

City Council Work Session Transcript – 2/9/2016

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>> Mayor Adler: All right. Let's go ahead and call this meeting to order. We're at the Austin city council work session. Today is Tuesday, February 6th. We are in the boards and commissions room at 301 west second street in Austin. It is 9:15. What I would recommend to my colleagues is that we begin with the briefing on the 2015 community survey findings since we have out of town or state consultants on with so that we can hear the report and then ask questions. And then I would recommend that we break for congestion so that people can talk about the issues there that are set, potentially the initiative ordinance and election, and the pilot knob, but anything else on the agenda that people wanted to talk about. And then we would come out of that back to the room where we'll have conversation about the tncs as well as discussion of pilot knob. And then a few other things that have been pulled. Does that make sense? Seem reasonable to folks? >> Zimmerman: Before we start could I ask as maybe part of the introductory comments the purpose here is listed it says to objectively assess resident satisfaction with services, measure trends. And the third one together, input from residents to help set budget priorities. So it's my understanding that's why we have a 10-1 council to help gather input from voters to gather budget priorities. I guess I would like some clarification why we would do in when we elect the city

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council to inform the residents. >> Mayor Adler: Probably to inform the work we do. If you wanted to address that as part of your presentation, feel free. Why don't you go ahead and start for us, Mr. Van eenoo. >> I wouldn't have anything to add to your comments, mayor. That's exactly why we do the survey is one piece of information we provide to this body. We do a lot of public engagement. One of the components of our public engagement effort is a citizen survey. We do our town lake hall meetings, budget in a box and do all that to provide to city management and of course the city council about how the community feels about city services to help guide your budget decisions. I am ed van eenoo, I am joined by Stacy bricka, who is a vice-president for transportation research with etv. Show lives locally on knows our transportation issues very well in the city of Austin. She can respond to the transportation related questions. We know you have a very busy agenda today. We think we can make this briefing in 15 to 20 minutes and leave any questions for what you may have. With those opening comments I'll turn it over to Chris to walk you through the results of this year's survey. >> I think this is the first time I've presented to this group over the past few years. I think I've been did 15 surveys for the city of Austin. If you're not family with the etc research, our firm is the leading research company for local governments. Over the last decade and a half we've surveyed over two million residents in more than 800 communities. I personally managed surveys for 11 of the 20 largest counties in 12 of the 20 largest

cities among the two thousand surveys I've done over the past couple of decades. It's great to be back with you here today. You might ask yourself why do surveys? We actually did a poll ourselves a couple of years

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ago nationally to find out how many people actually show up to local community meetings. We found out that on average seven percent of U.S. Residents have attended a local committee meeting or council meeting in the previous year. Of those people who attended those, about half attended to get some sort of recognition or see somebody get recognized and another quarter attended because they didn't like something the city was doing and the other quarter showed up mainly because they wanted to change the way things were being done. Without a tool like this often times it's difficult for local leaders to really assess what people really think what priorities really are for the community because most people are busy and they don't have time to share their opinions, but expect the local government to be aware of what they're thinking. With that said what we're going to do today briefly walk through why we do the survey. I'm giving to given you the bottom line upfront. I used to be a military officer and my officers didn't want to know what the ending punch line was going to be. I'll walk you through there. If you have questions don't wait until the end, but I will try to go through things fairly rapidly because I know you have a lot to do today. As the councilmember mentioned previously, it's really done for several reasons. First it is an objective way to figure out how you're doing and what residents think about things. Since most residents will not come to you without doing a tool or having a system like this you really won't know what the average residents thinks the priorities are, that you won't really know what they think you are you're doing. So if you hear from 10 people who come to a meeting you we want know whether those 10 people represent 90 percent of the community or one percent of the community. So this type of tool helps you sort it out. It also helps you measure trends over time. One of the things I like to lodge at with a survey like this if you're trying to diet and exercise to lower category 4 blood pressure, but they have take your blood pressure it's hard to know whether you have any impact. The same way with

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services. A community survey like this lets you assess whether you're doing things well or not so well. Then frankly you can then use it to help set priorities along with other sources of information that you gather. As far as this year's survey survey it was administered over two thousand residents. The data lay valid for each of the council districts. I won't go into a lot of detail today, but there are separate appendices that show the results for each district. If you look at all of them most of the results are pretty much the same across the city. There are a few exceptions, but you tend to be agreeing on about 90% of the issues and there's disagreement on about 10%. But for the most part people's priorities, satisfaction levels and so forth really are very similar throughout the city. And just -- I know people always wonder is the survey really representative. One of the things that we do is we actually look at the results of the survey compared to the demographics of the community and we find that there was good representation by income, excellent representation by hispanics, good representation by age, and also good representation by gender. And just to make sure the city manager had your demographer look at the physical distribution of respondents with regard to the city, it was excellent. There was only a few minor pockets where we didn't have representation of the city's actual population distributions. I think you have a lot of confidence that these results really do reflect the community. So with that here are our conclusions this year. Number one, residents of this community definitely have a positive impression and perception of the city. There are some exceptions, but for most people, people like living here. They think this is a good place to be. Overall satisfaction is pretty much the same throughout the city

although there are a few exceptions if you look at the maps or provided one of the appendices, you will see the ratings are pretty much the same from one district to another. What you should be proud of is you're setting the standard when it comes to the overall quality

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of the city service delivery. In fact, your average rating is 25% above the national average -- it a phenomenal thing and you should be very, very pleased. There are things to be better. Traffic flow is an issue. There are some concerns obviously with maintenance and opportunities to be better in other services, but outside of traffic flow that's the only real thorn in your side when we fair to the results of other communities. You should be very pleased on how you've done. You will see a number of these charts in the report and they're colored where blue means people gave a positive rating, a four or five on a five point scale. Red indicates negative or ratings of one or two, which are negative. Three we label it as neutral, but people don't say I'm neutral. That means they gave a three rating on a five point scale which means they probably didn't have a very good or bad experience, but they just don't know. We calculate that differently. What you will see on this chart when it comes as a place to live, work, place to raise children, the city gets great ratings in a number of areas. Overall quality of city services, you can see the folks who were dissatisfied only one in seven or 14% give negative ratings, but you see that 60% of residents give positive ratings. It's over a four to one ratio. Every time someone complains about the quality of city was social securities there's four people you're probably not hearing from that aren't sharing their opinions. You will see that the planning for growth issues, the one area where you have significant levels of dissatisfaction and that's strongly correlated to concerns about traffic flow, which we 93 other parts of the report. When it comes to your major categories of service delivery, you'll see again most areas rank very well. The airport, drinking water, public safety, parks, all of those areas have very high percentages of positive ratings, but I want to emphasize what I call brand equity. This is when you get a lot of five's. A lot of large cities have a hard time getting

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residents to give them fives on their ratings for city services, but you will see for the majority of the major service categories you have more than 20% of your residents giving a five on a five-point scale which means you have a good brand where people feel very good about what you do. The two areas that stand out have to do with transportation and planning. Both of which are tied to your traffic flow ratings when I did the subanalysis. So again that's one of the big issues I think you're already aware of, but it comes out very clearly in the report. In addition when people were asked whether or not they think city employees conduct themselves in an ethical manner, they satisfy Z that a lot do. A lot of people don't have a reason to have an opinion, but people lean very heavily to strongly agree to disagree, where half said they agree annual only about one in 10 disagree. When it comes to the perceptions of your ratings throughout the city, as I said before, this is a map that shows each council district's average ratings. It's been shaded on a scale of one to five. If you see a bark blue that means that district was very satisfied with city services. Light blue means that district is giving a satisfied rating. Off white means their okay, but we don't see any negative ratings here. But you can see there are slightly lower ratings to the north and to the south, but for the most part the ratings are fairly uniform on this and other issues that were assessed on the survey. As far as how you stack up to other communities, what we do is we pulled together our data from dozens of other large cities around the country so you can actually see how you're ratings stack up to other large communities. And what you will notice is the reason I say you set the standard in many areas is frankly a function of the -- if you come halfway down your overrule quality of services provided is 11 points above the national average,

perceptions of this community as a place to work, raise children and to live are all significantly above the national average. And even the value that you provide for tax

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dollars, that's something that gets rated low everywhere. The average is just 35%. And you're six points above that. There's always room to do better, but compared to other large communities you're doing exceptionally well. You can see the biggest area where you have the biggest gap is planning for growth you're at 23% compared to 39%. As I said before that's strongly correlated the concerns about growth appear to be somewhat related to your transportation ratings. When it comes to some of the major categories of city services, most all of these are at or significantly above the national average. When it comes to communication, you're six points above the national average. Your customer service is a whopping 25% above the national average. And I just have to tell you that has something to do with an employee culture. You don't as a big city get a rating of 66% when other big cities are at 41% by accident. So you're definitely doing something right. I think your employees should be commended for getting that kind of rating here. You can also see parks and recreation also in wastewater rate above ours, but I can't walk away from today -- that your employees are doing an exceptional job with the residents they work with. When it comes to public safety services you can see timely response to fire services is a little by lower. That's not unusual in communities where traffic flow is an issue. But you can see that the police services is up and it's significantly above the national average as well. When it comes to safety all areas rated above the national average, but the real strength in my opinion always has to do with how you stack up against other communities as a place at night and also in your parks. Because those are easy -- when people don't feel comfortable in a community they automatically assume the parks are unsafe. When you look here you see you're 18 points above the national average when it comes to

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perception of city park safety and 25% above the national average and perceptions of safety in neighborhoods at the night. That's one of the reasons people like living here and likely to stay here. Strategically that's a very important advantage that you have over other large cities. When it comes to neighborhood service, you can see pretty much all areas are statistically at or significantly above the national average. Curb side pickup for your recycling and bulky item pickup are setting the standard. Both are over 10 points or right at 10 points above other large communities. Now, I've shown you all sorts of positive things up to this point except for the planning for growth. Here's how you stack up when it comes to the category of maintenance and infrastructure. And you'll notice code enforcement is a little bit lower, condition of streets and neighborhood is significantly better, but your traffic rating is 17%. The average for other large cities is 40%. In just five years ago you were at 27%. So you are below the national average five years ago, but you've gone from 27 to 17% in the last five years. That's one of the reasons I think it's such a big issue for folks when they assess the perceptions of the city. Parks and recreation, generally doing well with the number of walking and biking trails and the appearance of your park grounds. You will see park facilities and youth athletic programs rate a little bit below other large communities. So all in all there are some areas where you lag below, but most areas you're setting the standard, particularly -- I have to stop this -- can't stop this presentation without commending you on your customer service from your employees. That's something a lot of cities are looking to do. When it comes to how things have changed over the last few years I'm not going to show you all of the results in the survey, but I want to highlight if you look at the short-term trends, which are the yellow to blue bar, there aren't a lot of statistically different differences. There's a couple of

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points above, couple below. Most things did not really change from last year to this year, but you will see long-term we have seen some decreases and a lot of that is related to perceptions of the community not being as vibrant because people having a difficult time getting one place to another. When your traffic flow is at 27% five years ago and 17% now, it's definitely something that you'll want to be taking a look at in the future. In addition we looked at major categories of city services. You can see again in the short-term there were no significant changes, either increases or decreases. We have seen some long-term decreases, particularly one of the biggest is when the ratings for storm water runoff, which is gone from 59% to 49% over the last -- at least compared to the five-year average. When it comes to public safety, those areas have held pretty strong. Very little differences. But you can actually see perceptions of safety at neighborhoods at night, although it didn't change much from last year, you're currently among the highest ratings you've had over the last five years. And you might wonder well, given all this data what should we focus on moving forward? And one of the tools that we have, we call kind of its simplistic, but its important satisfaction analysis. We should come up with a better term for it, but at the end of the day we don't just look at the satisfaction rate ratings, but the residents place on the services. And the reason for those is because everyone in the city was dissatisfied with something, but nobody cared about it. If you put all your resources in that nobody would care. They might think you're investing in the right areas. What this does is it looks at both the satisfaction or your performance and the stated priorities for residents on where you get the most return on your communication efforts. What you focus on the residents will like better about the city in years. And the highest rating of anything we assessed on the survey this year was traffic flow. You can see that rating

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of .5216. Among the major categories of services that we looked at, maintenance of streets and infrastructure was next and then you can see planning, public safety, health and human services, most of which you want to sustain or improve your performance in those areas. When it comes to public safety, you'll see that overall quality of list services and emergency police response were at the top of the list. Most of that is to sustain what you're currently doing. And finally when it comes to environmental services, your flood control and water conservation programs were at the top of the list and just making sure your parks continue to be safe for the parks and recreation side was number one. So with that said, and I guess the residential services, code enforcement and safety and cleanliness of streets and sidewalks. With that said, I've gone through a lot of information very quickly. I see that we probably have a few questions. The bottom line is residents of Austin like living here. They think this city is a good place to be. They're generally satisfied with the quality 6:00 city services. In fact, your customer service is much better here than most residents receive in other large cities. To keep moving in the right direction you're probably going to need to deal with concerns about traffic flow and sustain your efforts in planning, public safety, maintenance and health and human services as you move forward. So with that, mayor, I'm more than happy to answer any questions that there might be. >> Mayor Adler: Great. Thank you. Does our city, the comparisons to other cities, is it the same if we look at cities that are larger than 750,000 population? >> Yeah. The highest threshold we have goes up to 500,000. And essentially the ratings are lower as you move up. What happens is a lot of times our high performing communities like Austin tend to compare themselves to a higher standard. So you're compared against cities with 250,000 or more. But we can do a 500,000. Beyond that it's more difficult just because our sample size isn't large enough. >> Mayor Adler: If we did a comparison to 500,000 and above, how would the Numbers change? >> Not a lot. They would be a little bit lower, but your traffic

flow rating, for

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example, instead of being 40 nationally is around 35 for the larger cities. So you still have a big gap on that particular issue. >> Mayor Adler: Okay. I would like to see that if it's possible. >> Sure. We can put that together. We actually do that for Dallas. I'm in the process of doing Dallas' survey right now. We can do that and put it together for the city. >> Mayor Adler: Other questions. Ms. Pool? >> Pool: You probably mentioned this at the front end, but what was the time frame that you did the sampling and the erroring? >> Sure. We did it last fall so we finished up the work in November or December. I briefed the city staff in January and now sharing it with you. >> If I'm remembering right, the survey itself went out like September? >> Right. >> Pool: Okay, good. The reason I'm asking is I was wondering if the work that we did during budget last year, where we did focus on increasing funding for health and human services and parks, if that is reflected in here. Hard to know, but -- >> Yeah, sometimes your initial investments, especially if they're targeted in certain areas of the city, people don't notice them for sometimes a year or two. So sometimes there's a lagged effect. I know in a community of 100,000 we did a survey a few years ago they built a new city hall, beautiful facility, had everything nice and convenient, and the year that it was open nobody noticed it. It took about two years for people to actually rate the facility better. Sometimes that can happen in a large community is you make improvements, but they're not noticed right away. >> Mayor Adler: Other comments? Mr. Zimmerman? >> Zimmerman: Thank you, Mr. Mayor. I want to go back quickly to page 12 and something that I ran on and I've been continually highlighting, overall value for city tax dollars and fees. To me this is the -- it's the basic question of satisfaction is what are you getting for your money. If you overcharge people for trash service, I don't think it's honest to go in and talk about quality of service when you're charging way too much. Sure, service is great,,

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but it's unaffordable. That's really the issue in our city. And I notice that you didn't even mention that 59% -- on page 12 you did not mention that 59% are either neutral or dissatisfied with the value they're getting for their tax dollars. There was a constant highlight of qualities good, they liked the quality, liked the quality. Quality is good. In other words, a focus on benefit, benefit, benefit, benefit, benefit. And the cost isn't mentioned. This talks about the cost and nearly 60% are either unhappy or neutral that they're getting their tax dollars' worth. Then on page 31, the other point, when we were all running for office in 2014, the traffic congestion on our roads, all over the city, was the number one issue. And that shows on this survey. No surprise. We already knew that. That's what we ran on. And you notice down here on medium priority, bicycle availability. How can seven percent be a medium priority, 17 percent is low. I agree with the very high 63%, but to say that 17% is medium priority I just completely disagree with. And what's happened to us over the last year is when it comes to transportation -- so the constituents said traffic congestion is our number one issue and the city says no, it's not, it's tncs, transportation network companies. So again, it just highlights the the disconnect. And nobody asked me, but I think our constituents had already spoken and there wasn't a need to do this. How much money did we spend on this? >> \$56,000. >> Zimmerman: Okay, thank you. >> Mayor Adler: Any further comments? Yes, Ms. Garza. >> Garza: At the bottom of 31 it says the

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condition of sidewalks in your neighborhood and it was a medium priority with 18%, but then on the

very next page, I'm just wondering how this is at the bottom of one, but then overall maintenance of city streets and sidewalks is very high priority on that very next page. >> Yeah. The maintenance issue more has to do with major streets, not sidewalks. So they're both collapsed into one category and that one question you're actually assessing kind of departmental areas. The follow-up tries to break it down so you can better assess what's the real issue. So when you see sidewalks lower is because when it's combined as a maintenance issue, like all maintenance, you see maintenance rise to the surface, but when we start to break it down that's where you see traffic flow tends to be at the top is the real big issue within transportation. And bicycles is a little bit lower. >> Garza: Okay. >> Mayor Adler: Okay. Yes, Ms. Gallo. >> Gallo: Thank you for asking the question about the population size. We're the 11th largest city in the country and I think we -- it is a disservice in surveys when we keep comparing ourselves to communities that are 250,000. You know, it's been a long time since this community was at 250,000. So mayor, I appreciate your ask if we could bump that up to the 500 at least. Even 750 would probably be more of an appropriate comparison for us as we continue to try to see how we compare to other cities our size. So thank you for that. I'd like to see it. You mentioned how do we get a copy of the survey, the actual survey that was done? And you said you do have the statistics broken up by district? >> Yes. >> How do we get that? >> There will be a copy in the final report, the end of the final report. And one of the appendices in the final report actually has the results broken down by district. You can see them side by side. >> The final report is

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very, very lengthy. It's hundreds of pages. We produced it electronically. I think we produced it to council about a month ago, but we can do it again. It's available on the city's website on our budget office website, the survey results. But we'll recirculate that so you can take a fresh look at it. >> Gallo: Thank you. And great information. I think as -- you will be able to update it so it has the comparison to larger cities too. Thank you. Wonderful information. >> Houston: Thank you so much for being here today. It's very good information and very helpful. And I'm glad I'm to get district 1's information because the whole thing about traffic flow, people in district 1 have a concern about that because we've made where we used to have two ways going, we now have one way going each way. And they see the congestion that that's caused, but it's a policy that the council has made about adding bicycle lanes to just about every road we have. So people are very concerned about the congestion and the flow because they cannot get where they used to be able to get to. So in other places do you offer any kind of suggestions about how to handle or you just present us with the statistics? I'm looking at the traffic. >> Actually, I was going to defer to her anyway. >> The purpose of this survey really was just to come up with the benchmarks, the detail, the trending of it. There is opportunity to take it, to investigate it further, to do more work with it to come up with options. It could serve as an input for that. >> Houston: The reason I'm asking is because as you're trending you see that at one point we were at a certain percent and now we're getting worse. Is that a policy that we need to go back and revisit. There are things that I think as a council we could do, but this is good baseline information for us to begin that conversation. Thank you. I'm glad to know you're in Austin. >> Thank you. >> Mayor Adler: Anything else?

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All right. Thank you very much. And manager, these Numbers look very good. Thank you to the staff. Let me just say it out loud to anybody and everybody who might be reading it. Thank you. We're going to now recess, go into congestion so that we can address -- accountant will go into closed session and take up three items. Pursuant to section 55 one .071 of the government code council will discuss item 52,

potential election in may concerning the transportation network companies. Item number e-3, legal issues related to municipal obligations under the fair housing act as it concerns boarding homes and individuals with disabilities. And e-4, legal issues related to the pilot knob zoning ordinance. E-1 has been withdrawn. If there's no objections we'll move to congestion. So let's go ahead and do that and then we'll be back.

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>> Mayor Adler: We ready? We are back and out of congestion where we discussed -- out of executive session where we discussed items E 2, 3 and 4. We're now going to reconvene. I want to start quickly if we could on pilot knob. I set this with councilmember Garza. There's been a lot of public discussion by this, difficult to respond to it happening in so many different places. And I appreciate the accommodation for us to be able to speak to it for just a minute or two and then of course there's another agenda item that's set on this and we can talk about it or move to tncs. First I want to apologize for the coupe being in a -- for the council being in a position where some of my colleagues voted on something without understanding what they were doing or without having all the available information, and for that I apologize. We're continuing to work on processes as we go through this and are learning from this exercise as well. I want to address some of the things I've heard because some of the things that are being discussed out in the community suggest that the council did things in an action which I do not believe that we did. And when I hear some of the things that are suggested that we did, I would be really concerned as well. But the -- so I wanted to just talk briefly about it and give councilmember Garza a chance to talk about it as well so that we at least have some measure of ability to be able to speak publicly on the issue.

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I've handed out three things to folks. One of the things I've handed out is a pilot knob DL comparison that I prepared that is now posted on the bulletin board for people to see. But as you recall last fall there was a deal with a pud that was coming out of a mud where an agreement had been reached with respect to providing affordable housing. So the economics of a deal was set. The obligations of the deal was set. It came to us for approval and my sense was that it was headed for approval until councilmember Garza raised her hand and had some concerns about it. The primary concern that I took from the many things that Ms. Garza said was the concern that while we were providing some measure of affordability, affordable housing, it was affordable housing with respect to the home ownership that was not permanent. What that means is that in the 650 homes that were -- that we got for people who were at 80% of median family income, mfi, it was only affordable when they purchased it, which meant that the following spring when those people at 80% mfi were being asked to pay property taxes on that property it would be valued at its market value without regard of what they paid with it. It was the Mueller situation that we were seeing at the same time that this had come up to council. Beyond that there was nothing to stop anyone who bought that home at the reduced 80% mfi price from selling it the week after they purchased it if they couldn't afford to hold on to it or they just wanted to get the spread between what they had paid versus what the market price was paid.

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I shared that same concern that Ms. Garza raised. I mean, in some respects what we're trying to do here with affordable housing is not just give one person the opportunity to be able to buy a house below market, but also be able to enable them to hold that house in the face of what would otherwise be taxes

that would be too high to pay, and not to put them in a position where they immediately were potentially selling the property for market value. That's what's happening with gentrification. We have people that are in homes, but the prices are rising, the taxes are rising and then they sell out their homes. So when we have an affordability program that doesn't have any measure of permanence to it, it's almost like near institutionalizing gentrification and I took to heart the -- what councilmember Garza had raised in that area. So we turned to everybody and said how do we turn this into permanent affordable housing? Is there a vehicle that would let us do that? And as you will recall, the attorney for the developer in this case stood up in an answer to that question and said we've been trying to do that for three years. The vehicle doesn't exist for us to be able to do that. We can't figure out how you could actually put some measure of permanence to that affordable housing. We all on the dais turned and looked at each other and said, if somebody can figure out how to do that would that would be great, and councilmember Garza's office and mine sat down to try to see what tools were available under existing policy for us to be able to add some measure of permanence to it. That's what we were trying to do. I want to quickly go through this comparison sheet that's been handed out and posted to the bulletin board because the first thing I want people to understand

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from how I see this is the economics of the deal did not change. That's not what we were trying to do. So the goal that we had was not to change the economics, but to try to interject the option to have permanent affordability. And by not changing the economics of the deal, when I say the old deal I mean the deal brought to us in the fall. The developer was going to pay \$60 million. In the new deal the developer pays \$60 million. Those are the water-related stuff. He was going to pay it before. He pays it now. The fact that the word waiver is used in this discussion I think is very misleading because there was no waiver of any money that the developer was going to pay. In addition to the the \$60 million, there's another \$40 million in fees, in addition to the water fees, the developer was going to pay the other fees. The developer still pays that additional \$40 million in those other fees. >> Tovo: Do you want to run through your whole piece and then take questions, but your Numbers aren't matching with the managers. I wonder if you could help us understand that. The fees that we've got in the memo in answer to the questions I had about a week ago, note \$80 million for water fees and 20.8 million for development fees. If you could point us to the memo. >> This chart was prepared before you got the answers back to the questions that you asked. I should have said approximately 60. I had heard 60 to 70 so in my chart I just used 60, and the chart has 80. What I heard was the total amount of fees were \$100 million, so if we were roughly 50 to 70, then I used 40 for other, but together they total will \$100 million. So there was about

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\$100 million, however it breaks down and the managers Numbers that came out yesterday suggest that it was roughly 80 and roughly 20. A little more than that. It comes up to 104 in the manager's note. Whatever it is, 60, 80, 120, 200, it is what the developer still pays. He still writes exactly the same check. The developers under the old requirement was required to provide 60% mfi rental units for 40 years. Under the new agreement he still is providing 60% mfi rental unit for 40 years. It stays the same. Under the old deal that was struck he had to oversize pipes and pay for the oversizing of pipes to the tune of providing additional capacity, either 3780 -- 3780 additional living unit equivalence, which is basically a tap for a residential use. It could vary depending on what type of residence it is, but basically another 3780 families, he was paying for under the old deal. Under the new deal exactly the same, remains unchanged. Under the old deal the developer was supposed to reserve, not give away, but reserve for

later purchase by the transit authority 10 acres in the property. And then at some point in the future capital metro could decide whether or not it could really afford a transit station in that part of the community that is underserved at this point, but at that point the capital metro might have to figure out how to pay for that, take money away from something else or whatever. As part of the new deal the developer had to donate that property immediately, and I'll

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explain the reason for that and the significance for that in light of the charge that of permanent affordability. But that was something that the developer valued at about two and a half million dollars. In addition to that there was an affordable sale component. This is other than the rental units. This was the sale units. And this was under the old deal, the developer had to make 10 percent of the units available at 80% mfi. And we've talked about that a second ago because that is the -- that's the -- so it's valued at market value there after for market purposes and someone could turn around and sell it. What's happened now with respect to this is we actually get permanent affordability to the degree that the city wants to do that because there's nothing about this that is locked in stone. So the -- we go back up to the top, the \$100 million that the developer was going to pay, \$80 million over 30 years to the water department and \$24 million over 30 years to the development department. Instead of going directly to those departments, it's going to get deposited into the housing fund, the housing trust fund. It is depositing it into that account that gives us the option, but not the obligation. By the way, we are also the board of directors of that housing fund. We have the option, but not the obligation to keep that money in trust so we can have permanent affordability. On the other hand, in any year that we would look at that and say, do you know what, we don't want to put it towards affordable housing. We'll put it to water or any combination, we have

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the ability to do that. It's not like we did a couple of weeks ago on the motion from councilmember Renteria and councilmember Casar when we were also giving us the ability to grab money in the tif for the new buildings -- the city-owned buildings that were put in private hands and the properties over in the home preservation district. That's available to us I hope we can use that money for affordable housing. It would be the right thing to do with that money, but there's no obligation for us to do that. There's no obligation, as I understand it, for us to do with this money either. So if we wanted to take all of that money and have it go to water and development services, we can do that. But because it starts out in a trust we have the option and potential to do something that we could not otherwise have done. And if we had done that we could go towards buying 10% of the homes at 80% mfi, but have those properties in the trust or the land in the trust, with the deed restriction to the trust. There are a lot of ways it could be worked out such that the property owner would not have to pay taxes on the land at all if we wanted to set it up that way. And because it's permanent affordability, the appraisal district says it qualifies for their standard so it would never be valued at market value so we could in fact not institutionalize rolling gentrification so that some council in 20 years is figuring out how to maintain diversity in that neighborhood. We could actually plant it and keep it and the more times we could do that I think we are better off doing that. The developer also had in addition to the initial amount, there's also additional money associated with the actual logistics of that. I don't know exactly how many millions of dollars that is, but in the agreement with the developer, everything that he's paying in the old deal he's paying on

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the right side of the deal. What this could mean is in the future, and I'll pull Numbers out of the air, it could mean that a unit that costs 165 -- a unit that costs \$250,000 but is set at an 80% mfi price at 165, we can use the money to be able to buy that lot and give the savings for that money in an mfi area. In time since our deal was to lock in that price or to have something that rose differently than the market value of property where the price rose with mfi as opposed to rising with price, over time the benefit that this deal would have to a purchaser at 80% mfi will grow. So it might be a 50,000-dollar spread at the beginning. In 25 years it could be a 500,000-dollar spread if mfi does not rise as rapidly as market prices are rising, which is what we're seeing now in our market. So over time the benefit of this deal could grow and grow and grow. Recognize that in any given year if we have the option to buy a unit that has a market value of \$500,000 and we have the ability to buy it at \$200,000, pretty good deal, but we could say, do you know something? We can't afford to do that. We're just going to have to let that 500,000-dollar lot go because we can't buy it for \$200,000 because we want to take that \$200,000 and spend it in the water department. We can do that. And that will be a dark day for this city if we allow ourselves to get into that place where we have that measure of affordability and can't find out a different way to be able to fund it, but certainly there's no obligation on us to buy that cheap unit or less expensive unit. No obligation for us to do that, but we would preserve and reserve the

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ability and right to do that. I would also point out that there's benefit to the water department as this deal was negotiated in the old deal because not only is the city -- the developer is paying to oversize the pipes, as I talked about above, but also to do extensions out, and the -- often times the city reimburses the developer for those things, but under the deal that was struck in the old mud agreement for these things that are no reimbursements for that. It's about a 30-million-dollar benefit to the city. That was in the old deal and it also remains in the new deal exactly the same way. One of the elements of this deal was that these customers begin day one as customers of the city of Austin as opposed to customers of the mud. That was in the old deal. That is exactly in the new deal. Again, it passes over. There was eight million dollars -- up to eight million dollars that the developer would pay under the old deal that was contributing a certain percentage of the hard cost to affordable housing. In this deal that was negotiated the one financial delta difference that happens because of this is because we're making these permanently affordable, which means that the appraised value does not -- ad valorem appraised value does not rise because remember we're trying to keep it from rising, the tax base in the district does not go up by those lots that are maintained at affordability, which would be 10% of the units. Which means that the overall value of the real estate will always be less in the subdivision than it would have been if we let everything be valued at market value. The developer is entitled to get -- to float bonds because of the mud situation, can float bonds to reimburse him for certain of the

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capital expenditures that he has. That amount he's able to get back to reimbursement is tied to the value of the entire subdivision. So what was calculated was how much less reimbursement he would be able to get by floating bonds because of the decrease in overall value, it was two million dollars. So we decreased the requirement from eight million dollars -- up to eight million dollars to up to six million dollars because again our goal was to keep this revenue neutral as we were negotiating with the -- not negotiating, to be able to find a vehicle to do everything exactly the way we were doing it, but in a way that would actually give the city the ability to be able to do some measure of permanence. So I would just point out -- people saying there was a 30-million-dollar hole or 100-million-dollar hole. There are no

holes. There is no hole. What we did is we took the money and instead of taking it straight to water, it sits in the housing fund. If we take it out of the housing fund we can send it back to water, we can send it wherever we want to, but because it's first parked in housing fund, we have the the ability, but not the obligation to have permanent housing. Now, when the staffs were taking a look at trying to come up with this solution that had thus far avoided both the developers, the developer's lawyer and staff for a three-year period of time, what they alighted to was the smart housing policy. Now, I understand there might be a long conversation that as a council we should have about smart housing policy and how we do it and whether we should do it. But I want to point out to you as I've handed it out, this is the smart housing policy for the city. The smart housing policy for the city says if somebody has smart, those components, they're able to get these things. They can get these things administratively. We had a subdivision

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that had Smar, but it didn't have the T. All that happened here was we said you know that 10 acres that some day capital metro has to buy from you and we don't know if they have money to do it or can do it, give it to capital metro. Give it to them now for free in the middle of your town center because as soon as you do that then we have the T. We went to capital metro and said do you want to have a station here? And they said absolutely we want the station there. And what? We don't have to pay for the station. We get to have the land. They liked it. But that gave us the T. When they had the T we now make this. If you look on the page that I highlighted, number 4, and I have the star next to it, I want you to see that our policies in the city adopted by council allow for housing to administratively approve up to 1500 lots a year in this program. The lots associated with this development is anticipated to be about 300 lots a year. That's 300 of the 1500. Now, that's a big chunk of the 15, but far less than the 1500. My understanding is that last year housing did 800 or 900 units so we left on table 600, 700 units that we could have potentially put to permanent affordable housing had we been able to do that or had that come to us or we could have considered it. But in any event, I just want everyone to understand there's 1500 that by policy can be done administratively. We're talking about 300 of those units. I would love for us as I sit here, we can talk about the policy more, but if we can get this done in five or six big subdivisions across the city with a potential to do it up to 300 units in each of five or six big subdivisions, what a wonderful place it would be for the city to begin to sit down at the beginning of every year and say we have the option to get 1500 units across the six

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subdivisions. This year we can afford to do 800 of them. Which 800 lots or units do we want to buy to add geographics integration so we don't -- to actually do something about the economic segregation that we have in this city. I think think that would be a great place for the city to be. Again, it's a put option. It is an opportunity that the city has, not an obligation that the city has. And I would have as many of these as we can. And then the last page on this also from the smart housing guides are the rules for smart housing. And there are different grades depending on more that the developer is willing to do, we get greater or deeper affordability. Or you go all the way down to the bottom and if somebody is willing to do 10% in the last trust, which means permanent affordability, then he's entitled to 100% fee waivers and fast track review. That's in our policy. We haven't done that before because nobody had the right project to be able to do it in or figure out how to do it or for whatever reason, but all that happened here was we implemented the smart housing policy as it was already established. Now, again, I'm not saying we shouldn't have a conversation about the smart housing policy, ready to engage in that, ready to find out if we are every year budgeting for housing to take down 15 money of these if we want

to. And the staff will talk to each other, they'll talk to us about what's the best way to do the money and where we could use it, but all we did was exercise the preexisting policy with the exemption that this property is just outside of the city limits and it is outside of the city limits and that's something that we can talk about too. But other than that it is exactly the smart housing policy, and I would argue that what we did here furthered the goals of the smart housing policy. The last thing I would point out, I handed out the late backup that was provided to the council in December where what

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we were doing here with respect to having the 10% affordability consistent with the smart housing, it says waiving, allowing for 100% of eligible fee waivers for all residential units within the pud is exactly what we did. I wish we had paused on this longer and discussed this longer similar to the conversation that we're having here. And I assume the responsibility for not having done that and in retrospect I wish that I had so that there could have been a broader conversation and if people had reservations or there were other questions there was something that could have been raised. But I will say that it was not the intent to pull anything over on anybody or to have people voting on something they didn't know about because at the end of the day as I look at this all we did is what we were asked to do, which is to go away and see if there is a way that we could do that would allow us permanent affordability rather than having a gentrification issue that we will deal with, if not today, then in 10 or 15 or 20 years, but to do it in a way that did not tie the hands of the -- of the city. A lot of the detail on how this gets worked out and what are the logistics involved in putting the lots in the specific with respect to going over the classes of property and all of those things are not yet determined by virtue of the ordinance we passed. It said at the end of the overall discussion that the actual terms of this would be something that we would enter into an agreement between the landowners and the city of Austin that assures compliance with part 8. When we were approving at the time I called up the developer and the

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attorney and I said, for the record I just want to ensure that we're talking about deep discounts. They're not spelled out in here. The logistics or the mechanisms to be able to get there. They both stood up and -- they both stood up and said yes. As we sit here today, the developer and the attorney, did everything I say was accurate? Would you say yes audibly for me? So Logan says yes. And that's what we get papered into the document. I appreciate the indulgence and the opportunity to respond to the many emails that I've seen. Councilmember Garza, do you want to add or say anything different? >> I think you've summarized it well. I guess I would also add that I still strongly support this deal. And just reiterate that -- you know, this was the first pud that this council has tackled, but I have to say it's not the first pud that the city staff has tackled. And I do -- I understand that we have to have a lengthy discussion of how we make this more transparent in the future. Again, we used existing tools. They were tools that were in place. There was nothing new that was used to implement this negotiation. And I guess I just want to speak to why I pushed for more affordability and permanent affordability. We saw -- and I know this. I know my district is one of the lower income full of families and we saw that in the demographer's demonstration a couple of weeks ago that shows that my district has the most families in it and it's because my district is the least expensive for families to live in. And when I see a development that has homes that I know that people in my district

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can't afford to live in, that concerns me because then the last district in this city where families can

afford to live could potentially not exist anymore. And so that is -- that was my priority. There was never any intention by anyone in me or anyone in my office to hide any details of this. Like I said, I still support it. My understanding of pud's is that there isn't a fiscal note attached to pud's. That's not the the practice for fiscal notes to be attached. And the reason that there was a fiscal note attached was because something in my office asked for this to be in the backup? I understand it was late backup? I guess I would take responsibility for not knowing the process of how backup moves from second reading to third reading. My assumption would be anything in the backup on second reading would be in the backup on third reading. I don't know what that process is. So the takeaways for me are I think it's a good opportunity to improve communication between departments, and with council, with council offices. And that we can -- we'll agree on the ways to address affordability for our city, but it's often a talking point that we're in an affordability crisis, and I don't want to use it as a talking point anymore. I want us to move in a direction that we're actually doing something and we're going to disagree on which ways I guess we're actually doing that. I also wanted to say that I remember in one of the meetings with housing I asked when I saw the smart housing policy, because it seems like such -- it seems like a good policy. And I know we're going to address that in the future and see why we go, but I asked why isn't this used more? Why isn't this policy used more if it provides all these incentives for

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the developer? Andrew Harris and -- and the reply was that usually we can't get developers who want to be part of the program. It's an extra administrative hurdle for them and they would just rather do their thing. Developers aren't in the business of affordable housing. So I just I have to say that it was nice to have a developer that said we're going to participate in this program to do this. And so again, I still stand 100% behind and support this, and happy to answer any questions from any of my colleagues. >> Mayor Adler: Any discussion at this point? Ms. Gallo. >> Gallo: I want to try to understand some of the economics. And, you know, it is difficult with so many city policies, and so many things that come into play as we make our policy decisions, trying to become knowledgeable and educated, and familiar with them is really a challenge. So I guess the part of this that concerns me the most is that under the -- I hate to say standard, but the standard S.M.A.R.T. House, for 10% it would be 25% fee waivers. And it is because we're looking at something that is outside the urban core, and I agree that we need to go back and address some of our S.M.A.R.T. Housing policies, because I don't know that bumping that amount of fee waivers up four times just because it's outside the city -- I really want to understand why that policy was put into place and the reason for that. But if you take that and set that aside, then basically, a developer's getting a hundred percent fee waivers because the properties are going into a land trust. And I absolutely agree with the concept of a land trust for maintaining permanent affordability, but I want to understand the value of that in this situation. So I'm a little confused from the motion sheet information, because it talks about the lots

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transferred by the land owner to ahfc. And then it talks about the city purchasing lots at a sales price agreed upon by both parties. So I guess my question is, these lots that are going to be part of the land trust in order to promote the long-term affordability, is the developer giving those lots to the city, or is the city purchasing those lots? >> Mayor Adler: There are lots of different ways, logistically, it could work. >> Gallo: Okay. >> Mayor Adler: The city could purchase a lot. The city could purchase a unit. The city could have a deed restriction on all of those lots, and the sale could be direct to the purchaser from the builder, subject to the deed restrictions that are imposed. So when you look at the models that are happening out at Mueller, there are different ways, in order to be able to preserve affordability. And I

think we have the housing people here, or different people in the housing industry -- affordable housing -- that could explain. But my understanding is that the way that the actual affordability gets to the buyer could happen one of several different ways. And we have the ability to be able to direct that in the agreement that is still to be drafted. >> Gallo: So my question is -- >> Mayor Adler: Sorry. >> Gallo: I have to get used to sitting over here. So my question is, basically, at 100%, from what I understand, at a 100% fee waiver situation -- we're talking about \$80 million here. If it were a Normal 10% S.M.A.R.T. Housing, it would be \$20 million. So I'm trying to understand if the value of the land trust is worth \$60 million. And so that goes back to my question, are the lots being donated or given by the

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developer to the city, in which case you begin to add those up, and maybe it provides a dent in that \$60 million. I'm just trying to understand the reason that we go from 25% fee waivers to 100% fee waivers, and setting aside the urban -- taking that out of the conversation. But the only difference is the land trust. So help me understand why in this situation, the value of the land trust is worth \$60 million. >> I would say it's the length of time. So in the standard S.M.A.R.T. Housing, there's only a five-year term. With the permanent affordability, when the land is put into the land trust, it is long-term permanent affordability. It also has the ability to serve a family at a much lower income. If -- when the house would be sold to an income-eligible family -- because we just now, this last year, were able to truly have a land trust where a family would mortgage improvements only, and we could subtract the value of the land. We have the ground lease -- the finance corporation holds the title to the land. Their mortgage is only on the improvements, which is significantly less than -- if a family has to mortgage land and improvements. The primary difference is, when it's put into a land trust, we can ensure long-term and deeper affordability. Standard S.M.A.R.T. Housing is only five years, 80%, it doesn't necessarily reach a much deeper affordability. >> Gallo: I'm going to just kind of continue the conversation on. So, once again it goes back to trust is produced because the city owns the lots. >> Yes. >> Gallo: And the person that owns the house is not paying taxes on the city lot. >> Correct. >> Gallo: Right. So, how does the city get those lots into the land trust? Is that because the city has purchased those lots to own them, to put them in the land trust, or is it because as part

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of the \$60 million difference between the 25% and the 100%, the developer is going to give those lots to the city? >> I can't speak to the difference between the 20 and the 60, but the discussions, which will be finalized in an agreement would be as the mayor said. We have the ability to purchase the lots. It was not intended that the lots would be given free and clear to the finance corporation. The trust fund dollars that would be set aside from the fee waivers would be utilized to purchase the lots as an agreed-upon price. The money could be used to purchase the lot and improvements. There would be a delta there, probably. In that case, the family would have to get a mortgage for the difference. It could be used as down payment assistance. There's a wide range of activities that could be used to assist with the acquisition and the development. Were not to be given at no cost. We will purchase. >> Gallo: So to effect the affordability and the ability of the person to qualify for the loan on the property, are these properties that are going to be in our affordability group going to be discounted in price, or is the affordability going to be your department subsidizes the purchase price? >> The money in the trust would be used in a variety of different ways to assist with -- for the homeowner. It is not our expectation that we would utilize any additional funds to offset the cost. An example would be -- let's say we would buy the home and the lot. The builder would build the home and lot, valued at 250,000 right now. We could utilize the funds to reduce that cost -- let's say we would put \$50,000 into it. The family would

have to

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mortgage the 200,000. That's a high number. There could be a mortgage for the difference. And so the fee waiver funds in the trust would be used to buy down the difference. And then the family would mortgage the part that they could afford. >> Gallo: So the developer -- mmhmm. >> Mayor Adler: Let the mayor pro tem, if she's filling in, then you can finish your question. There were four big buckets of money that the developer's paying. More than that, but let's focus on four. They're going to oversize the wastewater system so that we get free capacity out there. That still happens. They were going to provide 350 rental units at 60% mfi. That still happens. They were going to pay \$104 million that went to fees. That still happens in that it's paid, but it's being put into this one account. The other thing that the developer was going to do was to be able to provide 10% of homes on first sale at 80% mfi. Now, the actual cost to the developer in doing that, I don't know whether that's a 10 million or a \$20 million cost. Whatever that cost, that's the additional bucket. When this deal gets papered, we have the option but not the obligation to take that \$104 million and spend it to buy things down. But the developer is also bound to take that same amount of money -- 10 million, 20 million, whatever it was -- that was going to be spent by the developer to ensure affordability on first sale. And we get reduced prices offered to us before we spend any of the \$104 million because it's being kept revenue-neutral to the developer. So there will be a discount, which is the question I called the developer up for. And I said, we're going to realize, still, the very same

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discount, the out of pocket that you would have spent to do -- that's the fourth -- we're still going to get that whether we use any of the \$104 million or not. And again, as I did at the meeting, while I had the developer here, Logan that's also your understanding as well, is that right? >> Yes, sir. >> Mayor Adler: So it's both of those categories where the money comes from. >> Gallo: All of the things you referenced were part of the M.U.D. Agreement, correct? >> Mayor Adler: Yes. We're not losing any money. All the money's staying there. We just have an additional option. >> Gallo: I guess part of my trying to understand all of this is that this really is the city deciding that they want to divert almost -- what, \$80 million -- from departments to affordable housing, to our housing department. It's really not the developer that's participating over and above what the original agreement was with the M.U.D. Agreement. >> Mayor Adler: That's correct. The developer is doing -- but we're not deciding to divert it now, we're deciding to give us that option in the future if we want to take it. >> Gallo: Okay. But it is the city's decision to divert the money from other departments to a particular department to accomplish a particular goal. >> Mayor Adler: Yes. >> Gallo: Okay. All right. Thank you. >> Mayor Adler: Mayor pro tem. Okay. Mr. Zimmerman. >> Zimmerman: Go ahead. >> Tovo: I have a lot of questions, but I wanted to get back to this particular mechanism. And just -- you know, by way of context, I want to say I absolutely support the goal and the intent behind this to make sure that those units were affordable. For me, what I'm really struggling with is whether -- you know, councilmember Gallo points out some of these provisions were in the existing M.U.D. Agreement. And so for me, it's a question of what is really, I think we know from the Numbers we got

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last night, a hundred million-dollar housing investment. Whether that hundred-million dollar investment is warranted to get is that permanent affordability in those 650 650 units and the accompanying rate

increase on all the other folks who will pay for that \$100 million investment. I'm all for making big investments in housing. I believe my votes reflect that. We should be investing strongly in affordable housing in this community, all over the community, because it is one of our biggest challenges. But when I look at the fact that our two bond packages for \$55 million, and 60 million, our first \$55 million we got almost 2600 units, I really need for this conversation and possibly others to help me understand whether this \$100 million investment that we would make here to keep those units affordability has enough benefit for the community -- to spend it in that way. Can you help me understand? I think you were just sort of explaining it. The commitment from the developer initially was to create those -- to build those 650 units and to have them affordable at 80% mfi for the first sale? >> The difference is there was actually no restriction. In the M.U.D., the agreement was that they would be provided at a sales -- at a price point that would be available or affordable to someone at 80%. There was never a restrictive timeline or covenant that would've been associated with the affordable homeownership units. The multifamily had a 40-year, but the homeownership had no period. >> Tovo: But it would've been affordable at the point of sale. So those first purchasers --

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>> The price would be available. There was actually no mechanism to guarantee that who purchased the house was income restricted or income eligible. >> Tovo: I really believe that was the intent. And so I will go back to the original description. But let me ask you a question that is related. Exhibit B in the ordinance talks about that 10% of the dwelling units on the property must be available to house persons whose income is 80% or less. And it talks about the 99 years for ownership units from the date of sale and transfer. Is this an additional 10%? So are we talking about 10% through the housing trust, and an additional 10% for 99 years? >> No, they're one and same. >> Tovo: Well, this one has completely different language. This isn't talking about a housing trust. This is talking about -- I'll go ahead and post it. >> This is just an example. >> This is just an example of what a restrictive covenant might look like. So the law department asked to put a restrictive covenant in with the ordinance. So this is just an example - argument. >> Tovo: It looks as if we adopted the ordinance, we adopted it with the accompanied accompanying

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exhibits, of which that is one. The language is a little bit different than the ordinance. And so if that one stands in addition to the 10% that's in the affordable housing fund, I guess that's part of my question, is whether we are looking at both units that the developer will construct that would be available for 99 years for ownership in addition to the units that we would have an opportunity to purchase as part of the affordable housing trust fund. >> That is not my understanding of what was negotiated. That was used as an example of a template of what a restrictive covenant would or could look like for the affordable units. >> Mayor pro tem, one of the -- I concur with your desire, the ability to see the \$100 million and the return on that investment. One of the things that I would want to shed light on, or just have the discussion about, is the general obligation bonds that you referenced the return on investment in terms of units. One important distinction is that the affordable housing bonds affordability requirement is typically at about 40 years, and/or what the guidelines specify when the use of those funds occur. I think for -- certainly the staff, and for the department, and for the discussion of the challenge at a policy level, what we had really realized through this negotiation is really the imperpetuity outcome. And so I don't make light of the desire to see what the return on investment looks like at the comprehensive \$100 million -- whatever the price tag is that is being discussed. But that is one first factor, if you will, that we certainly, as staff, would want to continue to highlight. >> Tovo: And maybe

we can look

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at the bond -- the different programs that were funded within the bond, because I thought we had funded some community land trust where they are perpetually affordable. But, that is part of why I submitted those questions to the manager a week and a half ago. I'm very interested in one, understanding the mechanisms of this, because it's really clear that -- you know, I'll speak for myself -- that I did not understand when this came across our agenda, the amount of the fee waivers. And, in fact, didn't understand them until last night. And now understand that our staff didn't understand, either, the extent of that information. And the only financial information we had in an interim basis was the sheet that came out as late backup, wasn't distributed, and wasn't accurate or complete. So this is really a helpful conversation. I appreciate my colleagues for putting it on the agenda. So when the city has an option to purchase those lots, who does the construction? I mean, if the exhibit doesn't stand, and it is that the city an option, not an obligation -- to purchase those, then we're also not sure that those 650 homes will be available at the time of first sale. I mean, if a future council decides not to spend that money in that way, we may never get to 650, whereas we would have with the original deal. >> The exhibit was written to be able to provide both, either the finance corporation could buy a developed lot and construct the home itself, or have another nonprofit do the construction, or it's also written to where the finance corporation could purchase the lot and the improvements to be able to have consistency. One of the things that was desired, I believe, was that the homes would not look any different than any other home. But the flexibility was written into the exhibit to provide for

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both. >> Tovo: But what if the city, as the mayor said, if the city decided at some point that those monies needed to go to the water utility, and depletes the housing finance corporation? If we're only at 100 units at that point, does the developer then step in and do another 550 that are affordable at the time of sale? I mean, do we revert back to the original agreement -- I mean, I agree it was inadequate and we weren't certain. I mean, there was no time period specified, as you've indicated. But at least at the point of sale there were to be 650 units available to those who were making 80% mfi. >> Councilmember, I could not speak to what would happen if the money was diverted to the water utility or someplace else, what the consequence of that would be to the affordability. >> Tovo: But I'm asking if, then, if we're committed -- the commitment all along was to have 10% units that were affordable for sale opportunities, 650 of them. Does this agreement -- if the city decides not to use the money to purchase the lots or purchase the units on the lots, does the developer then take on that responsibility to make sure that at least at the outset of that sale, there are 650 units total at that property? Into the development agreement. I cannot speak to the developer's ability to do that. My understanding is, based on conversations with the developer, that it would be the funds in the trust that would provide the mechanism to ensure the affordable. If the funds in the trust are not used to augment or purchase the affordable housing units, I can not speak to how they would do that. >> Tovo: Just to get back to your point earlier, mayor, I understand the point you're making that it's an option and not an obligation. But if we don't follow through

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with this arrangement, we will not have the 650 units for ownership that were part of the original M.U.D. Agreement. >> Mayor Adler: And I disagree with that. I don't think that's the intent, for this

reason. There are two funds, two piles of money that contribute to affordability. One is the \$104 million in fees that can be directed or not direct, or used or not used. The other is the money that the developer was already going to be paying under the agreement to provide the 10% affordability, of course, it's only one time, at point of sale. So it's not a lot of money, because it's a one-time deal. And it doesn't preserve affordability. So it's a lesser impact. But that amount of money, the developer was also saying, I will exhaust that money for affordability. Now, the exact mechanism on how that translates into this situation where it's not a onetime affordability is part of what has to be worked out in the document. But every penny that the developer would have paid for the onetime affordability is still money that the developer is still going to pay, be it to provide onetime affordability, or maybe on 650 units, or maybe at the time we say, you know, rather than giving onetime affordability on 650 units, how many units -- if we took that same money -- this is not the 104, by the way, because we redirected that back. But maybe it would be better, rather than having 650 units one time, maybe the question would be to the developer, how many units can you give us permanent affordability for with the same amount of money that you would otherwise be spending? But the mechanisms, the vehicle for that, is the document that's still to be negotiated in. And I would suggest, perhaps, that rather than reconsidering this deal at this point, or changing this deal at this point, we ask the folks to sit down and actually, now, draft

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that document, which would lay out all the vehicles for how that money would be used or not used. And then that could be passed out to everybody. And then all the mechanics that are creating, I think, a lot of questions here, would then be available to everyone. And everyone could say, I do like that deal, I don't like that deal, I want to undo this deal, I want to -- but I think what we're missing is that next document that is still to be negotiated. And my belief is that when we actually write it down, it would answer those questions, and all of those questions, but in a way that everybody could see. And I would suggest that might be the appropriate next step, the next thing that would be happening in this process, and it still doesn't limit the council's ability to reconsider, or undo, or change anything. >> Tovo: Mayor, will that document specify what that amount is? >> Mayor Adler: Yes. It would specify that amount, or it would specify how that amount is to be calculated. Because frankly, the cost of doing the first time sale is going to vary over time of the development, because the discount that the developer has to put in will depend on what is the relationship between market value and mfi over time. Because the developer had committed under the M.U.D. Agreement to bridge that gap. So we can't anticipate in five years what that gap's going to be, or ten years, but we could set a formula -- which is what I would anticipate would be necessary in the agreement -- to set the formula to ensure that every single penny that the developer would have paid for affordability still is paid for affordability, whether or not it's augmented by a decision to use any of that \$104 million. >> Tovo: I think that would be helpful information, and some certainty as to how those lot prices are going to be set would be -- >> Mayor Adler: Yes, I agree. >> Tovo: Critical. >> Mayor. >> Mayor Adler: I agree. Yes, don, you are next. >> Zimmerman: Mr. Mayor, I could probably go last. We're in rabbit holes, maybe we

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should keep going down here and see where it goes. >> Troxclair: Well, I was hoping -- I appreciate the responses from our housing staff, but I'm hoping that we can hear from our water staff now. >> Hi. >> Troxclair: Hi. Thanks so much for putting out the memo. Did you send that yesterday? >> It came from the city manager's office. >> Troxclair: Okay. When -- so -- I know that that was quite an exhaustive memo, and so I'm trying to go through it and understand all of the responses and all of the information. But can you just tell us from your perspective as the director of the water utility, and the department

that would be raising this, I guess, \$81 million, what kind of impact that's going to have on our utility bills? >> Well, a few comments. There's a series of questions in the memo that we received trying to isolate the impact on rates, and we've provided some analysis in that. And David, our chief financial officer, could go into more detail. In summary -- some of this depends on how fast the P.U.D. P.u.d.would build out. At a 30-year build-out, we estimate utility rates would average half a percent higher, or 92 cents per month for a typical residential customer. At a 30 -- or 20-year build-out, that would be a little higher rate, 7%, or \$1.39 per month per customer. >> That is correct. >> Troxclair: And do you know -- I'm assuming that that number is solely as a result of

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this development. In other words, that number that you just gave us does not include other potential rate increases that I assume we'll be seeing from the water utility over the next 20 to 30 years. >> That's correct. That's just the effect of the utility not receiving these capital dollars from pilot knob, that our rates would trend higher because we'd make up that loss of fee revenue with revenues from rates. >> Troxclair: So the -- there was a statement made that this doesn't -- that what was done with this development didn't change -- it didn't change existing policy. Is capital -- is using capital recovery fees eligible -- an eligible use for fee waivers? I'm trying to understand. I have this list here of fee waivers, and I don't see capital recovery fees on that list. >> Well, I would comment, a couple of parts to that. One -- there had been a recent change in council policy with regards to capital recovery fees. In 2013, effective January 1st, 2014, the council changed policy on capital recovery fees and went to a maximum allowable method. That is, by state law, there's various methods to calculate the fees. Historically, the utility had charged capital recovery fees that were significantly lower than what state law allowed. As a part of the response to our financial deteriorating financial conditions, and to preserve bond ratings and cash in the utility, this was one of the recommendations that came from boards and commissions, and ultimately the council adopted, with the maximum cost allowable. So fees went from about \$1,500 per unit to \$7,600 per unit. So that's why you see a fee waiver now of pilot knob, the

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scale of dollars are significantly greater than in the past because the fees are four to five times what they were. So that's, you know, kind of the policy history of capital recovery fees in the last couple of years. That's why you see a lot of upset in the community, particularly some that served on the boards and commissions that made that recommendation. They're feeling like this is a change in direction from that original decision. In terms of the city codes and ordinances, there are several city code and ordinances that connect back to fee waivers that the housing department can do. And I think probably the law department is best to address what's covered in one part of the code and what's not covered in the next. You're correct. I think there's capital recovery fees, or impact fees that are not listed in one part of the code but are referenced in another. We need to have law explain that a little bit, probably. >> Troxclair: Okay. So, in the discussions, it doesn't sound like -- I think you included a timeline in your memo. Was Austin water -- I understand the housing department -- it sounds like they were involved in the conversations before this was passed in December. But were you aware that this kind of proposal was being made, or that something that would have an \$81 million affect on the water utility was being passed? >> We were not involved in the negotiations with the developer. And we didn't provide a fiscal analysis or a rate analysis. I was aware, from reading a media piece after second reading, that fee waivers had been suggested by the developer as a potential instrument for achieving higher affordability. And I did attend a meeting with councilmember Garza's office, as well as the mayor's chief of staff where I gave them information on our capital recovery fees and how they work and what they're

used for, and a little bit of the policy history and state law. That was the extent of our

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involvement. >> Troxclair: But you weren't aware that the proposal was that \$81 million? >> I was not aware that the decision had been made to waive all the fees. >> Troxclair: Okay. So when -- after -- recently, when it, kind of, has come out in the press that it's been reported that anywhere from 50 to \$80 million is kind of the initial reports that we saw, after a citizen looked up the ordinance that we had passed and dug into it a little bit and brought this issue to the council and to media's attention, where did that \$50 million come from? Because it sounds like from your memo, clearly, the total impact was going to be over a hundred million dollars. And loss to certain city departments. So where did that \$50 million come from? >> We were getting media calls after the first of the year when this was starting to be discussed. And so we were researching information that was in the packet. You know, we had our estimate of fees that we were able to determine from the original M.U.D. Filing that was a detailed breakdown of the units. The late backup material -- we did look at that. And I think that had a 50 to \$60 million number in it. And so we weren't exactly sure of where that document had come from. And so we proposed a range of potential fees from 50 to 80 million. As we looked into it more, the best data we have is the original M.U.D. Filing in terms of the breakdown of the units. That's what came to the \$81 million. That matches up unit-wise pretty close to the -- P.U.D. Filing. I think they had 14,000 units. >> 14,300. >> But that wasn't broken down in as much detail. Our best estimate right now is \$81 million, but it's hard to estimate how it's going to happen over the next 30 years. It will depend on the final MIX

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of build-out, traffic analysis, but if you ask me what is our estimate for capital recovery fees losses, we would estimate \$81 million. >> Troxclair: Okay. And we received an email from the chair of the water and wastewater commission budget committee and the chair of the joint committee on the Austin water utility financial plan that states that Austin water utility under-recovered costs by at least \$100 million over the period from 2010 to 2015, mostly due to the draught, despite council's support of the request for annual rate increases. So, in other words, even though the council has consistently increased rates during that time period during those last five years, the water utility under-recovered. Is that accurate? >> We were well over \$50 million of revenue shortfalls one year, yes. >> Troxclair: So this idea that diverted \$81 million from the water utility isn't creating a hole, or that there's not a need -- I mean, the water utility -- would you have recommended -- if you had known that this was being proposed, and we had the opportunity to discuss it as a council, and we had the opportunity to get a staff recommendation from you from the perspective of the water utility, would you have recommended that the council move forward with this kind of proposal? >> Just to qualify my response, just from the water perspective, I'm not judging affordability and the policy call that council needs to make at times on competing interests. But, from the water utility's perspective, we have seen deteriorating financials for several years. We're still on a negative watch with our bond ratings. And I would have cautioned with regards to moving fees out of the water utility at this time. >> Troxclair: Okay. Thanks. That's all the questions that I had for staff, I think. I mean, I just -- of course I think that all of us who were

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involved in the negotiations are frustrated with having -- with the process, and with not having this information made clear to us before we took this vote. We have a responsibility to understand the impacts of the votes that we make at council, and to act in the best interest of our constituents. That

doesn't always mean that we will agree on policy issues, and of course we don't all the time. But I do think that this was a really important piece of information that we should have the time to discuss before we make a final decision on it. I don't understand -- I mean, this discussion about affordability -- we talk all the time about how affordability is not just a single issue. It's not just housing. It's not just utility bills, it's not just transportation, about how it's this whole -- you know, complex picture of what the true cost of living is. And to come and say that we're going to address affordability by raising people's utility bills just isn't the right way to approach affordable housing. There's nothing stopping us from doing a budget amendment or for allocating money during the budget process to more affordable housing issues. But diverting it from the water utility is only going to hurt the middle class. I mean, we talk about these reports about economic segregation and being the most economically segregated city. This kind of decision is what causes that economic segregation, because it's going to hurt the people who don't qualify for the subsidies, but also are struggling to stay in auction. In -- Austin. I don't understand how this is a solution to our affordability issues. I appreciate thinking outside the box and the creative concept. I think that it's certainly worthy of council discussion, and I don't know where -- you know, I think all of us might have different interpretations about whether or not this is the right approach to affordability. But, again, it's hard for us to know when we don't have the information. And I think that although I

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wasn't involved in the conversations -- I mean, the mayor and councilmember Garza's office were -- but even with the backup that we supposedly had access to on second reading, the number that was quoted was \$50 million. And so it was not until yesterday -- it was not until last night that we had information from our staff about how this decision was going to affect affordability in Austin, and affect all of the other departments that we're diverting money from. So, I would be -- if I was one of the councilmembers that was involved in those discussions, I would be concerned that the actual number is more than twice what I thought it was. More than twice the \$50 million that you thought that you were diverting. And what would the number -- what could that number be to cause alarm? I mean, if that number came back last night and it was 150 million, 200 million, 300 million? At what point would you have said, we should've had all the information before we made this decision? I -- >> Mayor Adler: If that's not a re-torycal question, but a real question, I can answer it. For me, one, I saw the Numbers last night that came from water. They're using a 14,000 and some-odd number. But, as the director says, that would be limited by what their traffic impact analysis says, on the 10,000 lots. So right off the bat you can take -- you know, we just did real number is a little over half of what the number is that the water department's using, because they're using the total allowance on the chart, which is the number that they have. They don't know what the traffic impact -- so, recognizing it's going to be limited by traffic impact analysis, that's what the traffic impact analysis shows. But, in answer to the question, what number would give me alarm, it's a tool. And it's not an obligation.

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So I could take that \$100 million number and say, I could afford to spend 5 million of it, or 10 million of it. Or 100 million of it. Or depending on where we are in 20 or 25 years based on another bond election or how we change the business model of the water in that period of time, you know, if we have \$300 million that we had discretion to be able to use, I would take that. I'd rather have discretion on 300 million than discretion on a hundred million. It doesn't mean I have to spend any of it in either scenario. But to have the discretion to be able to add that kind of money because there was a vehicle provided to be able to do permanent affordability -- if we're able to afford it at that point in time, to have that ability

to do something that no other city in the country or perhaps the world has been able to do, that we figured out how to do it as we go so that growth is paying for itself, and as we grow we're not institutionalizing gentrification, but we can actually build a firewall to it? If I had \$400 million that was available to me in our discretion to be able to use, recognizing we don't have to use any of it, but we have \$400 million, I would take discretion to use \$400 million, because it's not something we have to do. We can make that decision later. And we don't know what the business model's going to be, or what our financial needs are at that time. I'm not saying -- I'm not prejudging the decision we would make in any year of that 30. >> Troxclair: Mayor, I wasn't finished. I wasn't quite finished when you responded to my question. You mentioned paying for growth. And I think that's a really good point to raise, because that's exactly the purpose of capital recovery fees, is to pay for growth. To pay for infrastructure as we grow. But we are taking our capital recovery fees from our utility and from our other departments and using it for a different

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purpose. So I don't think that you can turn around and argue that this is also a decision that pays for growth. If you want to say that we're going to pay for growth, I mean, how are we going to fill that hole? How're we going to fill that gap? And as far as not prejudging the use of that money, I mean, you said earlier in this meeting that it would be a dark day for Austin if we decided not to do it. So I think that you are making a personal statement about what your decision would be about the use of that money in the future. But it is -- we are making a decision. We did make a decision in December about the use of this money. We are deciding to put it in a housing trust fund. Although, yes, future councils could decide to divert that money, I mean, we're talking about 20-30 years from now. None of us are going to be here. None of the staff is probably going to be here in 20 to 30 years. So that's a pretty big bet that you're making, that 20 to 30 years from now, a council is going to remember that we did this, remember that we're diverting money from this one development -- and possibly more. It sounds like there's plans to maybe do this in more developments. And to make the decision that we're -- they're going to stop putting money towards affordable housing and put it back into the water utility. I don't see that as -- a reasonable or logical thing. I mean, if you are truly serious about saying that you want the option to spend more money on affordable housing, then we should have the option every year during our budget discussions when we do have the opportunity, or during our bond cycles where we do have the opportunity to talk specifically about affordable housing. But this is just robbing peter to pay Paul. >> Mayor Adler: Ms. Kitchen. >> Kitchen: There's a lot of passionate discussion, which I appreciate. But I really need to get back down to understanding the facts here. So, if I'm understanding

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correctly, we haven't raised water rates. What you're doing is projecting for us, which I appreciate. And that's what we need to know. But we're projecting potential impact on water rates, given a lot of assumptions about what the cost might be. Is that accurate? >> Yes, that is accurate. >> Kitchen: Okay. So -- and if I'm hearing what the mayor is saying, he is saying that those dollars that we're talking about using as a potential tool for the housing trust fund or things that we have some discretion about in the future? Is that right, Mr. Mayor? I'm trying to get back down to the facts. >> Mayor Adler: Yes. >> Kitchen: And I'm understanding the facts to be that we have not raised water rates. >> Mayor Adler: Correct. >> Kitchen: And that a decision would have to come to us, right, before we raised water rates? >> Mayor Adler: Yes. >> Kitchen: Okay. So that's an affirmative vote that we would have to make, and at that point in time, we would make that decision. If I'm understanding correctly, the dollars that we talked about putting in -- or the dollars that we put into the trust fund are dollars that we would have

some discretion to do something with later in we needed to. Could y'all please -- I'm sorry. I'm just trying to -- [off mic] >> Mayor Adler: Let's ask the manager that question. >> I was just noting, water rates haven't been increased yet. I don't think that's what the director was saying. We're talking about future impact over time. >> Kitchen: Right. >> You know, because to the extent that these dollars are not in all or in part within their budget, it will have to be accounted for some way. And what they're saying is that that would manifest itself, most likely, in terms of rate increases, which I think someone alluded to earlier in his remarks. Is that correct? >> That's correct. >> Mayor Adler: And I agree with that, too. Should we elect to do that, should we let that happen, it's

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going to have be reflected somewhere, some way, from some source, somehow. But I also think that you're right, Ms. Kitchen, that in our budget process, we would see how it would be manifested in your proposed budget that came to us. And it would either be something you would say, in my budget, this is how I want to move monies around. Or it would come to us and we could say, in our approval of your budget, this is how we would want to move monies around. But if there's a cost, it's going to have to be paid somewhere. Mr. Casar. >> Houston: At some point, mayor, if you'd look down here and recognize me I'd appreciate it. >> Mayor Adler: You're like way off in the distance. I don't know how that happened. I'll get to you next. >> Casar: I don't want to MIX issues too much between this posted item and the item that's sponsored by councilmember troxclair and cosponsored by others, but it seems to me from my understanding of the deal from councilmember Garza and the mayor, that we really have to separate what -- really, the council can fiddle around with and change at any point by ordinance and what's actually in the P.U.D. Deal that lives in the P.U.D. Deal. What lives in this arrangement as far as I can tell is our right of first refusal to purchase 650 homes. That's the benefit that we get. And the developer, I don't think, particularly cares if he sells the house to us or if he sells it to somebody else. The other decision that's made in this agreement is a budget decision. And I think that's a decision that we can work on independently at any time. And I think there's a real interesting conversation to be had there by the mayor pro tem of what's the best way to fill up the affordable housing fund? Is it through money coming in through the water utility, money coming in through other utilities, property tax revenue like councilmember Renteria and I worked on. You know, the funding source of

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that should be -- and how much money that should be -- is an interesting question. And I-- concur with the mayor, from my policy perspective, it needs to continue to be more. We want to own the land whenever we can. And what we spend it on is a good question. Here we have a right of first refusal in this particular development, but as the mayor pro tem noted, if we don't want to go for single-family homeownership because it costs more per unit, then we could look to purchase properties that are developed in other ways. It's always going to cost us more to get permanent ownership of a house, but there are great benefits to that, too. But it just costs more per unit. And if we what we negotiate with a developer in this case doesn't pencil out and we don't think it's the best use of the money, we can always spend it somewhere else. But I think we need to -- from my understanding of the deal from how it's been described, there's a budget decision that is totally in our hands that is not a zoning case and that we can continue to work on as we choose to. And there's merits, and pros and cons to funding affordable housing from a variety of sources. And then there is what is in the zoning case itself. And in the zoning case, it seems to me that we have the right to buy these house it is we want to. And I don't see the need to give up that right in the council chooses to spend -- you know, to have that privilege of doing so. So, I know it's a complicated case, and it took me some time to understand it, too. But at least

it helps me to think about it in those two buckets, that it's not fee waivers, it's just moving funds, which is our choice, from one department to another. >> Mayor Adler: Ms. Houston. >> Houston: Thank you, mayor. And this may not be a question you all can answer right now, but if the fee waivers were allocated to just the 650 units that were agreed upon, what would be the financial impact of

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just those rather than the whole development? And then to the housing group, would that be enough to begin to buy down some of the properties for affordable housing? >> Each unit is assessed a \$7,600 fee. So it would be the 600 -- or 650 that you were quoting times the 7600, whatever that is. Let me see if I can catch that real quick. >> Houston: It may be 645, I don't know the exact number of units. 650 is what I remember, but -- >> It would be around \$5 million. >> Houston: \$5 million that would go into the housing trust for those units that we want to make permanently affordable? >> Yes, and not waiving any of the other lots, yes. >> Houston: Thank you. >> Mayor Adler: Okay. Ms. Pool. You wanted to go last, and I'm trying to respect that. >> Zimmerman: I appreciate you teaching me some patience, because it's not one of my virtues. Thank you. >> Mayor Adler: Ms. Pool. >> Pool: Thanks. Yeah, I just want to frame my comments, too, to state that I have been voting pretty consistently to ensure increased affordability for housing in our city. And I have supported housing bonds before I was on council, working with housingworks and some other folks to try to sell the bonds on the 2012 bond committee. We worked really hard to keep the number up. We couldn't get over 100 million from that bond package. It was reduced down, I think, to something like 50 or 60 million. And then that failed at the polls, and we came back a year later with another slightly smaller bond package. So, I think that process works.

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I would say that I prefer the bond approach, because the community can tell us if they agree or they disagree. And we're not raiding the funds of another department in order to shore up an affordability or put money in the housing department. We're taking from the water utility and putting the money in the housing department, and the water utility still has to make up that money. The money is gone. The mayor says that we don't have to spend any of the money, but it sounds like to me that once we divert it from the water utility, whether we spend it on housing or not, it is still gone from the water utility's fund. That would have to be made up. The only way we can make that up is by raising the rates, and we have been engaged in a number of conversations about trying to manage rate increases on the utilities. When I think about the water utility, I know that some past experience the city has had with bond ratings, we're in a negative list because of past projects. That raises flags for me. And having additional debt incurred by the water utility will not help that negative watch list ranking, is my guess. Staff is here. You have some experience with our bond rating. Do you have any insights for us on how this will -- how wall Street will look at this? >> Well, a couple of thoughts. One, during our last bond rating, I did communicate to the bond rating agencies the council's policy change that they had increased capital recovery fees, and that was one of the financial instruments we had available into the future. So there is a knowledge of that with our bond agencies. This isn't a transfer of these fees outside the utility, it's not going to help our bond ratings.

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It's unlikely it would trigger a downgrade, but it's not helpful -- you might want to jump in. These are directly connected to debt. We take these dollars. By state law, we are limited to using capital recovery fees only on the debt associated with projects for growth. We're to use the dollars to pay off growth

capital projects. We're planning something right now with dollars that we would have, and future dollars would be used for those purposes. That would reduce our debt -- or improve our debt service coverage, and that's the main driver of our bond ratings. The more you interrupt that cycle, the more risk you introduce into our bond ratings. >> Pool: Does that potentially raise the interest rate that we might have when we want to sell additional bonds out of the water utility? >> Yes. If we were to ever get a downgrade, or were not able to achieve a higher rating over time, then that leads to higher overall interest costs for bonds. >> Pool: And that factor -- it's impossible, really, at this point, to put that into the calculations, but that is a risk factor, and that would tend to lead to another increase in recovery rates. >> We know we're on a negative watch today. And that's a signal for some caution. >> Pool: I also -- did you want to -- >> No. >> Pool: I also have some concerns about the fact that this isn't in the city limits. And smart housing, I understand, is supposed to be used in the city limits. Is that correct? No? >> No. The way the S.M.A.R.T. Housing -- the reason it was actually brought forward in December, the ordinance requires that if it is a limited-purpose jurisdiction, the council must approve it. But, it is eligible. >> Pool: When do we expect to annex this this part of the city?

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>> Go ahead. >> Anywhere from 45 to 47 years. If you were waiting for all the bonds to have extinguished themselves, and the city is annexing when all the bonds are paid off. >> Pool: Do we receive any property tax income from the lots if they're in the permanent housing trust fund? Is there a property tax that's paid to the city, or . . .? >> No. When anything's in the trust fund, whether it's in the city limits or outside, there's no taxes. >> Pool: Okay. So there isn't any revenue coming back from these properties in order to help diffuse the funds. >> If the affordability unit land improvements was sold to an eligible homeowner, I believe they would pay tax. I apologize, I guess not. >> They would pay the Austin water -- water and wastewater rates. >> Okay, okay. >> But in terms of taxes, taxes are not applied in a limited-purpose jurisdiction. >> Okay. >> Pool: Right. >> Okay. >> Mayor Adler: Ms. Gallo. >> Gallo: So, thank you for the information. Obviously, this has the potential to impact the water department from the capital recovery fees, but that's really a loss of income. My concern is that it also impacts the surfaces department. And their estimation is between 18 and \$25 million. But the impact to them -- there is staff that is actually going to have to go through and spend time and effort and resources doing the subdivision application, and doing the inspections, and doing the building permits. And so we are actually taking money from that department to fund those services, and fund those staff to do those through this project. And I'm really concerned that

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the conversation with them was not there, either. And so, how does that department get funded to do that staff time if we've removed the funding that's normally part of the fees that are charged that offsets that cost? Is that passed on to new developments? Is it passed on to the taxpayers? We haven't even talked about that part of the conversation. And that's a big chunk of resources that would not be coming in. And they're actually allocating staff time to do those components as part of this development. But one of the things that's become very clear in all of this is that it really is a concern to me that we are -- we as a policy body have looked at this policy and looked at these decisions without all of the departments being involved as part of that process. And I would look to the city manager, who I see is not here -- here's the city manager. I would look to the city manager to make sure that this doesn't happen again, because I think it's critical as he leads the departments and operations that when something is coming before the council, that it is very important that all of the departments have been allowed to have input and conversation before it comes to the council so that all the departments will

do this. So, city manager, I would ask in the future that we make sure that this process happens with all the input of all the departments so that we can talk about this before we make the decision, instead of after we make the decision. Because it does have huge implications on the departments. So, thank you. However you do that, whether it's through the assistant city managers, or it's another person that is allocated that responsibility. But I think this is -- and we hear about this in development surfaces all the time, that there is a disconnect between departments, that we really need to have a function in our city, in our government, in our departments, that connects all these departments as we are talking either about policy areas, or we're talking about development issues.

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So, I will look forward to you working with us in that direction and keeping this from happening next time. >> Absolutely. I guess in response to that, though, I guess I want to just generally speak to the nature of how this conversation started. And frankly, it did not start -- I think as you've heard in the course of this conversation -- but with the city staff. And I'll leave that there. And certainly there are lessons to be learned in regard to this process, the issues of transparency, and all of that which you spoke to on both sides. Certainly the staff side, but certainly with respect to, you know, council offices as well. And I wasn't in the room when the conversation first started, but you spoke to that in your opening remarks. Certainly, your points are well taken, but there was an unusual start to this effort of negotiating. I would even point to an op ed in today's paper by the mayor's chief of staff who took responsibility for negotiating this deal, as he put it. And that's an indication of how this conversation started, which isn't typical. And I think as a result of that, you know -- kind of off-center for -- one off for the staff in terms of how we manage these kinds of issues. But, that said, certainly we have learned some lessons, and will be taking some steps to see to it on our end that the proper controls and procedures are in place. But it is important to note how this whole matter started. >> Renteria: Mayor. >> Mayor Adler: Yes. >> Renteria: I just want to ask the manager a question. What is the total -- is the fee just coming out of the water or the wastewater, or the street fee? What's the total? >> I think we indicated in the q&a document that we gave you yesterday, we're talking about capital recovery fees relative to the water department, and also with respect to development services, the number in the water department, if you look at

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the table in the document we gave you, it's about \$81 million. On the development side, \$24 million as I recall, that's how we get to the number in total, a little in excess of \$100 million, 104 million or \$105 million. >> Mayor. >> Mayor Adler: Yes. >> Houston: I have a question for Ms. Spencer. If we waive the fees on 650 units, estimated to be about \$5 million into the land trust, how many houses could we potentially buy? I know you can't determine five years from now, but based on today's rates, how many houses could we possibly make affordable and keep them permanently? >> I apologize, off the top of my head, I -- five million dollars? Um ... Let me do the quick math, I apologize. >> Councilmember Houston, the \$5 million figure would only be related to -- to Austin water and wastewater, capital recovery fees, depending upon how the situation -- the situation or the waivers apply. They also could include development services, related fees, so the amount of five may go up to another higher number. >> Okay. >> On the five million, our average costs that we've estimated on -- on a unit is about 175,000. Lot and improvements. So that would be about 27. If we were purchasing the entire lot and improvements. >> Okay, thank you. >> You're welcome.

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>> Mayor Adler: Yes, mayor pro tem? >> Tovo: I have a couple of other relatively small questions and then I want to just ask for some help answering two of the bigger ones, possibly outside of this meeting. But are the development fees in our memo, a calculation of \$24.8 million, are those development fees calculated on the current development fees? I assume they are, because that cost of service -- those are set to cost of service, but as I recall their cost of service as of 2013, is that right? 2012, something like that? >> Mayor and council, Rodney Gonzalez, director for the development services department. Those fees are with the current fee schedule, so our staff completed those last week based on the current fee schedule. >> Tovo: But the current fee schedule is set on a cost of service that was developed several years ago. Can you remind me what year? >> Yes, it was developed from the 2012 cost of service study as well as the 2015 cost of service study, so there's a blend of cost of service studies there. >> Okay. It was my understanding they were mostly 2012. But the -- that the full cost of service study was 2012, but in any case the fees -- because we've added quite a bit to your budget in the intervening years, additional staff and whatnot. It was my understanding that our current fees do not necessarily cover those additional costs that we've incurred over the last couple of years. >> Yes, councilmember, you are correct. That is something that we are looking at with the 2016 cost of service study is because the -- the original cost of service study was done in 2012 and although recently we did in the current fiscal year add staff, what has increased, of course, are the overhead costs. Those we want to make sure that we include in the 2016 cost of service study. >> Tovo: Thanks, that really just picks up on councilmember Gallo's point that you were making those fees are set to actual cost of service, the cost of

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service in this case are a few years past, but those are real costs that are going to be incurred for staffing and whatnot that will have to be borne somewhere in the system. Okay. Thanks for that Rodney. My second small question ... I will say I really like the housing committee, I know the chair stepped out. But I hope to put it on next month that we really take a look at our staff with the smart housing program, when it is waiving 20% of the fees when just 10% of those are affordable. It's time to have a conversation about that. Especially when the policy was put in place for our water utility than it is now. Again I want to preface that comment as my votes will reflect and my work on council has reflected, I am very, very committed to affordable housing, but I do want to make sure that we're spending our investment in the right ways and I am really concerned about a program where we're -- we're really having ratepayers invest in market rate housing for someone else. You know, there are -- I mean, when I get calls and have in the past about utility bills from constituents, they are often people who won't qualify for 80% mfi ownership opportunities. Yet if we have a smart housing program and our housing initiatives are relying on an increase in rates, those are the individuals who are already struggling with their bills who are now going to be struggling with increases to help pay for new housing for someone else and that doesn't seem to me all right, a right path for affordability. So I hope we can -- I hope we can generally look at our smart housing program in a

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careful and thorough way and just figure out how we can help that program continue to be successful, but make sure that it's calibrated appropriately for the benefit that the city is getting. And then I guess my last two questions are -- are bigger ones. The mayor has talked about that agreement that is currently being discussed and I think that may answer the question that I asked earlier that I still have and that is we set out with a M.U.D. Document that assured that 650 houses, at least at the point of

sale, would be set at a price affordable to people at 80% mfi or below. It's -- it's just not clear to me in this new agreement that we have surety that there will be at least 650 houses on that tract at some point that are affordable at that rate. If I understood what the mayor was saying, it's that second bucket of money and so I look forward to having that discussion and really having surety on that point. Because that's important to make sure that we're all clear on how we gain ground on this -- and that there will still at least be those 650. I want to say again I really do appreciate the intent from councilmember Garza and the mayor and ensuring that those units remain affordable. I think that is really critical. For all of the reasons that you have suggested and I appreciate the time that you spent working on this solution and this -- this idea. I still do need help. I see or I saw earlier Mandy from housing works and I know others of you, councilmember Garza, the mayor, you've worked on and thought about this for a long time and I would ask our housing staff, can you help me understand whether this \$100 million is the right amount for the value we're getting at keeping those 650 units permanently affordable? So if in the -- in the days ahead, if you could provide me with some information about other bond investments and other things, I really

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want to get to the point where I feel confident that that 100 million-dollars is well invested in this particular piece of this agreement. And that that is -- you know, that the benefit we get from those is consistent with some of our other affordable housing investments. We just really haven't, I know that we have sort of asked that question here today, I just think some additional data would be helpful to answering it. Sufficiently for me. I'm just -- I'm not quite there yet. With that answer. And I think that I will just leave it there. But thank you for the conversation. Thank you, city manager, for the responses and -- and, you know, thank you for your continued work in figuring out how we make sure that this does not happen again, that when you have one department negotiating and working with a council office that that information gets communicated up the chain and to other departments that are going to be impacted and that our law department is -- is integrally -- integrally involved throughout that whole process. >> Mayor Adler: Ms. Kitchen? >> Kitchen: I agree with what everyone has said with regard to working on our process and I appreciate everyone's efforts in that regard. Little deeper perhaps and ask some more questions. So with that in mind, just for an item of clarity, so -- so I'm understanding that when we use the word waiver, what we're meaning here is the developer still pays but where they're paying the dollar to is different, they are paying the dollars to the housing fund instead of the water department or other departments. But the developer is still paying, so they are not waiving in the sense that the developer is not paying. Am I right on that? >> That's correct. >> Okay, thank you. >> Mayor Adler: Anyone else on this topic,? Ms. Pool. >> Pool: The other element that I wanted to make sure that we're considering in this discussion is I understand from the mayor's

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chief of staff that he would like to see numerous more of these arrangements be approved by this body and I just wants to indicate my -- want to indicate my caution about that. I think that 100 million here, 50 million there, pretty soon we have a utility that is, you know, bankrupted. I don't know if I'm even speaking in the hyperbole, it just worries me that we are using our utility as a way to fund another program. Again, I'm not against finding ways creatively to fund permanent deeply discounted affordable housing, but I think that it needs to be more transparent. I think the community needs to be able to weigh in on whether they think that it's a good idea. The way we do that is by having a bond sale. It's cleaner, it's more understandable and it's easier to see, much easier to see. So I think that we have another project on our agenda for this week that may be in line for another deal like this. And I hope we

have a fiscal note and I hope we see the entirety of the costs. And just because a fiscal note isn't required for a smart housing project isn't a good enough reason not to give us one. I think that we need to know what the costs are. So I would like to urge staff to help us get our arms around the actual size of the transfers that we may be -- that may be queuing up in front of us for approval. >> Mayor Adler: Okay. Ms. Troxclair. >> Can I ask that as a question. >> [Indiscernible]. >> Pool: So the question would be is this -- is this approach to be part of the conversation and approval on this sun chase pud? >> Are you asking if there's a utility cap pal recovery fee waiver on this; is that

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what the question is? >> Anything at all that would be similar to what was done here on another pud that is queued up for our approval this week. >> As indicated in the city manager's response to you, staff had a meeting with councilmember Garza's staff and it was indicated in that meeting that southeast Travis county M.U.D., which would be the sun chase pud that that item was being considered. There were no decisions about that. Also that other puds may be included in the future is what was indicated. In terms of the southeast Travis county muds Austin water has not been involved in any negotiations about that. I do not know what the current status is or what other kinds of things may be discussed about affordable housing or some type of funding mechanisms. In terms of that particular consent agreement, it's different than pilot knob in that all wastewater capital recovery fees were waived in the concept agreement because legally -- consent agreement because legally there is a separate water treatment plant that's serving that development. As a M.U.D., it cannot bond facilities that it's not getting a direct benefit from. But we are collecting, as they build capacity in the water treatment plant, we will be collecting a fee related to that for them purchasing capacity in a city plant. For water, there was 1.9 -- \$1.49 million that was given as a fee credit. And the reason for that credit is that we were negotiating and oversizing to a 36-inch water line and essentially did a cost participation related to that.

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The -- the southeast Travis county muds already had up like pilot knob an approved ser and a council approved water and wastewater agreements and so we were, as part of the negotiation, essentially wiping those out and redoing the deal. In terms of available using the existing capital recovery fee for water, which is \$5,400, they would -- there would approximately be \$19 million in capital recovery water capital recovery fees available. That the city of Austin, Austin water utilities, is expecting to recover. >> Also, I understand whisper valley and Indian hills were also mentioned as possible targets for this kind of a deal. >> That I can't speak to, but whisper valley already has a pud so unless they are coming back for changes, I'm not sure of an opportunity there for that to happen. The Indian hills development is -- does not have a pud it's just zoned for multi-family and for commercial. >> Councilmember, if I could, sun chase is not eligible for smart housing. >> Pool: Right, I think what the mayor pro tem just said was neither was this project. We made it eligible. We made it eligible. So we can -- we can certainly make it eligible. I think that's the point. >> >> Mayor Adler: Anything else? Yes, Ms. Garza? >> You said that my office indicated what in a meeting about sun chase? >> That that may be a development that would be considered for similar scenario of the situation that you have or the arrangement that's been made for pilot knob. >> Garza: Okay, that's not my understanding of what happened in that meeting.

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I would also like to point that out that my staff asked if there was going to be a fiscal for sun chase because my understanding is there has already administratively been some fee waivers done by staff.

They were told there would not be a fiscal posted for this, for sun chase; is that right? >> I'm not aware of being asked about a fiscal note. We were not involved in it in terms of the fee waivers for capital recovery fees, those were done by a previous council as part of the consent agreement and the ordinance therein. >> And will that -- will those fee waivers be in the backup that we're going to vote on? The fiscal showing the impact of those fee waivers, I understand they've been voted on already, but will they be -- >> I can't speak to that. >> Typically we would not put the M.U.D. Transaction that occurred seven years ago as a part of the pud zoning. But if your request is that you would like to have that done, certainly we could provide all of the M.U.D. Backup for these. >> Garza: I think if we are voting on something that has a fiscal impact, your concern here was that -- people want all of the information that's involved with the deal. I don't see why we wouldn't put a fiscal note in the backup for something that we're not going to be voting on. I understand -- there was a fiscal impact involved in that. In the pud agreement seven years ago. >> The mud agreement. >> The mud agreement seven years ago. So I'm just saying I think it would be helpful to provide any kind of whatever fiscal impact there was ever in the backup. >> Mayor Adler: Okay. Ms. Troxclair? >> Troxclair: I just wanted to mention, I assume -- I saw councilmember kitchen pulled item no. 19 or were you -- >> [Indiscernible] >> Troxclair: I just wanted to mention for those who may not be aware, we do have a resolution on the

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council agenda this week, it's item no. 19. That would do kind of exactly what councilmember pool was mentioning as far as the community process and make sure -- it doesn't make any judgment about the affordability or about the transferor anything. All it does is say that this was a big change and that the -- that we need to go back and go through the regular process that -- that a pud would have gone through with all of the information. So it will allow boards and commissions to -- to understand the implication of the transfer there or the decision that was made, allow us to have time to fully discuss it and allow staff to give us a formal recommendation so I hope that you will take a look at that item and know that it doesn't make a prejudgment of whether or not we should in the end move forward with the plan that the -- that the mayor and councilmember Garza have laid out, but it does allow us the time and opportunity for the kind of Normal process that we would have gone through had we had this information at an earlier stage. >> Mayor Adler: Okay. Anything else on this? Yes? >> Renteria: How would -- I just want to ask a question on your resolution there. Is that going to revisit the pilot pud, pilot knob pud? If this is what this is going to do here. >> Troxclair: It's specific to the pilot knob pud, yes. >> Renteria: We're going to have a discussion and we're going to vote on whether we want to revisit all that has been done and then we will take another vote on it. >> Troxclair: Right. >> Mayor Adler: Yes, city manager? >> I just wanted to go back to the question about fiscal notes. That is one of the conversations that we have had but -- my executive team and came to the conclusion that going forward we will be providing a fiscal note relative to the mud and fees associated with the water department. Any other department that's

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being impacted by a mud or capital recovery costs. >> Mayor. >> Mayor Adler: Yes, Mr. Casar? >> Casar: I won't be able to support the resolution as brought forward, sounds like folks who did have objection to the end results could achieve their goal by redirecting their funds that they don't think should be in the housing trust funds to somewhere else. I think the housing trust fund needs to grow for us to not become a city where only certain folks get to enjoy the services and the culture and the life that we have here. If people have ideas for how to keep us at that level and continue growing the housing trust fund through other mechanisms and means, I'm certainly open to it. But -- but I don't think that we should be

trending in the direction of shrinking it. I appreciate the work done by the council to continue funding that -- that work because that's the crisis that we're in right now. So -- so I don't think that we need to go through a whole rezoning -- you know, rezoning process for the property if people have questions about budget and dollars that's totally within our discretion to work on it and to deal [indiscernible] >> Mayor Adler: I'm going to be asking staff to move forward with the agreement that the ordinance calls for. So that folks can see how this actually plays out and what it does and what it means and where the council would have the ability to be able to act or the degree so they can see how this deal would lay out because I think it would answer a lot of the questions that have been asked. Mr. Zimmerman. >> Zimmerman: Thank you, Mr. Mayor. I have a couple of rhetorical questions, but I do have one practical question to ask towards the end. I would like to ask if we can have the Austin housing corporation and also the developer, if the developer could come, because I want to ask the two of them about

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an important issue that I think that I have. Let me first go back to something councilmember Garza mentioned about -- >> Mayor Adler: Before we bring up the housing, let's hold off on the fact witnesses. In the past we haven't brought up fact witnesses in this setting. >> Zimmerman: If it's agreeable with the council. >> Mayor Adler: Obviously, we haven't allowed that before. There have been earlier requests before. I want to be sure -- >> Zimmerman: Sure, sure, the question regards this issue of -- of the sale and resale of the -- of the subsidized units or as you call them the affordable units. Who administers that program. What would happen in a possible scenario where median family income, we had a bad economy and it actually dropped and the price of the home, if it has to be in accordance with median family income, if it dropped would the person then be required to sell their home for less than they paid for it? Because the median family income in the case that it declined -- that's a question that I have. I wanted to understand from the developer who is responsible for qualifying the people, do they have 80% median family income, is that a fact or is it somebody who is hiding their income, a drug dealer that doesn't report any income so they would qualify under the rules? I'm trying to understand that. I think there's some of that responsibility maybe on the developer. Maybe it's not. But I would like to have that conversation. >> Mayor Adler: Can you answer those questions or are those things to be developed in the agreement? >> My again ram answer to your question -- general answer to your question, there could be a process to have an income eligibility requirement to all of the families that purchase the affordable homes, whether the finance corporation does that, whether another non-profit does that, there will be an entity that is experienced in doing -- income eligibility for home ownership. So there will be

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documentation to verify that the families that purchase the homes will be income eligible. So you are saying there is no -- the developer to have any responsibility for qualifying people, finding out who is eligible to -- to do a lottery system, there are going to be a lot of people that qualify and very few properties -- >> We could certainly write in that the developer could in fact assist with that activity. Again, those agreements -- those agreements have not been finalized. It could be the developer. It could be the finance corporation, it could be another entity that is experienced in that. It will be an entity that does have experience in the ability to do income >> Zimmerman: Sounds like it's another unknown. The developer doesn't know, either. You don't know, he doesn't know. So it's an unknown. So okay. Let me draw your attention back to something that councilmember Garza had brought up regarding backup material. And I have an email here, this is really important when we're talking about process, back on December 7th I received an email that says from the agenda office, our standard processes for staff to

vet and approve all backup for staff initiated items. So -- so this was in the context of the republic waste contract renewal for Austin energy. That was unanimously opposed by the zero waist advisory commission, they man unanimously said they didn't want it, staff brought it to council anyway. I tried to attach some backup material, why did they vote against it unanimously. I had backup material, I submitted it to of is it a, they refused to put it into the backup. Even if you asked for it,

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said please put this material, they don't have. They feel that they don't have to put it in the backup. That's a big problem. Okay. So let me move on to my second issue -- I want to back up, Mr. Mayor to your comments. I think you artfully presented your case for what we are doing with the housing subsidies, but I would have to title your speech institutionalizing economic segregation through cost shifting. Because that's really what we're doing. We're doing cost shifting. Councilmember troxclair touched on this, but it's cost shifting. Somebody has to pay. Here's the pilot knob deal comparison chart and I highlighted the top line. And it says under the new deal, the old deal it says 60 million to water department, the new deal is the money goes to housing fund that council can redirect. To the water department. So it's cost shifting. I think we've mentioned that before. But here's what's interesting about this politically. Five of us are getting ready to go into reelection campaigns. Yeehaw, terrific. So the way this can be couched in a political campaign is if the choice is now that the housing fund now has the money, let's say the housing fund has the \$60 million. The way this is going to be couched politically is if you leave that money, the development mitigation, if you leave the money in the housing fund, you are for "Affordable housing" but if you are for moving that money that was originally development mitigation fees, if you move that to the water department, now you're for subsidizing development. Because where this whole thing started was the people in Austin were really upset that their fees, taxes, rates were going up and up and up to subsidize new development. So the people in the city said all right we don't want to force people that live here to subsidize the growth, so let's increase the fees to pay for the growth. All right.

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So we increased the fees to pay for the growth from what \$1,500 to \$7,600. A dramatic increase in the fees. Now we're going to pay for growth. Well, now we're not paying for growth. We're diverting into a so-called affordable housing fund. Now if you leave it in there you can say I'm for affordable housing I want to leave it in the housing fund. But if you want it to go back to its original purpose, which was to mitigate the cost of development, then you can be accused of being pro development. This is all so twisted. Let me finish with this thought here: The way I heard this originally represented. We said everybody is for affordable housing. If it is affordable housing, if 10% is good, 20% ought to be twice as good. So if that logic is true, why not make 50% of the homes affordable through ordinance. If we can accomplish affordability by the city passes laws and ordinances, why not 50%? Why not 98%? Why don't we just pass an ordinance and demand that 98% of all of our housing is "Affordable" and let's get the top 2% to pay. We've heard a lot about this in this presidential campaign. The top 2% don't pay their fair share. Let's have the city of Austin pass an ordinance that 98% of the homes are going to be affordable and the top 2% are going to pay the rest. So we're getting to be silly, I hope. But let's take it a step further. Why don't we make 100%, let's make 100% of the homes affordable. Now we're foolish, right? Because there's nobody left to shift the cost to. There's nobody left. There's nobody left to shift the cost to. To say that we are foolish by mandating that 100% of the units be affordable, why

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can't we understand that it's foolish to say 10% are going to be affordable? Because they're not affordable. It's just cost shifting. All right. The final question that I had I guess was already answered and that was I don't -- it's not clear how these -- how this so-called affordable, the cost shifting, how the subsidies are going to work. It's not clear how we're going to exactly who the 10% beneficiaries are or the 20% or whatever they are. I'm just going to predict right now, if this goes through, it won't be long before we start seeing lawsuits from people who say they were discriminated against. They were eligible for unwith of these subsidized units, they didn't get their subsidy, they're going to file a lawsuit. That's coming next. I'm very demoralized at this whole conversation because again we're not talking about affordability, we're simply talking about cost shifting. >> Mayor Adler: Any further discussion on this item? Ms. Pool. >> Pool: I just wanted to draw everybody's attention to the three be it resolveds at the back of this ordinance, I heard some of you say you wanted to vote against it. I wanted to explicate, it may be Thursday we will separate the questions. The first asks the city manager to give us a briefing on history and development of the current policy on capital recovery fees, plus a history on payments from the water utility into the sustainability fund for affordable housing and I think that's important information for us to have. The second be it further resolved, also directs the city manager to provide a financial analysis and briefing regarding the water utility impact fee waivers for affordable housing and then it goes on. And to initiate amendments to the affordable housing and fee waiver portion of the pilot knob pud zoning

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ordinance. So it may be, in fact, that some of what is suggested here is -- can be supported by a majority of this council, if indeed we remain somewhat split on whether we should revisit the elements of the pilot knob agreement. So I would ask you, before you -- before you make up your minds on what you want to do on this item, on Thursday, that councilmember troxclair has -- has initiated and my staff worked closely with in order to try to tease out the lessons to be learned. That we not necessarily voted -- vote it down in its entirety, but there are some elements here that would serve to provide transparency and learning for all of us and help the community understand what it is that we're doing. >> Mayor Adler: Any further discussion? All right. We will move off of pilot knob. Tnc is up on several different things. While we're together as a group -- I'm sorry. >> Kitchen: Are we going to eat lunch? >> Mayor Adler: 1:30. All right. Sorry. To come back and have a discussion before Thursday on tnc? There are several different moving parts. I think that might be helpful. For people to hear that. Does anyone want a break if. >> The question I asked whether it needed executive session, we can talk about that in work session, so I would want to talk about that when we come back, not in executive session. >> Mayor Adler: That being said, let's break for lunch. Can we come back at 2:00? 2:15? We will come back at 2:00. We stand recessed. >> Which items are we taking up. >> Mayor Adler: We will at least pick up tnc, we will see what everybody's appetite is for picking up things that have been pulled.

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>> Kitchen: I have a very brief one that I would like to bring up, very short. >> Troxclair: I have a -- an appointment at 2:00. So I'm -- it should be quick. I should be back here by 2:30, but I didn't know that we were going to go this long today. Of course I would like to be here for the tnc discussion. >> Mayor Adler: We will check the will of the council and see if we can do that. >> Tovo: I'm the opposite. >> Mayor Adler: We'll be back here at 2:00.

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>> Zimmerman: Mr. Mayor, mayor pro tem, can we go ahead and start? We have a quorum here. >> Mayor Adler: All right, let's go ahead and gear back up. After lunch recess, we're in the Austin city council work session meeting. We have individual items where we have the tnc item to raise. We have the -- which -- we have the tnc item to raise. We have the parkland dedication, we have the legal fee issue. Is there something you wanted to say about the legal fee issue quickly? >> Zimmerman: There is, quickly. The question I'd like to explore a little bit Thursday in a brief executive session over the option for contingency payment may be based on the results of the legal arc. I know sometimes legal contracts are arranged that way, right. You might have your choice of paying everything up front irrespective of the outcome, or in other cases, you can have contingency-based agreements. So that's kind of what I wanted to talk about. It would probably make sense to do that in the executive session. >> Mayor Adler: Yeah, I think that's a contract. >> Zimmerman: Mr. Mayor, I think the public record out there already -- the law firm had worked on some other power agreements, maybe with Icra. Did they have some experience working with Icra? >> Mayor Adler: That's my understanding. >> Zimmerman: So I'd like to kind of dig into that, too, a little bit. >> Mayor Adler: My guess would be, a conversation on that would be limited, as we would want the conversation to be on ours. But, certainly, to ask that question, I am, though,

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encouraged by the fact that that's an issue that, as a council, we're pursuing. Because certainly that project is having an impact on the utility rates that we pay. So I'm encouraged that that's an item that we're pursuing. >> Mayor. >> Mayor Adler: Yes. >> Pool: I also wanted to note that on the bio-mass-generated electric power plant, that was one time the environmental and business community were united against the participant, that power plant, interestingly enough. There is some history on that. It's kind of an interesting bed fellows kind of thing. I think this is one of those deals were our council decided to buy it, and we're left with having to pick up after it. And I guess we could ask until the cows come home, but it's not going to change any of that. But I did want to mention that the environmental community also was against that purchase. >> Zimmerman: That's correct. I think it was Paul robins brought that out. I dug into that. That's entirely correct, and kind of surprising. It was sold as part of the climate protection plan. And if that was true, then why did so many environmentalists oppose it. So, very interesting. >> Pool: And I think that there was also regret expressed later by the council that made that decision, with that decision. >> Mayor Adler: Councilmember kitchen, did you want to say something quickly about Thornton road? >> Kitchen: Yes, I can. I don't see jerry here, but, essentially, I just wanted to let everyone know that that item, we're placing a postponement on it. So I've been working with jerry rusthoven on that item. That relates to a development on Thornton road which is off of -- just east of the railroad tracks. It's a situation where the neighbors have a valid petition.

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So for it to go forward, would require a supermajority. The planning commission voted against it going forward. But the staff is proposing it go forward with conditions. I'm asking -- oh, hi, jerry. [Chuckling] So I was just explaining to everyone that we were requesting a postponement on that item. The postponement -- to cut to the chase, this is a development in the south Lamar mitigation area. South Lamar mitigation plan area, which is an area that's experiencing significant flooding. And the south Lamar mitigation plan is designed to look at development in a way that addresses that flooding. And so simply asking for a postponement to allow time to meet with the developer, and the neighbors, and watershed to understand the impact of those requirements on this development. And I think you've

been checking with the developer and we may have agreement on postponing that. >> Mayor Adler: Okay. >> Jerry rust heaven, planning, yes, I've reached out, we're waiting to hear back. >> Kitchen: Okay. I wanted to signal to everyone. I wouldn't assume that anyone would have any concerns with postponing it, so. Does anybody have any questions or concerns about postponing it? Okay. >> Mayor Adler: Jerry, can you also 12east. I understand that that was postponed, what happened there? >> It'll be going up this evening. >> Mayor Adler: Okay, this evening. >> So we'll see what happens there. There's a chance it may be postponed there, in which case, we would ask for a postponement to city council. If it goes through the planning commission tonight, we'll get it to you on Thursday. >> Mayor Adler: Okay. >> Houston: Mayor, this is one of those situations where it goes to the planning commission, and it's already on the agenda for Thursday. The neighbors would like --

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because they prep and prep and prep for this, and then we postpone and postpone. The neighbors would like to go ahead and hear it on Thursday regardless of what the planning commission does. But, you know, I'll need to check with them after we hear from the planning commission. That's one of those things that drives us crazy. There's no reason for it to be scheduled that closely. >> Mayor Adler: Two issues. One, scheduling the planning commission meeting so close to the council meeting. We're not going to be able to effectively assess or weigh the conversation or input that happens at the planning commission meeting. And the second one is, I know that we set these for the planning commission meeting and then for the council meeting because we anticipate that they're going to happen. But the problem with setting it, then, is that when it gets postponed or isn't considered, or it's too close at the planning commission meeting, the neighborhood still sees it on the agenda, so they're repeatedly going through the drill. And I wonder if the answer is that we don't actually put it on the council meeting until after it's gone to the planning commission. So there's always going to be a delay of at least two weeks to make sure that it is past the planning commission before you put it on the agenda for the city council, because otherwise we're within a short window and there's a chance that these things get postponed. But the neighborhood is continually being put through the drill. There's got to be a better way for us to do this. >> The code does not allow us to schedule both items for the same week. But, we mail out notice saying it's going to be at city council this day, and the commission some day before that. It gets postponed at the planning commission, it ends up the same week as the council. As far as the idea -- I understand the concern about not having the backup, not having the planning commission action available to you until Wednesday. But, if we did wait until -- we could wait until the Minnesota planning

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commission before the council, but, it would be more than two weeks. We'd have to mail a notice, and we wouldn't do that until after the planning commission action. Secondly, we have to take out a newspaper notice, and they require a three-week lead time. So, when you consider internal deadlines plus the newspaper deadline, you'd be looking at a guaranteed minimum of a month between planning commission and the city council, and with the zoning meeting occurring once a month, we may be looking at a month or a half, or sometimes two. We could do that. >> Houston: Mayor, what we're doing is that we are neighbors -- people who are elderly, some have jobs. They're exhausted by the time they go through this routine. On this particular thing, they've been going through it for almost a year now. They go to the planning commission. They give up. It gets postponed in the planning commission. They come back again. So it's -- how do we sync up these things so that the people who are the direct -- have the most interest are not exhausted by the time we get to hear it. And so whatever that is, if it's having to wait two months, then I'm willing to do that. But this is unfair to our community. >> And,

mayor, I do believe we need to have the action by the planning commission, even if it's no action or they decide not to go forward before we hear the case at the city council. >> Mayor Adler: I don't think there's any question about that. I have reservation about having the council meet within a day or two, because I won't be able to hear the arguments or look at the tapes in that intervening period of time. And I'm -- I lean, kind of, where Ms. Houston was, where if it took four weeks to be able to do it to have the time in between, then I'd be -- as I sit here right now, probably a larger conversation, I'd be inclined to do that so it wasn't set until it was ready to be

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set, so that we're not postponing it. Ms. Gallo. >> Gallo: I was going to offer, also, that we could -- if we needed to for permanent scheduling purposes, we could always move the Austin energy meeting to a different week. But I think the problem is the planning commission is second and fourth, and zap is first and third. So I don't think that really does anything. And we seem to have city council meetings every -- Austin energy Thursday anyway, so. >> At the office, we can see what happens on this case tonight. What you choose to do on Thursday. What if we did do that, what if we waited until commission action to schedule case for the city council, and I'll get back to y'all with a memo on what the impact would be. >> Mayor Adler: That would be great. Thank you. Any further -- so that's Thornton. Did you want to say something quickly about boys and girls club? >> Houston: The concern of the neighborhood is the traffic. Is there a traffic impact analysis. But I probably will be asking for a postponement on 29 and 30, boys and girls club, on Thursday. >> I have breaking news. We received a postpone request from the neighborhood. And I did hear just about an hour ago from the applicant that they will not oppose that request, so. >> Houston: Thank you. >> Mayor Adler: Okay. In fairness to the people, Ms. Houston, on 1-2 who are watching this and looking for direction on what's going to happen on Thursday, where they might show up again, my personal view is, if it gets postponed tonight, I would want to postpone the matter. And I would be inclined to probably postpone the matter if it's heard two days before the meeting. So I don't know if other people want to weigh in, or whether we

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want to address that question. >> Houston: I don't think it's our decision. It's the people who are having to give up to come here. So I really do need to talk to them. >> Mayor Adler: Okay. >> Houston: And I'll be ready to make a motion on Thursday. >> Mayor Adler: Okay. If you get a feel for something ahead of time and can post it on the bulletin board, that would be helpful. >> Houston: I'll do that. >> Just for clarification purposes, the Thornton road item, which is item 32, I did check with the neighbors, and they're fine with the postponement. >> Mayor Adler: Okay. So it looks like 29, 30, and 32 at least will be postponed. Okay. All right. Does anybody want to talk about the tnc -- >> Mayor. There were -- number 8 and 11 were both pulled. May I address both of those? They're both quick. >> Mayor Adler: Okay. >> So number 8, which was the planning, development zoning cases, we put this on a pull because initially, bull creek road coalition was going to ask for a postponement. But now we've been notified that they're not requesting the postponement, and it looks like they will be giving us something in support of the resolution, the ordinance, with mayor pro tem's amendments to it. So there was also a question that I wanted legal to answer that we thought might need to be addressed in executive session. But it was indicated to us that it could be before an open session, so we can ask that question on Thursday instead. So that takes care of number 8. And then number 11. So what happened with this -- so this is one with the many, the save many resolution. And there are a group of people that would like to come speak. I don't think it will take very long, but they requested if we could set it for time certain at 11:00, then they could come and

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give their brief presentation and go home. So that would just be a request to set that item for 11:00. >> Mayor Adler: Does anybody have a concern or issue with that? This is pilot -- this is the many golf course, which is item number 13. >> Gallo: Mhmm. >> Mayor Adler: Is that a certain? >> Gallo: And I'm sorry. I got the items a little confused. >> Mayor Adler: You think it'll be a relatively short presentation? >> Gallo: Oh, yes. I think there's maybe four speakers, that's it. They've just put a lot of work into this. >> Mayor Adler: Councilmember for an 11:00 A.M. Time certain. I don't have a problem with that. All right. Next item, 11. Did you want to address that? >> Gallo: So, 11 is the one that -- actually, hold on. >> Mayor Adler: Parkland deal. >> Gallo: There was a little bit of confusing in the posting language which has been corrected now with item number 58. So on Thursday we'll actually be talking about item 58 instead of 11. The posting language was not the most recent language that was intended to be posted -- and the sponsors were not listed correctly. >> Mayor Adler: Okay. All right. >> Gallo: So just to point out that it'll actually be 58 that we'll be discussing instead of 11 on Thursday. >> Mayor Adler: Okay. I think that gets us down to two items that we haven't addressed yet. One is the committee structure, and the other one is the tnc. Do we want to hit the -- oops, sorry. [Off mic] >> Mayor Adler: I'm sorry. The transportation issue. Do you want to address that real fast?

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>> Yes. >> Okay. Item 17 is the proposed resolution directing the city manager to initiate a public involvement process regarding potential transportation projects and funding options. I'm passing around a draft resolution that -- this is the resolution that was passed out at our mobility committee meeting, last week I believe it was, and didn't get posted. But this is the resolution that I'll be bringing forward. And it's the same thing that we spoke from at the mobility committee meeting. And it simply directs the city manager to establish a public conversation and input process to discuss the potential transportation projects and funding options. It has some suggested language about what that process might entail, including the number of commissions, etc., to go through. And then suggests that the effort would be made to complete this process in time to have a public hearing and bringing back information at the June mobility committee meeting. So I put this out for discussion. And I just wanted to bring it to everybody's attention and see if anybody wanted to talk about it today or not. I wasn't -- I don't have a feel for how the councilmembers are feeling about whether you all want to go forward with this process. So I wanted to bring it up for discussion and potential vote. >> Mayor Adler: My sense -- I thank the mobility committee for working on this. We just saw a presentation this morning that said that on the survey, this kind of thing was what concerned our folks more than anything else. And to initiate a community

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conversation that doesn't prescribe where the conversation will end up, but one that says, let's figure out what, if anything, people want to do, and in what way, I support 100% having that community conversation and then coming back for us with suggestions on what to do. >> Kitchen: Okay. >> Mayor Adler: Ms. Pool. >> Pool: I agree. I think kicking off a community conversation on these larger issues is a really good idea. And also, on item 58, that's an area where I think we should have a community conversation before we go about changing the code. And I've been thinking that it might be nice to have a discussion about a moratorium on code changes, because we're in the middle of codenext, and we continue to change it. And I think it would be nice to maybe slow down on that so staff can catch up and

then see where we're at once codenext is complete. I think a year ago we had this conversation, and it seemed to be a general will of the council to slow down on code changes while codenext was in play, but none of us put a resolution out there to make that change. So maybe we need to. But voluntary compliance is usually better than enforced compliance. But back to this, in most every area, I think community conversation would be kicked off and facilitated, that's a really good idea. >> Kitchen: Okay. >> Mayor Adler: Any further discussion on this item? Yes. Mr. Zimmerman. >> Zimmerman: So if I look at the third whereas on the draft resolution, I don't have the votes to get -- put forward what I'd like to do, but just to clarify, I would modify that statement and say strike because no single fix will solve our problem, I'd strike those words out. And then I'd put a period at the end of roads. That's how I would fix that to reflect what I think are the majority of our constituents. We have neglected our system of roads for decades. And by that I mean we still

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don't have one traffic loop around our city, while some other cities are on their second and third loops. We don't have one loop. Elections -- to spend, you know, billion dollars on light rail or urban rail. We've had bus rapid transit. We've had quite a few projects and more expenditures on buses. And ridership has still gone down. We've talked a lot about, you know, sidewalks, quite a bit of bicycles, urban trails, what have you. The one thing in my opinion and in my constituents' opinion we have not done in 30 years is we haven't focused on the better-connected system of roads. And I'd like to have a chance to just focus and have a conversation just on that. That's what I'd really appreciate, knowing I don't have the votes to get that. But, thank you. >> Mayor Adler: Okay. >> Kitchen: I would like -- I'm not hearing any concerns with moving forward with this. So, okay. What about -- I think that it would be helpful for the public to understand a time certain on this. I don't know if we will have much testimony, but we may have some folks who want to testify. So I think it would be helpful to have a time certain. I don't have a preference on when that is. >> Mayor Adler: Time certain on this item number 17? >> Kitchen: Yes, uh-huh. >> Mayor Adler: A time that it won't come before? >> Kitchen: So what would people -- >> Mayor Adler: 2:00? >> Kitchen: 2:00? Okay. >> Mayor Adler: Okay. I don't have a problem with that. 2:00 P.M. Time certain. Okay. That's that item. Anything else before we do tnc? Does anybody want to say anything about tncs? >> Casar: Before we get to tncs -- >> Mayor Adler: Yes. >> Casar: I just want to hand out one amendment to the resolution on, sort of, committees and committee culture. It's small, but it sort of

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acknowledges that different committees may want to do things different ways, and allows a little bit more flexibility. So I'll hand it out, but it's very, very minor. >> Mayor Adler: Okay. >> Mayor Adler: Anything else before we get to tncs? Okay. Let's talk tnc and the items that -- item put to us this week to accept the initiative ordinance or to set an election. All right. I'll go first. Only because I'm accused of showing up at these meetings on Thursday and surprising people. I'm trying to do it a little differently this time, and we'll see how that goes. Kind of come on into the middle of conversation as it's happening, which means I've been posting things before they were really baked so that people could at least see what I was thinking. I am guided on this tnc debate based on safety. And to me, it's all about safety to me. I think we need to have a broad conversation about safety involving this industry and how we deal with safety in other industries. And I think that's a good conversation for us to have. As concerns this particular issue in the context of that larger safety conversation, what has arisen is the question of fingerprinting that we had in December. And, again, I heard my public

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safety people tell us that fingerprinting made for a safer -- made for -- in addition to a background check, for that reason, we should do it. They said having tncs at scale in the city increased safety because it took drunk drivers off the road. I was uncomfortable trying to decide between sexual assault and -- drunk driving. I hate that position. The question was how to reconcile those two to end up where I don't have to choose between those two, in the context of companies that were saying if you adopt mandatory fingerprinting, we're going to leave. If they leave, that decreases safety. If they say and they're not fingerprinted, that doesn't get us to the safety place we want to be. So we passed something in December. What I'm concerned about with what we passed in December is that it had within it certain inconsistencies, I think, and ambiguities. And I -- regardless of what else we do, I would like to see us fix that. I posted an amendment on the bulletin board that I think is a possible amendment. I would like to see us amend that, in part because I don't support mandatory fingerprinting. I support the badge, the concept of having a voluntary system. Because I think that could have us both scale a lot of drivers, and drivers who are fingerprinted. And I was encouraged by the support that that had from both safe place people and the ride scout and other people. And I think it fits with the way governments need to be looking at regulation moving forward. I'm appreciative and proudly part of a council that a couple weeks ago passed that program. And I would like to see that program be successful. So first I posted an ordinance that I would like to see us do.

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Probably we'll move that ordinance or something like that ordinance. You know, it would be superseded by the initiative ordinance, if we passed an initiative ordinance. If we didn't pass the initiative ordinance, it could be what is on our books at the election in may if we don't adopt the initiative ordinance. People would want to know, if I vote no on the initiative ordinance, what's our ordinance going to be. And I think it shouldn't be what we passed in December. I think it should be something else. So I could see myself bringing to this council an ordinance that would be our ordinance in may if it's not superseded by the initiative ordinance. With respect to the initiative ordinance, I am still -- the decision on that -- I am still governed by the safety issue. I'm still governed by trying to figure out what is it that will best get us to having this larger safety conversation. And in that context, fingerprinted drivers at scale. And in order to do that, I'm concerned -- I'm trying to find the path that gets me those two things, because to me, that's not a compromise. To me, that is actually achieving the end of getting a real choice for people in our city that want to be able to choose a fingerprinted driver. The context has now changed, because now we have a petition that's been signed between somewhere between 25,000 people and 60,000 people, depending on whatever. It's somewhere in that range. And I think that when a community gets together like that in any context, as a council, we should honor that. At the same time I'm concerned about us moving to a place where we're governing by initiative. That's not a good way to govern.

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That's 10% or some percent of the population, the voting people, and that's not 90% of the voting people. So it's a faster, bigger display than we've ever seen before, but even at that, it's not everybody in the city. And I just think that's a bad practice for us to move forward with respect to governance. I am concerned about having an election that will cost us six to \$800,000. There are lots of other ways I would like to see 6 to \$800,000 spent in our city than running an election, and I am concerned about the amount of time, energy, emotion, and blood, sweat and tears that an election is going to cost the city over the next four months, when I would rather us be focusing on the mobility questions and the

community conversation that's going to be happening there, or the affordability conversations that we were having this morning, or coming up with different ways to do things. So I'm concerned about that election. As I have talked to the loaders -- leaders at safe place, as well as the leaders of our -- I'm going to call them kind of the ride scout-ish-type community, and looking at the badge, what I keep hearing from all of them is, try to find the best path that preserves the badge as something that can be expanded and used. That the possibility might exist for us on Thursday to approve the initiative ordinance, which means we don't have an election many may. Election -- in may, but at the same time, enter into an agreement with Lyft and Uber that would have them, by way of contract, joining with us in that larger safety conversation that we're talking about, and to do it in a way that actually gives -- I think for the first time anywhere -- an actual physical choice for someone on,

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say, 6th street or an event to say, I want a fingerprinted driver, tnc driver, and there's a place I can go to get that. They would have them endorsing the incentive program that we did two weeks ago, which I think is pretty remarkable. As well as increasing the funds that they would spend that we can spend on safety programs. The one thing that they have indicated that they have some difficulty with is the -- since they believe that, their fingerprinting process is safer than another fingerprinting process, they want a system whereby we are giving choices to people, but real choices. And they'll join us on that. But without, by setting up those choice, the city making, in that context, making them accept a value judgment that they don't agree with. And I think we can easily accommodate that. I think that we can set up an agreement as set out in the mou that gives this community what a lot of people have indicated they wanted, which is a -- you know, within the barricades, new areas that tncs can't get to, a place that fingerprinted driver can go, and another line that would be tncs that have technological advancements to deal with safety, like maybe letting ten friends know you're getting into a tnc. In my mind, that is a solution to this problem that gets us support on all the rest of the badge ordinance, and gives people the ability to actually pick a fingerprinted driver. And as I look at that, it seems to me that in this city, taking all things into consideration, if we're able to work out such a contract, for me, that would be

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the preferred way for us to go. It has the support from the safe place people, from Kelly white, who I've spoken to a couple times over the last few days, and again this morning. It has support from some of the people who testified against on the other side of safe place back in December when we had testimony. And I support it because I -- well, I've been working on this kind of badge concept for the last eight weeks. Lots of conversations with lots of people as it was being developed, and we were deciding what incentives could be there, and what incentives didn't need to be there. And I think that we feel that the incentives that are there, coupled with the support, give us the situation that would be the best way to ensure that this optional, voluntary methodology would have a chance to work. So I've laid out an mou, I laid out language on Sunday, I think. I've laid out a little bit different language today, also, on the bulletin board. Since I've invited everybody into the back and forth of discussions here in this process to be open and transparent, so there's another version out today. It's very close to what we posted before. It provides us the opportunity on an unlimited basis to have a direct place where someone can choose a fingerprint at large events and gives us -- that would be south by, or acl, or trail or lights, or any of those kinds of things where the city does those kinds of designations. And it also gives us ten others around the city. So we could do 6th street on weekends. And it gives us the opportunity to move those around or change them as the traffic department

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would see appropriate. But for me, that solution honors the people who signed the petition, maintains our ability to actually drive safety in the way that safe place would. It comes as a voluntary -- where companies are voluntarily entering into agreements with the city, which I think should be encouraged. And it helps us meet the safety requirement. And it helps this city avoid an election in May, and for a period of time that I just -- before we spend a million, or two million, or 3 million, or whatever it is on an election, I think we have better uses for our time, energy, and resources than that. So that's what I've laid out. Ms. Kitchen, and then Mr. Zimmerman. >> Kitchen: I think I'm understanding that the intention is to bring the mou forward on Thursday. Is that -- did I hear you correctly? >> Mayor Adler: If there's an agreement to an mou on Thursday, then, yes, I'll bring it forward. >> Kitchen: Okay. So at this point in time, we don't have agreement from the tncs? Is that right? What's the status of the mou? I'm just trying to understand. >> Mayor Adler: I'm trying to decide how to answer that question. >> Kitchen: I mean -- >> Mayor Adler: I wouldn't be talking about it this much if I didn't think it was worth talking about, but -- >> Kitchen: Okay. So there's still conversation. >> Mayor Adler: Yes. >> Kitchen: I'm only asking that because it's been posted. It's public, so I thought we could understand publicly who had agreed to it and who had not. But if you're having conversations and not prepared to say that, that's fine. >> Mayor Adler: I'm having conversations with the large tncs in the city. >> Kitchen: Okay. All right. Well, my concern remains the same. I think I've posted my concerns

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on the council message board. First off, you know, I do want to applaud you for attempting to find a resolution through an mou. I'm not opposed to an mou at all. I think that that route would be a route that could be very helpful to us, because in that circumstance what we would do is adopt the ordinance and go forward with an mou. My concern is that I think that the mou -- the language as written in the mou essentially . . . I don't think it furthers the goal of the badge program. And I don't think that it will get us to the goal of obtaining fingerprints. Because what it does is it fundamentally changes what to my mind was a key provision of the badge. And that was the -- as part of working with and encouraging, and assisting and promoting drivers to become fingerprinted, what we had set up in the badge program was allowing to set a geographic area for fingerprinted drivers to be in. But what this does is it takes that away and fundamentally changes that element of the badge program. And I might not be as concerned about other elements of the badge program, but this, to my mind, was a key element of the badge program. And so the language of the mou simply says that now we have to set up two areas, and they have to be the same or separate and equal in location. So that concerns me. But on top of that, you have to assign the areas by public blind draw, which takes away any discretion for the city in determining where those areas

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are and who goes in which area. So to my mind, that's just a fundamental change in the badge program. And we can agree or disagree on that, but from my perspective, I supported the badge program because I thought that with the kinds of encouragements that we had in it that it could work towards helping getting us towards the goal of fingerprinting. But to my mind, taking away what to me is a fundamental component of the badge program, I can't do. So that's where I stand on that. >> Mayor Adler: Mr. Zimmerman. >> Zimmerman: Thank you, Mr. Mayor. First, I want to commend you for tenacity. I am deeply impressed at your tenacity on the subject here. Second thing, let me go back to something my engineer side keeps jumping on. We have already identified two versions of the memorandum of

understanding. I've identified them version one and version two. I think we might have taken them off the bulletin board at different times, but the second one -- >> Mayor Adler: One on Sunday, and one was this morning. >> Zimmerman: One was this morning. It would be so helpful to label them so that we would know which is which, because it's really confusing for people to know which one. But the second one here does establish on page 2 a sum of \$200,000. Let's see. It's .5% of the tnc annual gr gross, or \$200,000. So that's one of the differences between the two documents. But first of all, from the -- kind of the philosophical viewpoint, I'm still objecting to the idea that city government grants us choices and that the city government lays out something you can actually do, and that city government is creating, you know, options for tncs or passengers. I'm struggling with this because the exact opposite is true. What city government does is it

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imposes mandates, rules, ordinances, things that you are forced to do. You don't have a choice. So we already have liberties and freedoms and choices in the market, okay. We already have that. Before government existed, we have freedom, liberty, and choice. City government comes in, writes ordinances, and restricts our freedom, and restricts our liberties, and mandates that we do things. They mandate that we pay fees and taxes and sacrifice certain liberties. So that's the first thing I've got to keep emphasizing, is that government doesn't create choices, government removes choices. Okay. As far as content here, it seems like there's maybe a favorable situation being created for people who initially might sign the mou. If you go to page 3, I think it's section 3.2, additional -- let me see if I have it in the right one. Yeah, additional safety features, page 3, bullet item 3.2. The last sentence says the city may designate -- I think what you need to say is mandate, because that's what the city does. It mandates. The city may mandate without limitation further or different additional safety features with other tncs not party to the mou. So in other words, if a competitor -- a tnc competitor -- came into the city, say, six months or a year after we did all of this, that that new tnc competitor could be subject to unlimited, you know, future rules. They call them features, but they'll be mandates and rules -- that the original tncs would not be subject to. That's the way I read this. It seems like, hey, if you're a tnc and you get in on this deal upfront and sign the mou, you're going to have some advantages, because the tncs that come in

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later, there's no limit on the further or different additional safety features that could be imposed on them by the city. A final point, I still don't understand how this is legal. I don't understand how it's legal, because I thought the mou says right at the first recital, it anticipates that we're going to vote in the ordinance as it was petitioned, right. So we have the ordinance that everybody signed the petition for. And it says right here, whereas the city -- the first recital passed and enacted by the city council February 11th, 2016. So we're talking about Thursday, the day after tomorrow. So it looks like the mou anticipates that council has already passed the petition ordinance, right? >> Mayor Adler: Yes. >> Zimmerman: And that then, immediately, immediately we're going to add .5% or 200,000, and maybe you don't have to do it. But if you do do it, you're in the subject to rules that might come a year later for new tnc providers. So I'm just against it. I'm confused. I question it's legality. I think it may seek to set favoritism for the tncs that are here now at the expense of ones that come later, and so I've got a lot of problems with it. I just can't support it. >> Mayor Adler: Let me respond to some of the questions that you raised with the hope that either here, or upon reflection -- and we have until Thursday, and I would hope that you -- because this is something that's new. This is the first time we've had a chance to think about it, that's it's something that you might. The first is, with respect to legality, I think you raise the issue of

when we pass an initiative ordinance, either be it by adopting it on Thursday or at an election in may, there are some who would say that we can't

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make any additional rules for two years in the area of tncs. Some people would say that that means that we can't do a voluntary program like the Ba badge. Some people would say that. But I understand from our legal department that without regard to whether or not that would be true, there's nothing to stop a desiring or participating tnc from coming to the city and saying, "By the way, even though you can't make us do this --" if that was their position, "Regardless of whether you can make us do that, this is something that we want to do because we want to participate in a larger safety program in the city. And as part of our participation in that program, these are things that we're willing to do if the city's willing to do these things." So this is a contract that would be passed -- if it was -- after the initiative ordinance was passed, if it was, that would not be something that we're doing pursuant, necessarily, to powers that still remain with us, but just by virtue of agreement. And I would hope, Mr. Zimmerman, that you would respect a private organizations ability to make such an agreement with the city if they thought that there was a safety program that for whatever reason they wanted to support and be part of. With respect to the fee section, just to be clear, the initiative ordinance has the companies paying a 1% fee. But in this mou, a signing tnc would be saying, we want to pay money on top of that, or we're willing to pay money on top of that to help fund safety programs in the city. And it would either be an

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additional half percent -- so 50% more than what was in the agreement -- or \$200,000 in cash in addition to the 1% that would be in the petition ordinance. And, again, if a company wants to come in and support us with the safety program in doing that, we have -- certainly have the authority to be able to take that. Let me explain 3.2, because you raised that question. This isn't to give anybody an advantage or anything at all. What this is saying is that -- some of them have fingerprinting. Some of them don't have fingerprinting. In our city. Or plan to have fingerprinting and some don't. Some of them have what they tout as being things that they think can contribute to safety. And without regard to whether they are safer or not safer than fingerprinting, there are things that they do that contribute to safety in their models. They have features that provide notice, or information about the driver, and you can -- send it to other people. And what we're saying is that we recognize that they do additional safety features. And for that, when we're making lines of people so that people in our city have a choice and are not mandated to pick one or another, so that they have choice, we can have one line with people that do fingerprinting. We can have another line of people that do things that contribute to safety without regard to relative safety -- just they also contribute to safety. And what this was saying is that there might be another tnc that might come into the city afterwards that might have a different kind of safety feature than the one that the existing ones do, and we wanted to make sure that we were not giving an advantage to the first signers, but allowing the door to be open for -- somebody else to come in with a different kind of safety

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feature and give the city, transportation department, or the manager the ability to say, hey, you know, this also is a net contributor to safety, and we want to encourage that in our city, too. So I know this is new language. I know you were reading it for the first time as it's been laid out. And if you think that language doesn't do what I just described, then please, you know, join me in a conversation about that,

or post that on the bulletin board, because that was the intent of that language. Ms. Kitchen. >> Kitchen: I'll just say one other thing that I meant to say before, and then that's all. The other thing that just concerns me about the mou -- and this is just more, sort of, approach -- is -- and it has to do with my thinking about the badge program. One of the reasons I supported the badge program is because I felt like it was directed at drivers. And our effort as a city to help drivers become fingerprinted. And to have an agreement now with the company -- with the tnc company that says no to their drivers, that their drivers cannot choose an option to be fingerprinted and have the type of encouragement that we put into the badge program, that disturbs me also. >> Mayor Adler: Ms. Kitchen, if you read that somewhere, I would appreciate you pointing it out to me, because clearly the intent here is to let any driver with any tnc choose to get fingerprinted, and any driver with any tnc that chooses to get fingerprinted would be allowed to get into the fingerprint line. In fact, a fingerprinted person for a tnc that was also doing other safety measures could get into either line. So a fingerprinted driver would be the only driver in this city that could go everywhere. And that goes back to the original goal of trying to give people a meaningful choice so they can say, "I want to go

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there," because there is where the fingerprinted drivers are, but also to increase the number of fingerprinted drivers that are in any line, or any street, or any on-call so that we ever-increase the number of participating drivers so that the choice becomes more and more meaningful, even in those places where there's not a specific line that people have the ability to go to. So this in no way -- I would argue the opposite, that this mou would have these companies participating in the badge program. And as they have indicated they would not oppose, or claim that the law stops them -- stops us from being able to do that. So if you see language that suggests otherwise, if you would point that out to me, it may be something I could fix. >> Kitchen: I pointed it out before, same or equal in location established by blind draw. It takes away the discretion of the city to establish an area for fingerprinted drivers. And I understand that's what it's supposed to do. >> Mayor Adler: No, no -- >> Kitchen: Yes it does. Because what you said earlier was that it takes away any value judgment about which, you know, which safety measure we as a city are putting any value on, because -- and that's fine if that's what you want to do or others want to do. But that is not why -- the reason I supported the badge program is because I felt like the badge program provided some encouragement to a driver to get fingerprinted, because that's based on my approach, where I think that fingerprints are the -- you know, and I've talked about that a lot. To me, fingerprints are the appropriate safety measure. So we're just disagreeing on the approach. >> Mayor Adler: What I would like to do is explain 4.1. To be clear, 4.1 allows there to be -- in areas where tnc drivers can't get right now, say, inside

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the barricades on 6th street. So in that block on the perpendicular street, when 6th street is blocked off at 7th and 5th, it creates a block between 7th and 6th, and between 5th and 6th. You could put in a turn-in area in that area, put down cone so is drivers would be able to get in and queue. This could be one designated for fingerprinted drivers. And there could be one that would be designated for other tnc drivers that have other kinds of safety things. By the way, safe place, or anybody that wanted to, could put a big sign in front of the fingerprinted one that says, here's the fingerprinted ones. They could put coasters or people in bars that say, if you want a fingerprinted driver, go to Trinity street, that's the block that has the fingerprinted drivers in it. And we would have two. And people could push or tout, or people could vote with their feet where they wanted to go, or they could be encouraged by other people on the street to go. The blind draw is just intended to be sure that if we're having two lines, one

of those lines doesn't get any favored agreement over the other. So the solution that I put here was the same solution I used to do with my kids when they were arguing about who had the preferred location, or who got the bigger pile of skittles. And I would turn to one of them and I would say, you divide it into two piles. And your sister's going to pick which one of the two piles she wants. So in order to ensure that the locations are equal, the solution that I put into this document was the department manager will say, here are the two locations, I think they're equal. And then we will choose who gets which one by public blind draw. There could be thousands of people in the room at that point, or maybe there's just two. But it would be a public blind draw. But the important thing for me

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is that there would be one that would be designated for each. And if someone wanted to say, hey, this is where you go for that, everybody would know where that was. It would be co-equal in stature, but it wouldn't stop anybody and all of us from sending people to one line or the other one. >> Skittle. >> Mayor Adler: The skittle method. >> Zimmerman: Just one comment. Again, to me, the idea of the blind draw is, we have existing freedoms. The city is going to restrict those freedoms and then award them back through a blind draw. Sorry, I'm still confused on this. >> Mayor Adler: Is there any other further conversation about tncs? Ms. Pool. >> Pool: Moving off of skittles. [Chuckling] >> Mayor Adler: Okay. >> Pool: I have a couple of questions, maybe for legal, on contractor status. >> Mayor Adler: Here's legal. >> Pool: Excellent. Does it change the nature of the employee contract for the drivers such that the drivers are no longer independent contractors, but have become employees if restrictions on -- if the tnc puts restrictions on where their drivers drive, or whether they can voluntarily get fingerprinted? >> The question about whether or not tnc drivers are contract or employees is a question that's going on across the country right now. >> Mayor Adler: You need to put on your microphone. I'm sorry, you need to get closer to it. >> That's a question that's going on around the country right now, whether or not tnc drivers are independent contractors or employees. This ordinance is not going to change that conversation. >> Pool: Do we have the ability to provide employee protections in our program description, protections for the drivers themselves? Like protection against the fares being cut, or being -- or having their application -- the app on their phone turned off so

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they can no longer participate, or any other requirements that the tncs may put on them? Are we able to add protections for drivers in our program? >> I don't think that your ordinance could address those things. What the mayor is talking about is the concept of having a private contract with tncs. And if the tncs agree to it, that would be a different conversation. I don't think your ordinance could do that. >> Pool: So if we wanted to have some protection for the drivers, what vehicle would we use for that? No pun intended. >> That's something we can look into, if that's something that you all want to do. >> Pool: If I need to, should I submit that as a q&a, possibly? >> You've asked the question. >> Pool: Okay. Because some of our offices have been approached by some folks who would be interested in us pursuing how to provide protections to the drivers. >> Mayor Adler: Okay. Any further conversation? Yes. >> Renteria: When -- one thing first. I know exactly what you're trying to do. We could do that anyway without even going through whether there's an election or not, isn't that correct? About your contract with -- about locations. We legally can just say, hey, you don't -- you have to have fingerprints if you want to operate here. And if they don't sign this contract, even if they win this election, we can also say, hey, you're required a licensed background -- fingerprint background check if you operate in this, and we'll let you operate in this location. >> Mayor Adler: Well without -- well, what we do know

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is that there could be a legal challenge to us doing that. And the person to ask what our chances would be or not be in that action would be our legal counsel and probably not as we sit here at this table. So the ultimate question is whether or not we could do that and it would be held up in court. Because there is at least a legal issue presented as to whether or not we would be able to do that or not. But if you don't know that, then probably it would be best for us to, at the end of this, to go back into executive session for a minute or two and hear from our council as to her advice on that. >> Renteria: Well, you know, in my district, I know that, you know -- I'm getting a lot of pushback about, you know, let's take it to the voters and let them decide, because, you know, I know that there was a lot of people that signed that petition. But I know in my district, you know, people are telling me that, you know, they're not afraid about -- of a big corporation that's trying to push its way around here. And it's just a warning to Uber and Lyft and these big tncs that, you know, they're putting themselves at a big risk, of not only having to spend all this money on the campaign -- which they will. And they'll probably end up spending a couple million dollars on this. But the people are really upset out there that we have a big corporation that's trying to bully Austin around. And just to let Uber and Lyft know that, you know, you're not going to win district 3, that's for sure. You might do it in the inner

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city, wherever you got all your petition, but people are really upset. And I've been getting -- there are some groups that are going around doing surveys. And I've found out that, you know, they're really just tired of having some big old corporation come in here and bully us around. So, you know, I really believe that, you know, you're really trying to do your best with this company. And I thought we had a good agreement that you had at first. And they said no. Now you're still waiting at the last minute to hear no or yes, you know. And if they say yes on this, I'm still torn about the one where, you know, they're going to have a blind decision on what location they get to pick. That's really bothered me a lot. I'm having a difficult time with that part. >> Mayor Adler: I hear the concern, I appreciate you keeping an open mind to see how this develops. Thank you. Yes, Ms. Garza. >> Garza: There's been a lot of talk about false choices. And I have to say, I really believe that voluntary fingerprinting provides a false choice, because I appreciate your eternal optimism, but I've lost it in this battle. [Chuckling] Because I have been at the table while it went through the mobility committee, and I feel like time and time again we have retreated, and we have retreated. And when you're compromising -- when you're trying to negotiate with somebody, why would any party move when they see the other party constantly moving towards them? And so that's what's happened here. We've constantly moved. There was a recommendation from the mobility committee. And then that was compromised down. And then we compromised from

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there. Then we changed the effective date. Now we're -- it looks like we're compromising again. And a plan of adopting their language -- which I think sets horrible precedent like I said last time. It cost you \$50,000 to buy a regulation in Austin. I think that's the precedent we set. But adopting their language. And then why would they enter into an mou at that point? They've gotten everything they want. I don't know why anybody would go back to the table if they've gotten the petition language that they want. I also think that the -- I just don't see how we can -- if we're respecting the petition process, that petition belongs to the people who signed that petition. It doesn't belong to the people who financed the signatures there. And so I don't see how we can enter into an agreement with them. To me, I don't see how that's respecting the petition process, because then every single signer would have to agree to that

mou. So then we're going to have to go get 23,000 signatures to make sure that they all agree to the mou? And, you know, I think these are big ideas, and I appreciate them, but the practicality of setting up what essentially sounds like two taxi stands. And that's not how this application works. It works -- the reason why it's so convenient is I can step out of any building anywhere and press a button on my phone and a car comes. If we're saying we're setting up a system where it's essentially two taxi stands, my understanding, under the current tnc regulations -- and I don't think they've changed -- that's one of the things these companies can't do. They can't hail somebody from the street. And so I don't -- anything that requires, you know, what they can and can't do, whether they get fingerprinted or not really

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requires corporation from Uber and Lyft. And it's been very clear that they don't want to cooperate. They have -- you know, they took the nuclear option in this case. And I say we respect that. We respect the petition process. I don't know why we're -- the reason -- we have spent a lot of time on this. We have spent a lot of time on this. And that could've easily been fixed if we had just taken the vote in December and then now this petition has been presented to us. I think that's the prudent course. We've already made a decision. We either decide to adopt the language, or we allow the voters to vote on it. And I have heard overwhelmingly -- thankfully, I was wondering where those voices were. I thought, am I crazy? Why aren't people seeing how this billion-dollar corporation is dictating the rules in Texas. When the public finally caught wind of what exactly was happening, I'm starting to hear overwhelmingly, like councilmember Renteria said, let's have an election. We want an election. So, I really hope that we just leave the December ordinance. There's no need to do anything else. And have an election. And I hope that's what we choose to do. >> Mayor Adler: Any further discussion >> Houston:thank you, mayor. It's not a discussion. It's a comment. I look at this from an equity standpoint and class issue. And there's so many people in my community that either, one, don't have smartphones or, two, don't have credit cards. Maybe day laborers and people who work in what a burger and McDonald's, they don't have credit cards. They pay everything by cash. So this is for people who have both smartphones and a credit card, which leaves out a whole lot of people in district 1. So I just wanted to say that to make sure that we were

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clear that this is not about everybody not having an opportunity. This is about somebody having an opportunity to call a transportation network company and a whole lot of other people not having that opportunity. >> Mayor Adler: Anything else? Ms. Kitchen >> Kitchen: I have a clarification on a little bit different aspect of the tncs, and I'm just bringing this up because there's been some questions that came up recently in all the stuff that we've done, this has gotten lost. One of the things that we talked about in December was the -- making some changes to the ground transportation ordinances to make them comparable. One of the provisions we specifically have been talking about is the national fingerprint, fingerprint-based checks as opposed to just state-based. And so that amendment was in some earlier versions, but then was taken out. And so that is something that I will bring back and I'll try to figure out when the right time is to bring it back you but that has always been our intention. The reason I bring it up is because I'm starting to hear some pushback, again, from folks saying that the background check process for tncs is superior because it's national we always recognize that national was better. We have been saying that for months, and we've said that we're going to make that change. So I'm simply saying that now because I -- you know, folks that are arguing that we are trying to do something that's different should understand that we've already said that the intention is to bring forward to make it a national background check. Related to that is the issue about reentry and which

drivers are eligible to drive. Again, that's another piece that's in the December ordinance that -- it states in the December ordinance that we would look at those

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requirements and come back by separate ordinance to -- to make those on an equal playing field, and that has to do with who is eligible to drive based on what kind of history. So I just wanted to bring up that again today in case anyone has any questions about it. And to let everyone know that I'll be bringing that back at the right time. And we had -- in the December ordinance, we had asked our staff to go back and look at the driver requirements and to look at the differences between the tnc 2014 ordinance and the chauffeur permit requirements and come back to us with recommendations about how we should handle that. So that's still in process, and I didn't -- I want it to be very clear that we never said that we weren't going to make those kinds of changes. >> Mayor Adler: Anything else on the discussion of tncs? Then I think that we're done. Any other issues on any other matter at the work session? >> I have a question. >> Mayor Adler: Ms. Pool. >> Pool: One thing. I got a note -- hang on. Let me pull it up here. Referring to item 58. There is an email from some of the neighbors, bull creek road coalition, saying they are not object to go the M's amendment to the mayor pro tem's ordinance. They wanted to be clear it was not a letter of support. They expressed their disappointment in the amendment, but they do see it as some movement forward. So I think it was characterized as a letter of support. It was not a letter of support. They simply were withdrawing their request to have the discussion postponed. >> Mayor Adler: Say this again? What -- I'm sorry. >> Pool: In your in box you'll have an email. This was on the three quarter

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trigger super majority vote on the P.U.D.S at planning commission. >> Mayor Adler: I'm confused because I never made an amendment floodplain was an amendment that Mr. Zimmerman covered that, I think, Ms. Garza offered that eventually got passed. >> Pool: So the amended language that was passed on first reading. >> Mayor Adler: Okay. >> Pool: Is what the original request was that we postpone that. And the coalition had asked for that postponement and they are saying that they are withdrawing their request for postponement, which I think is what councilmember Gallo said, but they wanted to be clear that they see it as some movement forward, but they're -- they're -- they're still disappointed in the change that was made to the original amendment, which was the mayor pro tem's original initiative. >> Mayor Adler: Got it. >> Pool: Okay. >> Mayor Adler: That I understand. >> Pool: Okay. So did wasn't a letter of enforcement -- endorsement simply eye removal of the request for postponement. >> Kitchen: On the tnc I assume we'll set a time certain because we said last time we'll allow additional testimony this time. So for the public what time will we be taking that up? >> Mayor Adler: What's everybody's pleasure? We could have a lot of people present for this. Do we want to preserve the opportunity to start earlier in the day and then have it go over? Do we want to start -- let's set it at a time certain at 3:00. Hope fully between 3:00 and 4:00 we can start taking testimony and break for proclamation and music and come back if we need to. >> Pool: Which item Numbers would that. >> It's a zoning meeting so there's no proclamation, there's no live music. >> Mayor Adler: Okay. So we just want to say 4 cents then? -- 4:00 then. It would be the tnc-related items. There are at least three of them. There is one that relates to accepting the initiative

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ordinance, one talking about setting of ballot language, one that amends the tnc ordinance and there's

one on the concept of an agreement with tncs. So those four items. >> Pool: Yeah. On the work session it's items 2 and 3 and then 16 and 17. >> Mayor Adler: Okay. >> Pool: I don't know what they are on Thursday's agenda. >> Gallo: I just wanted to respond to councilmember pool's statements, and I appreciate that they clarified with her. I certainly didn't mean to misspeak the representations of the bull creek road coalition so if I have done that I apologize to them but my intention was just to talk about the reason for the postponement and the no postponement. So thank you for bringing that to my attention and they're very observant in everything I say so I know that I want to be careful. Thank you. >> Mayor Adler: Thank you. Anything else? We stand adjourned. [Work session adjourned]