

Planning and Neighborhoods Committee Meeting Transcript – 11/16/2015

Title: ATXN 24/7 Recording

Channel: 6 - ATXN

Recorded On: 11/16/2015 6:00:00 AM

Original Air Date: 11/16/2015

Transcript Generated by SnapStream

=====

[4:08:10 PM]

>> Good afternoon, everyone, my name is Greg Casar, I'm calling this meeting of the Planning and Neighborhoods to order, I'm here joined by all of my committee members, the first item is -- it is 4:08 P.M. In council chambers on Monday the 16th. First item on the agenda is to approve minutes from our October 19th meeting. Moved by councilmember Gallo, seconded by [indiscernible] [Laughter]. And -- and all those in favor please say aye. >> Aye. >> Passes unanimously, our second item is citizens communication. Our first speaker is Frank Harrod. A couple of -- Harrod. I'm asking you to stand firm on your recommendation regarding academic sorry dwelling units next week, including throughout any discussion voting particularly as to opt in/opt out. That neighborhood level of autonomy is unwise, unfair, unaffordability. It's important that we eliminate the -- the opt in/opt out tool in our new development code. Secondly, the only neighborhood plans that will be affected by eliminating opt in/opt out are by my standards illegal. By being consistent with imagine Austin generally and priority program number 6, specifically. Which advocates for the use of such things as adus in achieving affordability. The other item that I want to mention is codenext, I just came from the first day

[4:10:11 PM]

of sound check where the staff and consultant have publicly released their first draft of a set of transects. Those are essentially an outline of new zoning categories and how they might be translated from our current categories. The options don't include nearly enough density, nearly enough affordable housing options in order to implement imagine Austin. They gave a sample property on each of the categories and the cheapest sample in currently sf zoning category, turns out to be a house two blocks off of east Martin Luther King that sold here in Austin in March, it's a 1300 square foot, two bedroom two bath detached condo, that sold in March for \$345,000. That's slightly higher than our current median housing price in Austin. I encourage you to do whatever you can to have more available and more affordable housing options as we go through the process, thank you. >> Casar: Thank you. Our next speaker is Stewart Hirsch. Chair and members of the committee, my name is Harry Stewart Hirsch. Like most in Austin I rant and appreciate this morning's robust discussion of affordable housing goals and what people promise versus what they deliver, it's an important topic here. I'm back here for a couple of reasons. One is I keep trying to go to the housing committee, but they held their meeting in September on Yom Kippur.

[4:12:15 PM]

Then I had my ground breaking on Wednesday morning at 10:00, so I can't be there then so I'm coming to you. First on Rainey street. For more than a year and has half, a bunch of us stakeholders and I don't own property or rent in Rainey street, so I'm an affordable housing stakeholder, have been trying to have a conversation both at the planning commission, hopefully at this committee or the housing committee, whichever is appropriate, and ultimately the council about why we continue to get one day of affordability at Rainey street or none at all. We've gone another year and failed to get into that public forum so I hope and the housing committee can do something for that as you set your schedule for next year and that the planning commission do so as well. I wanted to talk to you about code enforcement. The easiest way to explain to you what we face here as a city is what we face here in the council chambers. When those of us that come to you walk in, there's a sign that says no food or drink in chambers. Where you walk in, there is no sign where you walk in. So some of us finish our food and drink and put it in the right containers. Other people either don't see the sign or pretend it doesn't exist, there's never any consequence for them because they do what they're going to do as if the sign didn't exist. You all come in from the back where there is no signage, so you don't know that we think that you're abiding by different rules than we're supposed to play under and it kind of feels like when you are in coach and everybody in first class won't let you use their bathroom even though you need to. So my suggestion to you is as that relates to restrictive covenants, deed restrictions and other private restrictions on land is that we need to have a building permit process that compels applicants to look at all of those things, the worst thing that we can do as a city is spend a lot of time reviewing and inspecting a property that ultimately can't be occupied

[4:14:16 PM]

because of private restrictions. Question used to have an ability to do that in the last century. I don't think the state law changed to open could us from having it, but it appears to me that we don't have systems in place. The classic moment is when you build a new hotel in this town. The property maintenance code says you have to have a license to operate a hotel and you are not supposed to issue a license without a certificate of occupancy. But you really shouldn't have a certificate of occupancy without a license. [Buzzer sounding]. So we keep having our systems not working well together and as -- I can't think of another committee other than planning that really focuses on code compliance issues, so I'm bringing that to your attention, thank you very much. >> Casar: Thank you, mayor pro tem? >> Tovo: Chair, I just wanted to mention to Mr. Hirsch, thank you for spending your day at city hall. Also you raised this point last time about the Rainey street affordability and later in the meeting, Mr. Rusthoven confirmed what was my understanding which is that we have adopted a change to the ordinance that gets rid of the one day of affordability loophole so that's no longer the situation. He came up later in the meeting and addressed that and -- but I think that you had already left by then, that's no longer the situation on the ground. >> But nobody is building [indiscernible]. >> Tovo: We have not seen any projects come forward and build under the density bonus program. But it's no longer the case that the city requires developers to build units and keep them affordable for one day -- oh, Mr. Guernsey is here, did you want to speak to this, Mr. Guernsey. I think that you are making a different point. I don't want the public to believe that we have an ordinance on the books that requires one day of affordability for developers to get incentives and entitlements under a density bonus program. That is no longer the case. >> Greg Guernsey planning and zoning department. Mayor pro tem, you are correct. The ordinances were amended and that was removed for having the one day of affordability.

[4:16:16 PM]

I don't know what projects are in the pipeline right now that are either under review or about to be

submitted. Mr. Hirsch, may not have been any new buildings that have been submitted as of late that are in process. I don't have that information. But we can see, bring that back to your next meeting, I can get with development services staff and see what's in the pipeline on rainy. >> Tovo: Well, if there's an interest, that's fine. Thank you for addressing that one point. I think Mr. Hirsch was maybe making a different point about the existing density bonus program and that's fine, thank you. >> Casar: Our last special is Mr. Gus Pena. Our R our last speaker is Mr. -- Our last speaker is Mr. Gus Pena. >> Good afternoon, committee members, Gus Pena, native east Austin night and proud United States Marine Corps veteran. I agree somewhat with Mr. Hirsch, but I will tell you this: You know, it might not be conducive to this meeting, but I'm going to tell you what the neighbors have been telling me, what the community has been telling me, they are not really involved with neighborhood associations. They want affordable housing. But we have a clear cut vision of what affordability is. And an apartment that's \$1,100 for one unit, one room is not affordable. We have a lot of people that are motels, we have a lot of people on the streets. And I know it sounds like a broken record every time I tell y'all this at city council, but darned it, ladies and gentlemen, I think enough is enough already. We've been in combat too long now. We don't see the light at the end of the tunnel. One good thing that came out of the speakers' mouths at the capitol from the governor, from the congressmen and from others

[4:18:17 PM]

is that the governor said we need to find housing for veterans that are homeless. I thank the good lord that that occurred and I thank the good lord that we have a secretary of veterans affairs, McDonald, the secretary of H.U.D., Castro coming over to Austin. We have postponed it because we thought the mayor was going to be inclusive in the press conference beforehand. But it didn't occur. Anyway, before the secretary of H.U.D., Castro, becomes Clinton's -- vice president shall running mate. He's a good friend of mine, we need to do, are we need to do more, you, Mr. Renteria, you are from east Austin, you know that times have changed. It's no longer affordable here in Austin for people. We have more influx of people coming in, not enough housing. Let's have a clear cut definition of affordability. I'm all about that. I know what the -- what the agenda is all about, but I think it's about time we the people help those that are less fortunate. And really provide affordable housing. This can't go on anymore because you're going to have a social revolution here in Austin. [Speaking in Spanish] You're going to have a revolution here in Austin, that's not good. Too many single women with kids are homeless, single, female veterans with children are homeless. I ain't going to let that happen. If I die doing that, so be it. But I have known homelessness it ain't good. When I ran for council in '91, '91 -- '96, '97, transitional housing was one of the first words out of my mouth. Check with mayor Todd. Look at me. It makes me cry. Anyway, got to do a better job. Thank you. >> Casar: Thank you, that's all of our speakers on that item and I believe Mr. Guernsey does have to leave soon, so I'm going to call up item no. 4, which is the substance -- pretty

[4:20:18 PM]

substantive vote that we have on the agenda today on discussion and possible action on recommendations related to non-peak hour concrete installation in the cdbg. Do you want to lay out -- we have a few speakers signed up. We have discussed the item in the -- in the past with the full public hearing. At the same time I do think that there is some more -- some new information and so I'm happy to hear from my committee members who have been more involved in this, just ask questions of the audience or give the four speakers who are here a chance to speak. We will discuss that after we hear from Mr. Guernsey. >> Thank you, chair and members of the committee. Greg Guernsey, planning and zoning department. And I'm also joined here by staff in the development services department and the

music office of the economic development department. Since our last time we presented this, we have a revised staff recommendation. There is in your backup that was done by the economic development staff and the -- and the music office. And we can put that up. Online. We went back and after our last recommendations, it was well received by the -- by the development community and having some concerns about the -- about the hard cutoffs. There were still concerns that were expressed by -- by neighbors regarding the actual decibel level being too high. So the music office staff yeahed that they would go back out and do actually testing of different sites

[4:22:19 PM]

downtown and they logged over 168 hours of testing. They looked at measurements that were done nearby the gables plaza, are gables tower, the 360 condominium in the month of August. And there's a little pictogram that kind of gives an explanation of what was measured, how it was measured and the decibel levels. Based on some information and discussions that the music office had with people in the acoustic engineering field, there was a revised recommendation that I presented in a memo to you in October. That addressed their study. The -- the recommendation still contains a lot of the same information that was presented to you previously regarding -- regarding the location of queuing of trucks with the sound impact plan, light mitigation plan, location of pumps using sound mitigation materials, shielding of lighting, also as far as the notice requirements to provide notice to abutting property owners, next door, across the street, those within 300 feet of property lines, it's about roughly one block away, having a sign posted on the property at the construction entrance explaining the permit and having 24 hours contact information and making that information available to abutting property owners, representatives of property owners within 300 feet and on that same sign. That information is primarily the same. What is different would be to allow not having a 2:00 change in decibel limits. But to allow the pourers, as they are now to go from 7:00 A.M. To 6:00 A.M. -- Or 7:00

[4:24:20 PM]

P.M. To 6:00 A.M., but to require a sound impact plan that's done by an acoustical engineer that would look at the ambient sound levels prior to the permit being taken out. These are a study that would be required with every permit, because every permit is only good for three days, but the -- if the construction and -- location where the trucks are queuing up, where the concrete pour machine is located, that that study could continue. It would also be a provision that would allow for I guess you could say repeat offender provision that you might find elsewhere in our noise ordinances under 9-2-57, that -- that concrete pour permit may not be reissued if there are basically numerous violations of that. But the interesting part of this, based on that plan, the baffling or whatever sound measures would be place on the property to mitigate sound primarily from the trucks that might be queuing up and the concrete pour machine, they would be limited to three decibels above the ambient level. So it would not be one that would be one size fits all. It would be one that would be based on the conditions that exist at the site. But it would allow for the pour to be continuous for that night because the decibel levels then would be honored. My staff and the planning and zoning department development services department and economic development department would not be the enforcers of this. The two enforcement agencies for sound for dealing with decibel levels and if there was a cutoff point is done by the Austin police department. They have the trained staff and the equipment.

[4:26:20 PM]

However, the Austin code department has agreed to step up and enforce those things that aren't

directly related to sound, such as the baffling, if the baffling was removed and it wasn't in place according to the plan or signage was not placed or fell down, they would make sure that that is in place. You know, they would be the ones that would -- that would take care of that. That's something that they normally don't do. Usually looking at only building permits. But I've spoken to director Carol smart and they would be agreeable to make that part of their program to do those enforcement things because they could be easily done during the day. I know from the industry standpoint, they do have concerns about this. Regarding the three decibels above the ambient level. And I know Rick is here from the industry and I believe has written you with some concerns. I'll leave it to him if he would like to speak to those. But I have staff here that is available to speak to this -- speak to the study that was done and to the process of issuing the permits, if you have any questions. The current ordinance will expire at the end of the year. In December, if we need a little bit more time, you could look at that as possibly coming back again. There's not a lot of concrete pour that occurred during the winter months because of the colder conditions are not as conducive. But like I said, if you have any questions I will be happy to try to answer them at this time. >> Casar: Are there questions for Mr. Guernsey? We may call you back up. One question that I have is: Can you explain to me why A.P.D. Has to enforce the -- the sound limit and -- versus code compliance? >> It's my understanding right now code compliance

[4:28:20 PM]

does not have staff trained to enforce a decibel level and the equipment is actually held by the Austin police department. I know residents have expressed a great deal of concern about A.P.D. Doing enforcement of the sound ordinances the city has. Certainly if council felt strongly, there could be amendments to the budget I guess to add staff that would be able to -- to do this, either in code or some other department. But right now, A.P.D. Is the department that -- that enforces our sound regulations. >> Casar: So it's logistical and administrative not legislative. >> That's correct. I mean, I think different department could certainly -- a different department could certainly enforce the sound regulations but A.P.D. Right now is the agency that does that and has been doing that for many years. >> Casar: Councilmember Gallo? >> Gallo: Thank you. I was just curious, based on the sound complaints that the city receives, what percentage of those complaints are for construction activities? >> I do not know that. >> [Indiscernible]. >> I don't have that information. Sounds like we have it for loud music, but not necessarily loud trucks. I know just from the four stakeholder meetings that we have, the major complaints were from the pump and the trucks. Even from the reversing of the trucks and the beep, beep, beep sounds that they make. And we've had plenty of neighbors that come before you, come before stakeholders that say it through the night. I know you've probably been emailed hundreds of times about the noise downtown. >> Gallo: True. But I just wanted to get an idea of what percentage the

[4:30:23 PM]

concrete pouring noise was of the complaints that we get with all of the noise downtown. Is that information that you could get to us at some point? >> We could contact 311 and see if we could get that information and have it ready by the time you get to council. >> Gallo: That would be great. I had one other question. How does this sound limit proposal compare to the maximum decibel limits for the downtown music and concerts? >> It's -- it may be lower. Based on the information, if you could put the exhibit back up, you know, for the entertainment districts, I think they are limited to 85 decibels. If you look at, I don't know how clear that you can see that -- based on the monitoring report, there was a -- a 7:00 A.M. To 3:00 P.M., looked at eight averages, it was 68 on the a scale, 66 in the afternoon from 3:00 to 11:00, 63 in the evening of the dba. So considerably less than what you would signed find for sound

amplification for an outdoor music venue. But these again, once you get past the -- that 2:00 P.M., that's the restriction for those venues. >> So I guess what I'm trying to understand is why would the decibel limit for construction, which is helping to build infrastructure and residential and office and commercial, why would we put that at a lesser limit than we have for music? >> Well, it's trying to allow, to make accommodation for people to sleep through the night. Their lives are not as disrupted by the noise of the construction. Even though the decibel level may be 85, when you have sound amplification

[4:32:23 PM]

downtown, the music office does -- does extensive work for these venues to try to lessen the impact of those sounds and that -- that currently is not what's happening with -- with concrete pour, late night concrete pours. >> Gallo: So as part of this, do we offer to the concrete companies the same ability to offer baffling to reduce the decibel limit that we offer to the music industry? >> Right now, we do not have that -- kind of what's proposed in the sound impact plan, they would come back with a basically a plan that would be sealed by an acoustical engineer saying we would achieve these levels. The music office doesn't have the staff either to go out and to test the performance of these, again that would be up to A.P.D. One thing that the music office has learned and we've learned from the city of Austin in the past, with outdoor music venues, if you plan for it up front, if you make the accommodations to baffle the sound, usually you don't end up with complaints. In fact we've had residents that have come forward to the council, previous councils, where they've had complaints at the beginning, worked with the music office because of the baffling and techniques they have used to lessen the sound, they were actually okay with the venue continuing with their outdoor music because of the success of that program to plan out in advance and baffle in advance. >> Gallo: Thank you, this is very owe it's very complicated I think, in particular when it kind of moves all over the chart as far as what we're talking about doing. So when you have the music industry that has baffled the sound, do they baffle it to the 85? >> I -- >> Gallo: They have to baffle to not get over 85, is that what I'm understanding? Or are they baffled down

[4:34:24 PM]

from 85. >> David Murray, music office. Depending on where the venue is located, the maximum state law limit is 85 decibels as measured at the property line. Restaurants limited to 70 decibels. The entertainment districts, which are sixth street and the warehouse get 2:00 A.M. Allowances for cutoff times. When we've worked with venues to reduce their sound impact, yes, they are still allowed 85 at the property line, but we encourage them to knock it down to 75 or so, if we start at 85 and end up there we have really achieved nothing, if that makes sense. Case in points, acl festival this year they averaged 75 decibels at their property line, although they are allowed 85. We always try to mitigate to give them -- get them to a lower level at the property line. Hopefully that's not confusing. >> Gallo: Kind of. >> Casar: Can you lay out for us very briefly, in the warehouse district and on the entertainment sixth street district. You said until 2:00 A.M. All days of the week. >> Seven days a week. >> Casar: Seven days a week, 2:00 A.M., 85 decibels. Then in the other cdb areas it is -- >> It's 9:30, cutoff at 10:30 P.M., 11 Thursday, midnight Friday and Saturday. >> Casar: Also at 85 for live music and 75 for restaurants. >> In the cdb unless they are located within [indiscernible] Feet of residential use, then the cutoff times would be earlier. >> Okay. >> Casar: Mayor pro tem, I have -- [multiple voices] >> Tovo: I have one for each of you, actually. Mr. Murray, are there any, does residential use within a certain proximity to the warehouse district change any of those time cutoffs. >> No, they don't because the code states it has to be residential zoning and use, there's nothing within 600 feet of either of those districts -- >> Tovo: Zoning and use, okay. Thank you. My other question is for Mr.

[4:36:25 PM]

Guernsey, that's one of time tables. If we pass some recommendations today, how quickly will it come to council? >> I think we're set to come back to council on December 17th. If you -- if you have one committee meeting, I think in between now and then, which would be -- would be the Monday before the 17th, if you wanted for us to -- to tweak or change something or ask us some questions, we could come back one more time before it comes back to you for council action. >> Tovo: Okay. Thanks. But you said the current extension expires at the end of December so it will need to be on the agenda on the 17th for action. >> That's correct. >> Tovo: Okay. Thank you. >> Also I have maps of the two entertainment districts if you would like to see them. >> Gallo: I'm trying to understand the difference in the length of time that a concrete pouring process would occur versus a music venue that would continue to operate forever if they stay in business. So a typical concrete pour downtown, how long -- how long would that last? What would be the term of that, just on the average. I know that buildings are different, but just typically. >> We actually looked at several past permits. Some of them went for a duration for a couple of months. The longest period that we had was about a year and a third. So we had some projects that required that many pours because of the size of the building. It's important to note in the ordinance as it was proposed through various recommendations, staff asked to grandfather those projects that were started basically before a date in 2014, because a lot of times the industry builds into their concrete, excuse me,

[4:38:26 PM]

their contract the pouring of concrete. Some of them anticipated that they could go all night under the revised ordinance they are modifying -- they have modified their contracts probably since then because the ordinance had changed. To answer your question, somewhere probably three or four months, maybe as long as a year and three or four months. >> Would that be the continuous period of time where they are doing it every night or total length within. >> Based on conversations that I've had with those in the public works department and also industry it sounds like they might pour over several days, depending on what is being done, if it's a continuous pour like we had for the public library, that might be a 24 hour pour where they just can't stop. Got to keep pouring concrete. But then usually they have to move forms and that might take a day or two and then they would go back and pour more concrete over a couple of days. Again, a lot of what they do is really dependent upon weather. If there's a lot of rain that might prohibit that, cold temperatures might change that schedule as well. So it's not a guarantee that they'll even use a permit when they take it out for those three days, they might have to wait until next time it comes around for those three days. It really kind of depends on the size of the building, that they are building, how long -- how long it takes to complete all of those pours. But many times they will try to pour through the night because it's easier to get trucks into downtown. There's less traffic to deal with. Air quality is much better. If you have the trucks preceding directly to the site and making those pours rather than trying to compete with traffic and traffic congestion during the day. >> Gallo: Did I hear you just say that our city owned public library poured 24 hours? >> That's what kicked this all off. I had a conversation with our public works department because the question came up

[4:40:28 PM]

about whether on P public zoned land, which is not in the original ordinance provided for, but provided for in this ordinance, could the city pour concrete 24 hours a day and that's how I started all of this. With a conversation with Howard Lazarus about building the line. >> Gallo: Just wanted -- about building the

library. >> Gallo: Just wanted to make sure that I heard you right. >> Casar: Mr. Guernsey, the three dba above ambient level, how did we choose 2 as opposed to 3 as opposed to 4 as opposed to -- >> I'm going to let our music office answer that, working with them to come up with that number. >> Well, I have to plead just a little bit of ignorance I was out over the summer when this was being addressed. Best practices of other cities recommended that it was an allowable standard. >> Casar: For concrete or just for noise generally? >> Again, I don't know specifically for concrete or construction noise. But that was the limit that was determined to be acceptable to where it wouldn't poke out, stand out, after evening hours and pose a problem. >> Casar: Okay. >> So one thing that I wanted to mention, thank you for calling up -- I have an example of a sound impact plan from the city of Arlington related to gas fracking, it's not apples to apples, but it's very detailed, if you would like a copy of that I can provide each of you one of those as well. >> Casar: Great, thank you. I keep wanting to come up with a joke with the word baffling, but it keeps on not making sense in my head. Not very funny. There you go, it's confusing to me. [Laughter]. So if he we don't have other questions for staff, we do have folks here signed up to speak from the -- from the contracting communities and the downtown -- downtown and

[4:42:30 PM]

concrete pouring. Seas groups, we could call them up if anybody has any questions, I know there's a lot of testimony on this. But of course now that staff's recommendation is different this time, I think there might be some reason to have -- to have the public -- public give us their thoughts. >> I think because of the recommendation has changed, it would be appropriate to hear from -- from the people that are impacted by this. >> Any other thoughts? I'm inclined to give folks two minutes to -- to summarize since it's not a whole -- a whole new world of recommendations but some slight changes. So -- so I'll give you all two minutes each and first is Rick [indiscernible]. >> Mr. Chairman, councilmembers, my name is Rick [indiscernible]. I would not characterize the changes as subtle or new. We have only seen these for seven days, mind you, they are significant and they are prohibitive. 73 or 75 decibels all by cancels concrete construction overnight in downtown Austin and shifts that now during the day. That's when you will see concrete construction going on between 9:00 A.M. And 4:00 P.M. That's it. But a question got answered, I'm glad that you did, councilmember Gallo about framing this problem. What you see before you is actually the Austin noise complaints from A.P.D. From 2010 to January of 2014. This is the summative total of all noise complaints in that time period as listed by Austin A.P.D. You will notice in red loud music, loud party, barking dog, other unspecified. At the very bottom in yellow is construction noise. Let me give that to you in terms did of detail. Here are the actual loud music TV complaints by quantity. You can see there's a rise, 2010 through 2014, over a

[4:44:30 PM]

five year period, 5,963 complaints in 2014 the loud music TV. What does that mean in terms of construction. These are just random months over that time period. Construction noise, pick a no month and look at that in comparison to the other. Comes down to between 0% and 3% of the total noise complaints in the city of Austin are related to construction noise. I'm sorry, let me change my voice by three decibels. 0% of the total noise complaints are because of construction. But that's the whole city. You can see in the graph here by visual comparison. What does this mean in the cdb. There were 674 noise complaints in the city for construction. 674 complaints in the city during that time period. This is the cdb. 53 total complaints in five years as called into Austin police department related to construction. We are here discussing prohibitive ordinances on the concrete construction industry because of 53 complaints to the Austin police department. Be more than happy to answer any questions that you have about the detailed objections that I sent to each one of your offices. The other thing was I will remind

you that I repeatedly [indiscernible] For us to be in a collaborative environment with the other stakeholders to ferret out the details. Not to gather input anymore. We are well beyond that, but let's solve the problem for coming up with details with the staff on. Thank you. >> Are there any questions? Councilmember Gallo and then mayor pro tem. >> One of the other things handed out to us, now I can't find it. Was information from -- from another city.

[4:46:39 PM]

The city of Portland, Oregon construction noise regulations. Councilmember Houston this morning at one of our committee meetings made the point that -- that we should move in a direction when we're considering peer cities to at least include cities that have the same climate that we have. And I think that's one of the issues with this particular ordinance is I remember hearing that -- that the temperature affects the ability to be able to do this during the day and as a result during our very hot summer months, I seem to remember, but maybe you could address that again. As I -- I'm just aware of -- I'm more sensitive to this because of councilmember Houston's comments and I think that -- that temperature does make a difference in our climate. Does make a difference when -- >> Yes, ma'am. There were two salient points there. One was the quality of the concrete that goes in. We don't want to do that under the hot temperatures. One of the things that I alluded to as the city of Austin itself has a limitation on how warm the concrete can be. If you are placing it between the months of may and basically October, it either will exceed that or be literally impossible to place because we just can't cool it to those temperatures. The second point about that had to do with the safety of the workers that were going to be placing and installing this concrete. When you shift this work to the daytime, you are now going to subject those employees to the hottest conditions of the day and on the deck that could be 140 degrees. The other thing that I noticed when you pointed out the city of Portland ordinance there, if you will notice in the very first point there permissible hours and noise level. The city permits a very liberal standard for concrete construction noise. 50 decibels at 50 feet. So you already have 85 decibels there, which matches the current city of Austin limit for -- for -- for sound as you had already heard from the city office. So if you are looking at sister cities for best practices, this is a great

[4:48:40 PM]

one to look at, because they have the 85-decibel limit there. But those specifically were kind of some of the issues. Yes, you brought that up before. The temperature is a big one. Both from a quality and a safety standpoint. And this current ordinance, as written, will now subject, will make all of that happen because you will not see concrete placed at a 73 or 75-decibel limit between 10:00 P.M. And 6:00 A.M. That was the other thing in that infographic that came up. You didn't see any line there's or measurements taken at actual concrete construction jobsites. That was an eight day sample that was taken there, but there was no actual sampling that was taken at concrete construction sites to compare to that to show you that. So ... I'm not saying they didn't do a good job, they did 168 hours, but we also are missing that dataset. >> Casar: Mayor pro tem has a question for you. >> Tovo: Actually, it was for Mr. Guernsey. >> Casar: Stick around because I have a question for you perhaps after we're done with Mr. Guernsey. >> Tovo: Mr. Guernsey, I wanted to talk about the construction noise complaints. We had a situation I think here actually where there was a similar assertion made about the calls going into 311 to complain about smoke and when we did a little more explanation it turned out that some of the neighbors were calling to make complaints to 311 about smoke and were told because there's no ordinance on the books prohibiting smoke, they couldn't record that as a complaint. So if someone calls 311 or 911 and complains about construction -- about concrete pouring noise, are you very certain that those are all being recorded? >> Councilmember, I could not say either way. I was not involved with the

barbecue smoke ordinance. We could ask 311 how they would log their complaints, so I could not say. I just know from the four

[4:50:41 PM]

stakeholder meetings we had people that were very adamant that they just could not sleep through the night given the amount of noise and that something had to be done. I'm not sure if they would complain every night but I certainly concur with things that Richard said, the industry also said that it was imperative that for worker safety that best time to do it is at the evening when the ambient temperatures are lower and cooler. >> Tovo: Okay. Thank you. Yeah, I've got-- we've gotten hundreds of emails over the last now year from citizens, from individuals who live downtown complaining about the noise. So whether or not those individuals called and whether their calls were recorded, we certainly do have -- we have heard from many, many people downtown about this issue. Some of them representing 12,000 residents at a time. >> Casar: Mr. Guernsey, did you -- I know we started this conversation with Mr. Lazarus, but have we followed up with your most recent recommendation and heard whether, for example, we were to -- to build the central library starting tomorrow under these rules, how that would -- whether it would work and whether we would feel comfortable pouring at the noise levels that are recommended by staff? >> Well, there's -- first answer, no. Because it really would depend upon the ambient level of the site during the construction or before the construction. I know that the ability to do a 24 hour pour was a paramount part of that discussion because if you couldn't pour all night long, we wouldn't have been able to build the library and so I know that -- that was pivotal to that discussion. We can certainly follow-up and I can get the economic development office staff with public works staff and see what the -- what the

[4:52:44 PM]

limitations would be by doing that. >> But under your current recommendation, you do allow for the 24, 72 hour mat pour, but it's the non-mat pours and non-long time pours that the three dba limit applies to, is that correct? >> It wouldn't matter if it was a mat pour or not. It just makes the provision that you could pour between 7:00 P.M. And 6:00 A.M. Any day of the week so long as you stayed within those decibel levels. >> Casar: But we are not sure if, for example, we were pouring the central library tomorrow, whether public works would be able to stay within three dba -- >> No I could not say. >> Casar: Okay. Can you -- tell me a little bit about why -- why you feel that we would be going over that 3 dba if you were to pour at night? What are the noises or the sounds that necessarily even with the baffling and sound mitigation that you feel would put you over that 3 dba limit. >> I think the three dba limb is the measurable perception that the ear can hear. It's not very much. I think dropping somebody's notebook on the floor is three dba, we're not talking about a significant amount of time, range of sound. I think what we're more concerned with is that the absolutely limit both as a variable, which we can't do business with a variable code. A variable ordinance. I think that's near impossible for us to do. If that's the case, why wouldn't the noise from the entertainment district be subject to the same type of thing. They've got a set ceiling they can work within that. All we're asking for is a similar ceiling that we can work within. The sound measurements that came out during the stakeholder meetings were 80 decibels, 85 decibels, unbaffled were in excess of that. We're saying why are we being held to a different standard than other

[4:54:44 PM]

commercial entities? >> Casar: So the beeping of the trucks, for example, which my understanding is a --

basic safety regulation so you don't back over someone with a truck -- >> There are ways to mitigate that. >> Casar: But you would see that potentially going over, just the sounds generally would go over three dba, not necessarily the beeping of the truck or the pouring of the concrete, but you just think folks being there doing construction work at night would put you over three. >> Yes, sir. >> Casar: Thank you. >> Any other questions in thank you. >> Thank you. Ms. Fitz, you have two minutes. >> I'm Julie Fitch with downtown Austin alliance, I sent you our position earlier today, resent it to you. It's been that way for several months. The way we developed that position, we participated in the stakeholder meetings and really listened to the residents concerns. I don't think they buy off on what we are proposing, but we thought it was a really good compromise. We compromised from our original position to a proposal that kind of set out a framework based on the live music outdoor music venue ordinance. So -- so we fully support the sound impact plan, we fully support the notice, and -- and 24 hour contact and all of those things. But we thought modeling the decibel limits based on the outdoor music venue decibel limits was an appropriate way to go. So -- so basically setting it at 85 decibels until 2:00 A.M. And at 75 decibels after that from 2:00 to 6:00. And again, rich made this point, but the transportation department prohibits these trucks on our roads during A.M. And P.M. Peak hours. So you're effectively limiting, if you set -- if you set a decibel limit that

[4:56:45 PM]

is not achievable, you would be limiting these concrete pours between the hours of 9:00 A.M. And 4:00 P.M. So -- so that's all that I have to say. >> Casar: Thank you. Sorry, Ms. Fitch, a quick question for you then. If we had to do a map pour of a library style pour, you are saying that within your reading of this, that that would -- not be able to be done for a 24 hour period because it would only be able to happen in the daytime during that time period? >> I don't think so. I actually think that -- that even the downtown neighborhood association believes that a mat pour should be an exception to the rule. And should be kind of granted -- it's a special circumstance and we get that. But we actually believe that the ability to pour and install concrete overnight for just general high-rise construction is important for all of the reasons that rich laid out. >> Casar: Okay, thank you. Phil fodon and Tom woods. >> I have to reset my clock here to two minutes. Thank you for the opportunity to speak today, councilmembers. You were looking for a way to use the word baffling. I think in a comedic way. It's not really comedic, but I do find is baffling that there are a variety of noises downtown that go way above 75 decibels, even 85 decibels despite what's on the books. I shot a video this summer. It's on our YouTube channel and guess what? 75 decibels that's the noise of traffic out there. Just driving by. Just about any time during the day. Food trailers our beloved food trailers, their generators go above 75

[4:58:46 PM]

decibels here at fifth and Colorado. The train that cuts across lady bird lake, when that hits, the 90-degree angle in front of the spring condominium, that's over 85 decibels. Downtown music venue, I know there's baffling there, there's a fixed 85-degree or decibel limit there. But on my YouTube video, there's a heavy metal band blasting well above 85 decibels, I'm all the way across the street. So when our people get phone calls saying I'm complaining about noise, a lot of times they're not even pouring anything or doing any construction work that night. There's a lot of noise in this city and so I am baffled and I find it very baffling that baffling is okay to keep it at 85, but construction is singled out among all of these other noises, food generators, trains, bands as we saw in the highlights of the complaints, let's talk music, parties and dogs. They are getting more complaints than construction. So I'm a little upset about that. Affordability, talk to somebody who built a multi-story building this summer they were pouring they couldn't do it between 2:00 and 6:00, it costs them \$140,000 in ice to cool the concrete -- [buzzer

sounding] -- So about 200 units, that's an extra 700 bucks per unit in ice, not flooring, not insulation, not paints. Not anything but ice that's here today, gone tomorrow. So there's an affordability issue, too. >> Tovo: The project that you are talking was that being constructed in Austin? >> You can practically hit a golf ball to it, yeah. >> So it was being constructed in Austin? They were able to finish their construction but they had an earlier cutoff time because their provisions are --

[5:00:47 PM]

>> They poured starting at -- >> Tovo: Different areas than in downtown. >> Yeah, they started pouring at 6:00 in the morning, 6:01 on a weekend and they had to add a lot of ice, again, \$140,000 of ice over the project. >> Tovo: I got your point. I'm trying to locate where that was in Austin or another city. >> It was in Austin, not in the -- >> Tovo: Cbd. >> Business area here but just outside yeah,. >> Tovo: Okay. Thank you. >> Good evening, Tom woods. Before my two minutes starting I can answer two questions that haven't been answered. One is the number of times we pour. The project I'm on we pour one time one week. The next week we pour two times a week. That kind of rotates, depending upon the sequence that you're in. So it's not every night. We do pour every day but a lot of the pours we make during the day itself, columns and shear walls, things of that nature. The second question I believe is could you pour mat with the current sound level. Absolutely you cannot. In a typical concrete pour, you have one pump that is pumping and that's normally an enclosure and you can try and control. In a mat pour, you may have five portable pumps spread out around the property and you will have two concrete trucks backed up to each pump and there's no way to control that sound. So if you -- if this ordinance gets passed with those sound levels on a mat, your mat foundations are gone. If your mat foundations are gone, the only way to build high-rise buildings is to put pier foundations in about 200-foot deep, which is very expensive and very prohibitive at times. So I hope I answered those two questions. >> Casar: Thank you.

[5:02:48 PM]

>> Okay. >> Casar: You got your couple minutes. >> Two minutes. I got a lot of concerns about the recommendation. One is today we make noise 300 feet from where we are but if we have an ordinance that says we can only reach a certainly decibel point at the property line, why do I have to notify anybody at all? If my noise stops there, I'm not disturbing them at all. Why do that? Why don't we move the measurement at the property line of the places that are the residence. So that we're measuring them at the correct point. The info graph that came out was showing dbs about 68 and wrong but I think the Normal conversation between two people is around 70. So why are we even less than a Normal conversation that we've got today? That doesn't make any sense to me. It's the recommendation says anything over three dba is allowed but Shasta county, California, had an interstate project where noise was part of the issue and they said a change in three dba is barely perceptible to the human ear. Why are we even measuring something that's barely perceptible? Doesn't make sense to me. That would be like saying I can almost see the spot on the wall. Doesn't make any sense. And then the other thing, how does the recommendation take into effect worker safety, improving air quality in downtown Austin, decreasing impact on the businesses due to the increase in traffic and increase in noise during the day, protecting the jocks of concrete drivers because if you take this away, there will be loss of concrete drivers in the industry, and keeping construction costs lower to make affordable housing in downtown available and office rents competitive from the

[5:04:49 PM]

suburbs? I don't see where anything that we've done there takes that into consideration. Thank you very much. [Buzzer sounding] >> Casar: Thank you. Are there any questions? Okay. It's back to the dais. >> Thank you. >> Casar: Mayor pro tem. >> Tovo: So we've had a lot of discussion about this. I -- about this body of provisions. Over the last year there have been a lot of conversations, various stakeholder meetings. I think we continue to get to a place where the stakeholders have different perspectives on this issue, and my guess is we're going to have a fairly lengthy discussion before the full council as well. So I'd like to just propose something and suggest that at a minimum we move this on to council at the end of today. But my proposal I've disabled on the dais. I want to acknowledge the stakeholders who have participated. I know there have been multiple meetings. My staff member Joy Harden has been at all of them, I believe. I understand and I've heard and take seriously the concerns about worker safety. I think I mean very open to -- I am very open to work with organizations to see whether there are measures as a city we need to adopt to provide stronger levels of protection for those workers who are out there in the heat of the summer working in various jobs on construction projects. I do believe, though, that we need -- with regard to the concrete hours we need to strike a balance between the ability to get the job done as quickly as possible with the quality of life for the residents who we are encouraging have been on a multiyear plan to encourage to move downtown and to live downtown and to make that their home. And so I am -- I've handed out a motion sheet. Really what this does is revert back to the original staff recommendation, which was presented to us in June, and that represented, I

[5:06:49 PM]

believe, a better -- a better and more consistent policy throughout the city. We have construction projects that abide by these rules of concrete hours, and I'm suggesting that we adopt the same hours for our downtown environment. And so those would be -- actually, if you wouldn't mind putting them up on the overhead. These would be just as they are everywhere else in the city, 10:30 P.M. Sunday through Wednesday, 11:00 Thursday, 12:00 on Friday or Saturday and it would stick with the original -- with the same recommendation for dba in a staff have proposed. It would also include -- I'm sorry, I think you may have another sheet. The one that looks kind of like this. It says mbt tovo motion sheet. Thank you, Mr. Murray. It would allow concrete pouring outside of those stipulated hours in any of the extraordinary circumstances we've been talking about. If it's a mat slab, if there are other extenuating circumstances or very large projects that simply can't operate within those hours, then it would -- it would go to the staff recommendation that is described in the memo that we received on October 30, which is -- includes the -- includes the sound impact plan, light mitigation plan arbitration et cetera. That body of considerations would only be present for those projects that are requesting to go outside those areas. And, again, we've had a lot of discussion. I don't want to belabor the point. I think we are -- we can continue to have stakeholder meetings. I think we're going to arriving at the same -- at the same place, which is a disconnect between what the industry representatives want and what the downtown residents have pleaded for more than a year for us to consider.

[5:08:49 PM]

And so, again, what you have before you I see folks circling on the dais and what not but these provisions are taken from the original June staff recommendation, and so that's my motion, that we recommend staff integrate this into the ordinance that moves forward to council. >> Casar: Councilmember Gallo. >> Gallo: So I have a question because it looks like -- so in our backup material we had the planning and neighborhood committee 6/9/15, it says additional staff recommendation information, and on the late night levels it says up to 10 decibels above the ambient noise level. So it looks like in June the staff recommendation was up to the 75 between the 7:00 P.M. And all the other

times and then up to 10 decibels above the ambient noise level. At the other hours. So it -- you just mentioned that what you were putting out was what the -- >> Tovo: Let me clarify. The hours are the windows of pouring are what staff presented us. It's my understanding -- and I have the other documents in front of me and we'll double-check -- that the hours here are from 7:00 to 10:30, 11:00 on Thursday, 12:00 midnight are consistent with what they proposed in June and then it does track their most recent dba recommendation. So with regard to the hours, that is what they presented to us in June. It's -- again, it's my understanding and Mr. Guernsey has left but maybe we have other staff, maybe Mr. Murray can confirm that those are the hours that are -- that developers throughout the rest of the city are required to abide by in terms of concrete pouring. >> Casar: Mayor pro tem, you made that as a motion.

[5:10:49 PM]

Is that right. >> Tovo: Yes, I did. [Lapse in audio] >> Casar: Listed, is that correct? >> Tovo: Well, the staff recommendation is so completely different that I think what -- I think the motion that I make -- I think we better injures depo with my motion. >> Casar: So the mayor pro tem offers this -- a substitute as was handed out across the dais? And as she just described. Is there a second? So I don't think mayor pro tem has a second on that so is there any other motion on the dais on this? Or further discussion? >> Gallo: You know, at this point, listening to the speakers that came up to share comments and answer questions, this is -- this has been such a resolve solving door in -- revolving door in the process of recommendations. We had a recommendation that came forward to this committee in June and then now we have a different recommendation that's being presented by staff that seems like it's -- it's differing substantially from that, that the users and the construction industry and the daa have all stood up and said that they have concerns with. It just seems like that we're -- and the staff's most recent recommendation has not been out that long and perhaps has not had -- given the stakeholders a chance to get together and really review and continue to talk about it, but I'm just -- I'm getting the sense that we're not really at a place yet where we have something that the staff and the stakeholders have had a chance to visit about and I really feel uncomfortable. My motion would be that we send this back to staff and ask them to work the stakeholders to have a chance to review the information that has been presented to us at this point. And my concern is -- and my worry is that we as a city

[5:12:49 PM]

continue to issue building permits, to continue to build out our downtown area. And part of that is construction and part of construction is noise. And a big component of that is being able, as a city, when we talk about workers and worker safety, that we don't have unintended consequences by ordinances that we are passing that affect the safety of our workers. And I'm just concerned that that's what I'm hearing tonight, is that we're moving in a direction where we're limiting the ability of construction companies to be able to do their jobs at a time that provides safety to the workers. And all of us that live here in this community now how incredibly hot it is from may through sometimes October, and I think the worker safety has to be a big component of what we're doing here. And, you know, I'm sorry about the noise. I appreciate the additional information about the complaints, and I understand as we've worked through a lot of the complaint process in other ordinance areas that some of the complaints get lost somewhere, but I do think it shows very vividly that there are a lot of other areas, particularly noise, that get a lot of complaints that seem to have a more lenient decibel level conversation than what we're having here with the construction. So that was really long-winded. I'm sorry but my motion would be I think at this point we should send this back to staff to work with the stakeholders. I think that has been a very recent proposal from staff and I think stakeholders have expressed concerns here and I think we

need to allow them to address that. And I am very interested in some component of worker safety being part of that conversation so that we make sure that we're not passing an ordinance that -- that impacts worker safety in a very negative way in our very hot Summers. >> Casar: Councilmember Gallo, does your motion have some time period associated with it for when we would reconsider the item?

[5:14:49 PM]

Between now and when, if your motion passes, that staff would -- >> Gallo: Unfortunately we don't have the staff person here that we would ask that question of. So I would just say lettuce -- let them come back to us at a time that works with their schedule and works with the the staff -- stakeholders and, once again, I would like to -- input into the consideration the worker safety issue and be able to hear from that group of people also. >> Casar: Councilmember Gallo moves to postpone the item for further stakeholder input with focus on worker safety to be brought back at staff's direction. >> Renteria: I'd like to second that, chair. I'm also concerned about the employee safety, and I know that, you know, it's very difficult for some that move down here early on, having to put up with the noise that's going on. But, you know, I do believe that we need to get some more input. I just [indiscernible] To make a decision so I would like to also see it sent back so that we can make sure that we're building on the right -- voting on the right ordinance for this problem. >> Casar: Mayor pro tem? >> Tovo: I'd like to suggest to the maker of the motion that she consider moving it on to council with direction to staff to continue discussions, moving on at least what we have. I just -- after being aware of this conversation for a very, very long time, I don't think additional stakeholder meetings are going to result in any kind of consensus here. I believe that we have -- at the end of the day we're going to need to make a policy decision. We've got a group of stakeholders who are downtown residents who are asked us for

[5:16:52 PM]

a cutoff time that ranges from 7:00 P.M. To 10:00 P.M. So that's -- that's what their request has been to oust, that we stop concrete pouring, some of them would like to see it stop at 7:00 P.M. We have industry representatives that want to see no limits in terms of the window of time of pours and when staff have tried to accommodate that by bringing forward what they brought today, our industry representatives aren't satisfied with the solution there either. I think at some point -- well, the point is going to be in December because we're going to have to either extend the ordinance yet again at our December 17 meeting or adopt something else at our December 17 meeting. So we're -- you know, we're just -- we -- I think we're at a point where we've heard from a lot of different stakeholders and we just need to make a decision about the direction we're going to go. And I would -- as I did, urge that we adopt a policy that is in place for the rest of the city and -- and consider maybe re-- looking at it in six months, nine months, seeing how it's working, in terms of the construction projects on the ground. We've now got a year's worth of data about the 2:00 A.M. So that's somewhat helpful too. Construction has continued. You know, this issue came forward because there was a move to making cdb 24 hours on property -- they were actually proposing to extend that provision city-wide and, you know, what we did instead was pull it back to 2:00 A.M. So, again, I would consider -- I would really urge that we just move this on to council and make a decision among the full council. Even if we're encouraging the staff to continue the conversations with stakeholders between here and there. One way or another we're going to have a vote on December 17 with regard to concrete pour. >> Casar: Mayor pro tem, I don't -- I trust and believe you when I think of the -- that the stakeholders aren't going to come toll a point of consensus and agreement about what right balance is. I think my difficulty is I

[5:18:53 PM]

want to make a policy discussion and I'm having difficulty -- policy decision and I'm having difficulty understanding what the viable policy options are given I think some of the values stated on the dais of if -- I think it's difficult to -- when I asked the question well what is three dba, does that make sense or not, not knowing where that number comes from and not knowing whether or not these late-night pours, which I think from your motion you intend to be able to exist, would be able to exist under 3 dbas the same issue of I would have difficulty recommending a policy onto council that our own public works folks haven't been able to tell us whether or not they'd be able to pour our own downtown projects under. And so I'm just not ready to endorse a particular policy that seems to have that -- sort of that level of holes in it, at least from my perspective. Perhaps they're not holes but I don't feel confident enough today to say that that makes sense because I think the values on the dais are going to be that we want to be able to respect our downtown residents, at the same time downtown is a very different place than other parts of town. So what is -- how do we make sure the buildings get poured, poured safely, not just for the employees but for sake of the buildings being poured well while having some reasonable limit on the amount of sound being emitted from those buildings? And I just don't -- as a policy maker, I don't -- I'm not seeing two good but competing options. I feel that I'm -- we're in a position where the options don't -- I don't -- I don't hear that the options are going to result in those -- in those things being upheld and those things A.M. Happening and that's my difficulty. If you feel very clear about why your proposal will work, then I would be happy to entertain a little bit more

[5:20:54 PM]

debate and see if you can get me there, but it's just difficult for me to understand 3 dba if we don't know exactly why or for that's tied to construction or if we have folks saying at 3 dba you're not even going to be able to pour the big long 24 hour or 72 pour that is obviously necessary for the buildings we've zoned downtown for. >> Tovo: I would say we can certainly get the answer from our public works department about whether 3 dba would have allowed them to pour the central library, something we could answer between here and December 17, when this would be scheduled for council action and we could ask staff to compile the other questions. It would allow us the option of extending the existing ordinance until 2:00 A.M. Beyond December. So, you know, I think it would be an approach just to list out the questions that we would like to have staff answer between here and our council meeting because I believe it's very likely that our council colleagues are going to have similar questions, are going to want to go through some of the similar testimony as well. >> Casar: So is your suggestion to the make of the motion that we pass staff's recommendation along -- or a recommendation along to council without recommendation? >> Tovo: Or no recommendation. And just a list of questions that we would like the staff to answer between here and there. >> Casar: I think that was directed to you. >> Gallo: You're looking at me like I need to respond. You know, here's my concern about where we are at this point, is we have a staff recommendation that has a component that says that the minimum sound level is limited to the 3 above the ambient level. And we've heard from the industry that has said that would make it impossible to be able to pour in the evening and also pouring in the evening allows worker safety in the hot summer months. And I would -- I would not be willing to support at all a staff recommendation that has that component that I'm hearing from the industry -- and I think we need to ask

[5:22:55 PM]

more and more the user end when we are doing ordinances that affects a particular industry, what are the ramifications of this? What are the consequences of this? But when that industry says to us -- gets

us and says to us that that would basically eliminate being able to pour in the evening when it's cooler and workers are safety, I wouldn't support moving in recommendation on at all. I think there's too many negative consequences to it. And I understand the noise factor for the residents here, but it is downtown and we have a very vibrant, active construction area here, and it is going to be noisy. As the gentleman spoke about all the other noise that's downtown, I mean, you listen to the traffic that's around us right now, if you step outside, you listen to the trains, you listen to everything -- the music that's going on here at all of our festivals that are held all around town, I just -- I'm just really uncomfortable with moving this forward with the way it is when I've heard this message from the people that have gotten up and spoken. >> Casar: Are there parts of this that everybody agrees to? The - at least the contact information and the sound and light -- sound mitigation plan portions? Is there a reason for us to move at least some of it forward? >> [Off mic] >> Tovo: I believe the staff now are suggesting those be part of any permit and my motion really has them just as part of a permit that goes beyond the hours. So it would be -- I think it would -- it just begs the question of when they're going to apply. So I'm happy to do what the will of the committee -- what the will of the committee is. Well, I mean, revise that. I'm not happy to do what the will of the committee is but I think we just need to move

[5:24:57 PM]

forward so. . . >> Gallo: Do we meet again before our December 17 meeting? >> Casar: We do not. >> Gallo: Okay. >> Casar: Is there any further discussion? Mayor pro tem, can you summarize for me what the issues are with having a decibel level that perhaps might be lower than the downtown music venues that wouldn't be -- most likely wouldn't happen every single day considering that the most active construction projects seem to be happening once or twice a week with their late-night concrete pouring but that the dbas be somewhat lower but be allowed? What the -- what the downtown residents' primary issues are with that? Also when I think about enforcement I think about the \$140,000 spent on ice, if we can spend some of that money, get folks to participate in a way to spend some of that money instead on making sure that that noise, when it was enforced, do you think folks would be more open to it? >> Tovo: I will say, when I've heard responses to having a dba level rather than a cutoff that has been the main concern, that we have a very, very difficult time enforcing sound restrictions throughout our city, whether construction noise, music, et cetera. And that the strong preference that I've heard is for hours -- I almost said concrete hours -- you know, specific hours where that activity is allowed in the downtown area, just as it is throughout the city. I think that we -- I do not want to see us move toward an approach that will throw more money toward enforcement. I think we're setting ourselves up with a situation that's going to be extremely difficult to enforce. >> Casar: And I -- I understand that concern well and the only -- and an opening

[5:26:58 PM]

that I saw is I imagine folks are losing money on the 2:00 A.M. Deal right now of some magnitude and perhaps there's a -- I think enforcement obviously has to do with capacity, and if there's the potential in continued discussions at which we have -- we would have no matter what, whether this is passed along to council or not, perhaps if folks' concern is that a decibel level wouldn't be enforced we could find a way of funding proper enforcement. >> Tovo: Well -- >> Casar: Maybe -- I know that you've worked on this longer than I. Maybe you've already taken a look down that rabbit hole but it just seems to me that I have difficulty recommending staff's recommendation to council and so I'm not sure what I would recommend to council. I'm not a fan of -- I'm not going to miss this, not being on our agenda for the first time after a year of running this committee. But I also just don't know what to send along to council if

we were to send something along. Is there any further discussion? All nose favor of -- those in favor of councilmember Gallo's motion, please raise your hand. Those opposed? So we will perhaps hear this again in December. Or the whole council will just have to hear the issue as far as extending the ordinance goes. One way or the other. Thank you to everybody. Our second to last item is regarding our committee schedule. Which is somewhere in your stacks of papers. Long story short we've got a committee scheduled every month except July. My intention is to spend some time over the holiday break thinking about how to sit in committee a little less because I know it's taxing for all of us and community members and staff. If I promise us that, that I'll be thinking about it, I

[5:28:59 PM]

would ask for a motion for us to approve this calendar pending me maybe trying to figure out a way to cancels a meeting or two. >> Gallo: Say that one more time. >> Casar: Just approve the calendar and let me try to -- >> Gallo: That was the part I wanted you to repeat again. >> Casar: I know Carlos is laughing at that one. >> Gallo: We're going to hold him to that, right? Does this -- I know we had talked about multiple committees meeting on the same day and having conflict. Is what we're approving addressing part of that plan? I know that your committee -- this committee may have never met in conflict with another committee. I can't remember. >> Casar: Not with any of the current members on the committee. >> Gallo: So moved. >> Casar: Moved by councilmember Gallo while also putting my feet to the fire, is there a second? >> Renteria: Second. >> Casar: Councilmember Renteria seconds it. All in favor please say aye. Caveat from the mayor pro tem. >> Tovo: I like your idea of looking to see if we absolutely need to meet every month and if there's a way to be more efficient. I would also ask we consider the time that we meet. It does -- this hour sort of puts it right up against evening activities and so it makes it a real challenge, one in getting to those evening activities and for our staff and for our council with young kids it becomes a day that we don't see our families until the following morning. So -- >> Casar: And I think that's one -- >> Tovo: Having flexibility there for when we need an evening meeting because we're expecting lots of public testimony would be helpful. >> Casar: And I agree that this sort of goes to the root question of the role of public testimony at committees versus council, and I think that once we get some level of consensus amongst what's working and what isn't related to public participation in committees it will better inform whether or not these things make sense in the evening or not. >> Gallo: And I would say even if we leave a portion of it in the evening I agree and thank you for bringing that up, mayor pro tem. I think that we should through

[5:31:00 PM]

to stay during -- think we should try to stay during a Normal workday as much as possible because staff is required to stay, both our staff and city staff, and I think that's very difficult. As you said, I'm headed from here to a neighborhood meeting and it's -- I would have had to leave early to be able to get there so fortunately we ended early. I think if we could push the time up maybe we have the exception becomes the after 5:00 ending time for when we have an agenda item that perhaps we'll need more communication from people that would normally not be here or not be able to get off work to be here. >> Casar: Great, I'm glad we had this conversation. [Laughter] So we're going to set this calendar but I'm going to do my best -- as we discuss committees and this, to cancels a couple -- cancel a couple, make them shorter, make things dealt with in committee more the exception rather than the rule. All in favor? I think that's everybody. La of laugh I'm going to call -- oh, no, future agenda items is on here but we rarely talk much during that. We will -- concrete will be back. [Laughter] Anything else? That you all want to haunt me with? [Laughter] All right. Thank you, all. I'll call this meeting adjourned. Thank you.