

City Council Work Session Transcript –11/17/2015

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>> Mayor Adler: I think we have a quorum. I think we do. The hard stop that we had before lunch, breaking at lunch for the executive session has proved to be a popular item among councilmembers, so we're going to try to do that again where only one of us comes back after lunch in executive session to close down this meeting. So we're going to try and do that again as we move forward. We have four items in executive session. It would be great for us to get through this executive session today so that we don't have to do it on Thursday because we have a lot of items on Thursday's council, and everybody is desirous of ending sooner than we did last week, a little more quickly. So we're going to begin with the pulled items that we have Ms. Gallo said she would be a little bit late here this morning. Ms. Troxclair has pulled a lot of P.I.D. Questions as did -- some of them pulled by Ms. Garza, but we don't have those owe the other of those two people with us yet. Let's start with Adelaide. >> Pool: That's terrific, mayor. You know earlier this year, the city of Adelaide, our sister city, in recognition of their 150th anniversary of a city, looked to Austin

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for a gem that they had provided to the city back 25 years ago and asked if we were not immediately desirous of keeping it if we would be willing to send it back to Adelaide so it could be a part of their celebration of 175 years. And so I asked staff in the treasury department to come and tell me a little bit about the opal and a little bit about the history and the staff are here today. Would you like to quickly give a little bit of background, if you want. Or I could quickly let folks know that this piece of a broach or necklace had been in display in the old city hall on eighth street and when the city hall moved, this opal went into a bank vault in one of the banks that the city of Austin has an account with. So it has been in a drawer in safe keeping for a very long time. So I brought is here today so my colleagues could see it and it was presented to Austin, the sister city of Adelaide on July 11th, 1983. And in recognition of our sending it to Adelaide they are going to send us a piece of I'm sure will be very impressive aboriginal art. So we will be sending this back and getting some art back in return. I will send this around for everyone to here. The staff from treasury will keep an eagle eye on it, but if everyone from the audience would like to look at it, we'll put it on the table there. >> Mayor Adler: This is indeed beautiful.

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>> Pool: It is quite lovely. It's a pretty amazing piece of opal. >> Mayor Adler: The note in the agenda

talked about them coming here to collect the piece, but you're saying in lieu of that we're going to deliver it to them so that they don't have to actually travel here to pick it up. >> Pool: One of our colleagues offered to deliver it to them. [Laughter] >> Mayor Adler: So has my wife actually, and I told her -- >> Pool: Since they did say they would pay for its return -- [laughter]. My hope is on Thursday we will pass this on consent having had an opportunity to see it. >> Mayor Adler: The actual resolution that we would be passing allows for a transfer other than them coming here. >> Pool: Oh, yes, we were joking. >> Mayor Adler: Well, thank you for that, and it's indeed beautiful. Most of the items on our agenda have been pulled by people who aren't here yet. I have a question about item number 92. I don't know if housing is here to speak to that. 92, the development density bonus. I have a question about this that goes to a policy question. I am a huge proponent of affordable housing. I think that as a city we're going to preserve what makes us special, that requires us

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to preserve the fabric in our community. I am also a huge proponent of geographic disbursement of all peoples in all parts of the city, for many reasons. I have a question about the policy and how you fine tune or whether it makes sense to fine tune the policy with respect to waiving fees in lieu of in a particular project. And I believe that allowing for total election of fees in lieu discourages geographic disbursement of affordable housing so I want to preserve that. At the same time the policy question that was asked is should there be some modicum of discretion. Does it make sense in any particular case to allow for there to be an alternative production of housing if not in any one project where the economics might be difficult, but within a transit stop of that location or two transit stops of that location? In other words, in order to be able to affect geographic disbursement do you need to have the absolute policy or should there be some discretion within a geographic area in order to be able to best affect that policy? >> Betsy Spencer, direct of neighborhood housing. I'm going to respond and I'm going to let the two ladies with me if I say anything wrong, let me know. We concur with your

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observations, recommendations and feelings. One of the reasons that we put in the recommendations that there be some opportunity for a waiver was two. Number one, the original resolution suggested that there be some opportunity for that, and the stakeholder process also, some of the developers, the development community, there was not consensus on whether the fee waiver should be included or not. It is our recommendation, though, or the practice that we will maintain is that on site be the requirement. That it is incumbent upon the developer to demonstrate why that is not feasible. I cannot give you an example of when I believe that would occur. It is my contention, my recommendation that the way we operate is that on site is the requirement. And so it will be some heavy lifting on the developer in my opinion to demonstrate or document when they absolutely can't do that. And I can't give you an example of when I believe that to be accurate or when that would occur. But that was the development community's recommendation. We have some opportunity to attempt to waive that if if they're able -- if they're successful in that. It would be the action of the council to accept that recommendation or that waiver. That would have to come from the department director, the neighborhood housing department director would bring that forward but I can tell you as a policy I don't see one that would occur. >> Mayor Adler: Okay. Is there a difference between -- is there a difference between where the standard -- is it always from a policy standpoint that you want to have the affordability in the same development as opposed to twice the development if it was within a block of that

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development? In other words, from a policy standpoint is it you're driving it to be within that same building as opposed to within that same block? >> That would certainly be something worth entertaining. If it really were that close. It isn't often that we would have that opportunity. I'm not saying that it couldn't happen. My thought on that would be if it really could happen a block away why wouldn't we just have it right there? The argument often that has been presented to me is we can't make the Numbers work at this particular site, but it would be lovely if you had the money to do it someplace else. It's not that we usually have an adjacent property or something in that immediate area. Often times the Numbers don't work because of the land values or the cost of construction. So if someone could demonstrate to me that a block away it could be done then that would be something we would certainly entertain. >> Mayor Adler: The question I'm asking and again, I don't know the answer to this question, I believe that folks can make it work in any property, although I'm certainly open to learning differently on any given piece of property. But I want to make sure that the criteria allows for you to be able to say I would rather have it -- even though I believe that you can make it happen in this property, it would be better for the community if it happened in this nearby property that still meets the geographic dispersion issue without you having to make a finding that they couldn't have done it in that property. My concern is if that's the only threshold available to you that in order to get

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what you believe to be a preferred solution immediately nearby, you're going to have to make a finding that would set a bad precedent on lots of other projects. And that having the ability in the discretion item to say, if the primary goal of geographic dispersion is best met alternatively that that -- you have and the ordinance allows for discretion to do that. >> And I believe I'll look to the ladies next to me. I believe the ordinance is written that it allows for that? That the preferred -- >> A showing of inability to make it happen. >> So Rebecca Gieollo, neighborhood housing and development office. One of the things that we are not precluding, and I want to just state this, is a developer can go to and stipulate the desire for it to work differently. What we were saying in our process is we would not necessarily carry the item. It does not preclude a developer from going to council and having council carry that item forward with a fee-in-lieu or alternate policy decision. >> Casar: Mayor, I think if I can summarize your question, which I didn't have before you talked for a moment there, is the -- can you only get a fee-in-lieu if you prove infeasibility under the ordinance that you are recommending? Is infeasible specifically the language? >> I want to just say that is the way in which our process discussions at this

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point are. That is if it is infeasible, we, housing, would carry forward -- if we can evidence infeasibility, we would carry forward the item. Our process is designed such that we would take it to our housing committee and upon conference, move it forward to council. It however doesn't preclude for a developer to go to a councilmember and have that item brought forward another way. >> Casar: So I guess the question you're asking is if you have a project presented to you that you think by, for example, putting affordable housing in high opportunity area, not within that specific project, and you thought that it furthered the goals of affordable housing more. You would not under this ordinance be able to bring it forward to council, is that right? And again, I think I just heard miss Spencer say you can't think of many options or opportunities where that would happen, but of course once you change an ordinance things might start happening that didn't happen under old ordinances. So I guess I didn't quite have the concerns until I heard the answers to the mayor's question, which is if you have an application

that doesn't want to put it on-site because they've got some other modes of noncompliance and you think that that alternate mode of compliance is better for affordable housing in high opportunity areas, then you can't bring it forward. >> I will look to you all. >> Casar: And perhaps it's not necessarily bad. Perhaps we just set the expectation and there will not be the waiver and set it on-site. Perhaps the benefits of that kind of model outweigh the potential unknowns that we have just described, but just something for you to consider. >> Mayor Adler: And I will say that this question is coming out of left field and I don't need for you to opine on it. I'm raising the issue that as we pass an ordinance that

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goes into our books I'm concerned about you having to be put in a position where one, you can't initiate something that you think is right. Or second that everyone is going to go through contortions to meet criteria that don't -- you're going to go through contortions in order to meet criteria to get something done when what you would really like to say is we have found a situation where we can better meet geographic dispersion if we did this. >> I appreciate that. We would want that flexibility so we'll need to look at it and see if that accommodation does not occur at this point, then we would want to see if we want to accommodate. >> Mayor Adler: That said I want you to think real carefully what councilmember Casar said, which is when you build that in you also create someone who is now going to come to you and say, instead of this, here's the project next door or the project one bus stop away. So you're going to open up that door. So I would like for you to think through both sides of that policy. We were just passing an ordinance and this would be now the time to think about that. I'd just like you to think about that and maybe contact me, contact Greg, contact Kathie. >> Renteria: Mayor, in fact, there will be a situation coming up before us here soon. Habitat is abandoning one of their buildings there on fourth and Comal, and they also own a vacant lot right across that building between -- it's a half a street to the west. And they're going to have -- instead of building affordable housing on that building, on that office building because it's in the TOD district, they want to pay the fee-in-lieu to Habitat because they will

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develop affordable housing right across the street. And build their affordable housing. Will this affect a project like that and would you be able to make the decision or what you have to bring it to us? >> It would depend upon whether or not what they were proposing is a PUD. They're in a TOD and the TOD already facilitates that. If for some reason they were applying for their project, they would create some sort of a PUD, then the PUD ordinance would apply. I don't know if they're applying for a PUD or not. >> Tovo: I want to start by saying out delighted I am to be able to vote on this ordinance on Thursday. This has been, I don't know, maybe a decade long goal for many people in the community to have a PUD ordinance that actually requires -- or it sets a standard that if there's affordable housing it will be there on-site. So it has been a long time coming and the PUD ordinance that's gone through at least one revision and still didn't quite get there, it's been a source of multiple discussions at council both before my service on council and then during my service on council. And now again with our new council. So I'm really very pleased to see this on the agenda. And I guess having said that I would just encourage us to maybe think about seeing how it works. We're going from a PUD ordinance that gives us really nothing but flexibility, and as a result most developers have chosen not to do affordable housing. I would encourage us to let this play out. I think we've got options in there for housing to bring forward and we always have discretion to consider variances to what's in the PUD ordinance. So I do have a couple of things I would like to suggest we'll bring forward

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as amendments unless my concerns are averted. But -- assuaged, but the language in 255, I would feel more comfortable if it is -- let's see. I just lost my place here. I would look at the language in 255.25 B as its language says subject to council approval, developer may provide all or a portion of. Just to make it clear that if there's a portion of the affordable housing provision that can't be satisfied, that too comes to council for a final vote. Not just if they're waiving all of it, but if they're waiving a part of it that also comes to council for a vote. I'll be bringing that forward Thursday. I also think there's a real value in making sure that the waivers that are granted happen close to the time where the project is going to be developed. As we all know the markets shift and change and so I will likely be bringing forward an amendment that has a time limit on that waiver, three years or something like that, so that if the project were not constructed in a timely fashion, the council has an opportunity to look at that again and determine whether really a waiver of that on-site requirement still makes sense given the market conditions. But otherwise it looks good. I think it preserves flexibility, but also says as a city this is what we want to see. If the you're coming to council and you're saying I want a planned unit development because this project is going to be superior to what we could create under regular zoning, which is the criteria they're going to hit, if they're asking for a planned unit development, then it's really superior that they're

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meeting the criteria that we as a city have established that and affordable housing is chief among them. Thanks for your work on it. >> Mayor Adler: Any further questions? >> Garza: The draft ordinance refers to -- it refers to section 2.53. I don't see that anywhere. It goes from 2.52 to -- it goes from 2.5.2 -- >> 2.5.3 is not being changed so it's not going to show up in this ordinance. >> Garza: So where would you look to that, what that is? Just in the code to figure that out? >> We do have it in the backup. It's on a chart like this. >> And last question, the rationale for the two-thirds vote in 2.5.5. >> That was a recommendation from the planning commission. >> We also had through the process going through the stakeholder feedback will had been some feedback and some suggestions even around a super majority that it would strengthen and tighten the opportunities to obtain on-site affordability. >> Actually, we sent a memo about it yesterday, about the two-thirds majority is not recommended, so we will change that I think before you get to Thursday.

[9:42:00 AM]

It should just be majority. >> Understood. >> Mayor Adler: Any further conversation on this? >> Zimmerman: Is that a legal opinion or a matter of law or is that just a policy recommendation? >> It's a matter of law. >> Zimmerman: It's a matter of law that you don't have to have two-thirds, but it's not a matter of law that you can't have two-thirds, or what's the matter of -- >> Mayor Adler: Since we're getting into legal opinion here -- >> Zimmerman: I do want to talk about that in executive session. >> David wrote a memo on it. >> Mayor Adler: Since this was something that was pulled on our agenda for today, when we go into executive session on those four things could you explain to us that? Add it to the executive session today and you can touch on it briefly. Thank you very much. >> Houston: Mayor, I'm sorry, I had a question. You talk about the stakeholder process. You mentioned the development community. Who else was a part of the stakeholder process. >> We've conducted the stakeholder process through a series of phases. We initiated it with one on one interviews with the developers who had participated in a development. They worked with housing works and the real estate council of Austin. And then we held three public meetings, stakeholder meetings where we looked at the proposed code amendments in general. We had one meeting that was dedicated specifically to the infeasibility

requirement. And then we had a third meeting that allowed stakeholders to discuss items that were not covered within the scope of the resolution we're responding to. And all of that is summarized in the backup for Thursday. >> Houston: So am I to understand that this is actual participation between the development real estate community and the public,

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housing advocates. >> I believe so. That was very diverse group especially for the first two meetings and then it included private citizens, just residents who were interested in the issue as well. >> Garza: Why the recommendation remaining affordable for 99 years. Why put a limit on it. >> Good morning. David seralda with the law department. The staff asked me that same question and I have looked into that matter. I've looked carefully just so you have -- it started with the idea that the 99 years throughout our code and a practice so the question was is there some legal requirement? Is that really based on custom. I looked at primarily state law in the Texas property code and other provisions. I do not find anything explicit saying within the state of Texas we are prohibited from having a covenant longer than 99 years. So I think that may have been a matter of practice that goes out of practice for leases that might be out of restrictive covenant burdening properties. Again, based on my research I don't see anything that would prohibit the city in extending that covenant beyond the 99-year term. >> Garza: With that response I'll probably propose an amendment that there's no time limit in the ordinance. >> Mayor Adler: Sounds good. Anything else further on this? Thank you very much. >> Casar: Mayor, item 77

[9:46:03 AM]

will be quick and it's the same. >> Mayor Adler: Yes. >> Casar: Ms. Spencer, can you describe the urgency of this item and also a brief status on -- I don't know if code is here, but just a brief status on how the residents are doing at this property? >> Yes. This is the cross creek apartments. This item is to conduct a public hearing and consider a resolution of support. This is a property that nhcd has invested two million dollars in of general obligation bond funds to assist with the acquisition of the property. The developer is working on their permanent financing. This item will facilitate they're ability to receive their permanent financing. It's an application for four percent tax credits in combination with the issuance of private activity bonds. It's imperative that they receive their financing. This is an item that has been before the building standards commission. There have been code violations to the property, which is why it's so incredibly important for them to receive their permanent financing. They have been taking care of the residents. We've got a significant number of individuals who have been working with the echo group, the group for ending homelessness. We had some housing first, permanent supportive housing individuals at this property, again, while this is an incredibly important opportunity for us. And so I know in the recent floods there were a handful of individuals that were assisted by the developer, put up in hotels and things like that because they had some issues. So I believe strongly that we've been working with this development to ensure the safety of the residents and so it's very important that we get this financing together. >> Casar: While this is important, I think it's important to flag that this has repeatedly gone through code violations and the building standards commission and that I think they were ordered to fix a hot water line so that folks can have hot water at the building. And I just hope that we can work work and marshal all of

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the city resources necessary to make sure we don't wind up with 600 or 700 district 4 residents on the

streets because the building is old and we need to get it -- I'm not sure who is responsibility it is to fix it up, but it needs to be a liveable home for dozens and dozens of families. Thank you for bringing this forward and do let the council know if there's anything we can do to make this happen. >> Mayor Adler: My sense on this is we have somebody who has stepped in and brought a property that was in really bad shape and was not doing justice to the community or to the residents. And I think -- and is going to be investing a lot of money as part of that project, we need as many of these as we can in the city and I think we need to facilitate this work on this property so that it can change. So I'm happy you brought this forward as well. Mr. Zimmerman? >> Zimmerman: Thank you, Mr. Mayor. Any time I see the word loan I want to know what the terms of the loan are so I can distinguish a loan from a grant or a gift. So does this have an interest rate and a term and conditions if the loan is not repaid? >> It does not have an interest rate. It is a deferred, forgivable loan. There are all the same legal instruments as a standard loan. There will be a lien against the property. They will be in default on those conditions. There's an consultant to cure as would there be with any other legal loan instrument. So there is a requirement to repay the loan if they were to default on the loan, but there is no expectation of repayment should they fulfill the obligations of the agreement. >> Zimmerman: So again to me it sounds like a grant, but I would like to see the language. Have I seen or is that draft agreement, it says negotiate and execute, so I'm going to

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make a motion to strike "And execution" until I can see the agreement itself. Do we have the agreement? >> We should have a draft. I will have to -- sometimes we put it as part of backup. I'm not sure if it is. If not we will forward that to you. >> Zimmerman: I don't have anything that looks like an agreement so I want to see the grant agreement. Thank you. >> Yes, sir. >> Mayor Adler: Thank you very much. Okay. Next item. We have several items that are pulled that are public improvement districts, pulled by Ms. Troxclair and Ms. Garza. Are those specific questions on each one or are they questions generally about public improvement districts? >> Troxclair: I had questions generally. I think this is the first time that we're adopting the rates for these public hidalgos, SOI had questions generally and I think that councilmember Garza may have questions. >> Mayor Adler: We have a staff here that can give us kind of a high level quick presentation on p.l.d.'s. I'm going to ask if you could go through this relative quickly and we'll let the councilmembers slow you down if any of them think you're going too fast. >> Zimmerman: Mr. Mayor, before we start, there was a hearing -- is there a hearing associated with some of these issues? Public hearing? >> There is. >> Zimmerman: Okay. So the first question is why would the public hearing not be done first and then start talking about the specifics? Like setting specific rates and terms? Why would the public hearing happen first? >> The public hearing -- the purpose of the public hearing is so that the landowners who have been given notice of the hearing can object to the assessment

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process and the rate. So they can speak about the two other items that have been approved. >> Zimmerman: Is that the Normal courses that we decide as a body what we're going to assess and what the finances are going to be and then we open it up to public comment instead of the other way around? >> This is the standard process. Again, there is a slide in here. It's a three-stage process involving usually three council meetings and we're looking at how we can streamline that for you in the future to include some of this work in the annual budget process. >> Why don't you walk us through and see, Mr. Zimmerman, if this answers the question. Why don't you walk us through the presentation. >> This is just a very high level overview of public improvement districts. Hopefully it will answer some of

your general questions about them. We have done some work with the audit and finance committee this year doing more lengthy presentations if you would like to see that, I can get it for you. This is an economic development tool that allows the city to fund public improvements or other municipal services in a specific defined geographic area. It's allowed by the Texas local government code chapter 372, which is for special purpose districts that may be created by a city or a county. P.I.d.'s are created only at the request of the landowner who file a petition validated by the city clerk and the petition has to be of more than 50% of the owners. The special assessment in this case is assessed to the landowners and that is a source of funding for the public improvements or the services. P.I.d. Creation is a discretionary act of the

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governing body of the city or the county in which the P.I.D. Petition is filed. There are two kinds of p.i.d.'s. We have both on this agent. They're what we call operating or maintenance p.i.d.es. Those are usually for municipal services. Those are where a special assessment is used to pay for the services that supplement city services. We've got three of those types of p.i.d.'s. They are managed by the economic development department. You'll see on today's agenda the Austin downtown P.I.D., which was created in 1993. It has two items on the Thursday agenda. The other two operating p.i.d.'s are the east sixth street P.I.D. And the south congress preservation P.I.D. The other type of P.I.D. Is what we call a capital improvement or a debt P.I.D. That is where the special assessment is used to repay debt that has been used to finance public improvements related to the P.I.D. Land development. Often if there's not debt involved these can be on a pay as you go basis, but we do not have any pay as you go p.i.d.'s. Our three that are listed below all have special assessment revenue bonds issues related to them. They include the whisper valley P.I.D. And the Indian hills P.I.D. They were both created in 2010. And the estancia hill country P.I.D. That was created in 2013. >> Mayor Adler: Would you say again what you mean by pay as you go? >> Pay as you go is one where you would have a landowner petition, you would have the special assessment process set up where they're billed annually and you just accumulate that money until there's sufficient money to pay for the public improvements. That would generally be a smaller public improvement

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than the types that you're seeing in these developments. >> Mayor Adler: Gotcha. Thank you. >> But it is allowed by law. Our policy objectives, one, when we create the P.I.D. Is to promote economic development. Definitely to support superior development in the desired development zone. Certainly to gain additional land use controls as well as -- it's a vehicle where the development actually or growth will pay for the public improvement that it's going to benefit from. And then it allows the city to have potential to direct our bond monies, since they're not being used for these public improvements, to other capital improvement programs. Other policy objectives include getting an extraordinary public benefit in exchange for the use of the tax exempt debt, which is a benefit to the developer. How we get these are public infrastructure extensions. In the some cases we ask for open space. There are often affordable housing requirements and possibly setting aside land or transportation facilities in these public improvement districts agreements, but -- in these P.I.D. Agreements. But certainly the developer has tax exempt debts debt on these. There's a savings to the developer so the city's goal is to get additional benefits for the public. >> Mayor Adler: Hold on a second, please. Ms. Garza? >> Garza: So with the whisper valley, for example, my understanding is it's kind of in the middle of -- it's far out. So 50% of the landowners in that area petitioned for the P.I.D. So they came to the

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city and said we want this P.I.D. Out here? Or in practice does it work that the developer goes and talks to those owners and says let's get this P.I.D.? >> In practice how it works is generally these are raw land that are owned by one or more owners. Of in this particular case it was an investment group. And so initially you'll have -- just for example -- one owner. So they competition. So the 50% rule is very easy to in that situation, if it's raw land and it's held by one owner, it's very easy to meet the 50% rule. If you have a development that's already in the ground, the 50% rule is more difficult to make. In the case of the operating p.i.d.'s, the downtown P.I.D., you had to get 50% of the landowners in that footprint, that geographic area to agree to that. So that's a better example of the contrast of the 50% for operating versus the capital. >> Garza: So if it's just one owner so they reach the threshold, they're basically being asked to be taxed? At a higher rate for the -- and those improvements go into the development? >> Those improvements go into the development to make a better community, a better neighborhood, but the difference to them, it actually is an -- even though they're paying the special assessment, as they sell lots to homeowner -- home developers. You will see with the estancia hill country, linnar has bought lots to sell homes on. Those new businesses, lennar would be assessed. And as lennar completes the homes, the individual homeowner would be assessed, so ultimately when the entire development is built out it's all homeowners who are

[10:00:10 AM]

paying the assessment. So you start with you start with one bid bill and as they sell the lots there are multiple people being invoiced and ultimately it's similar to a tax bill. >> Garza: Okay. Thank you.. >> Mayor Adler: Yes. >> Troxclair: I just wanted to point out really quickly that was one of the issues that I had with the development, with the pud that had come forward that of the inside the city limits. A lot of times when these owners come to buy houses there, they don't realize on top of the county taxes, school taxes, city taxes, that there's an additional assessment. I think it was like \$500 a year. So that was one -- I think it's a really important difference that you point out. With the downtown pid, the homeowners, actual people who are going to pay the assessment have the ability to vote on whether or not they want that higher rate. In the case where it's just one developer and the assessment gets passed on to the homeowners, they don't have -- yeah, it's disclosed at closing, things like that, but it's a lot of information and they don't have ultimately the ability to really opt in/opt out the wastewater sewage and these things cost millions of dollars and the city of Austin is already in debt for infrastructure. The water utility right. We're deeply in debt for water treatment plant four. These expensive capital improvements have to be paid for somehow. We used to do these municipal utility districts on the outer edges of the city on raw land. Then when they paid off their debt for the infrastructure that the

[10:02:11 AM]

M.U.D. -- Control those assets once they were paid off. It's a departure from that model. I guess now we're going to have the new financing instrument, the pid, going to be an additional assessment that's going to pay for these infrastructure improvements because you can't have residential lots without water sewer and storm sewer drainage, somebody has got to pay for all of that. So -- my understanding is there was a city management decision maybe 10 years ago or 15 years ago to go away from muds and look at other financing mechanisms like the pids, is that accurate? >> Actually the pid concept was first looked by the city of Austin in 2008. That was -- in my recollection, long after the city had -- had -- had been in the M.U.D. Business. And so -- so I don't think we were looking for a replacement for a M.U.D. Whisper valley and [indiscernible] Both brought forward at the same time, there was interest on the

council at the time to extend the E.T.J. Out to the 130 area that was a desired development zone. There was -- there was much interest in this particular project. Being out in that area. >> Mayor Adler: Ms. Houston? >> Houston: Mayor, I just want to assume, assure my colleagues that whisper valley and Indian hills are not in the middle of nowhere. [Laughter]. Everybody seems to think they're in the middle of nowhere. They're not in the middle of nowhere. >> Mayor Adler: Any other question about these pids or any particular pids.

[10:04:11 AM]

>> In this type of pid, unlike operating pids, the city does assume ownership of any of the public improvements, so they are built to our specs, they are built to our standards and inspections. On the operator pids, those are very different, there is no debt associated with those, that is just to pay for services not generally for public improvement. This is a little bit hard to read. That's why you have a -- a paper -- paper copies. I apologize to the public, but this is a summary of the information about each of the three pids prior councils have created. Which I have mentioned whisper valley and Indian hills, those both have pud zoning approved, both limited purpose annexed by the city. There is almost 1900-acres between -- I'm sorry, 2200 acres between the two of them. Both are mixed -- mixed development, with - with 700 acres of parkland and open space being -- being donated as part of the whisper valley. The public infrastructure that was -- that was financed to date has been the extension of Braker lane, the extension of Decker lake road, water utility extensions and lines, and lift stations. We've got -- two types of bonds issued for Indian hills and whisper valley, senior bonds that are paid solely from the special assessments and the -- and the subordinate bonds that are paid from the assessments, which are backed by a reimbursement agreement on the water facilities and the sewer facilities from the water department. Both of these -- well, all three of these pids are 15

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years tied to the limited purpose end date. They will be fully annexed at the end of the 15 years. You can see the difference in the interest rates on the bonds. Whisper valley and Indian hills were in this roughly 7.5 to 8.5%, estancia was in the 4.5 to 6%, that was the difference in the interest rates at the time the bonds were issued. Not a difference in credit. The estancia is south and west of 35. It's a smaller pid. 250 acres. It is pud approved zoning as well. It's in -- it has been limited pumped annexed -- and -- and they are putting in roads, water and sewer improvements, drainage improvements, landscaping and trails and they also have -- their issue was about 12 and a half million in bonds. The bonds on all of those were 15 year bonds, by the way. How this works is the bonds are actually issued by the city. They are styled as you see below, they are special assessment revenue bonds and then they'll have the pid -- they'll have the pid name at the bottom of the -- of the -- the official statement. The source of repayment for the debt, again, is from the special assessments that typically -- the landowner is the only one paying on the front end and then as homes are sold, they ultimately become built to the homeowner [indiscernible] As we talked about. The security on the debt, that is issued, is the pledge of the special assessment revenue. As well as the land. So -- so it's very important to get an appraisal of the

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land, typically you'll have a land value of three times the amount of the bonds that are issued. These bonds are not secured by the full faith and credit of the city, so the city has no legal obligation to repay these bonds. That's why it's important to make sure that the land is there to secure the bonds and if the bonds are defaulted on, the city may step in and foreclose on the property to -- to make the bond

holders whole. In addition to that, when the bonds are sold, we prefund reserve funds as an additional security for the bond holders. >> I have a question. >> Mayor Adler: Ms. Pool? >> Pool: I have a question, Ms. Hart. In the instance where you mentioned about foreclosing to pay off the bond holders, in the instance where say a pid is looking at a default, do we regularly or ever, is it fair or frequent, to hear from the bond holders or are most of the communications one way from the city outward? >> There are required disclosures in the bond market on Emma, which is a national posting of all bond disclosures, we post any significant event like a late payment on a special assessment. We post a note that is available to all bond holders, because the bonds can be traded in the market. It's important that we not -- give an individual bond holder special up front information or prejudice them about a security. So most of the communications are in writing. And when we do get those phone calls, we tell them it's our policy to communicate in writing. They can check the Emma postings. So they are generally one way they are very public and open disclosure.

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>> Pool: Just one last question. Has the city ever had a situation where the bond holders have asked the city to proceed with the default or do they either not communicate or would they urge the city to try to -- not to default on any of the loans? >> To my knowledge, we've not had a situation where the bond holders have communicated to the city and that's sort of what -- typically these types of bonds are -- well, these are not rated because they're not considered investment quality. Like the city's bonds are. The subordinate bonds were rated because they were backed by the water utility, so they did have a rating, got a better interest rate. But typically these bonds are purchased by -- by institutional investors who know how to evaluate this type of credit. And so we did have a few calls over the last couple of months from bond holders and -- and I indicated that we could not talk to them individually, that they would have to look at the add that our bond council reviews the public disclosures before they're posted. So it's a very -- very much a legal process that -- that the securities and exchange commission is monitoring for -- for all municipal bonds. >> Pool: Thank you. >> I feel like this is a dumb question because I would hope the city does this, but in the bullet it says landowner pays until the properties are developed ... Then the special seven assessment is built to the -- special assessment is built to the homeowner. Does the city do a credit check on the developer? With the whisper valley situation, in conversations it seemed like oh, we were never supposed to pay that. We were never supposed to pay that, but then there was delays and the infrastructure and all of

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that and so then we had to change the payment so they could pay it and then it seemed like they weren't able to pay it because they didn't have the money to pay it. So before we enter agreements like this, I guess two questions. One, is there a conversation that happens that says -- where they -- where they can say -- I mean, I guess -- is there justification for them to say oh, we were never supposed to pay that? Are they ever told that at some point? Like oh, you'll never have to pay that. The second one is -- when I go take a loan out, I have to get a credit check on if I can pay that loan back if necessary. Has that been with the developers? >> Yes. In the process of creating a pid there is a feasibility report that -- that they prepare and they provide to us. Then we do, as a city, we do our due diligence on that. A consultant that we hire that they pay for. We select, we hire, we provide a scope of work to them that looks at the market rates that they are proposing in their development on the homes versus the surrounding community to see if they are competitive. They look at their proposed absorption rates and those kinds of real estate development issues that I'm not a specialist in. So we hire someone to look at that kind of thing. That's a piece of it. We also look at their financial wherewithal, and ask them what I would

consider due diligence questions on the financial end. The way the whisper valley and Indian hills pid was structured, is a bit unusual in that it did have the subordinated bonds. And they were -- they were secured not only by the special assessments, but by a pledge of the water departments reimbursements. For the water lines and the sewer plant. So in essence, had the

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construction happened in a timely manner, the reimbursements would have been made and the reimbursements were paid directly to the trustee on behalf of the landowner to satisfy the special assessment. But that money would have been at the trustee available for the debt service payment. The problem with this particular one was the construction delays caused the situation where the city based on the original cost reimbursement language was not able to make the reimbursement. And so we asked council for approval to go to -- not completion, but substantial completion to authorize the payment so we could make the reimbursement. That's the action that you took on the water side. The wastewater side has not been done. Do you want to add? >> If I may, please. >> Sure. >> So for the \$7.4 million payment that was due to the pid bond trustee, because the reimbursements were coming in later, the developer, in order to make that payment, came up with \$1.4 million of its own money so that we could make that payment and not be in arrears. >> Mayor Adler: Okay. >> Okay. As we've indicated, these special assessments are paid in addition to the ad valorem tax that the landowner or the homeowner would pay. They are authorized generally for a specific period of time, generally that's the term of the debt. In the case of the three pids that we have created, they are 15 year -- 15 year

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pids so for the next 15 years, you know, well, the next 12 on one of them, we will come to council each year [indiscernible] items, the annual process, so that we can -- can work through the assessment roll, assessment rates and the public hearing. There are a variety of ways to -- to make the assessments. Generally they are based on the property value or some of -- some other allocation basis that's equitable. The liens related to the superior to every lien other than the lien for ad valorem taxes, that comes first. And they are really a -- a personal liability to the owners of the land. They also have delinquent interest in penalties, just like a property tax would -- would have. So here's what we've got. You do have three items for each pid on the agenda. And this is council meeting number 1 in this process. Again, it's an annual process for the life of the pid. So -- there will be an ordinance for each one where you will set the assessment rate. And you will approve the -- the proposed assessment roll which outlines the landowners who will be assessed. Then you will be asked to approve a resolution, which adopts the pid's annual service plan and the budget. And the detail there on the budget will generally, for these, show you that the special assessments are covering -- the -- the debt, the debt service, the principal and interest payments on the bonds that were issued and some minor

[10:18:27 AM]

administrative costs, costs for advertising the public hearings, a cost for sending notices, mailing in some [indiscernible] But they are minimal. Then you will be asked to set a public hearing to the pid assessments and the levy. The second meeting, I believe, is scheduled for the 10th? And that's the one where you will conduct the public hearing. You'll be asked to approve an ordinance that will actually levy the assessment and authorize the roll and we have -- we are combining meeting 3 with 2 to streamline things and so -- so you'll actually be amending the city's operating budget to include the pid budget. But so we've collapsed this into two meetings for you. As Mr. Jennings said, we had -- we have sufficient

money in the trustee account for whisper valley and Indian hills to make the December 1st, 2015 debt service payments. And we're still working on resolving some water line 1 issues, but that reimbursement agreement amendment has been executed. We are continuing to work with them, the water department is, on the sewer reimbursement agreement and will we'll need to bring that back likely in January to the council for some amendments to that to change the timing and other terms so that we can proceed with that piece of this work. So that in a nutshell is -- is everything that you would want to know about a pid and more. [Laughter].

[10:20:28 AM]

>> Mayor Adler: Ms. Troxclair? >> Troxclair: So I want to understand the process of these council meetings. I'm still confused. If we set the rate before we have the public hearing, I understand that allows us to set the public notice so that people can come to the public hearing. But do we have the ability to adjust the rate or is the rate set? >> The rate is set to recover enough money to make the debt service payment and the administrative costs. So we actually calculate the rate. You set the public hearing, that's setting of the hearing is the notice, is a notice to the land owners. They then can come to the public hearing when it's conducted to question the rate or object to the rate or that kind of thing. It's really -- when there's few land owners, it makes less sense, but when there are multiple homeowners and land owners and home builders, it -- the process makes a little more sense, I think. >> If I could add on to that just a little bit. Gregory Miller with the law department. Excuse me. Yeah, the statutory process allows for amendments after hearing objections. >> Troxclair: But if we're setting the tax rate to cover our payments, I mean, is it -- is it a practical reality that we could reduce the rate? I mean, I -- >> It would be a reapportionment based on benefits received. So if somebody come and said% I object to the rate you are assessing me because I'm not able to -- I don't really use this street you build or the water lines that you build, so therefore reduce my assessment rate, that would have to be compensated with an increase in somebody else's assessment. So basically the pid assessments are determined by the benefits received. >> They are also based on an allocation that we calculate. And so having the public hearing offers the owner an

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opportunity to say, I think you made a mistake. And so we would have a process then to go back and actually make the correction. That's the point at which you do this -- this -- this meeting, too, where you actually adopt the levy. And so -- >> If I can add, this I Diana Thomas, city comptroller, this process is set in state code and applies to all pids. So even an operational pid where we decide how much we want to provide in service in a particular area from security to planting trees or beautification or things like that, that's where you have more control over the amount of spending, where you can say we're not going to do this project so we're going to reduce the levy to everyone in the district. Whereas these are a little bit more set in stone and it seems kind of odd that we would have to meet every year, but state statute says that we have to bring these items forward. >> Okay. Yeah, I mean that's what it seems like. I am less concerned about the operating pids because again those lands owners -- landowners chose to opt into that system; whereas a lot of the people that were living in the homes that were undeveloped when the pid was created, they don't -- I mean like you said, set in stone, their ability to actually -- if they didn't realize that they were moving into a district, an extra assessment, they really don't have -- they can come talk to us about it, but our hands are kind of tied it seems like because it's infrastructure. I guess that's just the reality of the pid. So I -- are there -- do you know what of the pids, the three pids that we're talking about, do you know what the average assessment is for the -- for the average home in those communities, the ones that are developed? Or -- >> Because we don't have any homes built in

those areas yet, we don't have detail of

[10:24:32 AM]

that information. >> Troxclair: I know, because I think it was wild [indiscernible] That we talked about in audit and finance, came up to about \$500 a year for the average home that they were planning on building. Is that -- >> They had a tax equivalent of 25 cents per \$100 valuation. And that sounds about right, the 500 sounds about right. >> Troxclair: Are there any properties in the pids that would be exempt? >> Any government, any that would be exempt from property tax I would suspect are exempt from the special assessment. But again these three pids, there are no homes in them yet. They're still in the development stage. >> Okay. Thanks. >> Mayor Adler: Okay. Any further questions on any of the pid matters? Thank you very much. >> Thank you. >> Mayor Adler: I think that took care of all of the those on the 19, 23, 24, 25, 26, 27, 28 as well as item 72. The next item that we have is 45, Ms. Gallo, she's not here. 52 is a purchasing contract. >> Mayor? Middle mill I'm happy to ask my quick questions about 52, but I think we skipped item 33 as well. Maybe we can do that one next. >> Mayor Adler: Okay, you're right. 33. While we have the staff here, let's do -- the 52. >> Troxclair: I just wanted to understand -- I just wanted to understand this item a little bit more. Can you explain to me why we're making the payment to American Express?

[10:26:36 AM]

Linda Erwin with the treasury office. Amendment is to allow for additional time and funding for American Express acceptance by various city departments. >> Troxclair: So it's because -- so am ex charges more than Visa when somebody uses an am ex. So this is the city departments -- allowing the city departments to accept am ex from purchasers, it's costing us more money because -- >> Well, American Express is a sole source so they do not allow third party processors to process their transactions, so that's the reasoning why we go separate with American Express versus Visa, Mastercard and discover, which is actually covered by our city-wide merger processing contract. >> Troxclair: So why -- because there's plenty of places -- I guess private businesses have the same issue, right? There's why a lot of businesses don't accept American Express because it costs them -- if the credit card fees are rolled into a purchase price of an item, it ends up costing the business more because they have to pay a higher percentage to American Express so a lot of them choose though the to accept American Express. Is this the same thing? >> It's not having to do with the pricing. It's just that American Express requires that we process their transaction through them. They require that all merchants process their transactions through them. >> Troxclair: Which is why it costs more to do business with them? >> The pricing that we have is actually the state of Texas pricing which is a little over 2% of the sales transaction. That is the pricing that we've in place since 2001. Being, it's a lot of money, I don't know, I mean, this item I guess was capped at \$4.2 million. But I guess what I was thinking is why don't we just make the decision to not accept American Express or does that mean that we would save \$4.2 million and

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vendors would have alternate choices of options to pay? >> Councilmember troxclair, Arnold [indiscernible] City treasurer. You are correct the city of Austin chooses to use American Express to give the citizens another option. It would be a choice of the council if they did not want to offer that service to citizens to use American Express. >> Troxclair: How much a year would that save the city? If we chose to do that? >> We would have to do an analysis of the difference between American Express and any other credit card that would be used. Because it would just be the difference between -- that means

that they would use a different form of payment. >> Troxclair: But American Express is more, right? It is costing us more? >> I don't -- I don't think it's specifically costing us more. There are merchant processing costs that come into play for Visa, Mastercard, discover and I think the average cost that we generally quote is right around 2% of the sales transaction. >> Troxclair: Does that mean that we would have similar items come forward at some point from all of those different vendors? >> We actually have a separate city-wide purchasing contract and that is actually for Visa, Mastercard, discover transactions and that is a separate contract. >> Troxclair: Okay. Can you find out for me before Thursday if we chose not to accept American Express, if it would be a cost savings and if so how much that would be? >> Sure. >> We can do that. >> Mayor Adler: Okay. Thank you. Then you had the other item -- >> Houston: Mayor, just a minute. Is there something about this particular contract that has a sense of urgency? Or is this something that we could take up in December? >> I believe we could move it to December.

[10:30:41 AM]

>> We could move it to December if we needed to. >> Houston: Could we do that? That gives us time to understand and then time to get us more information. >> Mayor Adler: We could certainly do it on that day and especially if there's an issue that is identified once they've answered Ms. Troxclair's question, but at that meeting, we can't postpone it here, but at that meeting certainly we could. >> Sounds like where councilmember troxclair is going with this, basically if it's costing the city more money to accept American Express, seems like a pretty easy decision that we could make whether we want to continue to -- to accept American Express or not. So I mean -- I'm interested to see the response of if there's a savings and -- in not accepting American Express. >> Mayor Adler: That would seem to be the threshold question that you asked. Would it save us money or not to do that. I think that's the question that Ms. Troxclair asked? >> Troxclair: Is this item reimbursement or payment for purchases that have already been made or is this authorization going forward? >> Going forward. >> Troxclair: Okay. Thank you. >> Mayor Adler: If you also know the answer to Ms. Troxclair's question, that would be helpful. Thank you. Anything else on this item? >> Troxclair: Nope. >> Mayor Adler: Thank you. Ms. Troxclair, you also pulled item no. 33. >> Troxclair: We had a little bit of discussion about food permits this -- during budget and -- and over the past few months and I -- I just wanted to understand, this fee I guess -- if I'm understanding it correctly, food vendor, which I guess is a food truck. I just wanted to understand why, if this is -- if this is a new fee and if it's at

[10:32:43 AM]

all related to the other food permit, the temporary food permits that we talked about earlier this year. >> No, ma'am. David Lopez, health and human services. The particular item that we're talking about here is what we brought forth in the October 8th meeting. With the -- with the several items that we brought forth for amending the current 10-3 food ordinance. With that was a specific item to allow us to collect a registration fee for central preparation facilities where the actual mobile vending units go to service their vehicles to also maybe store their food and as well as prepare some of the food that they prepare prior to going out into the field with their units. >> Troxclair: Okay. So this is a central -- >> Preparation facility. >> Troxclair: Okay. So the facility is paying us the \$50 or the individual food vendors? >> The facilities. >> Troxclair: What that to cover? What is that cost going to cover? >> Vince delisey, environmental health services, health and human services department. The cost of service analysis was for the registration process itself, the processing registration, records keeping. >> Troxclair: So are they currently not registered. >> No, that's correct, they are not. That was one of the changes. Perspective that we need to have them registered? >> We believe so, it helps us to track more closely those operations that are serving the mobile vending operations. So the -- the facility itself is required to

provide potable water and take back the wastewater and properly dispose of it, solid waste, storage for their, you know, for their foods. Many of the mobile food operations operate out of these facilities and commissaries to prepare their foods as well. So we would like to be able to -- to track and register those operations, those

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facilities, that are operating to serve one or more mobile vending units. >> Troxclair: Okay. I guess there must be about -- okay, yeah, it says in here there's 300. This is a one-time fee, no the a yearly fee? >> That's an annual, it would be an annual fee. >> Troxclair: Annual fee. Okay, thanks. >> Mayor Adler: Thank you. >> Houston: Mayor, this did come before the health and human services committee back in September. And there were three of us there, we passed it unanimously. >> Mayor Adler: Thank you. Okay. We're going to continue on, Mr. Zimmerman? >> Zimmerman: One really, really quick question. There's a lot of lip service here about affordability in the city and the constituents are screaming about the lack of affordability. Obviously adding fees makes the affordability problem worse. So could you tell me what, if anything, your group has done in the last few years to reduce fees and make things more affordable. >> Actually, what we've done here most recently, councilmember, is that we assessed the cost of service study to address the fees that we in place over a year ago and adjusted the fees to -- adjusted the fees to meet what the cost of service said that they should meet. Did that make sense? I mean, prior to that time, most of our fees were below what the cost of service model said they should be. >> Zimmerman: So where is the cost benefit analysis for the fees that are already being paid, what are we getting for it? What measurable result do we get? >> While they're thinking -- >> Zimmerman: I'll be voting no, thank you. >> Houston: Mayor, what this is about is to ensure that the public safety of the kitchens that prepare the foods that go out into the trailers.

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So it's a public health issue. >> Mayor Adler: I understand. Thank you. Do you want to respond or -- >> Stephanie Hayden, deputy director of health and human services. The health department had not had a fee increase schedule for the last seven years. So in order to ensure with the population growth that's happening in Austin, in order to ensure safety for all citizens, we're going to have to implement the fee increase in order to keep everyone safe. So it has been a while. And we feel like that is fair and equitable. And as councilmember Houston stated, we did go to the health and human services commission, we have talked with the citizens, so we've done due diligence in order to be -- to be very frugal with making this increase. Thank you. >> Mayor Adler: Thank you very much. Thank you for the presentation. The next item that we have Ms. Gallo is not here, 59. This was extend the the contract while the disparity study was completed. You don't need this pulled at this point, 59. >> Troxclair: I had my questions answered. >> Mayor Adler: Thank you. That gets us then to -- >> Houston: Hold on just a minute. Since it was pulled I had a question about why it was taking so long. It looks like this study was designed to start in 2013 and now we're asking for another extension. I just wondered why it was taking so long. >> Good morning councilmembers, [indiscernible], I'm the director of the small minority business resources department. The study is taking longer than anticipated and the reason why is as you're aware as we began this process we reached out to our two other local government entities, Travis county and the school district and invited them to join us on having a disparity study of their own. They accepted that offer and

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they are in the process of doing their own disparities as well and that process has taken a little bit longer than anticipated. That's one of the ropes. The other reason is -- one of the reasons. The other reason is the amount of data, which is a good thing. As the consultant started working with the city of Austin they had quite a few contracts they were able to analyze for information and they also took some additional time to make sure that they had complete information from our contractors. We are hoping that the result will be a very complete and thorough study that we can bring to you in December. >> Houston: Thank you for that information and there will be no additional fiscal costs for this extension? >> That is correct. We are still under budget. >> Houston: Thank you. >> Mayor Adler: Thank you. All right. The next item that we have, councilmember kitchen, is item 67. >> Kitchen: I wanted to -- I wanted to bring item no. 67 to everyone's attention because we did put it on the agenda without going through the committee. The reason for that was because of the timing. I think it's straightforward but I want to double check with my colleagues on any questions that you might have and make sure that everyone is okay with moving it forward. This is basically extending an ordinance that was passed by the last council and it relates to -- it's specific to the south Lamar neighborhood area and it was passed by councilmember Morrison and I think councilmember tovo was part of it, too, had to do with addressing specific flooding issues in the south Lamar neighborhood area and those flooding issues were in part brought about about the rapid infill development that was occurring there. So -- so the ordinance that was passed created some additional requirements related to analysis of the impact of new development on

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-- on the -- the infrastructure for handling flooding and so it expires on December 11th. And because of our timeline for our meetings and we don't have, you know, we only have a limited number of meetings coming up, I don't have time to run it through a committee. And it's -- so what I'm proposing to do is simply send the same ordinance, extend the same ordinance, not change any of the requirements in the ordinance but simply to extend it. So I don't know if anyone has any questions about it. I wanted to bring it to you all's attention today so if you had any concerns we could address it before Thursday. >> Zimmerman: Obviously any time we see drainage these days, we get a little sensitive. >> Kitchen: Sure, yeah. >> Zimmerman: What was the original ordinance about? >> Kitchen: Okay. What it does is, I'll have to ask staff to get, you know, to talk about the technical details. But basically the issue had to do with -- councilmember tovo can help me with this, also, but the issue had to do with the level of information that was available about development in that particular area and the impact of that development on the drainage issues in that area and it was already experiencing significant flooding. So it wasn't an attempt to stop the development. It was just an attempt to get enough information, additional information, about the impact that a particular development might have on -- on the drainage system and instability to handle it to avoid flooding. So in terms -- there you are. Okay. In terms of the specific requirements -- you can answer that. So ... >> Yes. Would you repeat the question. >> Kitchen: He asked what -- what I was explaining was the -- what the ordinance did for the south Lamar area. This was the south Lamar mitigation ordinance. And as I was explaining it

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put additional requirements in for additional types of information that were available to you in terms of assessing the impact of development on that particular neighborhood, the impact on the -- on the infrastructure to handle -- to handle water and to avoid flooding. And so -- so I can't speak -- you can speak much better than I can to the specific technical criteria. But basically that's what's going on and we're just -- my propose is to extend the ordinance because it expires -- >> Basically the cliff notes of

why was the interim drainage regulation needed, what does it do and why is it being extended? >> Tovo: Actually I just wanted to -- I think it would be helpful, too, to have the original resolution in the backup. I have one copied down here. But basically we started hearing from a lot of individuals in the south Lamar neighborhood that they were being flooded really significantly because of some of the new construction. There's been so much construction that's happened especially along south Lamar and as councilmember kitchen said it didn't really contemplate what the existing infrastructure needs were. Because each project is assessed, you know, as an individual basis, it doesn't take into account the cumulative impact of some of that development on existing places. So he's going to -- I understand that. But I'm providing the context. I think it's important to know what the history was. Because frankly I am -- I'll just say that, you know, this dealt with a specific area that is now in district 5. I will say I hear a lot from several individuals who are in district 9 also near Bouldin creek but further to the east and they are being flooded because of new development in their area. So this is a really significant issue. I think it is extremely critical that we think of it, especially in terms of the ordinance changes we're considering on Thursday with regard to accessory dwelling units. Because in some of our central neighborhoods they simply don't have the infrastructure to support all of the new development that's happening and south Lamar was a real vivid example of that. So this was a measure to try to address just the real

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impact on that neighborhood. But it is an issue in a lot of our central neighborhoods. >> Kitchen: I think it was also at the time the thinking was that it would also be a learning experience, you know, for other neighborhoods in terms of the information that was available to you all and how you assess the impact from a more global perspective. On a particular neighborhood. So -- >> Tovo: I should also mention Hancock and north university. That's another area that we've heard from a lot lately that's been flooding in part because of aging infrastructure and new development in that area. >> Zimmerman: It also shows, Mr. Mayor, this was I guess December 11th of 2014, so this is one of the very last things that the prior council did, right, before -- >> Tovo: But we worked on it for months. In fact I think that was the second action -- [multiple voices] -- I think we had an initial, I can't remember exactly the history. But there were a few different things leading up to this measure. Like we had a resolution directing the ordinance changes and then the ordinance changes came forward. But we had lots of meetings about watershed in the interim. >> Jose Guerrero, assistant director with the watershed department. Our department recognized that the west Bouldin creek watershed was in particular distress from infill development. One of the things that we first did was look at the number of permits in the city, where was it the most and it was the most in 78704. Which is the south Lamar area, west Bouldin creek watershed. A little bit of east Bouldin creek watershed. The particular issues that citizens were bringing to our attention was of infill development. Its impact on the drainage or lack of drainage infrastructure in that area. So, yes, we did undertake a study initially. The council actually was after our initial study. We are doing a further study of the west Bouldin creek watershed to handle the growth that's already happened. We have a unique challenge in the south Lamar area in

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that it is neighborhoods in and around a storm drain system. That is the only drainage in a lot of the neighborhood there, Zilker, Bouldin, before it gets to the outfall at west Bouldin creek, which is hemmed in uniquely by a railroad corridor. So that -- so that is another unique challenge in the west Bouldin creek watershed. But we were hoping to get the results of that study to translate to what regulations we would be moving forward, for example, in code next process to tackle the infill drainage impacts city-wide. This was pretty much our case study. The interim ordinance, a resolution impacted a grading plant

for individual lots, which was uniquely different than what is required now. Building permit stage of drainage is a focus, but in this particular resolution it required our drainage staff to look at 1 a grading plan submitted by those applicants currently in the process. I think we had six case studies that fell under that category. Specifically just the boundary for the south Lamar neighborhood area, any permit issued there. From that we are taking valuable information and moving the recommendations forward to codenext. >> Mayor Adler: Thank you. All right, auto I am going to continue on. We have -- I'm going to continue on. We have 10 more items we have a hard stop at noon going into executive session. Yes, Ms. Houston? >> Houston: I just want to support the staff's studies that they are doing. As codenext begins to codify whatever they are doing over there, it's important that we understand that some communities have very limited and adequate infrastructures, infrastructure, with the amount of growth and development and infill that's occurring, I'm having places in district 1 that have never flooded before, that are now flooding. So it's because of the upstream development pushing the water this way. I think we really need to think about what the infrastructure looks like and the -- because we've got really small drainage pipes,

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you all have done some good things over that way and we appreciate that. But I think this is critical for all parts of Austin. We don't ever talk about that much, so thank you all for doing that. >> Mayor Adler: Okay, thank you very much. Next item that we have is rocky mountain institute, Ms. Kitchen? >> Kitchen: I wanted to wait until councilmember Gallo was here if that's possible. Can we come back to it? >> Mayor Adler: That's fine, yes. Item no. 79, councilmember troxclair, solid waste service. >> Troxclair: So this item went through the open space committee, I was just wondering if maybe the committee [indiscernible] If -- 79. The construction and demolition permit. Councilmember Zimmerman voted against it. >> Pool: Oh, yeah, I think Mr. Geddard is there. He can give the technical aspects of it. But the point is that a lot of construction materials coming from demolitions is going into the wrong stream and it's going into a stream as opposed to being reused. So there's an effort to staff's part to try to streamline that process and make sure that the categories are proper, so he can speak more to it. >> Bob geddert director of Austin resource recovery. I brought two expert staff here, [indiscernible], to answer any technical questions. The general concept of this ordinance that was contemplated during some public meetings in 2010 and 2011 and incorporate into our department master plan captures roughly 250,000 tons a year of material that might be heading to the landfill that could be diverted there you a

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recycling program -- through a recycling program of construction debris. This is a commercial construction ordinance that does not impact city services provided by our department. It impacts the private haulers and how they haul the material and handle the material. I can answer any particular questions you might have. >> Troxclair: So basically -- well, can you tell me how the materials are currently being disposed of and what this would change? >> There's a large unknown amount of material going to the landfill. We estimate that 25% of commercial waste stream is going to the landfill is construction and demolition debris. So this ordinance would make a great advancement towards our diversion goals of 50% and 75% by 2020. The commercial sector construction materials, a large portion that we believe at the minimum 50% of construction material from a construction site can be recycled. In today's markets. And today's activities. We've had many stakeholder meetings with the construction field and the demolition field and we feel that this ordinance is crafted to respect their interests. >> Troxclair: And what was their input or comments on the proposed change? >> I would like to leave that

up to woody as he managed those discussions. >> You are asking about the contractors themselves, the builders, building community? We went for the -- I would say the biggest bang for the buck in that this ordinance was written to affect new construction over 5,000 square feet. That meant that it excluded a lot of the new home construction that goes on in town. And that the industry pointed out to us that -- that although an aggregate is a large number of

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projects, it's not a lot of material that's generated there because they are production builders and pretty efficient and they bring in prefab parts and that sort of a thing. So we felt good about setting that 5,000 square foot minimum and just affecting the larger projects, many of which are already affected in Austin because they are affected by subject to the green building requirements like downtown, all of the building -- although the building downtown is subject to green building and their basic requirements is to divert at least 50%. We have a good infrastructure to build on and a lot of experience in both the building communities and the processing and the hauling. So we were basically capitalizing on that to take more material out of the landfill, put it into the economy. >> Troxclair: I guess that I was asking specifically what was the input from the from the hallers and the -- haulers and builders. Was there increased costs? This requires this 'em to take certain material -- requires them to take certain materials to specific areas to be processed, right? >> Yeah, there's a couple of ways that happens. Some larger facilities or projects, they might have containers where the material is separated out on site and goes straight to an end user, scrap metal yard or compost operation. More likely, though, space is tight and they will have a single container that all of the construction material will go into. It will go to a facility very likely there on the landfill site or in that same neighborhood, so instead of going into the landfill phase and being buried, it goes to a different location where it's sorted out into the various large materials that have demand. So it doesn't really affect the construction project itself because it's the same process and hauling is not affected as well. It's just where on the facility the material winds up. >> We believe just as an added point, we believe the hallers and the construction companies that are affected and the processors of the material are supportive of the way the rules are

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written for this ordinance. They have been part of the process. We did have a hiccup on demolition debris and the recommendation in working with the stakeholders was the delay -- to delay until 2019 the implementation of demolition, that's in respect for the complaints from the stakeholders and working with them. But we believe all other stakeholders that are involved are supportive of what we have presented to you. >> Troxclair: So the processors have to be qualified processors, in order to become qualified you have to be permitted by the city. >> Sort of. That is an optional thing. We think the market will drive some of the existing pros sores to be equal -- processors to be qualified. Really sort of a registration process where they confirm to us that they meet some minimum diversion requirements. >> Troxclair: So is there a cost associated with becoming qualified? >> Not at this points, no. >> Troxclair: Do you anticipate there will be a cost? >> There may be some. It works through a third party, there may be a contractual relationship between the processor candidate and that third party that verifies the data to us. But I think that's probably just a day's worth of work on their part, so I don't think it's -- it's a substantial expense. The other side of it is that it simplifies their processing operation and their reporting. So it's designed to save them money in the long run. >> Troxclair: Councilmember Zimmerman do you remember why you voted against it? >> Zimmerman: Thank you for letting me chime in on this. I'm astonished at the belief that people want to waste money and want to waste resources. They don't. Builders don't want to waste resources because it costs them money! The reason

a lot of this stuff is going to landfills that you want to not go to landfills because that's the most fiscally prudent and economical way to build. You salvage what you can and the rest of it goes into a landfill. What this is going to do is increase costs, it's going

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to create uncertainty with this licensing and registration, who is going to police where these scrap materials are going? You know, this is half baked. It's going to add uncertainty and cost for virtually no benefit. I'm going to put a couple of words here under item 79 here it says construction and demolition. You know, if you were educated on this and actually built something or destroyed something, you know, those don't belong in the same sentence. Because they are so radically different. It is radically different to construct something versus demolishing it. When you construct it, you do it a phase at a time. You put some kind of foundation in and you put a framing and then you put walls or materials. You do it in phases so it's easier to separate out and recover your materials. When you demolish, you get one big pile of junk altogether. It's virtually impossible to separate stuff out. Even if you had unlimited money to do it, it's almost impossible to do. So this is just terribly misguided. It's going to have a dramatic increase in costs, virtually no benefit and it's just the way we got to be the most expensive city in Austin, here we go, keep doing the same things, I'm really irritated with this. >> Mayor Adler: Okay. I would only say be irritated with us, not with them. Because they are -- they're executing the policy. I understand. Ms. Tovo? >> Tovo: So I -- I am very supportive of the policy. I am -- I will say that I'm a little disappointed in the demolition piece being pushed off and we -- we talked real briefly about this at our open space meeting, but in particular I think we agreed at the end of that conversation that you were going to work with preservation Austin, you know, I think other cities have some -- I think of galveston where they have, I'm not sure if it's a city-run city or run by their historical association where they sell -- they sell

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parts that have been salvaged from some of the historic properties. I will say as somebody who lives in a neighborhood that is really a MIX of older houses and non, within the last month we had a property that I was I believe 100 years old, just demolished. I would walk by, looked in the windows, windows were intact, doors, there was a great deal of materials that could have been salvaged from did that house that were just demolished and thrown into our landfills. I will say and councilmember Zimmerman and I were just having a little side conversation about this. To me it does not seem fiscally responsible to take resources that could be used in another project and have embedded energy costs and everything else associated with them and just rather than putting them to use in another project, seeing them go to the landfill. So have you done any more thinking about, I understand that the stakeholder -- some of the stakeholders who were involved don't want to see that happen until 2019. They want to delay that. But have you talked with any of our stakeholders who would like to see some guideline offered for, especially for those who are demolishing properties that are older. >> Yes. Two point quickly. On the demolition there was concern by some parties are not ready markets for some of the material in the demolition world. On the counterpart as you mentioned, we have met with habitat for humanity in regards to their upcoming restore grand reopening, and there's great interest there as well as other parties deconstruction and capturing material through deconstruction. And this ordinance is drafted to encourage drafted to encourage reclaiming of material. It wouldn't happen until 2019, but it strongly encourage it and it part of the green building program. What is compromised in this

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approach is the requirement until 2019, but we certainly will encourage and support any entities that desire to work on deconstruction and recovery, particularly in historic homes. >> Tovo: And I hope as a community we can sort of think creatively about how we might better do that when we know a property. I think the one I'm talking about that happened in the last month on my block or close to my block was something that went before the historic landmark commission for review. They the money have initiated historic zoning, but there was an opportunity there to talk with a property owner about other ways to salvage those materials and I don't know whether that conversation happened, but I think we can enlist the help of preservation Austin and our own historic preservation office, perhaps the landmark commission, so that those things are encouraged and there are resources to the property owners to try to keep those items in use. Thank you for your work on that. I look forward to your suggestions. If there's anything from a policy standpoint we might consider implementing, that would help encourage in this period of time before we make it a requirement would better encourage folks to do that. >> Mayor Adler: Thank you very much. >> Garza: I have a question on another item. I was going to ask on something else that we hadn't pulled. It looks like Ellen has something. >> Troxclair: I'm trying to understand the cost implications because all of these things add to the development costs, which are contributing to the cost of living in Austin. And I hear y'all say that there shouldn't be a cost implication, but there is an affordability impact statement in the backup that says impact on cost of development and it says the impact will be negative. The proposed code amendments will result in increased development costs, Austin resource recovery estimates

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the costs to be an average of \$20 per ton of disposal. So I'm confused at how that how jibes with your earlier answer? >> What I meant is there wouldn't be any impact to the construction process itself or the hauling of the materials, but it is true that if the material goes into the landfill it's cheap are than if it goes to the processing facility. And that's what's reflected in that affordability impact statement. And I can explain to you where those Numbers come from and I hope release any anxiety there might be about the magnitude of those Numbers. We showed our work as we filled out the ais backup, so that we could get feedback from other folks and I can tell you a little bit about how some of the other folks view our Numbers. So the cost of disposal, if you go through the gate and pay the gate rate, could be 40 to \$50 nowadays per ton. Some folks are getting a better deal because they have a long-term contract and that's where some of the debate might be that the disposal may be less than that. But the cost of processing could be about \$65 a ton. So there's about a 20-dollar a ton difference there or maybe as much as \$40 according to some of the folks in the industry. If you look at that to determine out how much material is going to be generated per square foot of a project and then look at the overall size of the project, it's less than half of a percent, maybe less four-tenths of a percent of the cost of a structure that might cost \$100 a ton -- \$100 a square foot. I'm throwing a lot of Numbers how, but I'm trying to keep it simple just to say that it's have very small percentage so that as we've shared that with other folks they have not objected to that. They understand that that's going back into the community's economy. >> Troxclair: So even though you're saying that there is clearly going to be

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an increased cost, that in the overall scope of the project that it is such a small percentage that you don't consider that cost to impact the overall cost of the building? >> And it's not ours to decide whether it impacts negatively to the folks, but they have not objected to that number. The other side of that is that -- this is something that the Austin energy green building folks have learned is they manage a program similar to this, is when a project sees those Numbers as to what -- when they start looking at

their waste they realize that there's also this cost to buy the materials and they start changing their construction practices. And that's what you see in the production home world. They don't want to dispose of it. They don't want to pay for it on the back end, but they also don't want to waste money on the front end that they would ultimately throw away. So that's kind of a byproduct of initiatives like this as you look around the country and see similar projects. >> Mayor Adler: Okay. Did you have questions for these folks? >> Garza: Well, it's the sale of that piece of property -- it's 4 and 38. >> That's a separate topic. >> Garza: Yeah. It's separate. And if you can't answer it -- I'm trying to understand it. So we're selling that one piece and then leasing the other, the bolm road and the transfer out is a rehub that will happen at the north location. >> At the south location and at the landfill on F.M. -8z 12. For clarification, I do have a council memo that's coming out today. Sorry for the delay. I had intended for it to be released yesterday and I'm a little delayed. But it might answer some of your questions. The property on bin beg go was used -- win beg go was

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used by a study for our department. The intent was to sell the property and use the proceeds for the remanufacturing hub. We have a one-million-dollar grant from the federal government for this project and this-- these funds will be used for grant match for the utilities at the site on F.M. 812. About 107 acres available for redevelopment for recycling industries primarily. >> Garza: When that assessment was done you said it was found to be unusable from your department. Is there a further assessment done if it's usable by any department? >> Yes. The office of real estate does a standard procedure where they will offer the land to other departments. And first of all, neighborhood housing is the first consideration, and then after that any other city department. There was no interest -- neighborhood housing ruled it too industrial for affordable housing, and no other city department showed interest in the property at all. It's remote and in an industrial pocket. >> Garza: Okay. Thank you. >> Mayor Adler: I think your memo went out this morning, a little bit before oak. -- Before 9:00. >> Tovo: I had submitted questions through the Q and a process about this and I meant to pull it today and forgot, so I appreciate it coming up. I wanted to -- I know since we didn't pull it we don't have the right -- we have Mr. Gedert, but we don't have the other staff here who I would like to talk about it, but I have an article from 2014 that I wanted to pass out just for consideration. So this came up in January of 2014. There was -- long ago, I think in 2011, there was an interest -- somehow there was a proposal to create a dog park at Mabel Davis park

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and some of the community members came forward and said we don't think this is an appropriate place for a dog park. There are some other sites that I think would be more appropriate. So that proposition of creating a dog park in that area of town was -- didn't move forward. Parks came forward and said that this tract -- and I think it is the same tract, is that right, Mr. Gedert? >> That's correct. >> Tovo: That this would be a good location for a dog park. I think it got a fair amount of support. I was certainly supportive of it. At the time, and you will see this documented in the article, councilmember Riley raised some questions about its accessibility. Particularly it wasn't on a bus line. So what happened at that point was that it got sent to the parks board. >> Houston: The article didn't come this way. >> Tovo: So the last I heard it was headed off to the parks board for their consideration and was coming back, but I'm not sure how it got from that part -- >> I could fill in the gaps there. >> Tovo: To being offered up for sale. So yeah, if you would fill in the gaps. I did read your memo this morning and it didn't have this history in it, which was also of surprise because it seems to me that another department had expressed interest and that was parks and recreation. If you could fill us in. >> I apologize I didn't include that

history. I forgotten until your reminder right now. There was interest from parks and recreation. Sarah Hensley and I had many conversations about it. The parks board showed no interest in moving forward. There was a couple of issues. One was the transit issue that are councilmember Riley mentioned, but also that there was no walkable space near there from neighborhoods. That any use of the property would require a parking lot. Parks and recreation did an estimate of land use where they would put in a parking

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lot, either gravel or asphalt parking lot. And the expense became beyond acceptability at their end. Through this latest round we basically did not pursue sale of the property while those discussions were happening. On this latest round with the office of real estate they did talk to parks and recreation and they declined the interest in the property. >> Tovo: So I think -- because there was a lot of -- I know it was a different council, but my memory of that conversation is that there was a fair amount of interest in creating a dog park in that part of town among the community members. They just didn't want to see it at Mabel Davis park. So I'm really reluctant to sell pieces of city-owned land unless we've really explored what the possibilities are. And it sounded like the dog park was a good idea. Frankly I never understood why being on a bus line was a disadvantage to a dog park. It's not like you can bring a dog on a park traveling to a dog park. To me that was never a logical reason not to consider this as a dog park. It is also, as I remember and I've been out to tract, it's very close to one of the developments. I've forgotten now which one, but I think it's cited in that article. And that neighborhood was pretty supportive of having a dog park energy that area. I guess I don't know whether I'll be able to have all these questions answered by Thursday, but I think we should answer those questions and really understood well what happened to that discussion, hear from parks, what their solution is since they had identified this area of town for a dog park and this and to be a good site that was supported by some of the surrounding neighborhoods, I'd like to really put that to rest before we okay a sale. >> I'll work with Sarah and seek some answers to your questions. >> Tovo: And too, I guess I would also just ask my colleagues, I think we should hear from the neighborhoods that were involved in the Mabel Davis discussion because they were

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pretty keen on seeing a dog park and had suggested in fact some of the industrial areas around there as potential sites. >> Mayor Adler: Okay, thank you. Item number 80? I'm sorry. >> Gallo: One other request. Thank you for bringing up the dog park. I think what I would like to see for parks -- obviously you're not parks, but as part of the discussion, is a map that shows where the existing dog parks are and where the existing dog parks are that also have off-leash facilities. Because I think as we look at this, even though this is already city-owned land, I think we want to make sure that the dog parks are equitably spread out throughout all of the community and all of Austin. And I don't have a real good sense of where those are at this point. So that would be helpful. Thank you. >> Tovo: I think that's how they landed on Mabel Davis in that area because they decided it was deficient, but pard I think has that. And I think there was a monitor article at the time about this issue, so that would be another source of information. I just didn't have time to pull it. >> Mayor Adler: Okay. Yes, Ms. Troxclair? >> Troxclair: I would also wonder if the city is in communications with Travis county at all regarding property on the east side of town that could be used for Travis county courthouse. >> I can't answer that. Office of real estate would be able to answer that one. >> Mayor Adler: Okay. We have 45 minutes to a hard stop. That gives us about four and a half minutes per item that has been pulled if we wanted to actually discuss them all. The next thing that we have is rocky mountain institutes. >> Kitchen: I can do that in

two minutes. My reason for pulling it was to just give people a head's up. And also to just say that we could set -- my thinking was that we'll go ahead and set it for a time certain on Thursday, if people want to have an actual presentation. This is a follow-up on -- I

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think everyone's aware that we were chosen by rocky mountain institute as a Leed implementation city, so what that means is that this we will have the advantage of the resources of rmi to assist our transportation department on five different projects that range from working on commuting as a service, working with businesses on improving commuting options, all the way to working on options to -- excuse me. To improve our availability of information like through ride scout. So we had a presentation in front of the mobility committee and voted to move this forward for approval. What's on the agenda is it's a collaborative agreement because there's no commitment of dollars from the city. This just uses our existing resources for our existing projects. So there's a lot of information in the backup. If people have questions. And we also have the option to have them present on Thursday if people want that. So sounds like -- we're just going to proceed with it without a presentation unless people want that. >> Mayor Adler: That sounds good. Thank you. >> Zimmerman: Mayor, I voted against this measure. One of the things that was talked about in the lecture we got from the ram individuals, they are a policy group, multi-million-dollar group from Denver. They're financed philanthropically. But to be sure they are a policy group that has a certain agenda and a certain initiative. I think when we talk about the city resources, we're talking about taxpayer funded manpower and resources. So the agreement called for 50/50 match in resources dedicated to whatever consulting they're going to do, and there's no price tag

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on what that would be. So the if rmi spends \$100,000, then the agreement says we would be obligated to dedicate \$100,000 of taxpayer resources. Some professional consulting time, whatever it might be. And the point is it says in our charter that the city council is supposed to establish policy. And we don't. So what we're doing is we're farming out policy to a non-profit group in Denver. They would come back, they would use city resources, then they would present to the city council one point of view and ask us to vote for it. So I oppose the agreement on principle if we had, say, two different groups, non-profit groups, that wanted to directly advise the city council on policy that would be a different matter, but that's not what's contemplated here, so that's why I voted against this. I think it's a bad idea. >> Kitchen: Councilmember Zimmerman, I respect your concern if that's what's happening, but that's not what's happening. It's the city council that sets policy. Rmi is not setting policy, nor are they working on any projects that are their ideas. These are projects that are projects that are already within the transportation department's list of activities. They're projects that they have already been pursuing. So for example -- and they're very distinct projects. They're not going to be -- this is not a situation in which rmi is out there doing things they want to do. This is a situation where five projects have been identified that are activities that the city is already pursuing, the city and the community. And so this is simply they're providing additional resources to help out our staff on what they were already doing. And the information is in the backup about exactly what those programs are. One of them is

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electrification, for example, which our city of Austin energy department has been a leader on. It's not a new project. It's not a new idea for rmi. It's providing additional resources to help our staff. With regard

to the dollars, this is -- as we talked about in our committee yesterday, this is a community match, not a city of Austin match. And that means that it's a match for all the folks in the community that will be participating and is an in-kind match. So we're not held to any dollars, we're not changing the budget so there's no changes with that. >> Mayor Adler: Ms. Garza? Ms. Houston? >> Houston: I'm not on the mobility committee so I would appreciate a brief briefing tomorrow. >> Mayor Adler: On Thursday. >> Houston: What is today? [Laughter]. >> Mayor Adler: As I think about it, councilmember kitchen, I think a brief presentation might be in order too. We're in an affordability situation and in a mobility situation in this city. There are proposals now being circulated with the state to spend over four billion dollars to improve capacity on I-35. I think it's important for us when we're looking at four billion dollar expenditures to also be looking at the things that we could be doing in this community to improve mobility that don't cost four billion dollars as well. And making the most efficient use of the right-of-way that we have I think is critically important and to have one this national competition to have brought advice and suggestions on how to do that that this organization brings I think is a real gift to this city and an opportunity to give us things to consider? So they're in town and they're here so let's have them talk. >> Kitchen: And we can set it for a time certain on Thursday morning then, can we do that? Because they'll be leaving

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town. >> Mayor Adler: That will be fine. We'll call them in the morning, but tell them brief, but -- brief but informative. >> Kitchen: Okay. >> Tovo: That all sounds great. I'm sorry to take us backwards. I needed to say one more thing about the dog park. I didn't realize I had information -- I know I'm dogged about the issue. [Laughter]. In looking at -- I'm sorry. In March of 2014 it was by a vote of 6-0 that the city council acquire that as parkland. So I know we just had a discussion about that and I just wanted to correct that it looks to me from the record as if the parks board actually recommended the acquisition of that. So again, I look forward to hearing the next chapter of the story, but I hope we'll have a chance to really have that discussion. >> Mayor Adler: Councilmember kitchen, number 80, secondary dwelling units? >> Kitchen: I brought this up just because I had some additional questions that I raised at the council meeting. I don't have a response or a particular proposal. I just want to -- if there's time I wanted to spend a few minutes talking about it. Do you want to come back to it after you've gone through everything else or do you want to spend a few minutes right now? >> Mayor Adler: We can do that -- >> Kitchen: It's your choice. I wanted to talk about some of the concerns I had with this approach so I can just lay out those questions and we can do that for a few minutes. I know you're tight on time, that's why. >> Mayor Adler: Let me go through and then we'll come back. Pilot knob, do you want to talk about that. >> Garza: Real quick, if we don't get back to your questions, I guess one thing I wanted to make sure we

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addressed today was I've heard a lot of concern about how the proposal changed and then the public hearing was closed. So I just wanted to know if there was -- I would be supportive of opening limited public testimony. I didn't know what the general feel of the council was on that. I know there were some changes made. >> Mayor Adler: Let's talk about secondary dwelling units? >> Garza: Sorry. >> Kitchen: Let's answer councilmember Garza's question first because that's one of my questions. >> Mayor Adler: Mr. Casar, do you want to answer that? >> Casar: Sure, I'll -- >> Mayor Adler: Hang on. Ms. Houston? >> Houston: I have a procedural question. In the backup it indicates that on May 26th this was approved by the planning commission on a 5-0 vote with four commissioners absent. Procedurally is that -- is that a legal vote? >> How is that a legal vote? I thought there was a requirement of a quorum. >> May would

have been during the transition period and so a quorum was waived during the transition period by the previous council -- >> Pool: The previous council, but not this council? >> True, but it was part of -- the transition project that was part of 10-1 to allow the boards and commissions to continue operation if [indiscernible] Members went off during that six-month period. >> Mayor Adler: So the answer to the technical question is by our ordinances is was that a valid vote? And the answer was yes.

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>> Casar: The original resolution, original conversation began at council on may 22nd of 2014, laying out a wide variety of issues for the council and the community to consider from the size of accessory dwelling units, where we could put them, what the line requirements are, a wide variety of issues. There was media about it throughout the summer. The council passed it in the summer. There were public comments in meetings in September of last year, October of last year, October 20th of last year, about five meetings of the planning commission and codes and ordinances committee and then it came to the neighborhoods committee and also before the full council where we had lots of folks testify and folks all seemed to testify on the whole broad variety of issues. As councilmember pool mentioned, there were lots of moving parts. So we put up -- I think we mentioned at the committee and also at council and then on a message board post and there was even some media about it that we were going to have three meetings of the committee where it would take full public testimony and dedicate each meeting to a certain set of issues and then vote on those sets of issues. And so we set out some recommendations on a first set of issues at the first meeting after taking public testimony about those issues, and then the second time. And the third time. And then brought those back to the council. So we voted after first reading to close the public hearing as we do after we're amending an ordinance. My understanding is that it's posted as closed, but that doesn't mean we can't ask the community members questions about the amendments and votes that the neighborhoods committee took. And the changes I'm hearing people have objections to were things that were discussed by the committee and discussed in the community throughout this entire process, which is allowing more accessory dwelling units on more lots and what I saw as a sort of

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middle ground solution of only allowing them on lots that are a standard size or greater. Of course we can keep talking to folks about it, but there has been a lot of conversation and there are some folks that disagree with the votes, but just like anything else as you've seen through lots of our amendments and resolutions, we offer as council after hearing public testimony the amendments that we think are appropriate from the community, and that has happened. >> Garza: And you've obviously been more plugged into this than I have. And correct me if I'm wrong, but when it went through the neighborhood committee, but then it changed -- so it was closed -- and I understand the broad -- when everything is on the table and it's discussed with very specific things so someone might not speak to the lot size because at the moment there's a million things on the table and they're more concerned about the setback, so they're focusing on that. And then if it's a brand new proposition basically, I guess I would want to -- I guess I would want the opportunity to say oh, this is what you're saying no. Okay. Here are my concerns about that. >> Casar: Yes. And we did have a meeting specifically on neighborhood opt in, opt out affordability requirements, lot size and Adu size. And there were some folks who said we should have them on all neighborhoods on all lot sizes. Some people that had more moderate positions, all neighborhoods, but specific lot sizes, and some folks said each -- the council should exclude them from some neighborhoods and include them only in others. We had that testimony and the council sort of came out to this or the committee came out with this particular position. Again, I'm happy to have folks

communicate, but it seems they're continuing to communicate very heavily on

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although sides of that issue through emails and phone calls and we can ask them questions at the council meeting. It wasn't an attempt to exclude any voices because we had three public comment periods and the council meeting on it just like any other ordinance we go through three readings and we tend to close the public hearing after the first one. So I've been talking to folks on all sides of this issue and we can as well. The question is how much are we supposed to listen and how much testimony are we supposed to take before we make a decision? And if some folks don't agree with that position T doesn't mean their input wasn't taken. People were very, very clear that there were some folks that think that we shouldn't have exclusive rules that keep some neighborhoods from being able to have these sorts of housing types. There are some folks very clear that they didn't want property rights limited for some neighbors who want to build an accessory dwelling unit and there are some other folks on the other side of it. And the committee came out with this recommendation after listening to all of them very thoroughly. And we can continue listening to them, but I don't think we'll get agreement between now and Thursday from the hundreds of stakeholders that have been a part of it. >> Garza: I guess I don't think it's a [indiscernible] We should take. I guess from what I understand the issue is it's changed since -- I could be wrong about that. That's the conversations I've had that people have said it's really changed since the public hearing was closed. So that's the -- anyway... >> Casar: Sure. I think that's part of a conversation we need to have about what the role of the committees is because at the time -- and I actually sort of asked for the consent of everybody as we went through first public hearing and before we closed the first public hearing, okay, we're trying this committee thing out, so instead of having us as a full council hear this three separate times on three separate readings, I'll take it to committee and publicly push what we discussed at committee all three separate times and have folks discuss on -- walk us through that, through second and through third reading everything that we work on.

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So it was very transparent and the question I think you're asking is should the full council take public testimony when the committee makes particular recommendations? I think in the future we could do so, but this is the process we laid out and we explained to people we would go through when we first went it that the committee would make recommendations and the council would hear those. >> Mayor Adler: Councilmember Zimmerman? >> Zimmerman: I may have a solution on this because I respect this rational argument that councilmember Garza makes that sometimes when we have the public hearings what we have in front of us is not what we end up on a final vote in front of council. That is absolutely what happens. So maybe what we could do is have invited testimony and councilmembers. I don't like to have it wide open again and have hours and hours of testimony and to be 80 or 90% of what we've heard, but based on what's in front of us I think we could have testimony for people to talk on what's in front of us that they haven't had a chance to talk to before and potentially bring new information. So could our councilmembers agree to invited testimony? >> Casar: I would be inclined to leave it in the discretion of the mayor to have it limited if legal thinks that with the posting language of the public hearing being closed we can call folks -- >> Zimmerman: Invited testimony only by the councilmembers, whoever wants to have something to add. >> Mayor Adler: I think -- >> Garza: the councilmembers from the committees can always talk to each other during the council meeting and talk about what was decided and what the changes were. >> Mayor Adler: And we would have the power of council to open the public hearing and the power to say -- to give councilmembers the opportunity to each invite

someone if they wanted to invite. We could do whatever we wanted to do. >> Garza: My only suggestion about that is if you want to have a public hearing, if you want to open it to public hearing that you post it, -- you postpone it this week and post it to

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do that because you've told the public the public hearing was closed. >> Mayor Adler: But what he said is different from a public hearing. It was invited testimony. >> You can certainly do that. >> Mayor Adler: Ms. Tovo is next? Next. >> [Inaudible]. >> Kitchen: So I would echo if charity is comfortable with that you could do it like we do with some of our others where we have, you know, four each side and limited. And I personally would be comfortable with the selection of invited people being made by the others. I don't feel like I have to make that selection. So my fundamental question here is my concern that this is outside of the code MIX process. So I have a couple of concerns, but I'm very concerned about that combined with the fact that I absolutely agree with the goal, which is opening up more the city for affordable housing if that's what I understand correctly to be the goal. I'm not sure we're accomplishing that. To me it seems more prudent to make the initial changes that were agreed upon by all the stakeholders, make those changes, see what kinds of results we get and then have further discussion during the codenext process. To me it doesn't make sense to go beyond what was agreed to, particularly when are -- I'm personal letter not seeing a direct connection between that and accomplishing more affordable housing. And the reason I'm not seeing that is because I think we have places that we can build where the communities can build the secondary dwelling units and they're not. I think that's probably for a lot of reasons related to economics, et cetera. So anyway, so that's my major concern. And would really be more interested in moving the ball forward with the kinds

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of changes that the stakeholder process agreed to and then consider any additional changes as part of codenext. >> Mayor Adler: Any further discussion? Ms. Tovo? >> Tovo: I agree. I did not support the committee recommendations for that reason. It was -- the discussion did begin quite awhile ago, but I will say when the resolution itself came before the council, there were concerns from people in the community who wanted it to happen as part of codenext. And after the stakeholder process I regard the outcome of that process as being the middle ground that councilmember Casar mentioned. I don't see what we have before us as a middle ground. I see it as going well beyond what the owe what a good number of the stakeholders felt comfortable with. We had a discussion a little earlier today about south Lamar and the impacts of infill development on infrastructure that couldn't support it. And I think we need to ask ourselves some hard questions about whether we should be outside of codenext, outside of that careful analysis of infrastructure throughout our city, whether we should be in essence enacting an ordinance that's going to allow the construction of two secondary units throughout our city, in areas that may not have the infrastructure to support it. Now, I agree that may ultimately be good, but I think it has to happen in the context of that larger discussion. And I will also just ask a quick question. You know, one of the changes that happened at the committee was to raise the maximum size of the back structure beyond 850. Currently in code it's restricted to 850 square feet. There's an amendment that allows it to increase. I have asked staff a couple of times if they can craft some language that would restrict the front, if this were to pass -- and again, I think that is a conversation that should happen in codenext, not right now. But if that amendment passes

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I want to be sure it's coupled with some kind of restriction on the front house otherwise we are basically creating an incentive for people to demolish that front house so that they have the whole lot to play with and build two structures that max out the impervious cover to the limits .15, right? So have staff construct -- has staff constructed such an amendment yet? >> Greg Guernsey, planning and zoning department. We do have some language. You will probably get it before the end of the day today. >> Tovo: Great. >> That would address preservation of that front unit with some limited expansions and limitations on the rear unit expansion. >> Tovo: Again, I think this goes beyond what the stakeholders -- I think even the stakeholders who were concerned about changing the restrictions for ads outside of codenext felt reasonably comfortable from what came out of planning commission because it did not -- it represented a balance. It would loosen up enough of the restrictions to allow more units to be constructed without going so far absent of a broader analysis. >> Mayor Adler: Okay. Further conversations? Ms. Pool? >> Pool: Thanks, mayor. I concur with the idea to review these -- the additional changes that came late in the process through the codenext process as being a more comprehensive look and it would allow our citizens to have input on the policies that will affect all of them and some of the changes that came to us at the end of the committee process did not have -- they were talked about in the public hearings, specifically the opt in, opt out. And I know that when staff -- I think staff did some notification to the neighborhood plan contact teams, but the neighborhood contact teams are -- they make up only 25% of the total land area in the city of Austin and only 40% of the population.

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So just looking at the straight on facts tells me that most people didn't get notified of the pending changes other than sort of either through the press or just kind of word of mouth, but our communication processes fell short of notifying everyone. And if we are making a zoning change that affects everybody across the city I think everyone should get the notification from the city. Larger concern to me, though, is the impact on our watersheds and drainage systems. I did get -- and I really appreciate staff and watershed doing this work on the revised FEMA floodplains knowing how affected everybody was by the latest flooding over Halloween. I had made a request to look at the floodplain maps and to get an estimate from staff on what the addition of a structure -- within the limits of the impervious cover, obviously we're not changing that, but if every property that could build a secondary dwelling unit would do that, what would be the accumulated effect on our downstream neighbors? And I did get that for district 7 and I'd like all of the districts to see what the effects would be on -- in your specific neighborhoods. And the bottom line is that the rising impervious cover levels in areas like Brentwood in my district now in the revised FEMA floodplain maps will see increased rates of flooding and we know that to be the fact. That's why we have the changes in the FEMA floodplain documents. But the real key here is our aging drainage infrastructure. And rapid redevelopment in areas with aging infrastructure will also see increased rates of flooding and the drainage systems that we have in place currently were laid before we had modern drainage criteria. And from what staff is advising me, we don't have the adequate capacity to

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carry the flood waters that are likely to occur. So I think all of this needs to be a part of a comprehensive conversation in codenext with our floodplain mitigation task force and then bring it back to us for a broader look and deeper look at the issues that these will cause. >> Mayor Adler: Ms. Gallo? >> Gallo: You know, the question, the discussion about whether this should fall within codenext, I think that there are lots of other policy areas that we're addressing also that might be part of that concern. We're talking

about density bonus, we're talking about parkland dedication, we're talking about historic districts, so it may be that we need an overall policy discussion of are there things that we're talking about that really should be delayed for codenext discussion, not just target one thing or another, but I do think if we feel like major changes to what we're doing should be part of codenext I think it should be an umbrella over a lot of the different conversations that we're having, not just this one. But if we feel like as a council we need to have that discussion and come up with a plan for how we're going to continue to operate and make policy until the codenext process is complete. My recommendation would be that we have that discussion and that we pull all of the policy areas into that umbrella. So that would be the first thing. And then I just had a question of you, Greg. Currently impervious coverage maximum is 45% for any properties, any residential properties? Or does that vary? >> It does vary, but for predominantly most of Austin that is zoned for single-family uses, whether it's a family residence zoning, sf 3 or the single-family standard lot, which is sf 2, it's 45%. >> Gallo: I would just point out I think that's a valid concern with impervious cover acknowledge and watershed and a on -- impervious cover acknowledge and watershed and zoning,

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that this would restrict to 45%. So it would be the same as if somebody has another option study of building an Adu detached would expand and model and add on to their home they could go up to the 45% also. >> There's no change that's been suggested to the impervious cover regulations under zoning. >> Gallo: So it would be the same. It would be somebody's choice of whether to expand one big structure or the option to add a second structure, but they would still be under the same requirements for impervious coverage. >> Mayor Adler: Thank you. Ms. Houston? Is your light on because you want to talk? >> Houston: Yes, it is. I thought somebody else had theirs on first. I've got a couple of questions. One of the recommendations is that accessory dwelling units would be classified as type two short-term rentals, is that correct? Am I reading that recommendation correct? >> Yes. So I think the planning commission recommendation was to ban type 2 short-term rentals, and then at our second reading the amendment that passed and that I would expect would be part of this would be that if it is being used as a type 1 short-term rental, that is homeowner occupied building, that it can be used as a type 1 short-term rental for a maximum of 30 days a year. >> Houston: Okay. So I have a concern about enforcement. How will we enforce that if that in fact does happen? >> And councilmember, I had that concern as well, which is why I recommended that we also set a cap on the number of even type 1 licenses that can be an accessory dwelling units and that those cumulatively can go to the three percent short-term rental cap, and I believe that is also included. So I share your concern that

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it would be difficult to enforce how many days is used in a short-term rental license, but having thought about it over the last few weeks I understand where it's coming from and could be supportive of it and hope that code can sort that through. But we also have that additional cap. >> Houston: So mayor, the other question is that this is always cast as a way to deal with affordability issues in our community, and I see some demographics in some of the staff presentations, but I don't see what the current requirements that allow a secondary accessory units are, how much they're renting for. I think that's information that would be helpful because I don't believe that it's going to make affordable anything. I think they will -- people will rent them out for market because they've got to pay off their loans and they've also got to pay off their increased property taxes. So I don't have any information, and I've asked people for the last three years show me where this December provide that kind of -- where this does provide that kind of housing stock for the people that we're talking about that are leaving the city. And

nobody says Seattle does it or Portland does it. Nobody can tell me that it won't in fact increase the amount of market rate units that are being developed in our neighborhoods. So if they could give me that information, I would be thankful. >> Mayor Adler: Thank you. Councilmember Garza I think was next. >> Garza: Yeah, just for the sake of discussion, I want to say I'm not opposed to infill and I know that there are tough choices that we have to make in how we use our development tools going forward to address our housing issues. And I have issues with, you know, both arguments on this. And like, I don't know, I guess my lawyerly brain is trying to weigh both. So with the opt in/opt out, I'm concerned - my concerns with that is in some cases you have a vocal minority setting the rules for

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everybody. And there seems to be no mechanism to be able to -- if you are in a neighborhood that they've opted out, I would like to see some kind of mechanism that allows them to, you know, a valid petition kind of way where you are able to build an Adu with some threshold of support. That's my concern with that part. The other side, on the Adu side, the pro Adu side, the argument of we can't wait until codenext because our affordability issue is right now. I understand that too, but to councilmember Houston's point, are these homes going to be offered at an affordable rate, but then there's also the argument that it's not so much the rate, it's the supply. When we increase the supply that eventually brings down, but then my question there is I've yet to hear somebody say I really wish I could build an Adu in my backyard. So I wonder is this the supply argument enough to really make a dent in the whole we're creating more affordability? So I just -- I'm very complicated on this -- very conflicted on this one. >> Pool: The nice thing about having this discussion is because staff listens and I listened to the 45% impervious cover on the single-family homes. And that is true, it's the 45% is the max, but the average building impervious cover in the older neighborhoods is about 35% so that would increase the impervious cover usage by about a third. So I think that's actually the concern with the flooding, not only that it's 45%, but that it is increasing the amount that is currently permitted there or currently built there by about a factor of about a third. >> Mayor Adler: Further conversation councilmember kitchen? >> Kitchen: I would like

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to understand the connection and have some discussion about the connection between -- first off, I don't have any objection to adus, I just think that from a planning perspective doing this as part of codenext gives us a bigger picture and more of a context. Because to me the goal is to get us to more affordable housing and I'm not -- I do not see the connection between this and resulting in affordable housing, particularly since our current rules and the rules that were agreed to as part of the stakeholder process allows quite a bit of opportunity to build ads from my perspective and people aren't doing it and I don't know why. >> Casar: There is a lot of perspective that I need to answer folks questions. So entertain me a moment. So first, councilmember Houston, I think that some information is getting sent out to the council, some realtors ran mls data very openly. We've heard that the average rent in Austin for a one bedroom this year is closing in on \$1,200 a month, however people that use realtors to get their data is always going to skew higher because it's not your friend renting the place out to you, it's professionally leased. So for this year and all Austin mls leases, the rent is coming at about \$1,600 a month. And the ads that have been leased through a realtor -- this isn't a granny flat, this isn't you renting it out to your friend in the back or you keeping your in-laws in the back, but leased through a realtor was \$1,150 a month. So about a 445-dollar difference there. So clearly it's cheaper because they tend to be one bedrooms, they tend to be smaller, but are also in high opportunity areas. Almost every single one that was leased this year is 78704, 78745, 78751.

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And 78751, a new apartment built in the last five years Lisa pintod came out at 15 -- leased came out at 15 money dollars and that includes efficiencies. Condos at \$2,100. And brand new ads built in the last five years in 78751, a very desirable, high opportunity neighborhood, was \$1,150. Not deeply affordable housing, but also not subsidized housing. And we did have a lot of people come to our committee and say I want to build a granny flat in my backyard but the city's current restrictions require me to build two parking spaces, require me to build a driveway that paves through my yard to get to the accessory dwelling units, requires so much of a setback away from our house, but a certain set back away from my neighbor's house or doesn't let me build it if I have a standard size lot. If I own 6,000 square foot of dirt I may not be able to build an Adu except primarily in eastern crescent neighborhoods who chose to opt in because those neighborhoods have been pushing for more affordability and more affordable housing options, but part of my goal is to think of what a moderate stance might be between now and codenext for folks, especially in other neighborhoods. This doesn't change the rules too much in mostly eastern crescent neighborhoods and other neighborhoods like northfield, north loop where they've already opted in to 5750. But if it works in Windsor park and if it works in east Cesar Chavez why it wouldn't work somewhere just west of mopac or somewhere just west of Lamar is sort of beyond me. And in the supreme court ruled that we have to figure out what the impediments are to housing in the city and for us to comply with federal law so we commissioned a report and I'm sure neighborhood housing could confirm this, but instead of going through the whole me asking the question and they saying it again, I'll just say it. During housing committee we were presented a report to what the barriers of fair

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housing are that we have to overcome and one of the things on a long list was restrictions on adus were clearly a barrier and impediment to fair housing. The restrictions are an impediment to us integrating the city racially and economically. That was enough of a sell for me. Some folks who are pretty moderate voices, like Jim Duncan who was just appointed to the cag said the minimum lot size should be 5,000 square feet. Others said no minimum lot size. Just to get us through codenext I said if you have a standard lot and can build an extension to a house of a particular size why can't it be an apartment with a kitchen and door on it? It didn't seem to be some extreme departure from our values between now and codenext. Frankly this was sort of dumped on to our committee. It was passed by the last council and came to us. So one of the first questions we asked our staff was does this get in the way of codenext? Is this something that we are preempting codenext by doing. And I'll tell you what they said, no, this is fine. This is what you should be doing as a council is setting policy and codenext will sharpen that pencil. So it just -- it just seems reasonable to do this. And it's in our report of things that will provide more affordable housing options. It's not at 60% mfi. It's not at 50% mfi, but it's at 70, 75, 80, 85% mfi, which are the things that a lot of times we're asking developers to do in exchange for big entitlement changes. So this is providing that and not providing that in some apartment at the top of some building, but providing that in some of our most desirable, most beloved neighborhoods where folks can have a yard and live in a neighborhood. It just seems pretty simple to me. There's an affordability impact statement. I believe neighborhood housing determined there is a positive impact on affordability. It's an impediment to

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newhouseing that we're take O -- fair housing that we're taking down with the changes. Mr. Guernsey, I

think a lot of folks have talked about staff's recommendation versus planning commission's recommendation and whether or not this is really reviewed, but we worked with your staff and stakeholders closely. Do you all recommend what it is that we have on the agenda on Thursday? >> For the committee report I've spoken with staff and development services with neighborhood housing and community development office, spoke with my staff, particularly those that work with codenext. In general we would like to probably come down in activity to certainly expand the code, but this is an item that has been going on for quite awhile. Once the committee report came out, I said in the October meeting I didn't think it was probably vetted enough with the community. I know that I've met with some of the leadership with ANC. I'm aware of flyers that have been blanketed to most neighborhood associations. And with all notice that we give with any code amendment we notify contact teams, but we also notify neighborhood organizations. So those that are registered as a neighborhood organization, not just as a contact team, did receive a notice of the hearing process. Of the committee's recommendations it probably didn't make it out as widely because it didn't have the opportunity to go back to commission or go back to CDC? But just going through generally the things that have been vetted and come out, I think staff's position based on the information we have and the discussions I've had for those of reducing lot size, staff would not object to reducing the lot size to 5750. The area for sf 2 if council is moving forward allowing these on sf 3 lots to 5750, a lot of the city that is

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zoned sf 3 is really the older urban core areas. And that goes back to language that was found in the ordinance that really predates the '80's. Those areas that were zoned back in the 30's going forward, they got converted to the sf 3 designation. As you go to newer areas those areas in the '70's, '80's, '90's, all those areas that we annex right now, they all come in as sf 2. So we do not have a problem doing-- dropping down to 5750 for those areas as well as in the sf 2. Now, there's a lot of discussion about neighborhood planning areas. Neighborhood planning areas when they came in, they adopted a new tool called secondary apartment. And we can certainly provide you maps, although they're all online. Some neighborhoods opted in to that and some neighborhoods didn't. These have been going on since 1997 and the option for doing secondary apartment is one that was really addressed to portions of neighborhoods or all of neighborhoods. Some like to do it, some do not. But if the council's policy is generally to adopt sf 2 and adopt sf 3 to allow the two family residential unit, then we think it should then be applied to the two-family residential unit use. That was not modified in the neighborhood planning process. It was running parallel with a secondary apartment, but the two-family residential use applies citywide. And so staff would say that although the neighborhood plans may prohibit secondary apartment, if it's council's intent to allow two-family residential on smaller lots in sf 2, then it would be applied to those neighborhood planning areas regardless of what

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neighborhood plan ordinance says. Probably the most difficult question really gets to those secondary apartments that are in sf 1 and sf 2 areas in neighborhood planning areas because the neighborhoods did discuss this very issue of whether or not to allow an Adu grant flat, two family residential type of use on sf 1 and sf 2. Those neighborhoods, many of them indicated that they would not. And so that is a question I'd probably turn to this council and ask that if you're going to do these citywide, it's difficult for really staff to address it on those issues because for sf 1 that's even on the table with your amendment. For sf 2, secondary apartment was discussed and it has nothing to do with two-family residential. But if you are going to do these different things, then you're going to apply them city-wide, that -- that is a discussion I think that -- that you need to look at yourselves and talk to your constituents

about. Because it's a very difficult decision for me to come just blatantly say, "Yeah, go ahead and go do it!" But it becomes more difficult if you say you are going to allow it city-wide and for me to say why not. So that's kind of where staff is on this issue. >> We do feel very strongly that whatever you come up with should be done in a manner that's easy for staff to administer. So as you try to start tweaking this, it becomes difficult for staff to -- to look at different parts of the city different than others if we're going to apply this broadly, more broadly, there's equity issues that are involved if you start placing one part of the city against another.

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And as far as smart housing goes, just to get this out there, there's a neighborhood planning tool that allowed for certain neighborhoods to opt in for two family residential to reduce lot sizes and increase impervious cover. There are a few neighborhoods, just a handful, maybe, that have opted into that. Talking to neighborhood housing staff, it does not appear that anyone has opted in to use that tool that's in the neighborhood planning area. So that is a tool that's -- although it's written in the code, it doesn't appear, based on the smart housing certification that it's actually been utilized. >> Casar: I think that we had discussion in committee about requiring affordability and the staff did give us the same report, that -- that increased entitlements to having a smaller lot size, being able to do it on sf 2, able to do more impervious cover in exchange for an 80% mfi cap which is something that these are already renting at, that nobody has opted into that. That is, I think, a good reason to just let folks build them and even the very, very tight supply of them, right? Even each of them being built in 78751 in five years is representing at 75 to 85% mfi. So if there's eight units in a very desirable neighborhood, clearly the demand is going to drive that price up. Imagine if we had a few more. So folks are not -- I think an everyday homeowner is just not going to opt into going through getting a certification through nccd in order to get that little bit of impervious cover. We should just let them do it and if you want to add -- if you want to add affordability requirements, by liberalizing through this liberalization, the best thing to do is just to vote for because those already exist in the code

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but they're just not being used. >> Mayor Adler: I'm going to cut you off. We talked about having a noon stop. This is what I would do now. I know we're going to have a really robust conversation on this on Thursday. I would be inclined to bring in invited testimony rather than not having any testimony on Thursday. Are there councilmembers here that think that they would like to invite someone to testify on Thursday? I'm trying to figure out how many people might want to do that. It looks like there's only a couple. I would say why don't you email me. If there's a name of a person that you would like to have invited as testimony and please invite them and let me know. Ms. Kitchen? >> Kitchen: I would trust councilmember Casar and the mayor to come up with that list. I mean, you know, what we're talking about is both sides or -- or several perspectives, you know, which might be a better way to determine it, limited number and -- and -- I trust you guys to come up with that list. >> Mayor Adler: All right. But I would also like, Ms. Tovo, if you would give me some names that you would suggest, I would like those names from you as well. >> Tovo: Mayor, I just want to say, Mr. Guernsey, I think some of -- I'm not clear on what your answers are in terms of your recommendations and they don't completely in line with the comments that you made at our last meeting. So if we're having a full-stop here, we'll stop and I'll ask you on Thursday. But -- but I do want to -- I do want to follow up on some of those issues that you raised. >> Mayor pro tem we could put that in writing for you. >> Mayor Adler: Writing would be helpful because then we could all see it so that would be great. What I'm going to do now is going through a lightning round. I'm going to call these last items up here so that the person who pulled it can express to

the council what their concern or interest was, recognizing that we're not going to be able to discuss it. Ms. Garza, do you want to take 30 seconds on pilot knob? >> I just want to -- what number? >> Mayor Adler: Number 83. >>> I talked to my policy aide, I think I know where

[12:05:41 PM]

we're headed from this. Anyone from housing that can speak to what my understanding of the agreement is just real quick. Sorry. >> Mayor Adler: That's okay. Garza: It sounds like it's 12% long-term affordability and there's going to be a cap -- capital metro 10 acres or something, so at some point we could do fee waivers through smart housing. Is that what's on the table basically? >> Almost. >> Garza: Okay. >> Yes, ma'am. The conversation we had yesterday with a the developer, we do require -- we have the ability to administratively waive the T out of smart housing if we have a commitment from capital metro that they will be providing transit in the future. The developer is going to dedicate 10 acres that would allow, facilitate the opportunity for capital metro to come. If we can receive that in writing, then we should be able to certify the -- the smart housing, which will allow for the fee waivers. If the developer also agrees to transfer title of the affordable units, the land for that, then that would allow us to waive 100% of the fees. The money that is generated by those fee waivers gets -- gets put back into the affordable units in that we have the ability, somewhere between 10 and -- 10% and 12%, there is somewhat of a spread there. Some -- some funding that could either be used for -- we can either go up to 12% and then not have additional funds to provide a down payment assistance for lack of better words if there's a gap for the homeowners. We are very clear on that the -- the ability to -- to put the fee waivers, the -- that feed the money from the fee waivers back into the project will provide permanent long-term affordability and deeper affordability. And I believe that both of those things are very important, compared to what was negotiated in the M.U.D. That was pretty much a

[12:07:42 PM]

one-time deal affordability. So with this mechanism we can guarantee permanent long-term and deeper affordability. >> Mayor Adler: Okay. That's our speed round on that. I want to congratulate and thank councilmember Garza. I think the solution that you have led staff and other councils through has been great here, coming up with the capital metro land in order to be able to leverage the fee issue to be able to actually get the indefinite affordability. It was wonderful. So thank you for being as innovative as you were on this. >> I believe your staff was part of this, too, so thank you and -- and Kathryn, who is listening, she's sick at home with pneumonia, thank you Kathryn for your work on this. Don't come back. >> Oh, no! >> Mayor Adler: Don't come back. On the speed round, we're continuing the speed round here, thank you, Betsy. Item no. 84, is there a comment that you want to make on this real fast, Ms. Garza, on the town bridge homes rezoning. >> Garza: No, I'll handle that. >> Mayor Adler: Okay. Then there was some items, Ms. Gallo, do you want to just in 15, 30 seconds address or identify what your issue was in 16 and 45? >> Gallo: Yes. So 16, it is a large amount of money for a multi-year contract and as I looked at the mbe/wbe participation levels as of June 15th I noticed that we're not meeting our goals. Out -- two out of the three contractors we were missing in the native Asian American, we missed once in the African-American, ones in the hispanic. This just seems like a really good opportunity for us to meet or exceed our goals in all of these different areas. And I just want to know what happens and this can be an answer that happens -- >> Mayor Adler: Not now. >> Gallo: On Thursday. But I would like to know what happens when a contractor doesn't meet a goal. >> Mayor Adler: Thank you. Okay.

[12:09:42 PM]

Item 45? Was the issue on -- just -- just quickly identify what the issue was on 45? >> Gallo: We can talk about it on Thursday. >> Mayor Adler: Okay. Then Mr. Zimmerman, you had pulled 15, 21 and 32, do you want to quickly state what your issue was on those? >> Zimmerman: Just kind of the same objections we had before. About -- about having to -- having negotiate and execute together. I actually don't have those notes in front of me, they're not long items, I think we can deal with them on Thursday. >> Mayor Adler: Sounds good. Those are -- Ms. Houston? >> Houston: I'm really glad that I'm too old to do speed dating. [Laughter]. >> Mayor Adler: No one believes that. [Laughter]. That's -- that's -- we're going to -- the city council will go into closed session to take up five items. Pursuant to section 551071 government code the city council will discuss legal issues related to Austin energy nacogdoches, biomass power plant, purchase contract item E 3, legal issues related to vesting, vested rights under chapter 245 as it relates to the ace salvage yard, item E 4, Zimmerman versus Austin, cause number 115-cv-628 in the western district of Texas. Item E 5, represented to city manager clarify physical boundaries of town lake community events center project and also item 92, legal issues related to amending an ordinance -- the planned unit development density bonuses. Item E 1 has been withdrawn. If there's no objection, we will now go into executive session.

[2:22 PM]

>>Mayor Adler: The time is 2:20, we have come back from Executive Session and I'm now adjourning the Work Session.