters Saturday and Sunday morning and many other groups in the area carry out ministries to serve the needs of the community. The increases in costs for electricity may force these organizations into making hard choices. Do they cut programs? Do they cut hours? Do they cut staff? We would hate to see this rate increase result in churches around the community reducing their services to people in the community that need their help. We commend Austin Energy for increasing the funding for the customer assistance program, but as several other speakers have noted we are concerned that the program is not large enough to meet the real need in the community. I have some experience with electric rates, and I believe that there are ways to address these concerns, at least in part. I believe that the council could reduce the overall level of revenue that you plan to collect through these rates, and I think that you need to make some changes in the rate structure, particularly the residential rate structure and the rate structure for the houses of worship. This rate proposal today has on it the name of Austin Energy. It's Austin Energy's proposal. Once you adopt something it will have your name on it, and I think you owe it to the community and you owe it to your customers to thoroughly investigate ways of reducing the impact of any rate increase and particularly changing the rate structure so that it's not such a radical difference from what you have in effect today. Thank you for your time.

[Applause] Thank you, Mr. Totten. Oakley, you have three minutes.

>> My name is Bill Okey. I'm a consumer advocate and former member of the Austin Utility Commission and a lot of people have talked tonight about the fixed charges, multiplying three and a half times from \$6 to \$22. I'm just going to make it real simple. Please don't do that.

[Laughter] I have -- I have sat at the table -- I have sat at the table with real people, not charts and graphs, but real people, who only get a fixed income in their social security or whatever. Sunny skies this is simply not necessary. Please take away the \$10 delivery charge, it's a brand-new creation, leave it in the per kilowatt charge and leave the customer charge at \$6 and let us continue to have our current incentive to conserve energy and be rewarded for it. That's the legacy of Austin and we should be proud of that and we should keep that. And then I also want you to please consider releasing the entire \$281,000 Navigant consulting report that was kept hidden from Austin Energy until some of us contacted the media and alerted them to its existence. This report was never even shown to the electric utility commission, and they were asked to review it and recommend it to the city council. I know of at least one city council member who had not even seen this report as of about a week ago, and yet in April of 2010 the guidelines for this contract were specifically laid out to help guide the city through this rate-setting process and

to understand how to maintain the competitiveness and the financial viability of the utility. And yet it was labeled confidential and proprietary and it was also said to be copyrighted and an attorney general's opinion was sought and delivered to the city attorneys's office defining copyrighted exemptions could be obtained for this report. That's a terrible precedent for open government across the entire state of Texas and it should never be allowed to happen again. If you have to meet in executive session to see the rest of this report, please do so, because it was intended to help you save some money. Austin Energy, according to these consultants, has not managed their finances as plausibly as they could have and -- prudently as they could have and you need to learn from that. I want to say I appreciate what a lot of you folks have done. Ladies and gentlemen, our newest council member, Kathie Tovo, and her policy aid, Shannon Hallie, have been two of the most dedicated public servants I've ever worked with in the 40 years that I've been involved with city politics here in Austin, and that is something that we should all appreciate, and I hope that everyone else who serves on the city council in the future will learn from the great service that she has provided. This rate increase, please, take your time and do it right. Don't rush into it, and learn from people like Neta Cooper who have testified before the public. Do not take us to the public. It's not worth that -- thank you, Mr. Oakley. Next we have Robert Murray. Robert Murray.

[Applause] and you have four individuals who have donated time to you. Robert, are you in the chamber? Rodney Makias, are you in the chamber? There we are. Gail Woola? Are you here? Dale Woola? Beulah? Are you here -- Gregory Chapa --

>> here.

>> Cole: okay. And Joa Mia, Maya. And there you are. Okay.

>> It's easy to remember.

>> You have 15 minutes and one second.

>> I want to thank you okay for his comments, also on behalf of my staff. That was very kind. I appreciate it. We're going to dunk you in Barton Springs after this.

[Laughter]

>> Cole: Robert Murray.

>> Thank you. I'm Robert Murray. I'm former general manager of Seattle Sea Light Municipal Utility in the Great Northwest. And there are more than a few parallels between Austin Energy and Seattle City Light. I want to share some of the things with you that we did then that I think should be inspiration for you right now. But before that I'd like to say welcome to the board of directors of Austin Energy. If you don't think that you're ready to discharge the duties of a director, a strategic director, then I would say step aside, because there are other people who would be glad to take that responsibility on. Now, I looked at your agenda for today, and I must say, I got tired just looking at it. And I know this is just another day. So if you think these folks only show up and look pretty in the evening, don't believe it. They're here all day, most days, and they're

working very hard, and I just got through telling you, you've got to work a lot harder. It's not so much hard work but a lot smarter. You've got to pay attention, you got to step in because you are being asked right now to correct for mistakes of the ghost of councils past. It's unthinkable that it would be 17 years since a major rate increase. That's unthinkable. So that's not your fault, but you inherited the problem. However, it is in your hands to fix it, and I've got a couple of suggestions, as you might imagine, that might help you do that. While I was at Seattle City Light, I was the general manager. That meant that I was also on the board of directors of the American Public Power Association, I was also on the executive committee of the ill-fated Washington Public Power Supply System, the attempted builders of five nuclear projects. You may have heard about it. It was instructive, but the most instructive thing that I learned there that I think applies here is that we recognized we were an energy services provider for the community. We were not a seller of kilowatt hours. You see the difference? I'll give you a parallel. IBM years ago was getting into trouble because they thought their job was selling big iron, but in the nick of time they realized, no, we're selling solutions, customer solutions, and at that point they took off, and they've been doing rather well since then. Railroad companies that were trapped in the railroad way of thinking, we don't know them -- we know them by their fossilized bones. They gave way to transportation companies. Austin Energy is a timid step toward being an energy services provider. Why is that important? There's nobody better set than the local community utility to be able to make the right choices, the optimum choices on resources provided you work both sides of the meter. If you work on both the usage side and the supply side, then you have access to the best choices in terms of the cost-effectiveness and all the other impacts on jobs, environment and so forth, that you will not have if all you're doing is trying to provide kilowatt hours the cheapest you can. There are people, well meaning people, that believe the best you can do is have cheap power. I would tell you from our experience in Seattle that would be wrong. But let's -- let me tell you the difference. At one time we had 17 industrial engineers on our staff, full-time. They were available to our commercial and industrial customers. This was just for the commercial industrial sector. Some people think that it's all about residential only. I'm here to tell you it's about residential, commercial, industrial and very soon transportation, a personal electric vehicle is coming a lot faster than anybody knows. So we've got to be ready for that, deal creatively with it. For instance, we could use -- if we could dispatch the battery capability in this growing fleet of electric cars and use that as a grid dispatchable storage component, that would help buffer the intermittent source renewables and of course the always varying demand curve. So it's not just the renewables that have to meet that buffering requirement. All do, but you could use the storage components on board, things like the Pecan Street project, they're blazing the trail right now. You talk about a smart grid. This will be a really smart grid, but it is technology and we can do it. But you can only do it if you see yourself as an energy services provider. You get the best mix. If you get the best mix and you have some fairly decent way to recover the cost, understanding that it will not result in the lowest rates, it will result in the lowest bill, see the difference? Well go to our commercial and industrial customers in Seattle and say, we'll help you lower your bill. Don't even look at the rate. The only thing you care about is the bill. How much are you paying every month? And we can help you make that a lot better. That was 17 highly qualified -- at one point I thought about equipping them all with green hardhats so everybody would know this was our energy efficient tax task force. It's not a bad idea. I wish I had done it, because it was much more of a presence in the community than anybody had suspected and when they could see that there were a lot of ways to see the effect of it but one of the ways that you saw it was there was a much higher morale in the utility and a much better type of relationship, a

close working relationship with the community. That's what we want here. That's what we can have here, and you can't have that, by the way, with an investor-owned utility. And it's just not possible. The structural differences are profound. It's not that those are bad people, it's just that they can't do what a municipal utility can do if they get their head in the game, but it requires strategic management and direction from the board of directors and that's you. That's what we had in seattle. I can tell you as utility manager from from time to time, maybe you don't want that much involvement from your board of directors, but in the long run that makes your job a lot easier. See, what you're in a situation now of doing, and in rate increase is a very badly crafted example, but what it shows you is what happens is you punt -- you turn it over to the utility, instead of directing them, what you do is ask them, what can we have? And they go out and hire some big consultants. I had a lot of experience with those big consultants. I can tell you what they do, is they give you first class job of showing the standard traditional way of doing it, and they've got all the credentials for it, but they're giving you the model of the last three decades instead of the model for in the future. So what I would say to you is do not rely, and particularly I didn't know about the secret report. I mean, that is absurd, but you hire the consultants, you tell them what the rules of the game are. If they don't want to work that way, okay, get somebody else. But it's got to be somebody that knows how to think future, not past. We've got plenty of past. So the rate increase, how did it get so odd? Well, if you look for instance at the houses of worship, who represented the houses of worship? Who was the adviser on the public involvement committee? They never said a word. I looked through the minutes. There was never a word said. But the person that did speak up wast the residential rated adviser in the employ of austin energy and when they came to the commercial rates that are subject of quite a few comments tonight, the residential adviser said he was okay with that. There was no smaller commercial adviser. So you see, you think you've got citizen involvement and it's not. So you've got to dig beneath the surface. Now, in seattle I think maybe we overdid it from time to time. We had a citizen involvement process that just ran amuck, but we just got all the points of view heard, and when it came time to make the decisions we made them. Good decisions. We had alternatives considered that we would not have otherwise, and we had good acceptance and execution in the community.

[One moment, please, for]

>> while you're working on that, go ahead and put the instrumentation in place so that you will find out. You can see right here, and I found out the same thing in discussions with austin energy staff, they simply don't know. They do not know what the profile looks like for the houses of worship. It's unthinkable that you would put a major rate increase against salamander not even be -- against somebody and not even be able to tell them with hard data what they can expect. Josh houston did a great job of trying to cobble up some numbers and some of the other speakers have too. That's no reason why we shouldn't have austin energy doing exactly that. Put instruments on representative customers in every class, measure it per year in the same time and figure out what kind of utility we want it to be and put those together and now we have a basis for making not just good rates, but good decisions on resources, good decisions on directions. How do we take advantage of the newest technology, electric vehicles, rooftop sole he. That's coming on much faster than anybody knows. If you go and get one of the big national consultants, they will not know that. Just to give you an idea of what one national consultant knows, mckenzie company, you may have heard of, put together a couple of years ago a study which they referred to as the

energy efficiency supply curves. That's treating energy efficiency as a valid investment on the same level as your new resources. Has anybody asked recently what's the plant capacity factor of more insulation in the ceiling? You haven't heard it. That's a question that should be asked because if you're serious about energy efficiency and you treat that as a legitimate alternative and a preferred alternative to building new supply, you will know what the plant capacity factor is. You will know if it out performs at the time the system is peaking. That requires attention, that requires oversight. That requires strategic direction. So I challenge you to get the excitement. WHEN IT'S OUT THERE, McCAN Be si and the electric resource power institute agree that it is enormous. It's so far beyond anything you've been told and anything you will get from one of these national consultants, you will hardly believe you're in the same universe. But mckenzie and epri know what they're doing. So I kennedy those to you and I'll supply you with those references. In fact, I will come to your office and discuss it with you, a standard offer that I'm making to each one of you. Each one of you I will do that. And I have some colleagues that will do the same. This is too important, just as war is too important to be left to generals and admirals, energy decisions are too important to be left to the utility. And I was a utility guy. So I think that that's really the main thing that i want to say, but think seriously. If there are no council elections in 2013, why wouldn't it be a good idea to put this together and say get the rates up now, let's get the rates up now enough to keep them solvent, but let's not get into this intricate rate business, just do it across the board. Nobody can kick about that. And in that time put that time to good use. Use the resources that are available to you, ask the right questions, hire your own auditors and all that stuff. That buys you the time. Now, I'm not silly enough to think that it's all roses when you have a city council as your doctors board of directors. -- Board of directors. I still have a few scars that I can show you from that. But on balance you would much rather have a more involved, informed board of directors than one that's not. Believe me, that's -- from the standpoint of my counterpart here, he will tell you the same thing. And the people at the utility will thank you for it. They will not see you as

(indiscernible), they will see you as partners taking the job seriously and doing your job the right way. Okay? And then get the meters up there, get some data. I'm also an engineer, so i know you've got to have data to make good decisions. Get the data. But the main thing is decide what you want and what we all want as a community and then let's get it. Let's go get it. Thanks.

[Applause]

>> Cole: Next we have bridget shea. And after bridget shea is paul workman. So paul, if you would start making your way -- oh, paul? Okay. Okay. After bridget we'll have todd wickersan.

>> Good evening, council. Thanks for holding this hearing and letting us all come speak. I'm probably one of the few people here -- I see a couple of folks, but I may be one of the few people here who was involved in the last rate case, which was in 1994 when I was on the council. So I had the privilege of doing what you all are doing here now. And the big difference is that we had a rate advocate who from my perspective worked really vigorously with all the different rate groups, and we didn't end up with an increase that caused all this pain. The fact that you have so many groups here with documented information about how much their rates are going to increase is really not acceptable. The process we did in 1994 may not have been perfect, but it didn't hit customer groups against each other. And it didn't cause the kind of massive increases that you're

seeing in some categories like the churches, small businesses, small commercial and residential ratepayers. I'm not a rate expert, but i can tell you that in this economy when so many families are still really struggling, this is the wrong time to jump the rates and the fees this much. Many of us feel like city hall has gotten tone deaf on how your actions are hurting average families. I've actually heard staff say in presentations, it's not that much of an increase. I can tell you if you jump the fixed monthly fee before you even turn on the lights from six dollars to \$22 a month, that adds up. And that hurts when families are struggling. I urge you to go back and redo this process along the lines that bob murray suggested and many of the other rate advocates and consumer advocates have suggested tonight. And finally, I just want to second smitty's comments about san antonio and renewables. Renewals used to be one of our bragging rights and our claim to fame. We were a national leader on renewables. And that's slipping away and it's not acceptable. I urge you to get back in the game and get us ahead of san antonio and other cities. Thank you very much.

>> Cole: Thank you, bridget.

>> Hello, council --

>> Cole: Todd, have you two people who have donated time to you. One is kyle frazier. Is he here? And the other is hilda ramos. Okay. So you have a total of nine minutes.

>> And I hopefully will not use it foul for our sake -- it all for your sake. My name is todd wickersham and I'm here to talk about the solar piece of the rate case. Some background, austin city council showed leadership ahead of its time in establishing the rooftop solar program that it currently has. Also its leadership in establishing the utility scale solar program, which is wonderful. These programs have created hundreds of jobs and put at least \$41 million into the local economy. According to austin energy study from 2006 extrapolated to today. They have also established austin as the clean energy capital, creating an international reputation and attracting tourism to this area that would never be here without the investment in renewables. However, the current waning commitment to austin's -- the the one waning commitment to austin energy's solar programs is causing jobs and investments to leave the city. Even when the costs of solar are dropping and the benefits to the community are increasing. There is a mixed message to the solar industry on whether to invest in austin or to leave. A number of folks are moving south. They're going to other cities because of the lack of commitment to solar and the waning revenues -- rebate program. The city is missing the opportunity to get increased electrical generating capacity from voluntary -- from voluntarily paid by homeowners. At the lowest cost in solar's history. Due to the lack of commitment to the rebate program and a broken commercial program. As I said, I'm here -- I'm not going to spend all the time on the whole benefits of the rooftop solar program, but I am going to talk about the value of solar rates. -- Solar rays. In a nutshell what is this value of solar rate. I don't think the community fully understands what it is and I'm not sure you've had a chance to learn about it yet. In a nutshell, it works like this. Austinites who voluntarily pay for new electrical capacity that benefits the utility and all ratepayers by installing solar on their property, the utility gets this new capacity. The solar provides electricity to austin energy's grid at peak times when it's most expensive. And in turn the utility provides a modest rebate during installation and also pays a per kilo watt value of solar rate for the electrical that the homeowner produces. Note the homeowner under this plan proposed by austin energy, which

the industry supports, also will still pay their full electric bill, so they will still have incentives for energy efficiency and to be aware of their electric use, but they're going to be paid a fair value for the electricity they're providing the grid at the peak times. So what is this fair value for rooftop solar? How is it different? In short, when you produce power where it needed, it's more valuable than producing power hundreds of miles away. There is no line losses associated with the power that's produced on the rooftop. You reduce the maintenance needed on the local distribution system. You reduce new capital expenditures for energy capacity and for new substations. You don't have to pay the ERCOT fees for the energy that's produced on the rooftops. In addition, the rooftop solar provides huge environmental benefits. It provides water savings, its waterproof power. No water needed. Reduces toxins in the environment. Has zero carbon emissions animal care services helps comply with federal clean air standards, which is very expensive if we go into non-attainment, as you know. Stabilizes energy prices, creates jobs here in our community rather than hundreds of miles away. And also those jobs create reinvestment in the community vanda multiplier effect. It improves or at least maintains our excellent reputation around the world as a clean energy leader. And improves the reliability and stability of the grid, generates increased sales tax and increases property values. That's an exhaustive list, but that's from doing it here locally, on our rooftops. Okay. I've got two slides to go through. So part of my role for the solar industry here in Austin is to analyze different rates around the country and understand how we compare. This slide is my attempt to summarize it as quickly as possible. Austin energy in 2006 did two studies to look at what was the value that solar provided the community? The bottom section of that graph on the first column shows the value to the utility, which was about 11 cents per kilo watt hour. The top section shows the economic value, the gross regional product per kilo watt hour of that investment. Now, some people say that is a little high. I don't know, but it was an independent study done specifically looking at the economic benefits of this local solar program in 2006. New York state did a similar study. They came out with the economic value to the utility of about 20 cents per kilo watt hour. That's not including environmental benefits to the utility. They had a hard time doing the economic analysis. They hired a bunch of engineers, not a bunch of economists. Finally, we are -- our request is that with solar being cost effective now, providing vast benefits to the community, that you support a 300-megawatt rooftop solar power plant by 2020. So thank you very much. If you have any questions I can take those.

>> Cole: Thank you. Next we have Gus Pena. We saw you this morning. Are you still here? There you are.

>> Barely. But I'm here. Good evening, elected officials. My name is Gus Pena, proud native East Austinite, proud Austin Marine Corps vet. I respect all the statistical data, but let me bring you personal experience of poverty, homelessness. You can't tell it by the slick body, but hunger.

(Indiscernible) is my native church in East Austin. I received my first Communion there. Ignacious is my current church of record. I am a member of both churches. Father Mike, Father Bill. Prince of Peace Lutheran Church, Pastor Crebs, a good friend of mine. We talked about the impact of the rates. It will be monumental. Maybe not to somebody that's rich, but this wallet ain't got nothing here and it's poverty. The poor, the unemployed, the seniors on fixed incomes, the youth, the senior citizens, the two most gifted segments of our population are senior citizens, youth and children will suffer the most. What kind of future are we telling our children that

you're going to have? Poverty. St. Vincent de Paul at St. Ignace, Bob and Mary Linda, serving the most poorest of the poor, the neediest, food pantry, electrical utility assistance, when they have money for that. Medication prescriptions. That's all going to go down the hole because they won't have any money if you change the churches' rates from residential to commercial. Can't have that. No good. When you mess with the poor and the needy and the have-nots and the less fortunate, you will feel their anger, lack of trust. When you mess with the churches, don't mess with Texas, you've heard that slogan. Don't mess with the churches because then you will feel the wrath of God.

[Laughter] and I mean it strongly, respectfully. I love my God, I love my Jesus. But you feel the wrath of God and Jesus. The houses of worship will suffer. They provide a lot of help for the poor, needy, homeless, have-nots. We need economic development, jobs for our children. Andy McFarland for educating me more on this issue. We talk about transparently from the mayor. We find out there is a report that was not made privy to y'all, much less to us. We're the public. We pay your salaries. Well, I pay maybe a dollar while the rest of them pay you \$20. I ain't got that much. Let me tell you something, ladies and gentlemen, you were elected to serve the people. When somebody calls you, hey, Bill, hey, Kathy, hey, Mike. Nobody has called you yet, but we need \$40, \$50, \$30, don't turn 'em down.

[Buzzer sounds] help them out. Last and foremost, a society's worth is measured by its treatment of the less fortunate. Remember that you elected officials.

>> Cole: Thank you, Gus. Joseph (indiscernible). And then Susana White. Joseph, are you here? Joseph Cotser? He's gone. Okay. Suzanne White? And Stan Pipkin. Suzanne, you have three minutes and you're signed up neutral.

>> Mayor and councilmembers, thanks for your time. My name is Suzanne White. I'm a devout Austinite, an Evan Gellist for solar. I'm very tenacious about staying employed in Austin. I want to be in Austin. In the past 12 years I've lost my last two engineering jobs were outsourced and I took a couple of classes at Austin Community College and found a niche in the solar industry. Where I would be able to take the skills, education, experience that I've already got with a new technology. So in a little over a year I went from an unemployed engineer to a solar student to then I was designing solar systems. And then I began teaching at Austin Community College as well, teaching the solar rater classes to be able to help other people do exactly the same thing. These continuing ed classes would fill up the minute that they were announced. There was a waiting list. And the audience are people exactly like me. They were just looking for something else to be able to employ themselves and use the skills and their experience. With a new technology. And once you're in my class you absolutely believe in it because it is good, solid technology. So I had classes full of investors and curious people as well as those that wanted to try to get in the business. And even start their own businesses. Five of my students have applied for patents for the projects and the ideas that they came up with in class. So it's very innovative. In the last two years there's been a real decrease in number of enrollments in the classes. There seems to be a perception among the people that there's not a lot of support for solar in Austin, so what is the 1998 and where are the jobs? That was two of the questions that I was always having to answer in my classes. So I am just really pleased to lead the efforts for the 300-megawatt rooftops, power plant programs. It's crucial. It's going to help a lot of people in the community

already, ready and waiting to be able to be a part of the solution and to be able to be a part of what can help out austin, helping themselves, helping one another. Solar is ready and so are a lot of people in austin. We just want to be a part of the solution and we're here to help. So thank you.

>> Cole: Thank you. Next we have stan

(indiscernible). Stan, are you here? Stan, you have three minutes and you're signed up neutral.

>> Good evening. I'm stan partnershipkin, a long time resident of austin and owner of white house solar. We're a local solar integrator and architectural business. I really appreciate your time and attention for a few brief notes from the field. This is from the streets, parks, rooftops, the dinner tables. And mostly from careful careful individual analysis of utility bills across the city of austin, across demographics, income classes and (indiscernible). The choice to voluntarily invest in solar is above all civic. And I can conclude this after conversations with over 2,000 austinites. From the young couple starting a family to the empty nesters to the myriad of investors who come because of their individual energy interests and more importantly shape to the new civic community. This constituency is critical. And for that I am for 300 megawatt rooftop power plant. The value of which you see in the civic participation it will necessarily take to make happen. The benefits that accrue to the community are direct and long-term. And I'll speak to a few of them because I've seen these from the vantage of a rooftop office. -Year-old asking his mother whether what was on the neighbor's roof was a five kilo watt array. It's a living education. It's out there. Out of the interest and the economics of solar to make his own decision to install a system, a homeowner has formed a web-based software business that is now attracting national attention. New businesses grow out of a new business environment. A nurse who works night shifts can now spend more time with their children because the savings from a solar energy system allow her to take normal hours. For me the bottom line matters. These are anecdotes and can be written down for sure, but they're also the real effects of what rooftop solar is having in our community right now. Solar energy in plain sight capture the imagination and motivates people to explore new energy future. For this we're also laying the groundwork for future generations to grow up with a relationship with energy that is unlike all preceding generations. We cannot afford to let our children grow up in the dark. And quite directly this has worked in some neighborhoods where everywhere you looked was solar. It's part of the fabric. It's visible. People are getting used to it. It's a civic infrastructure that volunteers have contributed to make and continue to maintain. Walk around the old airport or through the jester neighborhood, there are other precedents. What I believe is that at stake is --

[buzzer sounds] maybe just a quick corollary, if you don't mind. What's at stake is energy fitness. And something to think about is the simple, elegant investment in a circle around a lake here in austin that is supported for probably 30 years a commitment to health and physical fitness. And I'm looking for the same for energy.

>> Cole: Thank you, stan. Next we have mike loans. And after that we'll have casey james. Mike, this is very interesting. You have kerry

(indiscernible). Is he here?

>> She was here earlier.

>> Cole: Okay. Paul ball la? Pat beulah? Hi, pat. And bruce wilson. Mike, what's interesting is that kerry is for and has donated you time. Pat is against and has donated you time. And bruce is neutral and has donated you time. So are you running against one of us?

[Laughter]

>> to be determined.

>> Cole: Go ahead. I'm sorry, you have a total of 12 minutes.

>> It's a big community here and there's a lot of opinions. And I think that this is one of the great things about austin, texas is you have an opportunity to hear opinions from everybody. And we appreciate this opportunity. And I want to start amount of units by just -- to start out by just saying, maybe the first ones, as somebody who used to work at austin energy and worked on a couple of city taskforces on energy, I want to say that i appreciate larry weiss and the staff at austin energy. They have a very tough job with what they're doing right now. I'll say in part -- and this is before larry got here. The city made some bets on -- that were very expensive that energy prices were going to go up. That's not what happened and the city has to deal with it now. And they have a tough job, and have you an incredibly tough job because this has been going on for 17 years you haven't had a rate case in austin. Furthermore, you're being asked to decide on something in six weeks that hits your desk that even the public utility commission of texas would probably take a year on. And that's one that I don't think any of you work in the energy business as professionals and you're going to do this with zero professional support staff that are independent from austin energy. So it is such a challenge for y'all to make great decisions for the city with that reality. And I'll just say this about not having any full time professional support staff, whether that's done out of preference or if it's really just an artifact of what you inherited coming into council. But I'm going to talk a bit about san antonio tonight and one of the things they have, they have part of their city accounting, their financial office has eight full time people that are advisers to city council on utility issues for their electric department, gas and electric. And it just seemed like that might be something that would be useful if austin had some sort of capability. If you think there's a need for some assistance, it might be something to investigate going forward. I want to say one of the things in san antonio that -- because -- possibly because they do have the support staff. Interestingly there's a very strong parallel. San antonio, our cps energy, did not have a rate case for 17 years, from 1991 and they went all the way to 2008 before they had a rate case again. Nand that rate case -- and in that rate case cps asked for a five percent rate increase after 17 years. And it's just typical and i think jeff just mention mentioned this, you go and scrutinize and find things that are disallowed and the city council knocked it down to three and a half percent. That's what they did in 2008. One of the other really significant things that they did, because they hadn't looked at this in 17 years, things were changing. They had different priorities for their community. They actually passed a plan in 2008, the same year they did the rate case, that's called stip. It was a funding plan for efficiency and rooftop solar that dramatically increased funding. It was 871-million-dollar long-term funding plan for efficiency and rooftop solar that allowed them to go from four million a year to 80 million a year. A 20 fold increase. And that is a lot of what you're hearing about san antonio, it just demonstrates their

commitment. A lot of you I think were involved with the climate protection plan that austin did back in 2007. They did their mission verde plan that got finalized in 2008. I think that's one of the big differences right now between austin and san antonio. I think they really have a unified vision in their community. Their city council, the business community, the utility, they're on the same page, in the same direction, and I don't think that's where we are in austin right now. I think there's people with different parties and i think this is maybe through the community, possibly even within the city hall and inside the utility where they're not really all on the same page pushing in the same direction. So I want to talk a little bit about some of the big picture issues. And one of which is if you look at this, this rate proposal, it does favor large users. And one of the ways you can determine that -- I'm not even going to get into the issues of all the detailed, cost of service analysis and there's a lot of bean counting and there's a lot of people that are going to talk about that. But I think you can just do a practical analysis, step back, compare what austin energy is asking for, compared to what other utilities in the state of texas do. And if you simply go in from government statistics and the department of energy, they have the electric indicates rates for all utilities. And you can pull them out for texas and just ratio, let's say, residential rate to the industrial rate, and it will make a ratio. And if you look at the spectrum across texas, some utilities have relatively higher residential rates than industrials. There's actually some utility that have lower residential rates than industrials. And in fact, austin used to be one of the cities that if you go back about 30 years ago, it probably wasn't fair, the industrial

(indiscernible) got changed, but it has increasingly changed over time to where now -- and if you look at the data for 2009, which is the test year that they're basing the rate increase on, of the seven largest municipally owned utilities in texas before the rate case austin already had higher residential rates relative to industrial than any other major utility in texas. Even higher than, say, cps energy after they did their rate case. And that's before you step in with this increase that's looking to put those rates higher, the burden of the rate increase on residential customers. And then on the fuel -- the fixed delivery charge, i want to talk a little bit about that one. The idea of unbundling the delivery charge, that's a reasonable thing. In fact, the rest of texas has done that, but not to turn it into a fixed charge. All the competitive markets in texas -- if you go into houston or dallas, they've unbundled the wires company from the other parts of the utility, but none of them, none, charge a fixed charge to recover that. And I've talked to a number of the policy experts in the country, the groups called the renewable policy project and interstate renewable energy council and I will say that premise of doing this, going to a high fixed charge to promote energy efficiency, which some have claimed, I will say one of the experts used a term absurd and the other one used some of those words that are on that seven word list that george carlin used to use.

[Laughter] so that one is just -- it just doesn't seem to be a good idea and I'll carry it one step further. Think about going to fixed charges and how that affects your interest in consuming. And let's say take it into a restaurant. All you can eat restaurants usually charge a fixed price. Does that generally make you want to conserve or consume more? And I think that one is pretty clear. Fixed charge, all you can eat, you consume more rather than consume less. There may be reasons for doing it, but it not going to be to promote conservation. All right. I want to talk some about the business model. And this is one of the things I've felt strongly about is that the city really needs to reform the business model for austin energy. And I'm just going to throw out there to all of you, if hypothetically there was some break through and you were able to cut everyone's

electric bill in half, would that be good for austin? That's a question. If we could do that, would you all support that? And I think all the consumers would say absolutely. That would be great if you could cut our electric bills in half. But (indiscernible) might turn to you and say you know, our general fund transfer is calculated as a percentage of total revenue. So if you cut everybody's bill in half you just cut your general fund transfer in half. So that's not a reason to say, oh, we don't want to do that, but I think it really underscores that you need to get serious about evaluating how do you change that business model to where it's not a bad thing to lower electric bills in texas. Or here in austin.

[Applause] let's see here. And another thing that's really key about this is you really want this new business model to sync up with what your city priorities are. The city has talked a lot about energy efficiency and everyone says oh, energy efficiency is the first priority. We have to do it. You look, we've had increasing budgets for years at the utility until just recently, but the efficiency budgets have stayed stable or in recent years even gone down. It just doesn't make sense to cut out your most cost effective resource. If you do that ultimately your bills are going to go occupy. You've got to find a way to sync those up. All right. I want to turn to solar and energy efficiency in particular. And I'm going to go back to san antonio. The key things, if you really want to make this work, I think both with efficiency and with solar, you need to -- as a council on behalf of the community, you have to establish a goal. I think that's something that we really need. What is the vision the city wants and where it wants to go in the energy sector? You set that clear goal, you establish a budget that will get you there and then you get the details right. So going to san antonio, we've had a solar rebate program for rooftop since 2004. In 2007 cps in san antonio, they started their solar rebate program. Theirs was tiny compared to ours. But they've just quickly ramped up beyond us. Now last year they did twice as much rooftop solar as we did. And if you look at the commercial sector, they are more than 10 times the amount going on to commercial rooftops in san antonio as we have here so if we really want to get serious about solar, we have to find a way to fix that broken commercial solar program. Some people had a big announcement in san antonio yesterday. On utility scale solar, and I have to give credit to austin energy, the 30-megawatt webberville project, that is one of the bigger solar projects in the country and it almost doubled the amount of solar that we have in the texas. It's a big deal. So compliments to them on that. That was on friday.

[Applause] that was on friday. But then here yesterday san antonio announces 400 megawatts, so they have leap frogged by a factor of 10 beyond what we're doing here in austin if you look at what they have contracted. And again, this really goes back to that vision, that commitment, they're on the same page.

[Buzzer sounds] so I'll just say you've got a tough job to do and good luck getting this done.

>> Cole: Thank you. James casey. Danielle castaneda, are you here? There you are. You have a total of six minutes. And you're signed up against.

>> Good evening, I'm james casey. I'm here with activate austin. And as a south austin homeowner. And I come before you tonight to express my concern over this rate plan proposal which places the heaviest financial burden on those in our community who can least afford it. The last time I checked large corporations in this country are enjoying record breaking profits.

The rest of us, the 99%, are not doing nearly as well. With high unemployment and income growth stagnant for decades in an economy that some, albeit outside of austin, are already calling a depression. Austin energy's proposal has 56% of the overall rate increase being paid by residential customers who only use 35 percent of the electric power. What is up with that? I ask you who is most able to afford a massive increase? This is not rocket science. I ask you to compare electric usage by annual household income. In austin the top 25 percent income households use twice as much electricity as the bottom 25%. Yet the proposed plan includes a highly regressive component, increasing fixed customer fees from six dollars to \$22 a month. That increase is a much heavier burden for lower income customers. The poorest five percent of this community already spend 45% of their income on electricity. Why is austin energy picking a lower income customers? Currently austin's monthly customer fee is in line with the other large municipal utilities in texas. The new proposal will make austin the highest by a huge margin. This plan is clearly indecent, almost

(indiscernible) against the poor. Compacting from them a penalty to make life more pleasant and country club perfect for the people, the customers that basically use and often abuse the majority of energy. Although some increase the rates must be a cost borne fairly by all of us, the need for more than half the money in this proposed rate increase is in dispute. Questions have been raised, which you've heard plenty of tonight, about overstated financial reserves, overcollection of debt and transfers to fund economic development which is not a function related to providing electricity. It is interesting to note that the proposal as paul pointed out, does not have a line item for executive salaries. Even though there are 131 staff members for austin energy who make over 100,000 a year. Yet the proposed plan does discriminate against green programs by calling them out as atypical and not part of the regular cost to the utility. Making them a target for regressive political factions to attack in the future. This plan also needs safeguard and transparency, big time. To ensure that proposed surcharges for energy efficiency and customer benefit charges to help pay for energy efficiency, weatherization and customer assistance payment programs are actually used to pay for those programs. And that these programs aren't just transparent and will support the overall generation plan. This is a truly horrible proposal. Bottom line. I ask the council to reject this plan and instruct austin energy to develop a new plan that is fair and equitable, that places the highest economic burden on the biggest consumers instead of the most vulnerable members of our community. That provides incentives to use less power and lower our impact on the environmental comments and that includes environmental and other community benefit programs as a necessary cost of any smart community's generation plan. Offer us the evidence that you are on the level and that you are above reapproach on this matter. Thank you.

[Applause]

>> Cole: Next we have monty humble. Come on down. You have three minutes. And you have signed up neutral.

>> Thank you, members of the council. I am monty humble, a resident at 903 forest view drive and I'm a new resident, as a matter of fact, just got here in september. I will say that stan lighthouse, whose outfit put solar panels on my roof in dallas, which i unfortunately had to leave behind. They did an outstanding job of it. I now develop energy projects with the company based here in austin. And I also am an adjunct school of law and teach renewable energy policy. And I

was formerly t boone pickens general counsel for his pickens plan and participated in the development of the renewable portion of the pick ken's plan. I want to make two short points for you about your proposed rate ordinance. The first is that the value of the solar rate that is embedded in the rate plan is effectively a feed-in tariff. Feed-in tariffs are particularly good at producing renewable energy investments. They've been used throughout the world. It's a very valuable tool for doing that and I would encourage you to be sure that whatever rate plan you adopt you make accept to continue to incorporate that feature and look at it very carefully to be sure that it's providing an adequate incentive for new local distributed solar generation. The second point I would suggest that you consider is related to the burst and at this point it's been made earlier, but I'll reemphasize it. And that is that the solar power, when you consider the value of solar rate, you have to remember that it's not generating in the middle of the night when demand is low. Solar is primarily produced during peak hours. If you remember last summer, electric rates in texas, wholesale rates, spiked as high as \$3,000 a megawatt hour. So solar power has a value far in excess of base load or even other renewables, which I've also participated in developing, such as wind, which primarily generate in off-peak hours. So I would emphasize those two points to you. Thank you very much for your time.

>> Cole: Thank you very much. Next we have mark

(indiscernible) dis.

(Indiscernible) are you here? Come on down. You have three minutes.

>> Good evening, councilmembers. Appreciate your time. My name is mark beggar, I'm executive and principal at a austin-based solar and procurement engineering company. I'm here to discuss the need for a 300-megawatt distributed generation commitment from the perspective of a commercial contractor. I am against the rate increase on the grounds that the revenue is not specifically allocated to programs that promote long-term economic development, cost efficiency and renewable energy. I come from a finance and management background. Working with a small but growing companies to fulfill their potential. I believe in the immediate relevance of solar and a cost effective strategy to deploy it on a large scale by socializing the cost. I could talk for hours about the solar industry, pricing, power purchase agreements, technology, the value of solar rate, which I think is excellent and was made -- an excellent point was made by the previous speaker. But I'm going to tell awe story. In 2008 I helped lead a group of investors looking for the right company to grow within the solar energy. We came to austin as our first choice because of the progressive solar environment here. We identified meridian solar, which is found understand austin in 1999. andrew McCal la, sixth generation austinite founded it. We liked it because of its history, experience, and relative to other companies in the industry. Meridian owed much of its success and its national notoriety to the austin program and its growth in austin. A group of sophisticated from austin, houston, san francisco, new york, boston, invested capital in meridian with a plan to grow it from a residential installer to a large commercial epc focused on solar. At the time in 2008 we thought the austin market was going to be our anchor market. We thought this is where we're going to ramp up growth. In fact, we hired 17 people to go from 18 employees to 37 employees in the first two years. Then austin energy's commercial incentive program was struck and the one that remains today is essentially broken. So we shifted our geographic focus. We let 12 people go in our restructuring effort. Fortunately

we've been successful regardless. We've grown about 400 percent since 2008, but only a negligible amount of that goat has come from austin energy and from austin. Most of it has been san antonio, the valley, west texas, dallas-fort worth area, etcetera. Where they have better solar programs. Over the last two years we've now grown to 60 employees, but only 25 are here in austin. If our group of investors were to look again for a small, but growing business in a promising solar market, it would probably be san antonio or dallas-fort worth. That's where austin is right now. Investors in small businesses in the solar industry are not looking at austin as a first or second place ring of capital.

[Buzzer sounds] that can change with a commitment to 300 megawatts of distributed solar and a much more thoughtful, attractive commercial incentive program. And that would bring back capital and jobs to austin. Thank you.

>> Mayor Leffingwell:

(Indiscernible). Okay. Gregory chaoman. Sarah macias. Is sarah here? Okay. You have three minutes.

>> Thank you, mayor, council. I'm here tonight as a deacon of highland park baptist church. A steering committee member of interfaith environmental network and an austin energy customer. I signed up to speak against the proposed rate restructuring not because i am against the goals that they say they are set out to accomplish. Our utility company needs to make their ends meet. But as a public utility company it almost -- it also must serve its community. I am against agenda item number 107 as it is currently written because it doesn't go about it the right way. And I would go so far as to say that it doesn't go about it the austin way, which is fair, affordable and ecologically responsible. In austin we are privileged to be able to sit at the table with our utility company and figure out how to hit our targets responsibly together. I appreciate the time that has been put into this proposal up to this point. But it has some major flaws that require an overhaul. As the city council you do serve as the board of austin energy. You have inherited this role according to a governing structure that you did not create and for good or ill, you also inherited the politics and policies that have led us to this point. Every policy and every policy change is a value statement. They express to the community the voters and the next generation our priorities. We are at one of those junctures where our actions and the consequences of those actions will speak louder than words. The reality is that some of these changes in utility rates will knock a hole out of the social fabric matrix in this community. As the higher bills for churches, synagogues and mosques has has board listen mentioned, they will be forced to cut money from social services, many of which are ironically lewd used to help low income residents to help pay their bills. The second area of concern that the faith community has is for many of these low income residents and small commercial customers who will fill the sting of this proposal more seriously than the large industrial users. And thirdly in a city that prides itself in considering the environment in everything that we do, the third area of concern that the faith community has is that this proposal will not get us to these goals that show our values, show where our values are directing us. Item number 107 is what i signed up to speak against. But what I am here speaking we know that after 17 years it is time to make some rate changes. Austin's interfaith environmental network is in favor of the implementation of a temporary 12 to 18 month revenue rider charge of 13 percent. This would put our community's utility company in the black, but it

would also buy us some time to address together in a more comprehensive way some of the larger issues that are keeping us from putting our values of fairness, justice and environmental stewardship into action. Thank you.

>> Mayor Leffingwell: Robin rather. Following robin is trevor lavell over on this side. You have three minutes.

>> Thank you, sir and good evening, council. My friend and colleague, michael osbourne, just came over and said, god, robin, are you all right? You look a little bit stressed out. And I'm reflecting on that. I've been here many times as an environmentalist and I've seen some crazy things. I've seen some sad things. I don't think I've ever seen something as fundamentally wrong as this. And it's tough for me because we're so much better than this. We're so much better than this. What we're talking about component tonight is completely flipping our entire strategy about the most important thing in our future, which is our energy. What is the point of having a municipally owned utility if it acts like a repatience wall street owned private utility that has nothing but short-term profits on its mind.

[Cheers and applause] th us! That's not us. Is never been us. Austin's changed. Gnarring has changed. We're gentrifying a little bit, but do you know what? , Over our dead bodies should we even be sitting here talking about sticking this huge rate increase on poor people, seniors, churches, schools, small businesses. It's not us to kick people when they're down. That's never been the austin way. The -- I have a tremendous respect for all my friends at austin energy. I know how hard they work. And spike sloan is right, they have a tough job. But one of the executives was quoted all over town by saying, what is the deal? \$20 A month, what's the problem? Do you know what? I rest my case. That's not us. Do you know how much \$20 is? Do you know how much mack and cheese that is, how much peanut butter it is. And you have to remember, a lot of people in austin make over \$100,000, all the high-tech folks, all that, great, but about half the people in austin make \$50,000 or less. And \$20 a month is a really big deal. I'm not seeing the people that should be down here singing the praises out of this rate proposal. Where -- and I have a lot of respect for them. God bless them, but where is the spansion, where is the cfo of the capitol, where is the samsung? Where are the guys getting the great rate breaks that we're sticking all of the rest of the town with their share. This is fundamentally wrong. Honestly I'm a little stressed out. I can't believe y'all are sitting up there even listening to this.

[Buzzer sounds] you should reject this thing, tell them to go back to the drawing board, start over. Don't do this.

[One moment, please, for change in captioners]

>> just do a little conservation or whatever and you'll make up the difference in the 22 dollar fee. Well, but if they're not very poor, if they don't meet those guidelines. They don't have that option to do weatherization. They're stuck with utilities bills they get. The city council went a long way in assisting tenants with the new rate that they're going to have where it's going to show tenants what the average cost is for a unit their size and what the unit that they're renting is going to have, and it's going to help tremendously for tenants to start making choices, and it's also going to push conservation to the landlords. The landlords are going to want to put conservation in just

like they want to have a nice flower bed in front just to make sure people come and rent. But we still have a large community of renters that are just going to get queesed. I keep saying we have two economies in -- squeezed. We have two economies in austin. There's the one economy like the austin energy folks that make over 100,000 but there's this whole other economy where they used to work 40 hours, they used to have a second job, they used to be able to pay their bills, you know, and they're not. They're still struggling. It's not good out there. I was talking to one of the justices of the peace and he said that evictions are spiking hugely this year. It's not good. We're -- you know, our citizens are having a hard time, and we have a three-punch. Rents were going up. They went up last year because occupancy is high. Water just went up. Wastewater just went up, and now electric is going up. And, you know, utilities other than rent are most tenants' second highest bill. So whatever you can do and look at to make sure that this is going to be a livable city for everyone, we don't want more people moving outside the city of austin. We're already having a problem with our schools and our enrollment because families are moving out. I'm afraid that this is just going to push more out. Thank you.

[Applause] the next speaker is dusty heartsman and after dusty will be joyce massian --

>> thank you mayor, thank you council members for having this public hearing. It's time for reflect. We benefit here from a municipal ri owned utility. That gives us the ability to have this conversation. Investor owned utilities we wouldn't have that privilege and we should be thankful and appreciative. I'm very thankful and appreciative that this municipally owned utility considers energy efficiency and renewables to be the priority that it is, an anecdote that supports some of the other speakers this city. The largest array in austin is not the much publicized ut at pickle research campus. It's, in fact, on 200 plus rooftops in the mueller neighborhood at 2 megawatts or around four times the size of the largest sing el he will array. Guess what, that mueller array, if you consider it 25 a watt. The ut array came in at 12.06 a watt. Distributed over roop tops has proven cheaper, at least in this small anecdote than the single large array utility scale, similar option. Don't ask me to compare what we're doing on the distributed rooftops to the webberville. It would blow away webberville. So anyway, that's an anecdote. I also appreciate that we have a municipally owned utility because the 100 plus million that gets transferred to the general revenue for the city is in essence a profit, that if we had an investor owned utility would be distributed to shareholders. I don't mind that. In fact, I actually appreciate it. So that said, I sense a need to compromise here. Following this process fairly closely, I understand that this current solution was, in fact, a compromise, and it may be time, given what we're hearing this evening to compromise with that compromise. I hear this evening from several areas. Of course we need to figure out a assigner approach to our houses -- a saner approach to our houses of workshop. We have increased -- through the audit. There was a similar process that was mentioned. Make use of drapes more aggressive than the five tier structures that was proposed in december. Shift more of the burden to our largest commercial users. In essence, make a compromise with the compromise, but still let's be thankful we have a venue to discuss this while we still enjoy some of the lowest electricity rates with our still innovative municipally owned utility. So thank you for this privilege, once again, and i appreciate the opportunity. Thank you.

[Applause]

>> george paciano. He's not here. Defoe?

>> Citizens of austin, good evening. Austin energy claims that the need for a rate increase is because base electric rates have not increased since 1994, and because the utility has added 115,000 new customers since '95. This species reasoning won't pass muster with the citizens of austin. Austin energy today is facing a \$75 million deficit for the current fiscal year. One has to ask, why? What we're facing today is not a rate problem. It is a spending problem, and that starts with austin city council. For example, since '94 austin energy has added several new facilities and also expanded their programs. In addition, they've taken on new business functions such as energy trading and hedging, something I don't think we need, market research product development, 311 call center, as well as the issues surrounding the customer assistance program which others have visited more in depth here. In addition, in a goal to meet the austin energy generation plan, this council has given tens of millions of dollars in corporate subsidy contracts to duke energy of houston, map royalty of california, and most notably in this wind project, these wind projects in kennedy and webb counties on the texas coast, iberger roll-over number rables, the largest utility in spain and the fourth largest in the world. So if you guys are concerns about this deficit we need to start looking at austin city council's spending and how that's contributing to it. In addition, as others have described before, you are adding a customer charge, raising that from \$6 to \$12, \$10 for a charge that never existed before. Coargd to bill oakley, this is a 60% bottom line increase in fixed charges. We do not need this. If we look at the residential proposed rate structure, it's a progressive rate structure. There's many problems with that, but if you look specifically at the summer period, those that use over a thousand kilo watts an hour, two greater than 200 kilowatts an hour, that's 59% of payers to the energy utility have a huge increase in this graduated progressive tax. These are not fair rates at all. And we've expanded the rate blocks from two categories to five, making it even more graduated. As citizen paul robbins has stated, we are penalizing in effect low energy users. We do not need this. I beg you to remember that government doesn't own anything. In reality, it cannot offer goods and services. It only steals from one group to give to another. This is another perfect example of a heist from this city council. Thank you. roger duc is the next speaker. Following roger.

[Applause] will be laura presley. And laura, if you want to get ready on this side.

>> Good evening, my name is roger duc. I am a business owner here in austin, and a 22 year citizen. I appreciate you all's time and patience. I support the goal of the 300-megawatt rooftop power plant by 2020. Other people here have done a much more elegant job of stating the case for that, so I'd just like to summarize real quickly four points I've heard tonight that are pretty profound from people that are pretty smart people. First point is how tough your job is. We are at a pivotal point in history, not only for the city but for our country, and decisions that are going to be made today are going to affect the next 50 years. We're just in the beginning of a ten-year restructure of our world economy. I mean, the hardest times are still ahead of us. We're not coming out of it. I'm grateful because I think we have some of the finest minds we've ever had on the city council, some of the most dedicated people I've ever seen. So you all have got a tough job. I wish you well. The second point is that consultants generally will give you elegant solutions that reflect past thinking. We can't afford past thinking at this stage in the game. We have got to move forward with progressive thinking for the future. The third point is, this one is hard, we're a victim of our own success. We were the leader in the nation in green issues, energy issues, ten years ago. We need to admit, we're not the leader today. We're not even close to being the leader. We were examples of co-ops, we have examples in the city of san antonio. Well, we

need to acknowledge the things we've done well. We need to acknowledge today if we're going to become the city of the future, we're not there today. And we've got to embrace that fact that we aren't there today. The fourth point is, something broke down in this process, and this entire public participation review. Something went wrong. And so the idea that maybe we do need to punt this forward, get an independent audit to establish how we stay solvent and figure out who we want to be as a solution provider and not just as a private sector seller of cheap kilowatt hours. Thank you very much. thank you.

[Applause] laura presley and then next on this side will be ruby roa.

>> Thank you, mayor and council. I know it's been a long day and I appreciate you hanging in there with us. It's been a long day. Austin energy's expenses for the 2011-2012 budget is about 950 million. Austin energy is a \$1 billion for profit entity, and with the profits, as many people here have said, go into the general fund. The issue right now is that we're \$100 million in a budget shortfall and about 50% of that is being challenged because of excess cash reserves that austin energy is claiming they need. So basically if you look at the data, we really need about \$55 million from a budget shortfall. I spent 17 years in the semiconductor industry here in austin, and my last job at freescale semiconductor i was the gross margin cost reduction manager for a \$1 billion business group, the networking group, and so I was a cost reduction manager for the size of what austin energy is. And I'm going to tell you guys, there are three ways to handle budget shortfalls in companies. 1, you can raise your customers' rates. 2, you can reduce your expenses. 3, you can reduce the need for that profit, okay? And clay talked about the spending, which is a big issue, and I want you guys to take that seriously. I want to talk about reducing of expenses of austin energy. There is no company in this town that has not spent a lot of effort reducing expenses, 5 to 10% year on year, and I do not see this council leading that effort and pushing the city manager and austin energy, where is your reducing of expenses? And I think there's a splitting here that can happen, if you need 50 million, where is the reduction in cost, where is the reduction in the spending that the city has? So, you know, bottom line is that conservation is not going to help us with the fixed costs that austin energy has. Fixed costs are costs that you will not save when you don't consume. So when we conserve here in austin, that's going to hurt us from a revenue standpoint, and I think that's the bottom line. So we have to have the council providing the leadership and setting the expectation that austin energy needs to reduce their fixed cost expenses, and that's my point. Thank you for listening. thank you.

[Applause] ruby roa. Donating time is joyce coleman. Is joyce here? Joyce coleman. So ruby, you have up to three minutes.

>> Thank you. Thank you, mayor and council, for allowing us to speak. I want to introduce tonight two of the ladies that i have met on riverside drive, with the shoreline apartments. This is teresa martinez and janey santos, and these are the folks that are going to be directly affected by the rate -- by these rate increases. As a parishioner of san jose thrit church and a member of ladies of austin, a nonprofit organization that serves the poor, I have firsthand -- I have seen firsthand the impact of poverty on those who turn to us for help. The ladies of charity of austin has been a continuous operation since the founding of 1890, participating in such services as operating a soup kitchen on east sixth street during the depression. Since 1952 we have used the funds gleaned from the vincent depaul thrift store on south congress to assist families in paying

utility bills, rent, gas and expenses. We build relationships with the families who are truly struggling to live a life of dignity, even though they have no money. There are the working poor, or have chronic illnesses, and the last several years we've assisted many heads of households who have lost their jobs. We read in the newspaper that the unemployment rate in austin is low. Well, I meet and visit families on a weekly basis that are unemployed, and for the first time need assistance. Not only with their electric bill but also with rent, food and medical expenses. It is true that one-third of the families are barely scraping by. For those low-income, 40% must be spent on utilities as you are all aware, and the housing cost itself is very high. Try, just imagine for one minute to walk in the shoes of a person that's on a fixed income of \$680 social security per month, or head of a household making only \$8 an hour, which is \$320 a week. That situation is for hundreds of families we serve who do not earn a living wage. These are our neighbors that cannot afford to pay the proposed rate increase in electric rates, plus the current increase in water and wastewater, as well as all the fees like the water revenue stability fee antilitter, solid waste services and customer charges, the garbage, depending on the size of garbage can, they have to pay. The drainage fees, plus the 1% of metro and city taxes 25% of the state tax. I support the recommendations of texas rose, texas impact and austin interfaith, and yes, we want the utility in the city to be solvent, but -- thank you, ruby. Your time has expired.

>> Thank you very much.

[Cheers and applause] laura jane davis. Merna dean davis. Merna dean davis is not in the chamber. Berna dean davis is here. Okay. The next person -- I'm not going to pronounce this right, I'm sure, but it's s-d-f-a-d-f. Last name, a-d-f. Is there anybody with that name? Okay. So then the next person will be doris williams over here.

>> Good evening. My name is reverend bernadine davis. I'm here representing my church. Day of the chapel missionary baptist church. And reverend doctors joseph c. parker jr. I'm not going to stand here and repeat all the thnal documented well supported information on why our church or other faith-based organizations cannot afford this increase that's being proposed. Yes, we are concerned. The fact that our expenses will be rising will limit our ability to continue to keep our doors open. But most importantly, these rate increases will drastically reduce our ability to provide financial crisis assistance to people in the austin community. Take it from me as a minister, there is nothing more heartbreaking than having to say to a single mother with two children who is living on a \$644 a month fixed income that we have no funds available to assist you with your u bills. No, we can't help you with your rent, and no, most importantly, as I watch those two children playing in my office, we have no money for food. Now, I don't know about you, but I believe we have a responsibility as a church, as a social organization to provide for the needs of the people who come to us for help. They expect us to do that. They knock on the doors of churches, of faith-based organizations expecting us to say, yes, we can help you. But the sad thing is with this rate increase we may have to put a sign on our door that says, "come in. We will pray for you and we will pray with us, but we have no funds to provide you " thank you very much for your time. thank you.

[Applause] doris williams? , And following doris will BE annie McFarland, over here.

>> Mayor leffingwell, city council members, my name is doris williams. I live at 907 east meadow mere lane in austin. I am here to speak against the proposed austin residence rate increase. I believe this is not the right time to raise interest rates. My colleagues and numbers crunchers have presented the intricate details from an accounting perspective, but not raising electric rates. I am speaking to the big picture. The economy is bad. We're in a recession, and unemployment is at the highest it's ever been, although it's coming down. This rate increase will negatively impact the poor the most. Just because austin energy says it has not raised rates in 17 years is the time to raise rates now. As a matter of fact, i believe this is the worst time to raise rates. We know this economy and unemployment are affecting everybody. People are conserving energy, especially the poor, because many are unemployed, can't find work, and this affects their ability to pay their electric bill. The poor and conservationists usually unlikely bedfellows are all conserving. Now, when we talk about this rate increase on the poor, austin energy's new tag is, we have ways to show you how you can offset this increase. Well, categorically speaking, I have implemented conservation measures and my utility bill is even higher with conservation measures in place. So I would ask someone from austin energy to contact me after this presentation to show me how I can lower my utility bills because conservation is not working, and I believe my case is a good case. We know the economy is impacting austin energy's revenue, but instead of maintaining the status quo until the economy improves, austin energy is, in my opinion, with this rate increase, so to speak, hedge bidding to stakeholders against the longtime declining revenues, similar to the housing market with the default swap. In my opinion nerg austin energy should implement cost saving measures instead of trying to place rate increases on the backs of taxpayers. I am not in favor of the increase at this time and i would ask you to vote against it. thank you, doris. annie McFarland and following annie will be leslie hassen mon on this side.

>> Good evening, council members. I have a powerpoint that I'm going to follow as I go here. I work for data foundry. We're an austin-grown data center operator. Been here 15 years now. We've just recently opened a new data center here in austin. We're members of c care and we have a world-class facility and we've got a world-class partner in austin energy we couldn't do it. So I'd like to give a shout out to them for the work they do, thanks, larry, jeff, everybody else there, mark. Without your work we couldn't hire the people we do. We've added 30 people this year. We've got 12 to 15 jobs open, and I foresee that going on for several years. Electricity is a major portion of our cost. Two slides, please? We want to talk about -- due to the accelerated schedule of the rate case, data foundry has focused on the revenue portion of the rate request. Much of the rate increase is to fund austin energy's exapt improvement's plan in reserve funds. Austin energy is requesting funding for cash reserves through the rate-making process, thereby collecting funds for expenses that may or may not be incurred. Resulting debt service 27 net of contract customers. Our recommendation -- next slide, we understand that maintaining the current bond ratings is very important. We suggest establishing rates that provide for two times debt service ratio 27 times debt service as requested. Our recommended adjustments reduced austin energy's requirement increase from 101 million to 53 million, or taking the average from 10 to 5% and still targets two times the debt service ratio. Talking about capital improvements, we suggest using 37% internal cash funding for cip as approved, excuse me -- for ae 2012 spending plan instead of a three-year average. Austin energy's financial policy approved by council targets a range of 35 to 65% internal cash funding for cip. Take advantage of the debt financing rates are low now. This removes another 32 million for from the requested revenue

requirement. We can accomplish this use of a five-year target to fund strategic reserves instead of the three-year target requested, and that 8 million from the revenue requirement. Austin energy is requesting funding through the rate making process, thereby collecting funds for expenses that may or may not be incurred. We recommend eliminating funding for the nonnuclear decommissioning fund until austin energy performs a study to firmly estimate the cost required. That removes another five and a half million from the requested revenue requirement. I've got my summary on the last pages there. Thank you, and I second bridget shay's comments that please don't turn neighbor upon neighbor.

[Applause]

[applause] leslie

[inaudible]. And donating time, chris neilson. Is chris neilson here? Linda curtis? Linda curtis here? Linda curt it is not here, so right now -- curtis is not here so right now you have no donated time.

>> [Inaudible] tell me his name. Tell my his name. Chris daly?

>> Bailey. chris bailey. So you have six minutes.

>> Thank you. Honorable mayor, mayor pro tem, council members, representatives of austin energy, I presume there are some present, members of the press that we rely on to get the truth out. We thank you, but most centrally the citizens of austin and travis county, rate payers all. My name is les isenman. I come before you as the director of advocacy and a board member of the texas gray panthers, a council org and a proud participant in occupy austin. Those of us that are old enough to have experienced the trauma and anguish of watergate and the revelations that followed remember the admonition to follow the money, who gave, who took, who offered and who got, and who the bag man is. Last month, on december 15, 2011, the austin american-statesman staff writer marty reported, austin energy unveiled its final rate increase proposal wednesday recommending that homes and small businesses bear much of the rising cost and that most large businesses bear significantly less, end quote. Tuey goes on, quoting austin energy general manager larry weiss as telling a city council work session that, quote, we think this is the fairest way to reflect what it really costs to serve our various types of customers. Now, am I missing something here? Did I really read that in the paper? Does weiss really believe that sort of rate structure reflects fairness, either ethically or morally? Where is the fairness in raising the rates for small apartments, which use about 430-kilowatt hours a month, 41%, while, and I quote, larger businesses such as office buildings, large retail stores and hotels will see their rates rise between 3 and 6%. I don't know what kind of weiss suffered through, but I would suggest that he missed, slept will you, or wasn't offered even a modicum of social, moral or reasonable business ethics to be able to make such an assessment with what I presume was a straight face. With such an evaluation and such fairness, it seems clear that austin energy is throwing to the winds the sort of social contract that austin has always prided itself on and is known for in favor of a new sort of as vulture welfare designed to enrich the biggest at the expense of the smallest of it. That kind of thinking brings down the entire he had fis on our heads and eventually turns austin energy into a new kind of bag man. And given the apparent absence of ethics or morality on the part of

austin energy and the consultants it hired to front for it, it certainly makes one think of other times and other places afflicted with such lapses. Please remember the admonition, follow the money. Follow the money. Who gave, who took, who offered, who got, and who the bag man is. Follow the money. We want to follow the money. But how can we follow the money when we, the owners of austin energy, the ones who pay the bills but must instead pay the piper, when we are deprived of the information we paid to see. That's what an audit is for. It spells out answers to the admonition, follow the money. And austin energy refuses to release its austin, that they have released the navigant report under widespread public pressure does not give them credit. Why should any public entity have to be forced by public pressure to reveal what the public has a right to know anyway? And where has the council been in all this time? Your job is not to overlook what is being carried out in your name. Your job is to oversee all that transpires here. Please remember, oversee, not overlook. There is a substantive difference here. Please oversee it all. Engage in overlooking it not at all. Austin energy's refusal to release the audit is an insult to our entire population. And if there's nothing to hide why should austin energy refuse to provide this information that is rightfully ours? Their argument, that it would reveal proprietary secrets is as speeshus here as it was in the prior

[inaudible]. They are publicly owned utility and carry the unique charge of operating in behalf of the public for the public's benefit and with the public's informed consent. thank you, mr. isen.

>> You're welcome. bert shulty? Brook -- brook shulky? Following brooks is sharon icenman.

>> Sharon had to go home. And I would ask [inaudible] I've got you, leslie. I got it. After brooks will be andrew McFARLAND. You've already spoken under the name andy, so I guess we'll go -
- ike nano, after brooks. Go ahead.

>> Thank you, mayor, my name is brooks shulky and I'm here in hi capacity as district lay leader for the 30 plus united methodist churches in the austin area. We have asked or are asking you to vote against it on primarily the disparate treatment of churches in this area. You've heard about the numbers but let me tell you about what it means. As you know, churches use the load on off peak hours. When we are using electricity on peak hours for most of our smaller churches in particularly it's to give back to the community. First united methodist church downtown feeds 3 to 400 people twice a week throughout the year. That's 40,000 years every year. They also use their facility and incur their electricity to prepare mobile loaves and fishes runs that serve another 28,000 people per year, and because it's centrally located we are a hub for nonprofits. We have over 75 nonprofits use our facility in 2011 alone. Northeast austin in the john's neighborhood, memorial united methodist church, their biggest weekday user of electricity is a day care. But it is a day care that provides subsidized child care for members of that community so that they can afford to take jobs and to work when they would not otherwise be able to do so. mark united methodist church, one of their biggest users of electricity is an afternoon school program for low income students in walnut creek elementary where they provide literacy training, food, and enrichment programs. Parker lane united methodist church in southeast austin has a huge campus and they open it freely to the neighborhood. They have a thrift store. They call it a store. They give stuff free to the neighbors and low income that need it. They have a food pantry that is open to the public. They open their computer systems much of the time so the low income people in the neighborhood can come train for jobs or seek employment. They have public restrooms that

are open to people in the neighborhood including often apd officers and one of their ministries has been the installation of lights to help make their unsafe neighborhood a little safer for all of those around them. I could go on and on with our 30 churches and everything that they do and I'm sure every other faith community could be here could do so as well. But as you go forward I ask you to consider taking an inventory mentally of all the services our churches provide and make a calculation about what these types of proposed rate changes would have on those services, and when you do that, I think you will know that the right thing to do is send this back with a less disparate and a less discriminatory rate measure. Thank you.

[Applause] ike nana. I may be mispronouncing that. It's spelled n-n-a-n-n-a. Ike nnanna. Are you ike?

>> [Inaudible]

>> mayor leffingwell: okay. We'll figure this out. Okay. This evidently is not you. So we'll go on to kevin wheeler. Kevin wheeler. Carl wells? Carl wells? Carl? Are you carl wells? Come on down. Following carl will be michael zits evanitch and then ward tis tisdale.

>> Hi, city council members. My name is carl wells. I'm 23 years old, licensed journeyman electrician. I've been in the solar industry for a couple years now. I've got a lot of time invested in it and I was born and raised right here in austin and I would like to stay here. You know, I'm already looking to san antonio to, you know, expand and move over places for work. I really support the 300-megawatt distributed generation by 2020, and if we can make that happen that would really help me, my family. I'd love for my son to go to the same elementary school that I went to, live in the same neighborhood I always have. We can make this happen, make that move forward, that would really do a lot. I stand here as a future of solar and as the now solar, and I want it to continue. Thank you.

[Applause] so once again, michael zits evanitch is not here. Ward tisdale, and donating time is ashley kegly. Okay. Barry dryling. Gotcha. John sutton. All right. So ward, you have to 12 minutes.

>> Don't fear, I will not take all that time up. Mayor, council members, my name is ward tisdale. I work for advanced micro devices and serve as chairman for the coalition for clean, affordable and reliable energy. C care is a grassroots coalition existed of the largest employers, public institutions and nonprofits. Member organizations include seton hospital, dell, freescale, capital area food bank, some local school districts, just to name a few. Collectively our member organizations employ more than 50,000 central texans, many of whom are austin energy residential utility customers themselves. Including yours truly. One of the reasons our group was formed more than two years ago was to speak with one voice in support of renewable energy while also taking into account affordability. We enjoyed working with you all last year on the development of the affordability goal that was approved by council as part of the austin energy power generation plan, which calls for austin energy to operate in a manner that limits all rate increases to residential, commercial and industrial customers to 2% or less per year and secondly, keeps the utilities current all in competitive rates in the lower 50 of texas rates overall. Just to note, the affordability goal was intended for all customer classes and the language passed

by council is very clear on this. In addition to affordability, reliability is also important to our members. We believe that in order for the utility to continue to offer reliable service, it must first be a healthy and financially sustainable utility. Austin energy is facing a possible revenue shortfall of \$2 million a week in 2012, and has been noted many times tonight, rates haven't been adjusted since 1994, and it's fallen below the utility's cost of providing service. This is clearly not sustainable and c care supports austin energy's effort to get us closer to cost of service for all customer classes. The average in access nand plus at plus or minus 5% which has been recommended does just that, meaning no customer class what pay less than 95% or more than 105% of their cost of service. Under the current aed proposal the vast majority of c care members will be paying more than their cost of service. C care also supports a 10% discount being offered to school districts as well as the added community benefits charge that will help low-income families pay their electric bills. This is a cost that c care members are willing to pay for because we recognize and value its benefit to the community. Our members are willing to pay more because we believe we must have a financially sound and healthy austin energy and c care members feel that the model being recommended moves us in that direction. We recognize that the proposed increase to all three customer classes will be significant and believe that the new rates should not be implemented at once, rather, they should be phased in over a period of time deemed reasonable by the council. Additionally, c care agrees that another review of the proposed revenue requirements should be conducted. Any reduction in the revenue requirement would reduce rates for all customer classes and that is an opportunity we believe that council should explore. In addition to the affordability and reliability points I have touched on, I would also like to provide some of c care's thoughts on the clean energy aspects of the proposed plan. Our members globally are often recognized in regard to environmental stewardship and leadership. Together c care members purchase more than 205 million-kilowatt hours of green choice energy annually. However, after reviewing austin energy's current proposal, we believe the utility should offer more options with regard to its proposed green choice energy purchase requirement of 100%. C care believes that customers should be given the choice to purchase some or all renewable energy, giving customers only one option to pay 100% could deter users who have previously been using less than that, and in our opinion some is always better than none. One last recommendation that has to do with the power factor. Currently with the new rate structure the power factor requirement is set to 90 in just a few months. While many large users have already been subject to the .85 requirement, many smaller commercial customers have not. This adjustment can take up to a year and thousands to hundreds of thousands of dollars to design, procure and install. With those complicated yet necessary steps in mind, c care recommends delaying the 90 by one year in order to give customers time to adjust. Again, thank you for your time and the opportunity to convey c care's position on this very important rate case. thank you.

[Applause] joel greenberg. Joel greenberg. Calling joel. Ann teach? Ann teach on this side if you're here. Go ahead, joel.

>> Mayor, council members, thank you for your time. My name is joel greenberg and I'm owner of greenberg energy services. I started my energy service two years ago because i wanted to participate in solving one of the most important problems facing our society, and that's energy. I'm also an adjunct instructor at austin comej community college and i teach energy efficiency and solar electric systems. Now, many of my students are the laid off, the downsized, some are

low income, some are ex-cons reentering society. Some are waiters, roofers, ELECTRICIANS, MBAs, Master's degree engineers and more. But it's hard for them to find jobs and it's heartbreaking to see their human brains and their enthusiasm hit that reality like a water bug splatting against a truck windshield on a hot day on 35. People like Carmen see, who hasn't had a steady job for a while but got a high B in my class, or Steven V, who is redeeming himself and making a new start. He got an A, a vet from the first Gulf War. He's looking for a good job. He got an A as well. Let me tell you, this class has a lot of math, it's a lot of reading. It's a semester's worth of lectures in four hours a day for two weeks in a lab. These guys work hard but they can't find jobs. You can help change that. Because of many trends converging at once now is the time to become leaders in solar. By supporting goals like a 300 megawatts rooftop solar by 2020 we can take the lead in solar energy. 300 Megawatts of rooftop solar means the utility is buying the power from us, the citizens. Let -- we're going to spend the money anyway, let's keep it in town. Now, I think it's useful to come back to where we are today in energy with where we've been in other growth industries. Where we are today in terms of innovation energy is like, next slide computers in 1977. If these two guys came into your office in 1977 and asked for help, would you have helped them? Yes? Where you are in innovation today in terms of energy is like where we were -- next slide -- in networking in 1981. Before AT&T's divestiture you couldn't get on their network without their permission and they were the only game in town. If someone came into your office in 1982 and said, hey, we need to take leadership in networking, would you have helped them? Yes. So where we are today in terms of innovation in energy is like, next slide, the web in 1993. So picture a mosaic, the first web browser. If someone came into your office in 1993 and they did, and asked you to take leadership in this thing called the web, would you have helped them? Your predecessors did. Well, today people are walking in the office and saying we need to take leadership in solar and we need your help. The time is now, the place is here and the decision is clear. Thank you.

[Applause] so excuse me, Ann, one person ahead of you. Jen Stewedabaker. Jen Steweda Baker. You can see why we're taking you out of order, get those kids home to bed.

>> Yeah, Chris did take a few of them home, but thank you guys for having me here. I'm a member of LULAC, also South Austin Democrats and I just wanted to be here to speak for single moms and maybe minorities people that are, you know -- do not have income. Luckily today I no longer am a single mom and I'm very grateful for that but there was a time where I lived on \$630 a month trying to go to school, internship, and is this rate increase directly affects that, not because you're raising my rate, you know, after \$60 fees I pay my utility month every month, now an extra whatever you want to add. The problem is that you're affecting my after-school care because now Aids is not going to offer what they offered if you actually raise the rates. You're affecting Mimi Mother's Morning Out programs. Now my church may not be able to offer that to me so I can go to school. You're affecting the small business that actually offers me very low cost child care because they may not be able to offer that because you're changing their rates. And this is -- you know, this would have affected me a lot worse, say, you know, last year, but I worry that you guys are not putting that into account. I understand you have a shortfall. I understand that you definitely have issues that are rising, but I don't think that you understand the impact that you're putting on single moms or women who are trying to work and trying to get off of food stamps and trying to go forward. And, you know, like she said, that does buy peanut butter. That does buy a gallon of milk and food stamps might not cover all you need for your

budgeting here and there. And I asked a question like what would you ask to endorse the city council member and one of the biggest questions, the one that got the most votes was have you ever been on the east side, not the trendy side but the poor side, and that's the one question that got the most votes out of all the people that were asked, and I just want you guys to realize that all of the austin energy commission, the energy commission, they're -- there is no minorities on that commission. There weren't very many minorities -- it's very hard for me to accept that this commission put us all into consideration when they did that, and I just want to thank you guys for allowing me to speak and for having a long night. Thanks, guys.

[One moment, please, for] I'm not anti-business, i think it's very important that we have a healthy business economy, but i don't think it's fair that under the proposed rate structure large commercial customers will be insulated from rate hikes until 2015. We all have to share with our income level. Keep the low monthly six dollar fee, increase the per kilo watt hour charge so that residential customers who use more pay more. Keep using a rate designed like the one that we already have that rewards energy conservation and offers low rates to customers who use smaller amounts of electricity. Redo the allocation of costs to residential customers using a model that is more fair to residential customers. Have the city auditor hire outside independent accountants with utility expertise to evaluate austin energy's budget and reduce the amount of increase by at least 50 percent and expand eligibility for the customer assistance program and increase the benefit by at least the amount of the rate increase. Use automatic enrollment and improve coordination of the low income assistance community. I appreciate your service to the city.

>> Mayor Leffingwell: Thank you. Danielle facade. And following danielle is anna maria martinez ortiz.

>> Mayor and councilmembers, I think that (indiscernible) is giving me three minutes.

>> Mayor Leffingwell: Who?

>> Claire deyoung.

>> Mayor Leffingwell: Okay. Are you signed up, ma'am. Okay. So you have six minutes.

>> My name it danielle and i am recently retired from the public utility commission. I worked at the commission for 22 years as an economist. For the last 10 years I was director of market analysis in charge of monitoring the wholesale electricity markets and before joining the commission in 1989 i worked at the resource management department at the city of austin as an energy program economist. I'm here today as a residential customer to present my personal views about the electric rate. Proposal. I oppose the proposed increase and I'm going to discuss in particular two aspects of the increase that I find particularly troubling. The first is the residential customer electric bill. In spite of the new five-tier structure on the residential customer bill, customers who consume less than 500 kwh per month receive very large increase in their bill. 41%. The less you consume, the more your increase will be. My personal bill is going to increase by 50%. Unfortunately the low income customers are going to be the most affected by this increase. Austin energy has stated that -- presented that the average consumption of low income customers is about 1,000-kilo watt hours per month, similar to other customers. Well, when I

was at the resource management department as an energy program economist I had the opportunity to look into the energy consumption of low income customers and I did an analysis and found at that time that most -- the majority of low income customers consumed between 10050 and 350 kwh per month, not 1,000. At the time I also conduct add survey of these customers. I went to their homes and i talked to them. And these customers most of the time do not have air conditioning. When they do it's one small unit in one room in the house. This is a far cry from the 1,000-kilo watt hour customers that austin energy is talking about. Those customers will be the most affected by the fixed charge increase that is being proposed. I am in favor of the five-tier structure in the residential customer bill. It encourages conservation, but I recommend that the city council establish a limit on how much any one residential customer's bill is permitted to increase. I propose that the fixed charge currently in effect not be increased or if it is, that at least it remain consistent with the practices of other retail electric providers in the state. I'd also like to address the 2009 test year and the decision by austin energy to remove \$35 million attributable to wholesale or off-system sales. Off-system sales are sales that austin energy is able to make in the wholesale market and what they do is reduce the amount -- increase the amount of revenues that the company is getting and reuse the amount that the customers of austin energy have to be charged. When you remove the off-system sales from the test case, you then add them to the revenue requirement. And this is wrong. This is not an acceptable practice. There are two consequences of setting off-system sales to zero as austin energy is doing. Number one, it artificially increases the amount of revenues that have to be recovered from customers. By \$35 million. Number two, it increases -- it removes the incentive for austin energy to work hard in the wholesale market in order to make off-system sales that will benefit the citizens of austin. Austin energy has done a very good job with they've done a really good job in the wholesale market. They're selling a lot of electricity, increasing debt revenues, reducing the need to increase customer rates. So they've taken advantage of the opportunities of the wholesale market. So the question I have is why take away the incentive for austin energy to continue to work hard for austin citizens? It doesn't make sense. My recommendation here would be to take the 2009 test case off-system sales into account. We don't know how much of off system sales will be in future, but we know they won't be zero. They were not zero in 2010. They were not zero in 2011. If you put back the \$35 million in the test year and remove that from the revenue requirements, then you will reduce the increase that is imposed now on austin citizens by 35%. By \$35 million. It is the right thing to do.

[Buzzer sounds] thank you.

>> Mayor Leffingwell: Anna maria? And next will be robert singleton over on this side. Good afternoon. Thank you. Thank you for putting up for my out burst with my brother, my sister, my dad, but see, I'm sisters to everybody. I'm a daughter to my dad and a daughter to all my moms. That's why I said that. I apologize, please. And I apologize, austin. Anyway, my name is anna maria martinez ortiz, okay? And please don't do this. I've never had to beg, but I'm begging you. I can't -- I rob from peter to pay paul. Now I can't rob anybody else to pay paul. Okay? I'm a disabled senior citizen. I'm not low income. There's something worse than low income and that is me. I have a 24 hour bus pass because I was going to stay here however long it took me. This is my proof. I feel like I'm in school, okay? And I've got to go home on the bus. I have 24/7 chronic pain. I have arthritis, lupus, two heart attacks and everything else on top of that. But I'm still here. I can still say some words. And I still have hope for everybody here to please help us. And

that's all I have to say because I have to take the bus late at night. It's kind of cold and it's ironic that we're here on the coldest night of the year when there's homeless people out there freezing their -- freezing their tails. And where I have to go home and put my thermostat so low so that the electric bill don't go up on the coldest night of the year. I will take the bus home on the coldest night of the year, 10 or 11 clock, maybe 30 by the time I get home. Thank you. That's all I have to say. Thank you.

[Applause]

>> Mayor Leffingwell: Robert singleton and then karen hadden will be here. Councilmember spelman.

>> Spelman: I move that the city council meeting be allowed to go on past 10:00.

>> Mayor Leffingwell: Motion by councilmember spelman. Seconded by councilmember riley. All in favor say aye. Opposed say no. You don't get to vote.

[Laughter] so we are now good past 10:00. So however long it takes.

>> My name is robert singleton. I wanted to mainly address the issue of the 16-dollar raise that most of us are going to face on our utility tilt bills. I had a lot more to say. I kept making notes all through this lengthy meeting, but I kept scratching things off as people covered the points. And between gus pena and robert rather it took out three-quarters of what I was going to say. And then in the next few speakers I got scratched through virtually the rest of what I wanted to say. So it left me with nothing but what I do best, which is make the bizarre analogy, which perhaps puts the point in perspective. You may think -- some people may think what's the fuss and feathers over a 16-dollar a month increase? I would like to explain it in terms of what I call the starbucks advanced horizon. If you buy coffee at starbucks more than once a week, you're probably on one side of the starbucks event horizon. And you think \$16, I spend more than that on coffee in a month. I'm going to talk to you mainly from those of us on the other side of that horizon and I want to make one point because most of what I wanted to say has already been covered. There are people throughout, single people who are working part time, people who are collecting ssi or ssdi. And they have been determined to be eligible for food stamps. \$16 May not seem like much, but did you realize that a lot of people that fall into those low income categories, what they get a month in food stamps is \$16? Austin energy is literally going to be taking food out of people's mouths. What the department of agriculture determined they were eligible for austin energy is going to be taking every single cent of the nutritional assistance the government has determined they need. Somehow I don't think that's right. I just want to make one point in closing. I've been coming to austin city council meetings for 20 years, I guess it is. And I don't think I've ever heard the community come quite as close to speaking with one voice as they have tonight. And the message is crystal clear, do a lot more thinking about this and come up with another way to keep austin energy solvent.

[Applause]

>> Mayor Leffingwell: After karen hadden will be william hobby, if william is here over on this side.

>> And kerry (indiscernible) did not have her time used by mike sloan and is willing to donate it. Has her time already been used? She's already checked off as donating time to david

>> [inaudible mic

>> Mayor Leffingwell: All right. Take up to six minutes.

>> I probably won't need it. I'll just use what I can. Good evening and thank you for listening. It's been about four hours now and robert singleton is right, I haven't heard anyone come to the microphone yet who said i think this is a great proposal. I'm a little bit concerned that maybe those are the voices of the big commercial and industrial users who would benefit most and they're not here. I share the concerns that this rate proposal is upside down and backwards. It does not favor energy efficiency. It does not favor renewable power. And basically it ends up being corporate welfare on the backs of the poor and the working poor. Essentially what we should be doing is if you use more power, you pay more. Not get a financial break. If you use less, you should be pay less, and that's what is not happening. We need to focus on making our apartments and rental homes more efficient because a lot of the people who rent cannot get to where they need to be in terms of efficiency. We are strong proponents of the additional 300 megawatts of distributed solar. It's clean and affordable. It's waterproof energy that will help us through the drought. We need increased energy efficiency programs. And I want to take a moment to say thanks for what austin energy is doing right. The recent wind purchases were a great deal. Again, affordable and clean. The webberville solar project is beautiful. 30 Megawatts and on opening day I saw three of you as councilmembers, martinez and riley and spelman out there, and that was good to see. Your support is great.

>> Mayor Leffingwell: I was there too.

[Laughter]

>> oh, yeah, mayor leffingwell, absolutely. And promotion of electric cars has been a great thing and batteries can be used for storage. So other suggestions I would have, I think that you should rewrite this rate package. At the same time I would urge you to make green choice the default power when someone signs up for power. I recently got service at a new location and I actually had to argue to get on green power. I had to talk to a few different people and I was very dissatisfied. They told me it was too expensive. I said that's what I want. Could I please have it? It was very frustrating and not how it should be. I urge you to dig in on what's the real cost that we're looking at here because I think we don't really know why austin energy needs this amount of money. I think some of it might involve future pollution controls that would be required to continue burning coal, which is of course impacting our health. And I wonder what portion of this might be to repair aging nuclear reactors. South texas project number 2 is down. They tried to rush a refueling process in november to cut corners on costs. When they did, I don't know if that created problems, but certainly workers were exposed to more radiation than normal and they had to order special protection in for these workers, which is not the usual. Since december

the whole month of december when we need the power most, reactor 2 has been down, this whole time. And it's not working yet and it's not expected to come back online for possibly three months. So in the world of reliable, it is not. And as these reactors age we're going to have increasing problems and increasing liability. So I think we ought to look at where the money is going and look at what we can afford to keep going and what we can't. I urge you to get the and a half gantt study released and to consult with the regulatory assistance project to help get a progressive policy in place. And that we can come up with -- and I urge you to do this -- a rate structure that does not penalize churches, that does not penalize those who use less energy and who are pursuing energy efficiency. We would love to see community solar be supported through this project. Thank you.

>> Mayor Leffingwell: William hobby. Is william hobby here? Hank faulkner? Hawk faulkner? Are you hank? You're william hobby? Okay. You're up. And hank faulkner will be next on this side.

>> Mayor, councilmembers, thank you for being awake. Bill hobby, the vice-chancellor of the catted lick diocese of austin. We encompass 25 contracts in central texas, 125 churches, 23 schools, 510,000 active participating catholics and the lion's share of them live in austin and the surrounding neighborhoods served by austin energy. And our bishop has two primary concerns that you've already heard a lot about, so I won't belabor them. We have a moral duty to care for the poor and we support all the comments that have been made about not disproportionately burdening the poor with the rate increases. And then the concern for the worshipping communities, but especially the small communities, 40 member, 50 member congregations of whatever faith tradition they are. There are tangible associate benefits to our community and it would be bad to disrupt that benefit that our communities enjoy. So we would support your reconsideration.

>> Mayor Leffingwell: Thank you. Hank faulkner. Following hank will be eugene preston on this side.

>> My name is hank faulkner. I'm a fairly new austin resident. Moved back here in july. And I know a little bit about energy, having worked for tva, which is 20 times bigger than austin energy. And we're the largest federal public power organization in the country and we're always getting ready for deregulation and we expected congress to pass it at any time, but congress has had seemingly other priorities. But point is we were always getting ready. And I would ask austin energy if they're ready for deregulation? Deregulation was a fact on the retail level, available -- it's been available for 10 years. And it's available in dallas and houston and corpus christi and other parts of the state where customers with choose their electric power provider. It certainly makes one have choices to pick the best rate and the best plan and not be stuck in a monopoly kind of situation. I hate to see anyone divided about how these costs are going to be split, but the first thing we have to decide is what are the true revenue requirements of austin energy? And then we can decide who pays what and how much. And I do hate to see neighbor turn against neighbor. We have been pretty united tonight, but I would like to speak for the middle class as well. We've had a spokesman for the poor and solar and churches, and the middle class is also going to see an increase of over 20%. Austin energy said 10% because they said a thousand kwh is the average. But nobody uses an average of a thousand a month. You use most

of it in the summertime. So if you were to, say, 2,000 a month in the summer and 5700 in the winter months it comes out to a thousand a month. But it also comes out to about 22%. Why are these big industries getting special rates? Well, the answer was given by the residential advisor that was hired by austin energy. He said that they probably, if they don't get what they want, will go to the state legislature and get them to pass a bill which has been proposed in the past to deregulate austin energy. I'm not so sure that that wouldn't be a bad thing. At least the threat of it happening would certainly cause austin energy to get its act together. I'm a proponent of natural gas, having worked in the oil and gas industry. It's very cheap right now. If you saw the front page of the wall street journal today, gas prices are historically low. If you convert an mcf of gas to a kilo watt hour it's about one cent per kilo watt hour. Obviously you have to put it in a plant and generate it, but I think gas fired generation needs to be an important part, continue to be an important part of our energy portfolio. And I certainly support solar and other forms of renewable energy in addition to that. But I do think we have to be mindful of the cost. Thank you.

[Buzzer sounds]

>> Mayor Leffingwell: Thank you. Eugene preston. Following eugene will be peter beck.

>> Mayor, council. My name is jean preston. I've worked for austin energy for 28 years, retired in 1998. And today I'm doing wind power study just on the side, just for fun. I became aware of the churches' issue mainly through my search, so i began to look at why, why churches were going to have up to an 80% increase. And what I found is that under the residential rate the coincidence factor, you will see that table on page one, the coincidence factor for the peak demand for churches is somewhere around 50%. Meaning that the weekday peak is about 50% of the weekend peak. And under the commercial rate, the general service rate, all the customers are pretty much peaked during the week. So the question is how can we fix this problem before we actually implement time of use rates? There's a couple of ways we might be able to fix this problem. One would be to have some kind of multiplier for the peak demand built into the general service rate. But maybe there's an easier -- an even easier met. Because austin energy has installed smart meters now, we could have them just ignore the peak demand for the weekends and just use the peak during the week and go ahead and use the general service rate. So that would be my suggestion on how to electronically fix the problem in the near term for churches. Without having to go into a new rate design. But you would have to ignore the peak demand for the weekend. Now, on the back page there's been much talk about getting out of the coal plant and saving money. What I did is I created a little table here of the contribution of energy and what the cents per kilo watt hour is for each different energy source. Like our nuclear plants is about 28 percent and it's 7 cents per kilo watt hour. Coal is about 30%. 5 Cents per kilo watt hour. Gas about 27%. 8 cents per kilo watt hour. The only reason I put this down here is if we remove any of these components from our present generation map we're going to need to be very careful that we study carefully what we replace them with because the renewables are a little bit expensive. For instance, the 300-megawatt solar plan we're talking about here, the rooftop plan, a little hand calculation would show that that's going to cost 1.3 to \$1.8 billion. Now, where is that money going to come from? There's nothing stopping people from installing 300 megawatts of rooftop solar today other than the cost. Now, here's an idea you hadn't thought of maybe. When we have a subsidy program where we're trying to initiate more --

[buzzer sounds] -- of the 300 megawatts, those subsidy costs are going to be paid by all the ratepayers, which is going to drive up the rates, which means all the poor people will be subsidizing the rich people, which can install the solar.

>> Mayor Leffingwell: Thank you. Peter beck. Following peter is this side will be roy whaley. Go ahead.

>> I am peter beck. I teach environmental policy at st. edwards. And for the last hour and a half I was sure I was going to be the next person called.

[Laughter] I would like to --

>> Mayor Leffingwell: Number 62, peter.

>> I would like to echo the sentiment of sitting here for four and a half hours now and I haven't heard a single person speak for this proposal. And -- [applause] we just really need to ask ourselves how we got in this situation. And most of my points again have been said by others, but I would really like to focus on the need. Increasing revenues of course and closing that gap is important, but we really need to focus on policies that increase conservation and efficiency. And so I really support this tiered approach and the stated goals of incentivizing conservation. The problem with the structure, the rate structure is it doesn't do that. It does the exact opposite.
Motel moment

[one moment, please, for change in captioners]

>> just another example, i plugged figures into austin energy's calculator and for somebody using 300-kilowatt hours their bill with increase \$14. For someone using that four time that much, 1400, their bill would increase by the same amount of money. That doesn't make sense, as others have mentioned and it's unfair. But then we move up to like 2100-kilowatt hours, which is six times the 350. Their bill increases \$27, which is not even twice that amount of the person using 350, plus when your average bill is 220, \$230 a month, that person, \$30 just doesn't really matter that much. That is -- again, it's not serving as an incentive to reduce their use. So this whole system should be flipped on its head and we really need to do this because it's -- there's larger users that are going to have the biggest impact. 10% Of someone that uses 2500 saves us a lot more than 10% of someone using 350. thank you, peter. Roy whaley and following roy will be sheryl kimball, over on this side.

>> Thank you, professor beck. Peter beck is also on the executive committee of the austin sierra club. Howdy you all. Signed up on item 107 I didn't realize I was going to be speaker 107, but -- the only speaker, we agree. And just like robert said a while ago, I've been crossing things off my list because t paul covered it so well, smitty covered it so will, cyrus covered it so well and then robert got up there and I had to cross that off because he covered it so well. So what I'll talk about is how we know that nothing stands alone. As an environmentalist i know that everything is connected, so we're not just talking about a base rate increase for austin energy tonight. We're talking about how it impacts everything else. And how we're saying just \$10 more, \$16 more, \$20 more on this item, then we're getting into the same issue with austin water and then we're

looking at the same issues with energy cost, with cost of services, with transportation cost, and so it's not a simple matter of it's just a little bit a month, as officer snowden used to see on congress avenue. It adds up. And then the other cost is the fact that sierra club -- we deal with endangered species and a couple of our sister organizations just this week declared that they were going to be suing to protect endangered species, the jolly value plateau salamander and so possibly somebody needs to sue to protect the endangered species of the austin rate payer because we're in danger of losing these folks because austin is becoming less and less affordable. People are less and less able to afford to stay here in austin. We have programs and we are working on things right now to prevent sprawl. We're talking about the downtown plan. We've got the imagine people staying in austin plan, imagine them not moving to the suburbs, imagine them being able to live in austin. Imagine them being able to afford to stay here, and we've got to do that. We know that sprawl is death, not just for the city but for the area. We have to keep things compact. We have to stop sprawling across the aquifer. We've got to stop eating up the blackland prairie. We've got to find a way to make it affordable for people to stay here in austin and reduce the sprawl. I know you all are going to do that. I have every confidence that you're going to do that. I know you want to. I know that you're not going to accept what is on the table before you now. You are going to take this and rework it, take charge of it. Be the leader. Thank you very much for your time this evening. thank you, roy.

[Applause]

[applause] you just covered some new ground there.

>> Pardon me? I did you did cover some new ground.

>> Okay. sheryl kimball. Following sheryl will be ar garcia over on this side here.

>> Thank you, I am sheryl kimball, the acting senior pastor of highland park baptist church. We are the first church in austin to be designated as a green neighborhood. We care about our environment. We do what we can to be good stewards of what god has given us. I come here today not representing just my church but also the community that we represent each day. Our building is open virtually every day of the week. We have all types of scout programs, we have 12-step programs, we have lifetime learning, we have our neighborhood associations, we have austin children's choir, we have meals on wheels. We have the foundation for the homeless. They office in our building. Because we have such a close relationship with them we act as their fall-back because so many churches are financially affected in various ways, and are backing out of the program. We have at least 21 weeks in this coming year that we will house homeless in our building. Foundation for the homeless us parsonage each day as a day center where the homeless come to find work, to find home -- to find furniture, to find skills in interviewing for jobs. If this is plan goes into effect as it is written, our doors will not close as others ministers have spoken about. We will be able to have our worship services on sunday mornings. We'll be able to have our worship services on wednesday nights. What will happen is that we will not be able to provide the services to our community that we've been able to provide thus far. Also, as a pastor of a church with a large number of aging members, this proposal puts a hardship on them. Many of them have lived in their homes for many, many years. They're on fixed incomes. Many haven't had the resources to make the changes to their home to make them as energy efficient as they

need to. But what this proposal will do will be to cause them to take the only measures that they think they can, and to sit in a cold home during the winter and to sit in a hot home during the summer. I beg you to look at this proposal long and hard to slow down, to look at other options, to listen to this community and to help us as churches help our community. This proposal won't put a nail on the coffin of highland park baptist church but it may very well put a nail in the coffin of our community. Thank you.

[Applause] thank you. Arturo garcia. Dee moore head? Are you here? So donating time to you is robbie ausly. Is robbie here? He's not here. So you have three minutes.

>> And following bee will be charlie jackson, here in the chamber over here.

>> My name is bee moorehead and I'm the director of texas impact and it is late and you've heard a lot of testimony. You've already heard from joshua houston on my staff. So I'll keep my comments very brief. We agree with a lot of the other speakers that you need to just say no to this proposal and go back to the drawing board. We know that that doesn't sound very good and you've already spent so much time and there's benefit so much investment on the utility's part and the part of the council. We're sorry about that. Many people in the community really did try to work hard with austin energy and with the electric utility commission, and met with no collaboration or willingness to consider alternative proposals. Many of the people who have spoken this evening made the point that the municipal utility provides the point for community to participate in their processes. This is a great process and we appreciate the opportunity to participate but so far it's not clear that all the good faith citizen participation in the process has resulted in any changes to the plan. So we're hoping that you will be responsive. The proposal is long and complex. It's exceedingly opaque. Members of the community will be hard-pressed to understand what happens when their bills go up and that's going to make them lose faith in the benefits of public power, which we think are significant, and the benefits of public participation, which are even more significant. It will make austinites cynical and that will be a real loss for the community. We also think you owe it to the community to be completely honest about what's really at stake in this proposal. Austin energy is a major funding source for the city. If austin energy raises more money, it diminishes the pressure on you to have to generate revenue through other means like taxes. A user fee on a necessity like electricity is a regressive revenue strategy for this community. Under austin energy's proposal the \$22 fixed charge for low income rate payers will benefit wealthy residents who are spared more progressive taxes than might otherwise be levied on them and there's no way to get around that truth. Like san antonio, austin is at a historic moment. We're grateful for your willingness to serve at this moment, and we are eager to help you make decisions that will move our whole community forward together. Thank you for the opportunity.

[Applause] thank you. Charlie jackson. And following -- are you charlie jackson? Following charlie on this side will be jessica lima.

>> Hi, good evening, mayor, and council, and audience and those who are watching on-line. As I've listened more and more tonight, believe it or not I came in here grumpy I'm giving up an evening but I became more energized listening to this testimony and also realizing that you, the audience here, the citizens of austin who care about these issues are basically -- we're all united.

We want to see this become a much better place so we're willing to give up our time, volunteer for organizations, for churches, serve on council and with other bodies in order to make this city the best place. Let me get to a couple of points. We're putting forward a proposal to come up with a plan that will make Austin energy solvent, continue to provide revenues that offsets some other costs of city services. We want to encourage green energy and energy efficiency in Austin while still having money aside for new programs, for solar and for becoming a leader once again in green energy in Austin. And third, we need -- we need a proposal that's politically viable and one that everybody in Austin believes is fair and that we're all united behind. But we also recognize that Austin has become a much more expensive city and has left a lot of people behind. So I want to speak a little bit to that fourth -- that fourth area and to a possible solution that in the following discussions that you will have with Austin energy, whether we go back to the table or whether you adopt this plan or whether we come up with another plan, and that is one way to address many of these issues that have come up tonight. We could begin by taking the residential rate tier and the commercial rate tier and making a certain amount of kilowatt hours absolutely free. The first 500 hours for residents, the first 1,000 hours for commercial enterprise. This would assist -- this would mean that for the -- one set of citizens who live in very small apartments and are very efficient with their energy use, they would only be paying that \$6 monthly fee for their electricity. With the rest of the rate payers paying for the rest. It would mean that the small business who's starting up with a trailer or a small business in town wouldn't have to be worrying about electricity along with all their other expenses. It would mean that those smaller churches and organizations who are ministering to the community wouldn't see any change and they wouldn't have to cut back on their ministries. This is something that could be done simply with a change in the billing system. To zero out the first 500 hours of use on a resident or the first 1,000 hours of use on a commercial enterprise. And that I think it's the kind of solution that if Austin energy was really listening to all of these people and they came to the hearings and they offered ways to solve the issues and meet the goals of the energy plan, could do that as well as serve the people of Austin in a way that I think we would all agree would be much better for us all. Thanks.

[Applause] Jessica Lima over here. Following Jessica will be Brian Kocto. Over here.

>> Hi, my name is Jessica Lemon and I'm the state director of outreach for AARP in Texas, and I am here on behalf of our 40,000 members who are over the age of 50 and reside in the city of Austin. Energy affordability is a huge concern for AARP, and affordable home energy bills pose a serious and increasing threat to the health and well-being of older adults and low and moderate income households, and we are concerned, as you've heard from so many others tonight, about the increase in the monthly fixed charge from \$6 to \$22. Austin Energy has over 100,000 residential electric premises that use over 500-kilowatt hours per month. Some of these we know have to be headed by persons age 65 and older because our research tells us that they tend to be low users. And much lower users than households headed by younger adults. Under this proposal these lower use electric customers will see average electricity thx of about of 40%. By contrast a thousand kilowatts would see an increase of only about 11% per month. So the higher the usage, the smaller the percent increase and we don't think that's fair and we don't think it serves the best interest of older adults in Austin. The average social security check is about \$1,100 a month. People who are using 500-kilowatt hours per month are not on flexible budgets. A 40% increase isn't possible even if it only equates to 14 or \$20, they don't have it. Their budget has no

room to see any of their costs increase by that much. We urge you to reject any proposal that would include a dispo portion at adverse effect on these customers. Thank you. thank you.

[Applause] brian -- following brian will be kathie saukolik.

>> I'm brian tonto. I'm here to bring up a topic that I haven't heard raised since the beginning of the dialogue when the representative was here. I empathize with concerns tonight and particularly fixed and low incomes, certainly this plan has concerns for them. Obviously the churches, obviously there's a big case there. If you look at the middle class, if you look at the folks who will be hit and will be subsidizing corporations, these folks are not necessarily ready to bear that burden, and it's not fair. Let me read you quickly a couple of the objectives that were actually listed by austin energy. This says residential rate design objectives. Number one, set rates closer to the cost of service for residential customer class thereby minimizing interclass subsidies. Well, I looked at the chart and there's a pretty big growth in subsidies that's occurring on this five tier rate plan. It absolutely does not match that objective and this is the first objective listed by the way. It absolutely doesn't match the objective. I keep going through these, I can read more. The next one, create a rate structure -- improve fixed cost recovery improving interclass subsidies, particularly between the largest and smallest in the residential class. Everything tonight has said that the folks on the bottom don't feel that that's happening, and I can tell you for sure that the folks who are going to be asked to subsidize industry and corporations certainly don't feel that way either. Clearly that objective is also not being met. In addition, look at this one, and this is a key thing, that supposedly motivates the five tier plan. Improve pricing signals that encourage conservation and promote investment in energy home efficiency improvements. This doesn't say anything about trying to penalize people that are perceived to be able to afford to pay more. This is about getting energy efficient. This is about taking the houses that we have, the ones that folks live in, and making them more energy efficient. The five-tier plan leaves a lot of opportunity on the table for doing that. It is going to, I'm sure, force some folks to make improvements on their house. When you get bumped up three tiers and you're paying 20, 25% more than you were before and now I can spend a thousand bucks so I can get down one tier, am I going to do that, really? Is that the best way to get energy efficiency out of your customers? And what about all the folks in the middle? The folks in the middle aren't necessarily poor. There's a lot of folks in the middle who happen to have relatively medium size energy footprints whose homes might be quite energy efficient. If you look at the aggregate energy that can be saved across the spectrum of homes. What should we do? Conserve by being efficient. That is not what this five tier rate plan does. Sounds good on paper and it's nice to throw it out there and goes to what the folks mentioned earlier. The consultants who come in and wave it around and say this is a proven strategy for becoming more efficient. I totally disagree. Thank you very much. thank you.

[Applause] kathie, and following kathie on this side will be jeff howard.

>> Good evening, thank you very much for giving us this opportunity to talk. My name is kathie sekolic and as a residential distributed generation representative on the public involvement committee for the rate review, I saw austin energy go through the art of creating new rates. I gave input from a perspective of a dg customer first, a residential customer second. As a participant in the smart grid study at mueller at pecan street I gave input as a citizen looking for

answers to our energy crisis and dependence on fossil fuels. Last night I pulled up to the am alamo screening of the -- and parked next to other people and a converted porsche and a few electric scooters. It was pretty cool. While this was a scheduled eb event I recognized that i really am part of a revolution. I understand the value of driving this green vehicle and the value of being able to power it with solar from my own home. As I said during the rate review process, I don't think I was very quiet during that, in awe that not only do I get to have solar panels on my house but they power my car. My car sends me text messages when it's done charging. I think that's crazy. But anyway, I know that austin is known for being a very progressive forward thinking city, a technological hub, we're known for all of these things. And it doesn't take a scientist to realize that we're in a drought and that water is only going to continue to become more and more scarce. The time to phase out fossil fuels and go full force into renewable energy, solar energy, really is now. 2 megawatts of rooftop solar in my neighborhood alone I think we can reach astronomical levels. I don't see why 300 megawatts couldn't happen in austin. Many folks tonight have ready given insight into this and really, in my opinion, there's no other time to wait and no more time to do studies and studies and studies, and no more time for these politics. I would love to see austin become the green leader that we pretend like we want to be, let's stand up, let's do it, and I'm going to support you guys and I hope you guys are there with us. Thank you very much.

[Applause] follow follow ing jeff will be paul norris, over on this side. Go ahead.

>> Good evening, mayor, thank you. And good evening, council members. My name is jeff howard and I'm here tonight to talk to you about opportunities and options. I'm here to talk specifically about a term I've om heard a couple times and that's community solar and we've heard it actually from karen has hadden hadden and from cyrus read with the sierra club and this is someone I wholeheartedly agree with. I'm here on behalf of community sun, and we are a local company here in town, and we proposed to bring citizen owned community solar to our home town, austin, texas. So what is citizen owned community solar? Think rooftop solar without the rooftops. Let me explain. You would own the solar panels. You would own the power generated by the solar panels, and that energy would be credited against your solar bill, just like a rooftop solar panel, but the panels wouldn't be located on your roof. The panels would instead be located in a utility-scale solar farm. Rooftop, solar without the panels. The -- the solar farm is owned by the rate payers who own those units and own those solar panels. It's an off-site way of getting distributed renewable energy to rate payers. Why is it important? Three out of four austin single-family residences are not suitable for roof toll solar because of shade orr yen taition. Three out of four rate payers can't have rooftop solar yet all four pay the renewable energy charges on our bills. We owe it to those three to give them options, and this rate case is an opportunity to do so. We also owe it to our tenants, commercial tenants, residential tenants, who do not have rooftop rights, to give them an opportunity to participate in solar. It's a way to get utility scale solar that's owned potentially by anybody and everybody in this auditorium as opposed to a multinational conglomerate. It's critically important if we're serious about renewable energy, and it's why the pecan street project said, if you have a 200-megawatt citizen owned renewable energy goal include community solar. It's why the electric utility commission unanimously said, pursue community solar. It's why the public involvement community -- committee recommended community solar. We need to pursue community solar and there's an easy way to do it and there's an opportunity here in this rate case. And so we would ask that you pursue a modification to your

renewable resources rider to allow community solar. That's all we're asking. We also have some concerns about the value of solar, and we ask you to take a look at the residential rate adviser's recommendations as well and with that I'll answer any question as well. I think there's a question. I wanted to let you know the emerging technology communications council for the end of the month we're trying to get a discussion of community solar on the agenda so I think that might be a good place to be able to delve into it.

>> Great. We look forward to that discussion. Thank you. paul norris.

[Applause] following paul is archie archie gres. Is archie here? John wright? You'll be over here next. Go ahead. > Council members, my name is paul norris and I appreciate you all staying up so late and looking very alert. I'm pretty amazed. I'm glad to speak today. I'm a native austinite and I'm really proud to have heard all the testimony that I've heard tonight, and I assume that you all can put great value in this. I had the privilege of serving on the electric utility commission for four and a half years in the 1980s, SO I'M NOT Completely unfamiliar with what's going on here right now. I'm absolutely opposed to this proposed rate hike. While frequently rate hikes have been contentious occasions, this proposed rate is kind of the most bizarre I've ever seen. I actually think neil kasurek is turning over in his grave right now. My suggestions are pretty simple. It's stuff that has been said to you before. Reduce the total amount of this proposed rate hike by at least two-thirds. Refinance the debt, cut expenses, off-system sales, debt service coverage, and reserves, all those things can be looked at. They're asking for way more money than I think they need apportion any increase, fairly and evenly across all rate classes. Utilize a progressive rate structure in the residential class, or in any class where you can utilize that to promote conservation. Leave the customer fee where it is. And this is -- a couple speak spoke to this but this is something that's always been an issue with me. Stop the transfer to the general fund and run the utility like a business, not a cash cow for the city budget.

[Applause] I believe that the transfer for 2012 fiscal year is over \$100 million. Isn't that just about the same amount of projected shortfall? Invest more in clean energy, conservation and renewables. Everybody has talked about all this great solar stuff. I don't need to talk about that. Reward those who use the least. As they don't drive capital cost for generation or they barely drive any capital cost for generation and distribution. So kick this thing back. You know, you all had three speakers here tonight that if I had only heard those three it would have been all I needed. The guy from seattle obviously knows what he's talking about. I wish he was running our utility, personally. Mike sloan and robin rather, they told you all what you needed to hear. Do the right thing. thank you. John wright.

[Applause] john and following john will be david polsen, over here.

[One moment, please, for] . . . Don't penalize us by slapping on us a rate structure that is three and a half to four times the -- the -- another business, an ordinary business. We're not like ordinary we can't pass on our costs to our members. We certainly can't pass them on to the people we're trying to serve. I think I'm the only pastor from a downtown church that's spoken tonight. I want to -- to speak just briefly to that. That this proposal is particularly burdensome to downtown churches such as my own that seek to minister to homeless and poverty stricken families. Twice a week, three to 400 families, homeless people are served breakfast in our family

life center. And -- and yet our energy costs for that building will under this proposal will increase by 48%, nearly \$17,000 a year, that's three times more than our line item -- the line item for that mission ministry in our budget. So it -- it will greatly impact our ability to continue in those ministries. We've already had to make staff cuts at first united methodist church for \$200,000 for 2012, such a disproportionate increase in energy costs puts our ability to continue these vital ministries to the homeless and the downtrodden in jeopardy and if we have to discontinue, then who will pick up the slack? That will fall on the city, city resources and staff

[buzzer sounding] and you don't want that, we don't want that. Let's find a better solution. Thank you.

>> Mayor Leffingwell: Thank you.

[Applause]

>> pollson. Matt boze. We'll go to craig nazer. Craig nazer is here, following craig joseph copsur. Following joe, brad rockwell, is brad here. Carol hawkins. Carol hawkins here. Benjamin woolen. Go ahead craig, we will finally get to somebody that's still here.

>> Hello, austin city council. I'm a member of the conservation committee of the sierra club and I fully support the sierra club's effort to move austin beyond dirty energy because inex--- increasing effects of global warming will become the world of our children if we do not. The current austin energy rate increase proposal does far too little to accomplish this and should not be implemented as written for this reason alone. But tonight I also wish to speak for a particular group of constituents that are very important to austin, I'm an austin musician who has taught music at austin community college for almost before that as a graduate assistant. In fact, if you have listened to a lot of austin music, you have probably heard at least one of my former students. For many people, success is measured in term of the salary amount of a full-time job. For musicians, this is never the case. We spend countless, thousands of hours, practicing our instruments for no pay whatsoever and when most musicians perform we usually play for relatively low fee, if not for free, with no full-time work and no benefits. As a consequence, young musicians tend to be quite poor. We choose to be poor because we love music. This is why young musicians tend to be very idealistic. They tend to be strong environmentalists yet they see themselves inheriting the environmental mess that their parents have left them. Young musicians also rent and one is [indiscernible] rent largely incapable of controlling the energy efficiency the place where one lives. One cannot invest in energy efficiency, solar energy, other renewables despite the fact that one wants to do so. If the rent is really low one hesitate to report violations of austin landlord's codes. Young musicians are just going to have to fork over this large increase in electric rates. There will be no other recourse. To some of these students, the struggle to become a musician will become too depressing and the dream of becoming a musician will die and I know because I have seen this happen. As an -- as austin becomes less affordable to young musicians, austin will slowly change. To quote a phrase, austin will become just a little less weird. Thank you.

[Applause]

>> Mayor Leffingwell: I they are we are done to rusty osborne, he is here, following rusty will be paul beckham. Paul beckham not here. Ross smith. Okay, you will be next over here, ross. Go ahead.

>> Hi, you guys, thanks for the opportunity to speak. You know, you have heard some pretty scathing times tonight of this proposal, from -- from fixed income, low income, churches, small businesses, all of which are incredibly relevant to -- to consideration. I want to talk about the -- about the terrible -- energy conservation from the rate structure here. The notion that -- that with increasing block rates, consumption that less is paid by the high consumers. This kind of presumptive behavior should not be decoupled from the rate. I have invested by my figures about \$15,000 in high efficiency air conditioners, insulation, solar pv, solar thermal on my home to try to help austin energy meet its climate protection goals and its renewables goals. But I'm starting to feel like a -- a jilted partner at the energy ball. This -- this proposal seems to me to be -- to be a -- those numbers are -- are after rebate. And the proposal before you seems to me to be a rebate recovery program from austin energy. Whereas I tend to see -- to see my investment in this process as -- as prepaid fixed costs. Up front prepaid costs.

[Indiscernible] austin energy. Having been a utility manager at the university of texas for 30 plus years, I'm not -- I'm sympathetic to the notion that costs of service issues are important for -- for cash flow and for proper management of the utility. But like everyone else here tonight, I feel like this is way excessive. Just -- just to cap what everyone else has said, don't do this, don't approve this. Let's go back to the drawing board, find a way to make this more equitable. Shift the burden of increasing consumption on those that use the most. And -- and it will be a better community, thank you.

>> Mayor Leffingwell: Thank you, rusty.

>> Mayor Leffingwell: This side will be natasha jenson, is she here? This steve beers then over here. Go ahead, ross.

>> Thank you, mayor and council. Thank you for staying up late with us. I am a homeowner on a fixed budget, this is going to double my electric bill, so I do have a horse in this race, but I'm here to tell you why we need a rate increase. Maybe not this one, but a rate increase. We all have benefited for the last 17 years from subsidy from austin energy, it's not the transfer to the general fund it is the subsidy that has come from them undercharging for their electric rate. That subsidized the purchase of every single good and service sold in this city and bought by every one of us, every single person in this room, me, you, all of these folks who are here tonight, everyone in this city, rich, poor, in between, has benefited from paying subsidized prices for everything they have purchased in this city. And we have done it by using austin energy's reserves as a credit card. What's -- what has happened now is the bill has come due. We have reached a point where we cannot continue tapping the credit card. And so what we have been talking about tonight is how to spread the pain. Because we are all on the hook for the bill. We have all benefited from it to some degree and we're all on the hook for the bill. The only question is how do we spread the pain of paying it back? Now, the -- the proposal that's in front of you has a lot of problems and needs a lot of work. But it's not the only job that you have. The other job that you have is to project down into the future to when the next rate hike is going to be or

the next rate case and come up with a rate, a combination of economies, at the utility, conservation and a rate hike that will prevent us from getting in this jam all over again, five or 10 years from now. Now, I -- I do not envy you the job of trying to figure out whose ox gets gored. But I would caution you that the longer we wait, in trying to sort that out, the higher the bill goes and the greater the pain will be. Thank you.

>> Mayor Leffingwell: Thank you, Steve Beers, following Steve will be carry Shonert. Over on this side.

>> Thank you for your attention for being here, for hearing us out. Once upon a time, our electric rates were far more uniform. What was called an inverted block rate. A progressive rate structure where the first 500-kilowatt hours, it was my understanding, was one rate and then above that was a higher rate. This kind of structure gave relief not just to low income but to everyone, business and residential. Who saved energy. The so-called fair group, the federation of Austin industrial ratepayers, in steps, reduced their rates down to about half of the typical rates. This was accomplished without any hearings. In fact deals were confidentially negotiated in secret. During this last legislative session, I read in the Statesman that Austin Energy now has cut state agencies as well, but in the three column inches that I read in the Statesman there were no details on that. So what this means is by these people getting a special rate, outside of the public process, it leaves what's left over for the rest of us to cover. So how could that possibly be an objective cost of service. It couldn't be. How would we know if the rate setting and cost recovery for these special users, these privileged groups, was reasonable or not? I heard this group, I guess C Care, I don't know what it stand for, corporations care, maybe they're the successor to the so-called fair group. And I believe that they do have some, you know, from what it sounded like they do have some -- what it sounded like they do have concerns more than just for their bill but for all of us. But I was sort of reminded of Mitt Romney's statement, corporations are people, too. The statement in Animal Farm, well, we're all equal but some are more equal than others. These large user rates are set by contractors, it's my understanding, through 2015. So why don't we wait until then to redo residential rates when we have more information --

[applause] -- and everything is out in the open, right? And I think the way we can do that and meet the more immediate needs is what you have already heard is keep that fixed rate down at the \$6 level and then try to cut that revenue requirement, which it sounds like there's ways we can do that. And then I would say what's left over, just apportion it evenly across all of the classes and tiers, like say a five percent boost in rates. Because I think -- with these different rate classes, we're having class warfare. With these tiers we're going to get more tears when we open that bill and we cry when we see how we're being gouged. Thanks. Carrie, you have the distinct honor of being the wrap up, you are the last speaker.

>> Well, thank you so much for allowing me to speak to you today and thank you for staying so late. My name is Carey Shonert, I hold a masters from Truett at Baylor University. I am a part-time youth worker at Triumphant Love at Lutheran Church. Ever since I moved here to Austin I have been looking for employment as a minister. I haven't been able to find any full-time position because of the economy. Churches are laying off ministers, they are slashing budgets. They are dissolving ministries. As you have heard tonight. While in seminary, I felt called to do mission work to help allergy forecast -- to help alleviate poverty. I hope that one day I will be

able to live out that in a vocational ministry position. However, I feel if these rates go into effect my chances of living out that calling will decrease and that I also worry about the least of these that can barely afford their electric rates as it is. I'm just so grateful to you that you are allowing us to speak and that you -- that we can be a part of a community owned utility that lets us come and talk and speak our minds and help come together as a community to find the best solution. I ask you today to please tell austin energy to send this back to the drawing board so that we can come up with a proposal that does not hurt the most vulnerable citizens in our community and those social service institutions that try to serve them. Thank you so much for listening to all of us tonight.

[Applause]

>> Mayor Leffingwell: Thank you. That's all of the folks that we have signed up wishing to speak. If there's anyone who is signed up and wants to speak and I haven't called your name, let me know now.

[Laughter] there will be another day for that. Signed up against the proposal not wishing to speak, colin clark, mike .. perry, shirley johnson, marge wood AND will McCloud. So we will continue this public hearing on february 2nd at or after 6:00 p.m. At night. And those are all of the -- no action is required, so -- because we will continue the public hearing. Those are all of the items that we have on our agenda. Correct, city clerk? Councilmember tovo?

>> Tovo: Mayor, I just wondered if you might mention also the work session that the council will be having next week.

>> Mayor Leffingwell: I think that you just did. IT WILL BE JANUARY 31st. We have a work session -- TUESDAY THE 17th? Yes, tuesday morning the 17th there's a work session which will take invited testimony, but that is not a public hearing. Those individuals who are invited to -- to testify are listed and will be available. So without objection, we stand adjourned. At 11:22 p.m.