

City Council Special Called Meeting Transcript –5/28/2015

>> Mayor Adler: Okay, thank you. Good morning. I'm Austin mayor Steve Adler. We have a quorum present, so we can call to order the specially called meeting of the Austin city council -- street. The time is 11:00. There are no changes and corrections to be read into our record. No committee appointments.

>> There no identified speakers for the remaining items.

>> Mayor Adler: One item has been pulled from our consent agenda. That is item number 4, relating to the challenge. I think, consistent with our earlier conversation, we're going to invite folks that might be here and want to testify on this item to be able to give us their comments when we get to that place.

[11:02:47 AM]

And then we will recess further consideration of this item until time certain of 4:00 so that other people might have the opportunity to come in and discuss the -- that agenda item, as well.

>> Mr. Mayor.

>> Mayor Adler: Yes.

>> I'd like to pull item number 1. I have something for discussion on that one.

>> Mayor Adler: Okay. So item number 1's going to get pulled. We do have a board and commission nomination and waiver that is in the backup documents. Dina just handed this out to me. Is Dina still here? These were --

>> Were not --

>> Mayor Adler: With the exception of several that have been added. I'm going to read the ones that have been added to this list that do not appear in backup. We have a nomination for the airport advisory commission, Luke legate, councilmember troxclair. On the asian-american quality of life advisory commission, Jackie, nominated by troxclair. Also by troxclair, downtown Austin community court advisory committee, David. Councilmember troxclair, mexican-american cultural center advisory board, adrielle. Two others by councilmember troxclair, parks and recreation board, mark bane, and planning commission, James shishler.

[11:04:59 AM]

Two other people, but I can't see who's nominating them. Two people that are nominated by the open space environment and sustainability committee to the parklands events.

>> Should be three. Go ahead.

>> Mayor Adler: To the parkland events task force, Jeff Smith. Those are the only two I have.

>> I think the third person is on the other sheet. So we're okay. We're good.

>> Mayor Adler: Oh, I missed it, I'm sorry. Yes, there were two others, also by the open space and environmental sustainability committee, bobby Garza, and also to the parkland events task force by councilmember troxclair. Item number 1 has been pulled. Item number 4 has been pulled. Item number 2 relates to the turbine issue. I think we just voted on that in Austin energy, and we recommended passage? Is there a motion to approve item number 2? Mr. Zimmerman --

>> Houston: Please let the record reflect me voting no.

>> Mayor Adler: We'll now take a vote on this item number 2. All in favor, please raise your hand. Those opposed? Ms. Houston. It's unanimous on the dais, Houston voting no, and pool voting no, and Garza off the dais.

[11:07:06 AM]

So, 8-2-1. That gets us to item number 3, waivers. Someone -- approval of the waivers? Mr. Renteria, second by Mr. Zimmerman. Any discussion? Those in favor of approving item number 3, please raise your hand. Those opposed? Again, it's unanimous on the dais with Ms. Garza off. This is board and commission nominations and waivers. That gets us to the two pulled items, which are items 1 and 4. With respect to item number 1, Ms. Kitchen, did you want to tee that up real fast?

>> Kitchen: Yes. I'm passing out a proposed substitute. And my purpose behind doing that is just to ask once again for the council to consider including both the primary and secondary hospital systems. And my reason for doing this is, I know we voted before, but we had a number of people that were off the dais. So I'd just like to bring it up again. And, again, from my perspective, the hospitals provide an invaluable service to our community that is unlike the other 12 that we were considering in terms of the charity care that they provide to the community. And I think including the secondary service sites, as well as the primary -- the secondary includes Breckenridge hospital, for example -- would be appropriate. And I'd also like to point out again that the hospitals do acknowledge that over the next six months, they'll be working towards rate increases. And so the expectation is that by at the end of the six-month timeframe, there will be rate increases for these hospitals. And that's been acknowledged. So I move that -- ooh. I'm not --

>> Mayor Adler: Mr. Zimmerman moves that we adopt the substitute motion, which basically approves the extension for both primary and secondary for the two hospitals.

[11:09:21 AM]

>> Mr. Mayor.

>> Mayor Adler: Is there a second to that motion? Ms. Kitchen. Now, discussion on that item. Mr. Casar.

>> Casar: Mr. Mayor, am I in order to make a substitute motion? Is that really a primary motion?

>> Mayor Adler: It is.

>> Casar: Okay, then I would make a substitute motion that we deny the -- this piece of the ordinance, the hospital piece of the ordinance. And with additional direction to staff that if this motion succeeds, and we deny the ordinance, that the hundreds of thousands of dollars in additional revenue that staff bring forward ways that we can use that to either take customers off of the customer assistance program waiting list, or fulfill some of the other needs identified by the low-income task force.

>> Mr. Mayor, if I'm understanding correctly, you're just voting against the entire proposal.

>> Casar: My substitute motion would be that we both deny the ordinance as laid out on the agenda, and that we also give additional direction to staff that if this motion succeeds, that we consider using some of that additional revenue for either getting customers off of the customer assistance program waiting list, or, you know, consider using it for some of the needs identified by the low-income task force.

>> Kitchen: Mr. Mayor, that doesn't seem like a substitute.

>> Zimmerman: Point of order.

>> Mayor Adler: It's not. My recommendation is that you vote no to the --

>> Zimmerman: Yeah.

>> Mayor Adler: Manager to show us proposals that would have that money being spent in other ways. But, we can continue to discuss that, because that would be certainly germane to the debate on this motion if you wanted to discuss that. Is there any further discussion on this item?

[11:11:23 AM]

Mr. Zimmerman.

>> Zimmerman: Yeah, thanks. Thank you, Mr. Mayor. We took this up last time. I made some criticisms in my vote against the secondary accounts that back in 2012, there was a major issue on the ballot that would increase property taxes to the hospital district. And I was one of the leaders against that very significant tax increase. But, I remembered, actually yesterday evening, that St. David's actually came out publicly and opposed that tax increase. And I said, well, that made me rethink my position. They do a lot of indigent care, all the hospitals do. I'm going to reverse that vote today and support councilmember kitchen's effort here to bring bring primary and secondary who hospitals in on behalf of St. David's opposition to that big tax increase in 2012.

>> The service that these -- the direct service for low-income individuals that these hospitals provide. And I would argue that the dollar amount that they provide is much greater than using these funds for other purposes. You know, there is -- the additional assistance for low-income energy assistance is very important. And we should find other ways to do that. But the dollar amount of what's provided in charity care by these hospitals, and the service that's provided is far beyond the dollars that you see. And these dollars are -- it's not just information that the hospitals are reporting. They're verified by the state. There's a formula for them. So, it is a significant, direct service and assistance for low-income folks in our community.

[11:13:29 AM]

>> Mayor Adler: Further debate? Ms. Pool.

>> Pool: Staff had provided us with information on the cost of continuing St. David's and Seaton through the next six months, but I think the Numbers did not include the secondaries. Is it possible to get that information?

>> Debbie, vice president, customer energy solutions.

>> If that information is confidential, I respect that.

>> I'd be happy to share that information in executive session with you, if you prefer. But the number would be roughly five times the amount that was related to the primary only.

>> Pool: Okay. That's very helpful. Thank you.

>> Mayor Adler: You know, I'm trying to be guided by, again, some overall policy basis to be making this decision. And I have difficulty when on at the dais we're making what appear to be kind of ad hoc policy questions that have not been vetted or decided. In the conversations that we've had leading into this, we talked about whether or not to extend contracts. And we've extended contracts on three. And the basis for extending those contracts for those three related to giving us the ability to be able to engage in

a conversation to what they might be able to get if we were in an unregulated system, to look at what people were being paid relative to the affordability standards that we had set.

[11:15:30 AM]

And because I felt that that basis applied to more than just the large three, but also applied to that group that were coming off contracts, I've said that I would vote so as to afford everyone that same opportunity, because I thought that discussion would be germane to the whole group. That was not the will of this body. The next policy conversation we had was, if we were going to be extending, we should be extending to primary locations, or to primary and secondary locations. And from a policy standpoint, if we're going to be extending contracts, extending them to the primary locations made sense to me. As you move to extend them to secondary locations, you're then approving it for some people who are in competition with other people who have similar kinds of locations. So, making that kind of distinction in the context of an energy rate conversation doesn't seem right to me. I very much appreciate the work that's being done for indigent care. There's a lot of money being spent that way. We have -- rate reductions that we give to certain entities in the city from a policy standpoint. Houses of worship and other schools. And if we wanted to do it for folks that were providing a certain amount of indigent care, I definitely think that's something to consider. It's germane to consider. But I'd like it to be considered in the context of that policy, and not as an ad hoc kind of thing. So, I'm going to vote against the substitute in hopes that I get the opportunity to vote on the -- what we had passed on second reading last time, which would extend it to the hospitals for their primary sites, because I think that's consistent.

[11:17:39 AM]

It's the most consistent with the policy conversations that we had had. Ms. Pool, and then Mr. Casar.

>> Pool: Thanks, mayor. I was unable to take a vote on Thursday because I had to step away from the dais and take care of some additional other business, but if I had been here, I would've voted for the primary hospital motion. Is there a way that we could split this question and vote primary and then secondary, or is it the pleasure of the dais that we continue on the complete amendment, and if it fails, go back to the original?

>> Mayor Adler: If the substitute motion fails, I'll entertain a motion to approve for the hospitals as to the primary locations.

>> Mayor, I may have missed something, but I thought that you said councilmember Casar's motion was not a substitute motion, so I thought the only one we had on the table was the one that councilmember kitchen has distributed for primary and secondary.

>> Mayor Adler: That is correct. If this motion is defeated, the question Ms. Pool asked was, what happens then. Will there be an opportunity to vote to approve it as to just the primary locations. And I said I would entertain --

>> Tovo: I'm sorry, I thought you said there was a substitute motion we were voting on first. Okay. Thank you.

>> Mayor Adler: The substitute motion only because that's what Ms. Kitchen called it, because it was different than what was posted. But it's the actual primary motion. Further debate? Mr. Casar.

>> Casar: Certainly. And I made my position on this very clear, so I'm not going to go back into some of the points that I made last week. One issue I do take up, mayor, is that while it may have been your -- customers was because of that -- of wanting to figure out over the next six months what their rate should've been.

[11:19:47 AM]

That's why you wanted to keep it even. Mine, and I think several others on the dais' reasoning was to stick to what seemed to be the will of intent in the rate case, which was considering the size of those three customers, there was reason Austin energy saw having a longer conversation, even with the rate case, but not with the others. My position remaining consistent in wanting to stick to the rate case and the way we have balanced our books, especially considering residents and small businesses have seen their bills go up. That's why I won't be supporting either the primaries or the secondaries. The reason for my substitute motion, which I guess wasn't particularly a substitute, but I did want to point out that -- the conversation has been, would less money go into reserves. That is an accounting, budgeting decision. I mean, it's true that if these customers come off of their contracts, they pay the charge that goes into low-income folks. We want to deplete a portion of our reserves, we could take some of those hundreds of thousands of dollars and, you know, if it's five times the amount, it would be a seven-figure number into helping lower-income folks. So I just have to respect -- I do respect the work that our hospitals do every day, whether it's indigent care or not. I don't think that there is a direct benefit of giving these utility rate breaks, because with chapter three, the agreements which we pay out in smaller amounts than the action the council is contemplating right now, we have a contract where we see the direct benefits. We know what the city expects, under contract, in return for a subsidy. And so, I don't think that we should be making, essentially, these sorts of subsidy decisions that were contemplated by the rate case without understanding the benefit to residents and ratepayers of Austin.

[11:21:56 AM]

This action would be on an annual bases, greater than the chapter three agreements we scrutinize so much in the newspaper and have to host, you know, two meetings for and have an entire contract for. So, I understand that it may be the will of the council to move forward, and I respect that will, but I just want to make my position on this clear.

>> Mayor Adler: Any further conversation on this item? Mr. Renteria.

>> Renteria: I'm not going to be supporting the substitute motion, but after, you know, after our executive meeting and how much it was going to cost us, I can support the primary, but not the secondary.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. As a result of the rate case, people in school district one began paying higher bills. And they've been paying them for two years now. And so I will not be able to support the substitute, nor the original motion, because I think it's time for people to pay up. It's not a surprise. This is something people have known for a long time. It's time for us to get on with it and move on.

>> Mayor Adler: Thank you. Any further conversation on this? Hearing none, those in favor of the zimmerman-kitchen resolution to extend, as to primary and secondary for the two hospitals, please raise your hand. Kitchen, Zimmerman are yes. Those opposed, raise your hand. Others on the dais, Ms. Garza absent. Is there a motion to approve for the two hospitals as to the primary locations? Ms. Pool -- I'm sorry?

>> Pool: I'd be happy to defer to councilmember kitchen.

>> Kitchen: I so move.

>> Mayor Adler: Kitchen moves, seconded by Ms. Pool.

[11:23:57 AM]

Any conversation on this, further conversation? Those in favor --

>> Casar: Mr. Mayor, I just want -- I'm going to take two seconds to do a little bit of don Zimmerman aggie math. It does seem that virtually the entire customer assistance program waiting list could be cleared for the year with the revenue that we will likely forgo as a result of this action.

>> Can I make a --

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: I don't see this as an either-or. I'm not interested in dividing the pie. I would be more interested in expanding the pie. As we know from our discussion during executive session, we're not talking about a lot of money here. And I would certainly be happy to join with councilmember Casar and find that additional money to help these rate customers. I do not consider my vote in favor of this to be choosing between services to -- healthcare services to people in the community and assistance with energy.

>> Mayor Adler: Further discussion? Those in favor of extending for six months as a primary for the two hospitals, please raise your hand. Those opposed? The opposition are tovo, Casar, and Houston. The others voting yes, Garza off the dais. So that passes on third reading. That dispenses with item number 1. Item number 2 we've already approved, item three we approved, that gets us to item number 4, the challenge. We have some folks with us now to speak to this issue. If you're here and would like to address the council on this issue and have not signed up, please see the clerk so that we make sure that we recognize those that are here that want to talk.

[11:26:01 AM]

When we're done with this, it's the intent to postpone consideration of this item until 4:00 so that other people that are arriving at that time also have an opportunity to be able to visit with us. I note that Debbie cartwright -- to speak, but if Debbie is here, I sure would like to speak with her. Maybe when there's a first break. There you are. I sure would like to get a chance to talk to you, maybe off the dais, that would be great. The first speaker we have is David king. Is Mr. King here?

>> Mayor.

>> Mayor Adler: Yes.

>> Some of these will have signed up but will be planning on coming back at 4:00. And I would suspect Mr. King is one of them.

>> Mayor Adler: As well with our second speaker, too, but I want to call him just in case. Bill, I think is back here. Vickie. Lee Miran. And then Matt Powell. Is Mr. Powell here?

>> In the back.

>> Yes, sir.

>> Mayor Adler: Would you like to speak?

>> I've sent a letter to each of your offices, and it pretty well covers it. If you'd like me to, I can, but my comments will be -- also -- councilmember here, as well.

>> Come down?

>> Mayor Adler: I'm sorry? They couldn't hear you, mayor Powell. But -- if you would, so the record reflects that you were here, I think it's important. And we appreciate not only you coming here today, but also you and your city participating in the conversation that we had a couple days ago. So we greatly appreciate you helping to advise us.

[11:28:05 AM]

>> Absolutely, mayor. Thank you for having me. My name is Matt Powell, mayor of your northwest neighbor, cedar park. For those I haven't met, congratulations. I have been here since the dais was expanded, but not since it was filled with people. And as I also told mayor Adler the other day, you guys have been very ambitious so far. I thought turning house park into a pool was a little overambitious, and I'm glad you decided against that. But, we've sent a letter -- the majority of my comments are contained there. Obviously, as one of the many taxing entities that are at least partially contained within Travis county, we see a number of issues with -- while we're supportive of your ultimate goal of taxing fairly every entity in town, the timing of this is incredibly problematic. It has a lot of potential fallout, not only on your residents, but certainly on all of the surrounding residents and other entities. Some of the things that I was surprised to learn, that if certification was ultimately delayed, you know, it's things like, you know, it's big things like not being able to set a budget, not being able to -- we have a bond task force going, not being able to go to a bond election, you know. So there's the big things. But, you know, some of the smaller things, as well. 48% of Travis county residents pay their mortgage through escrow, there would be amazing delays there. If this isn't resolved until December, which is very likely, you can't deduct your mortgage interest on the income tax later. For people like myself, that's kind of a big deal. When you talk about affordability issues, that can create one right there.

[11:30:07 AM]

So, again, I'm going -- I'll really reserve the time here. But, I'd ask you to take a look at the letter. I know that other entities and other cities are saying similar things to us. Supportive of your goal, but the timing and the unintended consequences are very problematic. We would be supportive of you taking a longer view, whether that means working in future years with the appraisal district, or coming at this in the next legislative session.

>> Mayor Adler: Okay. Mayor Powell, you also have someone on your council here today, as well. I wanted to give you a chance to introduce him.

>> Yes, sir, councilmember Corbin, I know he also participated in your session, which had a lot of good ideas floated in it yesterday.

>> Mayor Adler: Mayor, as part of the conversation that we had, there was also the concept floated of filing the challenge today so that the door doesn't close, but giving us a week or so to be able to chase down some of the logistical issues that you raise. And I think you were here when the chief appraiser and the attorney -- for the appraisal district -- timeframe. It wouldn't wreck any harm. And it would give us a chance to chase down some of those questions. We had gotten some contradictory view as to whether or not people could pay. The assessor-collector said that he would accept payments so the people could get a tax deduction this year, but then also raised some logistical issues. So it may very well be today that I vote to file the challenge with the understanding that that would give us some additional time to see if we could sort through some of those logistical issues.

[11:32:08 AM]

But, very much appreciated getting your letter and hearing and seeing the concerns that --

>> And I think I expressed this the last time I was here. I'm very appreciative of the -- I think a lot of that has to do with the leadership. I know on our side, we're really interested in the dialogue. I've heard nothing but the same from all of you up here. The July certification is the key for us. So, whatever you do that doesn't endanger that, that would certainly be priority one. But, again, we'd encourage you to take a longer view on it.

>> Mayor Adler: I understand. Thank you. Mayor pro tem.

>> Tovo: Mayor Powell, thanks very much for being here, and congratulations to you on your new role in cedar park. I don't think I've seen you since you became mayor, so nice to see you here. Can you help us understand the concern with, as I understand it, cedar park intends to go out for bond election in the fall.

>> Possibly, yeah.

>> Tovo: Possibly.

>> I might even say probably.

>> Tovo: Well, can you help me understand what the connection is between the action that we're contemplating? I completely understand the concerns you're raising about the ability to get certified tax rolls and the way in which you need to do your budgeting, but if you could explain the connection with the bond election, that would be helpful.

>> We talked to our bond attorneys. Without a certified tax roll, we can't set a final budget or a final tax rate. And they think that greatly puts into jeopardy going out and asking our voters to approve bonds in a time of such certainty. At that point, we'd be drawing off of fund balance until all of this is taken care of. Thankfully we're in a position to do that, but it would reduce our liquidity. All of the things that come when you don't certify and can't set a budget or tax rate comes into play. It is their opinion, and one I agree with, that you really cannot go to your voters with a bond proposal when everything is in that much flux.

[11:34:17 AM]

>> Tovo: Thank you. You could draw from fund balance, but the concern is that it would create uncertainty among the voters such that they might not approve a bond election?

>> It doesn't have anything to do with bond approval. We cannot go for a bond election without having a set budget in place. I mean, what the law states is when -- if you don't have your certification, you can't set your budget. It automatically rolls to what you had in previous years. You know. I think it's our intention, you know, in our city, it's our intention to actually try to lower the property tax rate again this year. You know, we're looking at having a different budget this year than last year. To go out for -- and ask a long-term bond question when your current financial situation is not set, our bond attorney says that that would be, you know, irresponsible and, you know, possibly not compliant with the law.

>> Tovo: Okay, thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, mayor Powell. We're northwest Austin. We share a border, cedar park, so I'm especially interested in working with you and the cedar park council on the 620 road congestion and other issues that we have. I've heard loud and clear from the taxing entities, there's over a hundred of them, and -- but I want to speak for the hundreds of thousands of taxpayers. They have cash flow issues, too. And so, I understand and hear the -- a month or two of money coming in to the city, or to the various government entities and political subdivisions. But there are hundreds of thousands of people struggling with the high cost of living here. So I have to be here to represent them as a priority. Thanks.

>> Thank you for your perspective.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Thank you for being here. We really appreciate the opportunity to hear from you, because as you know, as a council, we're very interested in working in a partnership-type of role with the other taxing entities that are impacted.

[11:36:23 AM]

So I just wanted to speak to the item that you spoke to with regard to the impact on individuals taking a deduction on their federal tax return.

>> Right.

>> Kitchen: We have confirmed with the tax office that they can set up a process where estimated amounts can be paid before the end of December, which would allow individuals to take a deduction. And there's no reason to think that that process would be any different whether the estimated tax was paid by the individual directly or by their mortgage company on their behalf. So that is one item that we have confirmed. Now, we do understand that it would be an estimate. And so for some individuals, might end up paying by December 31st a little bit less. They might not get quite as much of a deduction, but they would have the possibility to pay a deduction. If they estimated over, there would be a process for paying them back. So, I didn't know if you were familiar with that, and wanted to let you know we have confirmed that with the tax office.

>> Thank you, councilmember, for that. I've enjoyed getting to know you. We served together on campo. So far that's been a really good relationship. I hear what you're saying. I guess I would question a little bit whether the expectation of asking hundreds of thousands of residents to go through an estimated tax setup, for those, 48% that are on escrowed payments, would they know that? Would their financial institutions do that on their behalf? Probably not. I understand there is a process in place, but, expecting hundreds of thousands of property owners to actually go through that process, that may be a different story. But, yes, I do understand what you're saying.

>> Kitchen: I understand that. Of course the council is weighing the benefit to taxpayers of moving forward with this. And so, you know, really we all have to think in terms of well, yes that would be an inconvenience for taxpayers.

[11:38:24 AM]

But if the tradeoff is the potential to help them with their property taxes, that might be helpful. It is an important issue, and one that people have to weigh in this whole process.

>> Mayor Adler: Great. And I really appreciate, I didn't anticipate --

>> I didn't expect to become the lead advocate on the issue.

[Laughing]

>> I will -- I'm happy to do it if no one else is stepping up. It sounds like you're going to have robust discussion at about 4:00 P.M. But let me just say this to the council. Again, I appreciate your hearing our perspective. I am here primarily as an advocate for where I am a fiduciary, the city of cedar park. I mean, again, I'm happy to speak to the larger issues as they impact not only us but your taxpayers and the 115 other taxing entities. But, I'm trying to help the big guy understand how it could impact everyone else. When you swing a stick like this, you hit more stuff than when the smaller guys do.

>> Mayor Adler: Okay. Anything else? Ms. Gallo.

>> Gallo: I just want to say thank you for bringing forward and making sure part of the conversation is the complication that this would cause, because, yes, an owner of a property could pay their own taxes on an estimated bases if they chose to. But a mortgage company will not do that. If you have a mortgage, more than likely, you have an escrow account and your mortgage company pays the tax and insurance bills out after that. And they will not pay without a bill. The process from the mortgage company standpoint would stop that until they receive a bill. It complicates it down. Now, of course the homeowners could pay the taxes themselves even though they have saved money in an escrow account with the mortgage lender, but then the lender would redo the escrow account the following based year based on the fact they probably paid it by mistake.

[11:40:36 AM]

Knowing how difficult it is to deal with them, adding anything that complicates the process complicates it hugely. So, it is really worth considering what this will do to complicate a lot of different levels. So, thank you.

>> Again, as I said it before, it's incredibly good intentions, but a lot of unintended consequences.

>> Mayor Adler: Ms. Pool.

>> Pool: I was curious -- and thank you for coming. And Mr. Van arsdale for coming down twice this week. How many of your cedar park residents -- none of them live in the city of Austin, but in Travis county that would be affected by --

>> You know I don't have the exact number right now, because we've actually done some recent Travis county annexations. But, I know that the total taxable value that is in Travis county and the city of cedar park is less than 1%. However, all of our residents would be affected, councilmember, because Williamson county also cannot certify when Travis county is not at 95%, because we're a split entity. A city that's entirely contained within Williamson county, no problem. But for cities that fall into multiple counties, us, round Rock, pflugerville, etc., we can't certify anything. It is all or nothing, unfortunately. We'd be very happy to certify the Williamson county side and proceed from there, but we cannot do that.

>> Pool: Just help me understand this. You said you can't certify if less than 95% is not certified.

>> Yes, less than 95% of Travis county. Your certification has a large bearing, if you challenge, Travis county doesn't hit the 95% county, they can't certify us, Williamson can't.

>> Pool: You do certify? Isn't it the Williamson county central appraisal?

[11:42:37 AM]

>> They're ready to go.

>> Pool: Thank you.

>> Kitchen: I'm not understanding. Are you saying the Williamson county appraisal district cannot certify Williamson county roles?

>> I'm going to be cautious, I am not a tax attorney. We are a part-time council up there. I'm not going to purport to be an expert. I'll put it this way. We can't certify if this occurs.

>> Kitchen: I understand you can't set your tax rate.

>> We can't set a budget or a tax rate.

>> Kitchen: I understand, not for the entire city.

>> Rather big things.

>> Kitchen: I don't think that this impacts Williamson county --

>> No, Williamson can proceed. But we can't then go on and set the budget. Perhaps I confused the language.

>> Kitchen: Okay, thank you.

>> Mayor Adler: All right, let's continue. I'm cognizant of the fact that I asked him to come up. He almost was not ready to testify.

>> Thank you, mayor.

>> Mayor Adler: Now I brought him up basically to say thank you.

>> I look forward to having you at one of my council meetings. It will be great.

[Laughing]

>> Mayor Adler: You know, I'm going to come up just for the purpose of giving you the opportunity to return the favor. But, again, we're going to be talking this afternoon. We'll have staff and council. We shouldn't be putting the mayor in the position of having to defend a whole side of the equation. I wanted him down just to say thank you. And I think a lot of these questions aren't so much being directed at you, as an opportunity for people to make points.

>> I know you'll have more discussion. For the reason I'm here now is -- well to give you a little personal, my daughter is having her pre-k graduation. I used to make fun of those things, but now that I'm going to one, I think it's the coolest thing in the world.

[11:44:43 AM]

So, that would prevent -- my position and the city's position a little bit earlier.

>> Mayor Adler: Okay. Thank you very much. Mr. Zimmerman?

>> Zimmerman: Quickly, since the question came up, I was testifying at the state legislature on this question. It used to be the habit when you had properties on the boundary between two counties, and that happens sometimes, they're not complete in one or the other, the legislation was changed. They said no more of this two appraisal districts appraising the same property. That caused confusion. That's been corrected. So now, only one county appraisal district gets to appraise a tax. So, there is none of this mingling as there used to be in prior years.

>> That's correct.

>> Mayor Adler: Mayor, thank you very much for coming, and councilman.

>> Thank you.

>> Mayor Adler: Thank you. Those were all the people that we have at this point to speak publicly on this issue. So, without objection, we'll defer this issue until 4:00 today. Is there anyone else here that desires to speak publicly? We'll be -- I think those are all of the consent items. That gets us to the nonconsent agenda. Is there a resolution to -- with respect to the city auditor?

>> There will be, mayor. I need a few minutes.

>> Mayor Adler: Not quite yet?

>> Tovo: I'm sorry. I was thinking, one, we were possibly going to the Austin energy meeting, but also, I want to be sure there's not a desire among the council to -- we had discussed revisiting --

>> Mayor Adler: We had -- do that --

>> Tovo: Some of the information we received from human resources briefly in a personnel executive session.

[11:46:47 AM]

>> Mayor Adler: We'll do that. We'll break for lunch and doing that. The only other items that were left were on that agenda was the zoning case, items 9 and 10. We'll see if we can resolve that while we're here, handle that. You want to tee that up?

>> Planning and zoning department. Item 9, 2014-009.01, waller on Swede hill. This is the neighborhood plan amendment for the property located at 908 east 15th street, 1506 waller street. This case has been withdrawn by the applicant, and no action is required by the council. Item 10, also known as waller on Swede hill, a related zoning case, also for the property located in the same address. 1506 waller street. It has been withdrawn by the applicant. No action by the council is required. However, I would like to update the council on a related issue having to do with the historic zoning of a house. The applicant, as some of you may know, as the case was moving forward, the neighborhood request the landmark commission initiate historic zoning. The neighborhood asked for historic zoning for the entire compound, which was four cottages, the main house. They only voted to move forward with the house, lumped together with the overall zoning case that y'all have discussed the postponement on several times. And it was postponed to today. That case has been withdrawn by the applicant. We feel that no action is possible by the city council today. However, we have worked out a solution late yesterday afternoon on the historic zoning of the house. What our intention to do is to move forward with the historic zoning for the house. That case has been initiated by the landmark commission. We'll be taking it back to the planning commission as a standalone case, and bring it back to the city council probably in August.

[11:48:54 AM]

We have a letter that I passed out on the dais from the owner of the property stating he will not protest the historic zoning of the property at the planning commission or at the council, but, he will retain his right, which he has, to possibly in the future, maybe come back for a proposed zoning for the house as something other than single-family. But, at this time, he will not object to the historic zoning. We have a demolition act, the landmark commission, as passed in February or March I believe it was, did not recommend moving forward with historic zoning on those properties. They have decided that issue three times previously. Sorry, two times previous to that, three times the landmark commission decided not to zone the four cottages historic. What we intend to do is move forward with the zoning case on the house. We'll bring it back to council. We intend to issue the demolition permits for the cottages. The

landmark commission decided those don't warrant historic zoning. This is a solution that gets both sides what I believe they feel to be most important, which is the neighborhood can get historic zoning for the house. And the property owner can get the demolition permits for the four cottages. I discussed this with the neighborhood late yesterday evening. I received an indication they were okay with the solution. And of course I discussed it with the property owner, as well. Everyone doesn't get everything they want, but I think both sides get what's most important to them. So, I was prepared today to say we had a deal, everything was fine. However, upon walking in the door, I heard from the neighborhood they are concerned about the timing of the issuance of the demolition permits. I believe they could address that, if you would like to hear from them. Anyway, cases nine and ten have been withdrawn, no action needed.

[11:50:59 AM]

Available for any questions.

>> Mayor Adler: So I understand, then I'm going to go down the dais. The nine and ten you're recommending be withdrawn --

>> They have been withdrawn by the applicant.

>> Mayor Adler: The applicant withdraws nine and ten. The neighborhood is taking the position that the applicant shouldn't be allowed to withdraw as to the historic zoning on the large house?

>> Correct.

>> Mayor Adler: So one issue from legal, or from the dais, we have to discuss whether or not the applicant has the ability to unilaterally withdraw. As part of that conversation, you're saying that if it's withdrawn, or otherwise postponed by the council, however that happens, you're going to go back to the planning commission on the historic designation for the big house coming back to the council in August.

>> Yes.

>> Mayor Adler: And at that point, you're saying that the property owner has represented that they will not be opposing the historic designation on that house.

>> What I would like to do is clear up the issue of whether or not the council can or cannot take action today by saying the council cannot take action today because the case has been withdrawn. And that was part of the larger case. To clear things up, what I intend to do is go not back to the landmark commission, because they voted for the historic zoning already. But to go back to the planning commission with the historic zoning as a standalone issue, not in the context of the larger zoning case. But say to the planning commission, the landmark commission initiated historic zoning, what's your

recommendation, and take that to the city council. Certainly I'd take the question off the table today, but I will bring it back to the council as a standalone historic zoning case for the house.

[11:52:59 AM]

And you have a letter from the owner stating that they will not oppose that case when it comes to the city council.

>> Mayor Adler: Okay.

>> That was not the case previously. It's something we worked through yesterday.

>> Mayor Adler: I understand you're saying it's been withdrawn. If we need to, we can hear from legal council. The counselor can decide what to do with that.

>> I'd like to separate the issue. The larger case has been withdrawn, bring back the historic zoning issue by itself.

>> Mayor Adler: I understand the intent. With respect to the demolition permit on the other four structures, when would that be issued, and what's the --

>> As I said, the demolition permit, there have been twice before, the landmark commission has been asked to approve demolition permits for these four structures. They have approved that. Those demolition permits were never executed. The houses are still there. There's tenants living in them today. Most recently, the neighborhood asked that the landmark commission initiate zoning for the four houses plus the house. The only thing the commission voted to move forward was the main house. Because the landmark commission has decided three times previously in the past several years, as recently as a few months ago, that the four properties do not warrant preservation, the staff is in agreement, we issue the demolition permits very soon.

>> Mayor Adler: I think I understand. We're going to continue our discussion on these two items. Ms. Houston.

>> Houston: Thank you, mayor. Something happened in this process that really feels wrong to me. How the historic zoning got embedded in the two that we had already looked at before. Can you explain to me how that happened?

>> Sure. We have a policy that we do not allow two zoning cases to be on the same property at the same time. There's a real good reason for that.

[11:55:01 AM]

You don't want a developer submitting a question for one thing and a request for another thing and trying to move them all two or three things forward at the same time hoping he wins on one. We do not allow multiple zoning cases on the same property. Here the applicant did not ask for historic zoning. He was moving forward with a standard zoning case, which has been withdrawn. The neighborhood requested the historic zoning be added to the house or the whole compound and the landmark commission voted just for the house. We felt that you cannot have two side-by-side zoning cases on the same property. So we said that the zoning request -- the applicant --

>> Houston: Hold on just a moment so I don't get confused. We, who is we?

>> We as a staff.

>> Houston: Staff decided. Go ahead, now.

>> The applicant at that time stated he was okay with the historic zoning on the house. It's never been his intention to tear it down. But he would like to have seen the office -- the zoning request, if you will, the overall zoning question for the house. When he withdrew the request, the way we look at it is the whole thing is one entity moving forward to the city council. We have a zoning case with a historic part added on by the landmark commission. When he withdrew the zoning case, it was my position that the entire thing goes away. However, the applicant still does not wish to tear down the house. And has actually changed his position, to my understanding. He is now okay with leaving the single-family zoning on the house and adding the H to it. However, I think it would be cleaner from a procedural standpoint, because there are some procedural issues, we take that to the planning commission and the city council as a standalone case.

[11:57:05 AM]

The city is the applicant, because the landmark commission initiated it, not the owner. And we bring it back probably in August as a standalone historic zoning case for the house. The owner will not oppose that.

>> Houston: The demolition permits have been approved?

>> Not yet. It's our intention to approve them, because the landmark commission has voted not to zone those properties. I believe he would have up to a year to do the demolition after the permit was issued, or it would expire.

>> Houston: So during the demolition phase, what if a bulldozer accidentally knocks into the wall of the house? Is there any --

>> Yes. At that point --

>> Houston: Any penalties for that?

>> He would not be allowed. There was no way that you could do anything to the house without pulling a demolition permit for the house.

>> Houston: I didn't say pull a permit. I said accidentally while demolishing the compound.

>> We have an active zoning case, if something happened to the property we would go after him with whatever legal means we had. To the property.

>> Houston: That's what I'm asking, what are the legal remedies.

>> Going after him for demolishing a property or partially without a permit.

>> Houston: And what is that? Is that --

>> \$2 million a day.

>> Houston: Thank you. I think we have people to speak to this issue so I'd like to see if they could come up at some point.

>> Tovo: Mayor?

>> Mayor Adler: Before, tell me what the procedural issues are. It sounds like the property owner is okay with having no zoning change other than the adding of the historical designation to the large house.

[11:59:08 AM]

So help me understand what the procedural problem would be with us just doing that and saving everybody the problems of going back to planning commission since it appears as if there's no disagreement there.

>> I think the issue has to do with the fact that what's on your agenda today is not posted as a separate item with the city being the applicant. In other words, landmark commission being the applicant for historic zoning on the property. What's on your agenda today is the request for the entire rezoning, which has been withdrawn by the applicant. And as I said, the cases were never split in two. So it's our desire to bring back the one case cleanly and to no longer have the issue about whether this is a part of another case or not.

>> Mayor Adler: If this agenda item was in front of us, if it had not been withdrawn and it's in front of us and we're considering it, could we have, on our motor as part of our amendment as we're considering it,

specifically could we have not taken the recommendation as to the rezoning but kept alive that part that would have accepted the historic?

>> Mayor, Debra Thomas with the law department. The major issue in this case at this time is that the planning commission, the posting did not indicate that there was -- that the planning commission would be considering historic zoning so there's a notice problem at the planning commission. Last week when it was on, this week when it was on, if I had moan that there was a problem -- known that there was a problem with the notice at planning commission, I would have recommended that the council let it go back to planning commission, fix that, and then come back to council.

>> Mayor Adler: Okay. That makes sense to me then. Ms. Pool, did you have further questions?

>> Pool: I was reading in the backup, it sounded like some of the reasons why this has been going back and forth is because either posting or paperwork issues.

[12:01:17 PM]

>> Yes. It's been going back and forth because, as I said, we merged two case -- casinos one and if you want to separate them at this time we think there are procedural ones on this.

>> Pool: I'm with councilmember Houston on wanting to ensure if any demolition happens it doesn't affect the structures that it's not supposed to effect. And I also really do want to hear from the residents and the -- I think some folks are in the back of the room there to just really be clear that they're fine going forward.

>> Mayor Adler: One last question. One last question.

>> Sure.

>> Mayor Adler: If -- when you -- when you -- with respect to -- way you're proposing it, this goes back to the planning commission with respect to historical designation on this property. As a part of that conversation, since it's concerning historical designation on that property, it might be that they would have a broader conversation about what was recommended or not recommended by the historical preservation group. Which means that there could be a conversation that extends beyond -- although we certainly don't think that's going to happen because it's been there three times and the like, but if the issue is the relative timing of the demolition permit and this coming back to council, is there anything that requires you to grant the demolition permit now as opposed to to granting the demolition permit in August?

>> There's nothing -- well, we do have time lines, actually. Once they file a demolition permit, we are obligated to approve it within a certain amount of days, I believe it's seven, unless we refer it to the

landmark commission for their recommendation. The landmark commission, if they do not recommend historic zoning on a demolition permit, the case does not move forward.

[12:03:18 PM]

It dies there. In this case, two demolition permits have been before them, before on this property, and they've voted with moving forward on the demolition of them. At the last time they did not have a demolition permit in front of them. They had a request from the neighborhood to initiate historic zoning but chose not to do that. At that point the case dies there and does not move forward to the planning commission. When we were talking about the case in the larger context of the entire zoning case, planning commission did recommend the historic zoning on the house as a part of that case so I do not anticipate there will be an issue with the planning commission when we go back to them and say, instead of talking about this case now, we're just talking about the house, leaving it single family, talking about adding the H zoning to it, I would anticipate that they would do the same thing they did previously when talking about it in the context of the larger property.

>> Mayor Adler: Would the planning commission in that context be able to talk about historical designation on the other buildings if they chose to.

>> They could speak to it but only the landmark commission could initiate the historic case.

>> Mayor Adler: All right.

>> Houston: Mayor, one other question before we perhaps can hear from the neighborhoods. So help me understand, Ms. Thomas, once this was all folded into the zoning case and we didn't have the right language, whose responsibility is it to make sure that what we've done as staff is -- as staff is conveyed in the language it would need to have or it should have gone to planning commission before it came here? So I'm confused about that piece of it. Because this is something that was set last -- what, two council meetings ago to come back today. And so how did we get off-track with making sure that it went to planning commission before it came here?

>> The case did go to planning commission before it came here. It's just that the notice, when it went to planning commission, was not adequate to support the planning commission's action of sf3h, the historic.

[12:05:24 PM]

There was no notice. There was no posting for the historic zoning. And that made the posting at planning commission inadequate.

>> Houston: But we've known about the historic zoning piece since when?

>> A long time. I don't know what the date was.

>> Houston: Thank you.

>> I did want to clarify something Mr. Rusthoven said. The planning commission or the council could initiate --

>> Mayor Adler: You said the planning commission or council could initiate historic zoning?

>> The planning commission could recommend historic zoning if we're talking solely about the cottages now because we have agreement about the house. If we're talking about the cottages the planning commission could initiate a historic zoning case on the house. We would have to take that back to the landmark commission. If they did not recommend it it would die there. Three times previously they have not recommended it.

>> Mayor Adler: I understand that. Thank you. Ms. Tovo.

>> Tovo: Mr. Rusthoven, is the same true of the city council? If we initiated historic zoning, just, for example, on the other two houses, it would have to go back to the landmark commission as well?

>> Yes.

>> Tovo: What happens if they don't recommend it?

>> They don't recommend it --

>> Tovo: Same path?

>> Yes, case stops there. If the owner were opposed it would take a super majority of the commission to initiate it.

>> Tovo: It doesn't mean --

>> The landmark commission is actually a three step, initiation, if they don't make recommendation it doesn't move forward. If it does move forward and the owner doesn't approve, the council, it would take a super majority to approve it.

[12:07:30 PM]

>> Tovo: Right. Thank you.

>> Mayor Adler: All right. Before I go to public speakers, do you have something that you think we should hear?

>> I believe if the council or commission initiated historic zoning over the entire property it would bring the entire case to you. If the landmark initiated it, it got to them and they did not have a favorable recommendation on the historic zoning, that case, for those portions that did not recommend, would stop at landmark commission. The piece they favorably acted, the house in this case, would move forward.

>> Mayor Adler: So what was different is -- what's different is you're saying that if the council initiated it it would come back to council.

>> In its entirety.

>> Mayor Adler: In its entirety. If the commission initiates it and doesn't prove it, then it stops.

>> In the landmark commission brings it forward and chooses not to recommend the historic zoning for the remainder of the property, that would not come forward, but the house would. Interestingly enough, when this got before the landmark commission, it was on March 23. And commission the very next night took action on the zoning case. So there was a time less than, I think, almost 24 hours or about 24 hours there R there was action by landmark commission saying, yes, we'll move it forward but only for the house and then the commission took it the very next night with the age -- if the landmark commission recommended it, but that may be why there was some confusion in the posting before the commission because literally they were acting less than a day and a half time. One night, yes, go move forward with the age. It wasn't on the agenda. Commission did take the staff recommendation that if the H was recommended, they would adopt it, but they were not able to post it on the commission agenda because we didn't know, frankly, what the commission would do that previous night.

[12:09:40 PM]

>> Mayor Adler: And I understand that too. Ear going to go to public speakers at this point Louisa brin said. Tracey. You have six minutes, Louisa.

>> Thank you. Hello, councilmembers, mayor pro tem, mayor. Thank you for your time. I really wanted to start -- I'm the second of

[indiscernible] Swede hill neighborhood association

[indiscernible] To the council for your thoughtful consideration of this case over the past several, I guess it's been months. And I appreciate your -- the time and effort that you've spent. I don't want to disagree

with Mr. Rusthoven, but there are a few points that I have to clarify. One is that the 1506 waller property has never been approved for demolition. Mr. Rusthoven says that all four of the cottages have been approved twice over. That is not true. 1506 waller has never been approved for demolition. I looked back as far as 1986 and before that it was the family and they of course would never have done that. I also wanted to point out that the planning commission already has a recommendation for you on this case, and so I am -- zoning on the entire complex today. I think that would be an excellent solution and of course we would -- it would give us more time. And the reason I'm asking for time is because some -- we have a development, and that is that we have a buyer for this property, and the buyer has made an offer, and I believe the offer has been rejected. However, it is almost more than twice what the owner paid for this property, but I am hoping and I spoke with Mr. Casar earlier about this, that we can spend some time over the next month trying to come up with the solution that is good for everyone.

[12:11:56 PM]

It's great for the neighborhood, this new buyer would like to have historic designation and preserve and rehab all of the cottages and maintain single family on all three tracts, and I think that we have a real opportunity here for Mr. Peoples, for the neighborhood, and for the new buyer. So I would urge you to give us some time in whatever form or shape that takes so that we can actually sit down and have conversations and come up with a good solution. So I would be for sure in favor of the suggestion that the council move forward with historic zoning on all of the homes and we go back to hlc, it will give us more time and the potential -- I think I also wanted to say that I believe the council has not seen the background on these properties, on this compound. And of course hlc was not given the opportunity to see that information that my colleague and I brought forward, which included a txdot intensive level survey of -- in 2004 of all of these properties and all of the properties from the lake all the way north to renly street. This survey completed by hhm describes all of the structures as contributing structures to a potential natural historic registered district in Swede hill for the entire subdivision. That information along with all of the family history and connections and associations with the family and along with an analysis of the homes themselves, none of that information was included in the backup for the hlc, and I handed it out myself. Of course they didn't have time to read it. Excuse me. I would appreciate the opportunity to bring all of that research that took many months for us to complete, interviews with the families, et cetera, I would like to be able to have a chance to bring that forward to you and of course give the electronic time, if that's the -- hlc time to review that information.

[12:14:01 PM]

I believe if you and they saw it their decision about these properties would be different than who they first decided. So I believe they would support historic zoning for all of the homes and preserve the history and culture of this compound. It is emblematic of our entire neighborhood. We are a very close knit, tight community. This cluster of homes represents that tight knit community and a culture of moderate income, modest people in modest homes. It's sort of an every -man complex and believe it deserves recognition as so few properties and neighborhoods are able to enjoy these days. So please take a moment to consider giving us some time for the buyer to come up with an acceptable offer in whatever form or shape that may take. I appreciate your time. Thank you so much for your consideration.

>> Tovo: Thank you, Ms. Brinsmaid. Our next speaker is Mr. William minor. And just so we know, we have Mr. Minor signed up to speak and then Mr. Sheehan and that's the last registered speaker. So if you'd like to speak, if you could give your name to the city clerk, please.

>> My name is Bruce Sheehan, member of the board of the Swede hill neighborhood association. I'm not as eloquent as a lot of people are. I simply want to say I think a postponement on the demolition permits is in order until some of this straightens out. A lot has happened in the last few days, and we don't want to move too fast. At this point, this is -- these are houses that have residents in them, and -- permits for a while until -- there's no plans for the property at this point.

[12:16:19 PM]

And I don't see the purpose of tearing them down if there's no plan for the neighborhood -- for what's going to go on this property. And that's all I really want to say. Thank you.

>> Tovo: If I could, just ask you to pause for one minute. Actually, we do have Mr. Sheehan signed up next -- I apologize, I thought you were Mr. Minor. I'd like to call our city attorney up for a minute. We've heard a few suggestions of actions we might be able to take today. As I understand, we are not posted to initiate a historic zoning, were that the will of the council, and it is not a council action to do anything with regard to demolition permit, and I wanted to just invite you to --

>> Mayor pro tem.

>> Tovo: Speak to that.

>> You are correct about that. Today, even if the council decided they wanted to initiate a zoning case, they couldn't do it today. It's not posted. But that could be on next week's agenda if that was the will of the council. Today all we have is a withdrawal -- we don't have a case. We actually have nothing to do today.

>> Tovo: I appreciate that clarification. Thank you. Okay, Mr. Sizaros, and if you would sign up after your time.

>> Mayor pro tem, council, my name is peter [indiscernible] And I represent Wes peoples who owns the property. I wanted to emphasize that the two matters before you today have been withdrawn so there's no action to be taken. We've received, Mr. Peoples and Mr. Blaker have received no offers on the property. People have contacted us regarding buying the property, and Mr. Peoples and Mr. Blaker have responded to those people, but no offers have been made regarding purchasing the property. We have tenants, Mr. Peoples has tenants in the houses right now.

[12:18:24 PM]

When the demolition permits are issued, they're good for a two-year period under the land development code, and I'd just like to emphasize once again that the landmark commission has twice determined that these cottages are not historic and that even Steve Sadowski, chief preservation officer of the city, recommended that these cottages are not historic. So I think that's an important consideration for y'all to make -- or for y'all to consider. Two weeks ago we were here and made a postponement request until June 11, and that was denied and so now we're here on May 28, and I find it ironic that now certain people are asking for more time regarding putting together an offer. But I just wanted to address some of the items, both of the matters today have been withdrawn by the applicant. And you have the -- you have the letter that we sent to city staff regarding the house. So . . .

>> Tovo: Councilmember Zimmerman.

>> Zimmerman: Thank you, mayor pro tem. Quick question, I think germane to this discussion. I've been looking at these houses here. When I was a teenager I used to work on remodeling and reconstruction of these buildings.

>> Sure.

>> Zimmerman: I would concur with the people that say these are not historical buildings. They're just not.

>> Right.

>> Zimmerman: They're expensive to maintain. Due to the old construction, these look like 1930s, '40s, even 1920s visitage home, some of the design architecture. So what is the value on the tax rolls for the dirt compared to the improvement?

>> I'd have to look at the value on the tax rolls. I don't know that. I know that Steve, when you look at the structures that are there, just the cottages, the construction is -- they're falling apart.

[12:20:27 PM]

>> Zimmerman: Yeah.

>> They're not -- some of them may not have air conditioning, but the historic landmark commission has said twice now that they're not historic.

>> Zimmerman: Would I concur with that -- I would concur based on real life experience trying to reconstruct and maintain these buildings.

>> Sure.

>> Zimmerman: They need to be torn down. Professional opinion.

>> Okay.

>> Zimmerman: Second thing about them is I think what happens is the property taxes, right, on the dirt that these things sit on are astronomical, and I would appreciate it if that information were brought up in the context of these discussions, of how expensive these things are just to sit there. It would be difficult to cover the cost of the property taxes with rentals on these units, right?

>> You're exactly right. I mean, the property taxes in this area are very expensive, and the key to making houses on these properties reasonably priced is density. And that issue is to be discussed at some later point, but they are expensive to maintain.

>> Houston: Mayor pro tem? Councilmember Zimmerman, I appreciate your -- your bird's eye view of what's important and historical to people on the other part of town. As I've said on any number of occasions, declaring something historically significant is not only about what the construction is but the people who live there. And the culture that surrounding those particular structures. And that particular land. And so as historic structures in my part of the district are bulldozed every day, and our culture is lost because of comments like yours, that it's not -- they need to be torn down, we're losing a culture, we're losing an opportunity to preserve some things that may not be important to all of Austin, but are important to some parts of Austin.

[12:22:32 PM]

So I would vehemently disagree with your comments. I think it would be helpful for the historic landmark commission to provide the information that the neighborhoods have developed so that you can

see some of the information that was presented to the historic landmark commission before you make just a pronouncement about whether or not anybody's home needs to be demolished.

>> Tovo: Thank you. Councilmember pool.

>> Pool: I emphatically agree and underscore councilmember Houston's comments. Especially when we are looking at demolishing old structures -- and past events. I think for me, the biggest issue on this one here -- and I think we may be getting to the end of the speaker signup, is how immensely tangled and contribution convoluted this has gotten so I personally want to be sure that no demolition activity occurs on this site at all until council is able to come back with a clear time line of actions among all the different citizen commissions, clear recommendations, and set of votes on what has happened and what hasn't happened, and then maybe a sitdown with the neighbors in the community and the gentleman who owned -- is looking to make changes on the property so I can have and possibly others on the dais can have some certainty and clarity on what's being asked of us here. I understand you're not intending to do any demolition any time soon. Is that correct, Mr. Peoples, that is?

>> I believe there are tenants in the houses right now.

[12:24:32 PM]

I believe, you know, the demolition permits are good for two years once they're issued. I don't know his schedule, but I don't think there's anything, you know, pending right now. But we would like those permits to be issued by the chief preservation officer. I think the historic landmark commission twice has seen all of the information, all of the studies, and at least twice has made the determination that these cottages are not historic. And that's Steve Sadowski's recommendation too. That's why we'd like the permits to be issued.

>> Pool: I think there are some other issues besides the historic designation, goes more specifically to both what councilmember Houston and I have been talking about that is the people living there currently and the community that surrounding it and that are making use of it. So I'll just leave that there. Thank you.

>> Tovo: Councilmember Zimmerman and then -- actually, I'm going to go to councilmember troxclair who hasn't had an opportunity to speak and then councilmember Zimmerman and then perhaps we can go back to our staff. I've heard several -- I've heard some interest among council in various kinds of actions that I think we need our staff to way in on what our next step would be. Councilmember troxclair.

>> Troxclair: I don't know if my comments or questions or more appropriate to the applicant or to the staff, but I am feeling like we're convoluting the issue a little bit. The original staff presentation was not confusing. The original staff presentation was that the two items that are in front of us have been

withdrawn and that there was an agreement made that made all parties happy regarding the individual building that is, you know, kind of the center piece of the historic issue. And so I guess my preference would be -- is to separate those issues as staff has recommended so that we can maintain clarity on what we're talking about and what decisions are being. Then if we are going to venture into the idea of doing a -- then we're getting into -- I think one thing that has been missing in this conversation, although culture is important and the neighborhood is important and all those things, but private property rights are important too and a person's, you know, ability to, within the law, do what they would like to with the land I think is really important.

[12:26:58 PM]

And it seems like that there had been an amicable agreement made regarding the most important structure on the piece of property. So --

>> Right.

>> Troxclair: So would I like us to move forward with -- I would like us to move forward with the issue in front of us -- I guess it's being withdrawn so there's really no action that needs to be taken today.

>> That's correct.

>> Troxclair: Regarding this.

>> That's correct. You're exactly right.

>> Zimmerman: I guess I'm next. Thank you, mayor pro tem. For the record to get this on in the context of discussion I'm looking at the tax rolls for this property 1506 waller street. In 2012, the improvement, that will be the structure, was appraised at \$76,500 and the land at \$221,000. For 2015, that \$76,000 is now \$289,000 for that structure. And the property is on the roll at \$195,000. This is a pretty staggering property tax bill for a house of that quality, and the economics just don't make any sense here for me. And I am -- I guess I'm looking at the problems in the city with affordability in terms of the property taxes out of control and people can't afford to pay for these houses. So . . .

>> Tovo: Thank you. Any questions or comments? Mr. Rusthoven, I have a question for you. If I understood councilmember pool's comments and the community members, there were some questions about delaying the demolition permit. What kind of an action would allow us -- what kind of action would be necessary to do that?

>> I don't believe that there's any action the city council can take today regarding the demolition permits. The city code lays out the demolition permit process.

[12:28:58 PM]

We will follow that code. What's new today is that yesterday -- late yesterday, I spoke with the developer, and got them to agree not to oppose the historic zoning for the house even if just the single family zoning remained. So there would not be -- normally he could file a petition against that at the city council, when we brought it back that would require super majority of the council. With the letter before he he's agreed to withdraw his opposition to the historic zoning for the house, and my intention is to bring that before council as a stand alone case, not wrapped up in the larger case. What I also spoke with the neighborhood about was the demolition permits for the -- that were filed last week for the four cottages, that twice in the past --

>> Tovo: Yes, we don't need to cover that territory. I understood that, thanks. But as I understood the other comments that were made, were the council to initiate a historic zoning it would not necessarily go back to the landmark commission. It would come back to council.

>> I think that for any historic zoning case we'd have to take it to the landmark commission for their recommendation.

>> Tovo: Then it would definitely proceed on to council and there was discussion and not consensus, I think, among our speakers today about whether the landmark commission had reviewed all of the information or not. Okay, thank you. So we're -- as has been mentioned, the cases have been withdrawn so there's really no action we can take today other than to move on, I think. Thank you for your comments.

>> Houston: Mayor pro tem, I'd like to thank my council colleagues for allowing us to have the conversation because there's some issues with historic preservation or the landmark commission, and who decides what's historic and who decides what's not, and so I think there's some issues there that this kind of jumps off into. So thank you all for allowing us to have the conversation.

>> Tovo: Thank you also for your comments earlier about the cultural significance.

[12:30:59 PM]

I think that was very important, and I agree with you. So we're having a bit of an unusual day, and so generally the plan from here on out is that we are going to break briefly for executive session. We will return and probably take action on item 6, and then I expect that the mayor --

>> Zimmerman: Mayor pro tem? I think you wanted to review that in executive session.

>> Tovo: I'm going to read the executive session script here in a minute.

>> Zimmerman: Thanks.

>> Tovo: I'm laying out sort of the general plan for the public. We're going to go into executive session. I don't expect it will be very long, though it could get a little bit lengthy. We'll come back out. We will take action on item 5. And then if we are not yet at our time certain, I believe the mayor's plan was to -- wrap up that meeting and then move back to city council meeting in time for the discussion of our time certain item. So the city council will now go into closed session to take up two items pursuant to section 55.1.074 of the government code, the city council will discuss the following item, item 6, personnel matters related to the appointment of a city auditor, including compensation and benefits, pursuant to section 55.1071 of the government code the city council will consult with legal council regarding item 1, legal issues associated with city council resolution that directs the city manager to file a challenging petition for commercial property values set by the Texas central appraisal district.

[12:32:59 PM]

Item 7 has been withdrawn. Any objection to going into executive session on the items announced? Seeing none, the council will now go into executive session.

[Executive session]

[2:45:48 PM]

>> Mayor Adler: First -- item number five first. This is the personnel matter. Councilmember tovo, do you want to tee this up for us.

>> Tovo: I would like to move approval, that the city council appoint corrie stokes as our city auditor and I've got additional details. I'll read the additional details for a salary of \$5,576.92 per pay periodualized to \$145,000 paid in accordance with the Normal payroll practices. Those are the missing pieces of information in the backup. The other part is that it's effective June 1st, if I get a second, I'd like to talk to my motion.

>> Zimmerman: Second.

>> Mayor Adler: Zig seconded.

>> Tovo: The audit and finance committee met and interviewed Ms. Stokes and we're fortunate in the city of Austin to have Ms. Stokes on staff in the city auditor's office for as long as she's been there, which is 16 years and we're fortunate that she's interested in the permanent position. She's been in the city auditor's office for more than 16 years and positions of increased responsibility. And she's served that

department and this community ably and well and highly respected among other peers, not just in the city of Austin, but nationally. I had the privilege of working with Ms. Stokes and I believe she's really an asset for the city of Austin. Her references were glowing, they spoke to her passion for the field and the respect and trust and admiration that others have for her and I think she'll be a fine -- a terrific asset as our permanent city auditor.

[2:47:52 PM]

>> Mayor Adler: I think that everybody on the dais feels the same way. To the auditor. We all feel very lucky, I think. Any additional discussion before we take a vote and move on to the Austin energy meeting?

>> I just wanted to underscore comments as part of the audit and finance committee committee we had the pleasure of getting to know Corrie better and talking with her peers and colleagues and learning about the work she's done in national organizations as well as at the city and one of my favorite things that was used to describe her was that she inspires the best in others and I think that's a compliment that's really not easily achieved. And so I just want to thank you for -- for being a leader for our city and for bringing that leadership to the city auditor's office.

>> Mayor Adler: Thank you. All in favor of this item number five please raise your hand. Those opposed? Unanimous on the dais with Gallo, Kitchen and Garza off. Thank you very much. And --

[applause] That, I think, takes us back to the Austin energy agenda. So we're going to go ahead and without objection going to recess the city council meeting and recognizing that we have one last item to hear that we're going to pick back up at 4:00 and recess this and move into the Austin energy committee meeting. I'll turn it over to vice chair acting chairperson.

>> Thank you, mayor.

[2:49:54 PM]

When last we left this committee, Austin energy oversight committee, we had heard from community members and the low-income advisory taskforce and that was item 10 and we had taken a number of items out of turn in order to economize the time of members of the community being here. So number 9, would be the next one to take up. Because it's related to item 10, and I think you there, I'm looking at the speaker sign up and I may need a little bit of help. I think the speaker sign-up I'm looking at -- [feedback] For the council meeting and not for the Austin energy speaker sign-up so if there's anyone who could assist me in knowing what speakers are on what items. But I will say that item nine is a

presentation from the low-income consumer working group regarding payment arrangements and arrearage management and bad debt. And --

>> [Inaudible] Representing Austin interfaith. I was a member of the stakeholder group that addressed and I have no idea what the name of the stakeholder group was, but let's -- that's beside the point. The first slide shows that today is the 28th, but -- of May, and that is almost exactly one year from the date that we had our last meeting as a -- as a task group. That's not it.

[2:51:59 PM]

I think you had it labeled, number nine. Anyway, I'll go forward. The -- the history of the work -- yes. The history of the work stems back to some major billing system problems in the 2011, 2013 time frame. We were unable to collect past-due balances for an extended period of time and collecting of those past-due balances has been difficult and almost impossible since that time. So these things have been sitting there since the 2011-2013 time frame. Also, and somewhat related but not necessarily, city council received an abundance of constituent complaints relevant to collections in general. And those -- those were brought to council and in late 2013, some policies and procedures were addressed by council at that time. This was an ordinance that was passed which altered the terms and conditions of customers with past-due balances and basically the idea was to give them more time to pay, have more flexible terms and conditions. There was a -- a very strong effort to make sure that people who had trouble paying didn't get their service disconnected. There was also an awful lot of stories that came from councilmembers that said they had been contacted by their constituents and they were able to work through and solve the problems of the constituents, but they were worried about the ones that didn't have the contacts and didn't know how to get to the councilmembers and didn't get the same level of support.

[2:54:17 PM]

At the same time as the council created the -- these enough terms and conditions, there was a working group with community stakeholders and all of the city of Austin utilities to evaluate whether that ordinance needed tweaking and if -- if it needed tweaking, what the tweaking should be. So there was a stakeholder effort that met throughout the first five months of 2014. There was -- there was great interchange. I was really impressed by the stakeholders and their commitment to the effort and the stakeholders included members of the city of Austin utilities and we had differences of opinion, a lot of differences of opinion but we worked well together. It was very productive and we were making great progress and, I think we had some very good recommendations that we wanted to bring forward to council. However, there was a drop-dead date in June where we were supposed to get back to

council and the -- the stakeholder group ended abruptly at the end of may and really, the recommendations haven't been fully fleshed out. Certainly no presentation of what our narrative was to defend our recommendations. And that ending, that abrupt ending was very unfortunate. There were a bunch of unresolved issues between the stakeholder members, the non-city of Austin utility stakeholder members and the city of Austin stakeholder members. But there was no show-stoppers, there was nothing that couldn't have been worked.

[2:56:18 PM]

Frustrating thing -- a frustrating thing happened, the report that council was delayed until November of last year. So while we weren't meeting, no action was taken. The first thing that the stakeholder group did was look at the status of where things were. And the biggest thing we noticed was there was a day late penny short -- I'll call it a policy -- it was a way of doing business. If a ratepayer, and I'll give you a scenario, had a \$200 bill and was able to pay \$199.99 on time. That broke whatever relationship they had with the -- with Austin energy. If their social security check came in on a weekend, and they needed to pay on Monday, instead of Friday, that broke the payment arrangement. There was another big issue that we found, was that there was adown payment required to enter into a payment arrangement and the down-payment, given this long period of time where customers were not being asked to pay, often was thousands of dollars. And even people that you think could keep up with their bills were unable to. And the -- the problems with the billing system were citywide. It wasn't -- it wasn't no district was left untouched. So it was interesting that not all of people having a problem were low-income people.

[2:58:22 PM]

And we also figured out that there wasn't really an awful lot of progress being made toward collecting that old debt. So throughout the period of time -- and I'm not going to go through the details of the recommendations that the stakeholder group made or that city of Austin units made as a counter point, counterpoint. We did both come up with ways of adjusting the November 13th procedures that council had created. We also thought that there ought to be special attention paid to the arrearage, and I never knew that a word "Arrearage" existed until I worked on this. But the arrearage for the 2011-2013 point, handled separately and there had to be a way of -- of getting into that big blob of debt. But what we found is that we had to really change that day late penny short attitude or no system that we came up with was going to solve the problem. The customers that were willing to pay had real constraints and a real desire to do what was right. But the systems would say that if you can't do all that we say you need to do, we're going to say you have broken a payment arrangement, for example, and we had great

debates how many payment arrangements we should allow and that really isn't the question. The question is how do you make it so people don't break the arrangements?

[3:00:23 PM]

And if we empowered staff to say, I understand you're going to be a penny short this month, we're not going to consider that a break. We're going to empower staff to figure out the difference. And one of the things that we constantly in every meeting said, we want to have the -- it known the difference between somebody who is willing to pay and someone who is trying to scam the system. And the only way we thought you could do that was not by creating some system that was the perfect system to do it, but to talk to the ratepayer. And so we really feel that empowerment of the staff to talk to the ratepayers, find out what is right for that ratepayer, and move forward from there is the essence of a solution.

>> Casar: If you could go back one slide. I have one question.

>> Tovo: Councilmember Casar.

>> Casar: Thanks, as far as one time arrearage for those that had the -- issues, were there ideas tossed around how to identify who those folks are or do we already know?

>> I believe we know people who have debt that stems back that long, yes.

>> Casar: So Austin energy does have those folks identified. Who specifically [inaudible]

>> That didn't seem object a problem.

>> Casar: Thank you.

>> We also heard that anecdotically and we read it in the "Obvious American statesman" the efforts we did in 2013, led to the problem.

[3:02:25 PM]

Well, that isn't what led to the problem. It didn't solve the problem. But the debt, the debt has been growing pretty much on an even keel since the middle of 2012. And in fact, you know, as we were working it and the charge that the working group had was to address arrearage, and to -- and to check and see whether or not differences to the -- the council November of '13 resolution should be made. We weren't really focused on eating into that debt but we took it on any way and we came up with a pretty

creative approach to -- to addressing that. And basically the one-time arrearage system would have created incentives to customers to -- if they paid toward that 2011-2013 debt, we would find a way to match that payment to some level or other. And we had different ideas of how that should be done for cap customers and non-cap customers but the details were certainly not tested and basically were dropped. So Clark I recommend at this point is that we restart the work. There was -- there were details that were separating city of Austin utilities and the stakeholder group that were minor and should be addressed and we should work out those differences.

[3:04:27 PM]

Differences. But the keep to -- key to making it work and reducing the debt of Austin energy is find a way to empower staff and also we thought you should have someone independent of Austin energy be an ombuds person and be a person people could go to and get help. And I don't know if you want it to be city council members. Though that could work. And that's it. Any questions.

>> Tovo: Thank you for the presentation. I know my colleagues and I have been waiting to hear the report and glad to get it from you today. Mayor pro tem, did you have a question.

>> [Inaudible]

>> Pool: Well, questions from anyone? Mr. Renteria?

>> Renteria: I just wanted to ask a question, I know I was involved in -- my billing mixed up and I ended up getting a -- two \$3,550 bills -- two \$550 bills separated by two weeks and I called them up and lucky for me, I was able to save up new money so when the right bill came in, I was able to pay. It was a shock, especially around christmastime, you get a \$550 electric bill payment awe you haven't paid for the last two months and I'm pretty -- I mean, I'm careful in not having to pay a late fee. Always on top of it. But how many people weren't able to -- did you find a number, a percentage of the ones that are having to pay that arrearage, that are struggling to make their payments?

[3:06:29 PM]

Did you look at the Numbers from that period of time and identify how many are still struggling with that?

>> I'm not sure that this is answering your question, but a surprisingly small percentage of the dollars were people in the cap program. Most of the dollars for that 2011-2013 period of time came from people that were above -- well, that were not in the cap program. For whatever reason. And I think they

were people that you would not have expected to have had problems, but they did. They did. And an insentence, if -- an instance, if it was a case of a ??? Dollar bill, a lot of us -- after I thousand bill, a lot of us couldn't come up with that to pay an electric bill in any given month and you get into a cycle and can get into trouble. But a surprising number of the customers customers were not -- customers were not cap customers having long-term problems. The cap customers had a lot of shorter term debt. But --

>> Pool: I think Mr. Zimmerman indicated he wanted to speak and then Ms. Houston.

>> Zimmerman: The declining debt.

>> Yeah.

>> Zimmerman: I'd like to ask a question if I could. And speaking of the arrearages, we know there are people that are just being taxed and they can't afford to live in Austin any monomore and my concern looking at that debt, when people are offered payment plans, they'll do their best to pay it, but they have systemic problems. The economics are not working out and they're basically on their way out of the city. They're not going to be able to pay the dollars back. Do you have a way to analyze what percentage of that debt that's never going to be repaid because people are being forced out of the city because they can't make the Numbers work.

[3:08:40 PM]

I guess I contend with the argument you need it give flexibility to staff to come up with creative solutions, I could argue that will double the debt that will never be paid back, how do you answer that?

>> From what I understand, \$20 million is from published reports, are what is the bad debt. What they currently say is bad debt.

>> Zimmerman: The \$20 million from when to when? From 2011 or from --

>> Where was the source?

>> Zimmerman: No what term does that \$20 million cover.

>> Today.

>> Zimmerman: Today back to when? Sorry.

>> There's currently \$20 million of bad debt on the books of Austin energy as I understand it.

>> Zimmerman: Okay. That's nottually, that's -- that's not annually. That's like a cumulative.

>> Roughly of the \$80 million out there, \$20 million of them, they don't think they're going to -- going to collect. Now, my -- my assertion is that right -- that if you have -- if you work with the customers, if you

work with the clients, and stop having this contention over did the -- did the thing break and are you on your second payment plan or third payment plan? But what can you do. You get something. And that's not proven, but I tell you, it's -- there's pretty good track record that says what's going on right now isn't fixing the problem.

>> Tovo: Thank you, councilmember Houston.

>> Houston: Thank you so much for that information. I have a question, if I'm a customer and I know that my social security check comes in on the second Wednesday of the month, could I ask for my repayment plan to start after that date so my social security check comes in and then I could pay my bills?

[3:10:57 PM]

>> Um -- I don't know the answer to that. I do know there are a lot of instances where the mismatch causes the problem. I don't know if you had anticipated that and set it up that perhaps when the payment plan was first set up, I -- I suspect. But I also think that it gets on to a take the certain and the third Wednesday of a month might be after the date or before the date, depending upon how -- how the third Wednesday works out and that has caused trouble, a lot of times.

>> Houston: Thank you.

>> Tovo: Any other questions?

>> I think that's a good point, though. Unless you get into the

[inaudible], you're never going to solve the problem. You have to know those things. And you have to adjust the system to make it work with the actual situations of that individual ratepayer. But it seems to be pretty expensive to just let the debt keep climbing.

>> Can you expand on the day late and penny short, whether Austin energy has put in ways to mitigate that or if there's more work to be done.

>> I have heard, I have not seen, I have heard that they have done some work on that and have some level of a grace period built into the system. But I would sure like to know what the details are and that might be something that if we got back together as a group, we could evaluate and really make a recommendation to you. I think although the mechanics of the day late penny short are important, the interaction with the ratepayer is what is going to make the difference.

[3:13:07 PM]

If you give them a three-day grace period and they don't the money, the fact that it's three more days isn't going to solve the problem. So I believe they've done something, I don't know what it is. And I'd like to know more and give you a better answer.

>> Pool: The work that was done and sounds like it was incomplete when it ended abruptly about a year ago, do you feel there would be -- there's additional work for this group to do that we should continue the group or have a similar group, maybe to dig in more deeply to some of the issues that have not been resolved or explored?

>> I think it would be very helpful to restart the group or have a different group, it doesn't have to be the

>> Tovo: Yeah, thank you for that suggestion. And that's -- I think that's exactly what should happen next, and I appreciate you highlighting that in your presentation, and I will work with you and the other members of that group do bring forward a resolution that would constitute just such a working group. And I want to just say thank you to everybody who was involved in that and really who -- those of you, several of whom are here in the audience, who raised this issue to council attention. You know, as probably a lot of us remember, if you do -- and if you don't, doing a Google search on statesman for Austin energy billing errors will return pretty interesting articles. The one from February 18, 2012, the headline was more than 100,000 customers hit by billing errors, good deal later 4,000 Austin businesses and churches facing errors. The billing system did create real challenges for people across the community and manufacture our community members, including several in this audience, were in a position of trying to help individuals, at least one of whom I remember had not had utility service for a year because they were unable to come up with a 50% down payment that would be requirement to get back on a payment plan.

[3:15:18 PM]

So, you know, the change to the ordinance was intended to be a temporary fix, while your group came up with recommendations. So we've certainly heard from Austin energy that this is not a final solution, that what we have in the ordinance has created other issues. And I do think we need to revisit that, but I would like the benefit of our group to really figure out how we make those changes moving forward.

>> Thank you. But I would like to say that while we didn't think it was the perfect solution, it hasn't contributed at all to the problem that that graph showed.

>> Tovo: Yeah, thank you for making that point. And so your recommendations, when the Austin energy made the presentation back in November and, actually, some of these graphs were in the presentation that we received last month or the month before, they did line up the working committee

recommendations for non-cap, for cap, alongside the city of Austin utilities, and I think there are certainly points of agreement. And so -- and there's a lot of very specific recommendations that the work group has already generated.

>> Yes. I don't think this is going to be a long-term thing. And if we focused on the -- new areas of disagreement, you know, there's room to comprise. We had all kinds of -- I mean, there were some pretty wide gaps in the proposals of the few things that we didn't agree, but an awful lot of room in between that we could have come to a conclusion. Our goal is to get every dollar that we can for Austin energy.

>> Tovo: Sure.

>> I know I'm a capital idea and then I want to make sure that money flows into the city. I'm an Austin interfaith person. -@I want to make sure money flows into the city.

[3:17:20 PM]

I know Austin energy is a heck of a source for money. So I want to make sure that we get the money that can be paid.

>> Tovo: Yeah, absolutely. And so I think -- I'm glad to hear you say that it could be a short-term effort, even if there's not consensus on all points, we at least want to get the work groups' recommendations before this council to consider so we can deliberate and move forward.

>> The next time it would be really nice if we could come together for a single presentation together.

>> Tovo: Agreed. Thanks again for your work.

>> Pool: It sounds like there will be some action. Thank you, Mr. Batlan, that there will be some action and possibly resolution coming forward as a result of this. And so we'll be looking to see you again in the near future. Any other items -- yes, councilmember Casar.

>> Casar: Mr. Batlan, I did have one last question. Would it be fair, is one -- the points of disagreement between some of the folks that work or were stakeholders that work at Austin energy versus some of the other stakeholders that -- how much of the bad -- how much of the debt was because of the billing system and how much of it was because of our policies on who we let pay -- how many payment arrangements we allow, et cetera? Or is there some level -- how much agreement is there on the effect of the billing system and the amount of debt that we've accrued?

>> I think the -- I don't remember the data, but we knew the data of how much the billing system contributed. Perhaps Austin energy could give you the number. But it's a fixed number, and --

>> Casar: There's not disagreements about how much of it is --

>> No.

>> Casar: Thanks.

>> Pool: All right. Thank you so much. I'd like to see if the information that we had requested on item number 3 is available. That would be the report on the leidos, item number 3.

[3:19:27 PM]

Here we go. And here we were interested in the corporate connections with a potential vendor.

>> Councilmembers, mayor, councilmembers, James Scarborough, purchasing. Based on what we could find out in the public record, mostly based on internet searches and through corporate filings that were available online, we do confirm that the company that is listed in item 3 -- just to make sure I've got the name right, leidos incorporated, is a subsidiary of the -- of the multinational firm. One of the companies of which is a defense contractor. There are multiple companies under that conglomeration but one of the corporations is a defense contractor.

>> Pool: Okay. Thank you.

>> Okay.

>> Pool: Any discussion over that, colleagues? I might entertain a motion on 3, and I don't know if anybody is interested in maybe splitting the question on the -- on the contracts. Or not. Is there a motion on item 3?

>> [Off mic]

>> Mayor Adler: I think the mayor was making a motion to --

>> Mayor Adler: Trying to. I was going to say I move to adopt item 3 as contained as posted.

>> Pool: All right. Is there a second on that? Ms. Troxclair. Any conversation or debate on item 3? Are there any -- is there any information you'd all like?

[3:21:30 PM]

Councilmember Zimmerman.

>> Zimmerman: Thank you, councilmember pool. I'd like to speak against the proposal here. And my rationale would be that whenever -- I would request -- I'm going to vote against it because what's happening is when these plans and proposals are being put forth, the cost of the studies that are going to be mandated by the various plans put forth by the council as policy, these costs are not considered in the decision to pass the plans. And so I'm going to be voting against this, and I'm hoping that in the future the council will connect better the costs of studies and other things that impact our policy decisions. So that's while I'll be voting against.

Speaker3: Okay. Councilmember Houston.

>> Houston: Yes. I think I'm too far back. You all know why I'm going to be voting against it, but one of the other reasons is, on the worksheet that we were given, it appears that this company isn't from Austin, Texas, as is gds and kema, kema. So they may have an office here, but, in actuality, they're part of a larger international group, and I just happen to be antiwar so I'm not going to support this for several reasons.

>> Pool: Councilmember Houston, would you be interested in perhaps offering an amendment to the motion to approve two of the three contracts, the two local contracts?

>> Houston: I'd be happy to do that but I'm still voting against them.

[Laughter]

>> Pool: Oh, okay.

>> If I can offer a little bit of legal guidance at this point. If the question is -- council has discretion to reject proposals, but when it comes to evaluating the merits of bids and responses to requests for proposals, under state law really the question has to be based upon the merits of the proposal as they comply with the criteria that were set forth in the request.

[3:23:36 PM]

So to the extent that your consideration of picking and choosing between the vendors strays from that that could raise some potential issues?

>> Pool: So is what you are saying then, can I interpret that to mean that if we disagree with one of the contracts in this rfp and this proposal, we should vote against it entirely, that we can't pick among them? Or if we --

>> Mayor, council, Robert Harris, law department. The -- I believe the options are specifically you can vote to reject all of the bidders on this one -- and this is ultimately -- this is just to move it to the council agenda. Is that right? There's no action approving the contract today? So, ultimately, you can approve

the contract as it is written. You can reject any and all bidders. There are possibly some -- as Mr. Perney was saying, as far as splitting, there may be legal issues we can discuss in executive session if we needed to do that as far as splitting it out and how we would do that.

>> Pool: Great. Very helpful. Councilmember kitchen.

>> Kitchen: Is it possible, since it -- since what we're doing here is -- perhaps, moving it on to the full council, is it possible to ask in this case to go back to the two bidders who did not identify any contracting with minority and women-owned businesses to go back to them and ask them to identify minority and women-owned women-owned businesses that they could participate with?

>> Houston: It's my understanding that one --

[3:25:38 PM]

>> Pool: Councilmember Houston.

>> Houston: Gds did.

>> Kitchen: Yeah. I'm talking about the other two.

>> One of the requirements in state law is that all bidders have to be treated equally and fairly. So that would go to everyone who --

>> Kitchen: One of them already has. My understanding is one of the three already has identified that.

>> So I believe that the city can do that as long as the opportunity is given. Now, as Mr. Scarborough was saying or Mr. Perney, as far as the original proposal, that generally is not something that's taken -- that was put out there as part of the request for proposal, and so what is required in order to do this specific job. And then what the council has to award on is what provides the best value to the community. And so if the council makes that determination that that's something that provides value, they can look at that and make that statement. Like I say as long as all of the vendors are given the equal opportunity, they can do that.

>> Kitchen: My understanding is this is to create a pool of vendors that can be -- that the -- that we can go to with a future scope of work. So it's not for a particular study at this point so . . . Could you speak to -- if we were to request that that be done, how that could happen?

>> Councilmembers, Veronica, director of small minority resources department. That has not been part of the enforcement of our program historically. We evaluate the mbe, WBE participation upon receipt of the submittals. The legal advice we have received previously for our own program is that is a concern of acquiring additional legal risk to go back at a later date and ask for participation.

>> Kitchen: How would that be -- I don't know who we would have to talk to, but I don't understand the additional legal risk?

>> I believe -- and I'm not an attorney, but I believe the concerns are along the lines of it was stated in terms of giving everybody that equal playing field evaluating everybody on the same terms at the beginning.

[3:27:48 PM]

>> Kitchen: Well, if the request is made of everyone, wouldn't that do that.

>> Councilmember, mayor, to the extent that we resolicited and we established goals and we put those goals into the -- goals into the solicitations and had that expectation of all the offers, certainly that would be the case. What's being discussed here would be an application after the solicitation had already concluded. While it might be something that we can have a conversation with the recommended contractors, it might not be something that we could necessarily impose upon them or require of them in lieu of a contract award. So if that's the desire of council, we can achieve that through canceling the entire solicitation and resoliciting.

>> Kitchen: I'm not certain -- what could be done.

>> Okay.

>> Kitchen: Depending on how the rfp is written, some rfps allow for a negotiation period with the actual contract. And which, to my mind, could potentially allow for the negotiation of that additional item so long as all the contractors are treated the same. So I would want to understand from the legal department -- my request -- my vote in moving this forward would be with a request that legal come back to us and let us know how we can request that that be -- that -- minority businesses be included in the requirements of the contract with these entities.

>> And I can make one general comment about that with the mbe/wbe ordinance. One concern is that that ordinance is -- because any time the government gets into the business of dealing with protected classes under the constitution -- it raises constitutional issues and one issue with the ordinance is it's very strictly drafted based on a disparity study and any time you -- essentially the respondents have to be judged by the program as it exists and is set forth in the ordinance.

[3:30:05 PM]

To the extent that they've complied with the ordinance, the risk is that you're essentially going outside of the ordinance and requiring something that's not otherwise required of them by our statute, by our ordinances.

>> Kitchen: Okay. Now is not the time to get into the detail. Because I don't want to take everyone's time, but I'm still not understanding why we couldn't ask that. I mean, we haven't done a final contract with these -- with these companies at this point. Let me ask you this. Of the three companies being proposed, were there companies that responded that were --

>> Yes.

>> Kitchen: Okay. Okay. Well, my request stands to get that information and understand that further before we -- which I think could be done pretty quickly, before we voted at full council. I'm prepared to vote here at the committee.

>> Councilmember kitchen, I'm sorry, just to be clear, as far as the request, it's the request on including more women and minority-owned business information in their proposals and have those resubmitted?

>> Kitchen: No. What I'd like to understand is that before -- when we sign a contract -- assuming we go forward and sign a contract with these three companies, could we include in the provisions of that contract that if they are going to -- if we are going to contract with them for work, that they be required to make an effort to engage a minority or women-owned business. That's all I'm talking about.

>> Okay, yep.

>> Just to clarify part of that, as part of any Normal contracting process, they do have to comply with the program. So as they move forward with the contract with any assignment they receive, anything they intend to do in terms of work they will have to come back to s&br, get an availability list, solicit to those firms and potentially subcontract out.

[3:32:06 PM]

Even though they don't have subcontracting up front, as the contract progresses there is that opportunity to add additional firms.

>> Kitchen: I'm sorry. I didn't understand. I thought from our conversation earlier that was only the case if the scope of work required it.

>> That is the case if the -- it depends on the assignment and what that assignment allows for. If that assignment includes scopes in addition to the initial scope of work, then, yes, that is the case.

>> I can clarify that. If an offer -- if a contractor wishes to use subcontractors and there were no goals placed on the solicitation, therefore, there are no goals on the resulting contract, but if they choose to

use a subcontractor, any time they would choose to use a subcontractor they would have to request a list from s&br, and that would apply to all of our procurements.

>> Kitchen: Okay. I should take this offline. I don't want to use up everybody's time but would I like to have a discussion of the request I made.

>> Pool: I'll remind everyone, as the chair of economic opportunity mentioned earlier, she'll be putting on the agenda in our next meeting, which I think is the second Monday of June, on the minority or women-owned business process. Mayor pro tem tovo.

>> Tovo: Thank you. I had a suggestion. Since we're not posted for action on this item on our council agenda today, I wonder if we might all benefit from some time in executive session talking about what the options are that are open to council on this particular contract before we make a decision to -- I mean, we don't -- anyway, that would be my proposal, that we forward this on to full council without necessarily voting and then we have an executive session about it at our earliest opportunity, maybe Tuesday. It won't delay it in getting it to council because we've heard and talked about it but then we can talk about some of the issues raised in executive session and determine what our alternatives are.

[3:34:07 PM]

>> Pool: So as I see the action in front of us here, I would either ask the mayor, who put the proposal to -
- put the motion on the table -- if he would like to table it or if he would like to vote the motion and also take it to executive session. Mayor, which would you -- I know.

>> Mayor Adler: Would I treat it as it's come to the committee and send forward to the council even if it was sent to the council without a recommendation so that our process would continue.

>> Pool: So you would say not to table it but rather to go for a vote here from the oversight committee?

>> Mayor Adler: Yes. I would be fine with changing my motion to reflect that, that we move to move this item number 3 to the full council without a recommendation.

>> Pool: And the seconder was councilmember troxclair. That's okay with you? All right. There any other discussion on this item, item number 3? All right, I'll call for a vote. All in favor of the amended motion from the mayor? And that looks like unanimous with councilmember Zimmerman Gallo and Casar off the dais. Thank you all so much. We'll move now to item number 7 and we do have a hard -- I don't know if it's a hard stop but we do have time certain at 4:00. So it is -- we have about 25 minutes, and we've got items seven, eight, six, and five in that order. We'll see how many of these we can get to and if we cannot we'll work move the rest of the items to the June Austin energy council.

>> As you know, Austin energy offers a customer assistance program to provide value to low-income customers. We currently have some 42,000 customers enrolled in the program, and as we discussed earlier today, there are 2089 customers currently on the waiting list.

[3:36:17 PM]

A customer becomes eligible to become part of our customer assistance program if they are enrolled in any one of the seven programs that you see on the list that essentially targets customers who are at 200% of the federal poverty level or lower. We do not have income information on our customers, nor do we want to manage income information on our customers. So we take advantage of these other federal, state, county programs that do qualify customers by income, and we use those programs to qualify our customers. If a customer is eligible for the program, they can be automatically qualified through a monthly process that we do, where we take Austin energy's customer account list, we download a list from each of those -- from six of those seven programs, we do a matching to see if a member of the household who receives that benefit is in the household of an Austin energy customer, and then they are automatically enrolled in the program. We also offer self-enrollment through a dedicated call center hosted by our vendor. The benefit is, on average, about \$21 per customer for the Austin energy discount plus other customers for Austin water and watershed protection. We offer three weatherization for higher user who's qualify for the cap program and we have the plus one program for one-time emergency bill payment assistance. This program is funded -- Mr. Robbins, as you know, has raised an issue with the program that there may be some households enrolled in the program who are not otherwise in our target population of being below 200% of the federal poverty level Mr. Robbins came to the conclusion by taking a sample of cap customers for the water department he was able to get and matching matching that with data from the Travis county appraisal district and he identified customer addresses enrolled that had a higher property value than one would expect for customers who are recipients of a low-income program.

[3:38:30 PM]

We duplicated the analysis of Mr. Robbins and did identify that there are some households that are enrolled in the program who may have a higher home value than one would expect. We sent you a memo on that in late February. So how does this happen, that a customer who is not necessarily in our target population becomes enrolled in the program? And it's because of two fundamental elements of the program design. One is that a household is eligible for cap if any member of the household is enrolled in one of these programs. And the second item is that we do an automatic qualification using a computer-matching program and so so errors can be introduced. Let me give you a couple examples of

how this can happen. The first is related to the customer matching. If the person enrolled in the program is the same person who was responsible for the Austin energy account, then there will be a match on social security number. That will be a perfect match and we won't have an issue. But if, for example, John Smith is the Austin energy customer responsible for an account at an address on fifth street and Sarah Smith is an Austin energy customer at an address on south fifth street, then in this very simplified example there's the possibility that Sarah Smith, who is eligible under one of these programs, is inadvertently matched with John Smith and John Smith's household receives the benefit inappropriately. It was pointed out in the media earlier this year, and that is, for example, a household that hosts a foster child. Because they are receiving benefits from the children's health insurance program, and so that household is automatically enrolled. But the household does not meet the standard criteria you would think of as a low-income household, but by the program criteria, they are appropriately eligible and enrolled in the program.

[3:40:43 PM]

Austin energy is in the midst of implementing what we believe is a solution to the problem identified by Mr. Robbins. That solution has two parts. The first is we've worked with the state, health and human services department and with our vendor who does the computer matching to review the software and the algorithms for the matching and tighten it up a little bit so that we believe that we can't have an instance where Sarah Smith, who lives on south first street, who is eligible for one of these programs inadvertently leads to John Smith who lives on first street becoming enrolled in the program. We've already implemented that solution. In the process of implementing it, we kicked out every record we thought would be affected by the change and did a manual check to make sure that we have not inadvertently removed some people from the program who were intended to be in the program. We believe we've taken care of that. And so the first piece of the solution is already implemented. The second piece is that we are -- we're developing a process with our vendor at very low cost to Austin energy to do essentially what Mr. Robbins did in identifying the problem, and that is each month when our vendor runs the matching process, they'll take another step. They'll download the Travis county and the Williamson county appraisal district data, they'll do a matching, we will identify a threshold above which we believe there's the possibility that perhaps the customer is not in our intended target population, and rather than automatically enrolling that customer, we will instead send them a letter. And the letter will say call our contact center to become enrolled in the program. And if that is a household that is appropriately in our target population for this program, then they have to call the call center they will be enrolled, they've identified they received a letter, sure enough they receive one of these programs and they're enrolled. If on the other hand it is a customer who was enrolled through a -- who was identified through a mismatch and that customer called the call center, they'll be screened out and will not be enrolled in the program.

[3:42:56 PM]

Then the third instance is a higher income household that is appropriately qualified for the program because they have a member of their household who participates in one of these programs and you might expect that some of those customers will self-select and they will not contact the call center because they understand that this program was not appropriately designed for them. We're working on the implementation of that part of the solution right now. It should be implemented in another month or two, and I believe it will be implemented with no need for council funding authorization or action.

>> Pool: Thanks, Mr. Dreyfus. Can you tell us about the opt out, if the ability of someone to -- to opt out, is their name going to remain snout that was an additional concern that Mr. Robbins had raised.

>> Yes. This is an issue that we have had previously, and we believe is resolved today. And that is that a customer is automatically qualified, they don't want to be in the program because they're not a low-income household, they call our contact center and say take me off the program, and then the next month they are automatically qualified again and so they can't really get off the program. We've resolved that issue by putting a little code in Austin energy's enrollment program, and we believe that is -- that is resolved, completely fixed. If it's not and there are still instances of that happening we'd like to know about it. We believe that's resolved.

>> Pool: Do you have in place a monitoring system to go back and test this after, say, a month or two months to make sure that the names that are properly removed are indeed and that the inadvertent inclusion is no longer continuing?

>> Well, I think what we'll do is we will continue the process of doing a manual check with the Travis county appraisal district data and see if we're filtering out those households that have higher than expected home values. And then over the course -- this will happen gradually over the course of the next year.

[3:44:58 PM]

Each month, 1/12 of the households will be reenrolled so any household that was enrolled in the program that's eligible to be reenrolled next month will be screened out and the following month another 1/12 will be screened out. A year from now we should be able to come back to you with a report that says we redid the assessment Mr. Robbins started with and we've identified the issue is cleaned up.

>> Pool: Colleagues? Yes, councilmember Casar.

>> Casar: Thank you so much for having worked on this and having thought through this. I do understand the 1/12 rule and that it may be easier to see how successful this change was in a year, but you did say that the mismatching on address, south first versus first street has already been implemented.

>> That's correct.

>> Casar: Do you have a number of folks that we have screened out since we implemented that?

>> I do not have that data, and I will check and see if we have a number and we'll provide it to you.

>> Casar: Thank you.

>> Pool: Councilmember kitchen.

>> Kitchen: Just a couple of questions, and thank you very much. Have you thought in terms of what that threshold might be when you were talking about the higher values on the property, where you were matching the property?

>> We have not settle on the a threshold, but Mr. Robbins, I believe, did his analysis based on a \$300,000 home value. We did our screen in the memo that we sent you based on \$250,000 improvement value. We like using the improvement value instead of the home value because you could have some households that are truly in need but because of the growing nature of our community, their home values are higher and they're kind of locked in. And so house poor, you might say.

>> Kitchen: Okay.

>> So we like the idea of using improved value, but there's arguments on both sides and I've had that discussion with Mr. Robbins.

>> Kitchen: Okay. So that's an item you're still working on.

[3:47:03 PM]

>> Yes.

>> Kitchen: Then let's see. Another question just relates to the last item -- or the last situation. And you were talking about, I believe, about situations where a member of the family might be eligible under one of these criteria. Did I hear you say you're still working on a solution for that?

>> We are. We've sort of developed the plan for this solution. We've talked to our vendor about implementing it, but it's not implemented yet.

>> Kitchen: Could you give me an idea what have that solution is?

>> What we're very simply going to compare the customers that -- every month some 40,000 customers come out of the mask so we're going to compare that list with the Travis county, Williamson county appraisal district data and identify households that seem to have a higher home value than we might expect.

>> Kitchen: I'm sorry. I understood that. I thought you were bog a third scenario. I wasn't sure what you meant there.

>> Two parts to the solution. One is tightening down the matching and the second is the appraisal district data review.

>> Kitchen: Okay.

>> Pool: Have you had an opportunity to talk with Mr. Robbins about the fixes that you're implement.

>> I had a brief conversation with him this morning, and I think he is in agreement that this is a reasonable approach.

>> Pool: Paul, would you like to come forward? Thank you, Mr. Robbins.

>> I know you're under time constraints. I'll try and be as quick as I can. First, I do believe this is moving in the right direction, but there's three things that keep me hanging. One is that this is -- it doesn't look at people that own more than one property. You can live in a house that's worth almost nothing, but you can own a bunch of other properties and that sort of designates a high-income person.

[3:49:10 PM]

So that should also be in the screening criteria that Mr. Dreyfus is talking about. Secondly, I'll pose an example of a personal friend of mine who in my analysis I found to be on customer assistance. And I called him up and said, hey, what are you doing getting customer assistance? He had no idea he was on it. This is a 2-income family in a basically. To do neighborhood, but the house is valued at under \$300,000. It would not pass Mr. Dreyfus' screen and the reason they were getting swept up into the system is because they had a foster child who was on chip and it was automatically selecting them even though they really did not need the assistance. And I'm not sure that -- what Mr. Dreyfus is describing is going to find instances like that. And I personally found eight people on the -- this large -- for one reason or another did not really need the assistance. Now, that's just anecdotal. The third thing I wanted to bring up is I think a good precedent for this would be what's happening in the ERCOT deregulated market with their lighting up Texas program. Light up Texas has an either/or. They will automatically enroll you if your name is on the bill and if you are either in food stamps or medicaid. And if that doesn't work, then you can income qualify by submitting an application, either written or online, and I think that might be the best of both worlds.

[3:51:17 PM]

I complement Austin energy. They are moving in the right direction, but they're not completely there. Thank you.

>> Pool: Well, that sounds really great, and, Mr. Dreyfus, maybe you can take the additional concerns Mr. Robbins has raised, work on those, circle back around with him and make sure things are as nailed down and satisfied as is possible.

>> I'd be happy to.

>> Pool: The concerns he's raised are certainly salient and I think he has found support for trying to make these fixes from everyone here on the dais. Any other comments? Yes, councilmember Casar.

>> Casar: Certainly. While I have had a chance to sit down with Mr. Robbins and really appreciate his work on it because I think that's part of why we're seeing some of the improvements we're seeing today, I want to express while we're here in public some of my concerns about eliminating folks from the list who -- whose children receive certain benefits because our federal regime has decided that some folks, even though they are low-income, aren't going to be eligible for benefits themselves and those people wouldn't be identified unless we are looking at the benefits their children receive. So I think we need to be able to take a hard look at who we might accidentally be catching and weighing that against who we might accidentally cut off that we -- cut out we really want to be included and be thoughtful about striking that balance. If the folks with foster children, as explained in the example, is a large number and the number we would be losing is a small number -- I think we need to continue thinking through that balance before we take any steps to be taking folks off. Although it sounds like the folks we're screening right now is fine by me.

>> Pool: Right. Mr. Dreyfus, do you have a response?

>> Brief comment. The seven programs that qualify customers for cap are by council direction. So we do not have the authority to change those seven qualifying programs without your action.

[3:53:19 PM]

Many of these other program parameters are within our control and we can make changes to the matching process, for example, under the contract.

>> Pool: Councilmember kitchen -- oh, I'm sorry, you know what? Councilmember troxclair had her hand up before you. Sorry. Yes.

>> Troxclair: So the issue that Mr. Robbins brought up regarding addressing this issue through looking at the name -- matching the person who is enrolled in the program with the person who is actually receiving the bill and then doing -- also allowing for income qualifying, which would probably satisfy I think councilmember Casar's concern, I'm guessing was that -- was that option looked into? I know that's one that he's been talking about. So was there a conscious decision of Austin energy to evaluate that option and deciding to this route or was this just the easiest way to do it?

>> Well, the program as designed is very specific to the direction that we received from council. So we have tried to follow as precisely as possible council direction in designing the program, and that direction is use these seven programs as qualification and do automatic enrollment, as we've described. In theory, we could do income qualification, but we're daunted by the idea of doing income qualification. We don't have that data. We don't have the expertise in evaluating that data. And we don't want to protect that data because of the possibility of the data escaping our systems. And so we have never -- well, we've talked about income qualification. We've never done a serious evaluation of doing in-house income qualification because all of these programs are already income qualified.

>> Troxclair: Thank you for the explanation. One more question. The appraisal district data review, if I'm understanding you correctly, you are going to be doing that every month over the next year as you're looking at each new month's enrollees.

[3:55:24 PM]

>> Yes.

>> Troxclair: Is there not a way that that can be done faster? I know that you're -- you have an incredible amount of people enrolled in this program so I know that it's not -- and I know that you're -- I'm sure will be trying to do as much as you can as quickly as possible, but it seems like there should be a way to take the entire explicit match it against the appraisal district pesach really kind of easily see if there are people who are living in much more expensive houses than would you expect in the program.

>> We have done that analysis, but in our discussion about how we would address these issues, we've shied away from moving anyone who is currently in the program because of a matching based on their home appraisal. Each person who is enrolled in the program is enrolled for 12 months. So every month about 1/12 of the customers come up for reenrollment and we're proposing to take care of it then. It would be a different type of approach to remove customers from the program who are currently enrolled in the program during their 12-month period.

>> Troxclair: Yes. I understand that. And of course you want to be careful that you're not removing -- we want to be conscious of the fact we don't remove people truly in need of the benefit. But at the same time, if we have identified this problem and we know that there are people enrolled who probably -- who the program is not intended for, you know, that's another possibly ten, 11 months of benefits that

they would receive that could go to a low-income family. So it seems to me that any efforts that we can do to expedite that process and make sure that we're flushing out the rules as quickly as possible will make sure that we have the resources to go to the people who truly need them. So I don't know. I mean, that would be my preference is for you to expedite the process as much as possible and make sure we are cleaning up the rolls. If it requires you reaching out to them earlier or giving them a phone call offer - I don't know who it would require.

[3:57:29 PM]

>> We'll look into that.

>> Troxclair: Okay.

>> Pool: Great. Okay. Councilmember kitchen.

>> Kitchen: So if -- I just want to make sure I'm understanding correctly. So the list of programs that qualify an individual such as the SSI program, for example, that's the controlling criteria, correct?

>> That is by council resolution, yes.

>> Kitchen: Correct. So that matching someone with the value of their home would not supersede if they're eligible for SSI?

>> Just to create an example.

>> Kitchen: Okay.

>> We have an elderly parent receiving SSI living with a -- their family and the family is a high-income family, that household is qualified to receive the cap benefit under the program design as directed by council -- directed by council. So we will send them a letter to say you qualify for this percentage but do you really need it? Or something like that. And then they will have to call the call center and say, yes, enroll me in the program and we will enroll them. But it will be the choice of the customer to determine whether to enroll themselves in the program.

>> Kitchen: Okay.

>> We'll try and artfully write them the appropriate outreach materials to pose the issue for them.

>> Kitchen: Yeah. Because there's a whole lot of judgment calls in all of that.

>> Yes.

>> Kitchen: And just because someone may own a home -- I mean, you're going to have a lot of gray with the line of \$300,000 homes and, you know, and you don't know what cost that family has in taking

care of an elderly parent with an -- with SSI, and you're not going to get into all of the -- it's just not worth it, getting into all of the -- all of what you have to do for income qualification and all of that. So I think the approach that you're taking is appropriate, and I think that I would just caution -- or myself, the caution from myself, is that we need to be careful when we use the terms people deserving it because we don't know all the circumstances.

[3:59:40 PM]

Thank you.

>> Thank you.

>> Pool: Mayor pro tem, did you have a question? Oh, okay. Are there any other questions?

>> Tovo: I'll say I agree with councilmember kitchen's point.

>> Pool: All right.

>> Tovo: Absolutely. I will also say thank you for the proactive steps you've taken to resolve some of the issues and the recommendations you've offered. I'm really very pleased that we're not taking an immediate action before we fully understand the implications. I think the time that you took to really think it through, think through the implications of those actions has been well spent.

>> And we will keep you in the loop on the implementation over the next year.

>> Pool: Thank you so much. Colleagues, we have a time certain for 4:00 where we would turn the committee back over to a council meeting but do I have one request, and it will be at y'all's -- this will be y'all's decision at your pleasure. There is one person who had come to speak on item 9 and we dish got the note when we were in the middle of the cap item 7 discussion. So this would be a member of the -- it had to do with the hearing process, and it would be a three-minute. What's your pleasure? Would you like to hear from the member of the community? Okay, great. Ruth Casares, please come forward, and you have three minutes. And this all right to, again, item number 9. Thank you.

>> Thank you, madam chair. Mayor mayor Adler, madam chair, members of the city council, I am Ruth Casares and I'm an attorney. I'm a native austinite by the way. I'm an attorney who has had over 35 years experience in the area of administrative law. I handed my resume to the clerk, and in my -- my resume will show that I've done all sorts of administrative cases throughout my career. The last full-time position that I had was with the state office of administrative hearings.

[4:01:44 PM]

I set up a statewide administrative license revocation program where we had a caseload of about 30,000 requests for hearings in a one-year period. After I resigned from the state office of administrative hearings, I joined the Texas legal services center, and now I work with tlsc. So in that capacity, I have had an opportunity to work on several utility-related projects. And I participated in the work of the low-income customer advocates, and I'm here today to offer three recommendations that come from the work on that project. The three recommendations are, number 1, to create an independent ombudsman office that would work with utility customers and Austin energy in order to resolve billing disputes and other types of payment issues. Number 2, to require Austin energy to send a written decision after they have conducted an administrative review that the customer has sought and, three, the requirement that Austin energy provide the materials that it will present at the hearing in sufficient time to allow the customer to adequately prepare for the administrative hearing and to show the reason or the need for these recommendations, I'll tell you briefly about a case that I handled last year. My client, a disabled senior citizen on a very limited income had her electricity turned off in November 2013. That turned out to be a very cold winter. The only source of heat that my client had in her mobile home was her gas stove. She asked Austin energy to please reinstate her electricity.

[4:03:46 PM]

Austin energy refused, saying she owed approximately \$5,000. She asked Austin energy to provide information to explain that delinquent bill. Austin energy simply said she owed it. She asked for a repayment plan. They denied it. My client did not have \$5,000 to pay. So we had to pursue Austin energy's hearing process. In order to --

[buzzer sounding]

>> Pool: If you can finish your thought, that would be great. That's the three-minute timer.

>> We had to pursue the administrative hearings process in order to challenge the delinquency. That process turned out to be a year-long adventure. Austin energy's procedural rules require that a customer ask for an administrative review before you can ask for an administrative hearing. So my client asked for an administrative review and also asked for backup to support that \$5,000 bill they were claiming. We didn't get anything. And Austin energy -- an Austin energy representative called my client, said we've done the review, you owe the money. Then they sent as you a packet of information saying that we had a right to ask for an administrative hearing. And I reviewed the rules and it seemed -- the rules seemed to imply that there will be an administrative review decision. So I, being a lawyer, assumed that would mean a written decision. So we asked for a written decision, and we were advised that there was no such written decision, that the client had been told she owed the money and that would be the question at the hearing. So we went ahead and asked for a hearing --

[4:05:48 PM]

>> Pool: I'm really sorry. Maybe -- we've run out of time.

>> We've run out of time?

>> Pool: I'm so sorry. Are you able to maybe get to the specific ask and then we can have staff meet with you afterwards and maybe dig in more deeply to the issues that you're raising.

>> Okay. I'll recap by saying that we are making the three recommendation that's an independent ombudsman office be set up, that Austin energy be required to send a written decision following their administrative review, and that Austin energy supply the information to the customer with sufficient time. Right now they send it to you 72 hours before the hearing. For a 30, 35 page document, that's just not enough. So that they provide the documentation that they will present to the customer with sufficient time to allow the customer to properly prepare for the hearing.

>> Pool: Thank you. Those are good recommendations. Councilmember kitchen has a question for you.

>> Kitchen: Quick question. Was there a provision made -- so did I hear you correctly that in the case that you talked about, the energy was turned off? Or the -- what happened in the interim while the --

>> Okay. So after we asked for the administrative review, her electricity was turned on toward the end of January.

>> Kitchen: Okay. During the review process it was turned on?

>> Yes. She did have her electricity during the review process.

>> Kitchen: Okay. Thank you.

>> Pool: Any other questions? All right. Thank you -- mayor pro tem.

>> Tovo: I'll make it quick. What was the result? Was it an accurate bill?

>> I'm glad to report that in December of 2014, we got a favorable decision. But it took an entire year.

>> Tovo: So there was --

>> So glasses we think an ombudsman office could save all that time and energy spent in this particular type of case.

>> Tovo: Yeah, that's a very good suggestion. So was it an error of some sort that led to that? Well, in any event --

[4:07:49 PM]

>> I don't think Austin energy actually was able to produce the evidence to support their claim.

>> Tovo: Okay. Thank you very much.

>> All right.

>> Tovo: Appreciate you being here all day.

>> Pool: Thank you so much. So I will go ahead and close out -- yes, mayor.

>> Mayor Adler: Sorry. One additional thought. There are six speakers signed up on item number 4. I know that there are some of these briefing items that have been carried from meeting to meeting. We've heard several on the consumer assistance program and on the low-income working group. We have one more that's set while we have staff here with respect to the payment arrangements. I don't know if it makes sense while we have people here and it's 4:00 in the afternoon on a Thursday, whether people would want to hear the people who have come to speak on item number 4 and then hit one more briefing before we broke for the day? We could probably --

>> Pool: Just for clarity. Do you mean item 4 on the council agenda or Austin energy agenda.

>> Mayor Adler: On the -- rather than closing the Austin energy hearing go back into Austin energy to get the briefing on item number eight since it relates to the other briefings we've heard and there are only six speakers to speak on item none four.

>> Pool: We do have items five, six, eight left. I'm completely fine with your suggestion if that's the will of the committee. So then what I'll do is recess. We'll turn back to full council. I'll let the mayor take the honor of saying it correctly.

>> Mayor Adler: All right. Thank you.

>> Pool: Thank you.

>> Mayor Adler: We are now back into the council meeting so that we can call up number 4, which was up earlier as we open public comment. I want the record, please, of the -- if the clerk would please reflect that I had Ms. Kitchen been with us when we actually took the vote for auditor, they would have been shown -- she would have voted for the auditor and the reflect -- the record for that vote should reflect that.

[4:10:07 PM]

We're now item 4, council agenda, which is the challenge issue before us. We have some speakers to speak. I'd bring up David King. Mr. King, you have six minutes since Ms. Ingall has given you her time.

>> Thank you, mayor and councilmembers. I really appreciate you bringing this item forward, and doing all we can here at the local level to address the problem of the inequity in our property tax appraisal system that allows commercial properties to get big reductions in their appraised valuations while residential properties pay full market rates for their properties. So I really appreciate you doing -- taking this action and I hope that this will pass unanimously today. Your own analysis that you commissioned shows that commercial properties in the city, some of them are undervalued by 27% and undeveloped commercial properties are undervalued by about 76%. In a recent statesman article in the consolidatesman gave us a recent example of how commercial properties are undervalued. They reported that the four seasons hotel in downtown Austin sold for \$197 million but appraised by tcad in 2015 at \$147.1 million. So that's 24% below the market value. So I think that's clear evidence. In addition it just confirms what your report has shown. And I appreciate you taking responsibility to do what you can to make sure that our system is fair and equitable because the state not helping us out. They're refusing to do that. Bill after bill after bill, where they could make this fair and equitable for all taxpayers, they're refusing to do it.

[4:12:08 PM]

And so it's left up to us at the local level to do what we can. And I'm glad that you're taking this action. I hope, again, you will pass this unanimously and move forward with this challenge. And the -- you know, if you do this and this challenge proceeds and the appraisal review board comes back and says, yes, you have enough evidence to move forward and we're able to prove this up, Austin will take a leadership role that will help other cities follow our lead. And if other cities will follow our lead, other counties will follow our lead, then maybe that will finally put enough pressure on the legislature in 2017 and do right by all taxpayers because the burden has shifted over the years from commercial properties to residential properties. And we can't take any more. So many of us can't afford to pay the property taxes on our homes here in Austin and we're being forced out to the suburbs. And you can be sure that if -- whether or not this challenge goes forward -- whether or not it succeeds in getting a reduction, those same commercial properties will be there using the same loopholes that still exist to get those values reduced. So really, fundamentally the system has to change. I know you can't do that yourself, if you could it would have already been done. So we have to do what we can here at the local level. I applaud your willingness to move forward. I know there are some winds blowing us in the other direction, concerns. We can't deduct it off our property taxes this year if we won't pay our taxes, we won't know how much to pay until we get the final bill, there could be delayed revenues to the taxing entities themselves. The challenge system is also working against us. It puts these challenges -- these barriers in our way to slow us down and to keep us from moving forward on this.

[4:14:11 PM]

No matter when we do a challenge, we would have had those same issues to face. And, you know, I have some examples from 2014, austinites for fair taxes met with the Travis central -- the protest and listened in, and I've got some data here from Travis central appraisal district for turn, luminex got a 62% reduction in their appraised value on their property from \$20.2 million down to \$7.5 million. Cox enterprise, Austin american-statesman is in that, Mr. Got a reduction from \$29.1 million to \$18.2 million. A 37.39% reduction. Broadway bank got a direction of 35.68%, holiday inn, one of their properties got a 35.26%, Intel got a 23% reduction and the Hyatt got a 21% reduction. And I could go on. Many of these companies are getting these reductions on their commercial properties also have asked not this council but prior councils for incentives that have been granted to them. Millions of dollars in incentives have been granted to them, so they get those incentives on -- and they claim when they come to get the incentives that they're going to build properties that are going to be valuable and go on the tax rolls at certain values -- but I'm only going to be taxed on this value. That game has to stop. That is unfair. That is inequitable and I hope that you will consider this commercial property tax loophole problem when other companies, corporations come and ask you for incentives.

[4:16:17 PM]

And incentives we grant in many ways. Not just in these -- incentives to come move here, but also through our P.U.D. And through our density bonus programs. Thank you for listening to my comments.

>> Houston: Mayor?

[Applause]

>> Houston: Mr. King, thank you for sharing your information with us. You almost made it through the six minutes without using an acronym and right at the end you said P.U.D.

>> Planned unit development.

>> Houston: Thank you so much. I was listening.

[Laughter]

>> Thank you.

>> Mayor Adler: Bill Oakey. Is bill here? Yes. Vicki taughten is on deck.

>> Thank you very much, mayor, councilmembers. This is a very bold step that you folks are taking, and I'm so excited about it that to be honest with you I can hardly believe it. There are some risks attached to something like this. Whenever you have a big challenge you're always going to have a certain amount of risker. But what I am very pleased about is that if I understand it correctly, at your Tuesday work session, you found a solution to the problem of people not being able to file their taxes by the end of the year and claim their federal tax deduction, and the solution, as I understand, it would be to have the Travis county tax office come up with an estimated tax that people could pay by that December deadline and if they did that then the other big problem is that the revenue stream that the taxing entities are counting on would not necessarily be delayed if all the taxpayers were able to make a large estimated tax payment by the end of December. And I would like to add one little piece to that, and that is that some taxpayers actually prefer to pay at the end of that January that comes after that December, by January 31, because they prefer to claim their federal tax deduction in that year.

[4:18:23 PM]

And so both of those deadlines for an estimated tax should be taken into consideration, and I do believe that would be a huge solution to that one stumbling block. And the other thing I'd like to say is that there are some prominent people in Austin who have been around a long time who say, why bother with this? Because they say that the big tax -- the people who own the big tall buildings have legitimate reasons that they can always find that they can always justify each reduction that they get. Well, I believe that Austin will be shining a beacon of fairness throughout the state of Texas when they take this -- when you take this action because it is so egregious with these commercial property owners going back to court over and over again and then when their buddies get a lower valuation, they'll go back a second or maybe even a third time to continue to get their taxes lowered. You can find this information on the real values for Texas website. You can watch their video and read their report. And you can go to the website of austinitesforfair taxes. Both very good organizations. Again, I want to thank all of you for going this far for being bold -- towards fairness in taxation.

>> Mayor Adler: Lee muren.

>> Hi.

>> Mayor Adler: Is terry ridley here? Cynthia Reynolds. You have nine minutes.

>> I will not need that.

>> Mayor Adler: Thank you.

>> My name is Vicki tauteyn and I first of all would like to thank mayor Adler and city council for taking up this issue.

[4:20:30 PM]

A applaud your courage to stand up and do the right thing, which I believe is to move this challenge forward. I'm here representing austinites for fair taxes. We are a grassroots group of neighbors and local business owners from across the and I and county that began meeting a year ago when we began seeing long-time neighbors having to move because of an inability to pay rising property taxes. We were hearing stories like the retired neighborhood paying more than 30% of her monthly pension to go forward property taxes or the neighbor in Travis heights whose grandfather had built her home in 1930, continuously occupied by the family who were now facing the heart wrenching decision to lose their family's heritage home in order to pay their property taxes. So our goal over the past year has been to educate ourselves about the problem in order to work towards solutions. What our group has learned through listening to speakers, meeting with elected officials, hosting educational forums and even attending hearings at the appraisal board, is that we have a fairness problem when it comes to property taxes. As part of our effort to educate ourselves about the inequities between residential and commercial properties, several of us from austinites for fair taxes even sat in on some of the hearings at the appraisal board with commercial properties. In each of the five hearings that I sat in on, I heard lawyer after lawyer arguing to lower their value of their client's commercial property not because of a problem with the property or with the building, but because they were able to identify one other property that had a lower value. That was all it took. And time after time I heard the appraiser who was attempting to argue that the current appraised value was accurate being told that because he couldn't prove that the building sold the year before for X amount, usually in the millions on the ones I sat in on, the sales price couldn't even be used.

[4:22:32 PM]

Even though it was a reported sales price printed in numerous you publications. Time after time I saw these lawyers arguing for their commercial property owner clients to get their values decreased by millions, lowering their taxing liability sometimes also by millions. And when they don't pay, someone has to pick up the difference because we need to fund our infrastructure adequately. We need to make sure we have money for our schools and firemen and police officers. While the inequity between residential and commercial properties is not the only problem, you have the opportunity today to take action on this one known issue. Initiating a homestead exemption, tightening up some of the loopholes in the laws that make it difficult for the appraisal board to do -- none of these other problems let us off the hook from addressing the clear inequity existing between large commercial and residential properties. There's enough evidence and concern that the appraisals for large commercial properties are off that -- to -- that to not address this challenge would be an affront to residential taxpayers. The fear-

based arguments would try and shift our focus away from this reality, whether it is fear that if we go this route we won't get a homestead exemption or we might fail, none of those things should sway us. Addressing this issue, it's simply the right thing to do. Is it going to solve all of our property tax problems? Probably not. But it will shine a light on some of the types of problems plaguing our property tax system and hurting our citizens. In conclusion, moving this challenge effort forward, it really is the right thing to do, and sky that you not allow the fear-based arguments of our opponents to this effort to dissuade you and that -- and for many of the residential homeowners who don't have lawyers on their staff, we're counting on the city council our elected officials to be the ones that are going to be fighting for us.

[4:24:48 PM]

The real fear we face is that people are losing their homes. Thank you very much for your time.

>> Mayor Adler: Thank you.

[Applause] Harvey English is on deck.

>> Hello. Thank you for being here today on this issue. My name is Lee Muren, currently live in Austin as a renter but am in the process of purchasing my first home. It's a scary process knowing my property taxes may rise faster, higher and higher each year and I may also be run out of Austin eventually. But I'm also here on behalf of a group called Real Value for Texas, statewide group made up of homeowners, community groups and regular people like you and bouquet about the property tax issue in the state of Texas. Basically, real reform has to happen at the state level, and we know that. We live under a system right now where we don't have sales tax, where we have an equal and uniform law, and we also have many other little loopholes that don't allow our appraisal districts to actually do their job properly. Not at their own -- not to any fault of theirs. We're here to support you as you go -- hopefully go forward with the challenging because it's the right step but it's also needed to show the rest of the state and our state legislatures that this is not just about homeowners either. It's about cities, the tax that comes into cities so that they can make sure that the services that they provide are there. I'm going to keep it short because everything that the previous speakers have said is accurate, and I stand by them. But I'm here today to really push you to do the right thing and push for this challenge. Real Value for Texas stands by you as you do this. And we know that by doing so, you guys are -- sorry, councilmembers will --

[4:26:53 PM]

[laughter] , You guys, no, that you'll find the support that you need not only from homeowners in real values for Texas but all of the people new to Texas and now Austin that make this city great as well as long-term residents. So thank you again.

[Applause]

>> Mayor Adler: Thank you.

>> Thanks for take the time out today, guys. My name is Harvey English. I'm a senior property tax consultant licensed by the state of Texas, I'm also a realtor. I've spent the last 13 years being a commercial property tax consultant, and probably the person that you're not too happy with, considering this challenge. I will say that we need to make sure that we address the larger issues as the real property for Texas people have mentioned, in that the real issues don't lie in just a few properties getting overvalued. They lie in the fact that we have a nondisclosure state. We're one of five consolidates in the entire country that still holds on to that. As is evidenced in the report that was published, we know -- Travis county knew of 15% of the sales that happened within the county. Everyone knows that Austin is one of the greatest growing countries -- or cities in the country. And long story short, everything that's been said is accurate. I support, ironically enough, this challenge. I would think that it needs to be focused. From what I understand, from what I've read, there's a potentiality of revaluing the entirety of the commercial base aside from multi-family residences. I think that would be a wrong avenue to go down. I see small business owners, much of whom I represent on north Lamar, north burnet that have had in excess of 100% increases in property taxes over the last year.

[4:28:54 PM]

That's with nondisclosure. That's with the current system in place. So they've gone -- trying to recoup that from my clients tenants is next to impossible without putting them out of business. So I would just stress that you really look at this and do it correctly. It's a large and unprecedented step, which I applaud. I think it is a step in the right direction because, as was stated, our state legislature hasn't really moved on this issue for whatever the reason may be. So with that, I support this challenge. I just hope that it's done in a manner of scrutiny. So that's all I have yes.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you for those remarks. I appreciate that very much. The last major tax battle I was in was back in 2012, when the central health, you know, taxing district tacked on another huge tax increase to subsidize the UT medical coordination among other things. And I noticed that a lot of the commercial building owners, some of these people have owned properties, they're out of state. They have triple net leases. So they just pretty much sit back and let the tax train go down that track because they're just going to take the property taxes and pass them right through to the renters. And it's been a real problem for me over a decade or more trying to fight property tax increases, is people don't seem

to take responsibility or realize how threatening this is economically to the people living and working here. And I don't have a solution for that. Do you have any solution for, you know, the big property owners? That's got a huge multimillion dollar building on triple net leases? They couldn't care less how the property taxes go up.

>> I mean, that -- triple net leases are a touchy area.

[4:30:57 PM]

I know in some of these case where's sales prices were quoted of big large commercial properties, you have to take into fact there are a in comparison to a residential exchange. Largely, if you buy houses in similar subdivisions, it is apples to apples. There are unique variations within those, 100%. When you buy commercial property, there is investment interest, personal property that goes along with it, sometimes carried on a different account number that might not be included in that tax value. It gets -- I hate to use a negative term -- but convoluted quickly. When is the reason why I have a job helping my clients navigate through this system. Instances where a single comp was justified to signify uniformity was inherently wrong. The use pap standards uses an invalid comparability study. What happened in that hearing was wrong in nature. It might have been led to by the ineducation of the approval review board. They're a panel of our peers, just taxpayers like everybody else. That is something that we have been fighting on vehemently over the past 10 years, 15 years in the business to try to get an accurately educated review board to sit and look at this stuff without hearing triple net lease and all of the other terms that then cause their eyes to glaze over fairly quickly. I don't mean negativity towards the arb. They're great people, doing the best with what they can.

>> One quick follow-up question if I would. One thing you haven't brought up.

>> Mayor Adler: Is the issue of the district court, if you get the arb, can't you take it to the district court and have lawyers there?

[4:32:58 PM]

Can you take briefly about what goes on. Most property owners don't know what happens. What happens in district court.

>> The first avenue is a binding arbitration. Currently within the state, that has a limit of \$1 million as far as property value is concerned. I actually sat in a legislative hearing talking about raising that cap to \$3 million. Which would bring in the availability of doing binding arbitration to a number of small business owners as well as some of the higher end residential. Residential properties. What that entails is a \$250

filing fee that you could potentially win back if the arbitrator rules closer to your recommendation than the district's recommendation. It is much easier -- a much easier, much more feasible avenue for anybody to take, because you only have \$250 online. When you get into litigation, which is what you are referring to, you end up having incurred attorney's fees and all kinds of other things that come into that. So the price tag goes up from the get-go almost a thousand percent -- or a hundred percent. Significantly, up to \$2,500, just to get an attorney to talk about it. That is the process as it stands now. Again, that is a state level thing. So what really needs to happen is the process needs actual scrutiny. I think this is a step in the right direction, scrutiny included that could get the light shown more adequately on the overarching issue.

>> Mayor Adler: Most of the challenges you bring for your clients are they based on market value or under equal in uniform challenges?

>> So use pap and the Texas property tax code said there are three avenues they talk of.

[4:35:05 PM]

There is a fourth that use pap throws in. Uniformity, market value, an income approach to value for income producing properties such as multifamily or multitenant retail office buildings and a cost approach to value. Typically used for extremely unique properties that you can't find comparables for. Tax code states that the -- let me say this correctly the appraisal district has to or the value has to be based on the lowest of the three approaches of value, if they're all done. I typically use any avenue that I can to look at the value from these four different aspects. From that, I try to determine if there is an income approach, I largely point to that as an end all be all indicator of value because you use justified market rent within 12-month period. You look at expenses and what they paid in order to operate. And you can capitalize that and come up with a legitimate value that can be sought on the market. Market is great when you have data. It gives you the -- it gives you a true snapshot of what this thing is selling for in the market. Uniformity is valid when you have comps to compare it to. This is great if you can say this is what replacement cost would be to do it again identical. That is the long hand. Shorthand is whatever the best avenue is for me to get this.

>> Thank you very much.

>> Further questions? Thank you.

>> Thank you.

>> Corbin van Haren was here this morning.

[4:37:07 PM]

>> Thank you, mayor and council. I will not repeat anything I said Tuesday.

>> Mayor Adler: Thank you for coming back and visiting with us.

>> Thank you for what you did Tuesday for letting us come and visit with y'all as far as from our mayor, I won't repeat what he said either. I went back and read the transcript of the meeting. I was hear listening this morning. There were some interesting things that came out. One of the overriding things that came out from the transcript was the importance of doing this in a collaborative and collective manner. You know, the Irish band u2 put out a new album, started a new tour. One of the lyrics you see in the Twitter sphere is there is no them, there is only "Us." There is only me, there is only you. Ok? And so when I see 10 different districts up here, when I used to serve in the legislature, I remember time after time, people would try to file bills and force the city of Austin into having council districts. People would debate it. It would never go anywhere. Here we are today, the people of Austin decided that that was the way to do things of a city this size. And, you know, I went to undergrad in Austin. I went to law school in Austin. I lettered in baseball for the Texas longhorns. Jimmy and Stevie Vaughn, the guitar player are my cousins. I work downtown Austin, I pay sales tax in Austin. So when I see councilmember Zimmerman, you said talk about the taxpayers here. I don't live in the city of Austin, but I'm an Austin taxpayers. When I saw from the meeting there were 114 or 19 taxing entities that are somehow impacted by this, I don't hear any entities disagreeing with what you are trying to do to fix this problem. I think it is a problem. I think the biggest concern with the entities that I am hearing for us is the timing issue of it in terms of not having a lot of time to plan, for example, our city manager came here today to give -- like councilmember tovo was asking questions.

[4:39:22 PM]

Councilmember kitchen. She has the answers, too. But I think that one of the things in the transcript, the attorney for the appraisal district made the comment that they think they can get some of the data and some of the methodology without a formal challenge. I don't know if that is her legal opinion or some sort of statutory fact. I think that is an important thing to maybe dive into. If y'all are -- I kind of read from looking at the transcripts, some of the comments as well as what the county is doing tomorrow, I get the gul gut feeling there is a challenge to be filed if nothing else to preserve waiving a deadline and maybe get some of the data and methodology. I get that. If that is what is happening, if that is how this will work. I guess cedar park ask that we be kept on the loop on things as they transpire.

[Beep].

>> Mayor Adler: I promise you and other entities in the district will be kept in form with what is happening. I hope that you have and your mayor has shared with us advice, to council, insight from them and staffs as well. Please keep that coming. My sense is, is that many, if not most of us agree with

the same propositions. The first is we need a system that is fair. And we have to do everything we can to help make the system fair. The second one is that we have to do this in a way that is not so disruptive that the benefit of what we're seeking is outweighed by the logistical problems that might be created. And the third one is that affordability in this city is going to take the use of lots of different tools. There is no one silver bullet. We have to constantly search out every avenue and tool to do whatever little bit it can.

[4:41:24 PM]

In the conversations, I will probably be voting today to file the challenge so as to keep it open. Recognizing that that gives us then a couple weeks to continue conversations that have already begun. And I think that there are ideas being put on the table for ways to get addressed the review of increased data, which I think is happening immediately. Opening up new avenues for data. Looking at ways to resolve this, that do not forestall the certification of tax rolls. So the attorneys and appraisal district and everybody are continuing to meet over this time and we want to provide that opportunity for those minds to get together. But absolutely, you all will be involved in that conversation.

>> I think the better job y'all do as a council, obviously, the more people from around the state and the world want to move here. And the more people want to move here, guess what, it will be more expensive to be here because more people want to be here. So it is a good problem to have. It is worth trying to fix.

>> Mayor Adler: Thank you. Any further questions for the councilmember?

>> Houston: I believe your councilmember is here. I would be not truthful if I said I remember what the questions. Perhaps councilmember tovo and pool would remember and help us figure it out.

>> Mayor Adler: Thank you, sir. Would the manager feel comfortable coming up? I don't want to put you on the spot. We can do this off the dais if you wanted to.

>> [Indiscernible].

>> Mayor Adler: Come on up. We're all about disclosure and public access here.

>> Well, thank you. Mayor council, my name is Brenda Evans I'm city manager for the city of cedar park. First of all, I would also like to thank you for continuing to have this dialogue and consideration of this issue.

[4:43:25 PM]

I don't know that there is in terms of position, anything different than what's been said in terms of a collective goal related to fair evaluations. I know that there were questions asked this morning and I would be happy to try to answer those questions this afternoon for you. I would tell you I think one of the reasons that we are so interested in what the decision the Austin city council is considering is because it does have impact on our operations and how we manage our budget and how we're planning our fy 16 operations and such. And then, you know, we have a true interest in our partnerships. Bee have worked with the city of Austin and other communities in our region for decades. We're regional partners on infrastructure and water -- you know, wastewater plants and things like that. So, we want to continue to work on this partnership. So with that, I hope I can answer any questions you may have.

>> Manager, I'm afraid I didn't catch your name.

>> It is Brenda Evans.

>> Any questions for the manager?

>> Tovo: I think one of the questions that arose earlier, there was possibly just a confusion on my part about one of the comments made. That is about whether or not the Williamson county appraisal district could certify cedar park's role if part of the roll is within the Travis county appraisal district and is subject to the challenge petition. If you can address that, that would be helpful.

>> Sure, our understanding of the way this would work for us is about 12% of cedar park is in Travis county.

[4:45:25 PM]

So the rest of the property is in Williamson county. That 12% in Travis county represents about 1% of Travis county's values. So what we have looked at is well, you know, can you do the other 88% of our city? And what happens is because they -- both of those valuations have to be taken into consideration in order for us to set a tax rate. And so in order for us to be able to set a tax rate upon which Williamson count can send out bills for the entire community, then the entire community is impacted, even though most of it is in Williamson county without both pieces being certified.

>> The 88% in Williamson county appraisal district -- the certification of that portion of your tax roll will be unaffected by any action we might take within the Travis county appraisal district?

>> They will be able to look at the tax roll itself, but we can't set our tax rate. So we can't set our tax rate in which they can then in fact send tax bills. We can't set our tax rate because we need both Travis county and Williamson county, both pieces of those certified rolls in order to separate.

>> Tovo: Thank you.

>> Mayor Adler: Ms. Pool.

>> Pool: Ms. Evans, thank you for coming and talking with us. What do you think about if we proceed with this, the portion that is in Travis county, do you think cedar park would be able to look at your valuations from 2014 and use that as a proxy for 2015?

>> We can approximate and estimate.

[4:47:28 PM]

One of the things we actually, just in December of 2014, we went through a large annexation, for us. And that entire property was in Travis county as well. So while you can estimate, again, we still can't set our tax rate until we're able to have both the pieces of the Travis county and Williamson county pieces of that. I know there has been a lot of discussion about being able -- what do taxpayers get to do? Can they send in estimated -- their estimated bills, based on an estimated tax impact? And I think one of the things we found in our -- in our group is we're about 60% of our residential payors pay through escrow lenders. I think it is a little lower in Travis county. A little higher for us.

>> Again, that would only affect the residents living in Travis county.

>> No, ma'am. That affects all of -- it affects our entire community.

>> Pool: I think one of the items that we have been looking at, really is the time line on all of this.

>> Right.

>> Pool: We're very aware of the specific logistical challenges on all of it. Thank you.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Thank you very much for clarifying. I think if I am understanding correctly, the difficulty for you all in setting your tack rate is -- if I heard the percentage correctly, there is about 12% of your revenue that you wouldn't know because you don't know what the valuation of the property is. That is a number or figure that you have to take into account when you think of your tax rate; is that right?

>> To your point, we can certainly estimate that. However, in order to set, in order to have a tax rate, you have to have both pieces certified. So if there is a solution that doesn't delay the certification, you know, sinus on.

[4:49:34 PM]

[Chuckling].

>> Kitchen: Ok. I understand. Thank you.

>> You're welcome.

>> Mayor Adler: Ms. Evans, thank you very much.

>> Thank y'all.

>> Mayor Adler: Ms. Evans was the last of our listed speakers. That gets us back to the dais on this issue. Ms. Tovo, do you want to make a motion, set this up?

>> Tovo: I would. Thank you, mayor. I would like to move approval of this item. If I get a second, I would like to speak to my motion.

>> Mayor Adler: Seconded by Mr. Zimmerman.

>> Tovo: Thanks. First of all, I want to really, just acknowledge the Travis county commissioners who really are the ones to first -- who first raised this option as a potential in their consideration of it last year. Now commissioner Brigitte Shea really also focused a lot of the discussion in the community around this potential. So when I brought this action forward for consideration last year, I was really following their lead and our counsel was as well. I brought this forward again this year because I believe we're in a better position to consider it. I appreciate my cosponsors, councilmembers troxclair, Zimmerman, and kitchen. We have as many speakers last year and throughout the year and today have acknowledged. I believe we have a broken property tax system. A challenge petition is one of the few tools we have had. We've had conversations at grocery stores, at people's doors, here in the compare and in the chambers, throughout the community about the rising property values, resulting high taxes. How that is challenging long-time austinites' ability to stay in their home. Homeowners and renters. We need a fair and equitable property tax system. We had a lot of articles in last year's paper, and anecdotal evidence that there was is undervalued commercial properties and looking into the prices.

[4:51:43 PM]

We have evidence to show that that was not anecdotal evidence that it is in fact what is happening. I believe almost everyone that has come to speak acknowledges that there is a problem. We may not agree on what the appropriate next action is, I believe we have a good deal of consensus in the community that there is a problem that needs to be addressed. I want to say I appreciate chief appraiser and the work she and her team do. I believe they do the best they can with the information they have access to. Our state laws make their job difficult. The laws need to change. We absolutely need a long-term solution. A lot of good people have focused energy on trying to get the long-term solution to no avail in our legislature. So we are in a position of needing to use the tools that are at our disposal.

Certainly, the timing on this action is very challenging. It wouldn't be any different were we to wait a year, I don't believe. Putting off action again won't change the timing. It won't change the logistical potentialities with regard to other taxing entities. I want to say how much I appreciate all of the concerns raised by regional partners. I appreciate you being involved in the discussion, sharing concerns with us, brainstorming for solutions. I anticipate and I believe there is a strong intent on the part of this council, if this action passes, to continue that dialogue and really work together in this next weeks ahead. But at the end of the day, we have asked our staff to provide us information to help us analyze this situation. We have a council commissioned report that concludes that Austin commercial properties have been substantially undervalued. That this historical valuation has continued into 2015. And that a successful challenge could result in savings for Austin homeowners and renters. And I believe as a representative here in Austin, that we have a responsibility to act on that information and do what we can to affect change and to see if we can move closer toward that fair and equitable property tax system.

[4:53:58 PM]

>> Mayor Adler: Further debate or discussion on this issue? Ms. Houston?

>> Houston: Thank you, mayor. I liked the term that the young man used, heritage homes, somebody used that term. I can't remember now. My brain is getting kind of fuzzy. But someone used the term heritage homes. In my district, because of the increase in valuation and the high property taxes that people who have lived in those heritage homes for generations, they've been forced to move out. To sell their property, not be able to pass that down to the next generation. So we have to put something in place now. I fear for those people that are hanging on by a thread waiting for something to happen. And we can't wait long enough for the legislature to do anything. I will be supporting this resolution.

>> Mayor Adler: Further discussion. Ms. Troxclair.

>> Troxclair: I just -- I guess I want to underscore both of the comments already made. I am [audio skipping] With the original partners. And I really do feel like we're in this together, because we're facing the same challenges, I mean, the same concerns you have about not being able to set your tax rates, et cetera, et cetera, the same challenges we face on a huge scale in Austin here if we do proceed with this. But I just -- you know, as a city who has struggled with affordability issues. As someone who, you know, for me, ran on doing everything I can to lower the cost of living here in Austin and keep property tax rates down. And we're really struggling to find every dollar in our budget.

[4:55:58 PM]

We're struggling to utilize every tool to get our hands on to reduce property taxes to get a handle on drainage fees, and utility fees. We're counting on every cent. When we have a public report presented to us that lays out so clearly that commercial properties have been undervalued and if that inequity was resolved and additional revenue was used to decrease the property tax rate, there would be significant savings for Austin renters and home runs through lower property taxes, that is something that I can't ignore. So I think it is incumbent upon us to continue to pursue this, continue talking about what our options are, I think that this is an important tool in our toolbox. I thank mayor pro tem for bringing this forward and leading the charge on using this as one of our affordability options to address cost of living in Austin.

[Applause]

>> Mayor Adler: Further discussion? I would reiterate what I said before. I think that not only this city but also the county, as well as the other 115-plus jurisdictions are all on the same page. That we need to make the property tax system more fair than it currently is. That the relevant burden imposed by the property tax system does not track fairness. As we receive the conversations and discussions on this now for over a year. I think everyone is seeking additional fairness and that puts us all on the same page. We are also on the same page to ensure that we handle this in a way that maintains or provides for a tax rate and a budget setting process that work.

[4:58:13 PM]

Not only for us but also the 115 plus jurisdictions that touch Travis county. I have noted this and others have noted it before. It is the one tool cap. We need all of the tools that we have. No one tool is going to be the magic bullet. But collectively, hopefully we can do something that will impact affordability in our city. We have been told by the chief appraiser that we could engage in this conversation for at least a couple weeks. In a way that did not put at risk anyone's process or ability to serve -- certify the -- or ability to certify the tax roll. We appreciate the opportunity she's given to us to work in that period of time to see if we can together achieve the common goals. And our conversations with the chief appraiser are continuing at this very moment. The attorneys are talking to each other. Not just the attorneys for many other jurisdictions involved. This is indeed, I believe, a truly collaborative effort, as evidenced by the unprecedented conversation that we had in the well of this chamber earlier -- earlier this week. This matter could easily be backup in front of this council here in short order. In fact, I think it would be for us to be able to get an update on those conversations and the options that have been developed. So that we can continue to make sure that we're on a path that makes sense for our community. And I would just conclude by saying that I have enjoyed the opportunity to be at public meetings with the chief appraiser over the last year.

[5:00:24 PM]

[Indiscernible] With the sentiment that she's expressed that if she had more and better data, that her results could be more fair. She's going to have access to more data here right away. As soon as we file this challenge, we're put in a position where we're able to share this information with her. And there are going to be a lot of us in the community looking to see if she was right. I think that she was. I look forward to her getting that data so we can work something out in a way that allows the processes of government to continue in a way that will not be disruptive. Mr. Zimmerman.

>> Zimmerman: Thank you, more mayor, I concur with your remarks. I think everyone agrees we would like to get a consensual result. And get through the issue. To me the main issue is the compliance with law to have all the properties whether commercial or residential, they're supposed to be at 100% market value. We heard from Mr. English and from many others, finding that market value can be pretty complicated. It depends on how you measure that. How do you arrive at that market value. I think that all of us in the name of law want to comply and get us to as close as we can to market value. I will vote for this. I want to emphasize to constituents again, filing this challenge is an open-door. When we open this door, there will be many other doors in front of us and manyth pathways we can pursue. Some of the things we're doing is first impression.

[5:02:24 PM]

So it will be very interesting pathway we could be going through here. This is just the beginning of some very interesting decisions yet to come.

>> Mayor Adler: Any further discussion on this matter? All in favor of adopting this item 4, please raise your hand. Those opposed. It is unanimous on our dais.

[Applause]

>> Mayor Adler: With Garza and Gallo off the dais. That, I think, concludes the items that we had on the city council agenda. So I'm going to adjourn the city council meeting and turn it back over to the chair of the Austin energy committee.