

City Council Meeting Transcripts – 8/8/2013

Title: ATXN2

Channel: 6 - ATXN

Recorded On: 8/8/2013 6:00:00 AM

Original Air Date: 8/8/2013

Transcript Generated by SnapStream Enterprise TV Server

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Pelly gross. Pelly gross.

[04:03:15]

>> Mayor Leffingwell: Good morning. I'm austin mayor austin mayor lee leffingwell. We'll begin with the invocation by the reverend dr. Argo green and welcome back, pastor. Please rise. I know you were supposed to be here for our last meeting but welcome back.

>> Let us pray. Creator god and hope of our tomorrows, we thank you for the possibilities set before us today. You have called all people to live lives of peace and wholeness, but we confess that sometimes we have cared more for lofty places than we have for places of service. We confess that we have worked more for power than we have for purpose. You've given us friends and colleagues and we are grateful. Move our gratitude to become outreach to those without energy for greater service. Let our work eventuate in decisions for the common good, that they may reflect the decisions of those who have gone before us and on whose shoulders we stand. Give gifts of discernment, of wisdom, of vision to those who lead here, grant the patience of cooperation to those who debate clarity of thought. And so bless now those who gather in this place, we offer ourselves not to you to earn your favor but to honor your presence and to say thank you. And that is our word for this time. Thank you. In your holy name we pray, amen.

>> Mayor Leffingwell: Amen. Thank you, pastor. Please be seated. A quorum is present so I'll call this meeting of the austin city council to order on thursday, august 8, 2013, at 10:05 a.M., Austin city hall, 301 west second street, austin, texas. We begin with the changes and corrections to today's agenda. Item number 43 is postponed UNTIL AUGUST 22nd, 2013. Item 56, add as a seco co-sponsor

councilmember william spelman. Our time certain items for today, at 12 noon we have our general citizens communications. At 2:00 we'll take up our zoning matters. At 3:00 or after we'll convene a meeting

-- recess the council meeting and convene a meeting of the austin housing finance corporation board. At 4:00 p.M. We'll have our public hearings. And at 5:30 live music and proclamations. The musician is peligross for today. The consent agenda is items 1 through 79 with several exceptions that I'll note in just a moment. First I want to read

-- it will remain on consent

-- item number 47. These are appointments to boards and commissions and waivers. I want to read these into the record. To the austin music commission, nakia reynosa is councilmember tovo's nominee. Board of adjustment sign review board, stewart hampton has an alternate is mayor leffingwell's nominee. And marry whale yee-haw thorn is mayor leffingwell's nominee. Jeff jack is councilmember morrison's nominee. Brian king is councilmember tovo's nominee. And will sneer as an alternate is mayor leffingwell's nominee. To the building and standards commission, dr. F. Bebee councilman spelman's nominee. To the planning commission, anette clemente. Steven oliver, councilmember riley's nominee. Myron smith, councilmember morrison's nominee. To the sustainable food policy board, selena booth is mayor leffingwell's nominee. And to the urban renewal board, joe babb and michael clark madison are mayor leffingwell's nominees. To the austin-travis county integral care board of trustees, dr. Delco is mayor leffingwell's nominee. We have several waivers to approve on this item. Approve a waiver of residency requirements within the service area in section 21-143 of the city code for the service of clay butler on the electric utility commission. A waiver of the residency requirement in 21-21 of the city code for the service of edwina carrington. Approve waiver of attendance requirement in section 21-26 of the city code for the service of joah spearman on the downtown commission. The waiver includes services through today's date. And finally to approve a waiver of the attendance requirement in section 2126 of the code for the service of richard amato and grace see on the resource management commission. The waiver includes absences through today's date. Our consent agenda, again, is items 1 through 79. The following items were pulled off the consent agenda. Items 5, 6 and 12, which will be heard together, have been pulled by councilmember spelman. Item 7 will be heard after executive session. Item 11, councilmembers martinez and tovo have requested a time certain of 7:00 p.M. On this item. That means that item 11, extenuating circumstances will be the last item today. Item 19 is pulled by councilmember cole. Item 21 pulled by councilmember morrison. And items 27, 58, 62 are pulled by councilmember tovo. And item number

-- noting that item number 93 at its 2:00 p.M. Time certain, councilmembers tovo and morrison will be requesting that it be set for a time certain of 6:00 p.M., which it will make it the next to the last item that we hear today. Item number 10 is pulled by councilmember martinez. And at its 4:00 p.M. Time certain, item number 114 will be postponed indefinitely. So those are our

-- there's one more item that's pulled off consent due to speakers and that is item 16. And that is our consent agenda.

[04:11:33]

>> Cole: Mayor?

>> Mayor Leffingwell: Mayor pro tem cole i understand item 7 is going to be considered after executive session, but i still would like to have it at a time certain of 3:00 p.M.

>> Mayor Leffingwell: Do you have another co-sponsor for that request? Okay, councilmember spelman, mayor pro tem cole are setting that for 3:00 p.M. Did you pull item 52, councilmember?

>> Cole: Yes.

>> Mayor Leffingwell: I don't have that on my list, but mayor pro tem cole is also pulling item 52. Now we'll go to the speakers on our consent agenda. First speaker is laura presley.

>> Morrison: Mayor, i would like to call a few hours.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: One is clarification of what version of item 63. I think we are

-- we just got a yellow sheet. Do we need to pull that or

--

>> if you want to pull it for discussion but it incorporates what we talked about in work session.

>> Morrison: Okay. And I would like to pull item 42.

>> Mayor Leffingwell: Are you pulling item 63?

>> Morrison: No, as long as it takes care of that.

>> Mayor Leffingwell: All right.

>> Morrison: Item 42, i would like to pull that. We've got a lot more information on that.

>> Mayor Leffingwell: Okay. So item 42 is added to the list of items pulled off the consent agenda. Go ahead, you have three minutes.

>> Mayor and mayor pro tem and councilmembers, with regard to the fee and rate structure for the 2013-2014 plan for austin energy, I'd like to encourage you guys to actually get that online so people

could look at it. Several of us could not find it. We were looking for it, and it's just not either in an obvious place or we can't

-- we don't have access to it. So really we would like to have that early before the august 22nd meeting. And second thing I would like to just kind of talk about the city code with regard to public hearings and how the city code lists that you can close communications on public hearings. I'm not familiar that the city code and city attorney, I'd like to potentially get your thoughts on this, about closing comments for agenda items. And so the city code does not have any listing in it that the council may close communications for agenda items. So I just want to put that out there in case that comes up today. Thank you.

[04:14:41]

>> Mayor Leffingwell: All right. The next speaker is susana almanza. Susana almanza. Mr. Copser. Mr. Copser. Colonel copser. You have three minutes.

>> Thank you, mr. Mayor, mayor pro tem and all the city councilmembers. I know that over the course of the summer the city has wrestled with a number of issues that some are being talked about today and some are being pulled again. I want to reiterate what is happening in our cities, in san diego they just had a global visitors travelers association, gbta. It is the largest such convention looking at real estate agents to travel agents to executive assistants who help measure with every member of their transportation from limousines to taxis to airline to shuttle to the whole entire industry. What's coming out of that conference is going to echo through all of transportation. I hope that the city councilmembers think about it as it pertains to not only the issues that face us in austin today but more importantly going forward which is they all are recognizing that technology is changing faster than policy makers and that the people consuming this information are doing it at a speed that is so rapid that it is leaving behind cities, municipalities in some states in terms of how they are doing it. Obviously I'm a huge fan of the city council as you are trying to wrap your arms around some of these tough issues, I encourage you to think about it and any way private citizens can be a part of that in addition to some of the great stuff the austin transportation department has done in the past with open hearings, i think austin needs more of that especially as austin is leaning forward in the saddle to do that. So appreciate the time, mr. Mayor, and I look forward to future discussions in the future. Thank you very much.

[04:16:41]

>> Mayor Leffingwell: And you are aware that item 43 has been postponed.

>> [Inaudible]

>> Mayor Leffingwell: Harry savio. Councilmember morrison.

>> Morrison: With regard to item 43, that's the one about ride share and i wonder if we could ask staff why we're

-- I'd like to know why we're expecting it, what's the plan, what's going to happen in the interim.

>> Mayor Leffingwell: Anyone?

>> Morrison: Looks like mr. Seller.

>> Mayor Leffingwell: I assume a big part of it is a lot of research and a lot of discussion and also

-- I'll let you answer.

>> Yes, mr. Mayor, thank you, robert spiller, austin transportation department. By the time the resolution that that responded to asks us to get with stakeholders and by the time we were able to get with stakeholders we had missed an opportunity to go to utc. We thought it important to go back to utc one more time to let them know the ideas that had come up through the stakeholder meetings and so forth. So that we could bring any recommendations they might have to council. The other reason is the california utilities district has recently this week made a ruling and so we wanted a chance to digest that and also present that as part of our response. And so we thought it was prudent to request the delay.

>> Morrison: Thank you, that's helpful. When does the utc meet?

>> MONDAY THE 13th, I Believe, which would be this coming monday.

>> Morrison: Well, I hope they will be able to have a fruitful and expedited discussion about it.

>> We do too.

>> Morrison: Thank you.

>> Mayor Leffingwell: Mr. Savio.

>> Mayor and council, harry savio, I work for the home builders association of greater austin. Our members are from the six-county area. We build 95% of the homes in the metropolitan area. I just wanted to make some quick comments on items 60, 62 and 63. I understand 62 is being pulled, but after I leave here I'll go change my note to not wishing to speak. The home builders association and our members are always supportive of looking further and more deeply into issues. I wanted to be here speaking in for and in support of these issues. On item number 60 specifically we would ask for the sponsors to possibly give consideration to adding visitable to the motion on a.D.A. Compliant ramps. So

if there's ordinances moving forward it is going to add visitability to the code. Again on number 62, we would like for the council and the staff to look at us as a resource. We feel like we could provide valuable input. Item 63, specifically we have members

-- again, we have member firms, we have national, regional and local firms and we believe that we have resources that will be available to help fight input on other municipalities, what other regions do to provide both expedited and standardized processes. Again, that is something that we salute you for bringing forward. We are appreciative of and again, we would like for you to think of us as a resource. Thank you.

[04:19:55]

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

>> Mayor Leffingwell: Mayor pro tem cole cole mayor pro tem cole.

>> Cole: Haven't your members seen an improvement?

>> Thank you to city council for putting significant additional resources there. I believe there are now 28 people doing what there were just a handful doing at one point, and the city manager brought staff from all over the city to bear on that issue for concentrated focus period of time. I'm taking a very long time to say yes and I apologize, but I want you to know that we know that there was a reallocation of resources that has took a process that was taking as long as four months for a single-family remodel project and has reduced that down to one to two weeks. And again, I know that we're appreciative, but more importantly the austin public is appreciative because it's not just us, but it's that homeowner trying to get their house remodeled. I had school teachers who were going to have their house remodeled over the summer that couldn't

-- that were not able to get back into their house for the start of school. Those are the kinds of things that by reallocating resources you've not just impacted us but you've impacted the citizens of austin.

>> Cole: Thank you, I just wanted to get that from you that this was an additional tool for the staff to use but they have done a bang-up job at improving our backlog and hiring additional people and putting in additional resources and we didn't want this item to be seen as anything less than that. So thank you to the city manager and his staff.

>> Thank you.

>> Cole: And staff.

>> Mayor Leffingwell: Barbara day. Barbara day. Carol budreski. There is barbara day. You have three minutes.

[04:21:58]

>> Good morning. I wanted to speak to you about item 27, the landis contract. My understanding is there are four years left on the current landis contract so i really don't see the need to extend this contract, but that we should take the time that you need to truly consider it. There are options if there are particular customers such as large commercial customers, for example, that may have a need for more sophisticated meter. They could opt in and pay for that meter. As the austin energy background information points out, for industrial

-- or for investor-owned utilities, the customer itself pays for the meter. And if a more sophisticated meter is wanted, that is a good approach for austin energy to use while you are considering all of the options and issues related to this landis contract. Usually a utility will price out the cost of something like that and spread it out over a period of time. I don't know what the right period of time would be. Austin energy would know that, but five years, for example, for the payback on the meter. I think

-- I hope that you will take additional time on this and really look at the many issues. I'm particularly interested in the cost-related issues because I think what is going to happen if this is approved as austin energy is requesting it is that the residential

-- the small residential customers are the ones that are going to be paying the bulk of this because meter costs are functionalized on customer count, and therefore approximately 90%, give or take, of those costs go to the customer class, and yet that is not what's driving this push for the more sophisticated meters. Also I really hope that you will look very carefully at why we are replacing these meters so soon. We already funded smart meters and now we are at just five or six years down the road replacing those. And I don't know what the answer is to that, although I have been told informally that it's because the meters that were selected in the first place were out of date when they were put in. I don't know if that is correct, and in fact the need for the two-way meters

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[04:25:00]

[buzzer sounding]

>> Mayor Leffingwell: Thank you.

>> Tovo: Mayor, I have a couple questions for you but I was hoping you might finish the point. I did pull this item for discussion but we closed the public hearing. I think we may have quite a few people here to speak about it today including people we didn't hear from last time. So I guess I would just ask my colleagues to consider reopening the public hearing because we have several people signed up for citizens communications so we'll be hearing their testimony now and then we'll be discussing it later, which isn't the

-- necessarily the best process. But anyway, miss day, if you will finish your comment.

>> All right. My main point is not to go ahead and extend this landis contract but to make in a opt-in available if there are particular customers that have particular needs right now for the kind of two-way communication or more sophisticated communication than the current smart meters. And those would likely be large commercial customers who could see a benefit from time of use, for example.

>> Tovo: Miss day, would you clarify the point you raised earlier about the cost allocation and your concerns about the residential user bearing the brunt of the cost of this service contract?

>> Yes. In a rate case, the costs are functionalized, in other words, you look at what the costs are related to. In this case they are related to meter. Meter costs are functionalized on customer count. That means that a small customer who uses less than 500 kwh per month is going to pay the same amount as a large customer that uses many, many, many times that. And in fact these smart meters, the sophisticated second, third, fourth generation of smart meters is for the benefit of the large commercial customers. So when you functionalize on customer count, 90% of that goes to the residential customer and that would be an unfair allocation, in my opinion.

[04:27:20]

>> Tovo: Thank you.

>> Mayor Leffingwell: Carol budreski.

>> I'd like to ask a clarifying question. I signed up on item 74 and also 27, and 27 was pulled. Will there be additional comments at that time?

>> Mayor Leffingwell: If it's pulled off the agenda, there will be.

>> Tovo: Mayor, I don't mean to interrupt

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>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: That item we did close the public hearing but I believe we agreed we could ask questions of audience members.

>> Mayor Leffingwell: We did agree.

>> Tovo: But I'm going to ask everybody to reconsider opening the public hearing. I can't promise you what time it will come up, but i would be glad to ask you questions about that if you want to save your item until later.

>> Okay because I have two issues I wanted to discuss on the consent agenda and the first one is item 74, which is the setting of a hearing on austin energy's proposed rate and fee changes. And the date that has been SET IS AUGUST 22nd. That is what's proposed. And I am not against having a hearing on rate and fee changes; however, I would like some information to look at in order to participate in this hearing. And I have studied the budget, which I don't understand why you call this a budget because it doesn't look like one to me. There is a 14% increase proposed in the community benefit charge, and we have no information about where that increase is going to occur, how much has been collected for each one of the components of the community benefit charge, how much has been expended up until this point in time. To me that's standard budget information and we don't have it. There's also an indication that there was underrecovery for energy efficiency programs that costs have gone up, and that's part of the reason for a rate increase. Well, I need to see what this underrecovery was because I thought the idea behind a budget was it establishes how much you are supposed to spend and when you get to that amount you are supposed to quit. I want to see what we're spending extra money in. I'm very upset about the fact there's so little money available for low-income weatherization. We have 700 people on a waiting list and I want to know what this additional money is being spent for because that's the idea of reviewing the budget is to make sure that the money is going to where people, you know, in the community would like for it to be spent. So I would like us to have a a hearing. During the rate hearing process there were a number of us who suggested that you should pass some type of process for reviewing these periodic fee increases. That has not been done. Now we have the uc meetings set up for august 19 and this hearing the 22nd and the euc does not have the information posted either. I have filed an open records request. I am waiting for a response. And I have asked for the information in several different places and was told that it was not available. Well, this is not the way you're supposed to, you know, handle this budget situation so I'm asking that you not set a hearing for AUGUST 22nd. I'm asking that you get that information publicly posted and set a hearing for a time when people have time to ask their questions beforehand and testify with some knowledge and understanding of what the proposal is. Now, my second item, i probably don't have much time left, is item 27, which is the \$60 million contract for landis and gear. I agree completely with miss day's comments

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[04:31:14]

[buzzer sounding]

>> Mayor Leffingwell: That is pulled off consent and you will have an opportunity to speak when that item is called.

>> Mayor, I signed up on 74 donating time to carol.

>> Mayor Leffingwell: You can speak in citizens communications, but I don't know what your point

-- i don't have you signed up at all at this point. But take your seat and I'll look into it. Next speaker

-- councilmember morrison.

>> Morrison: Thank you. Excuse me, miss carol b. You had several questions about

-- that you laid out with regard to the budget for austin energy, and what I'd like to do is ask that if staff could work with you and my staff to craft a budget question that we can submit because those are all good questions, I think, and we can make that go through our budget question process as opposed to having to wait for public information request, if you are interested in doing that.

>> That would be wonderful. Thank you.

>> Morrison: Okay. Great. So if we can get some help from staff and my staff could help you too.

>>> Thank you.

>> Mayor Leffingwell: Okay, and for mr. Whaley, who signed up after the limitation of 9:45 so you can't donate time, however, you can speak three minutes in communication if you want to do that.

>> [Inaudible]

>> Mayor Leffingwell: That's all right.

>> Thank you.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I mentioned earlier it was my understanding from watching the tape that item 27 had been closed for citizen comment, but I think it's been clarified now and i know

-- I think you just made this point but I wanted to let everybody know who is here that item 27 was not posted as closed so people can indeed sign up and speak. Is that your understanding, mayor?

>> Mayor Leffingwell: That is my understanding.

>> Tovo: Okay. Ankyu. Joan bartz.

[04:33:27]

>> Good morning. And I did sign up for two items, 49 and 53. They are basically the same thing.

>> Mayor Leffingwell: You can speak on both items but you only have three minutes.

>> Right. Got it. My name is Joan Bartz, chair of the University Hills Association Disabled Task Force related to both of these. I'm pleased to see action taken by the city in regards to helping the disabled. I believe Councilmember Morrison, that's number 49, you are specifically addressing disabled. The other one, 53, again, that's yours, you are addressing what is considered a family 6789 both of those items were addressed clearly in House Bill 216, the state law approved by legislature in 2009. All you have to do to save all your staff a lot of time and us a lot of money use that because it's laid out as clear as a bell. Plus, any of these items such as this you need to be aware that you will be scrutinized by the Department of Justice to be sure that what they read and what they were told by the United States Supreme Court ruling in 1985 will be adhered to. That's all. Thank you.

>> Mayor Leffingwell: Ronnie Reefersseed.

>> Well, thank you, Mayor Leffingwell, and I'm here primarily to address the item 27 when that time comes because, as was noted earlier, it's

-- it's not just a casual, well, let's do it, let's not do it, it's deadly. There's been new information, and we should all be paying attention to this, radiation kills. If we didn't know that, we killed many Japanese people with our weaponry and at the end of World War II and here we're waging war on you and all of us in the room and everybody else with these so-called smart meters, which is really nothing more than a misnomer somewhat like the so-called Patriot Act which literally shreds our constitution, the Fourth Amendment, et cetera. And we as citizens, I believe, should stand up and say no, heck no to destruction of our incredible constitution which is a gift to the planet. If you pay attention to the world history, the planet has

-- various countries in the world have realized what leadership our founding fathers gave to all of us and thus the world by example that we don't really have the you. Government officials generally speaking

-- bless you, miss Tovo, do not have any right to kill us or kill the citizens just to make some kind of profit or something, and there's nothing achieved by these, again, misnomered smart meters other than killing people. And there's no real information gained for the sake of any good reason, it's just get another radioactive

-- yet another radioactive way to oppress people and, of course, shorten our lives. And that's not a good thing. That's why I'm speaking out for my fellow citizens who aren't here, my dear friend Clay Dafoe who

is not here right now, but we're all in agreement, all the people who study this issue that smart meters on dumb meters. They are dumb. They are deadly. They are nonproductive. And me and a whole bunch of other citizens are here to speak to this issue because we love you, we love each and every one of you. Mr. Mayor, all of you, we're trying to help conserve life. We're trying to stop our, at best, confused public officials from waging war on you, me and all those little babies and pregnant women and everybody else.

[04:38:00]

[Buzzer sounding] there's nothing good about any of it.

>> Mayor Leffingwell: Ross smith.

>> Thank you, mayor and council. I want to talk about item 63. I understand the general gist of what it is, but i would like to suggest that you are missing a significant way to reduce the problem of development review. In my case, I would like to move the property line between myself and a neighbor over two feet. The total amount involved is 160 square feet. In order to do this, I have to file the full plat amendment form at a cost of several thousand dollars, more than the land involved, and where 95% of the questions have no relevance to me whatsoever. I'm certain this is not the only place where there are very complex procedures for making very simple changes to what's already on the books. I'm certain that if you asked every staffer at development review, they could probably tell you, oh, yeah, I can think of a couple ways we can make things simpler. So I would ask you to ask staff to put that as part of their review of their procedures. You will probably cover a lot of ground that way. Thank you.

>> Mayor Leffingwell: Okay, roy whaley.

>> Howdy y'all and welcome back. I'm roy whaley, austin regional group of the sierra club. Follow up very briefly on item 74, with an issue this important affecting this many people, we should not treat this as a rubber stamp situation. They will need more than two days to review the information. Our knowledgeable citizen activists need time to absorb what's going to happen before that decision is made so we ask that the suggested time and date of august 22nd is fine, let's have that meeting, but let's put the final decision back a couple weeks to give time to analyze what comes out of that meeting. Because we wouldn't have that meeting if they weren't talking about important details. You need time to work over those details. Thank you very much for your time.

[04:40:37]

>> Mayor Leffingwell: That's all the speakers that we have signed up. So with that I'll entertain a motion to approve the consent agenda. Councilmember riley.

>> Riley: Mayor, there is one other item, 19 has been pulled for discussion and i believe the discussion will relate to some language in the minutes and making sure it tracks the minutes. It might make sense to go ahead and pull the minutes so we can make sure those are in sync when we talk about item 19.

>> Mayor Leffingwell: You want to pull item

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>> 19.

>> Riley: That means pulling item 1 to be discussed along with 19.

>> Mayor Leffingwell: So items 1 and 19 are pulled off the consent agenda as well. Councilmember spelman.

>> Spelman: Somewhere i lost the thread. I've got the list of items pulled by councilmembers, but I am not aware of all the items pulled for speakers.

>> Mayor Leffingwell: There was only one item and that was item 16.

>> Spelman: Just item 16? How about item 27?

>> Mayor Leffingwell: Item 27 is pulled. Yes. It's not on the consent agenda.

>> Spelman: It is not on the consent agenda.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I would like to be shown as voting know on 63.

>> Mayor Leffingwell: All right, when there's a motion on the table, councilmember morrison will be shown as no on 63.

>> Spelman: Move approval of the consent agenda.

>> Mayor Leffingwell: Councilmember spelman moves approval. Mayor pro tem cole seconds. All in favor say aye. Opposed say no. Passes on a vote of 7-0 with councilmember morrison voting no on 63. So just as a matter of information, council, myself and mayor pro tem cole will be off the dais beginning one hour from now. Councilmember spelman will take over the meeting. And we anticipate

-- i anticipate being back a little after 1:00 and i believe so does mayor pro tem. And I'll just say my reason for being off the dais is the health and human services secretary sebelius is in town today and we're having a meeting in this building. And mayor pro tem cole i would like to say the reason I'm off the dais is because I've been nominated for an award and I think i should attend the luncheon.

[04:43:22]

>> Mayor Leffingwell: Okay. So there we are. So hopefully we can call up items 1 and 19. If we can do that.

>> Cole: And I pulled number 19. So I do want to let council member Riley and make sure everyone has the amended language to item 19. It is an item we discussed when discussing the density bonus and we made clear that we wanted the fee to be generated to go for permanent supportive housing, and I've simply put forth clarifying language that says it will be exclusively for permanent supporting housing, for low barrier housing for the chronic homeless and that's simply because there was confusion

-- you don't have it?

>> Mayor Leffingwell: I don't think anybody has that.

>> Cole: Let reread that slowly. We discussed this back when we were doing the downtown density bonus for the dedicated fees and there was some question within the minutes in how that was recorded whether or not staff had permission to use it for a dedicated source of housing for the chronic homeless so I've added clarifying language and staff has added even more clarifying language so the amended language reads: Moneys generated by the fee will be exclusively for permanent supportive housing for low barrier housing first approaches for the chronic homeless.

>> Mayor Leffingwell: Do you very hard copies of that to pass out?

[04:45:24]

>> Cole: I can make that happen real quick, mayor.

>> Put it on the screen.

>> Mayor Leffingwell: The city attorney to address this item. Apparently it is not a clarification but a change.

>> Deborah Thomas with the law department. The law department did put this item on when we drafted the ordinance, we did not reflect the motion that council voted on in June. So we corrected the language

to reflect that. And the posting specifically says that it's on to reflect council action. Adding councilmember

-- mayor pro tem wants to add exclusively, that's fine, but now she's adding

-- she adds the housing first portion, that's a substantive change to the provision and we weren't posted to do that.

>> Mayor Leffingwell: So one possibility would be to postpone this item. Would you care to make a motion to postpone item 19?

>> Cole: There it is on the screen, mayor.

>> Mayor Leffingwell: What she's saying, what the attorney is saying is that we can't consider this because we're not properly posted for it.

>> Cole: Oh.

>> The housing first piece of it.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: If we remove the words housing first would that be consistent with our posting?

>> She added but that's consistent with what you voted on.

>> Cole: Let's move the housing first language.

>> Mayor Leffingwell: Is that acceptable?

>> Yes.

>> Mayor Leffingwell: You want it clarified so everybody understands?

>> Cole: It clarifies at the meeting designating money for low barrier chronic homelessness. And it makes clear the moneys generated by the density bonus shall be used exclusively for chronic homeless and I'm removing the housing first language. To be consistent with the posting.

[04:47:35]

>> Mayor Leffingwell: Motion by the mayor pro tem. Is there a second? Seconded by councilmember spelman. Councilmember riley.

>> Riley: Mayor, since we are changing

-- we're also changing the language in the minutes that relates to this section and so I just wanted to see if we could try to get those in sync. For instance, the minutes are being changed to refer to the chronically homeless and since this language is based on that decision, i would suggest we go ahead and change

-- I think we were referring to the chronically homeless. Homeless.

>> Cole: You think it should have ly? I would accept that from a harvard guy.

>> Riley: I'm just trying to get

--

>> Mayor Leffingwell: I would ask mayor pro tem to be recognized before you engage in conversation.

>> Cole: Yes.

>> Riley: Then there's also just an extra word in the minutes. The word "for" should have been deleted but it's not. So it should read: The fee will be paid into the affordable housing trust fund and money generated by the fee for permanent supportive housing for the chronically homeless. I think that's what we talked about at the meeting.

>> Cole: I would accept that, mayor.

>> Mayor Leffingwell: And that

-- that friendly amendment, I assume, is friendly to the second and that relates to correcting the minutes. Okay. All those in favor please say aye? Opposed say no. Passes to a vote of 7-0. Wool try to take items 5, 6 and 12 together, assuming we can get through with this in 50 minutes. And if we don't, I would request that we postpone action for a full council but we can get the discussion started.

[04:49:51]

>> Spelman: Mayor, i pulled the items. I have about five minutes worth of questions. I think we can dispense with them quickly. I believe we have speakers.

>> Mayor Leffingwell: We do. Paul trayhan.

>> Good morning, I'm here on behalf of the chamber and the air service task force to support items 5, 6 and 12 which relate, as you know, to the terminal east infill project. The reasons the chamber supports

these items is that, as you know, the airport is experiencing record growth and continues to experience record growth. And while this expansion is partly in anticipation of that continued growth, it is also to serve the current needs of austin travelers and improve their travel experience. For those reasons the chamber supports these items and thank you very much. We encourage you to support it.

>> Thank you. Currying favor with brevity is good. Paul saldana. Donating time is juan oliveros.

>> I'll make comments brief. I signed up neutral. We're supportive of this project. Just had a couple questions regarding clarification moving forward when this process

-- it's a design-build contract for \$62 million. So my question or our question is what will be the anticipated dba goals for the construction phase. You may be aware abia is currently going through the process of modifying their dba goals so there isn't any backup that speaks to what the dba goals are going to be for the next phase. It's my understanding this is a design-build, but there isn't backup for the future. Obviously we're concerned about dba participation on the first page there's about \$672,000, but 80% of that is going to one firm, \$400,000 contract. So we really don't see any good meaningful participation yet. That's not to say that's not going to happen because it's early on in the project. It's important to receive clarification on what the dba goals will be for each phase and whether or not the updated dba goals that are underway will apply to this project and that was really just my comments. Thank you.

[04:52:44]

>> Mayor Leffingwell: Thank you. Those are all the speakers that we have signed up. Councilmember morrison.

>> Spelman: Two classes of questions, one we can deal with quickly. Is there somebody here who can address mr. Saldana's question?

>> Good morning, vern. To answer the question regarding goals, we do set goals and phases, design phase and construction phase. The design phase is 7.27 dba and the construction 10.5.

>> Spelman: Could you be more specific with respect to what would kind of

-- consultants we're talking about, the dba goals or 10.52 or is it 10.52?

>> Because it's a federally funded project, it is a disadvantaged business enterprise project so it is just a dba goal.

>> Spelman: Different hubs would amount to 10.52 would be in compliance.

>> That is correct.

>> Spelman: Thank you. Mayor, I also have questions of Mr. Smith, if I might. There are as I understand it, Mr. Smith, from our conversation at work session two days ago two classes of benefits that will come to Austin and to us at the airport as a result of building this knuckle. One is a long-term and one is a short term of making it easier to get through security and providing additional baggage handling speeding the time some people get their bags. I wondered if you could talk about the short-term benefits. What are the improvements passengers are going to see as a result of building the knuckle?

>> First let me address part of what you said on the long term because it sets the context. The original design of the airport back in 1999 when it opened was basically designed for roughly an 11,000,000 passenger threshold. So all of the systems whether they be checkpoints, gates, security, a variety of things were designed to accommodate up to that level. This year we're going to get very close to 10 million if not exceed 10 million passengers, so within the construction time frame of all of the projects we are proposing, we will be exceeding 11 million passengers. So even from a long-term planning perspective, we feel the demand is there to start thinking about changing all of the systems at the airport and expanding them to accommodate future growth. This specific project was included in our updated master plan in 2008. And then we brought it forward in 2011 for the council to approve the use of the design-build methodology. 2012 we came back to council to authorize the design of this project and today we're coming back authorizing the funds for the construction of the project. Specifically the main component of it deals with security lanes at the airport. Most people are familiar that we have three permanent security footprints at the airport and we added a temporary one last year. That temporary one that we added last year is what has been very successful in holding down our wait times to reasonable numbers. Before we put that in we were routinely exceeding one-hour wait times for people to go through security. Adding a fourth checkpoint and T.S.A.'s cooperation has brought that down to a manageable level. The problem is where we install that temporary checkpoint blocking 14 of our ticket counters. So right now with the expansion of existing carriers as well as the new carriers that we are attracting we need those ticket counters for the new carriers and the expansion of normal business. So we felt it was time to move ahead with the permanent plan or the long-term plan adopted one on the east end and one on the west end. So this particular project does the first one. On the east end we'll expand security checkpoint area to 10 lanes which we feel will accommodate us to the next 10 to 15 years in terms of what our growth will be.

[04:57:38]

>> Spelman: You were saying, Jim, that we were talking about one-hour wait times at least for some times of the day for some passengers and installing the fourth of these series of lanes reduced that from

one hour to a more manageable number. What kind of numbers were we able to reduce that one hour to?

>> Generally peak times are still running 30 minutes on a fairly routine basis. Occasionally it may get longer.

>> Spelman: We were running an hour, installing the fourth one meant the worst case scenario for me as a passenger would be something like 30 minutes instead.

>> Well, unfortunately it isn't always predictable because it's when t.S.A. Has sufficient staff to go man the temporary facility. For example, they've tried very hard to man it in the morning which is our largest peak but we have a mid-day peak around noon and another one starting around 4:00 and 5:00 and they've had difficulty at some of the other peaks of having adequate staffing. Then we back up out the door at the three traditional checkpoints. So it's very difficult for us to tell a customer a predictable wait time in a security lane at this stage.

>> Spelman: Cues are always unpredictable, but generally speaking you could count on an hour-long wait at 6:00 in the morning as of a couple years ago. Now because we have that fourth

-- that fourth set of lanes, probably you're not talking about an hour, probably you are talking about considerably less time. Is that accurate?

>> Yes.

>> Spelman: What this does is take that temporary fix which reduced the longest wait times on average by about 30 minutes and makes it permanent.

>> Yes, and creates room for expansion and growth as well.

>> Spelman: That's why we need a permanent because that way we'll have space for the ticket counters we're going the need for expansion and also as you said it's supportive of a long-term plan which is going to be requiring more gates on the east side. Okay. Is there any benefit from baggage handling that's going to come from this?

[04:59:45]

>> There's several things we're doing there. We have proposed addition of both inbound and outbound baggage carrousel. One is used by the airlines to obviously load the plane and the other is for a customer to get their bags after they have deplaned and arrive back in the airport so we'll be adding those. In addition the useful life of the explosive detection equipment that t.S.A. Uses in the in-line handling system has reached the end of its useful life so this project will replace those explosive

detection systems. We will be reimbursed by t.S.A. For including that in the project. So all of those relate to our processing volumes and our capability to timely deliver bags to the plane and also to the customer after they've come home.

>> Spelman: We'll be able to deliver bags to planes, back to passengers more quickly.

>> Yes.

>> Spelman: Okay. What's the cost per passenger going to be of this improvement?

>> The cost per passenger that the

-- the act fiscal year 12 was 848. We estimate this year will finish at 876. And we're estimating for the budget next year, the 14 budget, our cpe will be 886.

>> Spelman: Okay, now, is that annualized cost or is that total cost divided by current passengers?

>> That is cost per emplaned passengers. We take the cost of all those charges we bill to the airlines and divide it by the emplane passenger count.

>> Spelman: Talking nine dollars per emplaned passenger.

>> Roughly, yes.

>> Spelman: I did a back of the envelope calculation, got a very different answer. Help me understand how i went wrong. I assumed \$62 million was going to be paid for since this is a long-term capital improvement through a bond of 20 years at 5%. Was that improper assumption is this.

[05:01:53]

>> We are proposing to do a bond sale sometime in january, february time frame. So like, for example, item 5 on your agenda relates to the inducement resolution so it's appropriating and allowing us to spend money now and reimburse ourselves after we do the bond sales later on.

>> Spelman: It's common when we're buying capital goods is spend the money now and repay ourselves once we get the bonds coming in.

>> Yes.

>> Spelman: Will we

-- so we're talking about a 20-year bond at something like a 5% interest rate?

>> I'll have to defer on that one to finance team and let them answer that one.

>> Spelman: Finance team is ready and waiting to explain to me where I went wrong.

>> Elaine hart, chief financial officer for the city of austin. For our revenue bonds and our enterprise funds we typically issue 30-year debt. Unlike for our general obligation debt we're issuing 20 year so it's a longer life so it spreads the costs out over the longer lived assets.

>> Spelman: We're using 30-year bonds. Approximately what percentage rate?

>> We usually estimate 5 which has been historical. However, last year for the g.O. Sale we got less than 3%. We will likely get less than 5%.

>> Spelman: Okay. Might be as low as 3, probably not these days.

>> Probably not these days, but very likely between 4 and 5% due to the credit rating of the airport.

>> Spelman: Okay. So we have a very good credit rating for the airport, I presume.

>> We do.

>> Spelman: We're issuing 30-year bonds at 5% or less and annual carrying cost of 62

-- well, a \$62 million bond of something like 5%. We're talking \$4 million? 4 or 5 million dollars? That's the kind of numbers we're talking about. How many passengers a year?

[05:04:01]

>> A little over 9 million. 9.4 million, I believe.

>> Spelman: Estimated about 10 million for this year. So 4 or 5 million dollars divided by 10 million passengers, I'm getting 40 or 50 cents per passenger. Does that sound right?

>> That sounds right.

>> Spelman: Okay, now you said \$8 a passenger. What am I doing wrong?

>> First of all it's not all loaded in one year. Construction is going to take two years and it's not all going to be expended at one time. At the same time we're adding things to the airline charges. There's some things coming off that have been paid off and the airlines no longer have to pay for it. You can't look at just increment, you have to look at all of the charges that we deal with the airlines collectively to find

out what's being added, what's being deleted in any one year to come up with the cost per emplaned passenger.

>> Spelman: The nine bucks is total costs.

>> Everything.

>> Spelman: Let me cut to the chase. I would like to be able to make the following statement. Tell me if I'm wrong. If the annualized cogs is something like 50 cents from doing this, that's why I got, then effectively what we're doing is we're making a deal with passengers. You're going to pay us an extra 50 cents in the form of airline tickets because that's what we're going to charge the airlines. In exchange you are going to get a permanent reduction in the maximum wait time to get through security from 60 minutes to about 30 minutes and you can count on that at least on average. There are obviously times will vary, there may be weird cases when t.S.A. Can't fill up all those lanes, but on average expect that 60 minute wait time to go down to 30 and it's going to cost you 50 cents. Seems to me that's the deal we could make with passengers which is vast majority of passengers will be happy to pay 50 cents to avoid having to wait in a t.S.A. Line for 30 extra minutes. Does that seem like a reasonable deal? Is that a reasonable way of describing what we're talking about?

[05:06:37]

>> A reasonable explanation, but mentioned that the passenger would be paying on the ticket. There is no direct correlation going back on the tickets. For example, sacramento just redid their terminal, their cost now the \$17, fairly expensive. Other airports who are down around the \$5 range. We are essentially mid pack. At high \$8, low \$9. Our goal from a financial planning standpoint is to stay mid pack so that we retain a strong competitive position here in austin which then allows you to attract new airlines to come here because we charge reasonable rates for their operation.

>> Spelman: Okay, so we're still going to be continuing

-- this will not reduce the reasonableness of the rates we're charging the airlines, and if the airlines chose to make every dime of that increase back through increased prices, it's going to be an increase of 40 or 50 cents, which is going to be trivial compared to the benefits that our emplaned passengers are going to get from much quicker times getting through security.

>> Yes.

>> Spelman: Mayor, my apologize, but seems to me the \$60 million capital improvement needed some explanation and we needed to verify the benefits in fact exceeded the costs which in this case is very clear. I move approval of items 5, 6 and 12.

>> Mayor Leffingwell: Councilmember spelman moves approval of

-- item 6 and i will second that. All in favor of motion to approve item 6 say aye. 7-0. Councilmember spelman moves to approve the ordinance in item number 12. Excuse me. I got out of order there. Let's go back and take a motion to approve item number 5.

[05:08:44]

>> Spelman: So moved.

>> Mayor Leffingwell: Councilmember spelman so moves. I second. All those in favor please say aye. Opposed say no. Passes on a vote of 7-0. Councilmember spelman moves approval of 12 and I second. All in favor? Opposed no. Passes on a vote of 7-0. I think that gets them all. Thank you much. We can't take up item 7 yet. We'll call up item 16. And we have several speakers. It's pulled for speakers. First is gus pena.

>>> Good morning, mayor, councilmembers, gus pena, proud native east austinite, proud united states marine corps veteran. I understand councilmember bill spelman will take over for you mayor when you leave and I have to see history change. A little brevity there, mayor leffingwell. I haven't been here in a long time. Item 16 is having to do with authorizing negotiation of

-- section 108 loan to refinance a building at 4827 east cesar chavez to provide restaurant space, inventory, et cetera, et cetera. Mayor and councilmembers and mr. City america, i understand that according to this backup the project will create 19 full-time jobs in the saltillo neighborhood within five years, and the beauty of it is that a lot of the community or the community will be able to apply for these positions and be able to work

-- or walk, rather, and not having to waste gas or have an automobile, which is the beauty of this type of program. I want to thank mr. Kevin johns of economic growth and redevelopment loan program, rosy and vicky and i've yet to work on this project. Mr. City manager, we have darn good employees at the city of austin. I worked for the state, city, council, federal governments and I see the city employees can go toe to toe with anybody else and they come out ahead. The quality of life, i remember when I was discharged from the united states marine corps in 1974 serving six years, we were in a recession. We called it depression. No jobs. Now we have something like this that is good and positive to employ people from within the community. I would urge that we spend any kind of money which i know the taxpayers will approve to have economic growth in east austin. Anyway, thank you very much. Mayor, councilmembers, good to be back with you all and continue the march. This is a darn good project, good darn expenditures on all parts. Thank you very much.

[05:12:08]

>> Mayor Leffingwell: Okay, jack rice. Jack rice here? Steven shallcross? Steven? Yes. You have three minutes.

>> Thank you, council, for hearing us. Good morning. My wife and I purchased a diner and discovered through our permit process which we really appreciate you putting money towards expediting better because ours only took about six months when we felt was a blessing at the time. That it was dramatically more expensive than we had ever imagined to bring up to code and in order for

-- in order to raise money for this renovation we discovered that conventional lending wasn't really an option for quite a bit of what we needed. And so we were in the process of looking toward investors and that's when we discovered this loan program. And we have nothing but gratitude for the city of austin for enabling us through this process or hopefully this opportunity to own our business at the end of this. I've been an east side resident since 2000. I owned a catering company located on the east side. We're delighted to, you know, take part in revitalizing another business on the east side that does provide, you know, quality food. The logo was where good food, fair prices and friends meet and that's what we want to bring back. We're going to call it sawyer and company after steve sawyer and we look forward to serving breakfast, lunch and dinner and look forward to having gus and everybody come see us as soon as we survive this process so thank you so much. We really appreciate you all and, you know, we look forward to serving you all soon. Thanks.

[05:14:17]

>> Mayor Leffingwell: Thank you. That's all the speakers. I'll entertain a motion on item 16. Councilmember martinez moves approval. Seconded by councilmember spelman. Discussion? All in favor say aye. Opposed say no. Passes to a vote of 7-0. I think we're ready to take up item number 10. There are no citizens signed to speak and it's pulled by councilmember martinez. Martinez we've had questions answered so I proof approval.

>> Mayor Leffingwell: Seconded by councilmember spelman. Discussion? All in favor say aye. Opposed say no. Passes on a vote of 7-0. And I believe the next item is item 21. 21 was pulled by councilmember morrison. We have one speaker.

>> Morrison: I would like to hear the speaker first, please.

>> Mayor Leffingwell: Annie armbrust. Apparently the speaker is not here.

>> Morrison: Thank you, mayor. This is the item on permanent encroachments that we discussed in work sessions and I had mentioned a few suggested changes that I was interested in making. And so I've worked with staff and we have

-- excuse me, city manager if we can pass that down. I have some amendments to the draft ordinance to pass out that I would like to walk through. Most of them address the items that I mentioned in work session, but there are a couple of new items as we went through, as I worked with staff found a couple of other things that might use some improvement. So if you'll see, and in fact maybe we could put a copy up on the

-- city clerk, I wonder is there an extra copy there? Could we put one up so folks that are interested may see what we're talking about? So this is to

-- this is a motion to amend the draft ordinance, and I'll walk through

--

[05:16:34]

>> Mayor Leffingwell: Before you make your motion, there are speakers here now.

>> Morrison: Let's go ahead and hear the speaker.

>> Mayor Leffingwell: Annie armbrust.

>> Mayor, councilmembers, thank you for this opportunity. I apologies I was a few minutes late getting to you.

>> Cole: Hold on a second. I want to ask the mayor if the motion

--

>> Mayor Leffingwell: Mayor pro tem cole.

>> Cole: If the motion sheet passed out by councilmember morrison can be given to ms. Armbrust.

>> Mayor Leffingwell: There we go. We've got it.

>> Morrison: Mayor, if i might.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: If you would like to make comments and then I could walk through these and then I'd love to hear if you have any issues much any of the amendments I'm making.

>> Absolutely. Our members appreciated the flexibility that encroachment agreements allowed, and after the work session on tuesday some concerns came to me and so I'm here representing those concerns from rica members. And I think I should have said annie armbrust, real estate council of austin. One of the things the boards and commission processed and are producing that here, our members were worried because the right-of-way process does not require that. Understanding using encroachment agreements would [inaudible] adds 60 to 90 days and I think as you all know cost is really associated with that drawn-out process. So time and costs, we don't want to see all of these going to boards and commissions. Additionally I believe there was talk about an independent appraisal. We really feel the ordinance you have in front of you was thought through and that is the ordinance our folks would like to see put into practice.

>> Mayor Leffingwell: Okay. So if you want to just stand by and

-- for questions after councilmember morrison discusses her proposed changes.

[05:18:43]

>> Morrison: Thank you, mayor. So the first section, if we could put the promotion up. I guess I should be making a motion here to adopt the draft ordinance with the following amendment.

>> Mayor Leffingwell: Motion by councilmember morrison. Is there a second?

>> Spelman: Mayor, perhaps a cleaner way would be for somebody to make a motion to adopt the original version and then we could amend it.

>> Mayor Leffingwell: That's up to councilmember morrison.

>> Morrison: That's fine. I'll change my motion to adopt the original ordinance or the original draft.

>> Mayor Leffingwell: Motion to adopt the original ordinance. Councilmember spelman seconds. Councilmember morrison.

>> Morrison: This will be a motion to amend just the first section under 14-11-51. This is

-- this is not something that we discussed at work session, but really it brings up the larger question of why do we need to protect our right-of-way and what is the good of the right-of-way. And so you'll see

in section a-1 there, that's just a cleanup. It moves the one statement that the applicant has to comply with the requirements of the division. But 2, in terms of considering the application, it suggests that the city

-- that the encroachment does not interfere with the city's present or future use of the public right-of-way. And I wonder, do we have public works representative here? Mr. Lazarus. In terms of explanation of this motion, when we think about the fact that we are permanently giving rights the our right-of-way over, it brings up the bigger question of are we giving up options and what do we need to take into consideration of what we might want to use, what the public might need to use the right-of-way for in the first place. I wonder if you could just speak generally to our need to be careful about permanent encroachments.

[05:20:55]

>> Thank you. Howard Lazarus, public works director. The reason we are coming forward with an encroachment agreement is it provides another tool for us to effectively manage the city's easements and the right-of-way. It provides for the placement of what would be considered a permanent improvement, but it protects the city's long-term interest in that in the case that sometime down the road that use is no longer there. A good example would be a hotel would be built with a parking garage. 50, 100 years from now if that's no longer the case, the encroachment agreement allows us to retain that easement over a longer period of time and provides us with assurance that the right-of-way will be returned to its original state as the use changes and provides property protections that the owner would do that restoration. If we were to vacate the right-of-way, then we would give up that easement in perpetuity. I think your question then goes towards how do we determine whether that use is appropriate or not. And when we get an application in, there is a very rigorous process, review process that it goes through, and all interested parties are involved. Internally to the city that includes public safety, planning and development staff, transportation staff, public works staff and all the utility providers. If there are any concerns or issues, those are resolved internally and that sometimes means that the developer's plans have to be changed. But generally all those concerns are addressed before any use of the city's property is afforded whether it's a license agreement, a vacation or in this case an encroachment agreement. That is viewed against all city current and future plans, all approved master plans and directional plans as well so that by the time it goes through that process, it's been very well vetted to ensure that that use is consistent with the city's current and future use of that property.

[05:22:58]

>> Morrison: So would you say that adding this line, that the encroachment

-- the director has to determine that the encroachment does not interfere with the city's present or future use of the public right-of-way is consistent with the process that you already do?

>> Yes.

>> Morrison: Great. And so would you

-- you are all right with this?

>> I am.

>> Mayor Leffingwell: Could I make a suggestion? These are significant changes. There are many changes to this ordinance. Nobody has seen them before. The other

-- the other parties have not seen them. I would like to suggest that we put this on the table until all the parties have had a chance to study these proposed changes and perhaps bring it back later on in the day.

>> Morrison: Mayor, i would be fine with that. I wonder if it might make sense to at least walk through them for an explanation.

>> Mayor Leffingwell: Certainly that would

-- i think that would be a good place to start the discussion among the parties, but yes, go ahead and walk through your

--

>> Morrison: Okay, great, I'm going to table the motion that I made, but just make some comments.

>> Mayor Leffingwell: So council member morrison amends her motion to table this until later in the day, continuing discussion, and i will second that. Is there

-- all in favor of that motion can say aye. Opposed no.

>> Spelman: Mayor, point of order. If we pass that motion then we are no longer on that item and council member morrison would not have standing to make comments. Maybe we should take the vote on the tabling until after she's made her comments.

>> Mayor Leffingwell: All right.

>> Morrison: Sounds like we're all in order now. So that's a discussion of what is under 14-11-51. 14-11-52, under a, it's a bit of a cleanup that we did not discuss in work session, but when I was working with

staff we noticed there was some language that could be clarified. I wonder if we could have our legal staff talk about that.

[05:25:18]

>> Councilmember, are you talking about under the appraisal of property?

>> Morrison: Yes, section a.

>> Section a, actually in work session you were concerned that

-- may not have been no work session.

>> Morrison: It was after when we're talking.

>> You were concerned the existing language said after the application was approved, then the director would do the appraisal. Given that this is not a license agreement and that the process isn't administrative, instead it will be coming to planning commission and council or perhaps a commission and especially to council, you wanted to make sure that it wasn't until

-- that we didn't wait until after it was approved to do the appraisal but that we did the appraisal earlier in the process so that when it came to possibly a commission and then to council that both entities would have the appraisal. So this is to reflect that. Now that it says after the application is received.

>> Morrison: Right.

>> Then immediately we'll start with the appraisal so by the time it gets to you you have it.

>> Morrison: Great. Thank you. Then in section b for 14-11-52, that is the item that actually makes the requirement for an appraisal be an independent appraiser as opposed to to internal and I know we'll have discussion about that, but i do have a question for vacations. Do we use independent appraisers or internal appraisers?

>> Councilmember, we have used both. Currently we are using independent appraisers, but it's a high cost and is taking 90 to 120 days.

>> Morrison: Thank you. .That the applicant must submit to the city the amount of the appraisal value as opposed to the city manager.

[05:27:30]

>> That was to make the language a little more broad.

>> Morrison: Right. Let's see and then under section 14-11-53, contents of the encroachment agreements, we discussed this in work session. Elsewhere in the ordinance it says, in the draft it says that we want to require that the agreement terminates on change of use. And so this is just to say that in the agreement we will be explicit about that as opposed to a provision providing that the right-of-way shall automatically revert as opposed to just allowing it to automatically revert. That's something of a cleanup. Let's see. Then we have section

-- if we could turn the paper over. This is to add a new section under 14-11-53, adding section 6 and 7. This is not something that was discussed in work session, but the question came up as to whether the agreement runs with the land or if it just is between the two parties, and clearly if it's permanent it needs to have accommodation for running with the land. I understand that's what is done with these kinds of things, but this makes it clear and the ordinance that it must run with the land, must run with the land. And then the very last one, 14-11-53, in terms of the agreement, the draft said that the city manager could add as necessary provisions that they thought was necessary

-- were necessary, and this

-- since the council has the approval authority, it seems that it makes sense for the council also to have the authority to add other provisions.

[05:29:41]

>> Councilmember, there was another provision that the agreement will provide that the agreement can't be assigned unless the city approves the assignment. And that's just so we make sure the new person has the financial wherewithal.

>> Morrison: Right. Thank you for pointing that out. As I understand that language under 14-11-53 i skipped over under number 7, it can't be done without prior written consent of the property manager.

>> Which is lorraine.

>> Morrison: Which is lorraine. Not the property manager of the property in question. [One moment, please, for change in captioners]

>> that's what we're already doing?

>> Yes.

>> Spelman: That's not what we're already doing?

>> Yes, that's true. On the first one, yes.

>> Spelman: Okay. The second one there are three pieces to it, 14, 11, 52, ab and c. A and c it sounds like are legal cleanup items. B, although it's consistent with current practice your suggestion is that we be able to use internal appraisers, not just independent appraisers at least on some of these cases, is that right?

[05:31:48]

>> I think there's a misunderstanding so let me clarify. The current practice that this amendment is trying to replace is not the vacation process. This is designed to replace the license agreement process. The license agreement process now is all

-- is the values determined in-house, but it is set out in the code how it's determined. So it sets out the percentages, rights and everything. So it's just merely a calculation that staff does in the license agreement process. So it depends on what process you're talking about. In this process was meant to change there is a significant difference. If you're talking about how it compares to the street vacation process, then there's

-- then it's really

-- it's similar in a lot of ways.

>> Spelman: Your original proposal, as I understood it, was to allow the director to employ either an independent appraiser or an

-- an in-house appraiser.

>> That's correct.

>> Spelman: Presumably depending on the complexity or the size of the

-- not vacation. What do I use for this?

>> The encroachment. That's correct.

>> Spelman: Okay. And this would dictate that you can't use an in-house appraiser, you have to use an independent appraiser.

>> That is correct.

>> Spelman: So that is different from your original proposal?

>> Yes, it is.

>> Spelman: Third amendment. Right away automatically revert. That sounds to me like a legal cleanup item. Is that accurate or is it a substantive difference from what you proposed?

>> It is a cleanup item.

>> Spelman: Next one is provision providing agreement runs as a covenant on the land. Again that sounds like a legal cleanup item and debra is nodding her head. Provision that the agreement may not be transferred or assigned without prior written consent, that's the legal cleanup item as well. And finally the council or the manager can make decisions

-- can change provisions, and that sounds like a legal cleanup item and it's going to the council, not just the manager. Realistically, the only one that's not a legal cleanup item and the only decision we could be making is on second amendment item b whether it ought to be an independent appraiser or whether it could be either independent or in-house, is that right?

[05:34:29]

>> That's correct.

>> Spelman: Thanks. Wanted to clarify that. Thank you.

>> Cole: Councilmember tovo.

>> Tovo: I want to hand out two small amendments that I would propose as well for consideration this afternoon. As I discussed in our work session tuesday, I believe this should go to the planning commission, which is the land use commission that currently reviews vacations. This is a pretty complicated

-- a pretty complicated decision and i think it does require the scrutiny of at least one board. So currently the planning commission is the board that considers vacations. And I would propose that it continue to do so. And then the other point that I made in tuesday's discussion is that I've been part of a planning commission discussion that was looking at an alley vacation and it was frustrating discussion in many ways because we didn't have any sense of what the developer would be paying for that alley vacation. And to some extent that really should factor into the equation. And I hope going to have that dollar amount by the end of the day by the time we consider this because it was a very, very low

amount. So as you measure the community benefits of vacating an alley in this case, in the cases we're discussing, deciding on a permanent encroachment, I believe that the board members should have that information about the financial value of that prior to making recommendation to council. So those are the two changes I would propose, that we add a planning commission review and that the planning commission have access to that appraisal before they make their recommendation to council.

>> Spelman: I wanted to clarify that would be a substantive change from your proposal as well.

>> Yes, sir. What it does is adds an extensive timeline because the appraisal looks at the exact right. So anywhere along the line if we get any comments or we change the rights, we modify it, that means we would have to go back and have it relooked at and so right now if it's a timeline we're getting the appraisal done right at the end.

[05:36:46]

>> Spelman: Thank you, ma'am. Appreciate it.

>> Tovo: May I follow up with a few questions? Is it possible to get an initial appraisal or some range of values that the planning commission could consider so that they understand whether we're talking about a 10,000-dollar appraisal versus a 90,000-dollar number?

>> We could get a value just so you know that it does change. For instance, somebody could come into vacate a right-of-way, but then it goes to watershed protection and they say we need to retain a drainage easement across the top so that means there's no surface rights. That could reduce the amount of the appraisal anywhere between 60 and 75%.

>> Tovo: But I think it just

-- my intent here is to give them some sense of scale.

>> We could give them the Travis County appraisal district value of that area. If that would help.

>> Tovo: I guess it would depend on how useful that information is to when you're considering something like an underground garage there aren't going to be any comparables in the Travis County appraisal district, I wouldn't think, for what an underground garage value is.

>> What it would tell them is the price per square foot and how the appraiser looks at it two different ways. First of all they look at it as what's the percentage of rights, so if all the rights are worth \$200 a square foot and the underground rights are, let's say, 40% of that, then they would do that calculation and come up with a value. But they also take into account is what's the additional revenue that that

parking garage would get with this space and without that space, and there's lots of things they look at. So it gets complicated.

[05:38:49]

>> Tovo: So instead of the appraised value, if it was language that was more along the lines of information

-- appraisal information or information related to appraisal value, that would eliminate this long time frame you're talking about, but it would still give the planning commission some information about values so they would have a sense of what the city could expect to realize in terms of financial value.

>> Yes. We could come at it in a packet that we return to them.

>> Tovo: I'm comfortable with that. And I will make some adjustments to this to reflect that so that it's not the appraised value. But I am a little curious about how the process would work in coming to council. I assume then watershed will have done its review and all the other departments will have done its review so that we can get when those permanent encroachments came to council for consideration we would have a real dollar figure.

>> Yes, you would.

>> Tovo: All right, thank you.

>> Cole: Councilmember riley. I'll rye I have a question going back to councilmember morrison's amendments. I have a question about item seven, the next to last item. That adds a new section that requires that a provision

-- that requires any enapproach. Provision that the assignment not be transferred without prior written consent of the property manager, which i take it is you. I'm trying to understand the purpose of that. What that means is whenever the property changes hands you'll have to sign off on that?

>> Basically what we would be using that process is part of the process will be requiring to be ensured in case there's an accident and where the fee owner, we won't be sued. At that point in time we'll make sure that the property insurances are in place and that the city is protected at all times.

>> I see. Okay. Thanks.

[05:40:49]

>> Morrison: It seems like we have the temporary license agreement and we're trying to be realistic and make essentially permanent license agreements, which seems to be we're talking about vacations too, which is even a step further. So this is somewhere in between and I hear us trying to figure out whether the standards should be more like the standard for a temporary license versus a vacation.

>> That's correct.

>> Morrison: I think that's what part of this discussion is. And one thing I heard a little inconsistency about was whether right-of-way street vacations go to boards and commissions. Do they go to the planning commission or is it

--

>> they do definitely. So that is like a vacation, but not

-- that's like a vacation, but not like a temporary.

>> License agreement, yes.

>> Morrison: And the same with fees. Right now we're using independent appraisers for vacations and internal for temporary.

>> Let me clarify that. The current code allows us to do it in-house even if it is a vacation. It's just that some of the requests that we've received recently have been complicated so we have been using independent appraisers on those.

>> Morrison: And if we use an independent appraiser does the applicant pay the appraisal fee?

>> They do not.

>> Morrison: And how much can the appraisal fee be if it's independent?

>> The appraisal fees for the complicated appraisal has been running between 7,500 to 12,000? And if there's any changes along the way we have to pay an additional fee.

>> That's curious to me that's not charged to the applicant. Is there any reason for that? Talk to me about that.

>> It's not in the code and not part of the fee structure. So it started out just being a couple of appraisals, most of them were done in-house, so we weren't passing that

-- we had no vehicle to pass that on to the applicant.

[05:43:00]

>> Morrison: Would it be possible to create a vehicle to pass that on? It seems that since it's clearly an expense of processing the application is there a legal reason that we

-- legal foundation for charging it to them?

>> There's no legal reason.

>> Morrison: Is there a cost to submit an

-- and have an application process for any of these, for a vacation or a temporary license at this point?

>> Yes, there's an application fee for every process that we have.

>> Morrison: And what is the application fee for temporary licenses and vacation?

>> I believe it's

-- that is handled by transportation, but I believe it's 950.

>> Morrison: 950?

>> Yes, ma'am.

>> Morrison: Okay. I wonder if I could ask our legal staff about since we're allowed to charge essentially the cost of serving a citizen or a process, why can't we make the appraisal, if we have to do an external appraisal, be something covered by the applicant?

>> For this encroachment agreement process?

>> Morrison: Or for the vacation, for instance.

>> I believe in councilmember tovo's amendment it probably provides that the applicant will pay for

-- in councilmember tovo's amendment, I believe that.

[05:45:01]

>> Tovo: Is says the applicant must give to the city

-- I'm sorry, I thought that did say the amount of the appraisal. Okay. Sorry.

>> We could definitely add it here, but add it to this one now, but there is no provision for the license agreement at this time.

>> Morrison: But there's no reason we couldn't add it if the council so chose to make that a requirement.

>> That's true.

>> Morrison: Great. Maybe we could and before we bring this up this afternoon for conversation.

>> We're considering encroachment agreements, not considering license agreements.

>> Morrison: I'm talking about an encroachment agreement to add to this.

>> Spelman: The chair entertains a motion to table this item until 2:00. Anybody moving that? Moved. Seconded by councilmember tovo. All in favor? Opposed say no? We've tabled that. We can actually get through some more stuff before 12:00. I propose that we look at item 42. Councilmember morrison.

>> Morrison: This is an item on a pir system and the mayor had brought up questions at the work session about cost. And I wonder if we have staff here that could walk us through the backup

-- the new information that's been provided to us. The question was the cost of the second rated vendor was significantly lower than the first that staff was recommending. But the cost of the second rated vendor did not cover all of the elements, so the mayor had asked for apples to apples as opposed to apples to oranges comparison. I wonder if someone could talk us through that.

[05:47:12]

>> I see byron making his way down here. Can you answer that question? And his friends.

>> Good morning. So what exactly can we help you with an answer on?

>> Morrison: Could you talk us through the cost comparison that you provided? I believe we got it right before the meeting started. Between lockheed martin and cfdc. And make sure

-- if you could also explain and clarify why they weren't quite equivalent in terms of comparisons.

>> I think we have ctm here, we also have the law department. Let's talk about the cost comparison first in general terms. The cost comparison that we don't have is csdc did not provide the hosted solution, so

what we did to back into that number is ctm provided you a cost for what the server would be. But what we don't have is what the support number would be. And for

-- so if you look at the zeros in the column for what the support number would be on it, ctm can't provide you that number, so if you look in the number for the vendor that is recommended, you will see there's a fairly big number there, but there are zeros for that. It's because they can't give you an estimate of what that number would be. Because they can't

-- they can't tell you what their costs would be or if we chose to outsource that. But what we did apply a number here, and charles from ctm is here is we know what the number is if we had to provide a server for that on our own. So you see the 14,000 would be if ctm provided that one. And then

--

[05:49:21]

>> Morrison: Can i interrupt? Is this in backup online?

>> Yes, it is. So if you look at it, the 14,000 was a ctm provided number that they have for there and then 4,000 and 4,000. But we don't have a support maintenance number because we don't know what that number would be for that particular number. So there's zeros there. And there isn't a storage number because again they didn't provide that hosted solution. So again it looks like that the csdc would be a smaller cost, but again without having hosted solution for that storage capacity, it's really not an apples and apples. Would you like to talk a little bit more about that?

>> Sure. Another thing is this doesn't reflect is it would probably be four or five f.T.E.'S to get a system like this up and running over the next few months. Which is something that we have very limited supply of right now. And then some f.T.E. Support going forward on support and maintenance of the system as well.

>> Morrison: So that's helpful information because the concern I have is that the lockheed martin solution over the three years is estimated at 250,000 on this sheet and the best number we have in writing from you from csdc is that its three year cost would be 186. So that's why it's concerning that we are considering selecting the more expensive one, but you're telling me that that 186, if I hear you properly, really we should have added to that three years of four to five ctf f.T.E.'S.

>> Correct.

>> Which would, I assume, be more than \$64,000.

>> And the cost of that would be more up front as we get this system up and running. It would be less moving forward for just general support and maintenance. But up front there would be considerable costs on f.T.E. For f.T.E.'S.

[05:51:31]

>> Morrison: But around 64,000

-- more than 64,000 just easy ballpark it would be more than 64,000.

>> I would say so, yes.

>> Morrison: Okay. That's a concern that I had. And I think that

-- i appreciate the mayor bringing it up on tuesday that it looked like we were about to select one that was significantly more expensive. You haven't been able to do an apples to apples comparison, but if we get in the ballpark of apples to apples, we have probably the lower

-- it will be overall lower cost to do the lockheed martin solution.

>> Correct. So we didn't want to supply you a number for f.T.E.'S because they're not in the budget. And we could look at outsourcing that, but we don't have a number for that outsource solution. So we were hoping again that you would have this item. You would pull it and then we would be able to bring ctm and they could talk to to you about the approach that we would have to do and what that additional cost would be. So we're glad that you could bring that information to light.

>> Morrison: Okay. Great. That's an important consideration and I did look at the

-- a little bit into the lockheed martin solution and it looks like that they clearly have the capabilities and past experience of doing systems like this. Did you have a comment?

>> And they have. They've done this for the agricultural department at the state and so it meets state code.

>> Morrison: Great. So with that I would like to make a motion that we adopt staff recommendation.

>> Second.

>> Spelman: Motion made by councilmember morrison, seconded by councilmember martinez. I need a quick reference from the lawyer. 4-0 vote would be sufficient for board authorization. All those in favor say aye? Opposed say no. Motion passes by a 4-0 vote. The next item which we could take up is item 52, pulled by mayor pro tem, who is not here, although we have speakers it seems to me we ought to take

up this item when mayor pro tem cole is here. And that would be the end of our consent agenda. Rather than

-- which one am I missing? Am I missing an item here? 27 has

-- last time i looked, 14 speakers. It will take us about 40 minutes to go through. We could start the speakers now, but we would have to pick them up after executive session and after lunchtime. It seems to me that it would be better from your point of view if we put them all together at the same time. We're going to forget what we first heard from the first few speakers and pick it up right after lunch. Does that work for you guys? Yes, ma'am.

[05:54:12]

>> Morrison: I believe we have 58 and 62 both pulled by councilmember tovo, who appears to be off the dais.

>> Spelman: For some reason that did not show up on my agenda. 58 and 62. Councilmember tovo is not here. She's back! Councilmember tovo, you pulled item 58? No speakers. You have the floor.

>> Tovo: Thanks. I will be ready to ask questions about it in just a minute. Okay. My question

-- I did read the memo that we received from staff and i-- the question I really have is just a suggestion and I'm looking at the motion and the amendments that councilmember riley just passed down. My concern about this is i want to be sure that we are very explicit that we're not authorizing any funding for this item. So I think I'll just direct that to the sponsor and ask if you considered any language? I do see some language regarding authorization so maybe that's the issue you're addressing here and I'll ask you to explain that.

>> Riley: Right. As indicated in the memo we received from staff yesterday, staff does feel that there is some value in our initiating the planning process, even in the absence of new funding. There is some funding that is already available for this and the direction to city council on this planning project will allow staff to leverage some of the remaining resources on sustainable places project, which would continue through the end of this year. U.T. Has had significant involvement in that there are a number of folks working on this already and just by way of designating

-- initiating this planning process we will be able to tie into all those ongoing efforts. There would be additional value obtained from additional funding and so I've just passed out on the yellow page some modified language that provides that the city manager is directed subject to funding authorization to engage outside consultants for various services. So we can

-- the idea is that we can go ahead and have that discussion in connection with our budget hearings and then if we depending on how that comes out we may or may not be able to secure additional resources, have additional resources that would allow us to bring in outside consultants to expand the scope of work. But just the idea is that we want to go ahead and move forward, make use of the available resources on the table now and then preserve for the budget discussions consideration of whether we want to provide additional funding.

[05:57:18]

>> Spelman: Councilmember tovo, does that answer your question?

>> Tovo: Sort of. So I guess in the staff memo, I believe they clarified that they could proceed with internal staff work on it without incurring additional charges. That was sort of what I took away from the memo. I believe this clarification actually contemplates spending money which was beyond my comfort level. Thank you for clarifying. I was comfortable when I heard we were expressing our resolution and our intent to proceed with existing staff resources. I understand your point about we'll have that discussion during the budget, but I would prefer it not be in the resolution. So I won't be supporting your resolution here today, but thank you for clarifying.

>> Spelman: Any further discussion? If not I'll entertain a motion. Move approval. Moved by councilmember riley, seconded by council member martinez. Okay. Go ahead.

>> Morrison: Councilmember tovo, I'm not quite sure I understood your point and I wonder if you could go over it again.

>> Tovo: Sure. On Tuesday we had a discussion about this item and they're including the discussion of whether or not we were authorizing the expenditure of funds. I understand that's not what we're doing here today. But we did have a discussion about talking about it within the budget process, which is where I think it makes sense to have that discussion about funds. However, the clarification that's been added in the form of this amendment in my mind expresses an intent to go ahead and engage outside consultants, and I'm not wholly comfortable with that. I would rather the resolution had stayed as it is talking about

-- and instead clarified that for this phase, we would use our existing staff resources and not incur any charges. I mean, the results will be the same. We won't be

-- we will not be engaging those consultants or spending any money until it's been authorized, if it is authorized through the budget process, but I was more comfortable with the resolution that said using our existing staff resources let's see how far we can get.

[05:59:41]

>> Morrison: So the point being that there are some funds that may be available in pdr that can be used to engage a consultant now. Is that correct? I'm getting a little bit confused. Or are we going to be using current staff resources?

>> Riley: My understanding is the results of this resolution, we would be working in-house hand in hand with other folks who are working on this like u.T. And other folks who are working with the sustainable places project. If we want to engage outside consultants to expand the work, then we could do that if that is authorized in the budget discussions. So it speaks to that possibility.

>> Morrison: So it means staff will be dedicating some effort at this point.

>> Riley: That's right.

>> Morrison: Thank you.

>> Spelman: Motion and a second on the table. All in favor of the motion say aye? All opposed say no? Motion passes on a vote of four to one with councilmember tovo voting no. Four is sufficient either way. It being 12:00 by my clock, we can go to citizens communication. First speaker in citizens communication is susana almanza. Who will be talking to us about hispanic latino quality of life.

>> Good afternoon, city councilmembers, I'm susana almanza with poder. A resident living on single-family zoned land decides to start painting cars on his property and the smell and odor of paint travels through the neighborhoods and neighbors complain. The city code enforcer shut down the car pointing process, painting cars is a commercial use and not allowed in single-family zoning. Hot bar farms located in a residential community starts to slaughter chickens and wholesale them and compost their body parts on-site. The odor and smell travels through the neighborhoods and neighbors complain. The city code enforcer shut down the process of slaughtering chickens and their wholesale. The farm continues to operate. The present urban farm ordinance is currently being revised. Our question is with the slaughtering of chickens and composting of body parts be allowed to take place in tarrytown or pemberton neighborhoods. Would terri ton or pemberton neighbors allow single-family land to be bought and transformed to urban farms next door to their residences? Of course the answer is no. I will assure you that attorneys would intervene to protect the single-family use, but in poor and working class communities of color, we are to accept the slaughtering of chickens and composting body parts on-site. We are to accept the use of urban farms for numerous uses besides growing vegetables and fruits. We are to accept that urban farms can make additional monies by renting their facilities for weddings, parties, book signing, etcetera, and all of this without required parking and zoning requirements. The rules ever different for the poor and working class communities in east austin. This is discrimination

many say raise I didn't mean. Single-family zoned land should remain for single-family use. East austin needs to retain its affordable housing. Yes, single-family zoned land in east austin is affordable. Th sip 78 '02 was declared in 2012 the second most gentrified zip code in the entire united states. The urban farm ordinance and the current proposed revised recommendation of the ordinance are discriminatory. The most impacted community, the govalle, johnston terrace neighborhood plan recommendations have been ignored. The govalle township combined neighborhood plan was adopted in march of 2003. There was a majority of people involved in developing this plan were people of color. Or news 8 austin is bei ng ignored. The rules for the poor and working class communities of color in east austin are different. This is discrimination and many say racism. The current ordinance would provide a blanket zoning of cs-mu, commercial services, mixed use. We recommend that an outside entity from various departments of the university of texas and our other universities come together with communities and farmers to develop an urban farm ordinance that doesn't discriminate. Thank you.

[06:04:17]

>> Spelman: Thank you. Next speaker is daniel llanes speaking on growth and gentrification in east austin.

>> Thank you, councilmembers. My name is daniel. I'm the chair of the govalle johnston terrace neighborhood contact team. First and foremost we're here about gentrification. This was a zoning case and it has become a gentrification issue. We value the neighborhood. Our concern is about one property owner who happens to be an urban farmer and was engaging in the commercial slaughtering of animals and the composting of body parts in a residential downtown neighborhood on single-family zoning. Because of the proposed urban farm language rewrite we oppose any further siting of future farms on single-family zoned land. Additionally applications for urban farms must go through the neighborhood plan amendment process where applicable. In this first slide you can see two separate meetings we attended with the subcommittee of the sustainable food policy board, city staff displayed a map showing the urban farms that

-- that there was some farms located in west austin. We stated that urban farms are only in east austin, so we submitted an open records request on the locations, zoning permits of those alleged farms in west austin. On june 27th we received a list of six farms. We questioned the criteria of two of the farms and they were removed from the list. On july fifth we received another list with four farms allegedly in west austin. We visited all of those sites. We found that there were no urban farms in west austin. Unity farm was within

-- was not within the city limits of austin. The other list was back to the garden at 1900 scofield on single-family zoning. That did not exist. 1900 scofield is a residence. It is in a residential neighborhood called scofield farms.

[06:06:28]

[Laughter] bella verdict farms at 5820 west highway 290 is actually a montessori school. Bella verde farms is in dripping springs, texas. Yamni farms located on which I knock is a single-family residence, there it is. They had no idea that they were listed as an urban farm. Not one of these sites was an urban farm's list. So you have to question city staff and their use of information here. As you all can see, all of the urban farms are located in our neighborhood. We have been trying to work with them to remedy this issue, but I hope that you can understand and see why it is that the urban farm ordinance rewrite in its current form is discriminatory. An ordinance that has the potential to adversely affect affordable housing for the poor and working class communities of color in east austin. So city councilmembers, we ask you to ensure that no commercial slaughtering of animals or composting of body parts in residential areas be permitted. We ask you that no siting of future farms be located on single-family zoning and we ask that applications for urban farms designation go through the planning process where applicable. Thank you very much. If you have any questions, you would love to answer them. Thank you.

>> Spelman: Thank you. Next speaker is karen hadden. Now is the time to move on solar energy. Are you still here? There you go.

>> Good afternoon. I'm karen hadden, I'm here today on behalf of the seed coalition, sustainable energy and economic development coalition. And urging you to maintain and in fact increase the budget for solar energy in austin. I think now is the right time to put in place more solar, both rooftop solar, distributed solar and also utility scale projects, which in some cases if you are expanding how much solar you're developing, you can get benefits from the scale of economy. So it's common sense that solar energy is the perfect solution right now for our energy needs. It's low carbon, it reduces emissions. We need to be thinking about that. It helps us meet our goals for climate progress. It's also uses less water. So this is the right way to go and it's the future. Right now we see the cost of panels plummeting. We see the efficiency of panels increasing due to improved technologies. Just yesterday first solar announced

-- for a couple of years now they've been moving into commercial development of utility scale projects and they bought a whopping 1.5 gig watts that's in the development pipeline and that includes projects that are in texas and many other states and it also includes several utility scale projects in the state sonora in mexico. We're not ahead of the game, we're actually falling behind in austin. We've watched san antonio move forward with a 400-megawatt project. I think it can benefit everyone, especially done right. We need innovative ways to finance projects. We need innovative ways to help those who want to

get solar, achieve those goals, and the utility can and should find ways to profit from this as well as giving clean energy for all of us. Thank you very much.

[06:10:29]

[Applause].

>> Spelman: Thank you. Next speaker is Laura Rice, speaking on a park for Crestview. Ms. Rice, are you here? Good.

>>

>> I have a slide show to go with this. Good afternoon, councilmembers. My name is Laura Rice and I'm here to ask you today to keep your promise of a neighborhood park in Crestview. I've been a dog walking, bike riding resident of Crestview for a year now. I live on Grover Avenue about a mile from the Austin Energy property. Meet Neppa, my walking companion. Last August, the week I moved in, we could walk east on Morrow and I look beyond the open field beyond this fence and was amazed to be able to see the downtown skyline. Now, about a month later that view was gone due to an explosion of construction in Midtown Commons. We stand to gain thousands of new neighbors in apartments and single-family homes. Let's look at another development. Barely a mile up the road in the 5300 block of North Loop and Lamar. This is a popular bike route that I as a bike rider take to work, but the thought of that apartment traffic turning on Lamar in the morning is frightening. Less than a mile from that on East 51st we have federal mortgage housing assistance development going up. This is less than two miles from the Austin Energy property. If we turn here and we had back west, a little over a mile down North Loop to the 5200 block of Burnet Road we see yet another development. Councilmembers, these developments all in a three-mile radius of my home, will add thousands in population density with no green space to match the growth. Why are we covering our city with concrete? Now, I'm sure our neighbors in Crestview homes and Midtown Commons would appreciate a park space and I as a bike rider would much rather cut through a park to get to the train station as opposed to an apartment parking lot. Now that you've seen all the development in this area, do you really still believe you need a puny 5.6 acres that's been promised for a park to turn into affordable housing, which kind of to me sounds like a de facto admission maybe that everything else I've shown you this morning is unaffordable. I'm here to say enough development. Frankly, considering the high electric bills we've all paid over the years, giving us a return in green space would be a noble gesture on your part and a gift untold generations will enjoy. You've seen some other speakers, you've seen and heard our plans. We've told you we'll take care of our park. So if you will just roll those pools and transformers on out of that space, we will rule up our sleeves and get to work putting a view back in Crestview. Thank you.

[06:13:39]

>> Spelman: Thank you. Next speaker is kaiba white, speaking on solar energy, expanding solar energy goals, expanding funding for solar energy programs, establishing a community solar program.

>> Good afternoon. I'm here to speak on behalf of solar austin on the issue of solar goals and programs as well as the funding for the programs. The local solar advisory committee was formed last year to study the potential to affordably expand solar energy adoption in austin. The Isac was made up of a diverse array of business, environmental energy and community leaders with considerable expertise in solar energy and the needs and limitations of our community. On november 1st of last year, the Isac unanimously approved a set of recommendations that included expanding our solar goal to at least 400 megawatts by 2020. There are two significant pieces to that sentence. The first is unanimously approved. The Isac included representatives of entities that often find themselves on opposite sides of energy, environmental and many other issues, but they came together and they studied the facts and they agreed that austin energy could be doing more to invest in solar and our city and that we would all benefit from that investment. In fact, the Isac study shows that 60-million-dollar investment between now and 2020 would yield an estimated 360 million in local economic benefits. I entirely understand that austin energy doesn't necessarily take that into account in its accounting and recommendations, but i hope that you all will. The second point is the Isac recommended 200 megawatts for 2020. Rerecommended regular reviews, perhaps more often than the generation plan reviews. And part of that would be assessing the solar market and progress made towards goals. And perhaps expanding those goals as solar becomes even more affordable. Austin energy has recommended 42% reduction in its funding for its solar rebate program in the fiscal year 2014 budget. The Isac recommended at least 7.5 million and that it may be beneficial to go beyond that to capture as much value as possible from the 30 percent federal tax credit. And that's going to be reduced in 2017, so acting now does have some merit. In addition to establishing that 400-megawatt goal for 2020, I urge you to provide between 7.5 and 10 million for that solar rebate program in this budget. Thank you for your time and the opportunity to speak.

[06:16:30]

>> Morrison: I just wanted to make a comment that we have our emerging technology committee on the 21st of august. And I hope to have this as a discussion, the budget for solar as a discussion item.

>> Spelman: Next speaker is mary arrest net speaking on police staffing and budget request.

>> Councilmembers, thank you for listening to me today. My name is mary arnett. I'm a resident of austin since 1974. The city manager has put before you a proposed budget that only addresses 47 of the 92 sworn positions requested by a.P.D. It only addresses the forensic scientists and not the other civilian positions that are that are needed, most notably the crime analysts. Councilmembers, please stop lying to the media. The taxpayers of austin are not quite as stupid as you think we are, saying that the 47 gets us to the 2.0 ratio is a lie. Whether you agree with the ratio or not, it is a lie to say that. The extra officers are not allowed to be booked as an expense until past april of 2014. Those cadets are in a class for seven more months and then they have three or four more months of doubling up with another officer in their probationary period. We won't see the officers answering 911 calls on our streets until halfway through 2015, so it's a charade, a farce, please stop saying it and I'm putting reporters in the media that they are using lies if they use it in headlines and reports. Mr. Spelman you caused our city to spend \$100,000 on a report that was a foregone conclusion. We need to step up so that the city has the staffing required to keep us safe. I wonder if you wondered how many household bills it takes to pay for that 100,000-dollar report is that is essentially being tossed aside. I gave you my vote, bill, in 2007 because you told us that you were all about community policing. I know now that these are empty words. We have an uncommitted crime rate of 15% and you yourself said it needed to be upwards ever 20 two 25 percent. Laura morrison, I understand that you have designs on being the mayor in the future year. If that's true you will be running on your record. We're watching and listening so what you say and do. The voters told all of you no to affordable housing bonds last november. Some of you have been busy undermining the general fund fund by premoating affordable housing as something that can only be addressed by a bureaucracy of city workers and a sprinkle he willing of reduced rent apartments throughout the city. I've yet to hear anyone's broad vision or businesslike solutions to the issues of housing affordability for all of austin. And yet you're asking the voters to exchange the future safety for something that is not supported by the majority of voters. I'm asking this council to correct a wrong with a right. You need to reverse the transfer of the \$10 million from the surplus fund. Your own budget director told you that the surplus is normally used in the next fi scal year budget. You siphoned off the tax dollars for your project. That can be undone by a resolution from any one of you up here. We'll be watching to see if you have the fortitude to do the right thing and restore that money back to the general fund. Please use that money for unmet needs. Your affordable housing bond issue is doomed if the voters have no confidence in your ability to run this city safely. Thank you very much.

[06:19:46]

>> Spelman: Thank you. Next speaker is ora houston speaking on the myth versus the reality.

>> City manager, members of the council, my name is ora houston. Put your trust in rulers, do not put your trust in rulers or any child of earth for there is no help in them. Although you all are not rulers, you are perhaps eight out of 20 of the most powerful people in austin and yet in my opinion austinites feel

there is no help in you. Commercial use of residential zoned properties is the issue today. Years ago unlike houston, austin had zoning. This has changed over the past 10 years or so. The definition of single-family homes now includes four unrelated people. Overbuilt structures become stealth apartments and dorms. Urban farms must host event to break even. Short-term rentals, rainy street and the tweaking of zoning that I'm not even aware of. These uses require more and more on street parking, causing access issues for first responders. Rather than up holding the zoning and stopping the encroachment, the city embrace the placement of commercial properties in residential areas. Now we hear statements about the property rights of those who clearly purchased sf property and then changed the use. There are structural holes in our system. The majority of the commercial inroads are unenforceable. There is no accountability built in. The changes mentioned above transform stable neighborhoods into ones in transition. Ripe for takeover and redevelopment to support the vision that you are trying to create. Instead of building relationships and being good neighbors, homeowners become code compliance officers. There is no protection for the reporting of violations and no assurances that anything will be done if violations abound. The police department rarely responds to calls regarding illegal parking in neighborhoods. As powerful people, you have been given many different kinds of currencies to use for the good of the people. Please be good stewards of what you have been given. Please stop allowing commercial uses in residential areas. Thank you so much.

[06:22:09]

[Applause].

>> Spelman: Thank you, ms. Houston. Next speaker is robert morrow, speaking on lyndon johnson and the murder of martin luther king.

>> Good afternoon, council. A quick personal note here. This is my great grandfather, dr. William partluck. He was one of the most prominent physicians in alabama 70 years ago. He was also the superintendent of the state mental health hospital. And unfortunately he was a prominent ugenesis, and he also advocated and carried out hundreds of forced sterilizations of people under his care. Lyndon johnson and the murder of martin luther king. Did he do it? I don't know, but I'll tell you one thing, the first family of civil rights, the family of martin luther king, thinks so. 1997, abc news, do you believe that lyndon johnson was part of the plot to kill your father? Dexter king on national tv with the entire family around him, answers yes, i do. That's what the martin luther king family thinks about lyndon johnson and civil rights. They think he's a murderer of their father. This year is the 50th anniversary of the jfk assassination. It's a no brainer that lyndon johnson murdered john kennedy. All the other murders are questionable. Maybe he killed robert kennedy, maybe he killed martin luther king. Here is robert car row talking about john connally. John connally, who during long days of conversation with this author was willing to answer almost any question put to him no matter how delicate the topic. Wouldn't answer when asked what johnson said about robert kennedy. When the author pressed he said flatly, I'm not going to tell you what he said about him. During the months after the conversation of 1960, when

johnson was caught alone become back in texas with an old ally he would sometimes are asked about robert kennedy. He would rely with a gesture, raising his big right hand, he would draw the side of it across the neck in a slowing, slitting movement. Sometimes that gesture would be his only reply. Sometimes it's during a meeting with ed clarke in houston he would say as his hand moved across his neck, I will cut his throat if it's the last thing I do. I think it's important for people to confront their past, look at it, examine it and own it. Thank you.

[06:25:19]

[Applause].

>> Spelman: Thank you, mr. Morrow. The next speaker is tom smith speaking on growth of solar and economic development.

>> Good afternoon, councilmembers. There are probably some terms making their way to you. My name is tom smith or smitty. Run public citizens texas office. I was proud to be selected to be a member of the local solar advisory council. And you may remember that about a year ago you selected some of the people that you thought knew the most about solar and solar trends to come together and take a look at austin energy solar goals and to make recommendations back to you. You gave them a six-month time frame and we delivered on time november 1st of last year. Now, that was just not enviros. As you've heard from others it also had a significant number of business groups, academics and solar professionals. Now, what they recommended was a number that we should at least get 400 megawatts of new solar. And they didn't put that number out of thin air. They pegged it to the growth in peak demand between now and 2020. Why? Because that is the most expensive power on the system. ERCOT today the bids are running about \$10 an hour for kilowatt peak. There's a proposal to raise it as much as \$90 per kilowatt hour. And as a result of that the price of peak power could go up dramatically. Now, when you look at the cost of providing energy in austin with solar, what this study found and what lots of other studies confirm is that it's cheaper to generate electricity on peak with solar today than it is to fire and fuel those old peakers or even a new peaker. On page 27 of the report that you have before you, there's a chart that basically says the cost of building and fueling a brand new natural gas turbine in 2020 is going to be about 9.4 cents a kilowatt hour. Meeting it with solar, 6.3. Net energy savings about 3.1 cents a kilowatt hour or more or less 30%. And that's what this is all about. We looked at the numbers and said, this is a no brainer. Let's develop a bunch of different programs. And we looked at not just putting stuff on rooftops of houses. That's the smallest part of what we recommended. We talked about putting a lot of stuff on businesses, local community solar programs, and a bunch of stuff out in west texas where it's really cheap to do this. And so our recommendation was balanced and we're asking for an appropriation of \$7.6 million in this next biennium which will be the high point of appropriations over this buildout of solar. And because the price of solar is declining very rapidly. Now, when we approached you a year ago and said we'd like to increase the growth of solar, y'all said, we're

in the middle of a rate case. Bad timing. And we respected that. Then you all said, you know, we really ought to do a study.

[06:28:36]

[Buzzer sounds] we thought that was a good idea and we respected that. And then when the study was over you were in the middle of an appeal of that rate case and a legislative session. And we respected that and did not move that with the promise that this would come up in june of this year. It's now august and our friends over at austin energy say we need more time. We've got a question. When is austin energy and the city council going to show us the respect we have shown them and look at the efforts that we and their staff developed, put into developing a plan that use their numbers and was cost based and save money? Thank you very much. [Applause].

>> Spelman: Last speaker is stan partnership kin speaking on the Isac report.

>> My name is stan partnership kin with lighthouse solar and I was a contributing member of the Isac and I appreciate the ability to come before you again. I would like to echo a few of the sentiments and recommendations from previous speakers, but focus on just a context update from when we were talking basically last year. I submit to you in a fumbling analogy that last year and previous years you were like a butterfly and flapped your wings and instead of producing a hurricane somewhere else around the world, you produced a growing solar ecosystem that is an engine for economic development. And here to ask you to flap a little bit more. Last year we met, like smitty just said, and came up with the recommendations on information that was based on the most current realtime pricing and trends. Most of it is looking out five years with any reasonable certainty and I've been aghast at how wrong we were in the sense that prices have fallen much more than we expected. And I would say part of that is due to this local market's activities. We've also benefitted from the world coming into our backyard. I've seen that even as early as this morning. There are european companies looking at austin as the gateway to texas. We're at the pivot of something that's a tsunami in a lot of ways. And I see it happening. I think our plan was less of a stretch goal. It was more of a preparedness goal. I think we're now seeing that that pressure is coming. I would submit to you two examples in contrast to our light competition with san antonio, I think leadership, as karen mentioned, is coming from unlikely corners of the nation. And I can send through information if you would like. There's two co-op utilities across one in new mexico in taos, kit carson, another in minnesota of all places, rockford, minnesota, who have worked on a community solar model that is appropriate to their community and have met two goals. It shouldn't cost the utility any undue burden and it should speak directly to the communities' voices, what they wanted, what they asked for. And in a lot of ways the process that you began starting a committee that had representatives, cross-sectioned from the community, that's what they committed to. And they kept working at it. It was transparent. It was a process that they not give up on. To date

each one of those in their own ways have reaped benefits that they had no idea could have come out of a commitment to solar. In addition to the inherent benefits that solar energy provides, the community benefits, one including enhanced tourism

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[06:32:36]

[buzzer sounds] the other was innovative business model that is now being exported across the nation. I would be glad to get you more information on that, but I urge you to expand the goals. This is a minor flapping of the wings and I do see a disproportionate benefit.

>> Spelman: Thank you. I think we would all appreciate that information if you would send it electronically. Thank you very much. That is the end of citizens communication. City council will now go into closed session to take up five items pursuant to section 551.071 of the government code. The city council will conduct its regular council regarding the following items. 80, legal issues relating to november 2013 affordable housing general obligation bond election. Item 81, legal issues related to open government matters. Item 82, legal issues related to the transition to electing the council from single-member districts. Item 84, legal issues relating to the recent u.S. Supreme court case striking the application of the requirement of the voting rights act. Also pursuant to section 551.074 of the government code the city council will take up one item related to personnel matters regarding the following, item 83, evaluate the performance of and consider the compensation and benefits for the municipal court clerk. There being no objection to going into executive session on the items announced, we'll go into executive session. Thank you. We're in recess. This item has been withdrawn. No action is required. Item number 93 will be an item that I think council announced changes and corrections that this will be considered at 6:00 tonight. That's item number 93. Item 94, a restrictive covenant amendment, I you have one speaker. Item 95 for the property located at 9101 to 9201 south ih-35, service road northbound, zone the property general services or cs-co. The zoning and planning commission's recommendation was to grant the general commercial services overlay, combined district zoning to change the condition of zoning and this is ready for consent on all three readings. Item 96, 14-2013-0031, we have a neighborhood request for postponement of this item to august 22. Item number 97, c 14-2013-0032, for the property at 3903 cameron road, we have a neighborhood request to august 22. Item 98, this is to zone the property to general commercial services or cs district zoning. The zoning and planning commission recommendation was grant community commercial overlay and this is ready for consent on all three readings. Item number 99, c 14-2013-0047, 913 west slaughter lane, to zone the property to townhouse condominium resident, zoning and planning commission recommendation was to grant multi-family residents low density conditional overlay. The applicant amended their request to sf-6 and agreed to a 200-unit limit so the applicant would request that you consider this amended request rather

than the zoning and platting commission recommendation. I would offer that only for first reading and possibly consider the amended request.

[09:12:17]

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Does staff have recommendation on the amended application?

>> We would be okay with the amend application for the lesser density.

>> Spelman: Okay. Thank you.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: Greg, do you know when that would come back for second and third reading?

>> We should be able to bring that back in two or three weeks.

>> Riley: If we could have IT BACK ON THE 22nd, THAT Would be helpful.

>> Item 100, staff is requesting a postponement of this item to your august 22nd agenda. Item number 101, c 14-2013-0050, for the property located at 13033 fm 2769 road, we have a neighborhood request for postponement of this item to your august 29th agenda. I think there was one person who requested to speak but a neighborhood request to postpone until august 29. Number 102, c 14-2013-0053, 515 east slaughter lane, i understand you have one speaker that signed up with regards to this item so it would not be offered for consent. Number 103, case c 14-05-0120, a restrictive covenant amendment for the property located on east u.S. Highway290 westbound, this is to amend a restricted covenant, a restrictive covenant amendment to add a 3.142-acre tract. Was recommended by the zoning and platting commission and recommended for approval. Item 104, c 14-2013-0054 for the property located at 10104 east u.S. Highway290 westbound to zone to commercial, zoning and platting commission recommendation was to grant the commercial services highway ch-co and this is ready for consent approval on all three readings. Item number 105, case c 14-2013-0060, for the property located at 7101 bluff springs road, we have an applicant agreeable to a postponement request to august 22 and neighborhood request for postponement to september 26 so this is a discussion postponement item on item number 105. Item 106, c 14 r-85-149.100 rca, the staff is requesting postponement of this item to august 29th agenda. And item 107, c 14-2013-0003 for the property at 800 west cheesier chavez, this will be a discussion item.

[09:16:30]

>> Mayor Leffingwell: To postpone item 97 until AUGUST 22nd

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>> And 96 as well. I don't know if you said that.

>> Mayor Leffingwell: 96 AND 97 UNTIL AUGUST 22nd. To close the public hearing and approve item 98 on all three readings. To close the public hearing and approve item 99 amended as requested by the applicant on first reading only. To postpone item 100 until AUGUST 22nd. Postpone item 101 until august 29th. To close the public hearing and approve item 103. To close the public hearing and approve on all three readings item number 104. To post tone item 106 until august 26th. And that is the consent agenda. I'll entertain a motion. Councilmember riley.

>> Riley: I have heard a request for a time certain on the discussion postponement on item 105 for six p.M.

>> Mayor Leffingwell: I have not heard that. Sounds like a rumor to me. [Laughter] are you offering to set that for a time certain of six p.M.?

>> Riley: I would like to do that and ideally it would be taken up before item 93.

>> Mayor Leffingwell: Okay. We'll include item 105 for a time certain of six p.M. On the consent agenda. Is there a motion to move the consent motion? Councilmember martinez so moves. Seconded by councilmember spelman. Councilmember morrison?

>> Morrison: Show me as voting no on item 86.

>> Mayor Leffingwell: All. All those in favor, signify by saying aye? Opposed say no. It passes on a vote of seven to zero, and show councilmember morrison voting no on 86.

[09:18:34]

>> Thank you, mayor. So as I understand item 21 was on the table or are all the parties ready to discuss? I wasn't here when it was put on the table, so i assume we completed the discussion of the proposed revisions. Is that correct? Councilmember morrison? More changes?

>> Morrison: Yes, discuss some potential changes.

>> Morrison: Councilmember tovo, you have additional changes?

>> Morrison: The two i mentioned earlier with the

-- with one amendment to the amendment I proposed earlier, and I think I've got copies here. The director shall include the appraised value in the material submitted for planning commission and council consideration and I'm proposing instead changing the language to the director shall include appraisal information in the materials submitted for planning commission and council consideration. So that addresses the concern that ms. Riser raised that there

-- staff recommended changes that would then affect the appraised value so it would be very difficult to arrive at an appraised value. Prior to a later phase of the project. Actually, I just found it and I'm going to distribute that. So if you would substitute the motion sheet I handed out earlier for the one I'm handing out right now.

>> Spelman: Mayor? It seems to me that the proper course of action here would be to put a motion on the table which included the main

-- the original submission by city staff plus the legal cleanup items suggested by councilmember morrison. There were two as we discussed substantive changes which were at variance to the original staff recommendation, one offered by councilmember morrison and the amendments offered by councilmember tovo. So I would like to put in place the

-- as the main motion the stuff which everybody agrees to and then we can take up the amendments after that. Let me deliver that because you were not here and I'm not certain if mayor pro tem cole was here for the entire discussion. That would be the original draft ordinance as proposed by city staff plus the first amendment of councilmember morrison titled application of approval. Plus sections a and c of councilmember morrison's amendment appraisal of property. Not section b, which I think there was some controversy about and which was different from staff proposal.

[09:21:31]

>> Mayor Leffingwell: I understand there was an objection to a too.

>> Spelman: Let's take out a then. So it would just be c. And then amendments 3, 4, 5 and 6 in their current form as proposed by councilmember morrison.

>> Mayor Leffingwell: Three, four, five and six. I'm not reading my sheet right because all I have is

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>> Spelman: The amendment section 1453. The amendment section 141153 subsection 6. 141153 subsection 7. And 141153 contents of encroachment agreements, subsection 6. Provisions of the council or the manager to determine as necessary.

>> Mayor Leffingwell: That's what I have, six, seven and eight.

>> Spelman: I may have miscounted.

>> Mayor Leffingwell: I think you said four, five, six or something like that.

>> Spelman: It depends on which version you're going to read. Let me try again. Amendment 141153 subsection 2.

>> Mayor Leffingwell: Right. And 2 is

-- there's objection to that.

>> Spelman: Objection to that too. Okay. So it's agree 536, 7 and 8 and plus 52-a

-- no, no.

>> Plus 52-c, plus 51 in its entirety.

>> Mayor Leffingwell: Okay. So there's four changes that you're including, 52 c, 536, 7 and 8.

>> Spelman: There you go.

>> Mayor Leffingwell: So that's the motion on the table. Seconded by councilmember morrison. Councilmember riley.

>> Riley: I'd like to offer what I would hope would be a friendly amendment to the very first of those amendments, amending section 141154-a, subparagraph 2 provides that the director shall submit the proposed encouragement if the director determines that the encroachment does not interfere with the present or future use of the right-of-way. I would suggest that we insert the word unduly and allow for the possibility of de minimis intrusions into the right-of-way that don't present a real problem. Just to allow for some flexibility so that we could allow some very minor intrusions. We wouldn't be limited by this language in the event that there's de minimis intrusion into the right-of-way.

[09:24:04]

>> Spelman: That's friendly.

>> Morrison: If I could just get a comment from our director of public works on that. I presume it's okay, but since this is really about how he's going to be involved, let's hear his thoughts.

>> I think that change is fine.

>> Morrison: Thank you. I'm fine with it.

>> Mayor Leffingwell: So that is the main motion with those

-- with that friendly amendment plus the ones listed out by councilmember spelman. Councilmember morrison.

>> Morrison: I wonder, another issue came up about fees when we were discussing it before it went on the table. And I understand

-- I wonder if staff could help us understand how this is going to work because there will be a fee for an encroachment, a permanent encroachment application, but on the other hand

-- and I understand there are some waiting in the wings that we will be seeing presumably on the 22nd if this all passes. So how is that all going to work if we haven't actually set the fee yet and we're not posted to do such a thing today?

>> What I was proposing is that these applicants pay the fee under the license agreement process and then during the process they were told that they needed to switch to this other process, so rather than having them pay an additional fee, we thought that we would just move that application under the encroachment process without charging an additional application fee.

>> Morrison: It's my understanding fees have to be set by ordinance. So will we be setting the fees by ordinance on the 22nd?

>> Yes, ma'am.

>> Morrison: Then you're suggesting that when we set the fee, the fee for anybody that's applied before the 22nd would be whatever they've already paid.

>> Yes, ma'am.

>> Morrison: Then we could have a new one. What is the fee for a temporary

-- that they've paid for the temporary?

[09:26:09]

>> These applicants have paid \$650 an application.

>> Morrison: Okay. And did they do

-- for those applications that we're talking about, I understand there are eight waiting in the wings, is that correct?

>> Yes, ma'am.

>> Morrison: And did you all use external or internal

-- independent or internal appraisal processes?

>> One has an external appraisal because it's very complex, and the seven have internal values.

>> Morrison: And how much did that external appraisal cost?

>> I believe it was \$8,000.

>> Morrison: So when we consider the fees next time, can we consider the possibility of the fee being an application fee plus if there's an external appraisal that the applicant also paid for that? Is that an option we would have.

>> Yes.

>> Morrison: All right. Councilmember tovo.

>> Tovo: So if i understand the process we're going to follow from here, we're going to propose the.

>> Mayor Leffingwell: Propose amendments to the motion made by councilmember spelman.

>> Tovo: I would like to propose the following friendly amendment and that is the first one listed on my sheet, which is that it go under 141151, the additional language to a and to b that would allow for a planning commission review of any proposed permanent encroachment. And the reason

-- I think I've talked a little bit about the rationale I'm happy to expand on that. I just think it's important that we have a land use commission that is used to thinking through these issues in some depth in detail, review this in the same way they do our alley vacations and right-of-way vacations. To me this feels a lot like a right-of-way or alley vacation process than it does a license agreement. That we're not talking about a business that's going to put a sign on sidewalk for a year or a couple of years. We're talking about actually giving up a right that we have, a public right that we have. And I think that really does deserve a more thorough consideration.

[09:28:30]

>> Mayor Leffingwell: We have a proposal for a friendly amendment, councilmember spelman.

>> Spelman: Although there may be cases which do require planning commission recommendations, I don't think all of them will and this would require all of them to, so I wouldn't consider it friendly. I think we need to vote on it.

>> Mayor Leffingwell: All right. So that is not friendly. Do you want to make that as an amendment? All right, amendment proposed by councilmember tovo? Is there a second? Seconded by councilmember morrison.

>> Morrison: I would like to speak to that. I think that with these kind of permanent encroachments we're talking about people as the examples we've been getting are like building a garage, parking garage under the ground or the idea of cantilevering the third story of a hotel over the sidewalk or something like that. Those kinds of projects are going to be involved in very long site plan and permitting developments in general. So to be able to

-- this is not something that is not at all like a temporary agreement. They're not going to be just coming in one day and expecting, and we shouldn't put that expectation out there that they get approved like they have been administratively. I think that on our planning commission we now have on our director of public works is an ex-officio member. It would be a really terrific place to be talking about the possibility of permanently giving away rights to right-of-way. It's a very important land use issue and I think that it deserves the consideration of the planning commission. So I think this is an important issue. We could poshly be getting in the way of great streets and the planning commission is the one that knows the visions that we have in all the plans. I think it's a very important amendment.

>> Mayor Leffingwell: I'll just say I think it adds too much. Another layer, another hoop to jump through and it may be appropriate in some cases, councilmember spelman said, but I'm going to vote against it and with the

-- knowing that council always has the ability in certain cases to have a particular item directed back to the planning commission. So I'm going to oppose that. Mayor pro tem cole.

[09:30:59]

>> Cole: I would just like to add that I can appreciate the work of the planning commission and their expertise on this, but I think we have to be careful of adding layers of bureaucracy that adds to the timetable when it's not

-- when it's not necessary. So I will not be supporting the amendment.

>>

>> Mayor Leffingwell: Okay. All in favor of the proposed amendment say aye? Oppose d say no. That fails on a vote of five-two with councilmember riley, councilmember martinez, myself, councilmember spelman, mayor pro tem cole voting no. More councilmember morrison.

>> Morrison: I'd like to try that upon recommendation of a director that it would be reviewed by the planning commission so that we would be able to have the director sort out the ones that were complicated and much more significant so that not all of them would have to go. So that would be my motion that it's the recommendation of the director that be reviewed by the planning commission.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: I would find that to be a very friendly amendment, but I would like to know what language we would be using since this is an ordinance.

>> Mayor Leffingwell: Do we have comment from staff?

>> Excuse me. The code currently says that it go to the planning commission, but that's old language. What actually happens is depending upon where it's located it may go to zap or it may go to the planning commission. Would you want that to occur in this case also?

>> Morrison: Yes. So I wonder if you could help us with what the exact language would be to implement having it be at the discretion of the direct

-- discretion that it go to

-- it's reviewed by the land use commission.

>> Instead of the exact language at this time, if you will just vote on

-- pass that motion we'll draft the language.

[09:33:07]

>> Mayor Leffingwell: So first reading only? At the discretion of the director of public works if he determines it's appropriate to send it to the land use commission, he will do so.

>> Mayor Leffingwell: So that is accepted by the maker and the second, i assume, since you proposed it. And so that's incorporated into the motion. Councilmember morrison.

>> Morrison: I guess i would like to go ahead and put the other

-- go through the other one. So we're talking about i want to hit 14-11-52 where we did

-- let me make sure I'm looking at this right. 52-a. That there was some objection that we've heard in a letter from rica. And this was the item

-- in fact, it would be great if we could put it up on the screen if anybody has a copy. It says after an application for permanent encroachment in the public right-of-way is received, the director shall establish the appraised value. And it has said after an application to permanently encroach a public right-of-way is approved, which clearly wasn't right. Now we've said received, so the comment that we've gotten is that it should be done after staff review. So what I'd like to suggest is that the motion be that after an application

-- I'm going to change the word received to reviewed. After an application for a permanent encroachment in the public right-of-way is reviewed, the director shall establish the appraised value of the affected right-of-way. So my motion is what was on on my motion sheet except changing the word received to reviewed.

>> Spelman: That's friendly.

>> Mayor Leffingwell: So that's incorporated into the motion.

[09:35:12]

>> Morrison: And if I may. On to the next one that had not been considered yet, it was to suggest that the director shall use an appraisal prepared by an independent appraiser engaged by the city. I think there's probably disagreement on this, so i would like to put this on

-- make this motion to see if i get a second and then we could have a vote on it.

>> Mayor Leffingwell: Would you explain it again? I don't see it on here.

>> Morrison: On 14-11-52-b, the way it's stated in the draft is that it could be either an internal or an independent external appraisal. And this shifted

-- my motion is to shift it so that it will be an independent appraiser, with the reasoning that that's the way we do it with vacations and it should meet that standard.

>> Mayor Leffingwell: That's a proposed amendment to 14-11-52-b. Is there a second to that?
Councilmember Tovo seconds?

>> Tovo: I think it's important. I think it's important to our process that one, we have a consistent process and that we're sure we're getting

-- we're moving a little bit outside the city process and getting that independent review. And I want to address the concerns that we've heard from the dais as well as from reca about the time frame. These is a really critical time frame, a really critical decision and they deserve scrutiny and review. As has already been said, these are big, complicated projects that are going to take a long time anyway and I think it's worth it to take the extra time to make sure we're getting an independent appraisal rather than trying to rush through stages. Just because we're concerned about allowing that extra time.

>> Cole: Mayor, I have a question.

>> Mayor Leffingwell: Let me say I'm going to oppose that because here we have the intent of this is to kind of simplify, streamline the process. And by the process of amendment we're going back to where we were before basically. Mayor pro tem?

[09:37:18]

>> Cole: Lorraine, let me ask you very quick by about our internal appraisers. Are they certified in any manner?

>> Yes. We have four state certified appraisers, one mai and each of our appraisers has 15 plus years of experience.

>> Cole: Thank you. I will not be supporting this amendment because i believe we've talked a lot about the cost and then the potential that we would pass that cost along. But it's unnecessary cost, increase, so I will not be supporting the amendment.

>> Mayor Leffingwell: All in favor of the proposed amendment say aye? Did you want to say something?

>> Tovo: I had a question for staff. Since those are our staff resources

-- there is a cost associated with using our staff to do

-- to undertake the efforts as well, can you give information on what the staff members doing? Do we have other responsibilities beyond being appraisers for the city when needed?

>> We have a dedicated team of appraisers, that's all they do. They do in-house appraisals, they do cost estimates for projects. And they also order and review appraisals from outside consultants.

>> Tovo: On another issue, would you say that the primary reason for introducing this is to provide another option? It sounded to me like really the intent behind this ordinance change was to provide an option that doesn't currently exist. Not really to expedite or streamline processes. This was about introducing another option where it seemed like there was a rational basis to do so.

>> Let me clarify something that on vacations right now that process does not require an outside appraisal. What

-- currently we have been getting outside appraisals on some of the vacations because of the complicated nature. The code does not require it. So we were trying to mirror that language or keep it similar that it was a choice. So if you have

-- for instance, we have

-- we're taking 20 square foot out of a piece of right-of-way to spend \$5,000 for something like that. So we're trying to have some flexibility.

[09:39:41]

>> Tovo: Thanks. I'm sorry, I was really talking about what you've brought before us more generally. Was it an attempt

-- i believe based on your comments and the memo that we got from staff that introducing this permanent encroachment was

-- the intent behind it was to introduce a new option, not to expedite or streamline things, but again to introduce an option that doesn't currently exist.

>> We were trying to create a balance between the license agreement and the street vacation. And so that's what we were trying to do.

>> Tovo: Thank you very much.

>> Mayor Leffingwell: You all in favor of the amendment say aye? Opposed say no. That fails on a vote of two-five with councilmember riley, councilmember martinez, myself, councilmember spelman, mayor pro tem cole voting no. Councilmember morrison.

>> Morrison: I believe this will be my last motion. And it is for section 14-11-53. What I'd like to do before stating it is to refer you to the draft ordinance under section 14-11-51 that says explicitly that an encroachment agreement authorizes the use permitted if the permitted use terminates or is abandoned, the use of the right-of-way automatically reverts to the city. So what this section under 14-11-53 was doing in listing the provisions in the agreement, the provision that was listed was not quite consistent with the earlier part of the agreement. So the attempt was to make the two consistent and to make the two consistent, the provision

-- the language that I was offering was under number two a provision providing that the right-of-way shall automatically revert to the city if the use permitted under the encroachment agreement, terminates or is abandoned, so that's exactly consistent with the earlier part of the ordinance. And the objection is that it doesn't make sense to terminate with every change of use. I wonder if our staff could speak to that. It's contemplated if I understand it that these are for a particular use.

[09:42:23]

>> The word use as used in 1411 does not mean use as we were used to hearing it in zoning. We didn't mean condo to hotel, we meant the infrastructure, the thing that was the use in the encroachment agreement, the garage, the overhang. That's what we meant there when we said use. So perhaps if we said if the

-- the use permitted under the encroachment is what it is. It's the garage is exactly what it says, but we didn't mean hotel to mf-2 or something like that. So perhaps that's where the confusion was coming in.

>> Mayor Leffingwell: There is a question by councilmember riley and then spelman.

>> Riley: Couldn't we just

-- instead of referring to the use permitted under the encroachment agreement, couldn't we just refer to the encroachment?

>> Yes.

>> Riley: That seems a lot clearer.

>> Yes. That is what we meant.

>> Riley: So it will say a provision providing that the right-of-way shall automatically revert to the city if the encroachment terminates or is abandoned.

>> Yes.

>> Mayor Leffingwell: Councilmember Spelman.

>> Spelman:.

>> Spelman: Riley beat me to it.

>> Mayor Leffingwell: It's councilmember Morrison's proposal. Are we now proposing a friendly amendment to the amendment? I think he is. Are you doing that? I'd like to explore that a little bit. So if the encroachment terminates I'm not sure

-- like if you build a parking garage under the ground, right-of-way, tell me just in layman's terms what would under what situation would we want the agreement to terminate?

[09:44:29]

>> If the parking garage is no longer being used, if

--

>> Morrison: But the encroachment, the language you're suggesting, councilmember Riley, the encroachment to me is actually, you know, the concrete wall, and I don't know what that means for the encroachment to terminate.

>> Riley: May I, mayor?

>> Mayor Leffingwell: It's your decision, councilmember. Councilmember Riley.

>> Riley: I picture something like the sticker on the city hall pointing out over the right-of-way. If for some reason we decided to take that down some day then that encroachment in the right-of-way would be terminated and the right-of-way

-- under this provision the right-of-way would revert back to the city. That's what I was picturing. That that

-- the encroachment is the pointer sticking out over the street. I thought that was the intent of the provision. Is that right?

>> Yes.

>> I thought you set the parking garage if it was no longer used.

>> That's the abandoned part.

>> Morrison: Is terminated or abandoned. Okay. That's fine. I accept that.

>> Mayor Leffingwell: So the amendment as amended or clarified by councilmember riley is

--

>> Morrison: I think I can read it.

>> Mayor Leffingwell: Please.

>> Morrison: Section 14-11-52 will read, a provision providing that the right-of-way shall automatically revert to the city if the encroachment terminates or is abandoned. Is that correct?

>> Mayor Leffingwell: That was an amendment and councilmember tovo seconded that. That's been changed. Do you accept that change?

>> Tovo: Yes.

>> Mayor Leffingwell: Could I ask the staff what is the substantive change from the original language that was in the ordinance to

-- what does this do? What does this change? How does it make it different?

[09:46:47]

>> Well, the provision that we're talking about is the provision that lists some of the contents of the agreement, and one of the contents of the agreement was that we get the property back if the thing goes away. The provision originally said allowing, and councilmember morrison was concerned that that wasn't strong enough to say that we get it back.

>> Mayor Leffingwell: So this would definitely get it back.

>> That's all she was really trying to say is that we clearly get it back.

>> Mayor Leffingwell: Got it. All in favor? Opposed say no. It passes on a vote of seven to zero. That's it?

>> Morrison: One more. This is just a comment. And that is if we could have the option in the fee structure that staff is going to bring back on the 22nd, THAT IF THERE IS AN External

-- number one, if there is an external appraisal that the applicant would cover

-- be responsible for the cost of that. And then also I understand that there are some that are already in the works, so we want to make

-- probably want to make sure that whatever we put into place doesn't gum up the works for them.

>> Can I ask, we made a lot of amendments. Just in case some of the amendments that we made affect something else and we inadvertently didn't say it, do we have the authority to go ahead and make that correction?

>> Mayor Leffingwell: Say again?

>> We made a lot of changes. Just in case we made a change in one section that necessitates a change in another section

--

>> Mayor Leffingwell: Renumbering or something like that? Sure.

>> Thank you.

>> Cole: Mayor? I know that there was a lot of work that went in to this by staff and I want to thank them for that, especially mr. Gordon bowman.

>> Mayor Leffingwell: Okay. I think we're ready to vote on the main motion. All those in favor, signify by saying aye? Opposed say no. It passes on a vote of seven to zero. I think we're ready to go to item 7. We have a number of folks signed up to speak. We'll go to speakers. Paul hilgers. Is sarah andre here? Sarah andre? I don't see any hands raised. Paul, your donor has left. You only have three minutes.

[09:49:21]

>> I'm not going to take that, mayor. Mayor and council, paul hilgers, president of the austin board of realtors. I'm proud to stand up here representing the nine thousand members and the board of the austin realtors to ask this council to place an item on the agenda and place an item on the ballot for the citizens of austin to approve \$65 million in housing bonds. The city's invested over the years and is going to invest today in some major and significant housing projects and housing developments. And if we're going to continue to grow and be the sustainable city that we need to be, we have to make sure that all

of our citizens can participate in that economic growth. I know the city council understands that and I appreciate your consideration of this very important resolution for the citizens citizens. Thank you.

>> Mayor Leffingwell: Next speaker is kathy conway.

>> Good afternoon, mayor, mayor pro tem and councilmembers. I'm kathy conway and I'm the chair of the austin board of realtors. Abore is a nonprofit organization dedicated to educating and supporting central texas realtors. We serve nearly 9,000 members, promote private property rights, and provide accurate comprehensive data

-- I lost my place. Hold on. Property listing information for the greater austin area. Today I'm proud to announce our support of 65-million-dollar affordable housing bond package for this november. Austin's housing market is growing aggressively and as a result many families are being forced to move outside of austin to find reasonably priced and affordable housing. Abor knows our economy is strongest when there are housing options for everyone in our community and we understand that the current market cannot satisfy the growing demands of the community without the assistance of these bonds to help address the growing housing needs of austin. We are proud to stand as an austin business leader willing to step up to ensure these needs are met and we know these bonds are necessary to avoid jeopardizing our future growth and economic stability. Austin board of realtors sees this as an investment in austin's economy and/or future. Thank you very much.

[09:52:03]

>> Mayor Leffingwell: Susana almanza. I don't see susana. Elena montelongo.

>> Can everybody hear me okay? [Speaking in spanish].

>> Waifs fees and stuff for the-million-dollar buildings and they're supposed to have affordable housing, but they don't take section 8. That's discriminatory, y'all, so many levels. Principles, ethics, what's your responsibility? What's your objective? Mine is to bring my son out of his, and I show up here and I though up at the senate and I have to wait 17 hours and they disregard my child and his well-being and the fact that he needs to go to bed. Discriminatory practices, misinformation. I feel they are egregious, malicious and against me for generations. I am of aztec or begin. I claim it. I don't have enough because it's been lost in books. I've been disenfranchised, disespacially bowelled, disillusioned. Y'all try to be discreet with your [speaking in spanish] hmm. Yeah, they call me disruptive, belligerent. I'm not. I am indignant. There's a difference. I am emotive, not emotional. I live in subsidized housing. Do y'all have to urinalysis for your shelter, folks? I don't, but it's coming because y'all took me rights as the board. I can't even have all the medical options that I was born to garner as a female. I create life. And I've been abused and I've been labeled. My people have been disembowled for generations and somebody that

probably don't even speak spanish giggles, and he's busy with his ipad probably saying something not nice. My child is black. I am unmarried. I am not a survivor, I am an overcomer, y'all. And I'm here to tell it. Y'all cannot hold me down. A.P.D. Is refusing my calls. I've called them 72 times like zimmerman. I help the people, my fellow commuters who are on their way to work and they're stuck on i-35, I call highway hero, I call them because they're a granted program. Those employees over there requested to provide that service for us. But there came a day when i was leaving a two-year-old's birthday party from chuck echeese and I called highway hero and she debated me for 20 minutes about why she's not assisting my child.

[09:55:41]

>> Mayor Leffingwell: Thank you. Your time has expired. Will mccleod.

>> Housing, affordable housing. Y'all need to quit playing.

>> Mayor Leffingwell: Will mccleod.

>> Good afternoon, mayor, council. For the record my name is will mccleod. I come here often. This item number 7 for affordable housing, you know, the voters rejected this idea last year and now you're saying okay, what does the voters know? We're going to go ahead and just shove it down our throats anyway because we want to be like detroit. Yeah, that's right. Detroit, you know the story about detroit. It's in bankruptcy. And I bet you 10 years from now the city of austin will go down that path. Now, the I want to read an article from reason.Com, libertarian magazine. There will probably be never an oxford companion to the 2008 american financial disaster. Those interested in this painful topic. However would do well to read reckless endangerment. A better "new york times" business reporter gretchen morganson and joshua rothner who morganson says has seen every trick there is acknowledge that their book about the events that led up to the financial crisis is not the last word in this sorry episode, but it is. But they promised a work that names and smokes out 20 years of key incidents that produce the crash of this trillion dollar aftermath. It is that they deliver. On the thesis of reckless endangerment it's simple. In a rush of orchestrated affordable home ownership and generate enormous profits, politicians, government sponsored enterprises, simultaneous regulators, greedy mortgage brokers and profit chasing wall street investment bankers combined to drive the american economy into the worst crisis in 70 years. Saddling taxpayers with trillions of dollars in debt and leaving the financial landscape littered with the wreckage of lenders, borrowers and taxpayers. Let's not go down this path. You know, there is other solutions to affordable housing, like lowering capital metro fares. Anyone listening? Good. And providing bus service to neighborhoods. I admire houston's transit and houston has more affordable living and accessible housing in houston. Even san antonio. You know what grade I give the city of austin as far as accessibility and affordability? F minus.

[09:58:56]

>> Mayor Leffingwell: I'd like to ask you to hold the verbal outbursts from the gallery down. As a courtesy to everyone in the room. ed McHorse.

>> I'm here to ask you all to go ahead and support the full \$65 million that's available for the affordable housing bonds. And I'm here today as a member of the echo board. I'm here today as the chair of your psh leadership finance committee. And in the interest of time, I'm going to also be speaking on behalf of several of the other providers in the room who are here from caritas, front steps, foundation communities, trinity center, the religious coalition for the homeless and echo. All organizations who you've heard from. They've come to see you. They've been standing here where I'm standing today to talk about the importance of psh. You all know it's an important part of the affordable housing strategy. That's why you approved \$76 million for the bond package last time. We've since had an allocation to cover this year and so the need hasn't changed. The need has actually increased. You all know that a lot of the housing dollars come from the federal government. And so the ability to get additional funds from other sources is not there. Just this week we have learned that hud, which annually provides some bonus money for cities who do well like the city of austin, we've gotten an extra half million dollars for psh the last five years, this year did not fund us and they did not fund us not because we don't have quality projects, but because they're going across the board three percent decrease in that funding. So if we're going to continue to make progress in these areas we've got to be committed to the capital to do this. We are making great progress in the other areas. Your leadership finance committee has made progress in getting landlords to be more open and accepting to psh residents. We've made great strides with the 1115 waiver funds to help provide the supportive services that really make a difference between affordable housing and psh. We can't lose now the third leg of that chair. You have to have the service dollars, the building landlords, the rental income and facilities. So I would really encourage you to continue your great commitment to making psh available in this community as a positive solution and by doing that to go ahead and approve the \$65 million for the bond package. Thank you.

[10:01:34]

>> Mayor Leffingwell: Good. Gus pena.

>> Good afternoon, mayor, council members and citizens. This is not now my 10

-- now my 10th year of stating we need affordable housing. One big difference between me and the other activists is that I have a definition for affordable or affordability. And I hope I don't embarrass you again, council member Spelman, but require back when we ran against each other in 1997, I brought it up. Clear-cut definition is now right now and whether the people will agree with it, Reza, anybody else, I support Reza, but 550 for one bedroom or 4 fist to 550 for one bedroom. 575 to 650 for two bedrooms. But everybody is missing the point. Everybody wants affordable housing. We want affordable housing. Remember

-- and I support the bond package, but remember, in order to get to rental you have a lot of homeless people, a lot of people unemployed or underemployed. You have to have transitional housing. I can't remember the gentleman's name for the person for learning back in the '90's he had great transitional housing programs. You transition off the streets to transitional housing, get a job, become supportive, self-supportive, stable, and then you move up to rental. After you clean up your credit, you get a good job and you have a history, then you're able to purchase sometimes. But you have all these other housing entities, for example, I'll take for example Habitat for Humanity, you have to have three years governor credit, stable employment, etcetera. That doesn't do us any good. I support the bond package. 65 million is good, but remember, you have to have stability and stable housing. Transitional housing, rental, and then purchasing, to be able to purchase. Those are the three things. We have a lot of homeless veterans, single good people that served our country. We have a lot of homeless veterans with families on the streets. We have a lot of female veterans, single household, head of household with families that are homeless. We have the HUD VASH voucher. It means veterans of supportive housing is a big joke. The single veterans are getting the vouchers much more than veterans that are homeless with families. What I'm telling you is this, ladies and gentlemen, you need to have a clear-cut definition of what affordable housing is all about. That's why you have to educate the voters. If you educated the voters in the last election, this would have passed. This is the only bond issue that did not pass. Why? Because the voters were not educated. Here we go again, supporting the homeless, etcetera. We have a lot of good people that are homeless. They just need help out there. Transitional housing. Transition into rent, rental housing, and then from there you're able to purchase, but you have to have a job, a good liveable, sustaining wage. That's all I have to say. Thank you, Mayor.

[10:04:57]

>> Mayor Leffingwell: Okay. That's all the speakers that we have on this item. Item 7 is actually two separate ordinances which we'll vote on separately. One is the ordinance calling for the election. And one is the

-- the other is the ordinance establishing the bond proposition language. Mayor pro tem Cole.

>> Cole: We have recognized as a council the need for affordability and affordable housing is just a piece of that. And I think we have made the commitment to support affordable housing, especially in light as there is need in the community for our veterans, our disabled, our women and children. And especially also the homeless. So I'm going to go ahead and make a motion that we approve the ordinance establishing the affordable housing bond proposition language from item 7 with the following amendments: One, wherever the ordinance use the words low and moderate, we replace that with the phrase low income. And second, in the blank for the dollar amount I move that we insert the following dollar amount of 65 million. And I will comment on the 65 million that this is the amount that we can set the bonds for that is consistent with our current debt service ratio and not have to have us go above your bonding capacity and increase our tax rates. And I also move

--

>> Mayor Leffingwell: And we'll do it separately. So that's the first motion. Is there a second for that? Seconded by councilmember tovo. Discussion? Councilmember tovo.

>> Tovo: Mayor pro tem cole, just to clarify, you want the language to read, low income persons throughout rather than low and moderate income?

>> Cole: Yes.

>> Tovo: I want to say thank you to those of you who have come down today. I know you have been here a long time. Thank you for coming down to show your support for this and I want to thank you for not only your work in the community to help provide safe and secure housing for so many, but also for the work that you will, I hope, do in the months ahead to educate voters about the tremendous need we have in our community and the tremendous impact that these dollars could have in terms of bringing in additional funding and jobs and ultimately to get us a little closer to our goal of ensuring that every family and every individual in austin has someplace safe to sleep in the evenings.

[10:07:32]

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Thank you. I would like to offer an amendment to that motion, which I generally accept. But I do have a change I'd like to recommend. Generally the recommendation

-- my recommendation is that we change the \$65 million to \$55 million. And let me explain why. When we first went to \$65 million last year, we were anticipating that this be a bond everybody which would go on for the same period as our other general obligation bond issues which was expected to be six

years. Since this bond issue would start one year later, in order to true up timing it seems to me we're only expecting to spend five years' worth of money on affordable housing. That means that 65 million

-- basically \$65 million would be a substantial increase on a year by year basis if we spent over five years. Alternatively we could spend over six years, but that would mean we would not be true'd up with the other general obligation bond issues. It seems five years from now we should be talking about another general obligation bond issue with one of those options. If we're talking about five years it seems to me we might want to think about a different number. The right number I think is we can get either of two ways. One is \$65 million, which is what we were anticipating spending over a six year period last year. We've already spent \$10 million this year, but we spent it in cash from the increase in

-- unexpected increase in sales taxes. In fact, that's probably the next item we'll take up is going to be almost completing that \$10 million in cash expenditures we authorized a few months ago. Take 10 out of 65 and that leaves \$55 million for the remaining five years. That is what we anticipated spending, \$65 million over a six year period. Last year when housing bonds were before the voters. Another way of thinking about this is there are several constraints on us. As mayor pro tem mentioned, is our constraint a bonding capacity. We could go to \$65 million without a tax increase. Just because we can go to \$65 million without a tax increase doesn't mean we have to go to \$65 million. I would argue that there's another constraint on our capacity here, which is not bonding capacity, but purchasing capacity. We know how to spend \$10 million this year productively on affordable housing. I would argue we're not sure how to spend much more than \$10 million because some of the projects did not make in the hca lottery. Because we don't have enough agencies or enough projects out there to productively with certainty spend \$12 million a year. We do know how to spend 10. We can verify that because this year we spent 10 and i think we spent it very productively. What I just handed out is what would happen if we wanted to keep that purchasing power of \$10 million constant over the next five years. The bureau of labor statistics estimates the increase in residential housing construction costs on an annual basis, and that increase annually has been about three percent every year for the last 25 years. To keep the purchasing power constant at \$10 million we need 10 million plus another three percent if we want to keep it constant for next year, and then so on. And to suggest

-- I believe, sir, you have a copy of the spreadsheet that I've handed out to the council in your computer. If you could put it up so everybody else could see it. That would be helpful. We start with \$10 million. We know how to spend it productively this year. Next year we probably want to spend the same amount in purchasing power, 10.3, the next year 10.6 and then up to the last year 11.6 getting the same purchasing power, getting the same number of units that we know how to get this year. The total of that 10.3 added up to 11.6 from 13 to 18 is 54.7 and that's \$55 million. I would argue that's about what we expected to do last year had the bonds passed. 10 million this year plus a little bit more in 14, more in 15, adding up to \$65 million. We've already spent the first 10 of that. So I would argue this is a better proposal for purely political reasons for two purposes. One is we know we can spend this find kind of money productively. And if someone wants to

-- somebody wanted to come back and say you don't know how to spend 12 millions dollar a year, maybe we do and maybe we don't, but we can verify we know how to spend 10 million a year and we know how to get the number of units on an annual basis. We have the agencies in place, we have the processes in place in order to do that. The second objection that someone might reasonably come up with is you just try to scarf up all the available bonding capacity. Well, this would counter that with no, we're not, we're leaving \$10 million of bonding capacity on the table because we know how to spend \$55 million and we may not be sure that we know how to spend \$65 million. Given that this is the only bond which did not pass, i think we need to take as many arguments of the opponents out of their hands as we can. And this is an a attempt at taking those two arguments out of their hands. I believe the 55-million-dollar bond is more likely to pass than the 65-million-dollar bond. That's why I'm arguing in favor of it here.

[10:13:06]

>> Mayor Leffingwell: That's a pretty substantive amendment. I would suggest you make it in the form.

>> Spelman: [Inaudible].

>> Mayor Leffingwell: I would second it there. Mayor pro tem.

>> Cole: Besides the fact that we would be using all our bonding capacity and i fully realize that we don't have to do that because because we have, but we've spent a lot of time hearing a lot of information not only from our staff, but also from the community about the tremendous need. When we we want out for bond last november we went out for survey .3 million

-- \$78.3 million. Taking away the \$10 million that we already spent leaves us at 68.3, roughly the 65 million that we're currently putting on the table. So I'm just making the case that we are being consistent with what we intended to do last november.

>> Mayor Leffingwell: Okay. Amendment on the table to change the 65 million to 55 million. Further discussion? Councilmember tovo.

>> Tovo: Yeah. I wanted to also respond to the point about capacity for spending. I think that we've seen in terms of the number of applications at our housing and community development receives that it well exceeds \$10 million in spending and we've heard repeated requests for more money for the housing repair program and many of the other very worthy programs that could benefit from bond funding. So I would say that

-- and maybe our housing staff would like to comment on this. I do believe that we will have the capacity to spend that. Unfortunately really making a dent in homelessness and housing affordability is going to require a lot more than \$55 million.

>> Spelman: Mayor, if i could comment. If in any given year we have the capacity, the productive capacity to be able to spend more than 10 million because we have applications available or because more housing tax credits, applications hit than we usually have, then we could spend cash as we did this year. I think that would be

-- in addition to cash we do have the housing trust fund available as I've outlined in the first row of this spreadsheet. So we're going to a little bit more money from the housing trust fund. We could always take some more money out of cash and spend that as we did this year. And I think if the capacity is available we can spend it. If the capacity is not available, this only does is this commits to us what it is that we know in advance we'll be able to spend.

[10:15:39]

>> Mayor Leffingwell: I think there is a question for staff.

>> Tovo: If staff would want to comment on that, i would be interested in hearing their perspective. It's also my understanding that our bond funding may go to support tax credit projects, but certainly it's not limited to that. So I wonder if you could just talk about what that bond fund

-- what those bonds funds could support in terms of the kinds of programs that they have in the past and whether there is room to spend this amount in a reasonable amount of time. I think it was one of the very few bond programs that actually ran through all this money more quickly than did the other bond programs.

>> Betsy spenter. I'll try to answer several different questions. The first is capacity. We actually spend about \$14 million a year with all of our funding together. The g.O. Bonds has been roughly 10 million a year because of the 55 million over five, six years. But we actually with the aggregate money of our other federal funds and stuff we usually spend about 14 million total in capital expenditures. We did have one year where we actually expended 17 million of the general obligation bond funds or committed it because we had three tax credit projects all for the city of austin, which is unusual, but the tax credit allocation has a lot more to do with the region and the amount of credits that we receive as a region. Not so much the capacity of nonprofits. We often have about seven to 10 very competitive applications that are submitted each year and i would argue that all or most of those are actually very worthy and viable projects, but they originally only receive so much allocation each year and therefore can only fund or finance two or three projects in our region. And our region does include other cities,

levander and other cities that compete. So when it comes to capacity, as an overall I believe we've demonstrated an ability to commit and expend about 14, \$15 million per year. That's for a variety of programs. It isn't just tax credits and it isn't just for rental housing. It includes the home repair program and also includes okay with a session and development. We also obviously have the permanent supportive housing initiative, which is an exceptionally important program. Austin is a more significant capital contribution on our end can cost more. So we have that. We have preservation as another priority. We have some big projects coming up with the potential, the rbj project is a big project that will require or would

-- could require a fair amount of contribution from the city and a lot of different funding sources. So that's a long-winded way of saying I do believe we have the ability to expend funds in a very timely manner when given the opportunity.

[10:18:47]

>> Mayor Leffingwell: Councilmember Morrison.

>> Morrison: Councilmember Spelman, I want to thank you for your comments because it's something that I've wrestled with a bit too and it doesn't make sense for us to look at using the number of 65 or to try and calibrate it off the 55 that we passed before. And I guess I want to make a couple of comments in that regard. Number one with regard to capacity. If this goes on at 65 and it's approved, that means we have the opportunity to do 65-million-dollar in bond for affordable housing. We're not going to go out and just spend the money, we're not going to use the bonds and not go for the bonds. So that issue doesn't bother me very much. And I think it's important to keep in mind that there is a tremendous need that's been

-- that's been recognized by the bond committee. If everyone recalls the whole process that we went through, it got some good numbers to remind me the affordable housing subcommittee of the bond advisory committee originally recommended 110 million to be for affordable housing. It eventually came to us at 100.5, and then in the smaller package it turned out to be 76.8, which is what had gone on the first time. I also referenced the fact that our staff and all the discussions we've had about policies and amounts and how we might fund this, we're recommending 10 to 12 million a year. So I feel like the 65 fits conservatively in

-- comfortably in that councilmember Spelman brought up the issue of the appearance to the voters and I agree we have to pay attention to that, but my sense in talking to the voters and talking to people is people recognize the need. There is a tremendous need for affordable housing. People recognize the pressure that our housing is under with the tremendous growth and we need to have a very robust dialogue assuming this passes, to go on the ballot in the coming months to have that discussion and

-- because there's so much need, because I feel so comfortable with the 65 that we can spend it productively, I will be supporting the 65 in the end and not the 55.

[10:21:29]

>> Mayor Leffingwell: Those in favor of councilmember spelman's amendment say aye? Opposed say no. So that fails on a vote of 2-5 with

-- you're in favor of the 55? So councilmember riley, myself and councilmember spelman voted for the motion. So that motion fails. And that brings us to the main motion. All those in favor, signify by saying aye? Opposed say no? It passes on a vote of seven to zero. Now we can address the second ordinance, which is setting the election. Mayor pro tem.

>> Cole: I move that we approve the ordinance calling a special election to be held november 5th, 2013 to authorize the issuance of general obligation bonds as stated in the companion ordinance establishing the ballot language.

>> Mayor Leffingwell: Motion by the mayor pro tem. Is there a sex by councilmember tovo? Tovo

-- a second by councilmember tovo. All in favor? Opposed say no. It passes on a vote of seven to zero. Both on all three readings. [Applause]. Let's go to item 27. A number of speakers signed up if we can go to the speakers. Laura presley. Donating time is brad parsons here? Brad is here. James goosy. Russell doyle. Okay. Jeff can cleave toff so you have up to nine minutes. Are you signed up? You have 12 minutes. And you are... I think i know your name by now. Linda green.

[10:23:41]

>> Nader-olenick.

>> Mayor Leffingwell: Okay. She's donating time also for the clerk. So you have 12 minutes.

>> Thank you. Hello, mayor, mayor pro tem and councilmembers. I'm dr. Lawyer are presley, an austin resident, business owner, and have been in the technology field for over 17 years here in austin. And I understand very well this technology, the smart meter technology that's being proposed in this contract, in this contract that's being proposed. I have a little bit of a powerpoint that I want to kind of bring

everybody up to speed on some issues with smart meters and kind of what the trends are nationally. This is an excerpt from a

-- actually, from a pdf file that austin energy sent to me about eight or nine months ago. I was asking about the smart meter frequencies that are emitted by our

-- the smart meters on our homes and on our multi-family units here in austin. You can see in the frequency column, 900-megahertz and 2400-megahertz are the two bands of frequencies that are emitted. The 900-megahertz is radio frequency and the 2.4 gigahertz, which is that 2400-megahertz is a microwave frequency. It's exactly the same frequency our microwave ovens use, just lower power. Next. That's me. Smart meters operate in two different mechanisms that affect what I would say the well-being of homeowners that were the smart meters installed. One way is that of course we just talked about this radiation. The light waves and the radiation from these meters, 900-megahertz and 2.4 gigahertz. But there's a second mechanism that these meters induce in your home and it's called dirty electricity. I don't know how familiar council members are with that term. There's a book out there that is a phenomenal read. It's called dirty electricity. It's by dr. Sam millham. He's a physician, an epidemiologist. He's about 80 years old right now. He's been doing this for about 40 years and he has shown that the voltage and electrical noise that gets transmitted through our circuitry of our home with the smart meters, your smart meters pulse. There's a huge amount of pulsing that happens. Mine at my house pulses about every 25 seconds, 3,000 times a day the smart meters pulse. And with that they send a huge amount of noise in our electrical circuitry and noise and it's termed dirty electricity because it puts a noise signal on top of the 60-hertz alternating current signal coming from the electric company. So those are the two mechanisms. Both of these mechanisms have been shown to cause some health issues. Okay? We'll talk more about that. So those are the two mechanisms, a light mechanism and an electrical noise mechanism. This is a national trend in smart meter regulations across the country. The states in orange have state public utility commissions that are adopting regulations to make it easier for customers to opt out. Which means put back the analog meter on our homes and not so much these radiating pulsing meters. There is states that had legislation pending in the house and senate and it was reported by the boston globe back this summer. Texas, the public utility commission, has agreed to do 'a opt out program for texas, and that will come probably in the next year and a half or so. You can see other states. Vermont has an opt out program. Hawaii has opt out. And there have been some court rulings on smart meter technology. I want to talk a little bit about the lawsuits that have been won across the country. In california there have been health cases that have been won. In hawaii privacy and constitutional violation issues. In hawaii discrimination issues. In maine, health and safety public privacy rights constitute violations. And also in portland health issues, privacy and safety issues with the smart meter technology. This is what's going on right now. You have states allowing opt out and you have legal suits that have been won because of issues. I want to show you a little bit about the opt out program in california, pacific gas and electric. It has an opt out program where they charge \$75 to put your analog meter back on your house, the one we used to have back in 2000. And then they charge \$10 a month for somebody to come out and monitor that for your usage. And this is a similar program that austin energy has been proposed. It's proposed in the 2013-2014 fee structure. So an optout program is coming and I

really applaud the leadership of austin energy, larry weiss and his staff have pushed this. And I'm very impressed with the leadership of our

-- of austin energy on this. This is a report. So where are the health studies? Where are the issues? Where's the peer reviewed science with regard to the health issues? This report came out last year. We didn't have this report five and 10 years ago. This is a summary of all the research

-- councilmember spelman, I see you kind of grimacing there. Thank you. This came out in december of 2012 and it is actually a treatise, a study of all of the health research with

-- as a function of the city. As you increase the power density more health effects happen and this is a great summary

-- it's 1400 pages long and there's a great color chart that shows power density and health effects, research and the year it was published. It's a really great summary.

[10:29:57]

[One moment, please, for change in captioners]

>> ... Very consistently every 25 seconds, we would kind of kick our legs involuntarily. I talked to austin energy about this, talked to larry weis and said, do you know what, we went and measured our meter with a little frequency and power analyzing and my he meter was pulsing every 25 seconds and larry said, that is interesting, let's have somebody come out to your house and turn the regard yo emitter off and see how you feel. The twitching stopped. Root cause dead on from an engineering standpoint, that is root cause identification and verification, so based on that, they looked at the opt-out program and they've proposed a fee of \$75 and \$10 to come out to read for those people who are sensitive. I am going to tell you wireless technology is no different than alcohol. Only so much of it can people take before they are impaired, and every person is going to be different with regard to what they can stand with regard to this radiation level. So with that regard to that, let's move forward a little bit to this 60 million-dollar contract. Let's look at this contract and what does it cover. You see what the trends are

-- you can take that off

-- from the national standpoint. What

-- you have a line by line item description of what the 60 million is for. I think that's been asked by several people. It has been asked at the last council meeting. It was at the euc and i haven't seen it in the back up material. What is the return of investment for residential customers, what are the dollars savings that are expected for residential customers? I haven't seen that and really to me, what is the urgency of this contract in expanding our smart meter program? What is really the urgency? The contract goes out, the current one goes out to 2017 and this one extends it out to 2022. What really is

the urgency to do that? From the testimony of austin energy, what we do know about the contract is that it's going to have a software upgrade that allows two way communication. It's going to enable almost minute by minute electricity usage. It's going to enable query to our appliances for what they are doing and it is going to enable a rate structure for peak and nonpeak rates which translates to higher rates for peak usage. That's the big deal. And I think the main advantage that has been communicated is encourage austinites to use electricity on off peak times, but I would like to challenge that a little bit. You know, you think about when do we most use electricity? When the ac is on and when we are getting ready for work and school. I don't see those as being options. I don't know if the texas sun can please just shine when we are off peak. I wish it would do that. Your ac is on. That is the biggest contributor to your electric bill, period and you can't control how hot it is outside. I think there are a lot more concerns about this upgrade and you've got health issues. You have increased radiation emises these two

-- emissions these two way communications will cause. You have privacy issues, you have seen the lawsuit out there and this may put us at risk for something like that. There are security issues and bottom line, there are a lot more needs in our community than this. This is kind of, wouldn't it be great to have; it is not a must have and council member spelman, I love when you ask those questions, is this a must have. This one is not a must have right now. I would like you guys to table this and take it back up at some point, see how the opt-out program goes, see if we really need this down the road and I just want to thank you for your attention to this and you guys have brought up a lot of good questions and i appreciate it. Any questions? Thank you, thank you very much.

[10:35:06]

>> Cole: Next we have shanda stark. [Applause].

>> Hello, hello, mayor, city council members. My name is shanda stark. I am an austin resident and this is my first time to speak so I am here on behalf of this agenda. I am here just to voice my concerns as a citizen for this 60-dollar

-- 60 million-dollar program. I am concerned about the dollars being spent and I am concerned ability \$60 million being spent on a program that could put the health of the citizens and privacy of the citizens in generality, and I am just

-- in jeopardy and I am just here to say as a tax paying citizen, I do not support this. Thank you.

>> Cole: Thank you, shanda. [Applause]. Veratifo.

>> Hello. I just wanted to say that i do not want my taxpayer money going for this. 65 million could be spent in so many different ways, and what we just saw with the affordable housing, to me, there is so

many things that are more important. I live in affordable housing and I've had to move out of my apartment because the smart meters have been making me ill and I have been out for five months living with friends. So the thought of spending 65 million to make these

-- to support this is insanity to me, and I just

-- that's not where I want my money going. So that's it. Thank you.

[10:37:07]

[Applause]

>> Cole: Thank you. Paul norris. Paul norris.

>> Mayor pro tem, council members, my name is paul norris, and I am an austin native. I am like frost bank who says

-- unlike frost bank who says they are from here and they are from san antonio, I am here. Thank you for letting me speak to you today. I am opposed to this item for budgetary reasons. We just had a large rate increase for the utility and this is a major budget item, \$60 million. It will have a definite impact on rates. I had the privilege of serving on the electric utility commission for four years back in the 1980s. We were never presented an item like this that were so vague and had no line item detail. Approval of this is premature, seriously premature. I suggest that you strongly consider deferring action until you have a lot more detail. You just went through a very thorough exercise on a 60 million-dollar airport contract. Don't do any less here. This does not appear to be in the best interest of the austin ratepayer at this time. Please don't rubber stamp this item. Thank you. [Applause].

>> Cole: Gregory east. Mr. Gregory east.

>> Thank you, council people. I just wanted to say that what everybody is talking about here, about health effects of the smart meters, it might seem like maybe it is a little overblown but it is not. As for me, like someone who has had insomnia off and on, like most of my life, i recently moved into a louse that has smart meters, or one smart meter, but it used to be something I might have three, four, five times a year. Now it's something I have all the time, like three, four, five days a week. I have been here

-- I got up yesterday and I was

-- I try to go to sleep and I know it's that meter because i have been reading all about it and I have been here all day and I just want to say that, you know, the contempt and look on leffingwell's face when 27 was brought up and he saw everyone here and he just takes off like that. That is ridiculous. He doesn't choose to pay a salary. He ought to be here right now.

[10:40:20]

[Applause].

>> Cole: Thank you, mr. East. Cara bajingsci. Barbara day are you here? Betty looker, are you here? And james ritter, are you here?

>> (Indiscernible).

>> Cole: Okay. [Laughter]. Carol, you have a total of 12 minutes and you have other people willing to give you time if you need it.

>> Oh my goodness, thank you, mayor pro tem. My name is carol bajiskyy and the executive director of the rose is the texas way to save energy and I have been here before and I have had quite a bit of experience with smart meters and smart meters issues. I was a representative to the advanced meter working group at the public utility commission that designed this system that is in place at the deregulated service areas. I also served as a consultant to the main office of public utility advocate on their opt out provision. And I think you have a unique opportunity here as a council to nip some issues in the bud that are out of control in certain areas and I hope you take the opportunity that you have now to study this more thoroughly but still provide some options to people who want

-- who do want smart meters now. I think we do have a question as to whether or not this contract for \$60 million, is this the beginning? Is this the end? I mean, what else does this

-- does this process involve? I do have a copy of materials that were provided to you by austin energy on this issue and I am intrigued by page 2 of 6, which says that says that austin energy procures the advanced meters that are utilized for this ama project under separate contracts using a different funding source, so we have got this \$60 million for ami services. Then somewhere else, there is a piece that has to do with the cost of meters and now it's making me wonder if there are yet some other pieces to this puzzle, too, and I think it's appropriate that there be a very comprehensive metering plan in place that identifies all of the costs that will come up over the next several years. At this point we don't really know how many customers actually need advanced meters. There are some people who want them. I don't think that it's an overwhelming number of customers, especially in the residential sector. I know I myself have no need for an advanced meter, because I don't do anything fancy with my electricity. For residential customers, it

-- they may be appropriate for people who have photoaltaic rooftop panels or some other distributive generation, that may do a good job measuring in and out of what goes on the grid and it might be helpful for billing purposes. If that's the case, an advanced meter should be part of the package of installing pv panels on your house and it can be taken care of that way. I am very much in favor of at this point making advanced meters an opt-in. An opt-in service for customers and for those customers to pay for that advanced meter by what we call a capital recovery fee on their bill which is basically a long-

term amortization of the equipment. I don't see any reason right now for making these huge investments that everybody has to pay for and only a few people will actually benefit from them.

[10:45:08]

[Applause]. Now, another matter that I think should be looked at on this is, do we really need contractors to do this work, or should these be jobs that are done by Austin Energy employees? Now, I do know that some of the larger companies in the state

-- and I have some testimony in my office that was committed by Encore Electric delivery to the public utility commission that explained some reasons why they had cut back on contracting out their advanced metering services and why they have chosen to develop some of their own products instead of using proprietary products, as this one does. That is another element of this whole system that doesn't seem to have been looked at here and I think it should be, to see if there are more reliable ways that we can get services by using employees, instead of outside contractors, especially on this long-term basis. So there are a lot of issues involved with smart meters. Number one, are they worth the investment? That's something I don't believe that this material that you have been provided provides. If you look at page 3, there is a list of capabilities that the advanced meters have and when I read this list of capabilities, it appears to me that these are not benefits to the customer. These are benefits to Austin Energy and I am not sure how great those benefits are. Reduced truck rolls and reduce carbon dioxide is one of them. I happen to think remote meter reading is a good idea. I don't like the idea of trucks unnecessarily driving around town to read meters when we can do it some other way. However, I know that there is a contractor that Austin Energy uses to read meters that is also the meter reader for the water utility. So while we as consumers can pay for this fancy meter reading system at the electric utility, we are still going to be paying that contractor to roll the truck to read the water meters. So to me, as a consumer, that says, you know, my costs are going up. I get fancy service on one end and basic service on the other, where there is some plan in place where we can eliminate the truck completely, then perhaps the

-- the automated meter reading would be of benefit to us as consumers. I think there are a lot of questions that need to be asked. There are questions of cyber security. It is a fact that these systems can be hacked, just like anything else that's digital and that's a computer system, and you have to be very careful. So there are some issues that have to be looked at here. There were issues that we had to address at the state level, some of which are still ongoing, about who is entitled to have access to this information. I mean, there were people out there that wanted everybody's information about their meter attributes and their energy usage to be posted on a public website so that contractors could have access to it. So there are a lot of really big questions here that

-- that need to be answered, not so much for the sake of, like, Austin Energy's operations, but for we, the consumers of Austin Energy who will be affected by these systems as they go into place. And then, of

course, there were health concerns that have been brought up to you earlier, and these can take, you know, a lot of time and there is controversy over health concerns. Now I myself, I think that if someone says that the meter that is installed in their home is making them ill, that they shouldn't have to have that meter in their home, period.

[10:49:48]

[Applause]. There are people who are afraid of flying. We do not make them get into an airplane to go some place. [Applause] there are people who don't eat meat because maybe they think it is bad for them. Maybe it is. Maybe it isn't, but we don't force them to eat meat and i don't see why, if someone has a concern about the effects of a smart meter on their health, as far as I am concerned, they just shouldn't have to have one in their home. Now, the great thing is that everybody doesn't have smart meters yet, so you are in a position where you can give people the option of opting in to this. My recommendation is to leave the remaining four years of the contract that is already in place and use this as a time to really look at the future and decide what is the best course of action and the most economical options that are available for metering systems here in this city. I also have to end

-- I will end this in a minute, but i have to bring up the point that the very last

-- the last words of this memo that you were sent on page 6 of 6 refers to prepaid offerings without added cost, and this is something that is a very popular use of prepaid meters in other parts of the state right now, where customers have to pay in advance. They are

-- they are

-- their service is offered under a different set of customer protection rules, which are more lenient than the ones that are in effect for other customers who have standard service and I would like to make the statement right now that we should not be installing advanced meters for the purpose of creating a second class of citizens on the system who just don't have the same services and the same rights as everybody else. And that concludes my testimony.

[10:52:12]

[Applause]

>> Cole: Thank you, carol. Next we have ronnie reeferseed. Council member tovo

-- i mean, council member morrison. Carol, hold on, I think council member morrison has a question for you.

>> Morrison: It did prompt several questions. Council member tovo, were you going to ask some questions, because I would be glad to follow yours if you are.

>> Cole: Council member tovo.

>> Tovo: Thanks, i appreciate that. I have a quick one. I missed your last point about creating a second class of citizens. Could you tell me that again.

>> Well prepaid services is interesting. It is a set-up where the customer has to pay in advance to get electricity, and because of the attributes of the advanced metering systems and other systems that support it, the electricity provider is able to do what they call ping customer meters, in fact in different areas of the state, an electric provider can ping up to 1,000meters at any point

-- 1,000-meters at any point in time. And at that point when it is pinged, the retailer gets data of how much electricity they have used like to this point in time and they have systems so they can determine how much money is left on this person's account. So it's like a phone card except different, but the concept is you prepay and when your account runs out of money, your service gets disconnected and a lot of people call it self-termination

-- the self-termination plan, where instead of the utility sending you advanced notice and sending somebody out to disconnect your service, you basically disconnect yourself because you let your account run out of money and there are issues that are associated with that. Some

-- some of these providers like charge people a fee whenever they pay on their account, so it's

-- it's just

-- it's a terrible thing. It's

-- it's second class service.

[10:54:33]

>> Cole: Council member morrison.

>> Morrison: I actually have a few questions for staff which I hope I could ask now because they are directly tied to the points that carol made.

>> Cole: Absolutely, council member morrison.

>> Morrison: Okay. I wouldn't go far, carol.

>> Good afternoon, I am sheryl mueller, chief operating officer.

>> I was hoping you could answer a few issues that she brought up and the ones that I sort of recorded that i think could be laid on the table that would be helpful in our discussion. Do we have a comprehensive metering plan? She mentioned there are other pieces of it having to buy meters and all? Do we have anything that comes out it the coming years.

>> We do have a comprehensive plan and in fact in 2007, we brought forward for our internal work to actually automate all of the meters. 100 percent of austin meters today are read in this network. We don't have any analogue, with some exceptions but they aren't in the system today and as pointed as one of the speakers, we have moved forward by puc to have an opt out program for those customers who say they need analogue package for whatever reason. That is in the budget package you have and we hope to implement that in november of this year.

>> Okay. So in the reference f reference for perhaps needing more meters, or or is that just residents?

>> Well, new customers, so if somebody builds a new house, a new apartment or place of business, then we need to continue supplying automated meters. We do have in our system a mix, we have on two way network capable of two way operations but the ones installed in 2002 are run way which exist primarily at apartment complexes and other high transition types of locations and they were specifically selected a lot in the u.T. Area where we saw a lot of continuing moving and those have the potential to be upgraded if we choose to.

[10:56:44]

>> Morrison: So just down to basics, what we are talking about in this contract is

-- we already have a contract with these folks. It is a new contract that would replace the current contract with upgraded two way services?

>> With an upgraded operating system and currently we have a small implementation of that operating system in that we can do the smart grid and things we are doing with relation to the pecan street project. Those are the places we have this system install and we see it brings us benefits. It is the same system install and operating funded by encore. As the speaker mentioned, encore does it differently. They use exactly the system we would like to left by extending this contract in the option before you so they are able to do some more of those advanced services we can't do with our current system. Today instead of having a service agreement with land dis and gear, purchase the theproprietary software and install that and they have the staff to do that and when we signed in 2002, we offered it adds a service agreement so we didn't have to step up and maintain that network and provided that to it.

>> Morrison: I was going to say I department understand that when it first time came around. So given that we have a contract in place and we are spending a certain amount of money and this would be sort of upgraded service and all, an upgraded system, can you tell me how much we are spending now per year, how much this contract we would spend and so we can look at the difference?

>> Right. So the numbers that we brought forward in terms of the price per year in reed's, we brought forward \$60 million in ten years. It is on average about \$6 million, slightly less probably now and probably a little more ten years from now because we will have more meters installed, so it is a revenue neutral contract to the service provider. We took the price that took into consideration the current prices. Today we pay up to dollar 9 with some of our residential reads under the existing contract and this new contract, all customers regardless of whether residential or commercial will be paying 98-cents, really 97.9 centss, i believe, per read but we will call it 98, so it will be a little bit of reduction in some areas and most important, that reduction will also be applied to the more complex reads, so as we move more customers to optional services like time of use, that would cost significantly more today to do. So it would cost austin energy more to have a customer whose time of use. In the current contract in the future, it would be 98-cents.

[10:59:33]

>> Are you suggesting this would be a better system for less money?

>> Yes, on a per unit basis, it is a better way to approach it and a lot simpler. It is quite complex to go through and make sure we have each rate for each customer, for each different meter today and when a customer moves to a rate class, make sure the billing file

-- I am talking about the billing file for our service provider is also properly kept up to date. So it is an opportunity for austin energy to have very predictable costs regardless of how many customers want to get on an optional feature, it won't change the base rate cost, really.

>> Morrison: So this is, i think, needs to be all folded in but one of the que stions

-- one of the suggestions was how many folks really are going to be taking advantage of the more advanced functionality that will be available with this. Do you have any estimates on that?

>> We don't really. I think that we could conjecture at how many customers might be interested in things. We know we have got a lot of customers who will help us in managing things like peak demand as evidenceddably the number of people who participate in our thermostat problems. We have one of the biggest programs in the country. Our customers do care that we manage our energy supply and we have a reliable grid by maintaining a good sense of what we are using, compared to how do we use that.

They let us cycle off the thermostat already and turn the air conditioners off on days where it is an advantage to the power grid. I think we have customers out there who are interested.

>> Morrison: How is the cost allocated right now in our whole rate structure? You said it's about 98-cents

-- you said 98-cents a read version dollar 9 per read.

>> I can't specifically

-- versus \$1.09 to that?

>> Well, on this study, it's different costs from what the rate would be for different customers on a different rate class. So if it was costing a dollar 9 for a residential customer, then the meter reading within the base rates would include that type of cost.

[11:01:42]

>> But are the more advanced functions going to cost more per read?

>> They do in today's contract. So for commercial customers or industrial customers who have a demand read, that would be more expensive today than the 98-cents so when we do the cost of service study

-- cost associated with their meter reading costs would be associated by rate class so everybody pays for the types of services they get.

>> Morrison: I guess I am trying to get to the insurance that she brought up,

-- the issue that she brought up and that is why don't we have the people who are using the service that is causing additional costs pay for that additional cost?

>> Well, at this point all of the meters are already automated so everybody is using the service. We made that decision back in 2002 for a third of the meters and we continued on with that p to do 100% automation.

>> Morrison: Would you agree if somebody goes to time of use, there will be a lot more reads on their meters and that's where the cost differential goes?

>> No, when we talk about the reads, the billing read, each month each of us has one.

>> Morrison: If you can talk with us, what if we implement a time of use rate? What is this reading service going to do in that regard?

>> Well, it will deliver us a different time for the customers who opt to be a time of use customer because they are opting into an optional program that says they have a couple of windows. Primarily we will have higher prices for the customer during the peak period. But to austin energy, from this service provider, it is 98-cents.

>> Morrison: It is still 98-cents for that customer once a month?

>> That's correct.

>> Morrison: Okay. And let's see, also, this is a very basic question, I am sure, but before we had all of our meters automated, did we have is one person read water and electric meters or were we sending out two? We were having, more than likely an efficient route will include a customer that has water and electric meter that would have both been read and we would have been charged per read and so just because it is the same residence doesn't mean it was one price. There is a price for electric read and price for water read.

[11:04:03]

>> Morrison: Hopefully it is one truck that went?

>> We hope.

>> Morrison: That would be the plan, anyways.

>> Yes.

>> Morrison: Can you comment

-- and I am not sure if you are the right person to ask this

-- on the issue of privacy and what kind of requirements are in the contract for security?

>> Certainly. Customer's usage information is strictly the customer's usage information. Austin energy has access to that and the customer has access to that. The service provider certainly delivers that to us but they have no other capability in the contract. They are not allowed to share that information with anybody else, so it is kept confidential and it is only between the delivery to austin energy and then to the customer.

>> Morrison: And there are security requirements in the contract that they keep?

>> Yes, this is a proprietary radio network and it is encrypted data and there are requirements in the contract that prohibit the service provider from sharing this information with anybody else.

>> Morrison: That's all the questions I have right now. Thank you.

>> Cole: Carol, you state

-- I know council member tovo had some questions and i want to go back to something that has been brought up. Several of the speakers, carol and laura, talked about the opt-out program and I think you said that it's actually included in this year's budget.

>> Yes, it is.

>> Cole: Now, how would that work, the opt-out program? It seems premature for us to be approving the contract and then we have a contract that is going to be allowing people to opt-out.

>> Well, the opt out, again, means we have 100% deployment of smart meters in our service territory. Everybody has an automated meter. So the opt-out program would provide a customer an opportunity to get in touch with austin energy, and for a 75-dollar fee that's been proposed, have that meter replaced with an analogue meter. In addition to that one-time fee, to change out the meter, we would then have a 10-dollar monthly fee to cover the administrative costs of now manually getting the that meter's information into the billing system.

[11:06:06]

>> Cole: So

-- let me ask you this. We have a contract

>> you told council member morrison that this would be an improvement upon that contract in terms of service and also cost. But I am trying to figure out what timeline we are really on in terms of urgency.

>> In terms of urgency. I think it is pointed out, we have an existing contract until 2017. The urgency here is that we would like to move forward with a more advanced system that we are testing on pecan street that encore has installed and that system will actually help us with metering features but also with our smart grid roll-out, long term. We are looking to make sure we have integrated for our customers, outage information into our outage system so we can provide advanced notifications, when the blackouts will happen so what we will do for dinner, so we want to do that something. The meter information, outage management information, our ccnb system. All of these operating seamlessly together, not as a control function but as customer service. In addition, there are smart grid functionality, the advancement of this distribution throughout our territory that we have a route for

that the command center helps us with. So that is the urgency thing for austin energy on the technology side. On the customer side and on the predictability of cost, we would like to move to the new cost structure so we can get all of the reads for 98-cents.

>> Cole: Council member tovo.

>> Tovo: I do have some questions for staff. Do we still have speakers, mayor pro tem.

>> Cole: Yes, we do have speakers. Ronnie reefersed is next.

>> Tovo: Well, I have questions for you, but why do we go to the speakers and then I will ask

--

[11:08:11]

>> Cole: Ronnie reefersed.

>> Thanks for your consideration, ms. Tovo. Well, by golly, by the way, I have been here continually since 10:00 a.M. This morning and hello, irresponsibly

-- well, there he is, mr. Mayor and of course mike martinez who is still not here and of course this is no issue to play hookie on, get it? Many, many, many problems, like our electronic so-called voting machines. These so-called systems can be hacked. By the way, my electrical bill has gone through the roof since forcibly installed, they forcibly installed my smart meter against my heartfelt objection. It's bad news, people. From my own personal experience, and 60 plus million dollars, hmm, this is a lot of precious dwindling taxpayer dollars, 60 million, and undocumented

-- what was said, oh, we are going to take care of this, oh, it's going to be 99-cents or whatever, where is the line by line budget for what this is for? I mean, and also, why is it so urgent right now? We are not done on our contract. But we've just got to do it now. And so many, many of us believe that we have many more important, crucial human needs right here in our community. And as dr. Presley asked, why are we wasting all of this money right now and

-- and

-- of course it is not urgently needed? And so some other ideas about this happen to be that there is

-- there is a new, ever so costly, the so-called smart meters are costly, they are unethical and which are actually, by the way, not hardly mentioned here, but it is actually radioactive, and thus, should be more accurately referred to as "death meters." They are only referred to as "smart meters" by those who

want to kill everybody. I notice hard to grasp, at first people, but it is true. There is an ongoing kill grid going on, mr. Mayor. And that's right, people, there is no benefit, misnomered so called smart meters just like our misnomered so called patriot act. They are deadly, deadly radioactive killers with no positive value to anybody, of course for our very own truly evil, political so called leadership, ie, schemership.

[11:11:14]

[Buzzer alarming]

>> and that means now it is time.

>> Mayor leffingwell: Okay. Time is up.

>> Demand that these smart meters be banned.

>> Mayor leffingwell: Next speaker is jeff canto. Jeff. Linda green.

>> Thank you, mayor, and city council for deliberating

-- deliberating on this subject. In the past week, I have heard three-hour long radio programs on the issue of smart meters. One was coast to coast and two were on the power hour in the last two days, and so I am going to read a few notes from those radio shows, and I would take issue with the city that we do not have 100% smart meters because I live in a complex where the wall on the opposite side of my building has 17-meters and for some strange reason, mine is the only ones that a smart meter, along with a master smart meter. Everything else is analogue. At my friend's house they also have no smart meters and I agree with carol, that we should have been able to opt in to this program. People

-- when my meter was put on the wall, I was never informed, and then when i tried to have it taken off, I was told that was not an option, and in light of the fact that these so-called advanced meters or smart meters have a history of health problems

-- some people have reported actual pacemakers, insulin pumps going off, being disrupted by this kind of energy coming into your house. There are these radio frequencies that are causing insomnia for many people. In some cases, there have been safety concerns that some of these fire meters

-- I mean, smart meters have actually caused fires and that the insurance companies don't ensure against fires caused by

-- insure against fires caused by smart meters. These are just notes I took from the radio so you would have to verify this, but i just feel like that, too, that this is an invasion of my home, that I am forced to agree to take a device, and make a contract to receive this kind of meter reading, to buy something that i don't want or to be punished if I don't want it, to have to pay a fee to have it taken off and then have to pay another monthly fee to not have it, and in addition to the book called "dirty electricity" which I

highly recommend everybody read and there is another book called "health hazards of electromagnetic radiation." And I do feel like this is such an important issue with regard to possible health hazards, your privacy, that this, too, is \$60 million of our tax money, I think this item should be

-- [buzzer alarming]

-- tabled and I appreciate your concern. Thank you.

[11:14:42]

[Applause].

>> Mayor Leffingwell: Will McCloud.

>> Okay. For the

-- for the record, my name is Will McCloud. I know you know me already but I am going to speak my opposition

-- strong opposition against item 27, mainly because of the 75-dollar one time fee to opt out. We are all talking about affordable housing. How are you making affordable housing affordable if the majority of lower income people move from apartment to apartment? Do you think it's fair to charge them \$75 to each apartment they move to because Austin Energy decides to install smart meters? I call them "dumb meters," you know, you have the dumbbell. I think we should call them "dumb meters." 6 million to pay for this. Who does Austin Energy

-- actually 60 million

-- who is Austin Energy, who do they think they are to start messing around with private property? Don't we respect private property here in Texas? I guess not. I guarantee you, if you put a smart in my apartment, I am going to remove it, and I am going to replace it with this one right here on e-bay: Ge electric watt power meter, \$15.69, buy it out. Shipping, only \$11.30. And I will do a youtube video.

[11:16:54]

[Laughter] to install it. Like I did with your Austin Energy thermostats. That's on my youtube channel. I taught people how to remove the Austin Energy thermostat and replace it with the thermostat you buy at Home Depot. Where there is a will, there is a way. [Applause] and this is nonsense. Seventy

-- and then you want to charge us \$10 per month more because we object to being poisoned with this dirty electricity. I tell you, it's really bad, and by the way, I almost got a cheaper apartment in the arboretum called village oaks, robin erlaska lives over there, but do you know what stopped me from renting over there? They have smart meters. I am very lucky the apartments I live now, they don't have smart meters. There is only one master smart meter and some unlucky soul has it in their apartment unit but I am grateful that I don't. [Buzzer alarming] thank you. [Applause].

>> Mayor Ieffingwell: Joshua bayne.

>> Hello, mayor, council members. My name is joshua bayne and I am here today to say that I do not support the 60 million-dollar contract to increase the two way smart communication functionality. I certainly don't support the increase in radiation that will come with a two way communication functionality and I think that most austinites would feel the same way if they were informed. They are not informed. They don't know about the health risks. They don't know about the invasion of privacy. Most people don't even know these smart meters on their houses. They were not informed when we had the switch-over. As she said earlier, austin energy made that decision and we were not informed. Luckily, today, I am informed and I am here to ask you to say no to item 27. Thank you.

[11:19:06]

[Applause].

>> Mayor Ieffingwell: Okay. That's all of the speakers we have on this item. I will entertain a motion on item 27.

>> Tovo: Mayor.

>> Mayor Ieffingwell: Council member tovo.

>> Tovo: I had some questions for

-- I have some questions for staff. I know we are closing in on the 5:30 mark so I will try to make them quick, but ... Can you

-- so the opt-out process would come after the budget?

>> Yes, that is proposed in the upcoming budget.

>> Tovo: And so we have an existing contract. It seems

-- I guess I will mention this as a comment

-- it seems like one reasonable position would be to delay this until after we have the opt-out process in place with the budget but I will move on to my questions. Can the original contract be amended so we have this enhanced service with the remain four years without extending it through a period you've proposed?

>> I think the rates have been set up and there is a negotiation and as many features I pointed out in the memo that larry sent earlier this week that went into the contract and certainly there is a cost to the service provider for implementing and providing that new software, so I am sure they will entertain adding that but it wouldn't be free. We would have to pay an additional fee and have the recost to the customers potentially or make an outright payment to the vendor for that and it is enhanced service and it is realtime for people to integrate that software and do that back for our system for us. This effort has been put in for the past probably 6 months that a team has been working to get better pricing for austin energy to make sure that as we move forward to this new platform, that it's going to deliver the services that we want, and to also shore up the terms and conditions that were in there that were a little bit not the norm for city of austin contracts because the original contract was put in place after some lawsuit possibilities and as a settlement. So I think council member, that's a possibility but it wouldn't be at the current rate.

[11:21:25]

>> Tovo: At the proposed rates?

>> That's right.

>> Tovo: So the p.U.C. Docket

-- part of the p.U.C. Testimony included a letter prepared by joanna gutierrez that talked about the cost associated with this and there was a statement in there that the average monthly per customer cost of reading amr meters is higher than the monthly cost of manual meter reads, but i think based on the discussion we heard in the memo on our testimony suggests that the per

-- that the reading is actually going to go down so it will no longer be true?

>> I believe that to be true. I think what she is stating is on average if you take all of the reads we are doing with automated compared to manual, the individual price per read, if I am correct in following what you said

-- is higher but with the new pricing, i don't think that will any longer be true.

>> Tovo: So the cost

-- so that will no longer be true. It will no longer be true that the automated reads are more costly than the manual reads. Will the customers realize any kind of savings through this? We've talked about the cost per read going down. Will they see any impact on their bills?

>> Not instantly because the cost for us is built into the base rates. It is not built into the

-- you know, it's not an extra fee or rider as some competitive utilities have in their bills today, but in time it will benefit. We will have a lower cost, it will be predictable. We will offer additional services to customers. We have heard a lot about dissatisfaction about the cost for reconnection that customers currently pay. We see other areas that have the capability of doing that service remotely. That once they have been able to study that, they can significantly reduce that cost to customers. So, yes, customers will experience savings over time. Customers will also get and continue to get better service. They already get better service when they contact our customer service center and have questions about their bill or when they are moving in or moving out and we can immediately ping meters and find out what consumption is. So over time it will reduce cost.

[11:23:34]

>> Tovo: I think I would appreciate being able to understand that more fully. I know we heard questions from citizens about really seeing that cost benefit analysis and I really would like to understand that better because we just do seem to have a lot of information coming at us about cost and how it might impact the residential consumer and I really don't fully understand that so I think it will be helpful if we have information with regard to that. Since you mentioned disconnection and connection, I

-- disconnection and connection, I would like to talk about the meter move. The memo talks about the meters that have that functionality will be selectively deployed, which suggests to me that everyone's meter may not be capable of the automated disconnection/connection. Is that correct?

>> That's correct. When we replaced the meters in the system, we did not 100% do remote meters that would require a disconnect because the cost was significant. The standard meter that most of us live on residents that you have lived there ten or 15 years, we wouldn't see why we would replace that meter, so we didn't decide to deploy those, over 100% of our system, from a cost perspective, we didn't think we would see benefit from 100% dispatching that meter to every resident.

>> Tovo: Not immediately seeing the number in this memo. Can you remind me how many have. Actually there is no number given. At the end of the memo, it talks about

-- it just mentions selectively deployed. How many customers currently have that ability?

>> I believe that we have 40,000 of that type of meter

-- 20, 20,000. 20,000, and so for those, there will be a savings realized in terms of the

-- of what we talked about earlier but for the majority of the customers there is not an ability to connect and disconnect?

>> Once we have the function with the capability, we will assess the best way to move forward with that type of replacement in the field. So today we don't have the full capability to do the work in that way, but as we go through time and we have a system that's fully capable of initiating the reconnect and disconnect remotely in quantity, we will assess if it makes sense. If it costs us \$75 to roll out in the field and do a disconnect and another \$75 to roll out in the field and do a reconnect

-- that may not be the current fee but if that is the cost of austin energy, we will look at what makes sense. If we are going out to do disconnect, when we do the reconnect, would it make sense to exchange that meter so in time we can lower the cost down for the customers? That would be something to put in place once we have the system that is capable of doing that toture. So there wouldn't be a direct cost to

-- to that feature. There wouldn't be a direct cost to that function but if a customer selects that service, we will selectively deploy that where it seems to make sense.

[11:26:34]

>> Tovo: I do still have some other questions. I guess I will defer

-- i know we are right at the 5:30 mark. Do you have questions as well on this point?

>> I have two

--

>> mayor leffingwell: Council member spelman.

>> Spelman: Mayor, I have two questions and they are really short, but if council member tovo has several, then perhaps we should defer the item until after the break.

>> Tovo: If you want to try to ask

-- I mean, if it is fine for the mayor, maybe you can ask your two and see if there is any pry the fty

--

>> mayor leffingwell: Without objection, we are adjourned for recess for proclamations and we will take this up after the break.

>> Tovo: That's fine. I was trying to move that toward conclusion but ...

[11:34:56]

>> Cole: All right. Peligrosa is a 10-piece collective of deejays, emcees and visual artists. It is comprised of deejay orion, man low black, king louie, pelaaga. It is complete with the houston producer hhinko and photographer keyto. Members of peligrosa have been bringing their unique sound to audiences all over the world since the group's inception over five years ago. Please help me welcome peligrosa. Did I say that right?

[Cheers and applause] ♪♪♪♪ ♪♪♪♪ ♪♪♪♪ ♪♪♪♪

[11:39:56]

>> Cole: Great job.

[Cheers and applause] peligrosa. Great job, great job. Now, I have a couple of questions for you. First, where can we hear you play?

>> We play monthly at a location called empire on east seventh street. And that is every third friday.

>> And where can we buy your music?

>> You have to come hear it and also online at peligrosa online.Com.

>> Cole: I have a proclamation for you, be it known that whereas austin, texas is blessed with many creative musicians and whose talent extends to virtually every musical genre. And whereas the music scene thrives because austin audiences support good music produced by legends. Our local favorites and newcomers alike. Whereas we are pleased to showcase and support our local artists, now therefore i, lee leffingwell, mayor of the live music capitol, do here by proclaim, august 8, 2013 as peligrosa day.

[Cheers and applause] mayor hello.

[11:42:19]

>> Mayor Leffingwell: Mayor hello. Wait. We'll give them a chance to get out of here before we get started.

[11:44:45]

>> Mayor Leffingwell: So it's my privilege to have tonight to be part of the 23rd anniversary celebration of the Americans with Disabilities Act. Signed 23 years ago, benefitting an estimated 57 million people. We have been of course actively involved in the implementation of the provisions of this law and I don't have to tell you that it's not all done yet. There's still plenty of work to do. We continue to work towards that goal here in Austin because not only do we want to make life better for those citizens within the city who are afflicted with disabilities, it benefits us as well, a complete community. It helps us become a more complete community. So we have some awards tonight. It's an awards ceremony. Before we get to the awards, which are going to be handed out by Tanya, she's going to make the announcements and several of us will help pass out the awards, but I want to read this proclamation. Be it known that whereas on July 26th, 1990, the Americans with Disabilities Act was signed into law expanding civil rights protections for an estimated 57 million Americans with disabilities and creating a second Independence Day to celebrate equality of opportunity for all Americans. And whereas we recognize that citizens with disabilities have a right to full participation in the social, cultural and economic activities of our city and that they in turn support our community and contribute to our economy, and whereas accessibility for an inclusion of citizens with disabilities is a core value for all city programs and services, thus offering more opportunities and enhanced equality of life for everyone in Austin. And whereas Austin is home to many outstanding business leaders whom we recognize today for opening their doors to customers with disabilities. Now therefore I, Lee Leffingwell, Mayor of the City of Austin, Texas, do call on all citizens to reaffirm our commitment to full implementation of the ADA. And do hereby recognize the year 2013 as the ADA's 23rd anniversary in Austin.

[11:47:06]

[Applause]. So tanya, I turn it over to you.

>> Okay. Mayor leffingwell, thank you for this proclamation on behalf of the mayor's committee for people with disabilities. And for your continued dedication and support to austinites with disabilities. The austin access awards strive to recognize businesses that are working towards full compliance of the texas accessibility laws. In celebration of the a.D.A., The city wishes to award these business winners for their welcoming, inclusive attitude towards customers with disabilities. We recognize the winners for the leadership and commitment to up holding the spirit of the americans with disabilities act. , Which we often regard as our nation's second independence day. At this time I would like to present the awards. Let's congratulate the winners who are with us today. When I call your name, if you're here, please come down to receive your accommodation and to have your picture taken with mayor leffingwell. You are welcome to say a few words. H.E.B. Fuel station at canyon ridge. [Applause]. Jack allen's kitchen. [Applause].

[11:49:08]

[Applause]. Randolph brooks federal credit union on burnet road. [Applause]. River bend church. [Applause]. Toy joy. [Applause]. Wheatsville food co-op. [Applause]. And we have a couple of honorable mentions today. We have chile's bar and grill on north lamar and half price books on north lamar.

[11:51:20]

[Applause]. Thank you. [Applause].

>> Mayor Leffingwell: Carlos marx, why don't you come on down?

[11:54:09]

>> The department of state health services, texas mother friendly work site program, recognizes businesses that proactively support employees who chose to breast feed their infants. Mother friendly work sites have adopted a policy that ensures a private space other than a bathroom, flexible scheduling for break time and other basic supports so that mothers may comfortably express and store breast milk for their babies during the workday. The city of austin work sites were designated as mother friendly in

april of this year. The city is only the second municipality in the state of texas to receive the mother friendly designation. City of san antonio received its designation in may of 2011 and the city of edinburg just recently received its designation. Breastfeeding through the first year benefits mom and baby for a lifetime. Recent studies show that if breastfeeding rates rose to recommended levels in the united states, each year we could prevent more than 900 child deaths. And for women almost 5,000 cases of breast cancer, about 54,000 cases of hypertension, almost 14,000 heart attacks, and as a nation we could save more than \$35.2 billion a year in maternal and pediatric health related costs through increased breastfeeding. Return to work is the leading barrier to breastfeeding for working mothers. If a mother chooses to breast feed she needs to pump breast milk during the workday in order to maintain her milk supply. Women can face challenges in scheduling breaks and accessing private high generallic locations for breastfeeding or expressing milk to provide lactation while separated from their babies during the day. They may have no place to store expressed breast milk. Many mothers report that they're afraid to speak to their employers about their needs and many stop breastfeeding altogether soon after returning to work. In fact, return to work is the number one reason that working mothers stop breastfeeding or choose never to breast feed to begin with. Words like lactation support programs are a win-win-win for employers, for families, and for the health of all texans. Businesses that support mothers who choose to breast feed their infants experience improved employee morale, increased employee retention, lower absenteeism and reduced health care costs. In fact, businesses can experience a three dollar savings for every one dollar invested in work site support of breastfeeding employees. The city of austin is distinguished in promoting healthy lifestyles of its citizens and serves as a model for other municipalities through its municipality wide employee, mother friendly work site policy and its other employee, healthy connections wellness initiatives. The city is improving the health of employees and their dependents while being mindful of its impact on the bottom line. On behalf of the texas department of state health services and on behalf of our commissioner, dr. David laky, we are delighted to recognize the city of austin as a texas mother friendly employer. Thank you.

[11:57:47]

[Cheers and applause]

>> I just want to thank the city manager, marc ott for his foresight in making the workplace place a healthier place for our moms and our babies to work in. And I want to thank my colleague, mark washington, for his partnership in making this a reality. But I especially want to thank the staff from the health and human services department, particularly those in w.l.C., Donna and rosa maria, for their outstanding leadership of our department. And that area

-- our moms that come to w.I.C., Which are there are 455,000 visits a year, 92% of the moms attempt and start their breast feed. Thank you very much for your support and thank you very much of course to dshs, the department of state health services.

>> Thank you for this very prestigious honor and recognition. I want to also thank the health department for their partnership. My colleague carlos rivera, and also my staff, jim lienton, who has worked hard on this. I see all the future city employees that are babies out there. We look forward to you coming to workplace. I want to thank the city manager for his support and also our council. Not only do we have a very mother friendly workplace, but we have recently gotten approval to provide another good benefit for future mothers and fathers for our parental leave benefit and i want to thank the council and the city manager for their support in providing that benefit to our employees. Thank you very much.

>> Mayor Leffingwell: On behalf of one of my office staff, amy everheart, who will be coming back in a couple of weeks after parental leave, thank you all very much, city manager and others, who made this possible.

[11:59:52]

[Applause].

>> Mayor Leffingwell: This is most prepared for unforeseen disasters and it's homeland security award. And I want to invite candace wade from our homeland security department at the city of austin to tell us a little more about it. First if you don't mind i will read the certificate of congratulations to mckenzie kelly. So for having won the preparedness challenge and achieving the title of most prepared person in austin, mckenzie kelly is deserving of public acclaim and recognition. Through the preparedness challenge the city of austin's office of homeland security and emergency management led citizens through preparedness trainings, exercises, tests, and volunteer opportunities with the goal of helping them be better prepared for emergencies in their homes while at work and in their neighborhoods. Mckenzie won the eight month long challenge making it less likely that she will be a victim and more likely that she will be able to help others in the disaster. Hsen considers her a super hero. We join them in congratulating mckenzie kelly for her preparedness efforts with this certificate presented this eighth day of august, 2013 by the city council of austin, texas. Confusions, mckenzie.

[12:03:11]

[Applause].

>> Thank you, mayor leffingwell. Good evening, everyone. First I just want to say that congratulations to mckenzie kelly. We were issued a challenge by the federal government earlier this year and it was to provide a challenge to the community to prepare. And that is exactly what we did. We prepared a gamefication program where in keeping with keeping austin weird, we wanted to gameify austin, which means that we launched a site earlier this year and it provided tests and exercises. So ms. Kelly here won the challenge. So again, we just want to congratulate her for those efforts. On another note, september marks national preparedness month and this creates an opportunity for individuals all across our nation to prepare their homes, their businesses, and their communities for emergencies ranging from national disasters to potential terrorist activities. Here in the austin community we're launching a new campaign and the campaign will actually kick off in september, in a couple of weeks here. The campaign is called neighbors to the rescue. Neighbors to the rescue is to help austinites to be better prepared. For more information on how you and your family can be better prepared here in austin or to attend some of the activities and events for neighbors to the rescue, please go to our website, disaster ready austin. Com. Again, that's ww.Disasterreadyaustin.Com. [Applause].

>> Mayor Leffingwell: Distinguished service award for Linda I haney. I'll read it for you first. For her exceptional service and commitment to our citizens during her 11 and a half year tenure as a dedicated employee of the city of austin, the last six and a half years with homeland security and emergency management, linda I haney is deserving of public acclaim and recognition. Having worked for the state of texas and kentucky before joining the city.

[12:05:44]

>> Linda has proven her valuable skills as a public servant in either of emergency preparedness, public health and environmental quality initiatives for 31 and a half years. Linda has not only

-- that's okay. You can clap for that one. Linda has not only looked after the best interest of our community and the safety of our citizens, but has been an outstanding employee and an amenable co-worker. Her kindness, consideration and loyalty will be missed by hsem staff. This certificate is presented in acknowledgment and appreciation of her commendable public service this eighth day of august, 2013 by the city council of austin, texas. Congratulations, linda. [Applause]. Did you want to say a word? Okay.

>> Thank you, mayor. Linda, stay up here. On behalf of the office of homeland security and emergency management, i would just like to thank linda personally for the many years she's served us at hsem. She's done an excellent job in helping us to prepare our citizens. And that's very important because we take pleasure in that that we want to make our city the most prepared city in the nation. And she has

been a part of doing that. We hate to see her go, but you know, we want to share one little thing with her that

-- this is kind of a little thing that we like to give some of our employees is her own little way. Lynndie Heynie way. So Linda, thank you for everything that you've done for the city and for HSEM. Thank you.

[Cheers and applause] more is Linda da to you ski here. In that case we'll do the breastfeeding awareness month. I love doing this proclamation every year because I get to tell my joke, and that is that we have to have a waiver on that sign throughout that prohibits food and drink in the city hall chambers. Come on in. It's a delight to be able to welcome Gale Grisham and other folks here to celebrate breastfeeding awareness month. I want to read this proclamation that's kind of by the mayor. It says be it known that whereas breastfeeding is one of the most easily utilized and cost prevention strategies worldwide for preventing infections and diseases of both women and children. And whereas city of Austin support to sustain breastfeeding is the vital foundation for success in our mother's efforts to provide optimal nutrition and comfort for their babies and whereas working women are more likely to choose to breast feed their newborns until age one if there's a mother friendly workplace policy in effect at their places of employment that encourages breastfeeding and helps to remove any stigma associated with breastfeeding. And whereas Austin-Travis County Health and Human Services has a program to provide technical assistance to employers of all sizes to provide appropriate space for lactating mothers to pump during their workday. Now therefore I, Lee Leffingwell, Mayor of the City of Austin, Texas, do hereby proclaim August 2013 as Breastfeeding Awareness Month in Austin. Congratulations.

[12:10:34]

[Cheers and applause]

>> thank you, Councilmember Morrison. I'm the president of Central Texas Healthy Mothers, Healthy Babies Breastfeeding Coalition here in town. I had to write this down because I always forget everything that we do and say that we do. We love breastfeeding basically and support it, but we're a private nonprofit organization whose mission is to improve the health and safety of mothers, babies and families through breastfeeding education, advocacy and collaborative partnerships of public and private corporations. We're the umbrella group of all the organizations that support breastfeeding as well and promote breast milk banking. Of course our outreach efforts include attending health fairs and other family centered events, but this year we've been particularly involved in advocacy for mothers, especially nursing in public. We've been working with the Austin Independent School District and Hays CISD to ensure that they adopt a regulation that is in line with the state law regarding breastfeeding in public. Hays has already put in place their new policy and AISD hopefully will be following suit this

month. We supported two bills in the latest legislature session related to the promotion of breastfeeding. Many of our members spoke to the legislative committees and worked closely with the representatives that sponsored the bills. While neither became law, we feel that we're really in a good place for 2015. Some of the future events to look for is we're co-hosting the birth awards gyp this year in october and last time councilmember morrison spoke and she was our keynote speaker and it was really great. And had a grand baby that very night.

>> That day.

>> That was awesome. And then soon we'll be offering a screening of the documentary the mickey way coming up whenever they finish that. So I'd like to pass it on to say a few words with a couple of our partners. And this is whitney from the milk bank.

[12:12:44]

>> Healthy breastfeeding moms donate their breast milk to us. We pasteurize it and make it safe in our lab and distribute it out to hospital neo natal units where it is prescribed as medication and give tone the infants. We're grateful for the city of austin of embracing this and becoming a family friendly site. We provide on the moms to provide the milk to us so we can help save the babies' lives. We're also appreciative the city of austin has supported breastfeeding and milk banking since our founding about 14 years ago. So thank you so much for having us. [Applause].

>> And the last thing I see many of the t-shirts in here, we've been giving out free t-shirts because we love to have this message. We want it spread out to community and we wanted to present this to councilmember morrison. I know it's very exciting. [Applause]. And although today is a great day for breastfeeding and it's been great, I work in a hospital and I see some wonderful changes that are happening, but we still have a lot of work to be done. And so basically just keep supporting breastfeeding in our community and keep austin breastfeeding.

[12:14:45]

[Applause].

>> Morrison: I want to follow up and say that the w.I.C. Program in austin and the mothers milk bank are both two amazing programs. I got to tour the mother's milk bank. It is amazing what they do there. Really it's like a little power house. And the w.I.C. Program here has amazing success in being able to

help women breast feed and you have great numbers. I've heard the numbers. Congratulations and thank you all for their work. [Applause].

>> Breastfeeding people want to come up for the picture? Come on. Counselors and everybody, children.

>> Morrison: Come on over.

[12:17:11]

>> Martinez: All right. All you soccer moms might want to stick around for this next one. If I could have all of the austin aztex soccer club please come down. [Applause]. Bring the hardware. Don't forget that. I need the proclamation. All right, folks. It is my honor, last but not least, this is our last recognition of the night, and it is my honor to present this recognition. For those of you that don't know, we have professional soccer in austin, texas.

[Cheering] not only do we have professional soccer in austin, texas, we have the national champs for 2013 pdl, the austin aztex, here with us. [Applause]. These guys are incredible. They're on a 13-home game winning streak at house park. I had the privilege and honor of doing the coin toss sunday night for the championship match. It was an incredible match. Within the first two minutes their goalie was red carded for trying to take out austin aztex player of the year. It was just an amazing match. I just can't thank you all enough for representing austin so well. We are here to congratulate you. Coach dogliquor was here. He was named the coach of the year for the entire division, so we want to recognize him. Tito, where are you? We've got to recognize this guy. Four games in the playoffs he scored the game winning goal in each of those four games, including the championship match on sunday night.

[12:19:48]

[Applause]. It's incredible talent. If you love soccer you have to go see the aztex. The way they play the game in my humble opinion, and it's not a very good opinion because I'm not an opinion on soccer, it's the way it should be played. A lot of skill and technique, not just taking shots from midfield just for the sake of doing it. You guys played quality soccer and it showed all season by winning the national championship. Without further adieu I want to present this certificate of congratulations for having won the united soccer league's premier development league 2013 southern conference and national championships. The austin aztex are deserving of public acclaim and recognition. The aztex finished first among the pdl 62 teams in only their second year in existence. In addition, the aztex received multiple

pdl national awards, including pdl mayor of the year, chris thank you pack, coach of the year and playoff most valuable player. The team brought joy to thousands of devoted fans and has encouraged the development of local soccer talent. The team is largely made up of players who have grown up in central texas. We are pleased to congratulate the austin aztex whose many success have brought honor to our entire city via this certificate presented the eighth day of august in the year 2013. And it's signed by mayor leffingwell and bears the names of all of the city councilmembers. So congratulations, austin aztex. This is the owner of the austin aztex. Congratulations. [Applause].

>> Thank you, on behalf of myself and my co-owner, we also have a gift for you on behalf of the city, mike, we'd like to present you with a scarf. Scarf is a traditional gift in the soccer community and we want you to have an austin aztecs scarf. And if I could, just speak for just a moment, we're so honored to be here in the chamber, in your council today. We're also excited by the accomplishments, but we're proud to be in austin, texas. When the team was originally founded in 2007, but moved following the 2010 season, those who stayed behind set out not only to rebuild, but to brandy. We had to start from scratch, but we chose new colors. We chose blue because it symbolized the lakes and our music. We chose gold because it symbolized the seat of our government in the state capitol. We chose to reuse the name aztex because it was recognized as a soccer team, but we chose to make the letters at and x larger because not only were we putting the aztex back in austin, we were putting atx back in the aztex. So we're on proud not only to have won the national championship, but we're really excited the way we did it. We did it with a team that had a majority of players that cut their teeth playing soccer in the austin and central texas area. We did it with sponsors, the majority of whom are headquartered in austin, texas. We did it with local musicians and food vendors at our games. We did it in front of an ethnically diverse up-of fans who represented our whole city and we did it at 15th and lamar with a view of the capitol and a view of the skyline. As we endeavor to go back and compete at higher levels of professional soccer, we look forward to working with the city to always keep austin and professional sports in the center of austin, texas. Thank you so much.

[12:23:16]

[Applause].

[13:03:05]

>> We are out of recess and council we have a number of items that are scheduled for 4:00 p.M. Public hearing that will be postponed. I would like to go through those and get them out of the way. Mr. Guernsey.

>> Ask all that the 4:00 o'clock hearings be postponed. Number 109, short term rentals, and postponed to the next agenda and the maintenance code, staff asking for postponement on that on 8/22, have. Number 111, staff is asking for postponement to this item to your august 29 agenda. Item number 112, we had a stakeholder that had asked for postponement of this item to 8/22, and item 113, staff is requesting a postponement of this item to your august 22 meeting. When we bring this item back, staff is going to make sure that the notice language and the posting language match. There is a slight difference and we want to make sure that that gets done right. Item number 114, understand there are changes and correction but there is going to be a council member offering this item for indefinite postponement with possible direction.

>> Mayor Ieffingwell: So council member riley, is that true

--

>> Riley: I don't have much direction to offer but i would suggest an indefinite postponement and the other suggestion I would offer, i know the parties have a special interest in some sort of mediation process around I hope that the

-- to be working with city staff to see what we can do to help make that happen.

>> Okay.

>> Mayor Ieffingwell: If there is no objection, council, we can offer 114 for indefinite postponement, then, and so that will be all of

-- so basically

-- 109 postponed until august 22nd as item 110. Item 111, postponed until august 29th. August 112, postponed until august 22nd, august 113, postponed to august 22nd and 114, postponed indefinitely. A motion to approval. Council member spelman moves approval. I second. All those in favor, say aye. All opposed say "no"? That passes on 7-0. We can recess again this meeting of the austin city council and call to meeting the order of the austin finance corporation and hopefully work our way through that agenda fairly quickly.

[13:06:09]

>> Good evening board mem betsy spencer, treasurer of the austin housing finance corporation. I would like to highlight items 3 and 4, which are items that we have been anxiously awaiting for they are both projects that have recently received tax credits through the texas department of housing and community affairs in the amount combined of 4.2

-- \$4.25 million. These two projects together will leverage about \$54 million of private investment through the tax credits and other sources of funds and will achieve over 300 units of affordable housing in the city of austin. With that, though, I offer all four items on consent but am available for questions as are the developers.

>> Mayor leffingwell: Let me check. We do have some people signed up. I would like to ask if

-- gus pena, john drew, walter morrow, who are all in favor, if you can register in favor and not speak, we can leave item number 3 on consent. Any of you want to speak, any of the names I've just called?

>> Item four, gus pena, john drew and sarah anya, all in favor, if you are willing to register this support, we can leave this item on consent. Apparently no one wishes to speak on that so the consent agenda would be items 1 through 4 and we do have one speaker on the consent agenda and that's will mccloud.

[13:08:17]

>> Well, I am signed up against, especially item 4 of the austin housing finance corporation. It's to approval negotiation and execution of a loan in the amount of \$2 million to 2013 travis oak creek lp for the demolition, 170 existing affordable rental units and a new construction of 173 affordable rentals at the oak creek apartments located at 2324 wilson street. Why are we demolishing these to build only three new ones, if you do the math and you demolish 170 rental units and there is new construction of 173 affordable rental units, doesn't that just add to three new units? You are wanting to pass this bond

-- this low income housing bond, but, however, you have this right here that doesn't make sense, something doesn't add up. Now, I am all for private enterprise and charitable organizations building this. I wonder where jimmy carter is when you need him. Because doesn't he build habitat for humanity? We are taxed enough already. I think there is some other options that the city needs to explore besides keep issuing bonds, keep spending more money that's not yours. It's the people's money. There is so many things i could do with \$2 million, and if we look at the

-- one needs to look no further than the city of detroit, because didn't they do this not too long ago, and there was a consequence, filed for chapter 9. I don't want to see the city of austin go down the path of detroit, and you are spending money, you are spending money, you are spending a whole lot of money. It does not need to be spent and now there is one item on here, I believe it's like to re-elect the existing

board members of the austin housing finance corporation. Why don't we clean house? Clean house, do the math. I would like to see a whole complete audit done on the austin

-- austin fair housing corporation. I want to know where every penny, nickel and dime is spent. I have had enough. Y'all are about to lose me, because I am going to leave austin for good.

[13:11:16]

[Buzzer alarming]

>> mayor leffingwell: Okay. Those are our speakers, so the consent agenda is 1, 2, 3, 4. I will take a motion for approval.

>> Second.

>> Mayor leffingwell: Who moved approval. Council member martinez moves approval. Spelman seconds. All those in favor, say aye.

>> Spelman: I have a question.

>> Mayor leffingwell: Council member spelman.

>> Spelman: I think it is appropriate the way item 4 is written, we probably get a quick explanation, why does it make sense to demolish 170 units and replace with 173 units, betsy?

>> Because the units are relatively old and in the reconstruction of the new units, in the new units, it will be very modern and it will be accessible and it will be a far better benefit and lots more

-- i apologize. They will be a lot more energy efficient than rehabilitating old units.

>> Spelman: So it will save tenants a lot of money in electricity, in terms probably of water than the old units would have?

>> Absolutely.

>> Spelman: Okay. Thank you.

>> Mayor leffingwell: All those in favor, say aye. Aye. Opposed say no. Passes on a vote of 7-0. Completes our agenda for the austin housing finance corporation. Without objection, we stand adjourned call back to order the meeting of the austin city council and resume with item 21, and I believe council member spelman had the floor.

>> I was demanding the floor from council member tovo but I will happily yield it back. Number 27.

>> Mayor Leffingwell: Spelman yields, council member Tovo.

>> Tovo: Thank you, council member Spelman and I have a few questions and I was able to clear them with Austin Energy staff at the break so I have completed my round of questions. Round. Okay. Mayor, I move approval of item, Mayor.

>> Mayor Leffingwell: Council member Spelman moves approval. Is there a second? I will second. Discussion? All those in favor, say aye. Aye. Opposed, say no. I believe that's unanimous. I didn't hear much noise but it passes on a vote of 7-0. Follow up item number 52. Let me check to see

-- we do have speakers on this item. Who pulled item number 52? Okay. Do you want to go to the speakers first? Gus Pena. Jack Rice, Paul Saldana, William McVeddes, Will McCloud. What did you say you were moving?

[13:14:38]

>> Well, we are back on this affordable housing, energy efficiency and old buildings are not sufficient excuses to demolish a building. I lived in houses that dated back to the 1940s. They weren't energy efficient. And they were old. So that doesn't make

-- you know, it doesn't make sense. If it's not broke, don't fix it. Now, with this Rainey Street, we want to

-- the city wants to preserve and create affordable housing through principles and goals as outlined in the Imagine Austin Comprehensive Plan. Well, why does it always have to be Rainey Street or U.T. or downtown? What

-- what kind of incentives does the city of Austin, what kind of negotiations are they talking with developers? All I see, when I come down, when I

-- actually when I came down from Houston to Austin on Tuesday was more luxury apartments being built. We have zoning ordinances. What good are zoning ordinances if we are not tooling them correctly and how we tool zoning ordinances is we can tell apartment developer, you know, no more luxury housing until the existing luxury housing is built. We can do that. But is the city willing to do so? No. I don't see any effort, one iota. It takes more than affordable housing to make the city of Austin affordable, as I explained earlier. Come on. We need

-- we need to watch our spending. We build too many luxury apartments and condos downtown, we have a little bit here and a little bit there affordable housing. However, no one is taking the approach to codify our zoning to make sure that developers are willing to build through tax credits and private

enterprise, not through government handouts. And I think that's the way we need to have this country as a whole start, again, on private (indiscernible), not handouts.

[13:17:49]

>> Mayor Ieffingwell: Okay. The time has expired. Mayor pro tem.

>> Cole: Thank you, mayor. I pulled this item because we had a significant amount of discussion on June 28 about the density bonus program and I would like to ask Jim Robertson for a second to clarify some of that discussion. Can you briefly describe the process that we went through for the density bonus program?

>> From the beginning?

>> Cole: No. [Laughter]

>> Cole: Just with respect to the program in downtown in the particular districts, Rainey in particular. No, not

--

>> I know you heard plenty. I wouldn't go from the beginning. [Laughter] the

-- one of the key issues that

-- that we addressed in formulating the density bonus program that we presented to you on, I guess it was June 28 and the weeks leading up to that, was a determination of what portions of downtown are eligible to participate in that program and one of the issues that came up

-- this was something that came up really in the waning

-- in the last week or two or three weeks, as we approached June 28th was the notion that Rainey Street

-- a, there is the Rainey Street subdistrict of the waterfront overlay and it has its own density bonus program that actually predates any of the work that we have done for the downtown density bonus program. So we brought that to the council's attention and there actually was some discussion on this issue and the result of the council's decision on June 28 was to in essence make the Rainey Street subdistrict of the waterfront overlay, which roughly liquor responds to what we think

-- which roughly is what we think corresponds to the Rainey Street in general which is not eligible for the density bonus program. So what is the effect of that, the density bonus program that was for the subdistrict remains in effect and is the only density program for that portion downtown.

[13:20:07]

>> Cole: Did the consultants look at the rainy street area? They did.

>> They did. It was not one of the areas

-- you may recall that one of our consultants created a series of hypotheticals and pro formas for each of those and none of the pro formas looked particularly at hypotheticaling project, in the rainy street area. As we went through the process of boards and commissions and public hearings and so on, we didn't know what the council an position would be with respect to whether rainy should or shouldn't be included in this program.

>> Cole: Didn't the economist make a recommendation with respect to rainy street?

>> They did, buzz as we were approaching, it wasn't until June 28 that the council weighed in on whether rainy street would or wouldn't be included. So not knowing that we thought the prudent thing to do would be to have our consultants take a look at that. The fine council decision as of June 28 was at to not include rainy within the downtown program but to leave the existing program intact.

>> Cole: Right now we are in a situation where the existing density bonus program that we adopted does not apply to rainy and this particular resolution would take us back to the legacy situation but we have different applications. Is that correct?

>> Well, I think that

-- as I understand the resolution that is before you today, it would

-- it would initiate code amendments that amend the existing rainy street program.

>> Cole: But they wouldn't be existent with the downtown density bonus

--

>> there are differences between the rainy street density program and the downtown density bonus program. I can summarize those for you if you want.

>> Cole: I am mostly concerned about the 5-dollar economist calculation and the affordability requirements.

>> The existing rainy street program does not actually have a fee in lieu of element to it. The existing program, if a project wants to participate in it, has to provide a

-- requires a project to provide affordable housing units. There is no fee in lieu for a certain amount of square foot. Projects that want to take advantage of that rainy street program must provide affordable housing units.

[13:22:30]

>> Cole: Okay, so is legal here

-- the posting language is not broad enough, I don't believe, to even contemplate applying the density bonus. Can you address that? Some.

>> Yes, ma'am, good evening, david zereldo with the law department. What I understand is being discussed or contemplated is essentially repealing the rainy street existing regulations and making the downtown density provisions that were passed on june 27 apply. If my understanding is correct, then the way the posting is now would not be adequate to cover that contemplated action.

>> Cole: That is exactly what I would like to do that I cannot even make a motion. There is really no sense on wasting time discussing. Go ahead, jim.

>> I am sorry. My understanding of the resolution that's before you is it would initiate code amendments that modify the existing rainy street density bonus program, the program that's been in place, I think at least 8 years, so as to modify the requirements for affordable housing that is created under that program. I don't understand the current resolution that's before you to tweak the downtown density bonus program, but I have it right here

-- I don't have it right in front of me at this moment.

>> Cole: Council member morrison, I was going to yield the floor to you. Let me ask jim one more question, and I guess what i am trying to get at is potential consistency between the downtown density bonus program and all the other districts in what we apply to rainy street and whether this resolution is

-- I know it's not consistent with that but what it does that is different from that.

>> Yes, yes, I think you are not posted and it would require a different set of code amendments to apply the downtown density bonus program to the rainy district because that would be in essence a modification of the downtown program as it was adopted on july 28, and that's not

-- that's not before you tonight, as i understand it.

[13:24:39]

>> Cole: Okay. Let me just say that i believe that we should be consistent with what we did with the downtown density bonus program, and I would be interested in initiating code amendments to do that and because this resolution does not do that but it does preserve a legacy program which I certainly respect. I just think we should be consistent. I will not be supporting this item.

>> Say that last part again. You will not be supporting what?

>> Cole: This resolution, item flum 52.

>> Okay. Council member morrison.

>> Morrison: Thank you. I was the sponsor of this. I am the sponsor of this resolution, I want to first of all get clear what it is. You can sit down, thanks, jim. The rainy street area for many years has had its own affordability program that was explicitly crafted when it was up zoned to cbd. So you are sf, single family to cbd and when they crafted that, it was basically acknowledging that the base zoning they were starting with was at 40 feet and now they were taking off all height limitations. So to

-- so that's why it's so important, the way it works is if you are going over 40 feet, then you have to do some affordable housing, so to plop this into the downtown density bonus program, where you just want to have more far than 8-1 completely changes the intent of that area, so I am not

-- and it was, you know, carefully worked out over many years. It's a big deal to overwrite this and replace it with the downtown density bonus program. The issue that came up is the rainy street program, while it's great. It requires on site affordability for a certain number of units, any time you go over 40 feet, but it neglected to have a period or a duration that that affordability had to exist. The only thing this resolution is doing here is saying, hey, it doesn't make sense to require affordability and then allow it just to be affordable for one day, so it puts it and makes it consistent with almost every other affordability program in terms of, if you do rental, it has to be affordable for 40 years and if you do ownership, it has to be affordable for 99 years, so it brings it to consistency in that regard but the very unique character of the affordability program that was hashed out. So with that, I would like to make a motion that we approve item 52.

[13:27:28]

>> Mayor leffingwell: Motion by council member morrison to approve. Is there a second?

>> Mayor leffingwell: Seconded by council member spelman. I will just say I am not going to waste a lot of time. I am not going to support this motion, either. Council member tovo.

>> Tovo: Yes, and I am going to support it and I think, you know, it's

-- in my mind, this is a little bit of a clean-up. We don't have any other

-- we don't have any other density bonus programs that don't specify affordability. I understand there was a lot of time put into crafting it but I think our knowledge as how to craft these has grown in the city in the years since, so I think it is very critical and it is a really great thing to see what is happening down at rainy and the construction of housing down there and I think having the on site affordability is going to be a really good thing moving forward but if we don't specify a period of affordability, we are really in a bind, and I think not

-- not doing what clearly the intent was, which was to ensure there are going to be units in that area that will remain affordable into the future as that city develops. I think it is really important that we make, again, as I regard as a clean-up item.

>> Mayor leffingwell: Any other comments? All those in favor, say aye. Opposed say no. No.

>> Cole: No.

>> Mayor leffingwell: Passes, I believe, on a vote of 5-2 with mayor pro tem cole and myself voting no. Item 62, we have two speakers signed up, will mccloud and the next speaker is annie yarbrust.

[13:29:32]

>> Item 62, approving a resolution to allow them to work with staff to create a standard impact evaluation process that manages the increasing cost to all types of development caused by proposed changes to the city code, ordinances, administrative rules and policies and provides recommendations for council to consider by december 12, 2013. Well, that's a lot of work y'all have to be doing. For these outside stakeholders that we seeming to be mentioning seems vague and overbroad. Sounds fishy. To create standard affordability impact evaluation process. What are we evaluating? Are we evaluating transportation with housing, or are we evaluating going to work to and from? Are we looking at our american continuing survey statistics? There is just so many questions that I think the public needs answers to. To all types of development, a lot of development. My question to council and the mayor is, it is very simple: How much is it going to cost the taxpayers? Hopefully someone will answer that question, as well as the question dealing with the outside stakeholders. We need to know the who,

what, when, where, and why, and the way item 62 is listed, it's just too vague at this point. I like to trust but verify. It is hard for me to verify item 62. Please answer the questions.

[13:32:03]

>> Mayor Ieffingwell: Annie yarbrust.

>> Mayor and council members, am my arm with the real estate council of austin. I just want to say really briefly that our organization is very excited to see item 62 before you this evening. We support it. We appreciate the leadership that brought this item forward. We are really excited to see a community conversation broaden around what affordability means and to really be part of that dialogue around digging a little bit deeper into this issue, especially today when we just decided to place affordable housing bonds on the ballot, which is very exciting, so thank you for placing this item. We really hope you support it.

>> Mayor Ieffingwell: Okay. I entertain a motion. Council member tovo.

>> Tovo: Yes, I had asked some questions of staff that I just want to go over a little bit here. If I could invite the housing staff up. I agree, I think with the comments that the last speaker just made, I think it is time for this and I appreciate them bringing this forward because we need to be mindful of the impacts of affordability that our changes can have but we do have an affordability impact statement and there were assertions made about it in the resolution that aren't

-- that I think don't really acknowledge what our affordability impact statement currently does, so I did bring some copies for my colleagues of these, of just a general affordability impact statement that was done for another code amendment. So the resolution talks about, that our existing affordable impact statement is on the standards

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[13:34:07]

>> that is not actually an accurate statement, when we do affordability impact statement, the not just publically assisted housing. It is on all housing. It is a provision under the smart housing ordinance, and

so we are looking particularly at the impact on low and moderate income, households or affordable households but it is not specifically to publically assisted housing.

>> Tovo: And so the intent of the affordability impact statement, as I see it, and I will just highlight a few of the questions, impact on cost of development, that, i think, is intended to be broad, right, the impact of that cochange on all development, not

-- again, not specific to affordable housing, so I think there is a good deal of overlap between what the resolution is asking staff to develop and what we currently have and there are also some notes in the resolution that give me pause like the statement that the impacts the situations where cochange does not assist the construct of publically affordable housing and those things,

[reading

[and i think there is value to exploring this further and look at the existing affordable impact statement and look at what changes can come forward, like the impact on residential development, versus on commercial development, or, you know, I am not slur what else is contemplated but i think the questions that you are asking staffing to forward and develop already exist on our current affordability impact statement and I would also feel uncomfortable voting on a resolution that I think isn't quite accurate in terms of what our staff resource already

-- what our current tool is for measuring that item. So I propose that I don't

-- I guess I would ask that of the sponsors, if you would consider a postponement on this and perhaps see what tweaks might be possible with our existing affordability impact statements.

[13:36:09]

>> Mayor?

>> Mayor Ieffingwell: Mayor pro tem.

>> Cole: This is an issue that has been before council for as long as I have been on the council. I mean, it kind of stems from the affordability issue and our recognition that we do things that increase the cost of housing and affordability and we need to know that in our decision-making process. We hear from stakeholders constantly that many of the ordinances that we pass and code provisions that we do not re

-- that we do, do not reflect itself in an impact statement. What this resolution does is simply asks staff to go forward around modify that and delve into it deeper so we have a better understanding of the

impact that our regulations have and improve our decision-making process. So I will go ahead and move approval, mayor.

>> Mayor leffingwell: Mayor pro tem cole moves approval.

>> Second.

>> Mayor leffingwell: Seconded by council member spelman. And I will just say, i intend to support the motion. I think it's entirely fitting that on a day when we approved

-- put before the voters for their decision \$65 million in subsidies to housing because it's too expensive, that we also take a look at ways to reduce the cost of that housing, to provide affordability in that way, too, and in other developments, of course. Council member tovo.

>> Tovo: I don't

-- I don't disagree with the intent, but I just

-- I am going to have to be a little bit more direct. The fifth clause is simply not accurate. It says "whereas the ais is currently limited to its evaluation of the impact on publically assisted housing development but does not consider market rate or other forms of construction." That is just not true. The current ais does so i ask you remove the clause and also ask to remove the next one, too, because it suggests the staff take a standard approach and just, you know, don't

-- don't do what we have asked them to do, which is to do a thorough thinking through of issues and that they default to no impact and I don't think that is accurate, either. So I respectfully ask the sponsors, if you would like to move forward with this tonight, that you remove the fifth and the sixth whereas clauses so that we are voting on something that's actually accurate. And that in the 1, 2, 3, 4, 5, 6, 7, 8 whereas, you acknowledge that we do have a tool. You may disagree with its effectiveness and I have sometimes disagreed with its effectiveness, too, but we do have a tool that identifies potential increasing cost and maybe saying something that council may benefit from a tool that more fully identifies the cost. And then in the last, be it therefore resolved, I would suggest that you adjust that in some way

-- I am just working off the cuff here

-- I would say, instead of to create a standard evaluation process, something like, to revise our ais, or to revise our standard evaluation process to more fully measure some thing like that, because, again, we do have a tool. I will acknowledge again, i sometimes disagree with its findings but I really feel it's important to take a vote on some

-- on a resolution that accurately reflects the current

-- the process that we currently have. So I will propose that as a friendly amendment, that we remove the fifth and sixth whereas, that in whereas number 7, the language is added after that, the phrase more

fully, and then the be it therefore res clause.

[13:40:06]

>> Cole: You said after where, your friendly amendment, your post friendly amendment

-- i haven't decided it is friendly as well.

>> Tovo: Well let me say i am not going to say I will support it if you add it as friendly. [Laughter]

>> Tovo: But I will still ask you to consider them. Remove the fifth and sixth whereas. That in whereas number 8, you add the phrase "more fully" before the word "identified." And in the be it therefore resolved clause, that you adjust the language thusly

-- the city manager is directed to work with the necessary staff and outside stakeholders to craft a standard evaluation process that more fully measures. I am sure someone may have some better language to propose. That's just what comes to me right now.

>> Cole: I thank you for your thoughts but in light of the fact that you are not going to be supporting this

--

>> Tovo: I said I hadn't decided. I think I could get comfortable with those measures, and, again i would

-- I would assume that you would want it to be accurate in any case.

>> Cole: Well, I just need to ask probably a series of 35 questions of some additional staff to be able to explain all the ways it is accurate, but

--

>> mayor leffingwell:35?

>> Cole: Well, let me. [Laughter] okay. You said take your time. I

-- who said take your time? I will. Let me ask a question of betty and I will ask jerry to come up, jerry rusthoven to come up, betsy. Does this affordability impact statement apply to commercial developments, such as office, hotel?

>> The one we have right now?

>> Cole: Yes.

>> No we only apply to residential projects and single family have over 100 and multifamilies that have over 300 units.

[13:42:08]

>> Cole: So it is correct to say that the current only has

-- relevant to

-- and i am also noticing that we are talking about the affordability impact statement from neighborhood housing and community development, so my question is, the ais currently in its evaluation does only impact publically assisted development but does not consider market rate of construction projects.

>> Sorry, I misspoke, considering the ais when i spoke earlier, so the eis is triggered by a site plan that has over 100 multifamily and over 100 single family units and ais is done in coordination with a code amendment is done for every code amendment. We have, where

-- well, now we send all of them to neighborhood housing for their input on whether it affects the affordability.

>> Cole: Okay. So we are growing with office, hotel, and residential buildings greater than five stories. Does our current ais tool evaluate that?

>> For an office project, no. Our current ais tool would not

-- would not address one of those for a particular development.

>> Cole: What about for a hotel?

>> Not for a hotel. If it were a code amendment

-- what we are talking about here specifically were code amendments, my understanding, so if it were a code amendment that affected the development process, we would take it to an ais, if a zoning case came to a hotel we would not take it to ais.

>> Cole: So there are differences how you treat them but not all are considered for ais?

>> Yes.

>> Cole: Move for approval.

>> Mayor leffingwell: We have a motion on the table, a motion for the second. Council member spelman.

[13:44:11]

>> Tovo: Mayor.

>> Spelman: Mayor, what is the current status of the friendly amendment?

>> Mayor leffingwell: Denied. Did you not say you would

--

>> Cole: Yes, I denied.

>> Tovo: Okay, well then I

--

>> mayor leffingwell: Council member spelman.

>> Spelman: Never mind.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Mayor, I am going to propose it as a formal amendment but I feel the need

-- I don't mean to belabor this. I wish we had time to talk about it on tuesday but mr. Rusthoven, I want to talk to you a little bit about your answers. This is asking as there are changes in the code that the ais measure the impact on development?.

>> Yes.

>> Tovo: I didn't understand your answers to the questions because you were talking

-- I think I heard you say that the hotel rezoning would not consider an ais. Of course

-- I mean, this is just about

-- I don't even know why we are answering that question because your resolution talks about a code change and I think what you were asking was, does a code change trigger an affordability impact statement that would help us assess the construction costs for a hotel. Is that what you asking?

>> The affordability impact statement that we do for code amendment addresses how it affects affordable housing, how it affects the price of housing specifically.

>> Tovo: Housing specifically, but I believe that I understood from the answers we got back through the q and a department that it is not limited to publically assisted housingsing as this resolution says. It assesses the costs for all housing.

>> Yes, ma'am, I think the operative word is "publically assisted." We look at the cost impact to all residential, whether it be single family or multifamily, we look at the cost impact so I think the word is publicly assisted p. We aren't looking at cost impact just on publically assisted but on all residential housing, whether it be a single family or multifamily and the other word I want to use is cost benefit analysis. We currently look at the ais asks for costs, what we have had tried do is provide a cost benefit analysis in that if the benefit outweighs the cost, we have at times recommended that we support the code that's being brought forward because we feel the benefit might outweigh the cost.

[13:46:37]

>> Tovo: So there may be an opportunity to expand it beyond residential so that we are

-- so that when we are

-- so that the ais is also taking into consideration the impact and cost on projects that are not just residential but are also commercial.

>> Cole: Mayor.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Based on what ms. Spence just said, in response to the line of questioning by council member tovo, that the paragraph that you originally pointed out that says the ais is currently for the evaluation of the impact on publically assisted housing development, that is not true, is what I am understanding you to say, so I will take that as a friendly amendment to remove that language. That's the point, right?

>> Mayor leffingwell: Do you agree?

>> Spelman: Mayor, I believe council member morrison has a slightly more more fine tuned version of what mayor pro tem cole was suggesting.

>> Mayor leffingwell: You don't accept the friendly amendment?

>> Spelman: No, I don't.

>> Mayor leffingwell: Council member morrison.

>> Morrison: Thank you. I have some questions but specifically with regard to the fifth whereas, I think it would be correct if we changed it to read

-- to take out a few words, if we changed it to read whereas the ais is currently limited to the evaluation of the impact on housing development but does not consider other forms of construction. So we are taking out the word "publically assisted," and we are taking out the phrase "market rate or," so I would offer that as a friendly amendment.

>> Seven.

>> Mayor leffingwell: Accepted by the maker and the second. Council member morrison.

>> Morrison: Let me ask the simple yes or no. Is this next statement accurate? I think you said yo u heard it was not. The ais defaults to no impact in situations where a code change does not directly affect the construction

-- construction of publically assisted affordable housing.

[13:48:43]

>> That would be incorrect.

>> Morrison: If we took out publically assisted, would you say that it is accurate?

>> Can you read it to me just one more time, i apologize.

>> The ais defaults to no impact in situations where a code change does not directly affect the construction of affordable housing. What if we changed that to say, "the ais defaults to no impact in situations where a code change does not directly affect the affordability of housing construction"?

>> You see what

-- I am trying to correct it. It is not correct right now so maybe we can take it out or

--

>> I apologize because we don't in general default to no impact.

>> Morrison: Okay. Maybe it ought to be taken out all together.

>> It is not that we automatically default through impact. If we assess through our analysis that there is not a cost, impact that would be detrimental, then we probably would check the box no impact. But there is actually a lot of things that go into that, so there very rarely a default that we automatically default to no impact. That's why I am struggling.

>> Morrison: I offer an amendment, hopefully friendly that we take out the whereas.

>> Cole: It is bothering you that we go to a

-- to a default position.

>> Right because we don't have a default mechanism in our analysis.

>> Cole: That's friendly.

>> Morrison: That's friendly amendment.

>> Mayor Jefferingwell: Accepted by the maker and the second.

>> Morrison: Thank you. And I have another question for you, ms. Spence, and that

-- ms. Spencer and that is what we were looking at is the ais versus the short term rental ordinance and one of the surprising thing that is came out in the discussion for some people looking at this, there was a shot that the short-term rental ordinance has the potential to raise the cost of housing, just because there would be more pressure, you know, semi commercial use of it and all. How is that

-- let's say that were a fact

--

[13:50:59]

>> the supply and demand argument.

>> Morrison: The supply and demand argument. That is not something you take into account, that it never gets folded in the way it is now and would it if this passes?

>> Currently we don't tend to theorize on large supply and demand sort of analysis. What we really try to do is be very concrete in our analysis, what is the actual cost. For me an example is a tree ordinance, when we went from one tree to two trees, or two trees to three trees, it is easy to quantify the cost of adding one more tree so in that we would state that the tree ordinance would have a cost impact to affordability because it actually just costs more to put in one more tree. The same with open space.

There was an open space requirement probably about a year ago. We actually stated there was a cost impact which could have an effect on affordability because to have increased open space meant less affordable housing possibly but we saw the benefit of open space as potentially outweighing the cost of a little bit more open space, but we don't tend to, on a grand scale, look at the supply/demand and try to calculate what that could be. That is, though

-- this whole argument or this whole process lends itself to a great conversation of being able to have a more formalized way to present the cost benefit analysis on these impacts. It actually has been somewhat difficult because they are all very isolated. We look at each ordinance in an isolated manner. The actual cost of carbon monoxide detector, the cost of flat work, all of those sorts of things. I would prefer to be able to provide you with a cost benefit analysis, to where if the benefit of the ordinance change outweighed the cost, at least we would all know that if we wanted to do that, if you all wanted to do that, you would realize you would be able to say that, so we are actually working with the sustainability office to come up with that type of analysis that we could hopefully present so that everybody would have a more reasonable

-- so that everybody would have a more reasonable picture on what we are asking you to vote on.

[13:53:13]

>> Morrison: Are you suggesting what we are looking at here would be one piece of the broader cost benefit analysis that we are looking at? Because we have the cost of actually building the building, but there could be so many other benefits in terms of, you know, look at our green building program, or look at our great streets program, and things like that. That's what you are looking on, is the much broader, more contextual?

>> That's what we are trying to do.

>> Issue.

>> Or the cost

-- sometimes with the code change, the cost to change now might be \$100. If we don't make that change, the cost to correct it ten years from now might be \$10,000. So some of it

-- with some of the ordinances we have been asked to look at we are really trying to look at what is the cost to the city if we don't make the code change. So it can work both ways. What is the overall benefit, so that's what we really have been struggling with, so I appreciate being asked to do the exercise. I just want to be able to offer you a broader sense of what is the impact when ever we are making the changes, the cost and the benefit.

>> Morrison: I am very relieved to hear you say that, because that's the concern we had about this is obviously the cost of development is a huge issue but there are big policy tradeoffs that we make all the time, so you are saying that there is a tool that's being worked on. Am I correct in understanding? There is a tool?

>> Yes, it will be ready in two weeks. We are working on the tool.

>> Morrison: Let me say, that relieves me greatly and I was really hesitant about doing

-- going forward with this resolution in the beginning because I was afraid that would mean that's all we have in front of us but if we are going to have a whole cost benefit tool in front of us, then i think

--

>> that's what we are proposing we would offer to you.

>> Morrison: In two weeks we will have a proposal?

>> No, no, no, apologize. The way this reads, this just talks about cost. I would ask that you ask for both a cost and a benefit analysis.

[13:55:22]

>> Morrison: Are you suggesting that would be another resolution?

>> No.

>> Morrison: That we would ask for it now?

>> Yes.

>> Morrison: Do we also have the benefit?

>> Yes

>>

>> Morrison: Does it need to be formal action?

>> I think you can put that in here.

>> Spelman: No.

>> Mayor leffingwell: This is a very simple thing. Just tell us what the costs are in connection with additional regulation

>> the costs are pretty objective. Usually the benefits are subjective, and that

-- that's what we come in here for, and it helps us make that decision about whether the benefit is worth the cost of it. It's real simple. Tell us what the cost is and then we can make the subjective judgment on this dais about whether the benefit overcomes the cost.

>> Morrison: Mayor, let me say it does make sense to have a tool in front of us because to whatever extent we can have, laid out the benefits, whatever extent, and I know there is a lot of great work going on, that we can have it within the context, so we don't forget, that that would be very helpful, at least in my decision making and discussion.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: First, we are not posted for benefit cost analysis. We are posted for cost analysis.

>> Mayor leffingwell: Correct.

>> Spelman: So we could not ask you, betsy, to provide us with benefits. That would be a separate resolution perhaps the 22nd. Or perhaps we won't need one because you will have it done by the 22nd. We will see. Second, I agree with the mayor, that benefits are often more difficult to establish than costs, and even if in a particular case it is difficult for us to come up with a hard number on the benefit is always goi helpful for this council to have a hard number on the cost. We can estimate benefits ourselves, and may disagree with them but having a hard number as a benchmark will help us so I don't think there is any harm done by asking for the cost analysis and if you are geared up to provide us one in a couple of weeks or a couple of months, I think that would be a lovely thing. So I have a question for you, betsy. Is there anything in this resolution that we have corrected, the factual in in accuracies and awe couple of whereases t inconsistent of what you and the officer of the sustainability are working on?

[13:57:57]

>> I don't think so, because a lot of this was proposed by the home builders association, and we already acknowledged in a meeting with them, that we would weaponing their input.

>> Spelman: Terrific. I am done.

>> Mayor leffingwell: Council member martinez.

>> Martinez: Mayor, I want to say, I realize this is geared towards the cost of the developer, but I think I could make the argument in the example that Betsy mentioned that there is a cost related to removing a tree, how much does it cost to replace the oxygen and how much does it cost to reduce the heat island effect, so you can argue costs on both sides.

-- costs on both sides, whether it is the benefit or cost side of the thing but here is something fundamental disturbing through the whole discussion, how do we allow an agenda item to get to the agenda that we now have identified that has two whereases that explicitly states something that exists that absolutely doesn't exist? Where is our law review and NHC in the Q and a correctly pointed out that those two whereases are not true. And we get here today and it is in the agenda. It is problematic. I know we are doing our best as council members to draft resolutions with a stated goal in mind, but if they are blatantly false, shouldn't we have an internal checks and balances that prevents that from getting us, because if council member Tovo hadn't asked these questions, well, I am sure council member Morrison would have

-- [laughter]

>> Cole: Or you would have. [Laughter] or council member Martinez would have.

>> Martinez: Let's say it slipped by, here we would have

-- let's say it slipped by, we would have adopted something without factual information about our spent process and that is troubling to me and hopefully we can get a follow-up by the city manager or law of what we can do to prevent that from happening because we just spent an hour discussing this thing.

>> Mayor Leffingwell: And the cost benefit on that was pretty minimum, I would say, and I said we always have fewer whereases and we would have fewer inaccuracies if we cut down on them. All those in favor, say aye.

[14:00:11]

>> Aye.

>> Tovo: I want to say one more last thing and I want to say thank you to the sponsors for making the adjustments that needed to be made. [One moment, please, for change in captioners] my short answer would be that there is a little bit of leeway and that would be okay because we still are in essence talking about making some revisions to the standard affordability impact process. And I think that fundamental discussion remains the same even though you're adding this aspect of benefit. I don't think it's too much of a change from the posting.

>> Tovo: It would still fit within the posting language.

>> Yes.

>> Tovo: Okay. Then I propose that as a friendly amendment.

>> Cole: I do not accept that as friendly. I think that benefits is an item of itself that would change the -- in this context.

>> Tovo: Okay.

>> Mayor Leffingwell: All those in favor, signify by saying aye? Opposed say no. Passes on a vote of six to one, council member tovo voting no. That brings us to item 90. Item number 90 is case c-14-2012-0100, for a 1.65-acre tract at 1640 i-35, a zoning change request to general commercial services, conditional neighborhood plan. The planning commission's recommendation was to grand the cs-co-np combining zoning with conditions. They did recommend it to you on a 7-0 vote. I can go into detail if you would like.

[14:03:00]

>> Mayor Leffingwell: I believe this was only pulled off of consent because of one speaker.

>> That's correct. I can pause here for any questions.

>> Mayor Leffingwell: The abbreviated version is fine with me if council wants to ask questions, that's fine. Otherwise we'll go to our speaker. Does the applicant have any wish to make a presentation on this?

>> We do not.

>> Mayor Leffingwell: Thank you. And the only speaker signed up is neutral, will mccleod.

>> I have a couple of questions on item number 90, woodland commercial park. The property locally known as 1640 south i-35, and they want to change it from community commercial conditional overlay neighborhood plan combining district zoning to general commercial services conditional overlay neighborhood plan combining district zoning. My question is are they a.D.A. Accessible sidewalks on that site right now? If they are not, then that needs to be a condition. I'm tired of seeing austin inaccessible. And I think zoning should

-- they should make this happen. The business should make it happen if they want this

-- if they want the zoning change. If they don't want to make it happen, if they want to wait until something gets built before a sidewalk gets put in, to me that's unacceptable. I get this statement on my austin utility bill that says the city of austin is complying with the americans with disabilities act. That's a boldfaced lie. It's the 23rd anniversary of the a.D.A. And yet the city of austin doesn't have accessible sidewalks. And that's why I pick out these zoning cases and i speak out against them. If I find properties that do not have a.D.A. Compliant sidewalks and they want to change the zoning, I don't want them to wait until a business is built. I want them to lay out the sidewalks first and then start the developing. So can we make that happen? Since we got to deck at a time residential

-- dictate residential subdivision accessibility guidelines and do away with stairs in private residential homes, which honestly I'm against that concept, but I think when it deals with commercial property these commercial properties are open to the public. And anything commercial should be accessible. We've waited 23 years. The time has come. No new zoning request or changes until the sidewalk is completed first and then if they want to build whatever, let them build it according to the zoning plans. Thank you. Councilmember spelman.

[14:06:22]

>> Spelman: I move approval on all three readings.

>> Mayor Leffingwell: I was going to ask if there was any rebuttal from the applicant? Okay. So councilmember spelman moves to close the public hearing and approve on all three readings. Seconded by councilmember morrison. All those in favor, signify by saying aye? Opposed say no. It passes on a vote of seven to zero. So that brings us to item number 94, and you can give us the very brief presentation because we're only pulled because of one speaker.

>> Marooned council, item number 94 is crown 99-0132, a restrictive covenant termination related to a zoning case that you have already acted on earlier today, which was item number 95 for the property located at 9101 and 9201 south i-35 service road northbound. Your zoning and platting commission did recommend the termination. The termination very briefly would simply allow the property owner to go forward with commercial uses instead of the warehouse uses that were originally common in this area. The area has change and that's the reason for the covenant termination.

>> Mayor Leffingwell: Okay. Is will mccleod still in the room? Oh, I see he is. Excuse me, I have to ask first does the applicant want to make any kind of presentation? Okay, thank you.

>> Item number 94, I believe this is the one that used to be a homeless camp or something. If I remember correctly. The applicant, if this is the right one, correct me if I'm wrong, we've got so many on i-35, show me a site map and the site map had an incomplete sidewalk. And he said orally that he would

make that sidewalk be completed. And I asked him to put it in writing. I don't have that in writing. That's not acceptable. Like I said before, with item number 90, is accessibility comes basically

-- to sum it all up, I'll be brief, accessibility comes first before heritage trees or environment. I think that's important. And I think that's what austin should be doing. If they do not have

-- if they're not accessible

-- because a lot of parts of i-35 are not accessible by foot for all walks of life. Until we make that happen, we need to either approve this on a condition or deny it.

[14:09:31]

>> Mayor Leffingwell: Any comment from the applicant? I'll entertain a motion to approve the restrictive covenant termination. Councilmember spelman moves to close the public hearing and approve, seconded by councilmember tovo. All those in favor, signify by saying aye? Opposed say no? It passes on a vote of seven to zero. So item 102.

>> I think you have three people who would like to speak on this item. I will give a more fuller presentation on this.

>> Mayor Leffingwell: Just the more medium rare.

>> C-14-2013-0053. Your zoning and platting commission did recommend this to you on a consent vote of five to zero to recommend the multi-family medium density or mf-3 zoning on the property with the conditions. This property, which is about 22.7 acres, originally had a site plan that was approved that allowed up to 528 dwelling units with a particular mix at that time. Site plan expired. That to you site plan expired. The owner is trying to come back in to develop the property with a similar density

-- actually it's proposed less density than that site plan. Instead of being 528 it's actually proposing 517 units on this property and that would be a limitation of this zoning change. So you have less units. A higher density because the mix of units is slightly different, there would be more two bedroom units than one bedroom or efficiency type of units on the property. Staff is already recommending this request. There's not any significant change to the traffic. At this time I'll pause if you have any questions. We would only offer this for first reading today because we were in receipt of a petition yesterday. So this would have to come back for a later date because I could not tell you what the petition amount is. Those that are opposed are property owners that are primarily to the south and west of this property. Mayor you say it's mayor you say it's ready for first?

[14:12:13]

>> It's ready for first reading because we have opposition and I could not tell you the authenticity of the petitioner's name and the percent of opposition to the case today.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Could you talk a little bit about traffic because the letter we have in front of us and i assume that we're going to hear in a minute is concern about traffic and the impact it will have. When you say there's no impact are you saying no difference between what was approved and what now is approved?

>> That's correct. The original

-- on the property right now it's already zoned multi-family.

>> Morrison: Multi-family what?

>> Mf-2. And I believe if they came back in and they were approved administratively again for a similar number of units of 528, given that this is actually 11 units less than the number that was there previously, based on my transportation staff they have indicated that there would not be a significant change, maybe a little reduction, but not a significant change to the number of

-- to the number of trips that was approved when it was looked at in 2002.

>> Morrison: So are 528 allowable under mf-2?

>> It depends on the size of the units. Theoretically if you built everything as an efficiency you get more units than one with that has a one or two bedroom mix. And the desired mix they're seeking you could not build 520 units because it requires more land area and hence that's why they're actually asking for more intense zoning, but actually would build and they have agreed to less units.

>> Morrison: And that's what's on the co.

>> That's what will be contained in the co, that's correct.

>> Morrison: Has there been any look taken at the traffic impacts? Obviously if you had 500 units to a tract, there are going to be traffic impacts. Is there any mitigation or assessments for that.

>> With the recommendation there were conditions of the neighborhood traffic analysis, which I believe is also in your backup material. So you have that available to you. I can walk through that or applicant I know is i believe here too and can kind of go through the details of the unit mix that they're proposing.

[14:14:21]

>> Morrison: We'll work from there. Thank you.

>> Mayor Leffingwell: We have a presentation from the applicant? You have five minutes.

>> Good evening. Jeff Lindsey with Westwood Residential and I'll be shorter than that. I know it's been a long day for y'all already. One thing to correct, we're proposing 512 units, not 518 units as was referenced previously. We are seeking a reduction in the existing density. The requested change will allow us to put forth a better unit mix for the neighborhood so that we don't have a high concentration of efficiencies. This will allow better mix of one bedrooms and two bedrooms and that is why we are seeking the mf-3 designation. One other point that we wanted to make is we previously met with the adjacent homeowners association to discuss this property. Probably 45 days ago. All of the members of the HOA, the board members were there. We talked to them about this property, answered their questions. One item that came out was their desire to reduce the speed limit along Slaughter Lane which we said we would be happy to join in with them on that. But I believe at the conclusion of our meeting everything was satisfactory and I did notice that the individuals that we met with, none of those votes have actually signed the petition to move forward. That's all I have. Anything I can answer for you guys I'm happy to.

>> Mayor Leffingwell: Questions for the applicant? Okay. There are no speakers signed up in favor. We have three speakers. We have two signed up against and one signed up neutral. I'm going to consider that against. So first speaker is Martin Benavides. Martin Benavides.

[14:16:23]

>> He already left.

>> Mayor Leffingwell: Krishna Allen.

>> Councilmembers, I live at the crossing at Onion Creek where they are proposing to go ahead and do the zoning change. I understand that they're saying that it's not going to affect that much, but at this point there's already so much traffic going through our neighborhood, there is a back road right through Brent's Elm Drive that cuts to I-35 and there's where the population has increased so much that people are already using that back road. So any type

-- if it's 10 more cars, 20 more cars it's going to make an impact. Also they want an exit on to narrow glen, which we are also opposed to as opposed to exiting into our neighborhood. That's the two main things is we do not want an increase in traffic and we do not want the exit on to narrow glen. We have a lot of small children in our neighborhood. I have two children. And it's just not going to be a good scenario with so many cars everywhere. That's it. Thank you.

>> Mayor Leffingwell: Thank you. Alfonso pena.

>> Good evening, I'm Alfonso pena, live in the subdivision crossing at onion creek. First of all, concerning the statement that the homeowners association board members met with the development company. I'd like to address that in the sense that the homeowner's neighborhood association never notified the actual homeowners, so even though I guess technically they're the representatives, it's been an ongoing issue with that board as far as them giving proper notice to the homeowners. I found out about this yesterday because of Miss Allen, and I have a concern about that and I'd like to ask the city council to maintain the public comment section a little bit longer so that the actual people that live in the neighborhood can have a chance to get down here and talk to you all about that if they so wish. But I can tell you that the crossing creek homeowners association did not notify the homeowners, number one. You can verify that independently by looking at their website. There's no mention of it whatsoever. You know, I understand that the plan is approved and that's not going to stop. I understand that. But what I would like for the council to consider as a condition is that unless the narrow glen section is 100% necessary I would ask that that not be allowed. Of course they can build their apartment complex, and they can have their main in and out through slaughter just like the apartment complex next to it. Miss Allen is correct. There already is a lot of traffic through the neighborhood of people trying to cut through and it would greatly impact the peace and quiet of that neighborhood. That neighborhood has a very unique feature that there's only two ways in and out. So it really keeps traffic down to a minimum and I think all the homeowners would appreciate that small concession if it's not 100% necessary. And not allow the egress, I think is the word, through narrow glen. I don't think it's necessary. One other suggestion, I don't know if it's too late, the apartment complex right next to it that already exists, Stone Creek Ranch, it would be very wise to have them put the access gate further in because what is currently happening is you've got people on Slaughter going 45 to 55 miles per hour, and then you've got people stopping to try to get into the apartment complex because there's a line. And I think that's a dangerous situation. I think there's been

-- there's been fatalities there already. I believe the city closed the in and out of Slaughter

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[14:21:04]

[buzzer sounds]

-- and narrow glen because of safety issues. So I just ask for you all to give the homeowner's a chance to present their views.

>> Mayor Leffingwell: Thank you. That's all the speakers that we have. The applicant, would you like to rebut? You have three minutes if you would like for rebuttal. No? It's only ready for first reading, council? So council member morrison.

>> Morrison: I wonder if i could ask the applicant a question. It sounds like when you had the opportunity to sit down with some folks and things worked out really well. Now we have a different group of folks that haven't had the opportunity to chat with you yet. Would you be willing to sit down and see if you can work through the issues to address your concerns?

>> I'll be happy to meet with them again. I don't want to postpone the action before us right now. We thought we had taken that step by meeting with

-- i think we met with eight or nine different people that evening. But I'm happy to sit down and talk to them again. It's just I would not like to delay the action if possible.

>> Spelman: Mayor, this is ready for first reading so we would have to have you come back at a minimum to second and third reading. If there's an opportunity for you to meet with the neighbors who are objecting to your development in the next two weeks, I wouldn't hold anything up at all.

>> If they can put things together in a timely manner, then we can do that.

>> Spelman: There's a couple of people here today who might can help you with that. In the meantime I have a question for you. Are you familiar with the traffic impact analysis or do you have your traffic engineer here with you?

>> I do.

>> Spelman: Maybe it would be more direct if I talk to the traffic engineer.

>> He could probably address it better than I could.

[14:23:05]

>> Spelman: Great.

>> Similar sisler, chief engineer for the project.

>> Spelman: You're suggesting that first the maximum desirable volume for narrow glen parkway is about 4,000 vehicles a day. Is that right, does that sound familiar?

>> Right, based on the street

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>> Spelman: Between 40 and 48 feet in width and that's the typical maximum desired traffic for a street that wide?

>> Correct.

>> Spelman: Okay. Existing traffic it says here is 2248. You will be adding about a thousand vehicle trips a day to that street is your best guess, is that right?

>> That was the city's analysis, correct?

>> Spelman: City's, not yours. Let me ask you this. First, does that analysis seem reasonable to you?

>> It's conservative. I think with the main entrance to the apartment project on slaughter lane at a median break that most of the traffic will come in and out the main entrance and go on to slaughter lane over to i-35.

>> Spelman: In fact, the city's

-- I guess it was the city's analysis was that two-thirds of the cars would be coming in and out of slaughter and only one-third of the cars would be coming out of narrow glen. Does that seem

--

>> correct. There's two entrances on slaughter. They just took a third in each direction. I believe personally on the rear side of the apartment complex, and the fire department requires two entrances to it. It will be built in two phases, so theoretically if they build this phase first they would need two entrances. And again, my main point would be they would be coming in and off of slaughter lane most of the traffic.

>> Spelman: Okay. What effect would there be on your development if we were to require you to have entrances only on slaughter and not on narrow glen?

[14:25:07]

>> Well, I'm sure the people would still live there. I don't think people would move into it if they didn't have two entrances. It would be fine as long as the city doesn't require to us do another tie and delay the project for months to determine what the impact would be.

>> I can imagine there would be an effect on internal traffic, which might be inconvenient for the people living there. But there may be some things you could do to the internal configuration of the site which would discourage use of narrow glen, but still retain it as an option. I don't know what that would look like and it seems to me that might be something that is a fruitful

--

>> sure. We've already submitted the site plan for approval and the driveway is in the very back corner of the property. So it's not like it's

-- you would have to drive all the way to the rear end of the side of the project furthest from slaughter lane to use it. But that's the way the fire department likes them to be separated as much as possible.

>> Spelman: Object. So really the narrow glen entrance is already relatively inconvenient for the vast majority of people who would be living in your development?

>> That's correct.

>> Spelman: Which would suggest that that one-third, one-third, one-third, for each of the three, would in fact be as conservative as you're suggesting. A lot fewer than the third can be expected to use that inconvenient exit or entrance on narrow glen.

>> That's correct.

>> Okay. That's what I need to know, sir. If you could contact the neighbors and talk to them in the next two weeks, I would appreciate that. Mayor, I move to keep the public hearing open on this issue, but approve it on first reading.

>> Mayor Leffingwell: Councilmember Spelman moves to approve on first reading only. Noting that the public hearing will remain open in two weeks. Is there a second? Seconded by councilmember Morrison. All those in favor, signify by saying aye? Opposed say no. It passes on a vote of seven to zero on first reading. That brings us to 105. 10 am has two speakers

-- 105 has two speakers signed up neutral.

[14:27:25]

>> Mayor and council you will recall this was a discussion postponement.

>> Mayor Leffingwell: Correct.

>> So the property owner applicant would agree to AUGUST 22nd, AND THE Neighborhood is requesting a postponement to september 26th. This case c-14-2013-0060 for the property located at 7101 bluff springs road. So I'll pause and perhaps you can hear from both parties regarding the postponement.

>> So we'll hear from one speaker for the 22nd of august and one for the 26th of september. Is there somebody here advocating for each of those days? Mr. Moncata, we were talking about only the merits of the postponement to a certain date.

>> Good evening, honorable mayor and city council members. I'm phil moncata, the agent for this project. It's been a long day for everyone. Mayor, my client has requested the 22nd at the request of the neighborhood to do some additional discussions about the proposed removal of some prohibited uses. But we're willing to basically take the council's lead on this based on everything we've been hearing on zoning cases that are before y'all this evening. And we don't want to belabor or keep you here any longer.

>> Mayor Leffingwell: The question is you're advocating for postponement for two weeks?

>> Yes, sir.

>> Mayor Leffingwell: Or do you have any objection to the postponement for a month and a half?

>> Yes, sir, we

-- my client feels like that might be a little bit too much time because he has decided to move forward with this development and I don't know how it might impact his moving forward with the construction on this site that already has an Ir zoning with the co overlay.

>> Mayor Leffingwell: Okay. And sir, are you here to speak for the september?

[14:29:28]

>> September 26th, yes, sir. My name is robert (indiscernible). Thank you, mayor, mayor pro tem, councilmembers. I live at 2413 rock ridge and I'm a parent. And the vice-chair of the campus advisory council for lakewood elementary school. I also am the past vice-president. I group up in southeast austin. I went to langford.

>> Mayor Leffingwell: Sir, we're only talking about why you would prefer

--

>> the reason that we want to postpone it is I just found out about this case July 25th. Started asking questions of school members, teachers, parents and a lot are out of town on summer breaks so we need time to meet with them. The Austin board of trustees, Jamie Mathias and Hinojosa also want to take up this and talk about it as well.

>> Mayor Leffingwell: So you don't think you can meet with them in two weeks?

>> No. They meet on the 27th. School starts on the 26th. Of August. The board of trustees meet on the 27th. And then that would just give us a couple of days, even if you go to the 29th of August, to have a school meeting with the parents, the staff.

>> Mayor Leffingwell: You could meet with the developer before then, though. I thought that was

--

>> we plan on meeting with him I believe this Friday. But we would like to get the parents and the neighborhood and other school kids because there are 800 kids there, most of them walk to school. Most of them will walk right past that you can see on there.

>> Mayor Leffingwell: We're only talking about the dates of postponement, we're not talking about the merits of the case. Okay. Councilmember Tovo has a question.

>> Tovo: I just want to be sure I understand the point you're making is that if we only postpone two weeks you would not have an opportunity really to let the families of the students at that elementary school know because they go back to school Monday and we would be hearing the case.

[14:31:34]

>> They even go back to school

--

>> Tovo: Monday the 26th. And then we would be here at council on the 29th. So that wouldn't allow you enough time to really have a meeting with those families. From the time of school to then.

>> That would give us maybe two days to get everybody together before we would have to come back here even if you guys postpone to the 29th. We're ready to go first part of September, but due to the budget hearings you guys don't have it until the 26th.

>> Tovo: Thank you.

>> Mayor Leffingwell: Thank you. I'll entertain a motion.

>> Mayor, there's two speakers.

>> Mayor Leffingwell: No, we only have one speaker. This is special case, we're just discussing the postponement. We allowed one speaker per side. So we'll entertain a motion on councilmember tovo.

>> Tovo: I was going to give awe motion. I was waiting for you to say motion and then I was going to make one. Ready?

>> Mayor Leffingwell: I'm ready.

>> Tovo: I would like to move that we postpone this until september 26th. And I appreciate that that is a long time and ordinarily we wouldn't paupt pony it probably that long, but I think in light of the fact that we don't have meetings in september until the 26th, and for the reasons you've stated that you really want the opportunity to let the families know and there won't be any opportunity within those first couple of days of school I think it's an appropriate action.

>> Mayor Leffingwell: Motion by councilmember tovo to postpone until september 26th. Councilmember martinez, second? Any discussion? All in favor of that motion say aye. Opposed say no. It passes on a vote of seven to zero to postpone until september 26th. [Applause].

[14:33:40]

>> Mayor Leffingwell: Item number 107. You can give us a very brief presentation. Go ahead.

>> Thank you, mr. Mayor, mayor pro tem, st sadowsky of the historic landmark office. You heard the office in june. The only update is that the enzyme power plant is now listed in the national register of historic places. I think the mayor pro tem had questions about financing. I think those have been answered by the memo from the economic growth department. And I'm here to answer any questions y'all might have.

>> Mayor Leffingwell: We have one speaker. Ronnie reeferseed? Passing.

>> No, I was just waving. Friendly wave.

>> Mayor Leffingwell: That's the signal for i pass. Go ahead.

>> I'll keep that in mind next time. Okay. Well, I'm so excited here. It's been a 12 hour day, but hey, anyway, the seaholm power plant should not be rezoned. It should be returned to its former status as a much-needed power plant. Wake up people, our exploding metropolis here needs more power

everyday. It will be a lot cheaper to restart the seaholm power plant than to buy up more costly land on which to construct a brand new power plant. Why tear it down and replace it? That's the epitome of wasteful abuse of power through half-baked schemes of so-called do-gooders and nonsensical, inventorying down power plants while our population explodes is criminally moronic. This is yet another example of the price we all pay for potentially voting citizens sitting on their behinds, leaving sociopathic criminals into what happens here. Not unrelatedly, how about f 1, does anyone remember voting on that petroleum polluting traffic nightmare bucket of hog wash? No, of course not. Nobody got a chance to vote on it except these slimy, scheming slush fund pushers of bribery. The result? Austin taxpayers will forever pay dearly for yet another short-term benefit for a few mega rich, while our already severely burdened commuters have to pay for foreign-owned toll roads, seemingly endless stagnation on our already overcrowded roadways

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[14:36:18]

>> Mayor Leffingwell: Mr. Reefersseed, we're talking about the zoning case here. Not the toll roads.

>> It's relate. It's another example of

-- what I'm talking about are citizens who are just getting

-- not getting up off their behinds. So I'm just saying the traffic jams are destroying our traffic of life for everyone and we never get a chance to vote on this hog wash. That's basically all I was trying to say. I'm sorry if that's too big of an analogy to make for you, but it's two big examples of voters not getting up off their behinds.

>> Mayor Leffingwell: Okay. This item is ready on all three readings. I'll entertain a motion.

>> [Inaudible].

>> Mayor Leffingwell: Councilmember spelman moves to close the public hearing and approve on all three readings.

>> Cole: I'll second, but I have a statement. Back in june you told us that the building had been substantially altered and was not eligible for federal preservation tax credits, is that correct?

>> The building is not eligible for federal tax credits, but it is completely intact. And

--

>> Cole: Go ahead.

>> There are plans for modifications that the applicant has gone through the historic landmark commission and gotten certificates of appropriateness for all modifications to the site.

>> Cole: So what expectations do we normally have their buildings and their owners that we grant the landmark tax rebates to?

>> The rules that we ask them to follow are that any changes to the building or the site be approved by the landmark commission with the certificate of appropriateness.

>> In exchange for the rebate. Do you that in exchange for the rebate.

>> That's one of the things that we give in exchange for the rebate, yes, ma'am.

>> Cole: I don't see rodney gonzalez? Is he here? There he is. I just want to nail down a couple of things about the financial implications. Rodney, can you explain the impact of this item on the seaholm tif?

[14:38:31]

>> Yes, mayor pro tem cole. Rodney gonzalez, deputy director for the city's economic development department. Councilmember or mayor pro tem, back in july we had sent council a memo that the impact for the seaholm tif is a negative 1.3 million net present value. That does still leave 2.7 million within the seaholm tif.

>> Cole: Also our current mda has us contributing i believe 4.5 million of the proceeds of the tif to go towards the restoration of the building, is that correct?

>> Yes, sir.

>> Cole: So the nda which grants the one year lease to the building currently stipulates that the restoration and maintenance of the structure with that funding, is that correct?

>> Yes. We are contributing four and a half million towards the restoration.

>> Cole: So the problem or concern I have is why are we giving a tax rebate to accomplish a restoration that we ourselves are paying for and which require a component of the mda.

>> The restoration and preservation of the power plant was the goal from december of 2001 as well as the goal of the rfq from may of 2004. So what the developer has proposed back when we accepted the proponents or the proposal in 2005 and in keeping with the mda, the developer, who is here to answer

questions as well, is preserving and restoring that power plant. So he is keeping it in context with what the city's representation was.

>> Cole: I have no further questions, mayor.

>> Mayor Leffingwell: Okay. Motion on the table. All those in favor, signify by saying aye? Opposed say no. Passes on all three readings on a vote of seven-zero. That brings us to item number 93.

[14:40:48]

>> Jerry rusthoven with the planning and review department. Case 93 is c 814-2012-0160, the south lamar p.U.D. The existing zoning is cs general commercial services and csv general commercial services vertical mixed use. The proposed zoning is to planned unit development or pud zoning. The the case has been to several boards and commissions. The waterfront planning advisory board made a motion to not recommend p.U.D. Zoning by a vote of four to one to two. The environmental board recommended no action on the proposed p.U.D. On a vote of six-zero-one and they had a second motion where they recommended approval of the environmental treatment proposed in the p.U.D. Which failed on a vote of two to four to one so therefore they had no recommendation. The planning commission recommended to grant the p.U.D. Zoning on a vote of five-three and the request has the recommendation of the staff as well. The reason that the staff is recommending the p.U.D. Is because it meets all requirements of the p.U.D. Ordinance with one exception I'd like to mention. With regard to affordability, the p.U.D. Does trigger possibly tier 1 requirements as well as tier 2. It does propose to exceed the height that's allowed in baseline and therefore carries a bonus dense any requirements. With regard to the affordability in this case what the staff is proposing is to comply with the resolution of the council passed on june sixth which recommended that the p.U.D. Projects provided affordability based upon their bonus area. We are still working on bringing that back to council. In this case what the applicant is proposing is that the fee in lieu of, which is currently six dollars a foot, be applied to the entire square footage of the area that is above the baseline. That figure is 400 some thousand dollars. Based on our discussion on june ninth, there is some debate over what the ordinance currently says, but we believe that the action the council took gave us further direction. The applicant

-- some of the superiority items that the applicant is proposing, he does have a detailed presentation so I'll just highlight some of them. They're proposing three star green builder. They're proposing superior environmental protection through providing of rain gardens, additional tree protection beyond that which is required. No modifications to the environmental code. Greater accessibility for handicapped people, providing a thousand square feet of storefront space available for the parks and recreation department for whatever use they see fit, providing all parking and underground garage, absolutely no surface parking. Providing pedestrian improvements along all three streets that this fronts on.

Compliance with commercial design standards. Providing a mixed use project. Greater open space than required by the code. Providing a meeting space for neighborhood and nonprofit organizations. Providing space for bike kiosks for the city's new bike share program. Again providing affordable housing, etcetera. They are providing art in public places and spaces for electric vehicles as well. Staff has reviewed the p.U.D. Over the past several months and we feel it does meet with the asterisk of the affordability requirement meeting the intention that is the letter of the code, but with that exception we believe it meets the tier 1, tier 2 and the intended density bonus requirements. I'm visible available for any questions.

[14:44:33]

>> Mayor Leffingwell: Any questions? You spoke about the affordability requirement and you said there was some doubt? I thought we had a legal opinion on that?

>> What we did was we had a resolution that passed the council on June ninth that clarified for us. They gave us direction to go and amend the code to make sure that it applies only to the bonus area requirement, however today as it's currently written it still applies to the whole building because we still have not had a chance to bring that back yet. We will be bringing that back

-- I believe our intention is the end of September.

>> Mayor Leffingwell: Questions? Councilmember Morrison.

>> Morrison: Just so that I understand, if we

-- we did have a legal opinion that the code said explicitly, that it covered

--

>> there's no doubt today as it's written it covers the entire building.

>> Morrison: So if the council wants to consider only the bonus area, covering only the bonus area, can you just describe a legal framework for how that works since that code doesn't allow that?

>> What can happen is similar to the 10-acre rule as well. There is a requirement that a p.U.D. Be no more than

-- no less than 10 acres. This project is

-- this project is less than one acre. However, the p.U.D. Can modify site development regulations as well as uses, including those that are in the p.U.D. Section of the code. So we would just simply say that this section is being modified for this.

>> Great. Thank you.

>> Mayor Leffingwell: Good. That's helpful. We'll hear from the applicant. I assume that's mr. Droner. And you've got a whole bunch of people donating time to you. Amanda swore. Is amanda swore here? Where? Okay. Hot you. Steven rye? Steven is here. Julian watson? All right. Leslie pollack. Leslie pollack. So you have 15 minutes.

[14:46:38]

>> Thank you, mayor. Councilmembers, I'm steve droner on behalf of the applicant. Proud to be here tonight to talk to you about this project. We've been working on this for more than a year and a half. And we think that what we're bringing you tonight is a special project and one that is appropriate for what is a very special site. Let's talk first about the site. I think most everyone familiar with the taco cabana site and then the parking lot that's below it, this is a couple of different angles looking at that site. The same principal developer built the bridges project next door. So we have a taco cabana today in the parking lot down below that services the paggi house. Two special neighbors that we've spent a lot of time thinking through the impact of this project on those neighbors, one is the bridges to our

-- on our southern boundary. And also the historic paggi house that is also on our southern boundary, but a little to the east. As you can see from this map, it really is a unique site. There aren't other locations on the south shore that are

-- that have these sort of site constraints, but also unusual ability to relate to the trail, to riverside drive and to the pfluger bridge.

>> The planning for the project is the waterfront overlay ordinance. This shows clearly the subdistrict that are in the waterfront overlay area. We're in the butler shores subdistrict. Subdistrict 13. And the legend on the lower left-hand side shows you the maximum height in that subdistrict. So the height as I think as you know in the waterfront overlay ordinance is described as the lesser of whatever your base zoning height is. And whatever is the max is in your subdistrict. So we have made sure that we do not exceed the max height in our subdistrict and we have no other areas where we do not fully satisfy the waterfront overlay ordinance. So this is not a case where either the height exceeds the subdistrict max or that there's any other requests for a variance from the waterfront overlay ordinance. The other principal piece that you always think about with the waterfront overlay ordinance is the setbacks. And this graphic shows you that we are outside the

-- both the primary and the secondary set back area. This shows it to you in a little different visual. The existing zoning is both cs and cs-v on this site and I want to take a minute and make sure that one of the common mistakes I think that many people have made in looking at this site is they've assumed that the only way that an apartment project can be built on this site is either through this p.U.D. Zoning case or through a vmu application, and that is not true. The fact is that the waterfront overlay also provides the ability to do mixed use and multi-family in this area. And in fact, you would see that we couldn't do a vmu project without also running a zoning case to add the cs portion to the v. But the fact of the matter is that we can build an apartment complex today without having to meet any of the terms of the vmu ordinance. What would be built today and really the design that we started with with the 96-foot project would be this, and this is what would be built at a 60-foot level and frankly these owners spent a considerable amount of time trying to weigh the pros and cons of going through this process or building what we could build today, which is a 60-foot apartment complex. The original design was a u-shaped design facing the water because it gave more units a view of the water. And we only switched from this view after really talking, having initial conversations with the residents of the bridges. This would have been just an apartment complex. It would not have had retail on the ground floor. And there's a key reason for that. Every you add retail on the ground floor you have to add parking and to add parking on this site because it's all structured parking and subgrade parking, it would mean that you have to go to a third level. The cost of doing that is huge. It's not a proportionate cost. So in order to be able to do retail at the ground floor level, we needed more height. And so once we started down that road in thinking, well, could we build a better project, could we build a project that's

-- that is more in keeping with the nature of this site, we began to explore what a 96-foot project would look like, but with a different design. This

-- this again was the original design and in the original case it was at 60 feet. One of the things that I think the bridges didn't like about this was that it puts a fairly solid wall on that southern boundary. It also puts a solid wall rather directly in front of the paggi house. So with a good deal of trepidation having been down this road before, we decided that we would file for p.U.D. Zoning. Immediate question, well why? One of those is that after

-- since 1985 we have a partially cooked waterfront overlay ordinance. And even after the waterfront advisory board was appointed several careers ago we still don't have the density bonus provisions in the waterfront overlay ordinance. So in the wall ordinance it is your subdistrict max and don't have the terms of it and we haven't since 1985. So the only tool in the tool box that would allow us to do this project was a p.U.D. The other thing that it gave us the ability to do is have some flexibility with height, with set backs, both more and less than the cs zoning would require. And far as well. And then finally, the third thing was that it allowed us to confirm what we thought the proper affordability calculation would be. So the thing that we have to demonstrate obviously to use this tool is superiority. We have to demonstrate that the project that we have designed is a far better project than what could be built under existing rules. And it's those comparisons that I would like to take you through. First the 10-acre issue. I think that's been resolved now several times by this council and predecessors that in certain circumstances that you can go below 10 acres because it's the only tool in the tool box and certainly because in this case we have a unique site. What we came up with, and I'll just run you through some

pictures first, is something where we reversed the u to open up that side of the building, but also to create a better retail front along riverside drive. And you see the impact of that. The other thing that we were able to do is to pull the building back significantly from riverside drive at its western edge. One of the principal reasons was to retain some mature trees. This looks at it from west to east along riverside, and looking from the north to the south on lamar. A similar view from over the top of the pfluger bridge. A little bit more of a closeup. From north to south. And then focusing on the corner as it wraps lee barton. One of the primary comparisons that I would make for you again is the relationship to the bridges in the paggi house. You received a letter from the bridges' representatives today with regard to where we have gotten with our negotiations. I will let the bridges' representatives speak to that, but obviously one of the key things was in this new design was a better relationship to the bridges and to the historic paggi house. Looking from lee barton, that shows you that relationship and you see in that blue area that open air structure. So basically the only thing that can be there is sort of a shade structure all the way from 40 feet from the property line to 40 feet north of that property line. And then for the next eight feet you can only have a building that is a two-story building. Before you get to the taller building. Contrast that to a building that would be 60 feet in height directly on that property line. The other thing that I think is a key feature would be the use of the ground floor. We really wanted to continue the retail down south lamar, but we also wanted to have it along riverside. And the riverside edge was very important to our planning and is a key piece to this project. You see the comparison between the 60-foot design and the 96-foot design. Obviously you see retail at a ground floor level and you also see three floors of parking that's necessary to support both the residential and the retail. This is a ground floor plan. This shows where the retail and restaurant areas would be. As you wrap the lee barton corner you also have lobby space for the residential piece so you have a pedestrian oriented use that exceeds even the 75% requirement that's called out in the p.U.D. Ordinance. You also see the impact that's compared to the 60-foot design where you would only have residential units in those areas. You see the ability to save trees and so forth and I'll speak to in a minute. You have a very active, very active riverside edge with the 96-foot plan as compared to something that would just be people's courtyards if we're in a 60-foot apartment project. This is an enormous plaza area that is from property line 36 feet to the front of those buildings, and I think from edge of the curb more than 55 feet. Environmental issues that are another place where we can demonstrate superiority, tree preservation is probably the key. Those are existing trees, not heritage trees, but very important trees along the riverside edge. And by having a little ability to go up 36 feet we can backoff of that corner and save those trees. We can also save three of those four trees along the lee bore ton edge.

[15:00:10]

[One moment, please, for change in captioners]

>> ... Isn't a fault system but biofiltration areas which is the methodology of choice with staff. We will also meet a three star green builder standard with

-- with the 96-foot project. The contribution to off site pedestrian bike trails, there is a big need in this area for connecting sidewalks and for connecting bike trails, and you see the only one that we would be required to build is the middle section, which is at the back of our site. What we have offered to do is to pay for the city to build sidewalks connecting

-- [buzzer alarming]

-- on lee barton as well as on riverside drive. So let me wrap up by saying that

--

>> mayor leffingwell: Well, your time has expired. Wrap up in one sentence, please.

>> One sentence. We feel that this is a project that meets that superiority standard and we hope that you will agree with staff and with the planning commission that we meet that standard and it deserves your support. Thank you.

[15:02:11]

>> Mayor leffingwell: I have one quick question for you, just kind of verification or clarification. You, at various points in the presentation, were comparing the 60-foot design to what your pud proposal is.

>> Yes, sir.

>> Mayor leffingwell: I want to confirm, the 60-foot designs, my understanding, is something that can be done without council action, requires no zoning.

>> Requires no zoning or variances.

>> Mayor leffingwell and

-- and there is the relationship of the 50-foot design to a paggi house versus the 93-foot design, what is the difference there? There has been some concern about the historic prospect?

>> The paggi house can't be touched. It is historic. We are required to

-- because we are taking their parking lot, we are required to park their traffic in our garage, and they presently have 22 spaces. That's a grandfathered standard. We have to meet 38 spaces because that's the current code. The 60-foot project wouldn't touch the paggi house but it would be a 60-foot wall basically just off the patio. This does not

--

>> Mayor Leffingwell: Of the paggi house.

>> Of the paggi house. This defines moves that wall more than 40 feet away from them.

>> Mayor Leffingwell: So is it fair to say that the 93-foot design preserves the historic aspects of the paggi house better or at least equal to?

>> Yes, sir, we think it respects the paggi house to a far greater degree than a code compliant project would do.

>> Mayor Leffingwell: Okay. Thank you.

>> Thank you.

>> Mayor Leffingwell: Now go to the speakers in favor. Do you have a specific order that you

-- are you signed up, Mr. Dee, you can sign up.

>> Yes, sir, I believe I was going to follow Mr. Dre there was Ner and Scott Rogers was going to follow me

-- Mr. Drenner and then Rogers.

[15:04:21]

>> Mayor Leffingwell: How about Brett? Is Eleanor McKinney here. There she is, so you have 9 minutes.

>> Thank you, I am John Denessee with Winstead PC as well also here on behalf of the applicant. Mayor, I wanted to take a moment to address the paggi house specifically and how we believe it is enhanced by the proposed development. First, some background, the applicant owns paggi and he leases it to the entity that currently operates the bar and restaurant. Paggi is not part of this zoning case but we are sensitive and respectful of it. It has been a landmark since 1974 and it's a very special place, but it has become somewhat disconnected from its immediate environment over the years by surface parking lots and other automobile oriented uses. We feel like we have an opportunity to improve that with this project, to integrate paggi into a pedestrian-oriented environment, and to make it more inviting. There is a report in your backup from the historic preservation office correctly stating that there is no legal obligation on us as developing next to paggi but we do see it as an opportunity to have a positive impact on paggi by what we undertake in this project, including parking and design. It is underparked and utilizes a grandfathered parking scheme of 22 spaces in a surface parking lot and it pushes excess parking on to Lee Barton. We have agreed as Mr. Drenner cited, as part of the PUD to paggi to current code, to relieve the demand for Lee Barton parking and for the design, again, if your goal is to protect enhanced paggi, the PUD proposal before you far exceeds in terms of design what could be developed here under the

existing conventional zoning. Again, we reverse the u and allow for a more open design and require a 40-foot minimum setback from our own property line in proximity to paggi to allow for enhanced site lines. The existing conventional zoning, as you pointed out, mayor, requires 0 setback from this property line. We believe we can have good preservation practice and positive in fill and we looked beyond mere compliance to find a design that allows both, providing a walkable, pedestrian-friendly area will draw folks to paggi but we add sidewalks, both on and off site to make it more inviting and integrated into its immediate surroundings including the proposed improvements plan for auditorium shores. There are a number of examples of how austin

-- of how austin has coupled new structures and uses with landmarks to lie ven historic structures including the schneider brother buildings right next door as well know as lambert's at second and guadalupe. This was an important structure it languaged until it was integrated into a better pedestrian-oriented environment. We believe paggi can also enjoy a renaissance and continue to serve as a reminder of our rich history if allowed to thrive in the right environment. Thank you.

[15:08:01]

>> Mayor leffingwell: Thank you. Scott rogers. And he had several people donating. Will toriton. Aaron knees here. Jeff blatt. Jeff blatt is here and jeff scott. So you have 15 minutes.

>> (Indiscernible).

>> Mayor leffingwell: You have 12 minutes.

>> Okay.

>> Mayor and city council members. Good evening, my name is scott rogers, I am with ascension development which is a development partner with post properties, the owner of the property at 211 south lamar. Our involvement with this project began a few years ago when post acquired the site during the downturn. Since then

--

>> mayor leffingwell: Excuse me. Can you start the time, please?

>> Since then the demand for housing has obviously skyrocketed in austin, the opportunity for this new development has increased, and, therefore, this property has become a primary focus for a lot of people actually. There are a number of different views from individuals and groups regarding this

-- this property, as y'all all know, but there is no disagreement over the importance, the visibility and the desirability of this site. There should also be no disagreement that a project will ultimately be built to

replace the taco cabana, a restaurant we probably all have been to at one point in the day or night. It is at an appropriate use but not the most appropriate use, as we know. We believe all projects contemplated at this site will be visible and important, including a building that would be allowed under the current zoning. That building would not be invisible, nor should it try to be. It is a 60-foot building. It is on a prominent corner. It will be visible. Our team is asking for approval of a project that also visible and one that we believe is more important and more desirable. Not everyone will agree but many do. Mr. Drenner and others on our team will continue and have done a good job on trying to cover the rules on which we would build this project, because the rules would significantly change when we do

-- if we do get zoning for this but I would like this now to be a more desirable project in a video we prepared that will give you more than still shots and will fly through the site just very quickly. This is obviously the view from the

-- the pedestrian view from crossing the pfluger bridge. With the zack scott theater to the right. As I mentioned the project is visible on the pfluger bridge, not only 90-foot but 6-foot and this is heavily visited corners both pedestrian and car vehicular wise that we have. As we fly up around and toward the site, I think you are going to get a better sense of what we are trying to plan as a connectivity to the park across the street. I think it is one of the most important parts of this project. The trees that Mr. Drenner pointed out are a public plaza which will also slow public art, public bike racks, retail, and importantly, I think, a very viable, a very important restaurant space that would be a great amenity to the hike and bike trail and to the surrounding parks. And I am going to close it in this view, the thing that makes it most desirable is obviously the hike and bike trail, the parks and the views across the lake. Simply put, I actually am saying there is going to be a lot of debate about whether it's more desirable project. We are presenting what we think is a more desirable project. There are a lot of bonuses that we are adding to this project in order to get it and I hope you consider it in that form. Thank you.

[15:13:41]

>> Mayor Leffingwell: Jeff Blatt.

>> Jeff Blatt, managing partner at Paggi House restaurant. Basically our perspective is 60 feet is just going to cover the restaurant. 40 feet in the air, whether it's 75 feet or 40 feet, the restaurant is still covered. It's a more viable project at 95 feet because there is more articulation to the building, more public traffic. It's just a better project at 95 feet. You are able to do more articulation with the building. From our perspective, the restaurant is covered up, it is covered up and there is greater views at 95 feet at the corner of Riverside and Lee Barton and better traffic flow. That's basically it.

>> Mayor leffingwell: Good. Thank you. So now we will go to those against, around I am going to consider, just for the purposes of order, those signed up neutral, I don't know what that means on a zoning case. I don't even know why we do that, but first is gus pena.

>> (Indiscernible).

>> Mayor leffingwell: I have got it. Gus pena. Robert wilson. We are calling you now and the donating time is soosma smith. So you have six minutes.

>> Thank you. My name is robert wilson. I am here representing the bridges on the park condominium association. Our association has, in the last year and a half, in discussions with the applicant, registered opposition to the project, although we have continued to negotiate with the developer group in good faith tonight. We are coming to you registered neutral because we believe in the last week we have a negotiated agreement with the developer group on a number of key items that are important to the owners at the bridges on the park, my home. And so we are asking tonight for you to consider, you know, this agenda item on a first reading only. We hope

-- we have a memorandum of understanding that was delivered to your offices today and we hope in the next two weeks to be able to reduce that to restrictive covenant with the developer group and get that executed and come to total agreement, and if we are able to do that at the second and the third readings of this agenda item, we would be withdrawing our opposition and actually supporting the development.

[15:16:45]

>> Mayor leffingwell: Thank you, mr. Wilson. Linda team. Linda team.

>> Good evening, mayor, mayor pro tem, council members. My name is linda team. I have been involved in lots of plans work over the many years in austin and I am convinced in every good plan has to have preservation

-- like preservation in order for it to be a successful plan to build a city that's vital and economically healthy. The case before you tonight, I am not

-- I am speaking only for myself and not for any of the organizations that I am usually here representing, but along with other preservations in austin, we have been very concerned about the paggi house and what's going to happen there. We can't oppose this project or probably any other project because the mistake that was made in protecting the paggi house was made in 1974. The paggi house is a very significant building in the history of austin. It's probably one of the three oldest buildings here. It was the site where people came to cross the river. It was the low point

-- the low crossing

-- low water crossing and people would stay there until the water went down and go across. The paggi house, therefore, was related to the river and its view shed of the river was an extremely important part of its historical context, but when we were making these early decisions in our preservation program, we didn't pay attention to context. What I want us to do with this case is to use it as an example of why we need to think of context in the future when we designate buildings and sites that have a story to tell that we don't want to have cut off from view. We are hoping that if

-- i say we

-- I and my preservation buddies but nothing official

-- are hoping that as we do the code redevelopments, the things that we are doing now with our land development code and our other plans, that we will use some of the advice that came out of the downtown austin plan and set in place protection for historic structures that are next to our large developments. That's all I really want to say. We think this project, we are very encouraged by the fact that they are taking some steps to protect the paggi house. I hope they will do a good job of interpreting the story, even though they can't still see the connection as well, but I

-- I am pleased what they are doing to try to accommodate it as best they can. Thank you.

[15:19:42]

>> Mayor leffingwell: Okay. Now we will go to those who are positively against. And I have an order that I have been given that I am going to try to go by. First is Jack Graham. Jack Graham and donating time is Gary Hyatt. Is Gary here? You have six minutes.

>> This is Zack Graham and I represent Save Town Lake which is an organization, which for many years has its sole purpose to encourage the city to inherit the waterfront overlay and we oppose this project which I understand they are asking for, 96 feet. We heard numbers mentioned of 93 and 95, but I understand it is 96, 96 feet is 36 feet over of what would be allowed without variances. I believe that is 60% over

-- overage, if my math is correct and what I want to talk about or Save Town Lake is interested in, is that 36 feet in height. We oppose it. It's

-- granting the variances is opposed by a number of organizations. The Zilker Neighborhood Association, Bouldin Creek Neighborhood Association, River Creek, South Cities Neighborhood Association, which is

travis heights and also, as I understand, by zack theater. And it was not recommended by the planning and advisory board. What is this 36

-- 36 feet about? It is three extra floors, which I understand would be about 40 units facing

-- they would be facing the unit or have lake views, it is certainly understandable why the developer would want this extra 36 feet, three floors, an extra 40 units. The ones on north side would face the lake and the ones on the eastside would have a lake view and the ones on the west side would have a lake view. They would be

-- I would guess upwards of 600 or 700,000-dollar units. The people who would have the benefit

-- receive the benefit of this extra three floors, the 36 feet are people that could afford these condo units and of course the developer who would sell the units. And what does the public get in

-- to compensate for that? Extra three floors of 36 feet? They get, as has been described, it is a lovely building that lower is 60 feet but the upper 36 feet is, as seen in the pictures, it's a massive wall facing people who are going across pfluger bridge or lamar bridge, walking on a trail, out on the lake on kayaks or stand up paddles, all the people walking by, going to acl or whatever. The thousands of people every day that would look up and see this extra three floors looming over the lakeside are not receiving any benefit and they are receiving a detriment from the extra 36 feet that wouldn't happen if you grant this ordinance. So for this reason, save town lake opposes granting pud status for 211 south lamar. Thank you.

[15:24:39]

>> Mayor leffingwell: Jack, you said the community wasn't getting any benefit from the

-- I would just point out that the benefits are

-- were outlined in the briefing almost a half a million dollars in affordable housing funds, green building, mixed use development with retail and restaurant on the first floor, enhanced water quality, just to clarify, there are tradeoffs there. Lorraine atherton. And donating time

-- just

-- we will pass them down

-- donating time to lorraine is gardener sumner. So you have 6 minutes.

>> I am Lorraine Atherton here as a member of the Zilker Neighborhood Association zoning committee to tell you why this PUD is not where your current development standards on South Lamar. All of you have lived in Austin, I am sure, for more than 15 years and so you are probably thinking, come on, this is South Lamar. Anything that isn't a used car lot is superior. Well, I am happy to report to you that over the last ten years, the two dozen used car lots that you remember on South Lamar has been reduced to one, since your adoption of DCA's vertical use plan, vertical have lined up to standards that meet or exceed new development standards mainly because that's what the market is demanding. By comparison the PUD at 211 South Lamar looks like a refugee from the '90s. As the applicant explained, the eastern part of this site is not included in the VMU overlay but in light of the proposed PUD, combining this smaller parcel with the rest of the slight under VMU is preferable so I will compare the PUD with the VMU project at 1100 South Lamar, now known as Alamo Plaza. Let's start with affordable housing. As shown in the handout that I just passed out, Alamo Plaza meets the VMU

-- Alamo Plaza meets the VMU standard of 10% total of 60% on site. That's 44 out of 440 housing units worth between 2 and 3 and a half million dollars. Compare that with a PUD offer to build an extra 40 completely unaffordable units with zero affordable units on site and a fee in lieu that is half the value of affordable housing that should be built in a 60-foot VMU project. Anyway you calculate it, the PUD must contribute a minimum of \$715,000 just to stay even with the existing zoning because the residential construction allowed over the waterfront overlay is indicative to moderately affordable, unsubsidizable multifamily projects, DCA is not concerned about the effect of building a zoning compliant project. At least three of the projects under construction on South Lamar today include multifamily zoned parcels. That's what the market is demanding and DCA recommends those and besides, the VMU overlay prevents any residential construction that is not VMU. Either way to complain to claim superiority, the PUD must contribute more than \$975,000 to affordable housing. As for the other features that PUD claims are superior, the review of the Alamo Plaza plan shows, most of them are standard practice of South Lamar developers at least two years ago. For instance, innovative water quality improvements. Alamo Plaza includes rain gardens, water filtration, reduced impervious cover, reduced water runoff, all in these design manuals. That's why the board determined that the water quality provisions of the PUD are not superior. Open space, Alamo Plaza has street scape enhancements beyond the subchapter requirements including new sidewalk corridors for pedestrian use separate by paths and full on pedestrian landscaped on South Lamar and tread well and plus a plaza society associated with the Alamo Draft House theater and plus on the back side of the site, connecting family oriented housing to the rest of the neighborhood. The PUD is offering a 1,000 square foot plaza area, similar to the plazas at 1500 South Lamar in the Broken Spoke projects but it does not meet the requirement for ground floor public open space 301,600 feet are required for tier one on this project. And the other has about 300 square feet short. The rest is private and above ground level. Park land dedication fees; Alamo Plaza is required to pay more than \$200,000. The PUD has offered \$26,000 more than what would be required from a 60-foot VMU projects. We would rather have our scenic lake vistas. Parking Alamo Plaza has gone to great lengths to separate cars from pedestrian areas and remove garage entrances and exits to the periphery of the site. It even has designed valet services into the retail areas. The PUD's enormous underground parking garage is not a community benefit. It simply adds to the cost of the housing. Green building and electric vehicle charging, that sort of thing, everybody is

doing it. It has nothing to do with the zoning case. The latest mary lee foundation projects on south lamar have a green building rating of 3-4 stars, and they have been benefiting from solar panels for more than three years.

[15:31:41]

[Buzzer alarming] thank you.

>> Mayor leffingwell: Thank you. Cory walton. Donating time is richard grovwa. Richard, are you here?

>> (Indiscernible).

>> Mayor leffingwell: Is christian johnston here? You are here around signed up. Okay. You are here and have 6 minutes.

>> See if I can get this to work. Good evening council members. I am cory walton. I am a member of the bouldin creek neighborhood and a member of the water front planning advisory board. I want to talk to you a little bit more about the letter that we sent you from the water front planning advisory board as to its decision to advise y'all not to support this project. As you know, the

-- the water front planning advisory board was appointed to help oversee and uphold the water front overlay. The water front overlay, in turn

-- I am not going to give you a history lesson tonight

-- but was the product of the town lake corridor study which was probably one of the most citizen involved and citizen loved projects to be done in austin and the outcome of it was the overlay. If I can advance this. Here we go. That was done at a time very similar to the time that we are in right now, very intense development and a lot of bad development, very close to the overlay. We saw this as the austin american-statesman building. The hyatt project. These encroached fearfully on to the overlay and austinites at that time could see that what they didn't want to see on the overlay, and so the overlay was created to codify what we do want to see on the overlay, and those are some pretty simplistic things like provide maximum visual and physical access to the water front, to encourage pedestrian access and use of the corridor, and to protect the panoramic views of the water front from limiting building heights and prohibiting buildings from blocking views. So you can see that we are still in the same problems today. When this project came to the water front planning advisory board, we were concerned with one of the charges that we had, was to ensure that zoning decisions achieved the highest degree of land use viability by providing public access to the colorado river. We didn't see in this project any public visual access to the colorado river. Rather, with that kind of density and height, we saw it more restricted, where a few private owners were getting some great visual access. Another problem was in promoting excellence in design. This has been a challenge since the board was created.

This building does nothing either to uphold the design standard. There are design standards built into the overlay that included, you know, things like original rooftops, actually specifically excluding flat roofs, and varvarigaiting the sculpting, the front wall at 45 feet. And so there is a problem here with design that didn't meet any superiority standards. We also were concerned about a charge we had to facilitate corporation between neighbors and private landowners. As you have seen and heard from the neighbors, this is what those neighbors were promised when they purchased their homes just a few years ago, that they were going to see a twin building zoned the same

-- the same

-- the same height. This is what they are being handed by this developer. Take it or leave it. So I go back to a main charge of the planning advisory board and that's to provide a more harmonious interaction in a transition between the urban development and the park land and the shoreline of lady bird lake. Again, because of the climate that we are in of growth and development, that's probably more important now than before, and with this project, we didn't seem to be heading in that direction but, rather, in quite the opposite. I think we need to keep in mind that the visual and physical access and the views of the water front overlay are not only from the approach but from all of those thousands and hundreds of thousands of people who use it every day and what's equally important to what you see in the water front overlay is what you don't see. Let me repeat that. Equally important to

-- and this is a great reason for the purpose of the water front overlay is equal to what you see in the overlay, but what you don't see. So I think there are others who can speak to the particulars of the ordinance that

-- [buzzer alarming]

-- this project did not adhere to, and I am sure there are others here or myself or chair brooke bailey who can address the particulars of noncompliance with the overlay. I thank you for your time.

[15:38:30]

>> Mayor leffingwell: Thank you. Tom nuckols. And let's see. Donating time to tom is brooke bailey. Brooke bailey is here. So you have 6 minutes.

>> Good evening, I am tom nuckols with the barton hills neighborhood association. Approval of this pud as proposed not only would be bad policy, it would violate the pud ordinance itself and moreover it would violate state law. It's bad policy for council ad hoc variances to code provisions that protect community values. You recently corrected a bad policy that you had allowed to stand for some time when you amended cure to stop allowing it to be used as a loophole to get out of the downtown density

bonus program, the downtown density bonus program when it started it was a way of affordability in austin. It served as an important community value. Height limits serve that purpose. They protect our view in vistas and allow sunlight to shine on our lots and streets and they keep our buildings to a manageable human scale. If you approve this pud, it would be the third time you have used the pud tool to essentially waive or grant a variance to a code provision that protects an important community value, with the part pud, the runtex purchased and you would have this butted, you would have three times, essentially do what the pud toll in height limits did that you do with the downtown density bonus through cure, so I urge you not to repeat history. The pud as proposed does not comply with the pud ordinance. I've heard it said in discussions of this pud that essentially we are trading 36 feet of building height for various community benefits, affordability, water quality, et cetera. That is not how the pud ordinance works. Specifically you need to look at section 2.2b2c. As jerry rusthoven stated earlier, yes, the pud ordinance allows provisions of code to be waived, but before that provision can be waived, the council has to make a finding that the objective of the waived or modified requirement is substantially achieved. So, in other words, to waive the 60-foot height requirement, you have to make a finding that a 96-foot height limit is as protective as the 60-foot limit. I don't think a finding like that would withstand judicial scrutiny. When you raise the height limit by over 50%, you are not substantially achieving the purpose of protecting views, the purpose of letting sunshine on the streets and sidewalks and keeping buildings to a manageable human scale. Likewise with the affordable requirement, the pud ordinance. Yes, you can waive that under the pud importance but you have to

-- under the pud ordinance but you have to make a finding whatever ordinance you put in its place provides the same amount of affordability as that provision, and when you are

-- the pud provision says you have to base it on all of the square footage of the building, and a provision that says, no, we are only going to base it on the bonus area does not provide as much

-- as much affordability. It doesn't get anywhere close, much less, to substantially achieve the same purpose. Likewise with waiving the ten acre requirement. You can waive that but, again, whatever you do instead has to substantially achieve the same purpose. When you look at the ten acre requirement, it says it can be waived in special circumstances. With respect to the park, runtex and this pud, the special circumstance the developer cited was, well, we don't have a 10-acre tract. Essentially they are all saying, we can't meet the 10-acre requirement because the land around us is owned by somebody else and they are using it for somebody else so nothing in those three cases served the same purpose as the ten acre requirement. Finally, by repeatedly waiving the 10-acre requirement, council is violating state law. As you know, the city's home rule powers are limited by state law. The legislature has enacted a statute that prescribes to cities how they are to carry out their zoning schemes. Under that statute, the council serves as a legislative body. You make policy decisions and don't codes. Under that statute, the only entity that is granted the power to deviate from those codes on an ad hoc basis is the board of adjustment, and they have to do so based on hardship standards. Now, the reasoning behind that is the legislature wanted to protect the integrity of the code. Your legislative body, it is fine when codes are being adopted for you to be lobbied but the board of adjustment is a judicial body. They behave like a court and they can't be lobbied

-- or developers cannot come to them and barter for waivers. They have to prove it on the hardship basis. But that's the situation you are finding yourself in with these constant waivers of the waterfront overlay height limits and I would point out that when the waterfront overlay was most recently adopted in 2009, at the council hearing

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[15:44:50]

[buzzer alarming]

-- the question came up about the legalities of the inner play between pud and waterfront overlay. You were advised by the city council that it was a gray area. What I will say

--

>> mayor leffingwell: Listen

--

>> it was a gray area when park was adopted.

>> Mayor leffingwell: Your time has expired.

>> It moved out of the area when runtex and this one are adopted. Thank you.

>> Mayor leffingwell: Thank you.

>> Morrison: Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I have a question for our legal staff. We heard mr. Knuckles talk about when council can modify the code, mr. Rusthoven, that's what we talked about before, you said we can modify it, the pud code itself, and in nuchols pointed out that there are requirements when we can modify the code, in particular the objective of the waived or mod bid requirement is substantially achieved. So can you

-- I guess my question, I think to the legal staff is the most black and white question on the table is

-- is it your opinion that an affordable housing contribution based on just 36 feet, ie, the bonus area, is substantially achieved

-- is a substantially achieving an affordability requirement which is in the code now which is based on all of the square footage?

>> Good evening, David with the law department. I am assisting Ms. Sanchez on a number of these questions. I want to make sure I understand your question, Council member Morrison. Could you rephrase that to make sure I get the gist of it.

>> I will say it a little bit differently. We have it clearly written by the law department that our code right now requires that the affordability contribution be based on the total square footage.

[15:46:55]

>> Yes.

>> Morrison: Mr. Rusthoven has said that we can actually change that and base it only on the bonus square footage, if we so require, because the code allows us to do that. But Mr. Nichols pointed out that we can only modify things if the objective of the waived or the modified requirement is substantially achieved. So is it a legal opinion on making an affordability contribution to basically a third on the amount of the square footage substantially achieve the requirement

-- the objective of basing it on 100% of the square footage? It just seems like it really doesn't substantially achieve that and that we don't have the authority

-- that's what it appears to me

-- that we don't have the authority to change that.

>> Yes, ma'am. I think I understand the question. I think

-- I will start with one concern, if you would, that I had. I didn't work on the original IFC that came before council, but my understanding is that that was a directive to bring an additional agenda item back in the form of a code amendment. Is that correct?

>> Morrison: That's correct. It is not here yet. It is not what the code says now.

>> My own personal concern would be I simply don't know what the council's ultimate action would be on that item. It may be that that's

-- that that

-- that the code amendment fails and we are left with the literal and current wording of the code.

>> Morrison: I am really confused. We have code written today that we have to adhere to.

>> Yes.

>> Morrison: Can we modify

-- can we waive our modify the requirement in the code today? If it does not achieve the objective of the code today? I don't see what council's future action has to do with what we do today.

[15:48:57]

>> Well, okay, and the way i see the

-- the affordability requirements as being written is they can be modified in the sense that the height or far can be increased, provided that the applicant provide those additional benefits, for example, by the way of affordable housing.

>> Morrison: By way of affordable housing based on the total square footage?

>> That is correct.

>> Morrison: And that's not what is being proposed by the applicant. He is proposing to base it only on the bonus square footage. How is that substantially achieving the same objective?

>> Well, again, I would agree with

-- if i understand your

-- your

-- your statements, council member morrison, that the

-- that the way that the code is currently written, it's based on the total square footage, if you would, of the pud, not on, if you would, the difference

--

>> Morrison: Right. We have that settled, written. My question is do we have the authority to waive it to the degree of allowing them to only make the contribution of

-- based on the bonus square footage? Especially in light of this line that mr. Nuchols pointed out?

>> I have concluded that

-- and I have to be careful in this regard as to what the council's powers or what your discretion is but the safest course of action is that the council would need to follow the plain wording of the

-- of the code as it's written now.

>> Morrison: So that's a little inconsistent from what we heard from mr. Rusthoven earlier.

>> Mayor leffingwell: Can i suggest that you consult with your colleagues on this legal opinion given right now and let's go ahead with our public hearing and we can readdress this issue when it comes time for discussion. Okay?

[15:51:09]

>> Yes, mayor.

>> Mayor leffingwell: Pierre rou. I don't know if I am pronouncing that right. Rio, rou. Donating time to you is jeff jack. You have 6 minutes.

>> Thank you. It's reyou. Thank you for asking. I am a member of the zilker neighborhood association, have the masters in public administration from utsa and a law degree from u.T. I have been practicing law in austin for 17 years. On july 31st

[riou] i submitted c82-c92 submitting my legal opinion which differs from staff. My opinion is there is no provision anywhere in the code that permits the council to approve pud zoning for a .933-acre lot when the requirement is 10-acres or more. On august 5th, I submitted a letter on the

-- my legal opinion that pud zoning does not eliminate the prepud height restrictions applicable to a property. Now, the developer said that the pud is the only tool in the tool box. It's actually

-- there is no tool in the tool box for this 96-foot proposal. It has been said that where there is a will, there is a way, but it has also been said that lawless are they who make their will their way. There is no way under the code to approve a 96-foot building. If you have any questions about those letters, I would be happy to answer them after ward, but for now, i just want to provide some memory aides or rule of thumb of applying the 10-acre minimum and the water front overlay height standards. Anybody remember remember ammity island, fishing for a great white shark? You are going to need a bigger boat, austin. Issuing a pud approval for a .933-acre property? You are going to need a bigger lot. You can't stuff 10-acres of pud on to a less than one acre lot. You can't even use the plural form acres here. You can't even use the singular acre. We have to talk about fractions or perhaps milli acres. No matter which provision of the code the applicant might want you to rely on, you can't get around the fact that this would be spot zoning. What's in a name? That which we call spot zoning by any other words would smell as fishy.

[15:54:30]

Remember these words: If it doesn't fit, you must quit. The pud review process. Now, we are all tired. It has been a long discussion. They wouldn't allow me to bring rhubarb pie in here. Wouldn't it be nice, being it is the music capital of the world to have a little care ye, okay? This lake is your lake, this lake is my lake, from the long dam to the red long island to the fiesta gardens to butler shores, this lake is scenic for you and me. As I go hiking. ♪♪ Or I go biking. I see above me endless green and sky scenes. In the placid waters, I say this lake is scenic for you and me. They sought a high pud that would block the scenery. A sign would be painted private property, but the people said no. And the council listened. This lake is still scenic for you and me. That's the happy optimistic version. There is a sad version. [Applause]. Because I know in code

-- thine own code be true. Please vote no, keep lady bird lake cleared of visual clutter. Thank you.

>> Mayor Jeffingwell: Thanks. Don't quit your day job. [Laughter] david king. And donating time to david is elizabeth yavich. You have 6 minutes.

>> Thank you, mayor and council members. As you heard tonight from the previous speakers, you lack legal authority to approve rezoning of this property as a pud and even if you did have such authority, the proposed development is not superior to what could be developed under current zoning for this site and does not fit austin's community values. Waiving the 10-acre minimum size requirement in the pud ordinance and approving the requested height and setback variances would be arbitrary, capricious and unreasonable and expose the city for potential litigation for spot zoning, waiving 10-acre requirement for special circumstances is a variance by another name. State law specifies that only the board of adjustment may approve variances for zoning laws for individual lots. Because this application does not meet the most basic requirements for the council to consider rezoning the property as a pud, you can't even consider the developers superiority arguments. You can't get to second base without going to first base, but even if this application were eligible for consideration as a pud, it would not satisfy the superiority requirement of the pud ordinance. First, the developer is offering much less affordable housing for a 96-foot building than would be required for a 60-foot building under current zoning. The developer offers just \$438,000 for affordable housing, while vmu would require at least \$975,000. Vmu zoning also requires affordable housing to be on site

>> by paying a fee in lieu, the developer wants affordable housing to be off site. On site affordable housing creates mixed income neighborhoods and helps moderate and low income families climb the economic ladder which reflects more of austin's values. Second, the proposed massive 96-foot building is inconsistent with lady bird lake and the surrounding park land. It will tower over lady bird lake and be visible from the hike and bike trail, create more traffic congestion on west riverside drive, a designated scenic roadway and increase traffic on south lamar boulevard, already one of the busiest urban roadways in austin. Forty more units for an additional 36 feet in height will generate negligible impact on tax revenue and would not reduce urban sprawl. Third, environmental board was unable to determine that the environmental components of this proposed pud are superior to existing zoning

requirements. Fourth, the waterfront planning advisory board voted against the proposed pud zoning for this site because it exceeds the height limit in the waterfront subdistrict. Fifth, the pud ordinance does not make the height limit in the waterfront overlay subdistrict inapplicable. If the council were to modify the height limit for this proposed pud, it would expose the city for potential litigation for ignoring it in the pud ordinance for the adverse effects of the modification be offset by other enforceable requirements. The developer has not provided any plans of how it intended to offset this loss of scenic vistas and visual corridors that would increase the height to 96 feet. One of the objectives of the overlay height limit is to protect the panoramic that rammed views and this old who not allow it in the butler shore district. Six, many of the commercial and design standards offered by the developer for pud zoning are required or options under vmu zoning. Developers of vmu projects provide green buildings, underground parking, open public spaces, mixed retail and residential uses, park land dedication fees, rain gardens, pedestrian friendly landscaping, connectivity to bicycle routes and tree preservation, for all of those reasons, this pud is not superior and does not fit austin's community values. In conclusion, you do not have the authority under the law to approve this application for rezoning as a pud. You don't have the. .[One moment, please, for change in captioners]

[16:01:12]

>> working to keep austin affordable has to be a top priority of city hall. This proposed pud would not further those goals. Many of the things that we cherish about

-- cherish about austin such as lady bird lake are not the fruits of our labor. Please vote to protect austin's unique quality of life and support affordable housing. Please deny this application for rezoning as a pud. Thank you.

>> Mayor leffingwell: Thank you. And council, propose a motion to sustain the meeting until after 10:00. All in favor say aye, opposed say no. Passes on a vote of seven to oh. Lowe lowe is there any other speaker to who is signed up to here in opposition of this zoning case? Any other speaker? Come forward and tell us your name. You're on st. List. Go ahead. You have three minutes.

>> I'm a homeowner on barton place. I bought there in 2007 when it was still sketches. It was clear to me the developers that worked very hard with the neighborhood around barton place and at butler shores, the design of the building was respectful of austin, you know, it basically got approval from everybody, it worked hard to preserve trees. Unfortunately some of those trees were lost in a windstorm as you know. The project I'm looking at

-- although, as a retired civil engineer, you know, i can certainly understand how they talked themselves into this, you know, going from 60 feet to 96 feet and really painted a very pretty story, but this building looks like it belongs in downtown houston, not on the taco cabana property.

[16:03:46]

[Applause]

>> I've stood on the top of Barton Place and looked across. It is a massive, massive building. When you stand up there and see it and visualize how big this thing is going to be, it is enormous. All things considered, I respect their rights to want to develop this property, they have that right, but I ask you, please, hold them to the existing zoning. Hold them to the waterfront overlay. Thank you.

>> Mayor Leffingwell: The other speaker, what's your name?

>> [Inaudible]

>> Mayor Leffingwell: Okay. You're on the list.

>> I'll give you a quick story of how I came to be here. Listening to the radio this week and I

-- radio this week and I heard about the city council meeting. I'm coming here more emotionally than academically, I don't have the information that they have. But I'm sick of all these condos. I think they're ugly, I don't think they're lovely and nice, and I don't think they're a benefit to Austin Austinites like myself watching all this development happen. I don't like it. I came here, I saw that this was on the agenda and I signed up to speak just to say I don't like it. I don't like what's happening. I don't like how developers have gotten full reign. I've got at least one, two, three, four bones to pick with city council members so I'm going to start coming to city council meetings more often. I just wanted to make my point that I don't like how the perspective of Austinites is being overlooked in favor of, quite frankly, smug faces in suits. You know, I love this city, I'm a musician, but I'm a hard-working individual. You know, I put in my full time and I have fun in Austin when I can, and I can't stand seeing all these buildings go up that don't contribute to the true beauty, heart and soul of this city. And I don't think that that is in concrete, I think it's in people, and I would hope that you could look into your hearts to turn down this zoning for this developer. I don't think we need it. And I think that a lot of people would appreciate you taking a look deep inside yourselves and listen to the people of Austin. Thank you. That's it.

[16:06:25]

>> Mayor Leffingwell: Okay. I believe that's all the speakers signed up in opposition that want to speak. So, Mr. Drenner, day, Drenner, you have three minutes for rebuttal.

>> Thank you, mayor. If you'll go to slide 60, I wanted to briefly mention the affordable housing issue again. Obviously the current ordinance leaves with you the question of whether or not you pay a fee in lieu, or whether you do units on site. That's not a decision that we make. If you choose to have a fee in lieu, that's the calculation that you would go through, given the way that you have indicated that you want the pud ordinance to be interpreted. If you

-- that turns into on-site rental units, if this is a rental project, that would be 18 units, if it's a condo project, that would be nine units. It seems to me that a fee in lieu goes further, but, again, that's your choice, not ours. With regard to some of the legal issues, I think that the suggestion is the correct one to

-- if some of the speakers are correct about your opportunities under the pud ordinance or your restrictions under the pud ordinance, that will set a standard far different than what you have been operating under, and I couldn't more strongly disagree. With regard to this project in trying to make things as simple as possible, let me remind you that the only visioning document for this area is waterfront overlay ordinance. The waterfront overlay ordinance since 1985 has clearly envisioned a 96-foot project can be built on this project. Clearly has indicated that that is the maximum, and that that is

-- that is the

-- allowed at this location. And that's exactly what this project does. Because we don't have density bonus provisions, the pud ordinance that utilizes a community benefit approach is the only thing that we can look to, and we have looked at that, and we have tier 1 items, and we have tier 2 items. And, as you see, with the checks, I think that clearly this is a project that checks the box with the only ordinance that we can look at, and the ordinance that is supposed to tell you how you determine superiority. And that's exactly what we've done. I think you have a clear choice here. It's really

-- there's a lot of focus on 36 feet, more than 60 feet in the air. I wish there was more focus on what happens at a people level, because I think we really have an opportunity to create a special place for the people who enjoy the lake, whether they're on the trails, whether they have just been on the trail, they're going to go onto the trail, or whether they just want to sit and be close to the water. It's the only place on the south shore with this kind of an opportunity. At 36 feet over 60 feet, 230 feet off the water's edge, it hardly looms over the water's edge. This is a view and a comparison to downtown. So we ask for your support and to allow us to move forward with the project.

[16:10:17]

>> Quick question for you, there was also the insertion that was inferred by a couple speakers, that this property would be governed by vmu zoning. And my understanding is that is not the case. What is your opinion? I probably should ask city staff on this, too.

>> We would have the opportunity, if we chose it, to build under vmu for the portion of the site that's basically not the surface parking lot used by the pagey house. But we don't have to. We can build a multifamily project without any of the vmu restrictions or benefits. For instance, vmu waves parkland dedication fees. We're not doing that. But this is the

-- to compare what we're proposing to do to vmu misses the point. This project will never get built at

-- even at 60 feet under vmu. It's either the clear

-- the clear choice is either it's this 96 project or a 60-foot project that would be exactly as I've shown you.

>> Mayor Ieffingwell: Under what zoning category?

>> Under cs with the ability of the waterfront overlay to allow the multifamily use. So the language in the waterfront overlay ordinance says that you can use

-- you can have a multifamily use at a location with cs zoning.

>> Mayor Ieffingwell: Okay. Thank you. Mr. Russo, can I ask you if you confer with that? Could I ask you if you agree with that?

>> Yes, I do agree with that.

>> Mayor Ieffingwell: It could be built just as a multifamily unit as 60 feet as was described in the presentation.

>> Yes.

>> Mayor Ieffingwell: No requirement to build vmu standards or requirements?

>> No, it's optional. Councilman Riley.

[16:12:24]

>> Riley: We had one speaker building under current zoning would require a contribution of some \$9,175,000 for affordable housing. If the project were built as Mr. Drenner under the current zone, would there be a contribution

--

>> there would not be a requirement if you were not taking advantage of the provisions the vmu allows them to take advantage of at his discretion, at his option.

>> Riley: So there would be no need

--

>> the project built today at 60 feet.

>> Riley: Zero contribution to affordable housing.

>> Zero contribution, zero units provided.

>> Riley: I also wanted to ask, there's some question that current zoning would require some 3600 square feet of open space. Have you calculated how much open space would be required under the current zoning as mr. Drenner proposed?

>> Yes. I don't have those numbers in front of me, but we have looked at it and we efer required the

-- we've tiered wundz 10%, and tier 2 another 10% above that. It does exceed those by 20%.

>> Riley: Okay. And do we know how many square feet would be required under the

--

>> it was about 4600, but i think mr. Drenner might know it exactly.

>> Riley: Required with the multifamily project under current zoneing? The note I have that it would be 5% of 39 total square feet which comes out to a little less than

--

>> I think we can do the math. Note 37 on our plan says that the minimum requirement for the nix

-- 96-foot project which is 10% above the tier 1 minimum. And the tier 1 minimum is... We're doing a little math. We'll be right back with you .

[16:15:14]

>> I was doing some math on this myself, and i understood that they would be required to do five% of the total square footage with the multifamily under the current zoning and my calculations it came out to a little less than 2,000 square feet.

>> That sounds about right. A project like this directly across the street from a vast amount of public open space.

>> That's been brought up by a number of people.

>> Council member Riley, I believe that the tier 1 number would be

-- which is 10% of site area for your residential portion and 20% for your nonresidential portion would give you a number of 4,214, and then the tier 2 requirement, which is an additional 10% gets you to the 4636 number.

>> Riley: Okay. Thanks.

>> Mayor Leffingwell: Okay. Council? Entertain a motion? Councilwoman Morrison.

>> Morrison: I wonder if we could pick up where we left off.

>> If the council will indulge me I'd like to read a short piece. The code states that the proposed development must comply with the requirements of this code, so it is a whole, except that the council may modify requirement under section 2.5 which is the density we spoke of earlier. B, the council may waive or modify a requirement if one, the applicant identifies the waiver, and two, the council finds that the resulting development would achieve greater consistency with the goals enumerated in section 1.1, and the development would happen without the modification. And the section says the intent of the planning and development district is to achieve the goals of preserving natural development and ensuring adequate public facilities and services. The council intend that's the applicant district used to produce development that use these goals at a greater degree, that is therefore superior under subdivision. So the council must find that it meets that general intention requirement. And that, two, the adverse affects of the waiver modification are offset by other requirements, developer's offering that we can enforce through the ordinance, and finally, c, the waived or modified requirement is achieved. So what this states is that the council find that's the objective of the waived modified requirement is substantially achieved. So if the objective is affordability, in my opinion if the council find that's what the developer is offering substantially achieves that objective, then the council may approve the applicant ordinance.

[16:18:47]

>> Morrison: So the council gets to make the decision as to whether or not \$439,000 substantially achieves the objective of \$1.2 million?

>> I would say

-- that's not the way I would word it.

>> Morrison: You wouldn't word it that way, I would. But it's a council finding, that's your point.

>> Yes.

>> Morrison: Right. Okay. So point being, it's a finding by the council, so it's not a question for our legal...

>> In my opinion, yes. It's that the council finds that these requirements have been met.

>> Mayor Jeffingwell: Council

>> since you're standing here, jerry, at one point you referenced a little while ago that you got the message for us as to what it was our intention for affordable housing requirements in pud would be, and that you'd be getting laing back to us to mod

-- language back to us to modify the pud ordinance consistent with that intention. About when would you be likely to doing that.

>> I don't have my calendar for this week. We're going to be going to the

-- next week we're going to the housing subcommittee, community development commission, and then i believe about the week after that or the week after that, we'd be going to the planning commission, and that's the codes and ordinances meeting, and then we'll be on to the planning commission. I believe that we're hoping to come back to council on either september 26 or october 3rd.

>> So we're talking september or october before you can actually get that cured.

>> But we're going to bringing next week to the cdc under proposed language is frankly it's

-- I won't say it's

-- includes more than today, because today it breeches the whole building, but for the density bonus, it doesn't just simply take what exists to day for the whole building and say it applies to the bonus, our proposal will be to actually increase the affordability levels beyond what's in there today, the price of the whole building.

[16:21:08]

>> Spelman: It seems to me, mayor, that we are on firmer legal ground if we

-- if we were to say yes to this pud, we would be on firmer legal ground if we were to do so only after we had actually modified the pud ordinance so that the ordinance on its face were consistent with the requests of the developer. That couldn't happen until the end of september or the beginning of october at the earliest, is what it sounds like to me. And I'd like to make a request

-- or ask a question, mr. Drenner, consistent with that.

>> The situation we're in is we're interpreting an ordinance which on its face says we can't do what you think we ought to do. The majority of us believe that the pud ordinance was erroneously written and needs to be rewritten consistent with what it is that you are suggesting, but on its face, it's not saying that right now. Would you be willing to have at least the last reading of this thing, would you and your client be willing to have at least the last reading of this pud be after september 26th or october 3rd or whatever date we were able to cure our conflict from the pud ordinance?

>> I understand the issue. Could I amend that

-- could we do it at the same meeting? In other words, you said after.

>> Spelman: Chances are extremely good that there would be a time certain, like for 11:00 at night or something for this case anyway, so if we did this at the same meeting, you guys would get to go last almost certainly.

>> That would be fine. But I do understand the issue, and what that would allow us to do, if you go ahead and move it through, for instance, first and second reading would be to get an ordinance drafted, and then that would allow us to get on with our site plan review. We can't move forward with site plan review until we at least get an ordinance drafted. But I understand if you want to wait until third reading until you have the corrective action on the pud.

[16:23:29]

>> Spelman: I have another question of you while I've got you here.

>> Sure.

>> Spelman: I believe you made this argument in passing when you first came up, a couple of hours ago, and I've frankly forgotten the details of it so I'd like you to refresh my memory. You said that this

-- and i think you referred to it again a few minutes ago, this site will never be built using vmu. I wonder if you cannery mind

-- remind me for why you believe that's true.

>> The vmu ordinance, the reason that it's used elsewhere, for instance, down south lamar is in those places where they had commercial zoning. It's the only tool that they had that would add multifamily zoning without going through an elongated zoning case. That's not the case here. Because since we're in the waterfront overlay, we have burdens and benefits from being in the waterfront overlay area. One of the benefits is you get multifamily zoning as a matter of right. So the vmu, the principal benefit of the vmu is it adds the benefit of doing multifamily. We don't need that here. And when you weigh any of the other benefits, for instance, be really careful what you ask for, we could throw away all the setbacks by using vmu, but we wouldn't choose to do that. We would build without the burdens that vmu imposes on you, because we

-- none of the benefits are important to us.

>> Spelman: The primary benefit of vmu is multifamily voaning, you

-- zoning, you get that anyway.

>> We already have it.

>> Spelman: Without any of the cost. That's why it wouldn't make sense for anyone to pick vmu.

[16:25:33]

>> That's correct.

>> Spelman: And therefore the proper measure of the superiority of this project is not vmu, which would not be used, or at any rate it could be voluntarily used, but would not be required of any developer to do substantially similar development to what you're talking about.

>> That's exactly right.

>> Spelman: Is proper standard is cs zoning with multifamily on top of it?

>> Yes, sir.

>> Spelman: The 60-foot building that you've been showing us. So therefore if we're looking at superiority for pud standards, that's what we ought to be looking at?

>> That's exactly right.

>> Spelman: Thanks.

>> Mayor leffingwell: So in other words we could go ahead, first and second reading, or first reading, whatever the choice s and in addition to that we have

-- we're waiting for this mou to be finalized between the bridges, agreement between the bridges and the developer as a consider of support of the bridges condo people as they discussed and as we have written in our letter. So entertain a motion. Councilman riley.

>> Riley: Mayor, I will move that we close public hearing and grant the requested pud district zoning as recommended by staff with a couple modifications. One is that

-- well, first, I all notes that are presently on the land use plan will be used, and secondly, that suggestion about one particular note, note 36, which speaks to the ground level uses. Right now, the note 36 requires pedestrian-oriented uses at the ground level. Under the waterfront overlay pedestrian-waterfront uses could potential by be pedestrian uses. I know we expect to see something other than residential, we expect to see one of the other pedestrian-oriented uses, like a cafe, and so I would suggest that we add to note 36 the following note: None of the pedestrian-oriented uses along river side drive or south lamar boulevard shall consist of residential uses.

[16:27:59]

>> I believe we understand the direction and we can easily do that in the ordinance.

>> Mayor leffingwell: As i understand your motion, councilman riley, how many readings are you proposing.

>> Riley: First reading.

>> Mayor leffingwell: Just briefly. I appreciate councilmember's recognition that I think there's some rules to respect, but the bottom line is I don't think this is a surprise to anyone that i don't intend to support this. I believe we need to stand up and support the waterfront overlay and make sure that we really are fulfilling the vision that the community has, and i don't believe that this does that. I want to thank everybody who came out and worked so hard and is working so hard on trying to really articulate the issues. Councilman riley.

>> Riley: I would like to speak to the motion if i could.

>> Mayor leffingwell: Yes. Sure.

>> Riley: I fully agree that we need to respect the waterfront overlay and I've spent a lot of time looking at the waterfront overlay and the documents that led up to it, in particular the town lake corridor study from 1985. It is a very important document, and for those who haven't read it, I really encourage you to

take a look at it. It provides a lot of very helpful guidance for cases like this. What you'll find when you look at it is there is an overriding emphasis, above all things, on a superior design for projects. In fact, they even go so far as to say in policy 2.05, focus land use guidance on the quality of urban design rather than floor area ratios and height controls. That is

-- and there's lots of talk about getting away from surface parking and moving more towards mixed use. In fact, for this particular subzone, action 3.02, for this area, actually emphasizes in particular the need for pedestrian-oriented mixed use. And of course, as we all heard, when the waterfront overlay was adopted in 1986, the year after the corridor study, the maximum height set for this district was 96 feet, which is exactly what's on the table here. This is exactly the sort of project that promotes the goals of the waterfront overlay. To me, the most important thing is what

-- is having an inviting place right there that actually embraces the waterfront and welcomes the public. If we go with current zoning, what we get is an apartment complex, and that's it. You'd have the sidewalk and an apartment complex. And to me, that does not particularly embrace the waterfront or invite the public. That's not a particularly welcoming thing. No one other than people living there have any business going by that building. Whereas with this project, you actually get

-- you get a plaza. In fact, the plaza that we get is, it itself, you get a plaza that's 55 feet back from the curb, the plaza itself is about

-- almost 2800 square feet, which is significantly more

-- that's even more

-- that's more than all of the open space that we'd be required under the current zoning. And beyond that, we also have

-- there's an additional 2,000 square feet of open space beyond that. We also get public meeting space that the public can come to, you get public art, you get those existing trees, the bike kiosk, this is a place that's going to welcome the public to come and enjoy the place and have a drink or a meal there on that plaza, enjoying the waterfront. You get none of that with existing zoning and leading to just a regular apartment complex. To me, that is the most important thing and directly serves the interest of the ideas behind the town lake corridor study and the waterfront overlay. Beyond that, we also get

-- we get additional density, we do get 40 more units, which I do believe is important, a number of people have raised concerns about traffic, but having units located in a place like this, whether we expect to be walkable, is the answer to our traffic problems. It's not the cure. It's not the problem, it is the solution. We need to provide more places where people can actually use means of getting around other than the cars. If this development doesn't go here, it goes into places that are not bike and pavement friendly and people are going to be driving here and generating that much more traffic. At least people here will have options other than the car. And finally with affordable housing approving the pud we get money to contribute toward affordable housing. So for all those reasons, I think it warrants our support. Mayor Leffingwell councilwoman Tovo.

[16:32:59]

>> Tovo: I want to thank everyone that came out here. I think we've had some very good testimony here today. This is a very special site, and there's no doubt the site is going to be developed, it's going to be very developed for the people who live there. But what gets built on this site is going to have a tremendous impact not just on that corner, but on the surrounding area, as so many of you have articulated. What gets built there is really going to have an impact on the lake and on the surrounding parkland. And it is, those bases are precious to our community, our lake and our surrounding parkland are really sacred community spaces, and we have an obligation to regard any kind of development that might negatively impact with great scrutiny. I'm also really struck that this is at least our third, possibly fourth about affordable housing today. And it really grieves me to have before us a project that while it does include an affordable housing contribution, that might not exist under the existing zoning, it really falls far short of what we currently have in our code in terms of requirements for a planned unit development project. So, you know, with that said, I don't believe the project is superior to what could be developed under existing code, nor do I feel like it reflects our community values. So I will not be supporting the motion. Councilman Martinez.

>> Martinez: Thank you, mayor. I'll be brief. I know it's been long. I've been trying to keep from losing my voice all day. I struggle with this, when I met with the neighborhood associations I shared a lot of their concerns, and I still do. I agree with the sentiment that some folks walking across the bridge headed to the south are going to feel like they're walking into this massive wall. But I engaged in conversation today with a friend who was here this evening, and she actually spoke, Lynn who worked for over 18 months along with many others on the rewrite of the PUD ordinance, and she made me think about it from a different perspective. And she talked about it briefly as it relates to Pagey House and how we don't have anything in our historic preservation that really protected Pagey House from the zoning category, I think it's CSV in front of the house could have done. That at least this proposal recognizes Pagey House in some way. So that was significant. You know, talking to someone who's been through this conversation with us, as we rewrite the PUD is very involved in neighborhood issues, and, you know, how often it grows and develops was really important. Secondly, when we talk about being neighborly, having the homeowners association, the bridges come around and support, because I also met with them very early on, and agreed with many of their concerns, that

-- those are the most significant neighbors impacted, including the Pagey House. And having them come on and support was a significant shift. So I still share a lot of the concerns, I do plan on supporting this on first reading, with the understanding that the MOU has to be modified before it comes back to council, and I would like to see that come back on second reading, and then have third reading the night that we potentially change the ordinance to be more in line with what we're doing, so that the

homeowners association directly adjacent to the property can at least get their part of the agreement out of the way. Mr. Dr enner, did you have something to add to that.

[16:37:01]

>> We could put that on the august 22nd meeting or the august 29th meeting and then not bring back for third reading until we bring back the pud density project which we're projecting to be october 3rd, we'll table this item until we get to that item.

>> Mayor leffingwell: And on a lighter note, based on the twitter family out there, i guess people want to know, are we still going to be able to get tacos in the restaurant since everyone's referring to this as a taco bud. You know, I love taco cabana just as much as anyone else, but I don't think it's

-- you know, as much as I love a good taco in the middle of the night, I still think we'll be able to have some of those public amenities with a development like this. So I'll be supporting on if first reading with reserving the right to not support it on second and third. Mayor pro tem?

>> Cole: All the comments have been said and I won't repeat them, but I would like to reiterate the importance of having the mou with the bridges I will be favoring the motion.

>> Mayor leffingwell: All in in favor of the motion say aye passes five to two with councilmembers tovo and morrison voting no. Council l, on our next item which does not include a public hearing, it does include and allows for public comment. It is within the council's authority to limit the testimony in some kind of equitable way giving an equal amount of time to each side, given the pact that we have almost five hours of time signed up on this item, I would suggest that we limit the time to 30 minutes per side. Is there any objection to that? Council women morrison.

[16:39:19]

>> Morrison: I realize to be practical we need to do that, I know there's probably some people that have been planning for quite some time, and I just want to make sure they have time to replan. Is there anyone that could speak for

-- I guess frankly, I'm thinking of the folks that are in opposition to any change. Council lmember, one suggestion would be

-- I realize they probably need to organize, so we could take say a 10-minute recess and allow them to organize their speakers.

>> Morrison: That would be great.

>> Mayor leffingwell: All right. We're in recess for 10 minutes. Is 6

[17:03:20]

>> mayor leffingwell: Okay. We are going to start in 2 minutes. Test.

>> Mayor leffingwell: We are out of recess and we will start our public comment period. And as advertised, we are going to give to minutes to

-- 30 minutes to one side and 30 minutes to those on the other side and by side, I am sure you all know what I mean. I am going to go by this written list and I have time as posted here. We will start with those opposed, or those in support of the existing ordinance, greg kasar for five minutes. Set the timer for five minutes.

[17:05:54]

>> Good evening, council. Thank you so much for hearing us out today and so first

-- actually, I am just going to run through some of the basic facts of the case so the rest of the speakers don't have to go through. This started on June 29, 2011 when the city council passed an ordinance requiring white lodging to pay the prevailing wage, those were the exact words, prevailing wage, and as a key requirement for \$3.8 million in cwaivers. Council member spelman did his due diligence to make sure that white lodging understood exactly what prevailing wage meant and this is from the transcript of that meeting, council member spelman asked, have you built any hotels on a prevailing wage basis and white lodging responded one word, yes. I am trying to get this thing to work. Click it here. Oh. Just in case that wasn't enough, though, in a letter to a former assistant city manager Lee Garza, on August 16, white lodging sent a letter to Mr. Garza detailing exactly the city of Austin's prevailing wage, saying they not only understand what the prevailing wage was in other cities they also know what the prevailing wage was here in Austin and that they knew the intent of prevailing wage which was the prevailing wage as listed in their very own letter. Our contract management staff also did their due diligence and gave

training materials to white lodging that we received through an open records request and those appear on the screen in front of you and they handed white lodging the prevailing wage which is the only understanding of what a prevailing wage is in the state of Texas, and it has been mandated in the state of Texas in the 1930s on construction projects developed by private companies through public money so they hand and these exact prevail wage rates which is what white lodging sent to the assistant city manager. From our understanding of these documents and how the story went, the city council had the intent of passing prevailing wage. They asked the developer if they understood that intent. The developer understood what prevailing wage was, understood what it was in the city of Austin and approved it and city staff verified that. This is another slide from the training materials from Mr. Russell Kyle, showing where they could direct any questions about wage disputes or any other questions the developer may have. This was handed to the construction company as well as the developer. So what happened was construction companies started receiving correspondence such as this one from the JW Marriott that there is no prevailing wage scale for this project. So that is when the community became alerted to the fact that white lodging was not paying prevailing wage and in their own words, from their own construction company stated, there is no prevailing wage for this project, so the community and everyone assumed, including members of this council when we brought it up that they wouldn't receive the fee waivers because they themselves stated they weren't paying prevailing wage. So then in January 2013, once workers started complaining, the deputy city manager alerted white lodging as he should have, of noncompliance. White lodging responded that they were in compliance. In February of 2013, city staff required that white lodging comply and comply with an audit and through the coming months they did not comply approximately with the ordinance nor did they comply with the audits. They didn't send in the payrolls or they didn't interview workers and requested to be interviewed. So finally in June, while white lodging continued to refuse to comply with the audits and refuse to comply with the ordinance, the fee waivers were revoked. Now I know everybody wants me to talk about the next slide which is the so-called approved letter by former assistant city manager Rudy Garza. The former assistant city manager approved this letter and since I have spoken to him, it seems like he still does not understand exactly what it is he approved and I am going to do my best to explain that in the short amount of time I have here. So I put two arrows pointing to two ones in glazier, I see prevailing wage, \$24.20. That is the least on a prevailing wage project that somebody can be paid. On the right-hand column, they say they wish to pay glaziers \$25 an hour, so it seems in this example, they are paying them more than the prevailing wage rate. However, if you look at the column on their right, they are comparing apples to oranges. They have a minimum wage on left hand column but average wage on the right-hand column. So \$25 an hour is not a minimum. That is actually the middle. So they could be paying workers far less than that. So, for instance, if you had

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[17:10:57]

>> mayor leffingwell: That is your time. [Buzzer alarming]

>> mayor leffingwell: Everybody needs off their time limit.

>> Sure. The final point I wish to make is that confusing letter was approved by former assistant city manager in 17 minutes.

>> Mayor leffingwell: Okay. You used an extra minute. That's

-- so that will come off the bottom.

>> Sure. And so our

-- my final point that I would like to make is that we do not believe that it is good policy for low wage workers or any taxpayers in austin to change an ordinance into allowing

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>> mayor leffingwell: Sorry, you can't just keep talking. Your agreement was to talk for five minutes. John elford.

>> Morrison: Mayor, I do have a question.

>> Mayor leffingwell: Council member morrison.

>> Morrison: There has been a little confusion. I thought the last I heard the clock was going to be set for 30 minutes and they have

--

>> mayor leffingwell: They have names and times they wish to speak.

>> Morrison: What I heard them being told was names and about the amount of time, not an exact amount of time.

>> Mayor leffingwell: I will just have to keep track. But you used 6 minutes.

>> If anybody has any further questions about that letter, I am happy to answer them. [Applause].

>> Mayor leffingwell: Don elford is signed up two minutes. Set the clock for 2 minutes.

>> Mayor leffingwell, council members, I am a senior pastor at austin enter faith. Across the church is a convenience store and if i went in the morning and filled my pockets and walked out without paying they would call the police. I would be arrested or perhaps taken to jail. I would have to go to court and bail would be set and probably have to hire an attorney in return for my day in court. However, if I owned a multinational hotel chain and stole wages from the construction workers who were doing the

hard dangerous work of building my hotel, no police will be called, no one will be arrested and no one will appear in court. Apparently I can even walk into city hall and ask for them to give me a break even though I am already getting \$4 million in tax breaks, i could be asked to be released from the burden of having to pay prevailing wages, even though the increase in wages would be a drop in the bucket compared to the cost of this project. As a clergy and as a person of faith, I believe god's world is one world. There isn't one world where we may fair and another world somewhere elsewhere we break the rules with immunity. As

-- impunity, as citizens of faith we have a moral duty to strive for justice in any area of your life. What white lodging has done is break their promise to the city of austin, the workers and to the taxpayers. What didid was morally wrong, unjust and insulting. This evening I am calling on the mayor and the members of the city council to do justice, to hold white lodging and all who do business with our city accountable for the full cost of doing business in austin and support the prevailing wage. Thank you.

[17:13:55]

[Applause].

>> Mayor leffingwell: The next speaker is angela baker. Angela baker. One minute. Set the clock for one minute.

>> I am angela baker, a leader with austin interfaith and a member of saint albert the great catholic church. I would like to read a statement that bishop joe vasquez of the dioces of austin made at 6:00 p.M. In defense of workers' rights. He spoke to a crowd of over 200 people who were here in su pport of workers' defense, and this is the bishop's statement: "I come today standing in the long tradition of catholic support for workers and workers' rights. Pope leo the 13th in his ground breaking encyclical round navarum addressed the plight of workers in the late 19th century. He recognized the importance of just wages, worker safety and the right to organize and enter into bargaining agreements with employers. In 2011, the city, the developer and the workers agreed on the payment of prevailing wage s for workers

-- [buzzer alarming]

-- and it itself importance

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>> mayor leffingwell: That is your minute.

>> Pardon.

>> Mayor leffingwell: That is your time.

>> And it is important that all parties now live up to those agreements. Fair wages for workers is not only good and right for workers. It is good and right for everyone. This is what pope leo saw in 1891 and still is true in austin, texas. I ask city officials to stand by the agreement that was made to pay workers prevailing wages because it is good for all. Thank you. [Applause].

>> Mayor leffingwell: You used 2 minutes so that will also come offer the bottom line. Evan marrowquinn is set for one minute. Set the clock for one minute.

[17:16:02]

>> Good evening, my name is avamar martin. I am

-- i have martin and i am the owner of a small business in austin, texas. I am here to support all workers who are paid unjustly. I want to present before you that as a small business person, I pay my sales tax of 8.25%, for the service that we do. And I also pay my personal taxes and we have a just wage of \$15 an hour. If we are a small business and we are able to have just standards, why can't white lodging and other companies do that? [Buzzer alarming]

>> mayor leffingwell: That is one minute.

>> They are big companies that can do it and us, as hispanics, we are able to achieve it. We want a better texas with just wages and fair treatment to workers and i hope you make the right decision. [Applause].

>> Mayor leffingwell: Greg crabs is signed up for two minutes. We are now 3 minutes over.

>> Mayor and city council, i am at the prince of peace and austin interfaith and workers deference project, and the 2011 prevailing wage ordinance for companies which receive tax incentives must be maintained for austin to be a quality of life city. Our public dollars should not be given away to create poverty wages instead of being used for the development of our populous. We are being told that there are not enough tax dollars for parks or libraries or early childhood education programs, yet, there is enough for incentives to wealthy corporations, to create poverty wages which create more poverty. That just doesn't make sense. When will the cycle end? You have heard the facts and you have the power to make a difference. Fair prevailing wages are a matter of justice. This is why we are here today, to call for justice on the part of our elected leaders. I therefore, speak strongly against item 11.

[17:18:42]

-- Item 111. [Applause]

>> mayor leffingwell: That was one minute under so you gained a minute. Susan moffett signed up for one minute.

>> I am susan moffett speaking on behalf of livable city. I am going to cut to the chase. This case, in addition to what you have already heard, raises a much bigger question about the ethical culture of our city government. When an acn feels free to ignore a city ordinance, cut his own deal and not even tell council, we have a serious problem. A recently revealed report shows that austin city employees ranked the city's ethical culture well below the national average. When a serious misdeed like this one comes to light, you don't cover it up with an after the fact compromise and pretend that makes it okay. You face directly by setting clear ethical expectations and enforcing the consequences that were laid out in the ordinance, and parents, you know what I am talking about, when I say consequences. For staff, the message cannot be, just do whatever you want and we will fix it if anyone finds out. For developers, it can't be agree to anything in public. [Buzzer alarming] and we will change it later when no one is looking. Please don't undermine public confidence further in these dedeals. Fairness, transparency begins with you. Please uphold the ordinance. [Cheering]. [Applause].

>> Mayor leffingwell: Next speaker is jesus alkatore and I ask you to hold down to vocal demonstrations. You can clap if you want to but try to maintain proper decorum in here. You have one minute.

>> Okay. My name is jesus alcatere and I am here because I am against this enormous injustice and I work hard every month and we don't have enough money to buy food, buy clothes. On the other hand, there is people that have millions of dollars in the bank and they want to have more and the bad part is that part of that money comes from our taxes, and the worse part is that those who say that are concerned about our well-being, the city's well-being, the population well-being are giving away money to those

-- for them to spend it on whatever they want, trips, parties, cars, and, as I said at the beginning, that's an enormous injustice. Thank you.

[17:21:28]

[Applause].

>> Ramiro perez. You have two minutes. Set the clock for two 2 minutes.

>> Thank you. I am perez and I want toed to bring up, the (indiscernible) introduction when based on the belief that the city of austin is in the desire for austin to provide high quality of life for all residents,

even though this is consistently reflecting today the debate what is going on which is provide more money for the corporations, and less money for the poverty. That's the issues going on right now. Prevailing wage is going to reflect in our own low income people. It is not about who is right or wrong. It's taxpayers' money, by the way. And you owe us 3.8 million. That's all I've got to say. [Laughter]. [Applause].

>> Mayor Ieffingwell: Geovani madrogone. You have gained a minute there.

>> Hi council members, I am with the workers defense project and so is my mother. I live with a single mother. Sometimes she doesn't get paid what she works for and they

-- and then we can barely afford to eat. I am here today because i warrant to live in a world where we all get paid fairly. I want workers to be paid what they are supposed to be paid so they can afford to pay their bills. I am not saying this for me. I am saying it for everybody. I am only 14, but one day i am going to have to pay

-- pay bills as well, like my parents do now. I don't want to suffer like they have. These workers have children which means they have to buy food, materials for school and clothes to look champ and ready for the

-- to look sharp and ready the next day. If you get paid \$9 an hour and anything goes wrong, you have to give up the things you need. It is not fair for parents to have this if they have to buy gas for the car or groceries. You shouldn't even be voting. You made a law. You stick to it. We don't need a few rich people to get richer when we have families that actually need the money. We all have learned when we were five to follow the rules, it isn't fair to change them if it hurts workers. I. I understand workers noting with paid right because i see the pain in my mother's face when she works all day and she can't

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[17:24:07]

>> mayor Ieffingwell: You have gone one minute over.

>> The pain to work every day in austin. I am urging you to make the choice and follow the law. Thank you. And I hope you make the right choice. [Applause] [cheering and applause].

>> Mayor Ieffingwell: Arondo verde. One minute. [Speaking spanish].

>> Hi, my name is

-- good evening, my name is fernando. I come to support pdl because I am a part of pdl. The injustice you are committing is something you are committing against the people. This money is the people's money and it needs to remain with the people.

>> Gracias.

>> Mayor leffingwell: Thank you. [Applause]. Kim o. Quinn. Set the clock for two minutes.

>> I am leader with austin interfaith on the economic team and hour lady of the guadalupe church. We view this policy failure as a case study why we need a strong economic incentive process. There is a question whether this incentive was needed at all. There is already a second project undergoing construction downtown without incentives at all. We question where was the enforcement, when we

-- we caught them cheating. We caught them. Then when they were caught, they want to rewrite the rules so this begs the question, it is what is council going to do when one of these economic incentive deals unravels? Are they going to let the workers go forward underpaid or hold the company responsible for their promises and is council going to uphold the city's values, so the institutions that austin interfaith believe that council should hold the line on prevailing wage for workers of white lodging. White lodging did promise to pay prevailing wage to its worker white lodging has already received some waivers in exchange for this promise, and so if the city is going to develop an effective economic incentive process, we need to make sure that every deal sticks and it has teeth. We cannot let developers come back in later and change the rules. Austin interfaith has 30 institutions and roughly 50,000 constituents and decisions tonight will be included in our voter education packets in the next election, so we are dying to see what austin is

-- what the council is going to do on this one. Thank you.

[17:27:04]

[Applause].

>> Mayor leffingwell: Royce hall. Royce hall. Set the clock for 2 minutes.

>> Good afternoon. Council members. I am royce hall. I am just here to support the workers, representing workers defense project.

>> Mayor leffingwell: Thank you. [Applause]. (Indiscernible) sign there so people behind you can see. Right here, could you lower your sign? The next speaker is phillip lawler and you are signed up for actually three minutes.

>> I am phillip and i represent the iew electrician union here in austin. Today we are here because there is an amendment on the table to the original ordinance that was passed back in 2011 on the marriott

job that would ensure prevailing wages, a wage floor and with that being said, that original ordinance helped workers get a living wage and benefits for their family and help them have access to apprenticeship programs that we fund and put money into the city and as well as contractors that invest in this community, local companies. We also

-- we want to let you guys know that if you vote today on this amendment, that you are voting against our area standards that we have worked so hard in this city to establish, and if

-- if you do vote for those amendments, you are setting a precedence for these developers to change ordinances at their will. Thank you. [Applause].

>> Mayor leffingwell: So emily

-- I can't read your last name, but

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[17:29:09]

>> hanton.

>> Mayor leffingwell: It is not the word. It is the writing. [Multiple voices]

>> mayor leffingwell: You signed up for one minute.

>> Okay. Great. My name is emily tim. I am the policy director of workers defense project. Our organization, as you know, stands for low wage workers. I just want to say simply, i believe that upholding the original agreement with white lodging is the best possible outcome for low wage workers in the construction industry. For a truly sustainable construction industry, we need to raise the floor for lowly paid workers but not at the cost of the few good highly paid jobs that remain in the construction industry. We believe that the council and the mayor, we urge you to do the right thing and to vote to uphold this ordinance on behalf of construction workers in austin. Thank you. [Applause]

>> mayor leffingwell: Thank you. Christina stanton.

>> So close, yet so far, too soon.

>> Mayor leffingwell: One minute. [Laughter]

>> okay. I am christina and the executive director of the workers defense project. [Speaking spanish]. And I want to thank all of our worker members and our allied members who are standing up for workers rights. We came from a long way in a city from 2009 when council member martinez stood outside with

us with 142 empty work booths representing all of the construction workers that were killed that year in Texas and honoring the three workers that were killed that same week on one of the city's premier sustainable buildings. Do you know what? The city did something about it. It passed a groundbreaking ordinance, the only one that exists in the state of Texas that protects workers to have rest breaks who toil in 100-degree heat, thank you for that and the city passed 10-hour OSHA safety training so workers could have basic safety training on public works projects and now the city of Austin has more construction workers that receive safety training than any other major city in Texas and I will take somebody else's minute

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[17:31:18]

[buzzer alarming] and thank you for bringing up wages and raising the standard for people who do the most dangerous and difficult jobs in the city of Austin that we all benefit from because we are one of the most fastest growing cities and I thank you for that. I want to ask you to teach the students and the young people that are here, our members, kids, who are 6, 7 years old an important lesson that we all have to play by the same rules. If you are rich and powerful, you don't get to make your own rules but if you are poor and working class, the rules apply to you, too, and should benefit everyone and not just the few who already have power. Thank you. [Cheering and applause]

>> Mayor Leffingwell: Okay. Sofia. You have one minute.

>> I am Sofia and I am a U.T. student as these are all U.T. students and part of United Students Against Sweatshops. Some of us have spoken to the issue already. We want to say the fact of the matter is White Lodging went behind the back of city council and Austinites and broke the law. The only way to stop this from happening again is to vote them in completely. This is not White Lodging city. This is our city, okay, and our generation already mistrusts the government. This is your opportunity to show us that the government can stand by agreements that it makes, so what we would like you to do today is to vote against the amendment completely and just remember that you are not accountable to White Lodging. You are accountable to us. So please remember that when you think about your voting today. Thank you. [Applause]

>> Mayor Leffingwell: Ryan McGivern. You have one minute.

>> Thank you. I am going to point you to a smoking gun. My name is Brian McGivern and I am an attorney and work for the Texas Civil Rights Project. I am familiar with this case. White Lodging this whole time, once it came to light they weren't paying prevailing wage tried to explain themselves saying the prevailing wage requirement was confusing. Regardless of what the content might have been, the ordinance clearly envisions an exchange of some sort, some sort of exchange in return for \$3.8 million, we are going to do something. Well, in the letter that Greg referred to, the August 10, 2011 letter from

the ceo of white lodging to the assistant city manager rudy garza, white lodging essentially said when we pay market wage, we are going to get this close to prevailing wage, by definition, you are paying market wage, what the market will bare. Their interpretation is we are going to do what we planned to do anyway, and how can that be a good faith interpretation.

[17:34:18]

[Buzzer alarming] thank you. [Applause].

>> Susie litch. There is only one minute left.

>> Good evening, I am susie and here opposing item 11. I have worked as a union carpenter the last 19 years and currently sit on the city of austin construction advisory board. White lodging needs to be held accountable. The city of austin needs to stand strong and show the community it is behind the workers. Keep the original ordinance and pay the workers the prevailing wage they deserve. Thank you. [Applause].

>> Mayor leffingwell: Now we will go to speakers in favor, and I will call out the names and the times you indicated you wanted to speak. The first is steve shelton, four minutes.

>> Thank you, mayor. My name is steven shelton. I am a representative of the local carpenters union 1266, as far as I am aware local 1266 is the only organization certified by the national labor relations board to represent carpenters in austin regarding wages, benefits and working conditions. I am a strong proponent of two things relative to today's discussion, prevailing wage requirements and productivity. This city council, more than most others and maybe more than any, routinely takes action to protect the standards and wages of workers within the city. When negotiated for a much needed hotel in downtown austin, you tried to continue the honorable tradition but the fact is we screwed up. Not just you but all of us. We tried to ensure prevailing wages on the jw marriott job but we missed some say we were outfoxed by slick attorneys and others and sometimes the same people say we were cheated. No one on the labor side is happy about it but we must face facts. When the council included the requirement that white lodging follow the city's prevailing wage policy, it failed to realize that since no such policy existed, white lodging's experienced attorney would eventually realize this meant they could ignore prevailing wages and still be in compliance. Now, my opinion, this council does not bear the full burden of blame for this oversight. I also missed this nuance and was pleased with the council's wording. None of the trade unions in austin expressed outrage over the loophole fete and even when the

-- even the workers deference project held up this very ordinance as a victory for working people. Maybe we give mr. Suttles too much credit when we think he advised white lodging to accept this deal because we knew way back then he didn't have to pay it but even if he is that smart, we have smart people on our side, also, and we should have caught this area

-- this error, all of us, or any of us. We did not, so here we are. In my opinion, the long solution to every worker to rectify or prevent poor safety conditions and poor pay whether with the JW Marriott or otherwise is to join with the brothers and sisters and join the union. Power is with the people, if they claim that with the union, the contractor would be legally bound by the negotiated contract and the error contained within this ordinance would be irrelevant. Personally I would be happy to discuss the long-term solution to the job site issues with any carpenter who would prefer to solve these problems unilaterally rather than one job site and one unpaid hour at a time. I rise today to recruit new members but instead to add skate of productivity. Local 1266 expects to employ 80 carpenters on this project before it is finished and a large number of nonunion carpenters as well. Union carpenters are protected by their contract which requires no policing by the city or by White Lodging. If the nonunion carpenters feel underpaid or abused. They have three solutions, they can do nothing. They can seek the help of an organization who will advocate for the temporary relief of the immediate issue only to face the same problem on this next job or they can take matters into their own hands, stand with their brothers and sisters, join the union and create a future for themselves and families the way millions of people have done before them and are currently doing. The carpenters union is asking the city council to find a solution that makes sense but please do not delay this project and throw 80 union carpenters out of work to correct an error for which we all share responsibility. Under these specific circumstances and only these circumstances, I believe White Lodging's proposal is fair and will ensure this project moves forward without unnecessary deployment of the craftsman of maintaining this job while maintaining the spirit that council meant to set with the previous ordinance. I am asking you to take a step back and think rationally and to protect the good union jobs that already exist on this project. Thank you.

[17:39:21]

[Buzzer alarming].

>> Mayor Jeffingwell: Thank you. Jeremy Hendrix.

>> Good evening.

>> Mayor Jeffingwell: Two minutes on this time, please.

>> Thank you, Mayor, thank you, City Council, for allowing us to address this issue this evening. I am Jeremy Hendrix with the Laborers National Union of North America and proud to be joined by some of my members in the back. I am standing here today as active participants in a fight to raise wages and working conditions for construction workers. We have testified in front of this body numerous times the last year, how workers have performed dangerous back-breaking jobs such as concrete work, hoisting and rigging, scaffolding work, routinely mistreated and paid poverty wages. Here we stand, still no policy from the City Council to protect workers and guarantee this fight never plagues Austin again. The other side is right about this. It is about the lowest wage workers on the job. They claim the prevailing wages

for construction workers is at the center of the issue today. We understand that. For workers in the mechanical craft such as electricians and plumbers, prevailing wage mean good family supporting wages and we understand and empathize with them. However, for workers that stand knee deep in concrete or hand digging trenches or handling materials, the prevailing wage in austin, texas, is \$7 and 57 an hour. No one in this room can believe that's an acceptable or a living wage

>> we have been told by contractors and workers on the marriott site that currently there are people performing those types of work making the range of \$12 an hour. Strict interpretation of paying the prevailing wage could mean a 4-dollar an hour wage decrease for those workers. That is something we simply can't do. Taking wages from the lowest paid workers from that job is unacceptable. Laborers encourage the council to approve the compromise proposed by white lodging and move forward. We appreciate the white lodging has agreed to pay 11-dollar an hour wage floor which will raise some of the workers up to a wage they never achieved before. We believe this shouldn't be about politics, publicity or winning in the court of public approval. What it should be about instead is the city council doing what is best for the lowest wage workers on this project.

[17:41:33]

[Buzzer alarming] buzz those are the ones struggling to make it in this booming economy. Thank you.

>> Mayor leffingwell: Thank you. Lauren rollerford and you are signed up for one minute.

>> Okay. I thank you for letting me come here. I came through the back on my feet program who austin had worked with and I got a letter from joe and I am going to paraphrase it. He says that we have been working with people like white lodging to help people like myself

-- I was homeless here in austin

-- and they worked with us to get us ready and get us jobs and I was able to get an apartment and so this is not a company who has been trying to take from me but to give he to me and give to people in the city. They offered to give over 20 jobs to the homeless here in austin and I think that's a major thing, and their training has led us to being able to work in the hospitality community and it also

-- their commitment has been valuable and their contribution to our organization and individual experience in homeless in austin. Joe thanks you and hely gets he couldn't be here today. [Buzzer alarming]

>> mayor leffingwell: Thank you. [Applause].

>> Mayor leffingwell: John trumont and you are signed up one minute.

>> Pretty close. Greg Dromont. Nine years ago I started with White Lodging on this very day. I was a college drop-out, I didn't really have a future or a career. I didn't really know what I wanted to do. I walked into the Marriott Austin South, the White Lodging hotel and, you know, got a job there. Nine years later, 8 promotions later, I am the general manager at the Fairfield Austin North. I have traveled the world. Got married. I just bought a second home in Austin and became a landlord. None of this I could have achieved without White Lodging. The main thing to remember here is I am not unique, I am not special. Everybody in our company has had an opportunity to do something like this. There are multiple stories out there like mine. I watched dozens of young men and women find their calling in their industry and the company. I see the joy in their eyes every time they take a step in their year, the generosity in their hearts every time they can give back to the community, for organizations such as Back on My Feet, Habitat for Humanity and the Cancer Society and the general security they feel with their security in White Lodging.

[17:44:08]

[Buzzer alarming] Thank you.

>> Mayor Leffingwell: Thank you. (Indiscernible) one minute.

>> Thank you, Mayor and Council. I am here to share with you and talk about another commitment that White Lodging made to this community, and that was the commitment to engage city-certified minority and women-owned businesses, firms in the construction of this project. I am here to share with you that even though the project is only

-- is less than 30%

-- 27% complete, they are well on their way to meeting or exceeding these goals, so let me just share with you, with respect to the participation of African-American firms, even though they are 30%

-- less than 30% complete with the project, they have achieved almost two-thirds of that goal. With respect to Hispanic-certified firms, 85% of that goal has already been achieved. Women goals, about 40% already achieved, and still, less than 30% completed at this point. They are in

-- [buzzer alarming]

-- negotiations with native and Asian firms so I just want you to keep in mind that that's another important element for this city

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>> Mayor Leffingwell: That's your time.

>> This company is supporting local minority and women-owned businesses. [Applause].

>> Mayor leffingwell: Jonas (indiscernible).

>> Good evening, mayor,

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>> mayor leffingwell: You have one minute, by the way.

>> I am here representing the iron workers local union 482 out of austin, just to state that we are working on project and we are very project proud to have this project going on in town because this will supply us work to provide for our families and we would like to continue and not stop because this will, like i said again, it will provide income for our families and we wish that we will get more projects like this for the future. Thank you.

[17:46:14]

>> Mayor leffingwell: Thank you. [Applause]. Jean hilton. Set for one minute.

>> Good evening, mayor, my name is shane hilton. I am here to support local 286 plumbers and pipefitters. Our union company is affiliated with the jw at this point is employing around 40-60 plumbers and pipefitters. We will be looking upwards to 100 and I would like you to support the project, to keep it rolling, to provide for our families and put food on the table. [Applause].

>> Daniel anderson. Daniel anderson, one minute.

>> Good evening, my name is daniel anderson with local 67 sheet metals union. We want to thank white lodging for having such a large union support on this project and we certainly welcome large projects like this here in town so we can all stay working. Thanks. [Applause]

>> mayor leffingwell: Thank you. Allen

-- allen farrell. One minute.

>> Good evening, mayor. My name is allen carol, a proud member of carpenters local 1506. I am here to offer my support for white lodging and jw marriott on this project, on behalf of myself, the company I work for, standard drywall, the union that I represent, and most importantly, the workers that I employ. I can assure you that the workers that are on this project are treated fairly. They work in a safe environment, and they are

-- they are receiving wages well above the prevailing wage scale. Thank you.

>> Mayor leffingwell: Thank you. [Applause]. Dino yanty. I have you set for 9 minutes.

[17:48:22]

>> Thanks, mayor, council members. I would like to start out, I think, by clarifying a few, what I consider to be, tactics, myths, intimidations that have been said about white lodging and even me at times. We are not some international global hotel company. We are a private hotel family business that started in Maryland, Indiana in 1995 where one hotel. Myself, I can relate to everyone in this room tonight talking about workers rights. My father was born in Athens Greece and immigrated and had five kids and never made more than \$30,000 in one year and four out of his five children went to school and graduated college. I am one of them. I started with White Lodging when we had two hotels as a dishwasher and a cook in 1986, so just to clarify that, there is no spoon feeding, nothing was given to us. There is no millions given to us. We earned everything we have, both myself and our company. But it is unfortunate, what happened, this was a miscommunication. I think the previous members spoke very clearly about it. There was no deals done on the side. There was a miscommunication. I was asked by one of the council members at this session if I ever worked

-- if we ever built a hotel with prevailing wage and I said yes. I never was asked what the specifics were of that hotel. The reason we came to Austin back in 1993 is because we believe in this market and we still do today and that's why we have employed and created over 1,000 well-paying jobs since then. That's why we created over 500 construction jobs in the year we have been under construction and that's why none of the 500 people are on the opposing side here tonight because they are all very happy to be on the job and we are going to work our way up to 2,000 people here in the next 12-18 months as the project progresses. White Lodging has earned national training awards, multiple times outside of the hotel industry. We sport the lowest turnover in our industry for hourly associates and our managers and we are award winning in terms of what we give back to our communities. We cofounded back on my feet chapter in Austin at the beginning of this year. We are proud we have graduates of that program, of the homeless program and running program that supports them in our hotels today. We've also done that in two other cities as well and we plan on doing more. The confusion started after the fee waivers and they are not taxes. They are fee waivers that are granted to us, and I had asked council member Mike Martinez, what exactly is the prevailing wage policy right after this session, because it was an 11th hour ad as far as I was concerned, and I was told, I am not exactly sure. You need to look on their website. I did that and immediately found out that it was very vague and confusing. I then went back to the council member and I said, what do you recommend now. He directed me. I didn't go to, in an alley, I was directed to go speak with the assistant city manager, which I did, and when I spoke to him, we meant through that and we dis

-- we went through that and discovered if we paid the highest earning wages of the top positions of the positions making 40 and \$50,000 and more, that we are going to erase the fee waivers that we were talking about, and I said, if that's the case, that's going to cause a problem for us and the feedback was

-- and i said, but when we look at it and talk with our contractors, ironically the lowest paying jobs, we plan on beating those and he said that's what we are concerned about and that is the intent. That's what facilitated the letter that was posted and that's what facilitated the approvals in my mind that we needing to forward. It wasn't until 9 months later that we heard that we were working over the wrong policy from marc ott and i also want to clarify the key thing because I hear about workers defense fund saying they are working for rights for low wage workers. The policy we are adhering to and have since day one has the 8 lowest paying prevailing wage rates at about \$12, as I think it was mentioned earlier in one of the speakers. We are projecting to be minimally 50% over that. We are not hired to do that by the prevailing wage policy. We are

-- in fact, we are probably going to be more like 19-\$20 on the 8 lowest low-wage workers so we feel we are not only meeting, we are fulfilling that requirement. We offered to also institute an 11-dollar an hour minimum living wage we we are willing to commit to and stand by and we are willing, even though we are not committed

-- required to, with the ordinance, either ordinance, as you may interpret it, to say that we will exceed the intended average by a minimum of 20%. So as I sit here today and i say what is it that we are not doing that we said we are going to do, I ask why isn't the city council and city manager doing what they said they would do. If I can't trust a document from a city manager that tells me this is what we can do and move forward in good faith on a multimillion dollar project, how am I to be marc ott when he says we are not violating it, what should I believe? I think this should be justifiably corrected tonight and I think frankly the city should do what they said they were going to go because that's what white lodging did from the very get go of the project and we plan not doing the opening of this hotel but the other hotels we have completed, do it in a first class and professional manner while having many success stories, many promotions within our family and many success and happiness that comes along with the success that these individuals are earning as they work their way through our company. And that's what I feel is the most important points to make tonight. I don't mean to sound irritated. I am frustrated because i feel this should be solved and I feel the city should do exactly what they said they are going to do and at the same time, we committed to doing what we said we would do. Thank you very much.

[17:54:51]

[Applause].

>> Mayor Ieffingwell: You only took 7 minutes so there are 10 minutes remaining.

>> Mayor, members of the council, my name is richard subtle and I am here

-- I am richard saddle and here on behalf of white lodging. I want to appreciate what you have done and not resorting to name calling and distortion of the truth, I wish I could say that about everybody engaged in this but I can't. There have been allegations of cheating and breaking the rules and breaking

promises and getting tax breaks and none of that is the truth but oftentimes I guess we can't be fettered by the facts. This is a case where there is an honesties agreement on the intent

-- an honest disagreement on the intent and interpret takes of the ordinance passed. My compliant thinks they complied and your staff disagrees. That is the extent of the issue. My job as advocate is to be advocatetor my client's position and I truly believe my client did everything asked of them on the ordinance that you passed. The first fact that which have got to consider here is that five of you, five of you

-- well, first, let's back up a minute. Seven of you tried to figure out a way to incentivize 1,000 room hotel in a time when we were in a recession, nobody was building it, we needed it and 7 of you passed a resolution that said, well, maybe not one, because you weren't here, that said, go off and look and see what we can do to incentivize this hotel and it was brought back because you had bond covenants and you had made some other deal on another hotel where you could only do fee waivers and

-- and that's what was brought forward and there were other suitors that said we might want to do that but white lodging is the only one that stepped up and said if you do these fee waivers, we will build this hotel around five of you voted, i think, with the intent to give incentive to build this hotel. So what happened? Right after we did the ordinance, there was an amendment to apply the prevailing wage policy. There was no analysis done on it, none of us knew what that meant. Wasn't your fault, wasn't our fault, wasn't anybody's fault. It was done in a vacuum. As dino said, he asked what do I do about this. He was directed to the website. He was directed to the assistant city manager and after analysis, it became clear that on the upper end, upper wage scale people, if you pay them the prevailing wage, it completely wiped out the incentive, and at least one of you have said publically that was never the intent. It never was your intent, and I believe this, to snooker white lodging of building 1,000 room hotel by giving fee waivers here and taking them away here. I believe that, white lodging believes that, we all believe that you did not mean to do that but under a strict interpretation, that's what it looked like. But when you look at the ordinance, it says the prevailing wage policy. You don't have one. I will argue with your lawyer all day long. You do have

-- you have a policy on prevailing wage when there is a public/private partnership. You pass a resolution to that you also have one by law when you have a public facility, but you have no policy as it relates to an economic development prevailing wage policy. Dino was directed dog to the assistant city manager and we laid this out and then he did what he is to do, gave meaning to your incentive ordinance and came up with this letter that essentially says

-- he initialed this letter, after all of the discussions, it says dear rudy, as follow up to our discussion, I am attaching recap of the city's published hourly wages by trade along with our anticipated targeted average wage rates. These are provided to us by discussions general contractors who have experienced building similar scale projects in austin and greater texas, meaning the market rates. As you can see, we do not anticipate any issues relate meeting the city's average wage right of \$19 and 29-cent and in fact we want to exceed this project as the average wage will be in the 23-dollar range. We aren't talking 7-dollar range. We are talking average of 23-dollar range or roughly 19% above the city's requirement. As

we are moving forward expeditiously as our design and preconstruction activities towards breaking down in June of 2012, which was another requirement of the ordinance, please confirm, please confirm that we will be meeting the intent of the city's prevailing wage requirement by adhering to the attached projected wage rates and Greg already showed you that wage rate deal. And then 6 days later, not ten days later, he said are we good

-- by the way on the email right there, Rudy initialed it, okay, with the date, and followed up with an email that said, I appreciate White Lodging's commitment. It is clearly encouraging that you are not focused on meeting the bare minimum, rather exceeding the average pay rates. I look forward to working with you, as far as this aspect of your project, you are good to go. Now he has two letters saying you are good to go under this interpretation. It wasn't a back room deal. Purely public communications, but purely just a mis

-- a miscommunication.

[18:00:30]

[One moment, please, for change in captioners]

>> and where that came from is I was in a meeting with worker's defense, and as I heard it, maybe I just misunderstood him, but I was heard they were concerned about the lower end wage scale and that's when they agreed to make this right to an 11-dollar floor no matter what happened, along with the average that had been given to us by the city. That offer was rejected. We still stand here ready to make that tonight. That's one of your options, and I believe another option is just the 11-dollar floor and a reduction in the fee waivers. Tonight we're here to urge you to honor what the original ordinance was as interpreted by the top city official over that, and that's what we'd ask you to do, but the offer still stands to have the floor at \$11. What that does

-- what all this would do is it would give meaning to fact no. 1, and that is, five of you intended to incentivize this hotel and you didn't mean to bait and switch. It gives meaning to that. And it also results in fair wages for all the workers they don't get the prevailing wage, but they're not getting poverty wages as well. I'll be happy to ask any questions you might have on this, and I'm sorry that this one has taken so much time. Other cities around the country are looking at us and saying how did they get a thousand room hotel without paying 50 or 60. Just because our city is cool, White Lodging has faith in us, White Lodging just commenced on another hotel downtown this week because they believe in our city and they continue to believe in our city. And I hope that we can come to resolution on this matter where we can continue to believe in the city's integrity on how this works. So thank you for your time tonight and be happy to answer any questions.

[18:03:32]

>> Mayor leffingwell: You do have two minutes left.

>> It's late, mayor.

>> Mayor leffingwell: Okay. All right. So I don't know if this is a question for

-- I don't know who

-- I'll just make it as a statement, if anybody wants to respond, that's fine, but I think there is, based on what I've heard here tonight, one misconception, and that is if the city chooses to do nothing tonight and allow the city's current

-- city's current interpretation of what that ordinance means to stand, that everyone will be paid minimum wage. And I don't believe that's the case. There's another alternative. There's another alternative, and that is depending on how the numbers work out, white lodging could choose not to accept the fee waivers at all, in which case the prevailing wage will not apply period. The minimum floor, which has been offered of \$11 prevailing wage, living wage, will not necessarily be. So you may be

-- you may be laboring under that misunderstanding, that prevailing wage is going to be in place, and that's not necessarily the case if this ordinance is not amended per one of the alternatives that are outlined. That's just a choice I think you should

-- you should ask yourself that question. Am I willing to potentially have the lowest paid workers go from \$12 an hour back to \$7.50 an hour, because that's what could happen under this potential action. All right. Councilman martinez.

[18:05:35]

>> Martinez: I think just to add to the point that you're making, you know, no one's making 7.25 an hour on this site as it is. I think if that were to happen, they would lose a lot of their workforce, because there's employment in the industry and in the market here that would pay them, you know, what the market wage is in austin. So I think that fear will not be founded. But I just wanted to make that point. You know, I

-- I'm not going to sit here and point to all the mistakes that were made. I believe it's up to each individual to own their mistakes. I will speak to the mistakes that I made, that I believe are mistakes. But it didn't

-- it doesn't change my intentions. Two years ago we had this before us. And I think the mistake that I made was that I put an amendment on that I really didn't know the full ramifications of what that would mean. But five other council members also agreed to add that amendment. My testimony was clear: It was asked of us that night to approve it on all three readings. It had to be done, the market was right, commodities were cheap, we're in a recession, we need to go now. I said great, I'm happy to support this project, I'm happy to support this project and let it go now on all three readings. But there are two community benefits that I believe are important. And so in order for me to support it tonight on all three readings, I would like to offer an amendment to apply prevailing wage and the intent of the city's ordinance. And I appreciate Mrs. Hain's information that she provided us, that they are on target to meet their goals. I take her for her word. But my intent is clear

-- was clear that night. It was nothing other than if we're going to move forward, prevailing wage must apply, as well as the MBWB ordinance. Now, should I have known the impact? Probably so. But when you look through the testimony that

-- and we started on that line of testimony, it was specifically asked after the answer from White Lodging of yes, we have used prevailing wage, it was specifically asked what has been the impact on those projects? Is it 20, 30 or 40%? White Lodging replied, no, no, no, not anything like that. It's 5 to 10%. So he was pretty spot on, because a \$300 million project at 10% is \$3 million. Their projecting it's going to be about \$4 million for prevailing wage. So at that point, the information was out there that the representative of White Lodging said to us about five to 10%. Didn't say, but I'd like to go verify that, but I'd like to really know what that answer is. Can you give us time? Just said, it would be 5 to 10%. And so we moved forward on all three readings that night. And that's what's put us in a mess. And I'll categorize it as that. It's been a two-year mess. But all of that aside, it doesn't change the intent 1 ounce. The intent was to apply those two provisions, should the fee waivers apply. And so I don't see how I can change that position today, even though it may have wiped out the fee waivers. I mean, I understand that is a bad consequence. And in my testimony, I actually even said that I realize this may cause some obstacles, an obstacle or two, but I can only support this tonight if we have these go provisions and we moved forward and added those provisions. And so, you know, I'm going to stick with my intentions from two years ago. And the sad part is, the mayor

-- I somewhat agree with him, nobody's going to win. Prevailing wage is not going to be applied. You know, White Lodging and the folks that are supporting White Lodging are, you know, not going to feel good about doing business with Austin. We're not going to establish a precedent about what values apply necessarily, we're going to establish a precedent that, you know, we took it to White Lodging on this one, but I think that speaks to why we need to have clear rules in place, and why we still need work on the economic incentive agreement that really is not related to this, this is a fee waiver, but the issues are very similar in that whenever the private sector is coming to the government to ask for assistance, that the government gets to impart some things upon them, the government gets to say,

fine, you can ask for it, and we will consider it. But you also have to provide some things in return. Some of those are domestic partner benefits, some of those are a wage floor, some of those are prevailing wages. But those are codified yet. We're working on that. It's supposed to come to council very soon. And this is a core example of why we need those policies in place before we start making these one-off decisions because we end up in situations like this.

[18:11:33]

[Applause] so my intention

-- thank you. My intentions are to stick with what the position I took two years ago, but to get to work immediately on the pending economic incentives agreement, because one of the things that we repeatedly hear from the business community is, you know, we understand sometimes you have to change the rules, just tell us what the rules are so we can stick to them. Well, we need to make those rules crystal clear moving forward so that we can spend our thursday nights arguing about zoning rather than fee waiver cases. So I'm going to make a motion

-- I guess

-- and I'm going to ask for advice from the city attorney, making a motion to support option 1, which is basically do nothing, support what the council adopted, is an appropriate motion to keep things as they are today in that prevailing wage must apply or no fee waivers will be provided.

>> Correct. And you can make that motion. Let me just tell you that the current board notes already have some enforcement provisions in it, so if you want to keep the same ordinance, that's fine, or keep the provisions as they are, but this posting also allows you to add additional conditions, so if you'd like to add something else in relation to the current enforcement provisions, I think you can do that.

>> I guess I would need to know what are the existing provisions and why would we need to add to it.

>> The current enforcement provisions I believe say if they don't comply with the conditions you set out, then they have to repay the fee waivers that have already been given.

>> Then I guess my motion would be to adopt option 1 that is presented in the backup, which is to do nothing, and simply apply what was adopted two years ago.

[18:13:41]

[Applause]

>> mayor leffingwell: I would again ask yourself to restrain yourselves from any vocal demonstrations. It's just good good manners. You don't really present yourself when you do that. You're not constituents, you become a mob. Councilmember martinez made a motion. That motion could also be affected by no motion at all. Failure to take action would leave the present ordinance as it's currently interpreted in place.

>> Cindy, did you have anything you wanted to add.

>> Martinez: Thank you i appreciate that explanation.

>> If the council wishes to keep the ordinance in place as currently written, then no action is necessary. And staff will enforce it as written.

>> Martinez: Then I withdraw my motion.

>> Mayor leffingwell: Motion was with drawn. There's no further motion. This item is complete, and the -- again, the existing ordinance with the existing current city interpretation will be in place. And that completes our agenda tonight.