

City Council Work Session Transcript – 2/23/2016

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[9:17:11 AM]

>> Mayor Adler: Are we ready to go ahead and convene this for today? We have a quorum of the Austin city council work session. Today is Tuesday, February 23rd, 2016. It is 9:15. We have a quorum. We have a couple of councilmembers that cannot be with us as we begin this meeting. Ann kitchen is expected to be back a little after 10:00. Sheri Gallo is expected to be here at 11:00. They have both asked that we hold the str until they're back, which would have us doing str's beginning at 11:00. That request comes from both Sheri and Ann who asked for it to be delayed until they were back. We can handle some of these matters before then. Does anybody have any objection to picking up str's at 11? Then we'll go ahead and do that.

>> Houston: Mayor, I think there are a lot of people who have a problem with that.

[Applause]. And I understand and I apologize for you all being here. That's going to come up at 11:00 today. There's no public meeting. So there's no testimony being taken. We'll just have the discussion. We're going to go ahead and start with the items that --

>> Troxclair: Mayor, before we move on, is 11:00 the earliest? Could we touch base with the members and see if 11:00 is the earliest?

>> You can ask that question and 11:00 was the earliest that Sheri Gallo said that she could be here, but you could certainly check with her again.

>> Troxclair: Okay, thanks.

[9:19:11 AM]

>> Mayor Adler: So we're going to go ahead and begin with briefing on the -- the three briefings that we have. They're the first things set. Let's begin with the briefing on fair chance hiring. Is staff here for that?

>> Casar: And mayor, I think if councilmember kitchen can't be here until 10:00 in the morning, I think it might be good for us to wait until we bring that up so she gets a chance to hear that too.

>> Zimmerman: Mr. Mayor, I would also like to suggest 10:00, because 11 for an extra hour is a long time.

>> Casar: I mean the fair house hiring thing.

>> Zimmerman: I wanted to move the str to 10:00.

[Applause].

>> Pool: Point of order, I think we've already agreed on 11:00 for the conversation. I think at 11:00 is where we left that. I think we should delay and let councilmember Gallo let us know if she can get us before 11.

>> Mayor Adler: That was my recommendation to do that. I think these work sessions are for us to be able to talk to each other and be able to gain each other's insight. We don't have a public hearing on this, but we can certainly take a vote on that, Mr. Zimmerman.

>> Zimmerman: I would like to make a motion that we consider a time certain for the str discussion.

>> Mayor Adler: Mr. Zimmerman moves that we consider the str at 10. I think we have several briefings that will take us past that, but in any event set at 10:00. Is there a second to that? Seeing none, we'll stick with the calendar that we have. Let's start the briefing on the Zucker report if Rodney is in here.

>> Tovo: Mayor, I want to say if we ever do something like this again, which is to have action on a work session, for an item where I think the public is going to be involved, I think it would be helpful if we communicated our intentions ahead of time on the message boards so people know when to come.

[9:21:19 AM]

[Applause].

>> Mayor Adler: I think that would be a much better practice. This is the first time we've done this on a Tuesday work session, so we'll learn from this experience. Rodney?

>> Mayor and council, Rodney Gonzalez. I'm the director for the city's services department. Today we'll present to you a progress report and talk about the progress and the completion of many improvements that we've made in the development review process as well as outlining a number of efforts that are underway. To begin with these are the items that we're going to cover in today's progress report. We'll talk about the building blocks, the foundation upon which the development process rests. We're going to talk about the two-year action plan that was presented to the council and to the public in July of last year. And then we're going to get into the substance of the presentation, which is the progress to date, specifically with regard to improvements to the enhancement of customer service, the utilization of technology and the work with the 14 other partner city departments to coordinate the plan review process. We're then going to move on to improvements that are on the horizon that will require some form of council approval. And then we'll close with next steps. Moving to the building blocks. There is a journey of improvements that have been made to the development process. Beginning in 2008 the city manager initiated the review and the revision of the city's comprehensive plan. At that time in 2008 the comprehensive plan was decades old. And as you know this comprehensive plan guides the growth for the city. The comprehensive plan was completed, the update was completed in 2012.

[9:23:21 AM]

The land development code implements the city's comprehensive plan. Now, we all know that the land development code is complex and in some cases it's conflicting. We brought on board a consultant to help us analyze specifically what are the issues that need to be addressed in the city's land development code. So on top of 400 plus layers of code permanentiations, the code itself has been amended 189 times since 1984. 189 times. That code analysis was completed in 2014. As a guide to how we should plan the land development code a code development plan was devised in 2014 and council decided to take an approach for deep cleaning the land development code. There were three approaches that were presented to council and council opted for the deep clean asking approach. Deep cleaning approach. In concert with that the city manager brought on board a consultant, Paul Zucker and his team, Zucker and associates, to look at then the development and review adopt to find out what were the specific issues in the development review process that needed to be addressed. Mr. Zucker completed his analysis in may of last year and there are over 462 recommendations resulting from that analysis. Those recommendations are being implemented in today's progress report will report on the progress of those implementations. Key to all of this and key to the development process is the land development code.

The the codenext process is underway and that process has a timeline for being completed. There's going to be an integral development of the development review process.

[9:25:23 AM]

Moving forward to the two-year action plan --

>> Mayor Adler: Rodney, hold on one second, please P.

>> Pool: Mr. Gonzalez, I just have a quick question. You mentioned that the previous council had opted for the deep cleaning approach on codenext. Could you describe -- my understanding is it was a continuum with deep cleaning at one end, the high end, and no change at all on the low end. And I'm remembering the council fell somewhere not quite at midpoint, but not quite at the top, so I would ask you please to give us a little more detail on your characterization of it as being the deep clean option.

>> Absolutely. And the continuum was, as you've stated, kind of like minor modifications at the low end to a complete makeover at the high end. And the deep clean was kind of the middle ground approach. Now, council did not take the deep clean approach completely. They did take some other components, so you're absolutely correct. So when I say deep clean it was founded on that middle approach of deep clean, but the high end was a complete makeover.

>> Pool: To make it even simpler, weren't there some values attached to the terminology?

>> I think there were and we can certainly provide those to you.

>> Pool: Did it go from like zero to three, for example?

>> Greg Guernsey is going to help us with some of that.

>> Greg Guernsey, planning and zoning. Thank you. Yes, we were talking about doing one, two, three. It came out to be kind of like I guess a two and a half. So right now we are in the midst of going through the codenext process. We actually had a cag, the advisor group process last night, and we will be coming back to brief you in early April, I think is what we're tentatively talking about.

[9:27:26 AM]

So you'll get some additional information in the coming weeks.

>> Pool: That's really great, Mr. Guernsey, thank you. And Mr. Gonzalez as well. I just wanted more background for people who may have been listening in. They may have misunderstood what deep cleaning meant because we didn't know what the rest of the data description points on the continuum might be. And I do remember testing at about 2.5 after some considerable debate and conversation from this dais, I think back in 2014.

>> Yes.

>> Pool: Thank you.

>> Thank you. Phrasers moving forward, the development services department and the planning and zoning department put together a two-year action plan and that was presented to council in July of last year. The primary focus is on customer service, investing in our employees, the utilization of technology, and ensuring that we have a coordinated plan review process with the 14 other partnered city departments and Travis county. We have developed success metrics that define what success looks like. Those success metrics are firm, but at the same time they're flexible to adjust for new information that we receive along this improvement. Moving in to progress to date. There are several slides on customer service improvements that have been made and are currently underway. One of the key takeaways from the Zucker analysis was that there needed to exist within the department a culture of customer service, one that is oriented towards helping our customers through the development review process. The leadership team convened in December of last year. We devised what the culture is that we want to exist within the department. We want to make sure that folks understand that we care about the Austin

community. We care about our environment. And we care about the vibrancy of the city of Austin. And the standards for providing that service include being accessible, being responsive, being fair, being informed active and being flexible.

[9:29:36 AM]

And the way we do our work is with teamwork. We do it with quality, we do it with respect and we do it with the highest integrity to provide the very best customer service. Those are the standards that we have devised. We've presented standards in each of our employee assessment reduce. Those were Emmitt implemented last year. Every employee understands what the standards of customer service are, especially with regards to returning phone calls and emails. The city of Austin has a new employee orientation program, we've developed one specific to the department to further embed the standards of customer service that we expect from each of our employees. The city of Austin through the manager's office has devised a customer service training module. We are one of the first departments to utilize that eight-hour customer service training course. We have 20 training sessions that began this month and will conclude by March 31st. I personally, as well as director Greg Guernsey, are kicking off each of the training sessions to ensure that customer service training is of the highest importance and it is supported at the highest of all levels. The Zucker analysis pointed out that although there are policies and others in the city overall that the department itself was lacking policies and procedures and we are developing those policies and procedures as we speak. Looking at some external facing customer service improvements, we are collaborating with the city's economic development department and local technology firm bizarre voice to develop an interactive web portal to assist our small businesses in the development process.

[9:31:36 AM]

They need the most help in navigating the process. They need information at their fingertips and they need it readily accessible. We're devising an interactive frequently asked question portal, we're going to be speaking with stakeholders to make sure that it's useful information and we anticipate launching that interactive portal by summer of this year. With regard to our music venues, we've heard from them with regard to the notification process fee. The notification process fee did go up last year as did all fees to the true cost of service. However, we've developed an alternate notification approximate process, one that is allowed by city code, one that reduces the costs associated with that notification fee. In a nutshell --

[buzzer sounds] Sorry about that. I thought that was on silent. In a nutshell we allowed the music venue owners to bring the notification envelopes and forms to us and we inspect them to make sure they're correct and then we take them to the post office ourselves, there by reducing the work by staff and reducing the cost to the music venues themselves. In November of last year we issued a bid request for third-party contractor. The first time that we've used third-party services within the development review process. We want to utilize third-party vendors to assist with ontime reviews in commercial and residential review. Purchasing has helped us with that bid and we anticipate executing the contract within the next two weeks. As a part of the fiscal year 2015-16 budget, the city council approved 26 new positions, which were called for in recommendations of the Zucker analysis.

[9:33:37 AM]

Specifically to make improvements within the development review process. Although the budget was approved for October 1st, the funding for those positions was purposefully requested for January 1 to

allow us time to design the space to place those new positions. We are in the process of hiring those positions and we anticipate hiring all those positions and having them trained by April of this year. Those positions are in our land use review, development assistance center, in our commercial review areas, in our support services. Those are the positions that we need to assist with implementing the measures called for in the analysis and to getting to the ontime reviews and to decreasing our wait times. With regard to our customer wait area, the permit center is located on the first floor of one Texas center. Our wait area is approximately 12 by 12. Seating is inadequate for the 130-plus customers that come to the permit center on a daily basis. It's inadequate to the point where our customers often spill into the hallways and they have to either lean against the wall or in some cases they also sit on the floor, and that's not the customer service that we intend to provide as a best managed city. We are collaborating with the economic development department to share these small business solution center. We're going to expand the wait area to an appropriately sized wait area for our customers. We're going to provide them amenities such as charging stations for their cell phones and laptops, and provide computers that are at their disposal for additional work that they may want to do while they are waiting. The construction has already began and the new permit center expansion is anticipated to be completed by April of this year. Investing in our employees is a key component for implementing these recommendations. And what I've presented to you today are the improvements that have been made with the existing staff.

[9:35:42 AM]

And I want to give my hats off to -- my hat off to the staff for their embrace of all the improvements that have been made to date and their willingness to make changes in the department. It's important that we continue to invest in our employees. It's important that we provide them the tools and resources to meet the expectations that we have devised. And in that regard we have revamped our regard and recognition program and we've revamped it to align with the city's pride values, which are public service and engagement, responsibility and accountability, innovation and sustainability, diversity and inclusion, and ethics and integrity. We want to make sure that when our employees are exhibiting those values that their peers feel comfortable in nominating them for reward and recognition of exhibiting the very best customer service that is based on values that we want exhibited. We have initiated a program Tom supporting talent within the department through certifications and licensures and continuing education credits. We know that our customers want the very best plan reviewer. We know that they want the very best inspector working on their project. And in that regard we want to make sure that we have the talented workforce to provide the very best customer service. We anticipate completing that program within the next couple of months. The new positions that were approved in the -- were approved in the budget with the need to accommodate the spaces for those new positions and that designed is underway. We anticipate completing that redesign of space and space utilization within the next four months. We have contracted with Austin community college in partnership to provide some customized technical training for our employees. As an example our site and subdivision recently went through a technical training for reading blueprints.

[9:37:45 AM]

And we want to develop a mentor ship program and we anticipate that that will be completed by summer of this year. We want to ensure that our employees have a career ladder and that they can progress throughout the department in new and higher levels of positions. We want to support them and give them the resources and mentor them on their career path.

>> Mayor Adler: The four-month period of time to do the reprogramming of the new positions in terms

of space. Was that to get them in the new spaces or have the space planned? >>

>> That's forget them in the new spaces. The space has been designed. We're going to be going out for bid and then we'll have construction after that.

>> Mayor Adler: All right, thank you.

>> With regard to community outreach, we are hiring a position dedicated specifically to improving our website. I've heard from many stakeholders that our website is inadequate for the information that they're looking for. That the information is not readily accessible. It's not at their fingertips. And we want to make sure that our website is the very best for our customers and it has all the information that they need and that it's presented in a clear and concise format. We are also going to utilize that position to provide a monthly news litter to our stakeholders. It's important for us to inform our stakeholders, similar to this progress report this morning, to inform them of the improvements and the progress that we're making in the department. We are also going to implement an annual customer survey. We are bidding that out within the next two weeks. And we anticipate that that survey will be done by early summer of this year. That will be an annual survey similar to the city's citywide survey that captures key metric data of how we are performing our job and also some demographic data.

[9:39:46 AM]

>> Mayor Adler: With respect to that, we had talked when we were doing this about the difference between capturing anecdotal survey results and doing something that was quantifiable that could establish a base. Is this that or is that something else?

>> This is that the anecdotal information is the next slide.

>> So this is something that will be statistically significant that would establish a base mark so it's quantitative. So it's a poll as much as it is -- when I think of survey I think of going out and getting comments. But this is a statistically accurate poll to measure performance standards with respect to customer service, is that correct?

>> Yes, it is, it's correct. And yes, it will be rooted in that scientific methodology.

>> Mayor Adler: And how do you expect that to be fielded so that we get a baseline?

>> So we are working with purchasing on drafting the bid because of the cost involved. And so we anticipate that that bid could go out as earliest as the next two weeks and we will get the bid. We anticipate that we would hopefully have everything wrapped up, including getting the results back by summer of this year K.

>> Mayor Adler: Okay. And told be good because I know you're beginning the 20 segs on customer service and the like and I want you to have a baseline as you enter into that process so that you get credit for the improvements that are made.

>> Yes, thank you. With regard to the anecdotal information, we have begun rolling out exit surveys to capture the immediate data from our customers. We've rolled them out for the permit center and the building inspections division. The graph depicts one of the charts from that survey based on 10 responses, ranging from one, which is poor, to five, which is excellent. And you can see the responses from 10 of those exit surveys that were collected. The exit surveys are available online for any of our customers to use any time of the day. The next rollout is for our land use review and then we will roll it out to other divisions within the department as the year progresses.

[9:41:53 AM]

In the realm of continuous improvement, even when we complete the two-year action plan, we are always going to be in the realm of continuous improvement. We are implementing a solutions team. We have got a plethora of talented and experienced staff within the department and we want to utilize that

staff in solving a lot of the perplexing problems that face us. We don't want to just presume that management can come up with the solutions, but that our staff can craft the solutions and they can do a very good job of doing that. And we want to support them in that regard. In the realm of technology, this summer we began implementing business intelligence dashboards, utilizing microstrategy -- the microstrategy software. This image is one capture of our permit center wait times and it's a very important capture of data. As of yesterday 64% of our customers who were being served in less than 15 minutes. Now, by comparison, April of last year eight percent of our customers were being served in less than 15 minutes. By way of comparison as of yesterday, the median wait time at the permit center was eight minutes and 24 seconds. April of last year that wait was one hour and 22 minutes. So we have made substantial progress in the realm of wait times at the permit center. And we can chart it. You can see where we peaked in September with some minor process improvements, however, then half of our workforce left at the permit center. We have a three percent unemployment rate citywide so it's an employee market. And then that coupled with the October flood really presented some challenges to our staff. So we had some decreases in our wait time -- increases in our wait time.

[9:43:55 AM]

But you can see that once we got fully staffed in the November time frame and once we had gotten over the processing hurdle of processing all those applications related to the flood, we were waiting up to two different locations at that time, that we started decreasing our wait times again at the permit center. So we are at higher levels than we've been in recent memory.

>> Mayor Adler: Is that chart available online that shows -- it's pretty dramatic, and congratulations on doing that.

>> Thank you. We are working on an external facing presentation of this information because as you can see, this can be complicated information. This is more for the management perspective. So we are collaborating with stm to use the carada software to present a concise and easily readable format for our customers.

>> Mayor Adler: I think that would be helpful to have a dashboard, because people speak in terms of the wait times. You're doing such good work on that. If there was a way for them to be able to go to readily get a dashboard, that would be great.

>> Thank you. The next component of technology is automating our permits. This month we automated our mechanical, plumbing and electrical permits. I mentioned to council before that we have utilized faxes for a number of years. In 2016 I think we can all agree that faxes are outdated technology. Let me give you an example of what those faxes look like when we receive them. They are handwritten. Our staff has to deserve that information and -- decipher that information and then we have to hand put them into the system. If we can't readily decipher that information, it has to go to a wait pile until we can reach out to the customer to figure out what that information was. As of this month our customers can fill out information out online. We are truly automating our permitting system such that our goal is that our permits can apply and pay for and receive a permit online with very minimal human interaction.

[9:46:04 AM]

That is our goal. We know that not every permit will be free of human interaction, but nonetheless, it is our goal. And so you can see the number of residential and commercial permits that are now available online. We've automated our trees inspections requests. We get a number of trees inspections requests and the process up to this point was to either make a phone call and reach out to a person or send an email. We have automated that process utilizing the integrated voice response system. We are changing our customer queuing process. Our software throughout the entire department. Currently if I'm a

customer and I want to visit with a plan reviewer or if I want to go to the permit center I have to physically go to the one Texas center and register and put my name in the queue. There is software that exists, it's called the qless software. It's been used with request success for the department of public safety for license renewal and it allows for the convenience of a customer to put themselves in a virtual cue while they are at home or while they are at work or while they have access to a smartphone or laptop. They do not have to come to one Texas -- they will not have to come to one Texas center to register, saving them an inordinate amount of time. They show up to one Texas center at the appropriate time when they are ready to be served. We anticipate implementing the qless software by April of this year. You can see one quote from a user in Johnson county, Kansas talking about how the customer is now in volume of the wait time versus the staff. Another use of technology is in the realm of transparency. There is software that exists that is put forward by civic insight. Currently you see an example of Sacramento where they present information on plans that are currently being reviewed and permits that are being issued.

[9:48:08 AM]

We currently use the civic insight software by Austin code. We are going to partner with them to present the same information from development plans and permits issued. We anticipate implementing and making that software available online. Currently our Amanda data portal is available to our customers, however they have to enter the exact address to get the information. This presents the same information in a map format where they can click on a single dot that shows a plan review. They can then be forwarded to the Amanda portal for more additional information. A very large component of I implementing technology is long plan review. We are rolling out electronic plan review. We anticipate the full roll out by September of this year. Electronic plan review will reduce the cycle time to submit and review plans. It will improve our customer service by enabling online submittal of plan reviews. It enhances the workflow collaboration of the 14 departments in the plan review and it reduces the staff resources that we need to manage those large plans and it reduces the office space required to store the plans. We are being fully supported by the city's ctm department to implement long plan review by September of this year.

>> Mayor Adler: Would this include, Rodney -- there was some question in-- there is a stakeholder group that gathered and I appreciate you meeting with them and the manager as well. The question arose with respect to plan review as to whether it was possible to have a kind of contemporaneous review so that as departments issued their comments they could be posted and people could start working on them while they were still waiting for comments from other departments and so that if comments came back from one department they could respond to those without having to then reinitiate a new review by all 14 departments.

[9:50:19 AM]

Is that something that's doable?

>> We've talked about it following the January 7th stakeholder meeting and we are still discussing whether or not it's doable. It will take some time for us to figure out what are the pros and cons of doing something like that. One of the immediate cons that surfaced is if an applicant takes initial comments from one discipline that they may invest in a redesign of their plan only to find out that there is a subsequent conflicting comment from another discipline, there by creating unnecessary costs that are spent. So we don't want to have our customers engage unnecessarily in redesign based on a single discipline's review comments. So we are looking at that and willing to explore that, but we want to make sure if it's done, it's done in the best possible way to where we don't unnecessarily provide early

comments than what should be provided.

>> Mayor Adler: Okay. Thank you. And then there was the question with respect to the plan review related to -- since there are 14 different departments that are weighing in, the concept of having a case manager or a facilitator or somebody so there would be a single point of contact. Is that something that's under consideration?

>> That's something that we're looking at as well. So through the budget process, depending on if that is something that we believe can be done. We will bring forward the request for resources to initiate a project management plan review process. So we do know we would need additional resources to do so, so we are exploring that currently.

>> Mayor Adler: Thank you.

>> In the realm of technology we have 100 plus programs on alone, they are not compatible with the vdf format and not significant with the the information submitted so we are currently redesigning those 100 plus permit applications to provide consistency, simplicity.

[9:52:25 AM]

So provide drop-down information and to ensure that they can be fillable PDF -- PDF format. We anticipate completing that redesign by June of this year. Moving on to coordinated plan reviews, here's a list of the 14 departments as well as Travis county. Each has a role in the permit process. The council approved to bring Mr. Zucker back to analyze the interrelationship between the department and the partnering city departments. Mr. Zucker completed his analysis and the analysis is going to result in the update and the newly created memorandums of understanding between us and the partner city departments. The overarching recommendation is that the development services department be the coordinator of all private development in the city. We anticipate executing those memorandums of understanding by April of this year based upon recommendations between us and the partner city departments.

>> Mayor Adler: Is that review available for people who wanted to see that, the Zucker review there?

>> We will release the review. We've gotten it and releasing it to the departments. We will also post it on our website along with the may 2015 Zucker analysis.

>> Mayor Adler: That would be great. When you post that if you could send me a link to that so I could send it out. Thank you.

>> We will. On the horizon we've talked about the ability for staff to answer 100% of calls. We intend to bring forward through the budget process a proposal to partner with the city's 311 program such that 100% of our calls can be answered by a live person 24/7. As we've discussed last year we increased all of our fees to cost of service, however that was predicated on a 2012 cost of service fee study as well as a 2015 cost of service fee study.

[9:54:28 AM]

We are currently modifying those fees to bring them up to 2016 cost of service, and that will be presented in -- through the budget process as well. We are conversing with the finance department with regard to the budget methodology for the department. Looking towards developing an enterprise fund status for the department. So we are working on what our revenue situation is, and in a nutshell if the avenues can sustain the expenses for the long-term, then it's likely that we may move to an enterprise fund status, but as I mentioned we are currently reevaluating those revenues based on cost of service. And the other credited kel component of improving the delivery of our service is implementing an expedited permitting program. We have looked at the Dallas Q team model as a way of expediting permitting. The model consists of two dedicated teams for expediting commercial plan review. We have

developed what the costs would be as well as the revenue for such a model for that premium service. And we are working with the city's budget office to confirm the methodology that we've used. That as well will be going through the budget process. We certainly can convene in a smaller committee format to further discuss the expedited permitting program.

>> Pool: Mayor, if I may, I have a question for Mr. Gonzalez. Thank you. I'm curious, I see the strike team one, strike team two, and the different departments that are listed underneath each of the teams as members of the teams. Can you give us an idea overall what is the -- is the goal on the expedited -- what is the goal on the expedited review teams? Is it to move toward approvals or is it to move toward quality projects and approvals?

[9:56:35 AM]

Do you understand the distinction that I'm drawing between the two?

>> I do. And one thing we always want to do, whether it's in expedited format or in the Normal review process, is we are putting forward the very best quality of plan review. With this specific case in front of us, the Dallas Q team model, which is a goal we want to reach to, is reviewing and also approving a permit on the same day. Dallas uses a premium service fee model for their Q team approach. They will bring these different disciplines.

-- Not all of these disciplines are representative of departments, they are representative of the disciplines that are reviewed. And basically the applicant along with their consultants will convene in a meeting with our review team. We will go over the plans themselves. If there are modifications and the applicant and their consultant agree to those modifications, they can get their plan review approved that same day and permits issued as well.

>> Pool: Then do you have a fall back process if that agreement is not achieved, it's moved out of the expedited and put in a standard? What happens in that case?

>> Part of that is why we want to overlay these with the plan review coordinator, to do that when there was disagreement, how do we go through that process. If we cannot achieve agreement in that setting, what is the fallback provision? Do we bring them through the regular plan review process? At the heart of an expedited review is that when we come forward with what we believe needs to be modified, the other side has to have the same agreement. If we can't reach a consensus, we need to figure out what the second process is. We intend to go up to the Dallas and to convene with their folks who have been doing this for ten years and talk about the very questions that you've raised.

[9:58:42 AM]

>> Pool: So you may have a triage process to see if the application is eligible for expedited review, and sort them?

>> Yes. That's part of the program. That exists, a completeness check program. We ensure that everything we need to review comes to us in the form of an application. The same thing would apply with the E permitting program. We'd ensure we have all the information available to put them through the expedited permitting program.

>> Pool: This looks like a really interesting new approach, and one that I'm glad the city is going to be piloting and ING. And I especially appreciate that you're checking in on best practices with some other cities that have been doing it for some time. I would also like to make sure that we don't, in the end, go down a path of approving permits just because they're in this expedited process. That if they have significant issues, that we do pull them out and treat them more slowly and more comprehensively so that we're not in a rush to approve permits. I know there are lots of them that deserve to be approved more quickly and we need to do that, but I don't want the ones that deserve closer scrutiny to be put

through a past track when that would not be a benefit to either the city or the applicants, the neighborhoods, or process.

>> Thank you.

>> Pool: Thank you.

>> Mayor Adler: Go ahead and continue.

>> The other program that we are working on is developing a proactive program for monitoring erosion control installations. The program on the right shows a failed control installation. Currently we have a program that is reactive and it is complaint-driven, and that is what our budget resources are predicated on. So we are going to develop what the appropriate fee would be, as well as the appropriate budget resources for a proactive monitoring of erosion and sedimentation control installations.

[10:00:49 AM]

We will be bringing forward a modification of our review times to utilize business days versus calendar days. By way of example, one of our residential review timelines is two calendar days. Therefore, if we get an application on a Friday, we are already late by Sunday, even though we do not work on Saturdays and Sundays unless it's overtime. And so we want to make sure that we are providing the accurate review timelines to our customers. And we'd like to put those in an administrative rule versus a city ordinance. So that proposal will be coming to council within the next two months. Mr. Zucker, in his analysis, pointed out that the appeals process can be cumbersome and overburdening. And we are looking at the appeals process, and we will be developing recommendations to gain staff efficiencies through either consolidating or eliminating some of those appeal provisions. The -- other area is that currently we don't possess the authority to correct minor errors. And so we will be exploring the implementation of a 10% variation rule that can be utilized by the chief building official in the event that a minor error occurs and we don't spend an inordinate amount of time on that. This would not usurp the building code. It is meant only to correct some minor variations that can occur.

>> Mayor Adler: Yes. Mayor pro tem.

>> Tovo: I think I may have missed a bit of what you said. Are you talking about variations in the code, making corrections administratively to variations in the code if it's judged to be a 10% variation?

>> It's not going to apply everywhere. We're going to develop the criteria of what it could apply to.

[10:02:51 AM]

For example, currently we have setback requirements. And through no fault of our own, or the forms may have been constructed, say, an inch or two inches into the setback. Those are very minor encroachments into setback. And we want to make sure that we can have the tools at our disposal for very minor issues like that when they arise.

>> Tovo: So in essence, those would become administrative decisions rather than needing to proceed to the board of adjustment for a variance.

>> Yes.

>> Tovo: Are you proposing the criteria under which staff could make that decision will come to council for approval?

>> Yes.

>> Tovo: Okay. I think that'll be a topic that will be interesting to discuss.

>> Okay.

>> Tovo: I'll just say I think it's important we have a pretty thorough discussion about the criteria under which those decisions are going to be made. I hear from individuals every couple months about a decision that was made administratively that they believe was made in error. I don't want to create a big

area of loopholes, so. But I appreciate that there may be a need for a very -- ability for officials to do that, but, I hope we'll have a lot of thorough discussion before it's considered.

>> It will. In no way do we want to characterize this as a loophole, but for correcting minor issues as they occur. One thing we've heard is staff doesn't have the flexibility, or they're not empowered to make certain decisions. We've heard both sides of where staff has made decisions, and we've heard staff doesn't make decisions. There's a blend of comments that we receive from stakeholders and customers. So we'll bring this forward in the council setting.

[10:04:52 AM]

>> Tovo: I take your point, and I appreciate it. And, again, I just want to clarify, I'm trying to make sure that we don't create an avenue for loopholes, not suggesting that you were proposing we have them. But I do think that there's -- I think that that's -- you know, again, I think it's really important to do that properly. We have a building code for a reason. And people ought to follow it. And it ought to be the rare exception where something is built outside the building code and needs that kind of consideration.

>> Yes. And we agree. We want to have a careful approach to this. The last topic on the horizon, it's a very important topic, and it's a topic that relates to the provision of customer service. We want to have an environment that exists that is conducive to providing the very best customer service. We are located in 1 Texas center, a 13-story building. We occupy five different floors of that building. The building floor plates are 15,000 square feet, which doesn't allow for convening the breadth of our workforce in one to two floors. That's why we have to occupy four to five floors. On the top images there, show some of our facilities in 1 Texas center. The bottom images show some best practice-examples of other cities that have either one or two-story buildings that allow for the proper flow and the proper provision of customer service. We want to make sure that our building is conducive to that. We have been working with the real estate office to establish a plan for relocating the development services. We want to insure that whatever facility is derived, that it is conducive to providing the very best customer service. Lorraine and Greg will be here next Tuesday to provide an update on that, as well as next steps on facility planning.

[10:07:01 AM]

Moving then to next steps, it's our intention to provide this same type of briefing to council every four months, in addition to the current updates that are provided on the city's data portal. Currently, we provide updates to the data portal every 60 days. We want to migrate that to every four months, similar to this progress report. We will begin quarterly industry organization stakeholder meetings. There are dozens of stakeholders in the community that want to be informed and kept involved in this process. And we will begin quarterly industry stakeholder meetings. We are developing our budget proposal for year two of the implementation of the action plan, and we are actively participating in facilities planning discussions. Mayor and council, that concludes our presentation. We certainly can take more questions.

>> Mayor Adler: Ms. Garza.

>> Garza: Thank you for that presentation, and thank you for everything you've done thus far to improve the process for folks looking for permits. I'm sorry if I missed this in your presentation or previous ones, but when a business gets a certificate of authenticity the very first time, is there an education process that says -- and I would hope repeatedly -- that if you change anything, if you add something, if you do something different, you have to come back? In my district, that's been an issue where they really didn't know that they needed to seek a permit for one thing, and then they get dinged for another thing, and then they're told, you weren't supposed to do that or that, and that makes the process longer. Is there an education process?

>> It does. First of all, I do want to acknowledge, of course, that improvements that have been provided to council are the work of all the department staff. So I have to give my hat off to all the department staff that is working tirelessly to do this. With regard to small business, we collaborate with the economic development department.

[10:09:01 AM]

They have an ombudsperson program that helps our small businesses understand and navigate the development process. And so in instances that come to our -- to us, where a small business is having concerns or issues with understanding the process, we will then reach out to the ombudspersons in small business development to interact with that business and help guide them through the process. The other thing is, as I mentioned here, we are implementing the biz right portal to give them that proactive information that you've talked about in a meaningful manner where they can search frequently asked questions, they can pull up permits that are pertinent or similar to what they intend to engage in. The information that we provide to our applicants, we provide information in each form as to issues that they need to come back to us for, or issues that they need to be aware of. But just like with any application, you can easily gloss over some of that wording. And so we recognize that. So part of our customer service training -- and Greg Guernsey can certainly speak to this -- is that we're informing our employees that don't only think of and respond to the first question and the only question that you get, but respond to what you think might be the second question or the third question, or additional information that we believe that customer may need to know in getting through the development process. So the answer to your question is multifaceted, because it is a very large development process. And so we want to make sure that we're using every tool at our disposal to help our customers.

>> Garza: I appreciate that. If there was something at one of the very initial steps that every owner -- every business owner has to do to make them understand, if they make any changes. We're dealing with something in my district that's been over a year now, they've been -- they messed up. They didn't do something right.

[10:11:03 AM]

And then they realized they had to get some kind of drainage. And so, anyway.

>> I realize that issue. That issue did come to me, and I immediately reached out to the ombudsperson, who then interacted with the company. And they're in a much better position now with the assistance of the ombudsperson.

>> Mayor Adler: Anything else? Mr. Renteria.

>> Renteria: Thank you, mayor. I just want to ask you a quick question. I have some constituents that had sent me some letters about the problems they're having about one inspector comes and approves this, and then another one comes and saying well, no, that's not right, you've got to do it this way. Are you addressing that issue now?

>> We certainly are. We meet with our inspectors. To begin with, in the past, our inspection group was not under the same assistant director as our plan review. And so the comments that we heard was that the inspector -- their work would often conflict with the plan reviews. Both divisions are now under the same assistant director, which encourages the collaboration and communication. And so, yes, we're actively engaged with our inspectors for those very same issues to ensure that we've got a consistency of inspection throughout the department. A lot of that is rooted in training, so we want to make sure that we provide all the training to our employees so they can exhibit the quality and the consistency that is called for.

>> Renteria: I'm very glad to hear that, you know. I really appreciate the work you're doing out there.

And I know that there's -- some of these complaints are before you got here. But if I do continue getting these kind of report Se -- reports sent to me, and these emails, do I forward them to you?

[10:13:04 AM]

>> You can send them to us, to me, and then we will have the appropriate staff reach out.

>> Renteria: Thank you.

>> I want to take every opportunity in thanking you and your team for all of the work you've done over the past year, really moving the ball as evidenced by your presentation today. I also want to extend my thanks to the partnering departments that have been part of the effort. You are doing a really good job. I know that the progress and accomplishments are going to continue over the next months and years, so thank you very much.

>> Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I want to do a brief back to the future exercise. Let me read a couple of sentence from the Zucker report. That's already been almost a year since that Zucker report was released. It says the so-called Austin way contains an unhealthy dose of suspicion. This became evident in the desire to overdocument everything, to dot every I and cross every T. The tendency to create new commissions along with each new ordinance, unwillingness to delegate more decisions to staff, and staff's feelings if they made a mistake they may be crucified. This system will sink of its own weight. That was written in 1987. My argument is that that is just as true today as it was in 1987. So, when we come back to solutions, my office took -- back in April of last year -- we took out five of the over 400 recommendations of the latest Zucker report, which looks a lot like the '87 Zucker report. And it said, number 7, return all phone calls and emails the same day received. We cannot fathom why that wasn't done in may of last year.

[10:15:05 AM]

And I think this underscores the fact that we have a culture problem. If the commitment is not there to do these simple, courteous things like returning phone calls, then all the technology and millions of dollars, extra bureaucrats -- the problem is going to get worse. I'm really concerned. And I'm going to predict if we don't have a change in management, a change in culture, the recommendations you've made, incredibly as it sounds, they're going to make the problem worse, because simple things that we could've done and should've done aren't being done. That, to me, indicates we have a culture problem, not a technology and employee problem.

>> Thank you. And I'm not sure if I didn't elaborate specifically, but, it has been delineated in every employee's success strategy, performance review, that phone calls be returned in 24 hours.

>> Zimmerman: To be fair, my constituents are not telling me that things have improved, so.

>> Houston: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. Mr. Gonzalez, I want to thank you and your team. When you were placed in that position as an interim director, it was in shambles. And we all knew that it was in shambles. And you started making real strong progress, and you've continued to make progress. And I think people need to be applauded for what they have done to rectify some of the concerns that everybody had about how fast things were processed, how quickly -- how long the time waits were. Those were the things that I was hearing from people, and I'm not hearing those kind of complaints now, so I want to personally thank you and your team and the partnering teams for all that you did. I started getting calls right after you were appointed saying you weren't the right person. I knew you were

the right person, and you have proven that, so, thank you.

>> Thank you.

>> Mayor Adler: Ms. Pool.

[10:17:05 AM]

>> Pool: Councilmember Houston just pretty much said what was on my mind. Please don't let some criticism from this dais derail you. I think that the work that you're doing with your team in building your team and establishing a different approach with the permitting office is right on track. And I think that sentiment is widely shared by those of us sitting on the dais here -- widely shared.

>> Thank you.

>> Pool: Thank you.

>> Mayor Adler: I think that's it, Rodney. Thank you so much. I want to add my appreciation as well for the work that you and the different departments are doing on this. It's an issue that the community has spoken about. There are a lot of people in the community that at this point, doubt the city's ability to be able to right the ship. And I think you're taking great strides in that direction. I'm encouraged by the regular reporting that people will be able to see in terms of the objective poll that you're doing on customer service. I think that's going to be helpful, being able to do dashboards so that people could do it would be helpful. And it is unavoidable that there will be even, as you do this job, there will be those incidents and those measures, those cases, those projects, that fall outside of those guidelines and objectives. That's just in the nature of how anything works. And when those rise, we need to bring those to your attention so that they can be dealt with. And I appreciate you being open to those. But I think that the statistics that you're reporting are real encouraging. Thank you.

>> Thank you. And I want to thank council for your support of the efforts, and also the city manager and his executive team. One of the first convenings of the entire department, the city manager -- not only the city manager, but he brought his entire executive team over to convene with the department and encouraged them that we can do this, that it is do-able, and that we can make this the best development process bar none.

[10:19:14 AM]

So, thank you to all here for your support.

>> Mayor Adler: Great. Thank you very much. Thank you. The next item will be a briefing on the library. Is the staff available? Mr. Lumbreras.

>> Mayor, city council, butter assistant city manager over community service. I know staff is very excited about this briefing, it gives you a glimpse of the central library, a project we've been investing a lot of time and energy for a long time. Today we're going to give you a brief history about the facility, talk about the voter approval process that went into it, talk about the key components of the design that are going to unveil to the community a finished product in November, a project that we have termed as a library for the future. Also, how the facilities, services, and needs of our tremendous network of neighborhood branches that are so integral to the success that we have in our community, and then talk about the project budget. Also, the upcoming council considerations that you will be looking at in the near future, as soon as this Thursday is one item. With me today is Brenda branch, our director of libraries, and also Howard Lazarus, the director of public works. They're going to give piece of the presentation. I'll come back at the end and wrap it up and then open it up for questions. So at this time, let me turn it over to Brenda.

>> Good morning, mayor and council. As Bert said, we are very excited about this new central library. I'm going to start with just a very brief history about our project. 37 years ago, in 1979 to be exact,

Austin's new 110,000 square foot central library opened to serve 12 branch libraries and a population of 350,000.

[10:21:17 AM]

Shortly after it opened, libraries began undergoing dramatic change. Austin's population began booming. And 20 years ago, it became very clear to Austin public library leadership that the building was becoming increasingly outdated and inadequate. So we began talking about a new central library in earnest. In 2006, Austin voters approved bond proposition 6 in the amount of \$90 million to build a new central library. In 2010, library administration consulted with library futurist Joan fry-williams, who helped us finalize our vision for an adaptable building that we can modify as the need dictates. Later that year, Austin city council embraced that vision and voted to approve 120 million in full funding for the project. The groundbreaking took place in may of 2013, and we proceeded to build the first library for the future in the United States. Austin's new central library will be a community gathering center unlike anything that currently exists. Some of the highlights of the new central library are a technology-rich library, which at 200,000 square feet is twice as large as the existing central library, a 350-seat special events center, 12 public meeting spaces of varying sizes, as well as parking for 200 vehicles and 200 bicycles. In comparison, the current central library provides no public meeting spaces, only 37 parking spaces for vehicles, and 12 bicycles.

[10:23:27 AM]

Other outstanding features of the new central library are an art gallery for local and national exhibits, a rooftop garden with a coffee cart designed to bring back nostalgic memories of the bookmobiles of past, and a cooking demonstration to highlight local and national cookbooks, chefs, and cuisine. An outdoor amphitheater where austinites can grab coffee and listen to plays, storytimes, civic discussions. Two screened-in reading porches to enjoy a book and Austin's great weather with beautiful views of the area. A great reading room where customers can do research or lose themselves in a great novel. A large children's library designed to appeal to the youngest customers. A place where they will feel comfortable and inspired. An innovative teen center with an edgy design that will spark the imagination of the community's teenagers, where it will be cool to be seen. The award-winning architectural firm is known for creating buildings that are harmonious with the -- natural environment. The other half of the joint venture has built over 2,000 libraries in their 200-year history, and is known for designing highly functional libraries. Our new central library, locate on the banks of shoal creek, across from lady bird lake, is not only going to have some of the best exterior views of any building in the area, but it is also going to be noted for having very pleasing interior views.

[10:25:37 AM]

The stairs and bridges that crisscross the atrium will make way-finding in the building intuitive, as customers will be able to see exactly what activities, resources, and programs are located on the different floors and understand quickly how to get to there. The major feature of our design is the open atrium extending from the first level to the roof. Constructed with skylights to pour sunlight into the center of our structure. This library is designed to be the best day-lit and most sustainable library in the country. The central library is the core of Austin public library's system. It houses the infrastructure for the entire system. It is integral to the effective functioning of the 20 branch libraries. During the 1982, 1992, and 1998 bond elections, voters indicated their strong support for libraries by authorizing the construction, renovation, and expansion of 17 of the system's 20 branch libraries. The 1982 bond

election funded the construction of the spicewood springs, university hills, and pleasant hill branch libraries, and a renovation of the Austin history center. The 1992 bond program provided funding not only for an engineering upgrade to the Austin history center, but for the construction of six more community libraries -- oak hill, mill road, southeast Austin, Sepeda, Yarborough, and Windsor park branches. The 1998 bond election provided funding for the construction of St. John's, north village, Ruiz, and the expansion of parver and spicewood springs.

[10:27:44 AM]

Austin has an excellent branch system. The branches depend on a vital, up-to-date central library to provide the best possible service to their customers. In addition to providing the technology, administrative, and reference support for all library locations, the central library holds an expanded collection for the entire community to access. Our reserve, or hold system for library materials is one of the library's most popular and well-used services. Basically, the service allows our customers to go online from any location, including their homes or workplace, place an item in our department-wide collection on hold, and have it delivered to the library location of their choice to pick up and check out. The increased collection capacity at the new central library will create a far deeper reservoir of materials for customers to choose from, no matter the library location that is most convenient for the customers to physically visit. In a one-month period, 14,000 items belonging to the central library are checked out by customers visiting a branch. And in one year, 185,000 holds were placed on central library items. We are excited that after 20 years of planning, the new central library will soon become a reality. In November 2016, we plan to open the doors to this state-of-the-art building that will become a vital resource and a vibrant destination for all members of this community. With that, let me turn the presentation over to the director of public works, Howard Lazarus.

[10:29:46 AM]

>> Thank you. Good morning. What you see before you is the \$120 million budget that Brenda mentioned previously. The construction component of that is just over \$94 million. And what I'd like to do is just take a moment and talk about cost and schedule, as Brenda has already talked about the quality of the structure. So as of where we stand right now as we move towards completing the construction this summer, all current construction costs are within the approved authorization that council has provided, and we're not seeking any council action at this time to address the cost of construction. However, we do need to address the project risks. We have \$9 million in claims that could increase the cost. We haven't had any negotiations on those, and therefore, that cost is just the worst case that we're likely to see. Countering those change orders and delay claims, we have gone back to the architect to address cost recovery for those items that don't add value to the construction of the project. It is our hope that the balance of the claims from the construction manager and the demands to the architect will balance themselves out, so we will complete this project within the approved budget. As we get closer and closer to the end, though, and as we start to shrink the project and there are a number of things that are going on, we have to watch these items very, very closely. So some actions we've identified to keep completion on schedule and keep within the budget, we will defer -- I've recommend that had we defer some noncritical, non-time sensitive technology purchases. And some of the book purchases, until the construction costs are finalized. And then we can resolve the outstanding claims, hopefully to complete this project within the existing budget. So that's where we stand from --both the cost and schedule standpoint.

[10:31:53 AM]

So, mayor and council, in consideration, we are going to bring several project-related requests for council actions for ward. There will be one this Thursday that you have on your agenda. It's agenda item number 25. That addresses time-critical shelving and furniture needs, with the remaining furniture and fixture purchase to follow sometime in mid-april. There will also be a separate request for council action in April. That will be for the new central library restaurant lease agreement that we're very excited about. We have a lot of details to work through, but one of the things that we set out as a goal -- because we believe this is an iconic facility. Whatever goes in there should be a destination within a destination. We believe the work the staff has done to get us to a point of officially recommending a consideration for a restaurateur will be coming forward. We're pretty excited about the process. We -- began engaging the market in August of last year. The response we received was very positive. Again, that will be coming forward in April. Finally, we will have a request for council action to consider a technology hardware purchase in may to round out the major considerations for the rest of the project. So, mayor and council, in conclusion, we're very excited about that project. To close us out in a festive mood, fireworks. We are planning for the grand opening in November. Staff is working extremely hard to get the project completed, get the construction piece completed in August, get the transition with our staff into the facility, and then open it to the public in November. At this point, we stand ready for any questions.

>> Mayor Adler: Ms. Houston.

>> Houston: Yes, thank you so much for the presentation and the briefing. Regarding the -- hold on just a minute.

[10:33:55 AM]

Let me find that piece of paper. But how much does it cost for people who are not residents of the city of Austin to get a library card? I was asked that. I'm sure you've told me before, but so many things have washed under my brain now.

>> It's \$120 a year.

>> Houston: For non-austin.

>> If you do not live in the city of Austin, correct.

>> Houston: \$10 a month is what I was told, right? And is that a increase, or did we not charge fees for outside of Austin?

>> We always charged a nonresident fee until 2008, when the state library gave us funding to offset that. So then they withdrew the funding. They didn't approve it again last year. And so we reinstated the nonresident fee.

>> Houston: Okay. Thank you. And I was just asking about some of these things that are potential project risks. Will you be updating us periodically? And what is the timeframes on when we'll get an update?

>> Councilmember, as we get close to completion of the library, we can certainly come back. Or through a memorandum format, we can submit an update as to where we are. We have in our hands right now, essentially, all the documentation that we need. Every component of this building, save for one, has been purchased and bought out by the construction manager, so there shouldn't be any big surprises that still lurk out there. Our challenge is to sit down both with the architect and the construction manager to negotiate the remaining claims and changes. As we do this, we'll certainly communicate through the city manager's office where the project stands.

>> Houston: Thank you.

>> Mayor Adler: Further comments? This is an incredibly exciting project, opening this year it real exciting, on budget is real exciting, the photographs are real exciting. It's exciting.

[Laughing]

>> Mayor, I understand you want to take a tour?

[10:35:57 AM]

>> Mayor Adler: I did, I had a chance last week to walk through the library. And other councilmembers who haven't had a chance to do that yet, you have to have the right mind to be able to look at that space and imagine what it is, not exactly. These pictures help. But just the vibe is impressive, learning about the functionality of the space is exciting to see.

>> I'm sorry, mayor. Bert, Glenda, Howard, and their staff have done an incredible job. The history, it certainly goes back that far. And the notion of incorporating the future is to help us really, really determine what the future is and have that in Austin is a great thing. Thank you for your hard work and for your leadership, and that by your staff as well. So thank you very much.

>> Pool: Mayor, I'd like to entertain a round of applause for all the work that the staff has done on this huge, important new project that will be open soon for our community.

[Applause]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I'd like to introduce a round of fiscal reality if I could. I remember opposing this boondoggle. I think it was put up at \$90 million to the voters. From what I've heard, we're at about \$120 million before we negotiate and try to figure out the change orders and resolve those costs. My aggie math says that's about 30% higher cost than what we submitted the project to.

>> Mayor Adler: My --

>> Zimmerman: Is there an update?

>> Mayor Adler: My recollection -- correct me. My understanding was it was always about 120-\$125 million project, that the decision was made to just seek \$90 million in bond funding, and the other \$30 million was going to be raised a differing way.

[10:37:59 AM]

But the budget has stayed the same. Can you speak to that?

>> I can, mayor. The project was originally estimated at a little over \$125 million. If the council will recall, back at that time, when the bond oversight committee was considering a multitude of projects for this community, they were trying to put a lot of projects into consideration for the voters. This project, at the last minute, was slashed by 30 million. So we always knew that the project was going to be at that 120-\$125 million range. So we did an extensive amount of work trying to look at what type of facility we could achieve for the 90 million. And I think we all concluded, including the council at the time -- because we certainly didn't do this at the staff level. We did the work at the staff level, brought it to council consideration, that this community deserved a project worthy of this presentation that we have provided to you today. And at the end of the day, we certainly took -- embraced the vision of the library for the future and incorporated within that \$120 million that was approved, and is on the books as the budget for this project. And we're excited about what we're going to deliver. And as you heard today, we're within budget, or within scope, and on schedule.

>> Mayor Adler: Thank you.

>> Zimmerman: Mr. Mayor.

>> Mayor Adler: Yes.

>> Zimmerman: I have to take issue with that, because the public -- I've been involved in a lot of these votes regarding taxes and bonds. There was no public discussion that the 90 million was 120 million. That was not a part of the discussion.

>> Pool: Point of order.

>> Mayor Adler: Wait.

>> Pool: My colleague is being unnecessarily argumentative.

>> Zimmerman: This is how we get an unaffordable city, because we're not truthful with what things cost.

[Applause]

>> Mayor Adler: Okay. My recollection was that it was based on the bond.

[10:40:00 AM]

There was conversations about the 120. And I recall it coming to the council with respect to what the allowance was for the project, and for that vote to have taken place, as Mr. Lumbreras reported. Anything further? Ms. Houston.

>> Houston: Mayor, I think -- I'm having a hard time hearing you. If you could put your mic closer. Thanks.

>> Mayor Adler: All right. We'll now go to the last -- thank you very much, gentlemen, thank you.

>> Pool: Mayor, if I could.

>> Mayor Adler: Yes.

>> Pool: That sort of leaves all of this on really a sour note. And I would just like to one more time express appreciation for the work that our staff has done over decades in order to bring this public project to fruition in such a lovely way. So my thanks to all of the folks who have been involved.

>> Mayor Adler: Okay. Mayor pro tem.

>> Tovo: I appreciate my colleague's comments, and I just want to say, you know, our public libraries, I think, are central to our democracy. They're places that were created created so everybody in a community could have access to information. And so I just want to close by quoted David in a speech that he made at the library of congress. He said, freedom is found through the portals of our nation's libraries. This is an important project, important to our community, I'm delighted by the progress and I was there for the groundbreaking. I can't wait to be there for the ribbon-cutting, so thanks to all our staff.

[Applause]

>> Mayor Adler: All right. Let's go to our next briefing on fair chance.

>> Casar: Mayor, I think I'm going to make an intro and presentation first, and then Dr. Washington's going to do his. Does that work? Great. I've got a little --

>> Mayor Adler: Please.

>> Casar: Slideshow for you. It's a big day. It's a big issue. So, thank you all for taking the time to get an update from me and from the staff on the progress of the fair chance hiring policy for the city.

[10:42:02 AM]

As many of you know, we've been having this conversation for over a year now. The council kicked off the original resolution back in spring of last year. And I think having a conversation today is beneficial. That will give us three work sessions -- today, next week, and the next work session before being posted for action, which is my intention on March the 10th. That will give us time to talk through what I think is a simple policy, but a very impactful one. So in this presentation, I'm going to first give a brief refresher on what fair chance hiring is, what the ordinance does. Then talk a bit about the context of why fair chance hiring policies have been advocated for across the country, especially in the context of the massive expansion of the criminal justice system and mass incarceration in the United States. And then wrap up a little bit by talking about why I think the work the committee did was very good, and why the

policy as drafted by staff is really -- is a great baseline policy. We may amend it one way or another, but I want to lay out some of the work that's been done. So first, as a refresher for the council, and also for our unexpected guests here in the community who get to listen to the presentation, fair chance hiring are rules put in place by states and by cities requiring private businesses and their jurisdictions to give folks a fair shot at a job by looking at their merits and considering their qualifications before running a criminal background check at the end of the process. And none of those jurisdictions, states, or cities is the discretion to run the background check taken away, but it is required to be run at the end of the process, and for the process to be thoughtful rather than arbitrary. So these rules have been put in place all over the country, and primarily have been part of the criminal justice reform movement. It's hard to understand why this has been a national movement without talking about mass incarceration in the United States.

[10:44:07 AM]

There's some very stark facts that I'm going to share in the next few slides. And I bring them up primarily because we hear a lot about an affordability crisis in the city, a mobility crisis in the city, but it's very clear to me when I think about how incredible some of these statistics are that we really are facing a civil rights and human rights crisis in our criminal justice system.

[Applause]

>> Casar: Since the '80s, our prison population more than quadrupled. We house over 1/4 of the world's prisoners. That means one in every 31 adults, more or less, is under some form of correctional control, be that in prison, or on parole, or on probation. That is a huge number that I think is shameful. And frankly, unethical and presents a lot of problems and struggles here in Austin. But that's only the start. There's a lot of work to be done on sentencing and conditions in our prisons. But the criminal justice system churns people in and out of it back into our community. In Austin, that means lots of folks are coming and live in our community who have criminal records. Part of what fair chance hiring tries to do is address what happens when folks are released. Because 3% of our population being under correctional control is a huge number, people are coming in and out of the system, one in three adults in Texas have criminal records according to the 2010 census data. And that's about 2,000 people returning to the Austin area every year after being released from prison. And that's not even counting, necessarily, folks that have plea bargained to an offense. We have thousands of people in our community who have criminal records and whose rights are taken -- so many of those rights are taken away and denied based on that criminal history. Living in this community with a criminal history oftentimes for many people means you get the right to vote taken away.

[10:46:10 AM]

Your access to housing, access to the same kinds of jobs, access to the same kinds of public benefits that everybody else enjoys is taken away, and access to a job, which is part of what fair chance hiring is trying to address. We have, in many ways, created another category of second-class citizen, another caste within our midst in what we are proud to supposedly be an egalitarian society, but with thousands of people having these rights denied to them. And we can't talk about criminal justice and what has happened in this country without engaging with race. Michelle Alexander has popularized the term the new Jim Crow, and this particular statistic makes that very real for me and for many others. Based on some deep analysis done in the early 2000s, based on trends, one in three black men will serve time in prison in their lifetime. And that number only gets more terrifying when you talk about lower-income, communities of color, and urban communities where you have half of the young black men having a criminal record. So when we think about the civil rights movement, but also the movements for decades

and centuries to get the right to vote and to get the right to a job, and the right to housing, I mean, it is unbelievable that so many people have had those rights taken away.

[Applause]

>> Casar: So I don't think it's a reflection on communities of color or on our culture or character, but on political leadership and on our government. And so we have the chance to do something about it, and I think this is an important step to do that. So, fair chance hiring tries to restore some of those rights, and some of that -- and to bring some justice back to those communities that we've harmed over the decades.

[10:48:15 AM]

It provides economic opportunity, not just for the people who have criminal records, but also for their families who need that kind of security. It is a public safety measure. One of the greatest identifiers of whether somebody will reoffend and reenter the system is whether or not they have economic stability and access to a job. And so this really is a public safety measure that will reduce recidivism, and in discussions with our police chief, he says it makes perfect sense. And finally, as I've described, it is a racial justice issue. In Austin's booming economy, it is communities of color, most often, that aren't able to share in our prosperity, and this is one step at trying to work on that. This policy will help folks of all colors and backgrounds, but the criminal justice system so disproportionately impacts communities of color that we need to be fighting and looking for every chance that we can to lead at this city to deal with racial justice issues.

[Applause]

>> Casar: The ordinance will be laid out more thoroughly by staff, but the basic components are pretty simple. The conviction history question is not asked on the job application at the beginning of the process, but is required at the end, except for in jobs where law, be it local, state, or federal, otherwise requires that it be asked. So when that question is asked at the end, it should be used for job-related convictions and job hiring decisions, and then there needs to be adequate enforcement to ensure compliance and protections for whistle-blowers. This policy works. Dr. Washington can speak to how it has been successful at the city, and also at the county. There was some analysis done at the city of Durham when they enacted a policy. Within three years for their own employees, applicants with conviction history hired went up from 2 1/2% to over 15%. In the county of Durham, when they enacted the policy for their own employees, applicants with conviction history tripled within their workforce.

[10:50:25 AM]

Fair chance hiring is a national movement. It is the law of the land for private employers in New Jersey, Hawaii, Illinois, Minnesota, and Massachusetts, along with many cities listed here, including New York City, Washington, D.C., Philadelphia, Columbia, and others. Lots of companies, Home Depot, Target, Koch Industries, and many other major corporations are following this best practice policy. So before wrapping up and just talking with staff about more of the particulars, I do want to urge everybody on the dais to get a chance to speak with the advocates who have been working so tirelessly on this issue, especially so many of the advocates who are formerly incarcerated themselves. Their conversations with me have reshaped the way that I've thought about the issue. Their stories are powerful and so real. And I think that after those conversations, it feels -- as you've probably heard in the emotion in my voice, giving the presentation, almost unforgivable what our government policies have done to communities. And this is our chance to start tearing it back, at least in the area of employment. So thank you all for considering this.

[Applause]

>> Mayor Adler: Mr. Casar, I don't know whether you had notes that spoke to the statistics and other things that you opened, but, if it's in a form that you're able to share, if you would post that on the bulletin board or otherwise get it to us, I'd like to have that. Are we ready, then, for the presentation? Dr. Washington.

>> Thank you, mayor, and council, and councilmember Casar did an excellent job of summarizing some of the discussions that have been taken taking place in committee since the council passed the resolution in may of 2015.

[10:52:28 AM]

And we've gotten many perspectives from community stakeholders, business owners both small and large, as well as staff has done a lot of research to provide some perspective on why this is such an important issue, as councilmember Casar outlined earlier. It is true the city of Austin was an early adopter of what is now a movement across the country in major jurisdictions and other cities. And we have been employing our fair chance hiring practices, both ban the box and added protections, for applicants, job seekers in this area, without any problems as an organization. And so your resolution that you passed asked us to seek that kind of corporation from other employers in addition to the city and the county, who has adopted provisions within their own workforce. And so this will affect every business in our community within the city limits. And so we'll provide for you today an overview of the activities and the engagement process that has occurred. And then outline some of the elements of the ordinance that came from the committee. And I believe you have been provided a draft of the ordinance. It was posted as well as it was sent prior to -- or right after the action item came out of committee. And we will cover those today. So with me, Julia Hayes, who is the interim human resources director, and Monica from our city attorney's office, who's been very helpful in crafting the ordinance language, will provide an overview of some of those particulars. So just in review, the council direction from the resolution in may of 2015 asked the city manager to convene a stakeholder process to get perspectives on how to develop recommendations and options in creating a fair chance hiring process for our community. And we looked at some of the policies from other employers, as well as the city's own policies and benchmark practices, both nationally as well as those as have been highlighted by some special interest groups, particularly those among the national employment law project, and considered all of that in crafting our language that would affect businesses within our community.

[10:54:50 AM]

And as you'll see in the ordinance, we don't reference any recommendations. The committee has not referenced any recommendations specifically related to the 380 economic development agreement, because there are provisions that will affect every employer regardless of the kind of business relationship that they may have, or incentives that they may have dealing with the city. And so we did share those options with the economic opportunity committee, and that's what we're going to cover here today. So with that, I'll ask Ms. Hayes to come and provide an overview of the process and some of the other particulars around the ordinance.

>> Good morning, council.

>> Mayor Adler: Good morning.

>> As a part of the very specific language that you find in the resolution from council, the human resources department went out -- the language spoke to reaching out to small businesses, all of the Austin chambers, and it specifically named for us several different entities that they wanted to participate. At the September economic opportunity commission, the first opportunity that we had was the stakeholders who actually participated in that process proactively on their own prior to us making

any presentations came before that committee to talk about some of the things that they thought were important. We came back to the committee in October, and during that time we provided them the feedback that we received through the four stakeholder processes that we completed. Now, in an effort to provide as much information as possible to the committee, in addition to providing the recommendations from the stakeholders, we also provided them in that presentation the full list of those who participated in the process, and we also did benchmarking on eight cities. Now, please understand that with our benchmarking, what we tried to do was to reach out to each of the cities to identify key characteristics of their ordinances. We pulled those ordinances, and we tried to reach out to each one of those cities to identify characteristics that we thought would be very important in the consideration of this as a possible ordinance for the city of Austin.

[10:56:54 AM]

We provided that information in the October meeting. One of the things that took place in the October meeting was that some of the committee members thought that while we followed the resolution very clearly, there still needed to be additional outreach to businesses. And so we were directed at the October meeting to go back out, focusing on trying to get more feedback from private sector businesses. Now, the only caveat to that is that they requested that we bring that back to the November meeting. So between October and November, with those four weeks, we did reach out to 200 plus businesses. Our strategy in doing that was to reach out to the economic development department to pull companies that they had. We also reached out to the chambers so that we could identify companies through their listing. And we also reached out to all of those businesses who participate in our career expo every year. So we reached out to those. Because of our short time period, we tried to create some diversity in our opportunities to provide input. So we did host a meeting for private sector to attend. We did have a councilmember who participated in that meeting and activity. We also had webinars so that companies could call in to provide us their feedback, and we also did an online survey. So we collected that information between those three and we collected that information and provided that committee with the information provided by the businesses. Several of those who participated in that process, and we let them know that we would be presenting, came to the November meeting to provide their own personal testimony relative to some of their perspectives. So all of that information was presented to the committee. We also reiterated additional information we received from some of the benchmark cities at the November meeting. Once we had an opportunity to do that we also presented three concepts based on the feedback we received in the October meeting. There was dialogue that branched all the way from fundamental, just taking the question off the application, all the way up to the recommendations that were presented by the stakeholders.

[10:58:56 AM]

So we presented those concepts for consideration for the committee and allowed them an opportunity to hear that information in the November meeting. Based on all of the information presented at the September, October and November meetings, and I think this is kind of thoroughly discussed already by councilmember Casar, the recommendations from that committee are listed before you here in terms of the requested items that the committee would like for consideration for the council to review. I'll go over these very briefly. I think most of it has already been discussed. They basically asked us to go back, work with the law department and create an ordinance that takes into consideration these key variables. The ban the box component, the definition of employer. Now, one of the things that was recommended to us as they gave us this was to allow the law department some flexibility in evaluating this recommended list and come back with any recommendations of changes based on any legalities

that weren't considered at the time of the presentation. So the size of the employer as it was identified by the committee was 10 or more. And limiting the anchoring and telling companies that you will only ask the question and conduct the criminal background at the time that you are giving a written or conditional offer. The evaluation criteria was basically creating some language to encourage companies to bring evaluate their positions. Before you advertise a job determine whether or not a background check is necessary. And if one; what is it. And the thought process behind that what if you predetermine what your preneeds are, you will be less biased in providing that offer to candidates who have successfully gone through that process. There was also a request to add language that deals with adverse notification language in terms of letting candidates know if that background check resulted in anything that impaired them from receiving the offer or the final position.

[11:00:58 AM]

Of course a retaliation clause. And with that retaliation clause I think the committee's recommendation also dealt not only with candidates who were applying for positions, but just in case you work for a company and you reported your company that that retaliation clause would cover them as well. And then ensuring within your job notification language and your postings there being some language saying that it's in accordance with any fair chance hiring ordinance that comes. So with that we took the request from council, we worked with the law department, and Monica is now here to kind of talk through what is now included in what you will see in the draft ordinance.

>> Good morning, Monica arvello, assistant city attorney. As she mentioned, the law department drafted an ordinance now included in your backup based on the economic opportunity recommendations. One of the things the law department did review was the applicability of employers within the city limits who employ 10 or more employees. The law department will change that in the draft ordinance to better align with federal and state employment laws. It does not, as councilmember Casar pointed out earlier, apply to federal, state or local employees where a law requires a criminal background check. So those employers will be excluded or those positions will generally be excluded if a law requires a criminal history check. Section 415.4 in your draft ordinance discusses the bulk of the provisions. You have ban the box, employers cannot ask about criminal history in the application. That just delays the question until a later time in the process. The next element, an employer cannot state or imply having a history as an automatic disqualifier. Although you can say in your job posting that the criminal history or criminal background will be run, you cannot imply that that will automatically disqualify anybody.

[11:02:59 AM]

You cannot ask about criminal history until after a conditional offer is made so you have to identify your top candidate and extend an offer and at that time if it's accepted you can run the criminal history check, an employer can. With that being said you also can't -- if you do require them and they decline to allow you to run a criminal history you can't use that as a basis until after the offer is made. So you can't refuse an applicant, if they don't provide you the information ahead of time. The next element was a little trickier because we're not -- we don't really want to require employers to -- we're not telling employers what process they have to use to analyze a candidate, but we do want them to have a process. So they can't refuse to revoke an offer until a conviction relates to the duties and responsibilities of the job. So you have to have some sort of process that says this conviction relates to this particular job. And finally, if they do decide that the conviction relates to a particular job, they have to tell the applicant in writing if they decline to hire that applicant. The human resources department identified the equal employment fair housing office division as best suited to investigate these

complaints. They can investigate complaints received within 90 days and we've also in the draft ordinance given the authority to subpoena records or testimony necessary to complete that investigation. The ordinance continues, the draft ordinance continues that penalties are not assessed until two years after the adoption. That leaves the first year for education only, so if a complaint comes in that employer will be educated about the ordinance. The second year they will begin to investigate and provide written warnings to the employer for a violation. And then it's not until the third year that a civil fine may be assessed to the employer who violates the ordinance.

>> So based on that information, one of the only things that we wanted to share with you is that if an ordinance of this type were to be passed, please take into consideration there would be some administrative needs and impact that would have to take place.

[11:05:11 AM]

We would do some additional research and due diligence based on whatever the council chooses, but we want to point out some key areas that even in the initial stages we want to point out. And that is an educational outreach. We did do some thorough research of what took place with the ban the bag, which was also an initiative that impacted private sector, so we do recommend that an outreach program be put in place to ensure that in that first year you have the opportunity to educate all employers on the ordinance. Also we would have some administration and enforcement positions that would come in place so that we have an opportunity to conduct those investigations and manage that. And also some software in terms of making sure we are able to handle the case management. And based on that I think we have a closing from Mr. Washington.

>> Thank you, Joya. So those considerations, should the ordinance pass, and if it passes with the provision of the first year education could be taking in consideration as we develop the budget process. And before we conclude, I do want to thank the staff that has been working on this project since may and they have put a lot of time into it and they've made it look real summary simple today, but there is a lot of effort that went on that went into developing the recommendations from the committee. And I do want to thank all those members of the human resources department and law department for their work today. That concludes our presentation.

[Applause].

>> Mayor Adler: Thank you. Mr. Casar, did you want to start? Or questions?

>> Casar: One last thing I'll pass out is a packet of letters of support. They include, hold on, I've got the list here. They include a letter from the Austin area urban league, the executive director of the greater Austin black chambers had sent a letter in support, the director of the young chamber along with the gay and lesbians chamber of commerce, front steps, Easter seals, re-entry table.

[11:07:20 AM]

The Travis county democratic party endorsed this. The second chance democratics, which is a new club of folks who were recently incarcerated, book people, spider house, Hoover's, Texas criminal justice coalition, Texas advocates for justice and many others.

>> Mayor Adler: Can you speak to the experience in other cities where this was done?

>> Casar: O --

>> We have researched earlier where there are statistics with Progressive policies, such as California, but our experience in talking with other cities such as Minneapolis, and I don't have the benchmarks of the listing, San Francisco, district of Columbia, Buffalo, new York. Baltimore. They all determined in hindsight when they reviewed it if they had to do it all over again it would be an opportunity for them to educate the public a little more, put in a little more emphasis in the education which we're doing in this

office. They also spoke about their need to have resources for enforcement because if you have the provision, but you don't have an opportunity for people both from the applicant's perspective as well as from the employer's perspective to defend claims in terms of reviewing it, they shared with us the need to make sure that the office would resource it appropriately. All in all -- I can let maze hays share if there's any other comments that you would like to share from the benchmarks for other cities.

>> We received the most feedback from Seattle. They were the most cooperative and they were the city most in alignment with what we would see in terms of population with the city of Austin. And in addition to what Dr. Washington spoke about, they really talked about the need for the education program to be substantial in terms of time, to ensure -- there were actually in two cities, Washington, D.C.

[11:09:23 AM]

Specifically, where there was a concern that the candidates and the community had a better understanding of what was happening in the actual businesses. So one of the key pieces was making sure that there was a thorough education plan prior to any implementation of penalties.

>> Mayor Adler: This is intended to get qualified applicants into jobs that companies want them to be in even after they learn of any past criminal activity because it gives them a chance to get to know that applicant in ways they might not if they asked the question earlier. Is there evidence or experience to indicate that this meets that goal?

>> Well, I think in general with the increasing demand for talent and the low unemployment rate that you heard rodry Gonzalez reference earlier in our community, how competitive the job market is, one of the reasons is, in addition to the social reasons, but it just makes a good business decision for some to make sure that they are not eliminating people who are very qualified and capable in providing employment services to some company not based on their inabilities or indiscretions of the past, but based on their true job capabilities. In discussing this, this is a practice that the hr profession is engaging in and we are one of the earlier adopters in Texas, the state, but there was a forum that will be held in April by the international public management association for human resources, it's all the public sector communities across the state, and they are talking about beginning to adopt some of those practices within the communities.

[11:11:27 AM]

As a matter of fact, today, we have a person who -- she was -- there she is. From the city of Dallas who is visiting with us. And they too are looking at similar kind of practices both as an employer they've got began the community discussions yet. So I think it is an emerging practice that is being embraced beyond businesses and beyond just the public sector.

>> Mayor Adler: Do we do that within the city of Austin?

>> We do it as an employer, the city does, as an organization. And Travis county does as well.

>> Mayor Adler: Has has that gone, our experience from it?

>> We've had great experience. We've not had any issues of -- within our own experience as an employer. I think we've been very -- we've been recognized nationally for some of our practices by various entities, so it's been a good experience.

>> Mayor Adler: Thank you. Further conversation on the dais. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I think we're coming up on about 30 minutes of very, very positive advocacy for this issue and I want to thank councilmember Casar. I believe he is acting on behalf of constituents. That's what you're supposed to do is if they want to bring something forward, they bring it. Let me point out that I did support ban the box back in may for the city employees and I said at

that time I think my constituents would support that. And at the same time I predicted that a mandate would be coming forward to force all the other employers to do it and I would adamantly oppose that. But at issue here with everything I've heard, Mr. Washington, you made a remark should the ordinance pass. And from my viewpoint and from the people listening I ask myself how could it not pass? If every testimony and every fact supports passage of it and there's no communication, nobody is standing here talking about the unintended consequences. There's always unintended consequences of good intentions, especially with something like this. When you try to force all employers to change their employment applications.

[11:13:30 AM]

There's going to be unintended consequences. And I've not heard yet has the chamber of commerce been consulted on this? I don't know. I'm just looking for somebody that might offer an alternative point of view other than it's a great idea voted in. Has the chamber been consulted? Any group? There have to be people that oppose this in the community and they have not been heard.

>> Actually, we did reach out to all of the chambers and I think probably what we should be providing you is a copy of the October and November presentations. In the October presentation we actually pointed out all of the entities who participated in that process. Yes, we did reach out to the chamber, the Austin chamber, the gay and lesbians chamber participated actively in the initial stakeholder process. When we went back out to businesses we actually presented in the November presentation all of the information that we received from businesses, both positive and negative.

>> Zimmerman: I have to stop you right there. I have not heard one negative thing about this. Not one negative thing.

>> So we will provide you a copy of the November presentation that included all of that information.

>> Zimmerman: Why wasn't any of that alternate point of viewpoint up in this 30 minutes now? Not one word. Why wasn't that presented in the context of all positive. Positive, positive. Positive. Why wasn't there even a hint of any negative feedback on this?

>> If I could, councilmember Zimmerman, what staff was doing today elaborating -- we were not selling. We were elaborating on the recommendations from your colleagues that were part of the economic opportunity committee and we were simply sharing the draft -- the draft ordinance as recommended by committee. That's what we were asked to do.

>> Zimmerman: Let me take one exception and give you a perfect example of why I don't believe that. The zero waste advisory commission just a couple of months ago unanimously opposed what staff was bringing towards us. And the staff brought it to us anyway.

[11:15:31 AM]

So if the commission says no, we don't like this and votes unanimously against it, it still comes to council.

>> Mayor Adler: So let's talk about what the function is here. Manager, do you want to go first?

>> Ott: I do. You all had access to all of the information. In the course of looking at that information what were the cons?

>> And I'll actually read specifically from our November presentation where we presented the information comments. And what we did actually in that is the stakeholders -- I'm reading veer bray Tim from the feedback we received from the businesses. Take the question a off -- they agreed to take the question off the application, but they thought it should apply to more than just those businesses with 10 or more employees. They also thought that there was going to be an administrative burden that comes with having to manage -- in the original stakeholder presentation they asked that businesses maintain

records for a period of time. Businesses were very you uncomfortable with that and felt like it was creating an additional administrative burden. They also felt like the fair credit reporting act already required those who were using third-party vendors to provide written responses, so they thought some of what was being suggested as recommendations was redundant to existing laws. There was also some concerns from those vulnerable population companies, companies that were child care and other entities that were concerned about how they would impact them when required to do state and federal background checks. They felt like we should have an extensive period. They were very concerned that companies were not going to know and be aware of it. They also had concerns relative to the retaliation clause and liability concerns. And I will point out that all of this information was taken in consideration by the committee when they made their final recommendations to us.

[11:17:33 AM]

And the initial recommendations from the stakeholder committee were reviewed and not all of those recommendations moved forward because of their feedback. There are three or four pages of information that speak to the businesses' concerns. I think the things that they had most common is not to require record keeping aside from what was already required, including extensive education component, emphasize warnings before enacting the policies, have exclusions with employers working with vulnerable populations, include a longer time frame. Do not limit -- at first they wanted to be limited to just using the Texas department of transportation's information. They disagreed with that. Only remove the box from the initial job application. They didn't feel like we should go any further than that. And the position should be advertised if it would require a background check we should be able to say that. So all of that information was presented and was contributed to the final presentation and the final recommendation from the committee.

>> Ott: So this recommendation comes from the committee who had access to all of the information, including what you just described. So your presentation today was really just in regard to the committee's recommendation, is that correct?

>> That's correct.

>> Ott: Thank you.

>> Mayor Adler: Can you post the information that went to the committee so that the rest of the council has the opportunity to be able to have that same kind of information and data?

>> Yes.

>> Mayor Adler: Yes. Ms. Houston?

>> Houston: Thank you, mayor. First of all, thank you for all the work you've done. This has been since last may, April, somewhere in there that you all have been -- and that's what I think that process was supposed to allow us to do is have those large stakeholder meetings and be able to get different inputs. The one that I went to there was some concern about it being 10 employees of 10 because that was too low a barrier. They thought that that would negatively impact small businesses.

[11:19:35 AM]

And so now it's moved up to 15. So I see where you've made some compromises with some of the concerns that the smaller business have. I just want to talk a little bit about bias. And that's what we're trying to eradicate or give people an opportunity. Because when you're incarcerated you have opportunities to go to college. You have opportunities to have jobs that are in the tech field. You don't get paid for them while you're in prison, but you have those skills. Yet when people come out with skills, with a college degree in certain kinds of areas, there's no place for them to use that. So there's a bias. The minute you say that I'm a formerly incarcerated person, that's a bias, just like some people use

names to weed out people. We know those instances where you look at a name and say oh, that's got to be a black person so we're just not going to look at that. We're trying to eliminate the implicit bias in hiring process and I think that's what we're missing here. And I think while I was in the back I heard councilmember Casar mention that. If that's what it is, it's bias. People in -- who have been in prison have gained some skills. Some education. Some have bachelor's degrees, some have master's degrees, but once they get out when you see that I'm formally incarcerated or a felon, you check that box, then that stops there. The buck stops there. This is a way to give them more opportunities to be able to become contributing members of society. I appreciate the work you've done on that.

>> I think the intent of this conversation on the dais is not just to get the presentation. Mr. Casar, I appreciate the fact that you have brought this to a work session. It gives us a chance as a council and on the dais to talk through this issue or to express views or opinions without having an action that is awaiting moments later.

[11:21:47 AM]

And to that end, I'm going to express my support as well for moving in this direction. Because I think the benefits associated with this outweigh the challenges that are presented. That is not to discount the challenges that are faced in implementing something like this. But I think that the ultimate benefit outweighs those. And I think in hearing about the experience we've had in this city and -- is that a policy leak this works the way it's supposed to be. That employers find themselves in the position where they end up hiring somebody that they wouldn't have considered because that employee wouldn't have made it deeper into the process. And not only from an equity standpoint as councilmember Houston spoke to from a community standpoint, the general health of a community standpoint and trying to do something about the disparity in income in our city, which is a problem. We should do the things that we can do to help people take care of themselves and build their own support base and their own opportunity to be able to be an effective and meaningful contributor to society and my personal view is this is one such thing so I'm happy you've laid this out. I'll look at the ordinance presented, listen to the community conversation, but where I sit here today it's in support of this direction.

>> Troxclair: I have a couple of questions about the actual ordinance. The resolution talking about ban the box and fair chance went through economic opportunity, but this is the first time we're looking at the actual legal ordinance.

[11:23:53 AM]

So I don't know who the best person is to answer these, but when we talked about job related convictions, you said that you expect that -- I'm trying to think of all the jobs, all the different jobs in the city, how does one determine whether a previous conviction for theft or for assault is relevant I think is the word used in the ordinance, to the job they're being hired for. Is that going to be up to each individual business to determine? How does that work?

>> It is the ordinance specifically left out outlining a process that businesses have to follow. The language comes from eeoc guidance about how to consider convictions. It's not the law. Criminal history -- having a criminal history is not a protected class, but the eeoc has outlined specific things a business should consider in determining whether a conviction is relevant. We did not include that language in this ordinance. What we were requiring in the ordinance is in this draft ordinance is to have -- requiring a business to have a process to identify that themselves. So it is up to the individual business.

>> Would that be part of an investigation if there's a complaint, then would the business be required to produce some kind of record of that policy? >>

>> The eeoc fair housing provision does have the opportunity to subpoena records, but I don't think the

ordinance is to have the eeoc fair housing overturn on relevance. I think that is something we have to establish when we draft up the process. Because this is very preliminary. But I don't envision and I don't believe that the intent was to require businesses to follow a specific process just to have a process.

[11:25:55 AM]

I imagine that's what the eeoc fair housing would investigate.

>> Troxclair: I think it would be almost impossible for the city to come up with a policy applicable for every single potential job opportunity in the city. So thanks for answering that. I understand the importance of having the education period and education for the first year, warning for the second year. And then the third year the civil penalties start. What about -- so after the second year is a business -- either a new business who may not have been aware of requirement -- either a new or old business, but that has never had an issue with this before, that never received a warning, if there is a complaint against them in the third year are the businesses going to have the opportunity to receive a warning or to maybe educated about the policy that they were unaware of before there's a civil penalty assessed against them.

>> I think that would be part of the process going forward and we can make those decisions as this is established within eeoc fair housing if that's a division that would take responsibility for enforcing this ordinance. I don't know that that question has been considered at this point. It's something for us to consider.

>> Troxclair: I guess I will have to think about it between now and when we're going to vote on it because it does specifically speak to that in the ordinance that we have before us. So I will -- I would think that a lot of business owners, even after a year's worth of education or even two years of education campaign by the city, I think there are probably a lot of businesses, especially small businesses, who are going to be unaware of this policy. So I hope that they have the opportunity if they've -- if this is a first to receive a warning first.

[11:27:57 AM]

It's definitely something we can work in the draft if that's the direction you guys choose. I didn't see the cost to the city of administering this kind of program anywhere in this presentation.

>> That cost would be completely determined by what the final ordinance looked like. We didn't want to put a lot of time and energy into researching the administrative needs before fully understanding what the council's desire was going to be relative to the meat of the ordinance.

>> Troxclair: But we have a draft ordinance that we're considering so I think we should know what the cost to the city is going to be.

>> We don't have the exact costs, but depending on the level of potential compliance and enforcement, we could be looking at a range of between three hundred and five hundred thousand dollars depending on the number of staff and the amount of education. So that would vary based on what level of implementation would incur.

>> Troxclair: Three hundred to five hundred thousand a year?

>> That is not all annual. Some of that is first year and so we can -- we can break down the implementation assumptions and the costs even more.

>> Okay. I think that you can provide at least some estimates to the committee if I'm remembering correctly.

>> Those numbers are consistent with what we shared with the council committee.

>> Troxclair: If you can provide that information to the council before we take a vote I think it would be good information for us to have. And I guess I'll just speak as the chair of the economic opportunity

committee and the only person who voted against this, and in committee. I want to -- well, I first want to thank councilmember Casar because I know he feels really passionately about this issue. I think we're on the same page. As I've said multiple times at the committee level, I think we're on the same page on the intent of the ordinance and wanting to make sure that people in our community have the opportunity to get their foot in the door and to have a second chance, but I think we differ in the way we would like to see the implementation go forward.

[11:29:57 AM]

We took two separate votes in the committee and two separate meetings. We took one vote on ban the box and one vote on fair chance hiring. I think that a lot of the initial community conversations or at least the businesses that I talked to that kind of were aware that council was considering this, but they thought we were just considering ban the box, which is honestly what I thought we were talking about back in the early spring last year when we first considered this, which was the idea of we don't want that initial question about do you have previous criminal conviction on your record on the initial application because it's relative easy for somebody to-- for a business to not have that on their application, give the applicant a chance to get their foot in the door, to make the case to meet the person, have a great use interview and to minimize the potential effect of a criminal history on their ultimate chances of getting a job. But the further we got into it I heard a lot of concerns, especially from small businesses about the administrative burden, the civil penalties, the liability, the cost to the city. There are a lot of businesses who are voluntarily doing this. The city is already doing. This there are a lot of big companies who are already voluntarily doing this and the testimony that we heard from people like Alexander Hoover, who is a great business owner in our community and who does so much already for populations in need or populations who need a second chance, he too supported the idea, but really believed that we shouldn't approach it via a city mandate and a blanket city policy that we should work with businesses to provide some kind of care, some kind of incentive to adopt those policies and adopt penalties for people who aren't able to comply. So I think when you look at the kinds of businesses who have voluntarily adopted this, it's bigger companies who have more formalized and more standard application process to make some tweaks to that already standard process.

[11:32:10 AM]

It's the small businesses that I think we're going to create the biggest burden for. So that was where my hesitation comes from. Hesitation comes from. So I thought I would lay that out and provide a bit of background for the other councils councilmembers. I know you have spent a lot of time working on this and there are many stakeholders passionate about this issue so look forward to our continuing conversations. I'm remembering some of the basic teaching when I was working up at the legislature when we would have some -- and then at a state agency. There would be a lot of changes to laws that would happen during the session and implementation would either be nine months away or maybe two years away in order to provide a good amount of time for changes to law to percolate downward and for education to happen, which is why I appreciate the education time frame that's being put into the proposal from my colleague on the other side of the dais here. I think education is -- the timing of that is really important, but I also remember what my mentors reminded me that when laws change, just because you don't know that they've changed doesn't mean that you don't have to comply with the laws. I think it comes in the formulation of ignorance of the law is no defense. So our job as city government when we make changes to ordinances is to work very diligently in order to ensure that the education process occurs. That we use all of the resources and all of the community groups that work with us, particularly in this case, as.

>> Troxclair: Has mentioned -- as councilmember troxclair has mentioned, the small business folks, those concerned about the changes.

[11:34:11 AM]

We have good networks in place with our partners in small business both working with the chambers of commerce and independent business alliances to make sure that the education is done really comprehensively so that no one need be surprised two or three years later that we're taken unawares or surprised. So I appreciate that this portion is robust and that there is a system for a warning. And then the full implementation. It's our job to make sure that the community understands when we make a change as fundamental as this and that not only is the change explained to folks, but the ramifications are pretty clear. Again, I wanted to underline the fact that we're making a very strong effort to advise everyone in the city both current and new future employers that this will be out there and I think in the end this is a very good initiative. There are a lot of folks who have been in an economic underclass because of incarceration and that is what this is all about.

[Applause].

>> Garza: We like to seek cooperation from both sides. That's our job. I don't necessarily, with all due respect to staff, sometimes I am on the side of staff and sometimes I'm not and that's my job as a councilmember to see both sides.

[11:36:19 AM]

So this idea that we're being brain washed and we're up here and we're just listening to staff is not fair. With regards to this specific issue, in my former life I was the assistant city attorney in the child support division and I saw the revolving door of a really hopeless situation for so many. They would -- our first goal was to try to mediate and try to have some kind of agreement and I'd have to go back and talk to these guys and girls sometimes in their cell with -- and if we have to come out for a hearing. I see councilmember Casar how he gets emotional because it was heartbreaking to me because I was standing up there supposed to prosecute them and they're walking out here in shackles because they didn't pay their child support because they couldn't get a job and that's what they would say. How am I supposed to get a job? I'm a felon. That's the first thing I check and I'm out of consideration. This helps folks who are trying to get a job, but are eliminated at that very initial stage and I saw the revolving door and the child support world and I think this -- this affects so many different government levels amend R. And effects families when moms and dads can't get child support because the concern has a criminal history. And the fact is minorities are disproportionately more. And given harsher sentences so many times. Thank you, councilmember Casar for bringing this forward. I know this was an initiative by the white house. And unfortunately because of politics president Obama can't pass a lot of things through congress and what -- this was talked about and even though we can't do it at a federal level there's been great success doing it city by city.

[11:38:28 AM]

Because my assumption is that the support is there on this dais. Obviously we won't know until we vote on it. I'm very proud of councilmember Casar and I'll be even more proud of Austin when we pass this. [Applause].

>> Mayor Adler: Mr. Casar, do you want to close us down?

>> Casar: Certainly. I appreciate y'all taking the time. I think we could have it posted for the next few work sessions so that we can get any amendments out on the table. I know that there's something that I

-- that I'm considering and some that others may consider. As far as the ban the box versus fair chance conversation is something we had discussion during committee, I think the three different meetings that the staff brought this forward during. I tried to make it very clear as did many of the advocates for this policy that this was about fair chance hiring. It was in the original resolution that it's best practice to have a comprehensive approach towards tearing back some of those discriminatory practices in the workplace and there will be disagreements about whether there will be something incentivized or mandated. And for me this is a civil rights issue and so those sorts of rights need to be mandated. Those -- we have gotten to a place where we have a socially acceptable and culturally rationalized and legally enforced system of discrimination against folks and I -- I'm very happy to hear from this dais and from councilmembers in particular that it's inevitable and we'll do something. Let's work in the next few weeks in work session to figure out the best way to do it.

[Applause].

>> Mayor Adler: We'll then move on to the next item. Thank you very much for the briefing and for the work. So our work session we have one action item that is the str matter.

[11:40:29 AM]

So let's call that up now.

>> Gallo: Mayor, I just wanted to say thank you to the councilmembers about postponing this until I got back here. I actually was present and invited to participate in the ribbon cutting for the Austin independent school district's brand center. It's located at Anderson high school and it's the result of a partnership between aid and the boy scouts and a very large community donor. It's going to be a joint facility that will be used by the whole school district and also the boys and girl scouts during the summer for summer programs and it's going to give our students the best experience in preparation. It's really exciting. It was fun to be introduced to the robots that were wandering around greeting us. I'm really proud of our school district and I appreciate the council allowing me to attend that this morning and then be here for the short-term discussion. So thank you.

>> Mayor Adler: Does anyone want to make a motion on short-term rentals. I didn't know if anyone wants to make a motion.

>> Pool: Mayor, I think councilmember Houston and I were kind of talking back and forth over who would make this motion, but do you want me to -- so I wanted to move that we would approve the recommendations on short-term rentals that came from the planning commission last fall.

[Cheers and applause]

>> Houston: Mayor, I would like to second that motion.

>> Mayor Adler: It's been moved and seconded to adopt the resolution that came from the planning commission.

[11:42:30 AM]

>> Pool: I believe that was generally the position that we were working from during the readings at that time. So there was an ordinance in backup dated in the bottom left-hand corner 22-2016-6:20 A.M. Is that the ordinance you're moving or a different ordinance?

>> There are two ordinances in backup. One is titled council initiated and that is the one that is 1-22-2016. The other draft in backup has the planning commission conditions in red and bold and that is dated 1-27-2016. And my understanding of the motion is they moved to adopt the planning commission version.

>> Mayor Adler: Any discussion. Ms. Troxclair?

>> Troxclair: I don't know the proper way to do this, but I would like to make an amendment to her

motion to adopt the council initiated language.

>> Mayor Adler: It's been moved to substitute for the planning commission version, the council initiated version. Is there a second to that?

>> I'll second that.

>> Mayor Adler: Mr. Zimmerman seconds that. Is there any discussion? Yes.

>> Tovo: I'd like to ask the maker of the motion to identify which are the compelling reasons for the substitution? I think it would be helpful especially for those gathered to know exactly what the difference is between the two versions and why you believe the council initiated is preferable to the planning commission's.

[11:44:35 AM]

>> Troxclair: I think maybe the staff would be the person to better go through the differences between the two ordinances for us again.

>> Mayor Adler: Would you do that, Ms. Link? What has changed?

>> The council initiated draft has the occupancy limit that is the no more than two adults per bedroom plus two additional dolts. The presumption is that everyone has two bedrooms in their home. No assemblies between 10:00 P.M. And seven P.M. Outside assemblies limited to six adults between 10:00 P.M. And seven A.M. App P.M. And. The planning commission's recommendation was to adopt no more than six adults per short-term rental and then no more than eight dolt adults per side for a property being used as a short-term rental. Then to have a process to increase the occupancy limit based on site characteristics. The next is going forward the future of type 2 short-term rentals.

>> Mayor Adler: Would you identify the section for the first change you were talking about?

>> So the occupancy limit can be found in part 2 and it's 25-2-795. I didn't change the numbering of any of the sections between the two ordinances. It just shows the difference. How it would look.

>> Zimmerman: Mr. Mayor, point of information. Is there a document that highlights the difference between the two? Did we do an analysis?

>> Mayor Adler: Is there a red-line that actually lets us see the differences. I'm looking at the -- in the backup, I'm looking at the ordinance where they changed language appears to be in red, but I can't see looking at that what the underlying language was.

[11:46:43 AM]

Is there a red-line that would enable someone looking at the section football able to see what the operative -- to be able to see what the operative change was?

>> The chart that I created in January puts them side by side. It doesn't use exact text, but it puts them side by side to there's a comparison. As I go through the changes we can put this on the overhead.

>> Mayor Adler: Thank you.

[11:48:53 AM]

So by way of overview as you get into the language there was a chart that you had that compared the differences that are part of the backup for this. And some of the things that are listed in the chart are the same in both the council initiated resolution as well as the commission regulation. And some of them are different.

>> Correct.

>> On the chart that you had with respect to the ones that are -- the renewal inspection is that different?

>> No.
>> The clustering, is that different?
>> No.
>> Certification?
>> No.
>> Mayor Adler: So the first one is the certificate of occupancy limit S that the same?
>> Council did not indicate a time frame and that's --
>> It's the same in both --
>> Correct.
>> Mayor Adler: Septic system is the same, guest registry, advertising is the same. So the first difference between the two is with respect to the occupancy limits. Is that correct?
>> Correct.
>> Mayor Adler: And the difference is that the city initiated one has no more than two adults per bedroom plus two adults. And the planning commission had no more than six living there and eight on site.
>> Six in the short-term rental and eight for the total site.
>> And what was in the crown, the corresponding deal was two per bedroom plus two as opposed to six? And it had 10 people as opposed to eight in certain time periods and six in other time periods, is that right?
>> Correct. And there's an overall maximum of six unrelated in the council-initiated version.
>> So it's a number of people in the occupancy limit. And then continuing on in the chart that you prepared, the local contact is the same, the bad actor clauses are the same.

[11:50:57 AM]

The additional fees the same?

>> Correct.
>> Mayor Adler: The commercial areas, is that the same?
>> Correct. So this is where it starts to get particularly different.
>> Mayor Adler: And that short-term rental, that's section 4. Part 4.
>> Correct.
>> Mayor Adler: Of the ordinance. And you had that being the same in both. The the next deal was short-term rentals phaseout. That's the same in both, but the planning commission has the phased out in 2015 as opposed to -- 2020 as opposed to 2022.
>> Correct.
>> Mayor Adler: And that is part 58.
-- Part 5 of the ordinance. Is the rest of it the same?
>> Yes, with the exceptions of part 8 and 9.
>> Mayor Adler: Okay.
>> In the planning commission version, essentially the amortization period is ongoing right now and there would not be a need for council to reconsider this in 2017.
>> Mayor Adler: Okay.
>> So the ordinance would take effect all at the same time.
>> Mayor Adler: Okay.
>> Pool: Mayor, are you looking at the draft in the backup?
>> Mayor Adler: Yes, draft short-term ordinances?
>> Pool: Would it be possible to get some copies of that for us? I think my staff is making some copies for me, but I don't know if anybody else -- it might be helpful to have that chart printed out for us.

[11:53:00 AM]

>> Pool: It's in the backup and it's called chart.

>> Houston: And mayor, if we could put it on the overhead then everybody could see it because they can't get the chart.

>> Mayor Adler: And if you would look at the differences between the two draft ordinances, the council-initiated and the planning commission, just the differences.

>> So page 2, the very last set of boxes on the occupancy limit.

>> Pool: And if you could really quickly advise the second column is which ordinance and et cetera.

>> This first column is the council initiated. The second column is the commission's recommendation. The portion in the ordinance? The site?

>> Correct.

>> Pool: And the notes?

>> If there are any notes. Some of the items I have notes for from council and then the last item is the date it was initiated.

>> Pool: Thanks.

>> So to further kind of explain the differences a little bit more and the occupancy limit, when council initiated the occupancy, the potential occupancy limit, you also addressed outside assemblies, which -- and assemblies which the planning commission did not, they just went with the straight occupancy limit.

[11:55:06 AM]

>> Mayor Adler: Yes.

>> Tovo: The other difference, I believe, is that the council ordinance uses the term unrelated and the PC went with a straight occupancy limit.

>> Correct.

>> Tovo: Mayor, I guess I need to ask how you intend to proceed at this point? Are we -- we have a motion on the floor and now we have a substitute motion to sub in a whole other ordinance. Or are we going to take -- are we going to take the items of difference and talk about those as amendments.

>> Mayor Adler: I think we'll have an initial vote to determine what is the base ordinance that we're working off. And it will either be the city council initiated one or the planning commission and then we can have amendments going through those. And I think that's a big threshold question. We'll just put that to a vote in terms which of one we work off of as the base. Ms. Kitchen.

>> Kitchen: I have some questions. Ms. Kitchen.

>> Kitchen: I have questions about the differences on the occupancy. My first question relates to the impact of either one of these ordinances on str-1s. They do apply to str-1s, is that correct?

>> Correct. If it is being used as an str.

>> Kitchen: What does that mean, what it's being used as an str? Say I have an str-1, with a party, something to do with me, and not the person who is renting from me. Does it apply?

>> No. If you were using your house as your home, these regulations would not apply.

>> Kitchen: Can you tell me where it says that? My concern is, with the planning commission ordinance, it says at the site. No more than eight adults at one time may be present at a site. Is it the being used as that takes care of it?

>> Yes. And so --

>> Kitchen: When it says as a site, it means it can mean half of the property, or whatever -- only the part of the property that is the str part of the property?

[11:57:13 AM]

>> So the planning commission's recommendation on this is they are thinking about the situation of duplexes, secondary apartments. So for the overall site, it would be eight. So it would potentially limit the number of individuals that you could rent the rental to.

>> Kitchen: I'm sorry, say that again? So if it's the overall site -- what I'm wanting to make clear and I'm just not seeing it in the language is what I'm wanting to make clear is the first statement that you made. And that is that this doesn't apply to, you know, an owner of an str-1 who has an assembly or a party or whatever. It's a personal party for themselves. Where does it say that in here?

>> So the way the language is written is --

>> Mayor Adler: Can --

>> If the site is being used as a short-term rental, it would trigger this eight number. If you're simply using your house as you normally do, you would be subject to the occupant ounce occupancy limit, which still controls.

>> Kitchen: It's the term site being used as.

>> Correct.

>> Kitchen: So that's in the planning commission version. What about that the council-initiated version?

>> In the council-initiated version it would apply to -- the maximums would apply for the short-term rental itself.

>> Kitchen: And where is the language that tells me that it doesn't apply if a person is using their property for their personal use?

>> So if the property is being used as a short-term rental, then you would follow these guidelines. I'm sorry, these rules. If you were using your house as your home, under the council-initiated, you would still be subject to 25-25-11, so you still have to comply with the six or four unrelated.

[11:59:18 AM]

>> Kitchen: I understand that, I'm not seeing it. Because in 25-2-7-95, it says short-term rental use may not be used by more than. Is that the term, the short-term rental use that clarifies that?

>> Yes.

>> Kitchen: Okay. Thank you.

>> Mayor Adler: Yes, Ms. Gallo.

>> Gallo: I have a question along that same line. If a person was actually living in their home and say there were four adults. Say they had kids that had moved back in while they were going to school, as kids often do. So say that their family with their two adult children are in the house, and they have four adults living in the house. And they had a garage apartment they were using as a type 1. Would they only be able to rent that to four more adults, if they are -- if part of the adult total includes their house, if that's happening at the same time?

>> Under the planning commission's recommendation, yes.

>> Gallo: So the owner occupancy number of people would also add into the total if all of that was happening at the same time.

>> Correct.

>> Gallo: Okay. All right. I think that's kind of what councilmember kitchen was --

>> Kitchen: Clarify that for me again.

>> If you are staying in your house, but you're using your garage apartment as the short-term rental, if you have -- using the example given by councilmember Gallo, if you have four adults in your home, then you would be able to have four adults in your short-term rental so that the site itself would have eight.

>> Kitchen: Well, that's what my concern is. It's not considered separately. Because these regulations

should only be applying to the str use, not to the place as a whole. But it does. You're saying it does.
>> The planning commission's recommendation does.

[12:01:19 PM]

>> Kitchen: But the council-initiated does not.

>> Correct.

>> Kitchen: Okay.

>> Mayor Adler: We have before us the motion to consider the council-initiated document as opposed to the planning commission document as the base document. Is there further discussion on that? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'd like to speak in favor. I did second the motion, but I think what's going to happen irrespective of which one of these we start with, we're going to be making additional amendments. So either way, whether we vote for or against this, we're going to be back to considering some of the points individually. So I hope that we can start with the one that council originally passed.

>> Mayor Adler: Okay. Any further discussion? Ms. Houston.

>> Houston: I just need a clarification. I'll wait until she stops moving around.

[Laughing]

>> Houston: Thank you so much. The clarification is, do we differentiate in the examples that we've just been talking about between type 1 and type 2 in either of the resolutions? Because I see type 1 being very different than type 2 rentals.

>> So the regulations on occupancy, regardless of the version that council approves, applies to type 1s and type 2s, and type 3s.

>> Houston: In both resolutions?

>> Correct. Where you see a potential -- the concern that is being raised by councilmember Gallo and kitchen has to do with if you're staying in your house, how that impacts when you're using the garage apartment actively as a short-term rental, how that plays into your occupancy limit.

[12:03:22 PM]

So that's where we have the biggest distinction.

>> Houston: Okay. So are there occupancy limits on just my house if I'm not using anything as a short-term rental?

>> Yes, in 25-2-5-11, and that's the six unrelated or four unrelated, depending on the area.

>> Houston: So that's regardless if I'm just using it as a house, I still have an occupancy limit, it doesn't matter whether I'm a short-term rental or not.

>> Correct.

>> Houston: Okay.

>> Mayor Adler: Further discussion on the base document that will be used? Ms. Pool.

>> Pool: Ms. Link, could you give us some help in defining bad actor clause that's in the first column on -- I think it's the third page. It just says "Bad actor clause," and then the commission recommendation has more detail. How do those vary, or do they? It's page 3 of 5.

>> So council did not have specific direction as it concerns bad actor. You wanted a bad actor clause. And so the language that is in the draft ordinances are based on the planning commission's recommendations.

>> Pool: So would you say that

-- in this instance, one gives specificity that could also be in the other column? Are they the same?

>> Yes.

>> Pool: So what we were terming the bad actor clause includes the items listed in the recommendation.

>> Yes, it's in both ordinances.

>> Pool: Great. And then a little bit further on we talk about -- where did it go?

[12:05:28 PM]

Oh. It was a date of implementation. And I think that might be on the second page. And I'm not finding it right now, but can you tell me the differences between -- there's a 2020 on the moratorium, I think. And I apologize for not being able to find it really quick. There it is. It's on page 4 and it's the bottom one. The first column says phases type 2 short-term rentals out of residential areas, and that was the council-initiated. And then under the commission-initiated, phased out in 2020 based on the November 15 ordinance that limits the director's authority to issue new type 2 short-term -- so just remind us what our --

>> How you see the difference in the two versions is under the council-initiated draft it actually phases out on April 1st of 2022. Because of the expiration date in the November 2015 ordinance, which is March 21, 2017. It also would go into effect -- those provisions would go into effect on April 1st. So the five years starts from April 12, 2017. And it's drafted in a way so that the amortization piece along with your November ordinance will come back together at the same time so that we don't have an issue of, I have one ordinance that says one thing and council takes action and changes it, so that they stay together and aligned. But the balance of the ordinance would go into effect in the Normal course.

>> Pool: And if I'm remembering some of the conversation about the amortization timeframe, the reason why that was inserted the way it was was in order to give substantial lead time for people to understand that the homes that are being used as type two commercial short-term rentals that are in residential parts of the city would have to convert back over to being residences as opposed to commercial rentals, is that correct?

[12:07:44 PM]

>> Correct. It gives time for them to change.

>> Pool: And the timeframe is about five plus years. Even counting back from when we first started talking about it, it was more like six years.

>> Correct, for the 2022. The 2020 date is based off November 2015, so it's slightly shorter, five years.

>> Pool: I guess I was looking at the 2022 date.

>> Right. So that's five years from the April 2017 date, which is your prior ordinance.

>> Pool: And counting from today or earlier when we first raised this issue, the notice that we were talking about doing this has been out there for quite some time.

>> Correct.

>> Pool: Okay, thanks.

>> Mayor Adler: Yes, Ms. Troxclair.

>> Troxclair: I want to ask about at the part 2, the occupancy limits. Was there discussion -- the council version has no more than two adults per bedroom plus two additional adults, and then restrictions on assemblies and etc. And the planning commission version just has a hard cap at six adults. Was there discussion at the planning commission, or could you give us information about why the word "Unrelated" is used in -- not specifically to str issues, but in housing issues overall? Maybe as it relates to families and potential discrimination against families that have more than four children?

>> Okay. So the code has two existing occupancy limits. One is our zoning occupancy limit, which is 25-25-11, which addresses relationship. So family or a certain number of unrelated individuals that stay in a

home. We also have a second occupancy limit which is based on your square footage.

[12:09:48 PM]

That doesn't take relationship into consideration. The first type of occupancy limit is generally considered zoning, and relative to make sure that the uses are compatible. And the city -- in its description of unrelated, does not decide what family is in the sense of, basically, the way we have it phrased, we have defined it as unrelated means not connected by marriage, domestic partnership, or adoption. And then we have a certain number of unrelated individuals that can stay in a property.

>> Troxclair: But do you know why the decision was made originally when we were talking about zoning, or when the city was -- or not just -- yeah, when the city was setting those limits of why the term unrelated is important, and why, maybe, that came into the conversation?

>> I don't know at the time when it came up. What I can say is that having a certain number of unrelated individuals or limiting the number of unrelated individuals is a common practice in zoning. That being said, courts have said very clearly we do not get to define -- or get to limit in grandmother gets to stay in the house, or the uncle or aunt get to stay in the home. The owner of the property makes that decision. So we stay away from identifying, you know, mothers, fathers, brothers, sisters, cousins, that kind of thing. We use the broader terms of being related versus unrelated. As it concerns the short-term rentals, the concern of the planning commission is --

>> Troxclair: I was just more interested in the history. I've heard some people talk about the reason that we have -- or that we differentiate between related and unrelated is because, you know, there are certain parts of our community that tend to have larger families, and it can be seen as discrimination if we don't allow more than six people.

[12:12:07 PM]

You know, not just specific to str's, but if this bled over to our regular zoning or housing codes, that it could be considered discrimination against certain people.

>> So how we address the potential for overcrowding is through the maximum occupancy limit, which is the square footage per person. And so we stay very clear away from making a distinction in that regulation about whether someone is related or not related. And to what extent they're related in terms of, you know, fathers and grandmothers and things of that nature.

>> Troxclair: And I think that was a very -- I know it's a difficult issue that we've spent a lot of time talking about that idea of related or unrelated, because I understand that it presents some challenges for our code department when it comes to enforcement. But I think the agreement that we came to with no more than two adults per bedroom addressed the concerns about having a ton of people in a house that can't accommodate that many people. But not potentially discriminating against larger families. So, to mayor pro tem Tovo's original question, she asked why I was supporting -- or why I was making the motion to adopt the council-initiated ordinance. And I just -- we have spent -- this council has spent so much time and energy digging into every detail of this ordinance, and I think we came up with this ordinance in a very -- out of -- after a lot of thought and after a lot of deliberation. And I certainly think that we can consider some of the suggestions that the planning commission has made, but I would certainly be more comfortable if we start from the council-initiated ordinance.

[Applause]

>> Mayor Adler: Ms. Tovo.

>> Tovo: I appreciate that explanation. I want to dig into that a little bit more and say the planning commission spent a good deal of time on it, too.

[12:14:10 PM]

As I read the occupancy limits in the planning commission version, it also does allow for -- it allows for a licensee to request an increase in the number of adults by submitting an application and then offering information about the size of a short-term rental site.

>> Correct. And it was to address those larger homes that may be able to accommodate more individuals.

>> Tovo: So then in the end, a short-term rental that went through that process could, in fact, house more -- could have a higher occupancy rate than does a regular single-family house, potentially.

>> Potentially.

>> Tovo: Okay. So I think on some other points I prefer the planning commission version. I would say I concur with the point that councilmember kitchen and Gallo raised about allowing people who own their home and have a short-term rental on the property to have a gathering. So I still prefer the planning commission version, again, on some other points that are relevant, but I would certainly be open to amending that to allow for owners to have parties on their site, even if they have a short-term rental on the property. I'm not entirely sure what the best way is to effect that change, though. If we move forward with the planning commission version, we would need some help from legal about how to make that possible.

>> Mayor Adler: Okay. Ms. Kitchen.

>> Kitchen: I have a different question related to the planning commission version of the occupancy limits. The sections that allow for applying for an increase in the number of adults, I'm not seeing a criteria that the decision would be based on. Am I missing that?

>> So in subsection D the director would have to look at what the dimensions of the site are, what the number of parking spaces are at the property, the number of bedrooms at the property, and the distance between a short-term rental dwelling and then the neighboring property lines.

[12:16:17 PM]

Those are the factors and the characteristics that they'd have to look at. And depending on the individual site, if they have parking where they can handle more than what the current occupancy limit is for the short-term rental, it may make sense to increase that. Or if there's sufficient distance between the two properties.

>> Kitchen: I don't see any criteria. I understand that those are the factors to be looked at, but I'm not seeing whether -- you know, it doesn't even say that if you have more parking spaces, then you can consider more. So that's my concern with that section, so, thank you.

>> Mayor Adler: Any further discussion? Let's take a vote. Those in favor of the -- working off of the council resolution, please raise your hand. Gallo, kitchen, Adler, troxclair, and Zimmerman. Those working off the planning commission resolution, please raise your hand. That's five.

[Off mic]

>> Mayor Adler: Microphone.

>> I'm struggling with this because I really -- before -- I should've mentioned it before I took this vote. I am under a complaint and I just want legal to give me some legal advice on whether I'm allowed to vote on this one or not.

>> Councilmember Renteria, I can't give you advice about the ethics complaint, but I can say that I think we've talked this morning about the requirements for going forward and whether or not you need to recuse yourself, given the monetary involvement. And I think you made a determination about that.

>> Renteria: Okay. I just wanted to be clear. And so I'm going to vote for the council.

>> Mayor Adler: Council, okay.

[12:18:17 PM]

That's six votes to five for the council. So we're going to use the council resolution as the base.

[Applause]

>> Mayor Adler: I'm going to go ahead and make the amendment that I posted last week, and coming up, it's what's been handed out on the yellow page. It was discussed on the posting. You know, my sense of this, as I said in the post -- what this does is it takes out the amortization --

>> Zimmerman: Point of order. I'd like to second that motion.

>> Mayor Adler: Thank you, it's been seconded. There are three issues that seem to be brought up by virtue of the str debate. The first one is the bad actor provision, where we're having parties in a residential neighborhood. The second is the loss of housing stock associated with these. The third is the general impact on neighborhood character. We went through these, and I think came up with --
[off mic]

>> Mayor Adler: I'm sorry? This is -- as we go through this, I think that we reached a decision last fall that I think was a well-crafted resolution of several different issues. As you recall in the middle of last year, there were hundreds of different issues, lots of different permutations, and we ended up with something that changed existing law, changed how we did inspections and increased the timing. It increased the distance by which separation would have, and it required a local contact. It had a certification of no code violations in order to be able to get one of these, it had a reliance of certificate of occupancies, it had septic verifications, it authorized the code director to not deny a renewal for violations, it had violations, grounds to suspend, or deny, or revoke licenses, it maintained a registry, use of sound equipment, prohibited occupancy, required adds to limit -- to list occupancy limits and include license Numbers, prohibited promotion and advertising if not licensed, put in occupancy limits.

[12:20:53 PM]

And the occupancy limits we put in, I think, were the result of a give and take and back and forth in terms of conversation, in terms of what people would do. And I think some people voted for some sections because of the occupancy limits that were set out that they might not have voted for had it not been part of a larger agreement. We denied licenses for city code violations. We had noncompliance fees. We added administrative changes that would make prima facia evidence of violations possible to increase enforcement. We removed str's from a section. We've seen some areas, homes that were licensed have lost licenses, some people have sold homes as a response to that. And then we set up the concept that we would see how these things worked, and then we would come back at the end of the year. And I think that still makes sense. I'm uncomfortable with doing an amortization period right now because I think there are serious legal issues with respect to what the appropriate timeframe should be for me in terms of not ending up having to buy these homes. At the same time, I'm concerned about these uses in neighborhoods in terms of the neighborhood character. But I think that if we stay with where we were last year, it represents that more tuned balance. This amendment deletes sections 4 and 5, which are the sections that would ban the short-term rentals. And it says it would come back to council next year the same way that the end of the moratorium comes back to council at the end of next year. And because we're making those changes, the effective date of the ordinance could all be the same, since we're not differentiating between those two things.

[12:22:55 PM]

So, this amendment takes out section 4 and five that relate to the banning of str type 2s, and sets that to come by ordinance back to the council the same time the moratorium does.

[Applause]

>> Mayor Adler: It's been seconded. Are there additional discussions? Ms. Houston.

>> Houston: Thank you, mayor, for all of your hard work on this and trying to reach common ground, however, it seems to me that we're just kicking the can down the road. We've already had public hearings. We've had testimonies for and against. We've had statements that council should not pass laws that create a hardship on property owners. Well, those of us who live and have lived in residential neighborhoods, we are property owners. And when we have a business move in close to us or next to us, it does create a hardship. People have said it impacts our ability to pay bills on -- keep it as it is. That's the same thing for people who lived in the neighborhood before those businesses were added to the neighborhood. I think it was disingenuous for the last council to go ahead and put this as a pilot project, because now we've got it that it's almost embedded in the consciousness of this city that this is the way that life should be for people who own property and have lived in their communities for generations, that there is no opportunity for them to get any kind of relief from the city. And so I think that this is just saying, once more, that we're going to institutionalize what was already a bad situation by allowing commercial properties in residential areas, and I'm going to have to vote against your amendment.

[Applause]

>> Mayor Adler: Further discussion. And we have so many things to do today. If we could just move a little bit more quickly, I'd appreciate it.

[12:24:59 PM]

I know that it's emotionally felt on both sides of this issue. If you could help us move along, that would be appreciated. Further discussion on the amendment. Yes, Ms. Pool.

>> Pool: I just have a quick question. Mayor, in your estimation, is there anything about either one of these approaches that would stop Austin from having short-term rentals?

>> Mayor Adler: It would phase out short-term rentals. So, yes. It would stop str. As I read the ordinance, there would be a stopping date with str type 2 rentals.

>> Pool: For the commercial properties, but short-term rentals will still continue in Austin under both of these suggested changes, isn't that right?

>> Mayor Adler: The amendment only addresses short-term rental type 2s, which are being banned under the ordinance, and I'm uncomfortable banning them at this point, because I think it would invite legal challenges. I don't know where I would be on that issue a year from now. I'm concerned about taking that action with respect to what happens when these things go underground and the way that other cities seem to be getting around bans. And if we went that direction, I would like for us to be -- I would like to be better-informed at that time and see additional ways to do that.

>> Pool: Right. And I understand that. One more time --

>> Mayor Adler: Okay.

>> Pool: I'm seeing a lot of t-shirts that say, keep str for Austin. And I was just thinking, neither one of these approaches would stop str being in Austin.

>> Mayor Adler: It would stop str type 2s. It wouldn't stop str type 1s.

>> Pool: So.

[Chuckling] Okay. What I'm saying is, short-term rentals are going to continue in Austin no matter what we do here today. They are more likely under one formulation to be in what we term str-1s, where the owner lives on the property, and a diminishing number of stock for the commercial rentals where the owner of the property may or may not live in Austin -- certainly doesn't live on the property, and may

live outside of Texas, even.

[12:27:10 PM]

But even under that formulation, which is the one that you're concerned about, the ban and the other approach was an amortization of them so that they would be phased out. And either -- in both instances, short-term rentals will continue in Austin in one form or another, either as a continuing of the ones that would be amortized out over a timeframe, but also the ones that are owner-occupied. We're not doing anything to limit owner-occupied short-term rentals, and I just want to make that point. There is nothing that we are doing here that will end the ability for people to come to Austin and rent on a short-term basis, a home for -- to stay in. We're expressing a preference for having the owners live on the property for a lot of reasons. And less preference for having the commercial rentals being inside the neighborhoods.

>> Mayor Adler: I understand understand -- the point you're making. Is there further discussion? Ms. Tovo, then Ms. Kitchen. Ms. Kitchen.

>> Kitchen: Oh. I am going to support this. And the reason is, I'm comfortable with part 5, because I'm uncomfortable with the amortization schedule that is put out the way that it is. I don't believe -- or I haven't heard that it's based on any particular analysis of the appropriate timeframe. And so although I have said publicly and continued to support a ban on type 2 str's, and would support one that starts immediately, I'm going to go ahead and vote for this because I cannot support -- and I want to remove from our ordinance that we're looking at -- I want to remove the segment that speaks to the amortization period.

[12:29:12 PM]

>> Mayor Adler: Okay. Any further discussion on this amendment? Ms. Tovo.

>> Tovo: Yeah. I have some discussion on this point, because I think it's a really important one. We have a unanimous planning commission recommendation. That doesn't happen terribly often with a case -- with an issue that is as complex as this one, and one that's generated as much discussion publicly as this one has. And I believe that's because I think it's really significant that they came to a unanimous decision. As commissioner knuckles said, the pilot program for commercial short-term rentals type 2s is a failed experiment, and I believe it is. You know, allowing homeowners to rent out their homes a few times a year to make extra money does benefit residents. It benefits visitors, with the appropriate regulations, which I believe we're moving toward here today and in the past six months. I think that's a good thing. Have mini hotels in a residential area is a very different thing. And I was reflecting back these last few days. In 2012, after the initial ordinance passed that allowed this -- that created this pilot program, councilmember Morrison and I voted against it. Councilmember Morrison told a chronicle reporter she believed it was one of the worst decisions the city council had ever made. I agreed with her at the time and I still do. I think allowing commercial short-term rentals into our residential areas is a bad decision. And I think we have an opportunity here to make a different one. And I think we should. We've talked a lot about bad actors and their impacts on neighbors. I believe our increased regulations and our increased enforcement are going to help. And I appreciate home away and the others among you who are good actors who stood up and said you want bad actors dealt with appropriately. I concur. I don't want to focus on bad actors today. I'd like to speak for a few more minutes about the kind of city we want to be, and on converting our housing stock to hotels, and how that compares to our city priorities.

[12:31:15 PM]

We've talked a lot about affordability and what policies promote affordability, and which don't. I believe there's an increasing body of evidence coming out here in our own city that commercial short-term rentals in our neighborhoods, in removing long-term rental stock and removing housing stock, increases housing cost for those who want to live and rent in our neighborhoods. As we've heard from our own city demographer, Austin continues to lose families and children. This is a trend that was noted maybe a decade ago and continues to happen. Our own city demographer has said that short-term rentals is one factor, the clustering of them is one factor in families and children remaining out of our area. Absolutely, housing costs are the causal factor, but we should not have a tool on our books that is increasing affordability. Some of you know I got involved in city issues because of the issue of school closures. Aisd has proposed closing central city schools a couple times. The first was Becker elementary in oak springs on the east side in south Austin. In 2011, I served on a facilities task force that recommended a body of potential other closures to be considered. Let me name a few of the schools. Barton hills, because it had a rate of 50% transfer. So 50% came from the neighborhood, 50% transferred in. Among group of east Austin schools that included Blackshire, Campbell, Norman, Ortega, they suggested maybe closing four of them. You know, and as you look at where the central city schools are that have experienced declining enrollment, and you look at the map of short-term rentals, there is a lot of correspondence there. And I am looking at the map in east Austin of those schools, and that declining enroll.

[12:33:17 PM]

Ment. The schools in district 1 and 3, and this is the work that our demographer did with the planning staff, those schools have lost 871 students since 2009. Again, those are also areas where we have 23% of all type 2 rentals fall within the attendance zone of those east Austin schools that have lost the equivalent of about two elementary schools' worth of students. Our council has made some budgetary commitments to aisd and has expressed interest in working with them to help make sure they are financially successful. I'm really proud of those commitments. I watched the city council under mayor Wynn, under the Leffingwell council before I served and the Leffingwell council I served on, councilmembers committed to working with aid not just on budgetary matters, but also on planning issues, on specifically on looking for policies and planning practices we could do to try to keep our neighborhood public schools open. Continuing to have short-term rentals, commercial short-term rentals, in our neighborhoods that allow our housing stock to be converted into mini hotels does not support that goal. It's a question that speaks to the kind of city we want to create. I welcome the visitors that come to Austin. I'm glad that they have an option to stay in short-term rentals that are owner-occupied. I don't believe we need commercial short-term rentals. I don't believe they match our city priorities, they're not in the best interest of our schools and our community. I'm not going to support the mayor's amendment for those reasons.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. At some point maybe I'll just mention it once, but back in September I posted on the council message board about a task force that would take care of public disturbances. We've made several iterations of that. I have a version six to hand out here.

[12:35:19 PM]

And I want to point out that the Austin rental association, the Ara, and the ANC both who are on different sides, certainly, of the str type 2 issue, but both of them have concurred that we should have been working on enforcement of the existing public disturbance ordinances, drunkenness, illegal parking, disorderly conduct, noise violations keep people up in the middle of the night. That was kind of

the original problem that was brought to our attention. So I guess I'll just do it now for lack of a better place to say I think this whole problem came up because we had public disturbance ordinances that were not being enforced, and I want to draw the council's attention back to that, and the fact that there's growing community support for a task force that would do that. And that's whether or not we attempt to ban the str's or not. These public disturbances are not limited to type 1 or type 2 str's. They're not limited to long-term rentals. They're not even limited to people that own their own homes that can be bad actors and cause public disturbances. So I do support your amendment here, but more than that, I'd like to hopefully get our attention back on supporting the original public disturbances ordinances at some point.

>> Mayor Adler: Ms. Gallo.

[Applause]

>> Gallo: Mayor, I support your amendment, and we did look at -- because I was really interested in the amortization process as an idea. But legal -- we have city legal for some information, we asked them, and they provided three cases that dealt with the taking of a use of a property. One was on billboards. The other two were actually on real estate. One was a salvage yard. The other was a landscaping company. And unfortunately in each of the two that actually dealt with real estate, there wasn't a clear determination of how the appropriate amortization term could be developed. And I think because of that there's no clear direction that we would have on that as far as determining the term.

[12:37:24 PM]

So I'm really uncomfortable with just pulling a term out of the sky and thinking that that term is appropriate when there's not any good case law that exists that really would give us guidance on that. So as a result of that, I'll support your amendment.

>> Mayor Adler: Thank you. I would just add, mayor pro tem, I think that you did a lot of good work back then, as well as this time. I think you led the debate in so many ways on so many elements that we have approved. With respect to the housing stock issue, because we enacted a moratorium, there will be no more str type 2s that get built. So pending the conversation in a year, we're not doing anything today that allows any diminishment in housing stock. Any further discussion before we vote on the amendment?

>> Tovo: Mayor, I completely understand that. I just believe that those 430-ish type 2s would become housing stock if we began that process of amortization. And I think that would be a good thing.

>> Mayor Adler: Okay. Any further discussion? Let's go ahead and take a vote. Those in favor of the amendment, please raise your hand. Gallo, kitchen, Adler, troxclair, Zimmerman. Those opposed to the amendment please raise your hand.

-- Hand. it's the balance of the dais. The amendment is defeated 5-6. Yes, Ms. Gallo.

[Off mic]

>> Gallo: Sorry. I have a housekeeping amendment that we're passing out. This is related to the noise section. You know, as we've talked about, a lot of the concern that we've had is that with some of the noise issues on -- particularly the party houses -- is that the APD, the police department is the entity that has to respond to enforce that.

[12:39:28 PM]

And we've been trying to work through a system with city legal so that the code department actually can respond to noise issues at the same time they're responding to the other issues that they have authority over. So, we've passed out -- and what this does, legal has provided this. And it just allows that we'll add one more noise requirement to the short-term rental ordinance. It already exists in another section of

city code, but once again, this is really a housekeeping measure. And I think Trish -- I think is says the licensee or guest of a short-term rental may not allow the use of sound equipment that produces sound in excess of 75 75 decibels -- I think it needs to be 10:00 P.M. To 10:00 A.M., is that correct, to match what we have in existing? Once again, this is housekeeping to make sure we've moved over the ability to enforce noise violations to where the code department can actually respond and enforce those.

>> So it's 10:00 A.M. To 10:00 P.M. Because of the other requirement that says that you can't have sound equipment that's audible from the property line between 10:00 P.M. And 10:00 A.M.

>> Gallo: Okay. So, this, once again, is housekeeping so that we can push this to the code department for enforcing the noise. It's just to make sure that the different components of code match, and this is actually put into the short-term rental ordinance. So I would move adding this general requirement to the short-term rentals in part two.

>> Pool: I'll second that.

>> Mayor Adler: All right. This is your a1, Gallo, amendment about sound. Been moved by Ms. Gallo, seconded by --

>> Pool: I was the second.

>> Mayor Adler: Ms. Pool. Any discussion?

>> Casar: I have a quick question.

>> Mayor Adler: Yes, Mr. Casar.

[12:41:33 PM]

>> Casar: So, it's a balancing act because I think I'm trying to figure out what we're doing about type 2 str's primarily, and then the other set of my concerns is making sure we aren't creating too much of a hardship for type 1 str owners if that's where we're shifting the market to. So what I want to understand on this --

>> Gallo: No, it's the bright yellow.

>> Casar: So, lots of yellows. Is, under this language, if an str type 1 owner violates the sound rules when they are having their own birthday party, for example, could that put them in jeopardy on their str type 1 license because they violated this part of code that's now in the str code? I know this sounds small compared to the bigger question, I'm just trying to juggle those two.

>> That is an issue that would come up under the bad actor clause of the code change. These noise requirements apply for when the property is being used as a short-term rental. A home would be still subject to chapter 9.2 of the city code. If there are violations for noise under chapter 9.2, that could be an issue in terms of applying for, renewing, or not being suspended because of the bad actor clauses that would be adopted. So it's not putting -- if they're not operating as the type 1 short-term rental at the time, then they're still subject to regular city code.

>> Casar: I understand, but I guess my question might be, if somebody has a sound complaint against them, which people have, if they would then have to go and prove that their property wasn't in use as a type 1 str at the time. I just don't want to make it so folks can't rent out their house during south by when they want to for various reasons.

>> So what we would look to is the bad actor clauses in the ordinance to determine whether or not they would meet the standard of being a bad actor, whether they would be able to get a license or have their license renewed.

[12:43:45 PM]

>> You know, and I would think that as the neighborhoods have been concerned about the party houses with all the noise violations, that if they were living next to someone who, because of their own

personal use still affected their makes neighbors in a negative way because of sound violations, I think there probably would be an agreement from the whole neighborhood that the sound violations should be uniform.

>> Casar: I agree. I was just wondering if adding this -- it's not a rhetorical question. It's just informational to understand whether if somebody violates the Normal city code related to sound in their own use, if that could then make them, under the bad actor clause, ineligible to get or renew their str type 1 license, and then -- that just seems like a potential unintended consequence of the language, but I don't know if that sways in one way or the quite yet. I just want to understand it. Okay. But I think I got my question answered which sounds like, potentially, yes.

>> Yes, under 9-97 subsection C it addresses repeated violations of code or state law during a 24-month period prior to applying for or renewing a license to operate a short-term rental, and the director would need to consider the frequency of the repeated violations, tion whether it was committed knowingly, and if there's any other information that's available that maybe shows if there's a public health or safety danger.

>> Casar: Okay. I'll vote for it. Sorry for causing trouble.

>> Mayor Adler: Okay, Ms. Kitchen.

>> Kitchen: I have a related question. The amendment says "A licensee or guest may not use or allow." So this has to do with the action of the licensee or guest?

>> Yes.

>> Kitchen: Okay.

>> Mr. Mayor.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I have to ask this question on enforcement, because it actually has a bearing on how I'm going to vote on this.

[12:45:48 PM]

And I see two scenarios of how this could work. One of them would be that we actually enforce the ordinance to shut down the noise. The second would be that we use this as a revenue-generating measure. Let me explain the two, and then I'll ask for feedback. So we asked APD and code compliance to both chime in on who has responsibility for enforcement, and we were told that APD does have the responsibility to enforce the noise ordinances. However, it could also be that if somebody calls 311 about a noise complaint, perhaps a code officer could drive by with a sound meter and note on the sound meter, yes, there is a violation and drop a citation in the mail that would be a fine to be paid sometime in the future. But if it were APD that were charged, they would need to show up, you know, knock on the door and get the noise to be quieted down, or else take some other immediate action. So how do I know -- when voting on this, if or how it's going to be enforced?

>> So under section 25-2-794, the general requirements for short-term rentals, code, because this is a zoning regulation, when it's operating as a short-term rental, code would be the one enforcing it, generally speaking.

>> Zimmerman: Okay. I appreciate that answer. And for that reason, I'm going to be voting no, because in fact, only APD can enforce noise ordinances, so I'll be voting no.

>> Mayor.

>> Mayor Adler: Yes.

>> And just a little bit more of explanation, just to clarify, this is really more housekeeping than anything else. When we voted in August to initiate the provisions to the ordinance that we were changing amendments, we wanted to require short-term rental license holders to comply with the current noise ordinance. And it's my understanding from legal that when the ordinance was drafted, it needed to be in

two places, and this particular section was left out.

[12:47:51 PM]

Is that correct? Is that my understanding?

>> To ensure that all short-term rentals comply with the noise requirements, yes, they need to be in this particular provision.

>> Gallo: So in August, the council already voted to do that as part of the ordinance that was coming forward, just this was left out.

>> The amendment you're making, yes.

>> Gallo: Yes.

>> Zimmerman: I'm sorry. So let me just back it up. So do I understand that if a dweller in a residence has noise ordinances applied, if you're a regular homeowner, there's a noise ordinance that you can't violate.

>> Correct.

>> Zimmerman: Is the implication that I'm bound if I'm a homeowner, but if I rent out my place as an str, I'm no longer bound by the noise ordinances? I have to explicitly say, I'm bound by noise ordinances even if I'm an str?

>> To ensure that all short-term rentals in the city, including those in our limited-purpose jurisdiction have to comply with noise requirements, yes.

>> Mayor Adler: Further discussion on this amendment?

>> Houston: Mayor, I'm going to move the question. It's a housekeeping order. It's just to clean up and insert language that was omitted.

>> Mayor Adler: Okay. I don't think there's any further debate. Those in favor of this amendment, please raise your hand. Those opposed. Zimmerman voting no. The rest voting aye. Passes. Anything else? Ms. Troxclair.

>> Troxclair: I passed out two amendments that I want to go through really quickly. I'll take a look at the one titled troxclair amendment number 1 first. This just strikes the requirement for someone to -- for an str owner to maintain a guest registry.

[12:49:54 PM]

I understand why this was originally brought up, but it was suggested before we pass the vast array of enforcement abilities and other regulations that this council has now passed. So I think it's unenforceable. I'm not sure that it's necessary. And it's not going to do anything to address the issue of the bad actors who are causing problems for everyone in the neighborhoods. So, just if I could get a second.

>> Mayor Adler: It's been moved to take out the registry. Mr. Zimmerman seconds that. Discussion on this issue? Mr. Casar.

>> Casar: Mayor, I had some concerns with the guest registry meeting night. As y'all know, I certainly prefer the type 1 use over the type 2 use. And so, you know, after taking some votes just now to really limit type 2 uses, and I think for our type 1 users, the guest registry thing just sounds like something that folks aren't regularly going to be able to do well, and it's kind of creepy. And so I just urge our council to vote against it, because I just think that it's kind of weird. Oh, vote for the amendment. I think having the guest registry -- it just seems like a little bit further into people's privacy than I'm comfortable with.

>> Mayor Adler: Can someone explain why we have the guest registry provision?

>> Mayor Adler: Mayor pro tem.

>> Tovo: I would actually -- I thought that that was possibly a staff recommendation originally. And so I

guess I would ask the staff to come up and talk about it.

>> Mayor, councilmembers, Carl smart, director of Austin code. I believe that that provision was originally suggested -- recommended based on best practice -- I think the city of Portland, Oregon, uses a guest registry, and some other cities around the country.

[12:52:03 PM]

The idea is, we were having difficulty, of course, enforcing the occupancy limit, no more than six unrelated persons, and identifying who were really tenants in the str versus those who might have just been visiting guests or at the party. And so we -- the idea was that a guest registry would help identify who the tenants were -- who was actually staying at the property and might help with the enforcement of the occupancy limit. So that was the reason for the recommendation.

>> Mayor Adler: Mr. Smart, do you think now that there are the provisions that limit the number down to six or ten or two per bedroom plus two, does that hit what this was trying to drive to? Do you still need this with the more strict occupancy limits that have been imposed, or will be imposed?

>> Well, it certainly does help, particularly the maximum number. We still have -- may have some issues, some concerns, with the use of the term "Unrelated" as relates to six unrelated adults, the unrelated persons. But I think overall that the new occupancy limit that's outlined in the council version will certainly help take care of that issue.

>> Mayor Adler: Okay.

>> Mayor.

>> Mayor Adler: Yes.

>> Director smart, I just want to be sure I understand you. If this provision goes away, do you feel you still have the tools you need to enforce occupancy? And if so, what are they?

>> Well, I think the provision that's included will allow us to say -- I think if no more than ten persons -- no more than ten adults will allow us to enforce that based on a count with pictures and counting by the inspector.

[12:54:05 PM]

We're still concerned with -- there are some concerns, two persons per bedroom, and being able to prove that. But the ordinance does now allow us to do inspections. And I think that's going to help. So we are looking to put those provisions together and hopefully be able to enforce -- properly enforce, effectively, the maximum occupancy.

>> Tovo: Okay.

>> So I think it does address it.

>> Mayor Adler: Further discussion on this amendment?

>> Mayor, as a clarification to make sure the motion is clear, may we renumber -- or reletter the rest of the section as part of your motion?

>> You may.

>> Thank you.

>> Mayor Adler: Okay. It's been moved to conform the draft accordingly, and seconded. Those in favor, please raise your hand. Those opposed. Any abstaining? Pool abstains. How did you --

[off mic]

>> Mayor Adler: It's supporting the amendment, so it's 10-0 -- no. It's 9-0-1.

>> Pool: Mayor, I'll support.

>> Mayor Adler: Then it is unanimous on the dais. Next item, Ms. Troxclair.

>> Troxclair: Okay. My second amendment speaks to the inspection requirement. I certainly understand

the code department's need to go in and inspect a property that has received complaints when they are applying for renewal of their license. The crux of this whole issue is we want to make sure that people who are not complying with our existing city codes do not get their licenses renewed. And, in fact, get them revoked as soon as possible. But as it's written now, we're allowing for inspections of any short-term rental. And I don't -- I think that the benefit to that is questionable.

[12:56:08 PM]

I think we need to focus only on the properties that have received a verified complaint within the past year. Those are the properties that we really need to go into and inspect. You know, if a property has not received a complaint, then I worry that including them in this provision would require unnecessary staff time, a higher cost for licensing. I think there's privacy issues, and, again, I want us to focus on the bad actors, not on the people who are not having issues with their neighbors.

[Applause]

>> Mayor Adler: Okay. Troxclair amendment number 2 has been moved, Zimmerman seconds.

Discussion? Yes, Ms. Kitchen.

>> Kitchen: I just have a question. And I have a question about how this section, 25-2-789 relates to part 7, which is also inspections. So if we pass this 25-2-789, that would control, essentially, is that correct? Because part 7 also speaks to inspections.

>> Part 7 is part of the regulatory program, the operating license program. That code has -- that applies to hotels, motels, beds and breakfasts. And this one is essentially a pre-application, or pre-renewal inspection. Just also for. Also for clarification, the draft has everything three years and the amendment does not. Do you want to maintain every three years language? The text of the draft is -- I'll just read it. The property is subject to an inspection every three years by the building official to determine if the structure poses a hazard to life, health or public safety.

[12:58:13 PM]

Do you want to maintain the three years requirement as well?

>> Troxclair: Only if the property has received a verified complaint.

>> So leave the rest of the section just add the language about the complaint?

>> Troxclair: Yes.

>> Okay.

>> Kitchen: So going back to my question, I'm just wanting to make certain that this -- I'm wanting to understand that this amendment would not be superceded by the language that's in part 7. I mean, I'm understanding the intent of councilmember troxclair and I'm wanting to make sure that her intent would still hold despite the language that's in part 7.

>> Yes. Both would be fine.

>> Kitchen: Well, both or -- I mean, what -- okay. When does part 7 apply? Because that's inspections. And the way I'm reading it there can be an inspection at any time whereas what I'm understanding councilmember troxclair to say is that there can be inspections every three years if the property has received a verified complaint.

>> So this would only be triggered if they apply for a renewal. It's a condition to grant the renewal as opposed to the general inspection authority.

>> Kitchen: Okay. So part 7 would apply any time in between renewals.

>> Correct.

>> Kitchen: On any time between renewals then an inspection can be done of any kind of str without there having to be a complaint. Is that correct? Raul.

>> Mayor and council, I don't think there would need to be an inspection unless there is a complaint. If there is a problem then of course we need to do the inspection, but if not there's no need for an inspection.

[1:00:15 PM]

>> Kitchen: Okay. So if I'm understanding you, part 7 is not interpreted as inspections at any time with no complaint.

>> That's correct. We use part 7 now for hotels, motels, boarding houses, rooming houses, bed and breakfasts and all. If there's no complaint then there's no need for an inspection. We're not making inspections on those properties.

>> Kitchen: I just want to establish that on the record because the way part 7 reads I didn't know that. What you're telling me is part 7 is not used for inspections at any time without any -- without you having a complaint.

>> Right, that's correct.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Pitched, if you would like to make an -- pitched councilmember kitchen, if you would like to make an amendment to my amendment to include part 7 as well that the city doesn't have the ability to enter a property unless it's in response to a complaint, I would be open to that. I hear the code department saying there's no need to, but there's a little different than what we have the ability to, we just don't usually have a reason to.

>> Mayor Adler: Okay. And that would be in line later. Ms. Garza?

>> Garza: I'm not reading 7, I'm just reading the C part that councilmember troxclair is seeking to amend. And I don't read what it is and what it is seeking to amend any different. I'm reading -- maybe I'm reading this wrong. It says that it's subject to an inspection. It's not saying that there will be an inspection. It says it's subject to one if the structure poses a hazard to health, life and public safety. So I guess I'm not understanding how these two are different.

>> So the inspection under 789 is actually the similar inspection that's required if you exceed 10 years of your certificate of occupancy. And it's one done by the building official or someone designated by the building official to do the inspection as opposed to codes inspections that are -- when they're responding to a complaint.

[1:02:24 PM]

So it is actually two different types of inspections. One is the building official one is part of the license renewal process.

>> So as part of the license renewal process I'm not reading this to say shall inspect every three years. Sounds like do we inspect every three years for renewal?

>> No.

>> So the way it's written down it's just if there has been -- if the person is renewing and there's -- there's been a complaint or some kind of indication that there's a threat, then it could be inspected, is that right?

>> It would be part of the licensing process. So the language -- and you have to turn to page 5, line 5, it's subsection E, the requirements to renew a license, and if it's applicable, then the structure is determined by the building official not to pose a hazard to life, health or public safety. So it would be still part of that process.

>> Garza: I guess I'm still confused on it. If this C section mandates an inspection -- what I'm understanding is councilmember troxclair is trying to say she doesn't want to mandate that inspection

and I don't see how C does that to begin with. So I'm still confused.

>> Mayor Adler: Ms. Houston.

>> Houston: I'm other, I think my question is all questions are personal, so if I vote for your amendment, councilmember troxclair, does that mean that the garage that's used as a short-term rental next to me can be inspected if I call in a complaint, which I do on any number of occasions?

>> Troxclair: Yes, if you have called in a complaint and that complaint has been verified when that property comes to renew their license, this maintains code's ability to go in and inspect that property.

[1:04:33 PM]

>> Houston: And if they don't have a license what do I do then?

>> Troxclair: If they don't have a license...

>> Houston: Just a question.

>> Troxclair: I think that your question gets to a different aspect of this entire issue because the problem is it's really hard for us to enforce any of these regulations on properties that don't have a... So the city's goal, I hope, is to get as many properties licensed, but the more confusing and more onerous regulations we have, the less likely it is that we're going to have people register.

[Applause].

>> Mayor Adler: We're still on troxclair amend number 2. Mayor pro tem?

>> Tovo: I think I share the confusion that councilmember Garza raised about this point and what I want to be sure of is that you have the ability to inspect if there has been a complaint F it says verify complaint, what I don't want to get is into a situation we have with some of our substandard apartments where you don't have the ability to go in and inspect to verify that the complaint is justified. And so tell me how you read verified complaint and what would need to happen for that to be a trigger for you to inspect?

>> Troxclair: Can I try to answer that before you do because I see where the confusion is happening because I had the same discussion. So this only applies to an annual renewal. So if somebody calls in a complaint, code is going to have the ability to address that complaint within all of the powers that we have given them. That would be separate and apart from an inspection associated with the renewal of their license. So they wouldn't necessarily have to have this power in order to go in and verify the complaint. The complaint hopefully would be able to be verified before the -- before somebody came and asked for renewal.

[1:06:37 PM]

So I think that's where the difference is. There's a difference between renewing an application -- yeah, renewing a license and verifying a complaint.

>> Tovo: I guess I'll just ask director smart if he feels, and our attorney, Ms. Link, if that's how you read this. If this language for a verified complaint goes in here --

>> What that would say is it sets the standard for when the building official inspection would be triggered.

>> Tovo: For a renewal or at any point?

>> For a renewal.

>> Tovo: Let's take the garage apartment or its garage I would say near councilmember Houston being used as a short-term rental. If it is being called in to director smart, and that is a complaint that's on file, and it comes up for renewal, is the fact that there's a complaint going to trigger an inspection or is there something else about that that needs to make it a verified complaint? I guess I'm really trying to zone in on the word verified here. What changes a complaint from a complaint to a verified complaint? Is that a

meaningful difference that's going to mean somebody sleeping in the garage? I mean, that structure, which probably you would have some safety concerns about, is not going to be inspected.

>> Councilmembers, from a staff perspective I think it's important for us to be able to have the authority to do the inspection in order to verify the complaint. The complaints called in for the example being given, for example, the garage being used as a short-term rental, we would need to visit the site and actually do an inspection in order to verify. We would need to knock on the door, talk to the persons there. They may even want to show us around the property so that we can verify that complaint, whether it's a violation or not.

[1:08:38 PM]

So we really do need the authority to do the inspection and that is why we had asked for short-term rental to be added to the inspection section to give us the authority to do that.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I will be supporting councilmember troxclair's amendment here because it is an interesting idea. I'm not a lawyer or an engineer, but basically our country's legal systems found on the idea that you're innocent until proven guilty, but in this case there's a phone call that comes in, an accusation is made and you're guilty until the code compliance officer goes to your property and has a chance to say, well, maybe you're innocent. But it is -- it's kind of messy and it's been behind some of my objections to a lot of what the city does. And I think an overregulatory framework. It looks messy to me. It seems if the city has a right to take an anonymous phone call and that gives them the authority to enter someone's property, we have a constitutional lawsuit on our hands and the city will lose.

[Applause].

>> Mayor Adler: How would we interpret the word verified? What is a verified complaint as opposed to a verified complaint?

>> What you could do as a stub sub tuition is if the code department has issued a sighthization that means they have been to the site, investigated and they believe that there is a violation of city code. And all this does is trigger on the three-year cycle whether they need to have the building official inspection. For their renewal so that would maybe a little bit more -- a little clearer is if there's a notice of violation.

>> Mayor Adler: Mayor pro tem.

[1:10:39 PM]

>> Tovo: But I want to just understand in those cases likely on our inspectors would have to embassy the assessment on the -- base their assessment on the exterior.

>> So I think you part of the issue is one whether it's a licensed str, short-term rental if it's not a licensed short-term rental then we do have an issue whether it's just not a safe structure.

>> Tovo: Because the intent initially was to determine if the structure poses a hazard to life, health or public safety.

>> Correct.

>> Tovo: I think what we're trying to figure out is is there another avenue of code that allows us -- councilmember troxclair said that this is just about the renewal. Can you remind us is there another section of our code that we've been working on that allows the inspectors to go in if they get a complaint? They get a safety complaint. Can they go in and inspect to determine whether that safety complaint is justified? Or are we relying on this passage to allow them to have the ability to go in and inspect to see if there's a veer final safety complaint.

>> So if there is consent to enter the property and to look at the violation, then staff can do that. If there's not consent, then we have to look at whether or not there is a violation or belief, sufficient belief

that there's a violation of our property maintenance code that would allow for a search warrant. Or if there's just another way that we have to find to address -- to find out the information to investigate.

>> Tovo: So this provision as it was currently drafted by staff and I believe this too was a staff recommendation, the mechanism to allow you if you had a complaint at the point of renewal to go in and inspect and determine whether it's fit for accommodating dwellers.

>> At the point of renewal or if there was a complaint. And still we have to recognize the private property owner's right, property rights, and we have to get their permission to come into the property.

[1:12:51 PM]

If they refuse to give us permission, of course, we still can't go in unless we go through other legal actions.

>> To give a little bit more context maybe, if you apply for your initial short-term rental license, you have to -- your certificate of occupancy has to be 10 years or less if this amendment passes, or you have to pass an inspection. That is only on your initial application. This particular provision would apply on a third renewal of your license because right now there is no inspection by the building official for the application process for renewal. The way I understand councilmember troxclair's amendment to do just to set a second prong to when you're triggered to have this inspection. You have to be on your third renewal and you have to have a complaint that's been verified. And if those two things have occur and you're on your third renewal, then you would have to get the inspection from the building official.

>> Mayor Adler: Councilmember troxclair?

>> Troxclair: So you are recommending that we replace the word verified with notice of violation? You feel like tht would be clear and that would more clearly maintain the ability of the code department to inspect the property that has received serious complaints?

>> Those are two separate issues.

>> I don't think we have a copy -- I don't think I have a copy of your amendment.

>> If code gets a complaint and they need to inspect to verify whether or not a violation exists, this particular provision doesn't play into that issue. This is essentially a standalone inspection that require them to get the license as opposed to responding to a specific complaint.

[1:14:55 PM]

And that's why I say I think what your amendment does is set basically a second -- a second element to trigger that license inspection. Is that close?

>> Troxclair: Yes, I think that's where we're get hung up is nothing in this amendment changes code department's ability to verify a complaint.

>> Correct.

>> Troxclair: Once that license is up for renewal, we want to retain the ability to enter a property that has had a complaint.

>> You would be making it a condition of the license approval.

>> Mayor Adler: Do you want to make that language change?

>> Troxclair:

[Inaudible].

>> I think what you're asking is should you use the word verified complaint to notice of violation in this particular amendment? And the answer to that is yes.

>> Yes.

>> Mayor Adler: That's what I understood. And the reason for that is because this doesn't add to the inspection ability if there's a complaint that's handled under a different section, but if there's a

complaint handled under a different section that receives a notice of violation then that plays into this section. Is that my understanding?

>> Correct.

>> Troxclair: I'm okay with making that change.

>> Mayor Adler: Any objection to that change being made?

>> Kitchen: Say again what it was.

>> Mayor Adler: Verified becomes notice of violation. Verified complaint becomes November.

>> Zimmerman: I'm going to withdraw my second from that because now I'm confused. Notice of complaint can be simply an anonymous phone call comes in, right, and the code department can say, well, we're going to notify -- we received an --

>> Mayor Adler: That's not my understanding.

[Overlapping speakers].

>> Mayor Adler: Let's keep talking for a second.

>> I think it's not a notice of complaint, it's a notice of violation. So it's a finding.

>> Zimmerman: Explain the finding briefly of what that administrative process is.

>> Code would go in and do the inspection and find the violation.

[1:16:59 PM]

>> Zimmerman: We're back to the circular reasoning again. They're asking permission to go in and inspect to verify. It looks like circular reasoning to me.

>> Mayor Adler: My understanding is that there's a provision, part 7, and it allows for inspections in certain situations and it allows -- there's that part of inspection. And I guess -- if someone calls in and says there's a complaint, where's the authority to do that, the inspection associated with that complaint?

>> It would be in the property maintenance code and the city code. I can't give you at the moment a specific example of that.

>> Mayor Adler: So if somebody lodges a complaint, the code department can do the inspection pursuant to the -- pursuant to the maintenance code and if they do that inspection pursuant to the maintenance code and they find there's a violation they send the property owner a notice of violation, which means the complaint has been received under a different part of our ordinance you have gone to look at and you have made the determination that there's cause for a notice of violation. Now, if someone comes up for a -- separate from that, if that person later comes up for a license renewal and in that period of time that other set of facts has occurred consistent with the maintenance, then it would play into that renewal period pursuant to this section C. Is that how I understand it? Do I understand it correctly?

>> Yes.

>> Mayor Adler: Okay. Without objection that change has been made and it's been seconded by Ms. Pool. We are still discussing troxclair amendment number two with notice of violation. Is there any further discussion on this?

>> Pool: I think that councilmember kitchen wanted to vote on this and she had to run for just a second. She said she would be right back.

[1:18:59 PM]

>> Gallo: That's what happens when you don't have bathroom breaks on the council dais.

>> Mayor Adler: Yes, Ms. Garza?

>> Garza: I guess I'm still a little confused on exactly what the difference is. I'm just going to vote against

it because this will technically be mute in six years.

-- Moot in six years, so I don't understand the change since it only applies to str 2's.

>> Zimmerman: Mr. Mayor, I will be abstaining because I don't know what I'm voting on anymore.

>> Mayor Adler: Okay.

>> Troxclair: I don't want to try to explain it again, but councilmember Zimmerman, this protects the right of privacy for a responsible str owner who has received no complaints against their property. So consistent with how you have talked about your position with str's and property rights it seems like you should support this amendment.

>> Zimmerman: I was there when I seconded it, but now I'm not sure anymore.

>> Mayor Adler: It's 1:15. Do we want to break for lunch? We have other amendments on coming back. Probably other people want to go to the restroom. I would suggest we take a break at this point.

>> Do we have executive session.

>> I would say if we're having a break to have our lunch during executive session.

>> Gallo: I have one more thing before we take a break?

>> Zimmerman: Mr. Mayor, could we vote on this one and take a break and save yours?

>> Mayor Adler: The question is do we want to finish with str's or do we want to take a break?

>> Finish.

>> [Inaudible].

>> Mayor Adler: Let's see. We're now voting on Ms. Troxclair's amendment number 2 with the notice of violation. Those in favor of troxclair number two please raise your hand. It is Gallo, Houston, kitchen, Adler, troxclair, Casar, the mayor pro tem and Ms. Pool.

[1:21:07 PM]

Those opposed? Garza voting no. Abstaining, Mr. Zimmerman abstaining. It passes. Okay. Now, another item? Ms. Gallo?

>> Zimmerman: I can't move for recess and have a vote for a recess for lunch?

>> Mayor Adler: Let's see. This might be the last amendment we have and then we can be done. Ms. Gallo?

>> Gallo: Okay, thank you. So I have passed out a yellow sheet that's two pages that says councilmember Gallo motion sheet number 2. It is doing several things, but I want to make a couple of comments. And obviously I would make the motion to approve these amendments.

>> Mayor Adler: Is there a second to the Gallo motion to approve? Ms. Kitchen seconds it. Please proceed.

>> Gallo: Has everyone knows this has been a really, really, really long journey which I started on almost a year ago and I really do appreciate the voices from all sides of this issue. Through this process we've heard very loud and clear the concerns of neighbors who have said very clearly they do not want type 2 str's which are non-occupied rental units operating in their neighborhoods. And I understand their concerns. However, several years ago the previous council passed an ordinance which allowed the operation of str type 2's, people purchased properties and chose to rent them for periods of less than 30 days which required an str type 2 license. The people in the blue shirts, how many of you actually operate short-term rentals? Quite a few of you. I feel like in our community we need to strike a balance and I think the balance in our community would be to allow complying type 2 str owners with existing licenses to continue to operate as long as they own the property and operate in compliance and renew their license every year on time.

[1:23:10 PM]

But in listening to the neighborhoods' concerns and my role representing the voices of the neighborhoods, I also support making the moratorium on issuing new short-term rental licenses in our single-family residential areas a permanent ban right now. And not the way another year to continue this conversation any longer. So I have passed out amendments that we've worked with legal on and the purpose is to ban the issuance of type 2 licenses in our single-family areas while existing the -- while allowing the existing type 2 owners to continue to operate as long as they comply with city regulations, there would be no phase out condition. But the new type 2 licenses in our single-family residential areas, there would be no need to hold public hearings next spring to discuss the amortization of type 2's. I ask my colleagues to support this amendment instead of continuing to kick this discussion down the road for another year.

[Applause].

>> Mayor Adler: Ms. Kitchen seconded that. And then mayor pro tem.

>> Kitchen: I am supporting this amendment because it's consistent with the concerns that I have raised. I support a permanent ban on str 2's and I think we need to do that now. For the same reasons that councilmembers -- mayor pro tem has mentioned as well as what councilmember Gallo just mentioned. However, I also am uncomfortable with the amortization schedules that we've been talking about because I think that they unfairly penalize good actors. I believe that individuals in our neighborhoods who have established str 2s and are complying with all requirements and are good neighbors should not be subject to a phaseout period, particularly the five or six year phaseout period that we currently have at this point.

[1:25:18 PM]

So that's why I'm going to support this.

>> Pool: Mayor, the changes that councilmember Gallo is contemplating would permit short-term rental type 2 rentals in these additional multi-family residences, right? Is that what this is adding? >>

>> Gallo: That is correct. And once again what I do is I propose this as a balance and compromise between other areas. The issues that I've heard from neighbors about short-term rental type 2 ooze in their neighborhoods have been in single-family residential neighborhoods. I think giving the short-term rental the opportunity to operate in multi-family developments, I cannot say, and we have lots of conversation in this over this past year and lots of emails and telephone calls and visits, I've not heard anyone in a multi-family environment say that they will have a concern with the type 2s. So once again this is striking a balance between listening to the neighborhoods that say we don't want the type 2s in our neighborhoods and then allowing the property owners who currently have licenses to be able to operate and provide opportunities for the type 2s to be able to exist where they don't impact our single-family neighborhoods.

>> Pool: I appreciate that, but I'm not sure I can get to that place by reading this because I know for a fact throughout the city we have multi-family residences in and abutting areas of town that also are single-family neighborhoods. And what I would ask our staff is -- because I'm not prepared to support this at this time, how does this relate to the limitation of short-term rental type 2s being in sf-2 areas? We have a prohibition on expanding short-term rental commercial types in single-family areas that are sf 2.

[1:27:27 PM]

How does -- and I don't know if you can answer that just off the cuff, but this is greatly expanding the ability for commercial rentals to be in and among existing single-family neighborhoods.

>> Gallo: But let me just jump in there. Currently type 2s are allowed in multi-family, currently. And so

when we talk about single-family, it's not single-family 1, it would go all the way up to six. So it would be single-family residences, it would be duplexes, it would be condos and townhomes that would be included in the single-family ban on issuing new licenses.

>> Mayor Adler: Yes, mayor pro tem.

>> Pool: I was waiting for the staff to respond, mayor. Thanks.

>> Tovo: Can I add to what I would like the staff to respond to? We currently allow short-term rentals in mf properties and we call them type 3s. I would just ask when you answer councilmember pool's question if you could address this too. I would say I'm willing to consider whether something like this might make sense, but I'm not willing to do it here on the dais at the last minute after we've been talking about it a long time. Because I don't understand how expanding it to these categories interacts with our existing short-term rental program that already allows type 3s and mf properties of different limits. I guess I would also say to councilmember pool's point, we have mf properties within single-family neighborhoods, but they have mf zoning. So you have structures within a neighborhood block that are mf at the moment. So I think this is an idea that's worth thinking about, but probably not acting on today. And then I do have comments about amending part a when we get to that.

[1:29:28 PM]

>> Gallo: This was language that staff helped us -- jerry just confirmed that actually they were type 3s, they were considered type 3s, so legal should not have not put them in this group.

>> Yes, jerry rusthoven, planning and zoning. We have type 3 short-term rentals, which are multi-family use so it could be an apartment that would be used as an str and those are allowed with different limits. The amendment as proposed would allow type 2 single-family rentals, which are non-owner occupied single-family homes that were in a multi-family category because single-family does allow -- multi-family does allow single-family houses, so if you had a non-owner-occupied str it would continue to be allowed if it were in multi-family zoning. This amendment would not address type 3's, which are str's that are in multi-family units that are in multi-family zoning.

>> Pool: So now I'm completely confused --

[laughter].

>> I did my best.

>> Pool: Yeah. And I think since we are looking at a bit of a break for lunch, maybe we just table this for right now. This is way too confusing.

>> Mayor Adler: Let's see if we can understand. So the intent of this is to grandfather existing str type 2s that maintain their licenses. Is that the impact of --

>> Pool: What I don't understand is why we even need this? What are we seeking to cure by this.

>> You may have a home that's an str 2 under the amendment has passed earlier my understanding it would only be allowed in these commercial zoning categories. In the amendment that councilmember Gallo is proposing they would also be allowed to remain in multi-family zoning. So what we're talking about is a non-owner occupied house, not a multi-family unit, not an apartment, a non-owner occupied house that is an str 2 that happens to have multi-family zoning, would continue to be permitted under councilmember Gallo's amendment.

[1:31:33 PM]

>> Gallo: I'd like to see how many instances of that exist because it sounds like it's confusing. It's internally confusing in the definition. How can you have a single-family home that's also a multi-family house?

>> You can have a house that's a single-family home that happens to be zoned multi-family. It's not a

multi-family use. It just happens to have multi-family zoning.

>> Gallo: Then wouldn't the attachment of the previous ordinance attach with the single-family home?

>> No, because what we're talking about, we're talking about two different things. We're talking about the use, in this case str short-term rental, and we're also talking about the zoning category. We already have the zoning -- we already have an str type that is for multi-family in multi-family zoning. Those are called type 3s. What we talk about here are type 2's, which are single-family homes and under the amendment as passed earlier that would only be allowed in commercial zoning categories. Under the amendment that councilmember Gallo is talking about right now if you happen to have a home that happened to be zoned single-family and it was being used as a non-owner occupied str, it would continue to be permitted under this proposed amendment.

>> Pool: So either this isn't necessary because we've already said that existing str 2s can continue to operate or this is an expansion of a commercial use into a neighborhood where it is not currently permitted. In each case in the first one it's unnecessary and in the second one I would oppose that because I thought that was what our efforts here were all about was to try to pare down the ability of a commercial rental to occur within a neighborhood where we have single-family homes. And tell me how that's -- that's how I'm understanding this.

>> So the addition of this, the multi-family, would be very specific to properties. We keep talking about the conversation that we want the type 2s in commercial zoning. And there are occasions where somebody has a property that is zoned multi-family, they could build apartment communities, but perhaps there is a house there instead and it is currently occupied as a short-term rental two.

[1:33:45 PM]

So it's to take -- it's very limited. It's the only multi-family zoning situations, the property is zoned multi-family, but there is a single-family or a duplex that exists on that multi-family zoned lot. This is the only - - this piece would allow those properties to be operated as a short-term rental on a multi-family zoned lot, not on a single-family zoned lot. But I would say if this is confusing, it's probably a very limited number of properties that would be impacted by this. I would say if this is confusing we would remove that whole part 4 because this would be added. As we add the conversation of saying that the type 2s are appropriate in commercial areas, a multi-family zoning would perhaps have a single-family house on it and that would allow this to operate as a short-term rental. So if that's an issue with some of the councilmembers, I think it's a very limited interpretation and opportunity for that to happen, but if that is of a concern then I would be happy to have that removed. It just gives, as we talk about the conversation of trying to move these properties into non-single-family neighborhood situations with the zoning, that the multi-family zoning would be an area where there perhaps is a house or a duplex that could then operate as a short-term rental.

>> Gallo: If you're offering to remove that, I would second that amendment because I do think it's pretty complex.

>> Mayor Adler: Is there any objection to the part 4 amendment coming out of this? If not, Ms. Gallo removes it from her amendment. So now we're focusing on the amendment to part 5 of the ordinance. As well as part 8. Mayor pro tem?

>> Tovo: Earlier we had a discussion of your amendment, mayor Adler, which was amortize easing -- the amortization of type 2 short-term rentals and that amendment failed.

[1:35:52 PM]

So now we're back to an ordinance that has the amortization of type 2 rentals. It would seem to me that parts 5 and 6 are actually the same action we took earlier in that it would allow a shough short-term

rental type 2 to continue in perpetuity if it continues to be renewed. I would say number one I'm not going to support it. I supported the -- just as I didn't support your amendment and I would suggest that it actually is the same action we've already taken and maybe procedurally out of order. It results in the same -- it gets us to the same place.

>> Kitchen: Mr. Mayor, there's a difference between this and the previous one. There were two different issues tied to the previous one. So I think it's appropriate to go ahead and vote on this. This is now just focusing on the one issue relating to -- we're clear, what we've passed is that there's going to be a ban so now we're just focusing on the issue of how is that phased out, which is different than what was in the mayor's amendment. So I think it's appropriate and I think we should allow the council to vote on this section.

>> Mayor Adler: I'm going to let this vote take place so everybody has, as we've brought things, I've always given people the opportunity to have their votes and we're going to have this one here.

>> Gallo: Can the staff fix it so we can see both pages? I think amend part 5 is at the bottom of that one page and at the top of the second page. And I'm asking mainly because that's my copy. (Pool). So I don't have it anymore.

>> Mayor Adler: Any further discussion on Gallo's amendment which amends part 5 and part 8? Any further discussion? Then we'll take a vote. Sorry, Ms. Gallo?

>> Gallo: At the very end there's a part 9.

>> Mayor Adler: 5, 8 and 9. Those in favor of this amendment please raise your hand?

[1:37:56 PM]

Houston, Gallo, kitchen, Adler, troxclair --

>> Tovo: I still don't understand how they're different and I wonder before we vote if somebody could explain how they're different.

>> Kitchen: The difference is that what we voted on -- what we have now in place is a ban right now and a phase out. And the phase out is five or six years. I forget. Now what we're voting on the phaseout period. Those two were combined before. I voted on the -- I am not comfortable with the phase out period so I would like to vote on this.

>> Mayor Adler: My amendment has it continuing as a legally nonconforming use.

>> Tovo: Okay, but this -- but in effect -- I just want to be sure I'm understanding. In effect the changes to part 5 do not have any phaseout period as long as somebody continues to renew. As I read this amendment -- that's fine that we're going to vote on it. I'm not questioning anymore whether it's the same action, but I want to really understand whether it gets us to the same result. For those who had a type two renew under this amendment it would continue to exist.

>> That's correct.

>> Tovo: There is no amortization for type 2. So it's grandfathering any existing type 2 rentals as long as they continue to renew their license.

>> Mayor Adler: Those in favor please raise your hand? Did you change your vote?

>> Houston: I did.

>> Mayor Adler: Gallo, kitchen, Adler, troxclair, Zimmerman. Those opposed please raise your hand? Did you vote?

>> It was three down here and three over here. It was six. There were no abstentions.

>> Mayor Adler: So it's defeated five-six.

[1:39:56 PM]

Ms. Kitchen?

>> Kitchen: I'd like to make another amendment or just ask the dais if they would vote on another amendment. My concern continues to be that a five or six-year phase out I believe is unfair. So what we just voted on is no phaseout. It was essentially phasing out by attrition. I have been a strong supporter of banning type 2's and I have consistently voted on that. But I do not think it's fair to require an existing type 2 owner that's a good actor to phase out their use of their property in five or -- in this way in five or six years. So I voted for this one that was just defeated because it allowed for a time period that was as long as someone was continuing to operate as a good actor they could continue. Well, that was defeated. So now I would like to propose a different time period than the five or six years. The amendment right now we have to propose as of April of 2022. I would like to propose a 10-year phaseout. And again, I'm only proposing this because I would have preferred a phaseout for attrition for good actors, but since we don't have that and that was defeated, I would like to at least not to have five or six years. I think that there is no basis for that. I think that's a number out of the hat. And I just don't think that's fair.

>> And what would you change the ending year date to right now? April 1st, 2032.

>> Kitchen: 2032.

>> Mayor Adler: 10 more years?

>> Kitchen: I meant to add 10 years total.

>> Mayor Adler: So 2016 -- 2026, 2027?

>> There's an amendment to change to 2027 the phaseout period.

[1:41:56 PM]

Is there a second to that? Mr. Zimmerman seconds? Any discussion on increasing the time period?

>> Zimmerman: I'd like to speak in favor of it. I'd concur with councilmember kitchen about the date kind of being pulled out of the hat and in fairness the 10 years might also be pulled out of the hat.

>> It is. It's pulled out of the hat, but I don't have anything to base it on. And I prefer there to be no time period, but that failed.

>> Zimmerman: I agree. I concur so that's why I'm supporting this amendment.

>> Garza: You say you support the ban of str 2's, but you're saying just new str 2's.

>> Kitchen: I support the ban of new str 2's, that's what I meant. I consistently voted for that and supported that. My question it for the good actors. I don't think it's fair for them to be arbitrarily limited to five or six years for the use of their property.

>> Garza: Okay. I'll just add that this has been an incredibly difficult decision. I'm very sympathetic to the good actors. I have read, believe it or not, almost every email. I've gone back and forth several times. If we had voted on this when we had the initial discussion I might have had a different vote. I've gone back and forth on this. But what finally got me to banning them, old and new, was how does this decision comport with my other decisions and other ideologies I have with regards to housing supply affordability.

[1:44:03 PM]

And if I'm on the side that I believe more housing stock helps affordability, we need that housing stock tomorrow, not in five or six years. Not in 10 years. So the other side is having a long-term rental property in Austin is still an incredibly lucrative investment. You can still rent these homes out long-term. So I'm not going to support the -- you can rent them out to people who live here in Austin and have families here and for the children that go to our schools still. I'm not going to support this amendment.

>> Mayor Adler: Any further discussion?

>> Renteria: I'm also not going to support it. I voted for the city ones because we extended it two years for them to exist, but we really need to start phasing these str 2's out.

>> Mayor Adler: Any further discussion? Okay. We'll vote on the amendment to change the date to 2027. Those in favor of the amendment please raise your hand? S? Hands? Gallo, kitchen, Adler, troxclair, Zimmerman? Those opposed? The balance of the dais. It is defeated. That gets us then to the resolution. Any further amendments? No other amendments, we'll now vote on the -- any discussion on the resolution generally? Mr. Casar?

>> Casar: Unfortunately, sorry to say yes. I have -- first just since I haven't said my piece I've been thinking about this issue obviously alongside the community for a long time and I think that sort of reflecting my values and especially learning about this as we go, we do need as much housing stock for tenants as we can and if we can direct tourists towards the str 1 rental use, that's my option and that's what this ordinance is attempting to do.

[1:46:13 PM]

That being said I do want to understand the occupancy rules a little bit more as they relate to type 1 short-term rental use because I just don't want folks that now I think there will be an increased market for type 1 short-term rental use to encounter lots of problems with the city related to the occupancy rules. So going back to the discussion we were having with pitched and our staff is would it -- with councilmember kitchen and our staff -- sorry, I have so much paper up here. Would it be more clear if -- that we list. So it says the short-term rental list may not be used by more than 10 adults at one time or six unrelated adults, that is what is currently in the ordinance as contemplated in section 25-2-795?

>> Correct.

>> Casar: I'm so sorry. If we want to eat lunch and come back and have me talk about the type 1 stuff, we can do that. We were looking at the planning commission ordinance when we brought this question up to you first and now we are on the council-initiated ordinance because that's actually the motion that passed. So is it clear here -- is it clear somewhere else that these limits only apply when it is in use as a type 1 short-term rental?

>> Yes, because it talks about use of the short-term rental? If it's not being used as a short-term rental, if it's being used as a long-term or your home, then this would not apply. We can add language if you would like that would potentially ease everyone's mind.

[1:48:15 PM]

>> Casar: Yeah, so could it say a short-term rental use cannot be used by more than the following number of people when in use as a short-term rental?

>> Can I suggest doing it in a different subsection? That makes it clear this only applies when the property is being used as a short-term rental at the time?

>> Casar: And my other question is how can we ensure that the burden of proof, particularly in type 1 rental cases, when clearly the property will be used more as a residence than a short-term rental, but the burden of proof is on the city to prove it's being used as a short-term rental. I think the concern there is for -- councilmember kitchen has a number of people over at her house and if she gets a citation I don't want her to have to go and prove that to the city that indeed it was not being used as a type 1 short-term rental at the time because I believe that the majority of the time the gatherings would be for Normal homestead purposes and understanding the administrative process we've set up I don't want to have a lot of folks coming in to prove that it was a birthday party, not -- so how would we set it up such that the code department would have to -- would only issue citations or notices of violation when they know it's being used as a type 1 short-term rental.

>> I have to think about the exact language, but I would do a presumption just as I've done a presumption in here that the short-term rentals rentals that has two bedrooms unless proven otherwise. I can craft that if you want to table it so that I can write that.

>> Casar: I think it would be good considering that our actions are know to phase out type 2 short-term rentals after the one year long moratorium. I expect that there will be more of a market for type 1 use and I would really like to not overburden people from having gatherings at their home.

[1:50:20 PM]

When they're not using their license. I think that's important even if it's -- even if it's not the core issue we're dealing with today, I don't want to come back and have to open this back up because of those unintended consequences.

>> Tovo: Mayor, it sounded like the first change was a minor one that you needed to add the short-term word in there somewhere and add it in another spot O it be acceptable to vote on that issue and allow the staff to address the second point and just provide that? Can we just provide that as direction and depend and vote on this? Can we take those two points that councilmember Casar just mentioned, vote on them and allow the staff to draft the language that matches it.

>> So if you give clear enough direction I think Trish can draft it. I'm not sure she's right there yet.

>> Tovo: Right, but I was wondering if we needed to actually have the language or if we can just provide that direction.

>> Mayor Adler: How about if we provide that direction and then take the vote on it when we come back from the break, if we've handled everything, that way the language can come back to us.

>> Tovo: I was trying to let these folks go home.

>> Zimmerman: Mr. Mayor, point of inquiry. So is the motion to approve this on all three readings? Are we doing this on first reading?

>> Mayor Adler: I think unless it's changed, it's on all three readings.

>> Pool: Mayor, maybe what we could do is what you suggested, which is give the general direction, take a break and allow staff to work up the actual language so that we know what we're voting on.

>> Mayor Adler: I think we understand that intent.

[1:52:20 PM]

Is there any other amendments that anyone is going to bring to the str matter? Ms. Pool?

>> Pool: There was one item on hotel tax collection that I know that folks from air bnb were willing to offer up and work with the city on. And I'm having some documentation brought down to me momentarily, but I'm not prepared to bring it up just right this second. I would do it after our break. It's a voluntarily collection agreement for Travis county. It's called transient occupancy tax and it's a voluntary collection agreement.

>> Mayor Adler: Do we need to approve a voluntary collection agreement?

>> I'm not sure what the document is. Side to look at it to determine if council needs to take specific action.

>> Pool: And it may be that this is specific to one short-term rental agency they would like it to be known that they are willing to do this voluntary collection through this process. And I would want to make sure that there's nothing in our amendments or our ordinance that would preclude that. I don't think there is, but it is being offered up and it's an important aspect of how these are managed by the different companies.

>> Mayor Adler: Would it be okay -- I think that relates to some, but not others. I know air bnb has offered to do this and it's great and much appreciated. If we handle that separately from the am any bus

deal.

>> Pool: I was suggesting we do it later anyway. I didn't want to do it right this second. And good point. Maybe even later than today.

>> Mayor Adler: That's what I'm saying. I'm not sure that should come back up this afternoon. Is there anything else other than --

>> Casar: I want to clarify that mine really should address bcke around F of that section, which is that I want -- I want the city to have the burden of proof that if you have seven adults standing in your backyard on any given night if it's your own backyard that you don't end up with a violation that you have to process and prove because you rent your place out by south-by.

[1:54:33 PM]

So it applies to all those different sections within the occupancy --

>> Mayor Adler: Generalyly you're saying that you want the intent to be if someone is at a location where it's being operated at that point a as their home or long-term rental, even though it's rented otherwise for a period of time with short-term rentals, those rules don't apply during that time --

>> Casar: I want the presumption to be that you're using your home as your home for type 1's.

>> Mayor Adler: Okay.

>> Renteria: Mayor, I thought we were discussing str 2's, which we're not using the home as a home.

>> Casar: This whole section applies to type 1's. Phrasers rental end and it's including the occupancy outside?

>> Casar: Yes. Basically if someone hosts a group activity other than sleeping, it's listed here in section 23, a type 1 str, then that's prohibited, but the question is if you would have a group activity other than sleeping at your house, which people tend to have, I don't want people to get citations. I think it's pretty simple.

[Applause].

>> Mayor Adler: Part 2 relates to all short-term rentals, 1's and 2's. Okay? Ms. Garza? And then Mr. Zimmerman.

>> Garza: I want to be clear on part 8. Part 8 says this is coming back to us, again, correct? And when?

>> So part 8 would direct the manager to bring the -- essentially parts 4 and 5 back to council at the same time that you have directed the November ordinance to come back to you. So that they stay together. The effective date for parts 4 and 5 would be April 1st, 2015 and absent any further council changes.

[1:56:40 PM]

>> Mayor Adler: Okay. We're focusing on Mr. Casar's -- that's okay.

>> Tovo: I'm trying to understand whether there's a way to move through this and wrap it up. 25-2-7-95 talks about occupancy limits for short-term rentals. I think I heard the staff say that that separates it from an owner's use when it's not being used as a short-term rental so none of that is going to apply.

>> Correct.

>> Tovo: But there was an area, the first point you made, where substituting for a short-term rental rental use seemed useful. Can you remind me where that passage is? I'm just wondering if making that change.

>> Casar: That change addresses part of it, but the other part is we clearly directed our staff to administratively cite and enforce against short-term rental users for example when they have a party. What I'm afraid of when you have the presumption of it as a home a and type 2 str that you will have to prove that it was your --

>> Tovo: Sure, I agree with your concern. I'm just trying to figure out what we could do.

>> Casar: I know we want to wrap it up.

>> Tovo: It seems like we maybe can't.

>> I think a potentially simpler amendment would be to 25-2-779, which if there's a visual inspection of a certain number of individuals then code has the council's determination that that's cause to issue a citation. In that we could put that -- the -- basically B and C, which have to do with occupancy under the prima fascia evidence don't apply to type 1 short-term rentals.

[1:58:42 PM]

Does that accomplish? That might be a simpler way to address the issue.

>> Mayor Adler: Okay. So with that is there anything else, if we came back for a vote on that one issue only, gives you a chance over lunch to look at it, is there anything else that's going to come up under str ordinance? Because what I'd like to do is see if we could take the break when we said there aren't going to be any further changes?

>> Zimmerman: The only thing I would like to recommend, I don't know if there's any support, is to change this motion to be first reading only. I would like a chance to bring that up.

>> Mayor Adler: Okay.

>> Pool: Mayor, I have just a quick procedural question. If the vote is a certain number, it would automatically be first reading only, right?

>> Mayor Adler: Doesn't have to be. The motion could be passed for first, second or third. It could be passed unanimously just a first reading only. But if it's to pass for more than one reading, they would require seven votes.

>> Pool: Okay. So that --

>> Mayor Adler: But it could be a unanimous vote to pass on first reading only. Yes, mayor pro tem?

>> Tovo: Yeah, I guess I'm going to really strongly support passing this on three readings if we have the votes to do so. I believe our community, our staff have -- our council has spent a lot of time on this and we're all ready to move forward.

>> Pool: I agree.

>> Mayor Adler: All right.

-- Ms. Kitchen?

>> Kitchen: I don't have any other changes, but for clarity purpose I wanted to follow up on councilmember Garza's question about part 8. I think it would be important to repeat the effect of part 8.

>> Part 8 is direction to the city manager to bring parts 4 and 5, which are the ones about amortization and the zoning code, to come back to council at the same time you consider whether or not to extend your November ordinance.

[2:00:46 PM]

And it's drafted this way to and in your council ordinance unless they want to make this ordinance, all parts of this ordinance effective in the Normal course.

>> Kitchen: So what this does is essentially we still have the year moratorium, we just have the end of the moratorium we've established this time period for a phaseout and what we're saying here is that we'll have a public hearing at that time. In other words, we haven't made or moratorium permanent.

>> No. I mean, the effective date would be April 1st unless council changes this.

>> Kitchen: So the moratorium is permanently effective unless we change it.

>> Correct.

>> Kitchen: If we don't take any action the moratorium is permanent.
>> If council approves this as it is written today, the amortization and whether type 2's and whether type 2's can be allowed in single-family areas, those two elements go into effect on April 1st, 2017- barring any other direction or ordinance changes from the council. I have both coming back together because they didn't want to change the November ordinance, but still have this ordinance outstanding and create a potential conflict.
>> Kitchen: But this part 8 requires us to have a public hearing at had that point in time. Is that correct?
>> Just as your November ordinance requires. >>
>> Kitchen: I had wanted to make it clear that we were banning new str 2's at this time and that that was not going to have to come back to us, but it sounds like that we have not done that.
>> Correct. It would still come back to you. You can amend part 8 and actually if you look at the bottom of councilmember Gallo's motion sheet number 2, if you look at the amendments to part 8 and part 9, which are on page 2,.

[2:03:13 PM]

>> Kitchen: I just want it to be clear to people what we're doing.
>> As it is right now those two provisions will not take effect until 2017, but you will also have the opportunity to reconsider this along with your November ordinance prior to the effective date of April 1st, 2017.
>> And it would be required that this comes back to us.
>> Correct.
>> Mayor Adler: Mayor pro tem?
>> Tovo: As far as I've enjoyed the conversation over the last six or nine months about short-term rentals, I would support a motion to remove that passage to have it come back automatically in November for reconsideration.
>> Mayor Adler: Mayor pro tem moves the language in the second page of Ms. Gallo's amendment, which would amend part 8, is that correct?
>> Tovo: I just want -- I am not entirely clear --
>> Houston: Could I second that --
>> Mayor Adler: Wait, wait.
[Overlapping speakers].
>> Gallo: Just point of clarification, have we brought mine back up for consideration. Are we reconsidering that?
>> Mayor Adler: No. You had a broader amendment. Teed that's why I was take because there were other things attached with that I would ask the staff to just help me identify if there is a will on the council to not have this come back exactly what would we amend to do that.
>> You would move to amend part 8, which is -- the amendment would be because of the amendment set forth in parts four and five of this ordinance, council finds it is not necessary to set or hold the public hearing described in ordinance 201511-12-078 and waives the requirement. You would also need to amend part 9 to make the ordinance all parts of the ordinance effective as Normal.
>> Tovo: Okay. Again, I'm happy to support something else.

[2:05:18 PM]

>> Mayor Adler: Let's stick with Casar's thing for a second. I'm concerned about passing intent without seeing the language because I'm not clear that we all have the same vision in our mind's eye. I don't know that we'll be able to draft that as we sit here for now. So I don't think we can resolve Greg's -- Mr.

Casar's issue. So I think we put that aside until after lunch and staff has a chance to look at the language. Now, mayor pro tem, did you want to make a motion?

>> Tovo: As Ms. Link described, change part 8 to because of the amendments set forth in parts four and five of this ordinance council finds it's not necessary to set or hold public hearing described in ordinance number 2015-02015-078, waives the requirement. And part 9, makes the entire ordinance effective on the same date.

>> Mayor Adler: It's been moved. Is there a second to this? Mr. Renteria seconds. Any discussion on this? Mr. Casar?

>> Casar: One question. When we say effective on the same date is that this year or in 2017?

>> It would be, unless council wants to have a it different, it would just be the Normal effective date, which is the 10 days. Ms. Troxclair?

>> Troxclair: If we're going to be taking a lunch break anyway, I was okay with trying to finish the discussion like an hour ago when we thought it was going to be quick, but I'm starving, we're all -- can we just take a break and come back? I'm sorry for the people who have been here and are going to still have to be here. And I'm sorry that this is taking so long, but obviously this is an important discussion and I want to make sure that we're making clear-headed decisions.

>> Mayor Adler: That's my sense of the dais. Apologies.

[2:07:19 PM]

We're going to go to closed session. We're going to take up potentially three items. F-2 pursuant to section 551071 of the government code, 232, issues related to the Austin involved shooting. F-3 which is the mud case. F 4, which is the affordable housing requirements. We're going to discuss that back in the room. And if there's no objection we'll go into congestion. Executive session. That's where we'll go.

[3:26:24 PM]

>> Mayor Adler: all right. We're going to go ahead and pick this back up. We are in the middle of the tnc discussion, and I think -- str. Are we done with tncs yet? In the middle of a str discussion, and we are now back on the dais in open meeting. We're out of closed session. In closed session we took up and discussed legal matters remoted to items f2 and f3. We have a quorum. What we don't have is Mr. Casar. This is -- this is the -- we have the one last item. I think that there was an amendment, and I think it may have been handed out. Do y'all have copies of what's been -- the language change? That Mr. Casar got from legal? One was why -- can you describe us to the language change that you made and gave to Mr. Casar? Do you have other copies of it or just this one?

>> Zimmerman: Or could we put it on the overhead

>> If y'all have a copy. I have scribbles.

>> Mayor Adler: It's going on the overhead.

>> Casar: I think we're all going to have it --

>> Mayor Adler: We don't have copies. It's about to be put on the overhead.

>> Gallo: Could I get copies? Could we get copies of what's being put on the overhead so we can write notes on them?

>> Mayor Adler: Okay. Who is the keeper of the copies here?

>> Gallo: Who makes copies?

>> Mayor Adler: Did this come from legal?

>> Casar: This came from legal and so I don't have copies.

>> Mayor Adler: Can legal make copies for people?

[3:28:25 PM]

I mean --

>> Gallo: Thank you. It's just helpful to be able to. . .

>> Mayor Adler: We'll go ahead and wait. Hang on.

>> Gallo: Thank you.

>> Mayor Adler: Why don't you describe us to what you're doing and then we can look at copies.

>> City attorney. The amendment will -- that is proposed by councilmember Casar will amend two sections of the proposed ordinance. The first will be 257795, the occupancy limit section and it will add a new subsection H that will read requirements in this section apply only when the property is being used as a short-term rental. The second change is in section 252799, which is the prima facie evidence of a violation section and for subexcesses B and C we've added the language of except for a short-term rental use described in 252788, short-term rental type one regulations, the -- except for those, this doesn't apply. Beal is the effect of it. The legality is the visual inspection, prima facie evidence and caused to issue the administrative citation for everything but a type one.

>> Casar: And I think this is reasonable because essentially we -- this says that the assumption is that if it's a type one rental that the -- when the code drives by the assumption is that it's being used as a homeowner occupied property because that's usually what they will be when it's a short-term rental type two we should have the assumption it's being used as a type two because by definition that's usually how they're being used.

>> Mayor Adler: Is there a reason why you put the section H in 795 and not also in 794?

[3:30:41 PM]

>> So 794 are general requirements. And so it applies to a licensee or a guest of a short-term rental. So it would be that the property has to be used as a short-term rental. We can add the same language to 794 if that's the council's desire.

>> Mayor Adler: I mean, it just seems to me that if it would apply to one it would apply to them both. And I recognize that you were saying that you thought it was acceptable, an interpretation it wouldn't be applied to an str type one location if it wasn't being put to that use, and I understand that and was willing to go there with you on that even without this. But if we're going to put it in I'm now concerned about putting it there and not putting it in 794 for the fear that the failure to put it in 794 means something when we included it in 795.

>> Casar: Makes sense to me. I'll move for it to be in both.

>> Mayor Adler: Does that work, Patricia, to put it there?

>> Yes, it would be a new subsection I.

>> Mayor Adler: It would be H in 794 and H in 795 both.

>> It would actually be I in 794 and H in 795.

>> Mayor Adler: Because we added an amendment a little while ago.

>> Right, because of the way 794 is laid out right now, yes.

>> Mayor Adler: Okay. Is there any objection to that being added to the Casar amendment? Mr. Casar moves that amendment. Therefore a second to that amendment? Ms. Pool? Is there any discussion on this amendment?

[3:32:42 PM]

Ms. Gallo.

>> Gallo: So I'm going to go back to the question I think that councilmember Houston -- I mean,

councilmember kitchen and I were talking about, and this would be the H provision, requirements in this section apply only when the property is being used as a short-term rental. So I'm going back to my question, if an owner is occupying a front house and there is a back house that at the same time is being used as a short-term rental, that was part of the concern that we had, is that that occupancy limit was being applied to the whole property. So does this address that? It seems like it just kind of keeps it with the same concern that we had, that -- that the -- that the unit being rented should have to comply to the occupancy and not include the unit that the owner is residing in.

>> So I guess two comments. One, the planning commission recommendation used the phrase "Site." We don't use the phrase site in the council initiated. It's just to the short-term rental itself. That being said, we can change the word from "Property" to "Dwelling" being used as a short-term rental, if that will make it --ees concerns.

>> I think legal can help us figure out how to try to say that. My concern is the way I read it, when you talk about property that is being used, if one unit on that property was being used ace short-term rental and the owner was living in the other unit, it still sounds to me like the occupancy standard is -- the occupancy requirement is for the total of the occupants for both of those two units. And you may tell me, that no, that doesn't say that but that's kind of still -- that was our concern and to me it still sounds like that's how that reads.

[3:34:45 PM]

>> Mayor Adler: That reached by saying requirements in this section apply only to the short-term rental location? Or short-term rental? When the short-term rental is being used as a short-term rental?

>> Gallo: When the unit is being used as a short-term rental?

>> Mayor Adler: Then --

>> Casar: Mayor, I think we're trying to solve two different problems we may need to add another line. The issue I was trying to solve is not the same issue you're bringing up as an issue. The issue I was trying to address with this sentence was that to make it perfectly clear that the gatherings clause and other clauses only apply to, for example, a type one short-term rental when it is being leased out to guests as opposed to being used by the homeowner.

>> Mayor Adler: Right. What about -- and -- to add to the end of it and apply only as to the short-term dwelling, requirements of the section apply only when the short-term -- only when the -- when the property is being used as a short-term rental and applied only as to the short-term rental dwelling? That would be another way to do it. I don't know if it's better to say -- to only apply to --

>> I could doodling unit or residential unit will be clear.

>> Mayor Adler: Okay.

>> So it will be the requirements in this section apply only when the dwelling unit is being used as a short-term rental or the residential unit, whichever is council's preference. We use both phrases in our code. So I think either one of those.

>> Mayor Adler: And they're two concepts. This applies only to the short-term rental dwelling and only when the short-term rental dwelling is being used as a short-term rental. Requirements in this section apply only to the short-term rental dwelling and only when the short-term rental dwelling is being used as a short-term rental.

[3:36:48 PM]

Does that work?

>> I think the confusion is that we're using short-term twice in the same sentence. And I think from a clarity standpoint, describing where people are staying on the property is -- dwelling unit or residential

unit. And I guess a different alternative would be requirements in this section apply only when -- it still uses short-term rental twice, but it would be the short-term rental dwelling unit is being used as a short-term rental.

>> Mayor Adler: And only to the dwelling and not to the other part of the property. There's two questions. It's when and to what that is creating a big -- the confusion that they're raising. We have to hit both those, both the when and to what.

>> So, Trish, I think that -- if I could add, I think if you say requirements in this section apply only when the short-term rental dwelling is being used as a short-term rental, comma, and apply only to the short-term rental dwelling. You're saying it twice but I think it's clear.

>> Mayor Adler: Does that work for you too, Patricia?

>> I think where I'm getting a little hung up is calling them short-term rental dwellings, because we really use that as a use as opposed to describing it, still single family view, maybe a duplex.

[3:38:54 PM]

So this actually applies when the dwelling unit is being used as a short-term rental and only apply to the short-term -- the dwelling use for the short-term rentals. It's a little cumbersome but it's clear that we're not changing the type of structure we're talking about.

>> Mayor Adler: Say it one more time.

>> Requirements in this section apply only when the dwelling unit is being used as a short-term rental and apply only to the dwelling --

>> Mayor Adler: Only to --

>> Being used as a short-term rental.

>> Mayor Adler: And only to that dwelling.

>> Right, okay. I think that will work.

>> Mayor Adler: All right. Try it one more time.

>> Yeah. Requirements in this section apply only when the dwelling unit is being used as a short-term rental and apply only to that dwelling.

>> Mayor Adler: Okay. Is there an objection to that language being added to this amendment?

>> I don't know that -- just for clarification, I know we've given the example -- the example used here is if you have a garage apartment because that would be the dwelling unit, but what if -- I'm sorry if I'm muddying the waters, what if it's just a house and you're renting out one room in that house, in your house, and you're having the party in the rest of the house? Sounds like this dwelling -- the dwelling is the house. So anyway, there's that concern.

>> Mayor Adler: I think in that instance we can have the fact pattern where somebody had one room in the house with 20 people in it and -- and that would be something that would be objectionable because somehow or another a rental user had let 20 people in the space even if the owner was there in the rest of the space, the way this language reads.

[3:41:02 PM]

>> Gallo: Except if the bedroom becomes the dwelling unit so we're doing basically the same thing. We're saying that it would apply to that one bedroom so that person in the one bedroom would be under those restrictions and would apply only to that dwelling unit, which would be that one bedroom. So I think the short-term rental dwelling unit, whether it's a house, garage, apartment or a bedroom, would all have to comply with the occupancy.

>> Mayor Adler: I'll concur with that interpretation with the use of the word "Dwelling" in case there's legislative history that's needed later, but I think it's reasonable to say, and apparent, you can check on

this -- pa Trish arbitration you can check on this, if the lease is for a room, then that becomes what is the subject -- the dwelling subject of that rental contract. So I think -- I think with that interpretation, then that language would address the situation that Ms. Garza raises. Are you comfortable with that?

>> I think what I can do, for clarity, for purposes of this section, 794 and 795, dwelling unit means the room that's in the house that's a type one. If that will work? We use a lot of terms. We describe them all different ways. And so I think that if I make it clear that in those sections that we're talking about, even the room in the house, that that would achieve what I think council's result is.

>> Mayor Adler: I think so. And it wouldn't be just that. It would be whatever area is subject to the short-term rental use. Might be a broader way to say it, and then it would encompass the garage apartment if that's what it is or the room or the house or the side of the duplex. Does that work? Okay. With those changes made, that's Mr. Casar's amendment, seconded by Ms. Pool, any further discussion?

[3:43:04 PM]

Those in favor please raise your hand. Those opposed?

>> Zimmerman: Abstention.

>> Mayor Adler: It's everyone on the dais with Mr. Zimmerman abstaining. Okay. Then the question we're now back to the -- the ordinance as amended being proposed for approval on all three readings. Ms. Tovo.

>> Tovo: Mayor, I had before the break had an amendment on the table that would -- and I've just gotten it from staff, from our legal staff. And maybe they could post it. That would substitute part a to read because of the amendment set forth in parts four and five of this ordinance council finds that it is not necessary to set or hold the public hearing described in ordinance number 2015-1112-078 and waives the requirement.

>> Gallo: Can I get a copy of that, please.

>> Mayor Adler: And the language there is on page 2 of your amendment?

>> Gallo: We keep referring to my amendment. We're not talking about my amendment so if we could have a separate amendment somebody can pass out so we can see it.

>> Tovo: It's up on the screen.

>> Mayor Adler: Do we have a copy of that for Ms. Gallo?

>> Gallo: Thank you.

>> Mayor Adler: And does that also include amending the effective date in part nine?

>> Tovo: So I would welcome some discussion on council. I think there may be different opinions about that.

>> Mayor Adler: Okay. We'll take these one at a time.

>> Pool: mayor?

>> Mayor Adler: Is there any -- it's been moved by Ms. Tovo.

[3:45:05 PM]

We'll have copies in a second. Is there a second to that? Ms. Pool. Is there discussion on this amendment? Ms. Pool.

>> Pool: I think the reason why it keeps being referred to as councilmember Gallo's [indiscernible] is because I think this language was part of that, that original amendment, and I think what we're doing is pulling that out and applying it to the ordinance where we're at now. I do think that parts four and five we've worked through them really carefully and I think we can just go ahead and say it's not necessary, again, to have another public hearing, that we have given due consideration and the community has to the changes that we have offered up and spent considerable time on it and weld like

to -- we would like to simply close the conversation at this time.

>> Mayor Adler: Any further debate on this item? Ms. Troxclair.

>> Troxclair: Go ahead.

>> Casar: Can we vote on part 81st? Because I'm still not clear --

>> Mayor Adler: We're just voting on the substitute part eight section. Ms. Troxclair.

>> Troxclair: So this would basically -- this would make the moratorium on type two -- new type two licenses permanent? No hearing in a year? So, I mean, I understand that we have spent a lot of time and energy on this and that the community has spent a lot of time and energy on this, but when the council took the vote to enact the moratorium on type two licenses, the conversation -- a lot of the conversation focused around councilmembers saying that they're okay with it because it's going to allow us to gather data and then reconsider in a year. And I think that had the intention all along been a permanent -- a permanent ban, that the conversation -- and the vote probably would have been really different so I think it's -- I'm not sure I'm -- I don't think that it's right for us to come back at this point and make this amendment even though I know that we're frustrated with this issue.

[3:47:26 PM]

I think that it's important enough and that we do have reliable data and be able to honestly reconsider the issue in a year. And I think -- I don't think that this was the original intent. When we passed the type two ban, it was not our intent to make that ban permanent. It was clearly our intent to reconsider it after a year, and so I think -- I don't think that we should make this decision now making it permanent.

>> Pool: Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I think at this point what -- the only thing that this is saying right now is that we don't see that it's necessary to set or hold another public hearing. We can always come back and change that, but what we're saying now is we have had ample input and have had numerous extended public hearing so far and so we are simply saying to the community at this time we feel that we have had sufficient and we do not at this time feel like we need to have any more public hearings.

>> Troxclair: And what I'm saying is that of course we can always come back and change something, but we were very deliberate in having prolonged conversations about when was the right time to come back. You know, councilmember Casar made an amendment to extend the period of time for another few months because we wanted to make sure that we had the information available to us about the impact of the new enforcement tools that we were giving to our code department. And so I think it's incumbent upon us to continue with that commitment.

>> Mayor Adler: Further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I concur with councilmember troxclair's comments. I'm going to be voting against this, but I kind of tend to agree with councilmember pool. I don't know what the point is of having more hearings.

[3:49:29 PM]

I think the voters are going to have to decide if they want to change the makeup of the council and they can do that in November of 2016. So after that time we can come back and look at it if there are any changes on the dais. Otherwise, I don't see anybody changing their position even if we had another hearing. So . . .

>> Mayor Adler: Any further discussion? We are considering now and voting on the substitute to part eight that was handed out, just part eight. It's been moved and seconded. Those in favor please raise your hand. Those opposed? Zimmerman voting no, troxclair voting two. 9-2. Nine is approved. That gets

us to the effective date question. Is there a -- as it stands right now, given that change, Patricia, what is the appropriate effective date for us to have now?

>> It's -- either effective date will work because the way the draft right now in front of you will go into effect when your November -- the day after your November ordinance expires. That being said, it's also clear for the community and for -- and the city code if all parts -- if council is not going to reconsider, all parts to be effective on the same date.

>> Mayor Adler: And if we do this, it just happens by operation of law? There's no coming back that automatically happens, there's no public hearing that's set? It would require somebody filing a new ordinance proposal in order to change?

>> Council would need to initiate or the planning commission would need to initiate new code amendments, correct.

>> Mayor Adler: Okay.

[3:51:29 PM]

Ms. Kitchen.

>> Kitchen: I'm sorry. I mean, I've understood what you said -- I may not have understood what you said. Say, for example, the occupancy limit sections, when does that take effect?

>> That will take effect in ten days.

>> Kitchen: Okay. Because ten days is just the Normal period, no matter what this says?

>> Correct. Parts four and five --

>> Kitchen: Okay, I have it.

>> -- Are the parts associated with the November ordinance.

>> Kitchen: Got you.

>> Mayor Adler: Are there any further amendments to the general motion, main motion? Mr. Casar.

>> Casar: Mayor, I know that it really doesn't make much difference because the phase-out is for 2022 either way but I prefer to leave part nine the way it is, just because then the face-out begins at the end of the moratorium and we did stake out that during the moratorium period we wanted to learn what it is that we could. And so I -- it's still set for 2022 anyways I think it gives some consistence to the public we've got the moratorium and the face-out period and I would like to hear if there are any objections to that, leaving part nine the way it is as drafted.

>> Mayor Adler: Unless there's an amendment, that's where we'll be.

>> Casar: All right. Okay. I'm just asking.

>> Mayor Adler: There is no amendment currently in front of us.

>> Casar: Oh, we're not moving part nine? Sorry.

>> Mayor Adler: No. We had eight. Any further amendments? Seeing none, let's vote on this str bill.

Those in favor please raise your hand. Those opposed? 9-2, troxclair and Zimmerman voting no. Passes.

On all three readings. That then gets us to the balance of our work session.

[Laughter] And there were five items that were pulled in the --

>> Trish, thank you.

[3:53:30 PM]

Thank you, Trish. And Mr. Smart.

>> Mayor Adler: The first one of these is the council committee and procedures. And then, Mr. Casar, I see the work that was done. I was caught up first in the tncs and then the strs and haven't had the time to come back there and I would like to have that opportunity. I like the fact that we're streamlining the committee process. I like the fact that we're having the opportunity for things to be able to move past

that. I would like us to also address, as part of this, not having that -- everything coming to the council so that we have more opportunities like we had today at the work session, and I am concerned that the pendulum may have swung too far against the committees in the way that the ordinances is currently drafted. I really like the work. I think we need to make changes, but I for one probably am not going to be ready to vote on this in two days. Ms. Kitchen.

>> Kitchen: I would agree. I'd like a little more time. I think that the language definitely moves us forward, but I think there's some language in here that goes beyond what we've talked about in the transition committee. So I think it might be helpful to have a little more time.

>> Pool: Mayor?

>> Mayor Adler: Ms. Pool.

>> Pool: Would we also be able to pull in the items from the transition committee that we haven't put into a resolution form and maybe take it all --

>> Kitchen: That's right. Because this version goes beyond -- in some cases, there's some things in here that we didn't talk about in the transition committee and then there's also some things we did talk about in the transition committee that aren't in here, so if it's okay with councilmember Casar, it would be helpful to allow some more time.

[3:55:32 PM]

>> Casar: And I would just be interested with the time that we have now, since I think the rest -- our day is fried and I've canceled my meetings we're going to go together either way, what those changes, even if they're not legally drafted, what it is that folks are concerned about. Because --

>> Kitchen: Okay.

>> Casar: You know, I think that everything that was -- that I think needed to be changed in ordinance, that we had consensus agreement on in the transition committee I believe is largely incorporated where we need changes to the ordinance. Then there were two things, there were a few things that we didn't have consensus agreement about in the transition committee that I incorporated just because they were my opinion that I think were shared by several transition committee members and finally there is an amendment brought forth by councilmember Garza she brought up during our work session that's incorporated, and I don't know what's in the latest version of backup but we did submit the amendments posted by councilmember Houston to be incorporated into what it is that we bring forward on Thursday. And so there's a lot going on, and I would rather tackle the lot going on by talking about it rather -- if there's just a feel for particular sections folks have concerns about. The one thing that I think there was a lot of conversation about that's not included in the ordinance is reduction of the committees to standard of three, while allow more. If people have questions about that I think that might be best addressed in executive session.

>> Pool: Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I had put a comment up on the message board offering to be one of the cosponsors if you need one and working to -- do you need cosponsors on this?

>> Speaker2:.

>> Casar: I think that it has the full number of cosponsors so really for the best is -- is for me to talk to you in open session.

>> Pool: Oh, that's fine. The one thing that I wanted to suggest is in the document that you brought forward, you had a majority of council -- of committee members approving the items for the agendas.

[3:57:37 PM]

And what I thought would be maybe a middle ground between what it is now and that would be to go to two members of a committee. So it's in effect a motion and a second to put items on an agenda at the committee level.

>> Casar: And I think that was discussed at transition committee and we were split between two and majority and now is the time to have that discussion so I'm happy to do it.

>> Pool: And then the other committee is of course the Austin energy oversight committee, which is a committee of the whole. And there I thought, since it takes four to bring an item to a regular council agenda but it's a committee of the whole for Austin energy, we would just say three. So I put those two suggestions up on the message board and eager to talk about them further and see how that might fork we were to move in that direction.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Couple of questions. There were two items. I believe it was in a5. Two things demonstrated that I recall talking about that and it was in a5 and then --

>> Casar: Sorry, in a5 under which section?

>> Kitchen: Well --

>> Mayor Adler: 2526.

>> Kitchen: The one where it deletes indicating whether an item was reviewed by committee.

>> Casar: Yes.

>> Kitchen: To me, I would want to know if an item was reviewed by committee. That particular section doesn't require an item to be reviewed by a committee. It's just a notification on the agenda about whether a committee reviewed something so it didn't make any sense to me to strike that.

>> Casar: My understanding of the reason that's struck is the consideration by councilmember Garza of items from committee not being sent by the committees to council but rather by cosponsors, so you can speak to that but I think with that amendment, with that section is the reason for this being struck, because it removes that committee forwarding.

>> Kitchen: Okay, that's something that I --

[3:59:39 PM]

>> Casar: So that's a sensation for us to discuss. That wasn't discussed in transition committee because that was something we discussed in the first work session after the first transition committee meeting.

>> Kitchen: Yeah, that wasn't discussed in transition committee, and I'm very concerned about that. I think that a committee should be able to vote to bring something to council. I'm okay with the kinds of changes where it's not required, but I'm not okay with saying that a committee cannot vote to bring something to council and requiring an item to have four cosponsors regardless of what a committee did, because I think that that -- that -- that essentially takes away the value of committees, and so that's something that I don't agree with. So I won't agree with the section on that, that are then related to that, like you said. So that within was -- frankly, that was the one that concerned me the most. There are a couple of others. There was a section 2-5-105, I wasn't sure why that was deleted and that just relates to notifying a member when something is directly affecting property in their district. I didn't understand why that was deleted. And then --

>> Casar: I don't know if that's been happening.

>> Kitchen: Pardon?

>> Casar: I don't know how -- anyways, I think that was just in the general cleanup of procedures.

>> Kitchen: Well, I don't --

>> Casar: We can put it back in.

>> Kitchen: And then the other one that I was concerned about was part two -- well, there was a part that was completely deleted, and that was a section

>> And to me I wasn't clear on why that was deleted. I mean, I can see where if you were making some changes about how the committees operated you might want to make some adjustment to that, but I didn't see why that was completely deleted because what that does -- one of the things that that section was designed to do was to help make sure that recommendations that came to us from boards and commissions had a route to be heard so that they weren't just -- you know, that they weren't just sent to all of us and then may or may not have been noticed.

[4:01:47 PM]

So what we had decided to do was that if a recommendation comes from a board or a commission, that it would come to the attention of the full council. It wouldn't have to rely on a particular council member to bring it up, but it would come to the attention of the full council and then be placed -- be identified as something that could be taken up by a committee. So by deleting the entire section D -- I think there's other implications of eliminating that entire section D. I haven't had time to really think through it, but that would be one negative impact of deleting that section D. And part 2 about public comment shall be taken in the same manner. I think that -- that needs some more thinking. I'm not -- I'm not opposed to changing the 4-4 kind of requirement we had in there, but I'm also not so sure that should we taken it in the same manner really gives us as much clarity on how we do public comment in front of committees or in front of the full council. I think it's really important to continue to allow committees to take public comment, and I think depending on the issue and depending on the committee, that can be a very valuable way to have public input from -- to people before we get to the point where something is cooked and in front of the whole council. Not cooked, but further along in the process. That's the value of committees, is allowing that kind of public comment earlier on in the process, and so I wouldn't -- I want to be very careful about that section and just saying shall be taken in the same manner to me doesn't provide enough clarity. So those are what my concerns are, and I'll be happy to provide some more information about some detail --

>> Mayor Adler: For what it's worth, you're trying to get a feel for the dais at a work session like this, which I think is a great use of work session, for us to be able to talk this way since we can't talk otherwise except in small groups or on the message board.

[4:03:52 PM]

I share some of the same concerns that Ms. Kitchen has.

>> I think I just got on a note that 22-5-26d isn't, in fact, deleted in the most recent section.

>> It is on the backup.

>> Yeah, I understand. So having specific notice it wasn't reviewed by council I think is a good. I think we're doing it the other way. I think now we're indicating those things that are considered by council, which might be a better way to put it, but I sliet that continuing obligation, we know something is coming from a committee or being considered by a committee. The section that talks about how things can get put on the council agenda, I also think that a committee should be able to put things on a council agenda. The section D area that talks about boards and commissions, you know, the way that it's set up now is that anybody can pick up anything coming from a board or commission, but we wanted to raise the level of boards or commissions and make sure at least one committee has to check it off. So what I've been doing is as those come in and they go to the whole council and any committee can pick it up. I'm assigning it to one committee, just so that it gets checked off so that the citizens group knows that somebody has, in fact, looked at it. Doesn't have to consider it. The council -- the committee doesn't have to spend time against it if it doesn't want to, but at least somebody has to acknowledge it and make that determination. So I would put that -- that kind of section back in. Again, the committee

bringing up the report. With respect to public comment, I think this is something we really need to talk about. When we went past 10:00 theory day, and there were -- the other day, and there were four council members who voted against extending past 10:00. And I don't know what would have happened if there had been two more. We had a room full of people. I guess at that point we'd pick up our stuff and walk off the dais, and I'm not sure that's going to be particularly comforting. I am concerned -- I mean, we have a conflict between wanting everyone to have a chance to be able to speak, because we want people to speak, but yet requiring people to stay here past 10:00 in order to be able to speak, which is every bit as much a restriction on people's speaking as it is adopting a role saying you cannot speak.

[4:06:09 PM]

And I really think we need to confront that head-on and figure out what limitation of speech we're going to have. The suggestion has been made by someone that, you know, the first ten speakers on each side get the full three minutes and anybody that speaks after that is limited to one minute, because at that point people are starting -- we're going to have to do something to cut down debate. And frankly, I know it's been frustrating, but one of the things that has actually helped, I think, with us several times is the rule we've had about how much debate we've had when something has come back from committee, and I don't know that that's the right element, but we really need to do that. So just saying that it's going to be open to the public the way they are is something that I think is something we're doing a disservice to more people that want to speak by doing that than we are -- we're limiting speech that way more than we're allowing for speech. And as I look through here I think most of those related to the -- to the committees' work. With respect to the agenda, I'm in favor of a committee being able to decide what it spends its time on so that, you know, at least -- you know, at least two people have to be participating, or some measure, so that the committee is actually spending time on what most of them want to spend -- to spend the time on. But I think that -- and then I'm not sure what a direct committee direct city staff beyond the council's right of inquiry.

>> Casar: Can I answer that last one? There was an instance at least in two committees where I think committee has given direction, and at least once I was party to it, and it was inadvertent in which we paused a purchasing process because we asked questions about a contract. And so I just want to make clear that committees -- that this council gives direction, committees are an advisory body.

[4:08:17 PM]

In relation to 22/5/26d, sorry, that's what I get for quickly reading text messages, it's correct and accurate that it's posted as being struck, and the intention is to replace it with something that reflects, I believe, what you described, mayor and you, council member kitchen, where the municipal court clerk or the -- a board chair of a board or commission can notify the mayor or the committees of action they want to take but that coincides with other sections of the ordinance reform where multiple committee members are required for it to be put on the agenda. So it's my view that for committees to best control their agenda you should have at least a majority or potentially two committee members to put something on the committee, and that would be the one -- that would be the one and only path for doing so. And so if we can modify it such that the clerk or the auditor can let the committee know, and then the committee can decide whether or not to put it on their agenda. But we have another section of this that says item from the city manager, and items from these other appointed officials should just be expected to send things to the full council and not leapfrogging the committee by not putting it on the committee's agenda.

>> Mayor Adler: Right, but certainly -- I don't want to -- they can -- we're trying to remove the

expectation so something doesn't get bumped back because we're not ready to deal with it. At the same time, they can certainly bring something to a committee if they want to.

>> Casar: Right, and I think the difference here is whether the committee --

>> Mayor Adler: Controls their own time.

>> Casar: Controls their own time. You can say, just bring it to full council because two committee members are interested.

>> Mayor Adler: And I'm fine with that too, but I would keep the practice where when they come in I send it out to places, just -- and we had like two sections of a lot of committees where they had things that were available to be discussed and those things that were discussed, and if it could just be put in that available to be discussed section so that people would note that it was available to be discussed and just wasn't picked up or whatever. Any further discussion or feedback for the transition committee or for Greg in particular?

[4:10:18 PM]

By the way, Greg, thank you for taking actually the first step out to place something out for people to -- lay something out for people to start reacting to. It helps. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. So I posted on the council message board here yesterday, so let me just read a couple things here, and if -- if the council doesn't want to speak to it, I want to ask for a legal opinion on this proposal, 2-5-106 saying a majority of the committee must sponsor an item on a committee agenda. And I don't understand how that doesn't run afoul of at least the spirit of the open meetings act that we have to have two members or a majority of the council even to put something on the agenda. I don't understand that. I mean, is that -- can our legal counsel speak to that? Especially if we have two -- only three members on the committees and you need two of them --

>> Mayor Adler: Okay, so my understanding, and legal can check this, that what we were told was, is that if we formed a committee that was taking action on items, that it constituted a quorum in the like, and was subject to, then, a smaller group that needed a quorum and was subject to the open meetings act. But we specifically drafted in that instance so as to be sure there would be no action taken, that the action had to be taken by the city council, so things could be sent to the city council that there was an alternate path for anything to go to the city council outside of the committee work, and we specifically said that anytime that came from a committee couldn't be approved on the consent agenda, and that was what -- what we had had. I didn't mean to make you sit down.

[4:12:19 PM]

Sorry.

>> Zimmerman: I didn't get an answer to the question, because if we have three-member committees and you need two of them to even put something on the agenda for discussion, I don't see how --

>> Kitchen: Could I ask a related question real quick? I was curious about the use of the term "Sponsor" in that section too, because, you know, we have sponsorship for bringing something to the full council. I didn't know if it was used in the same, which would cause me concern, because the purpose of putting it on council agenda, I might want to put something on council agenda -- or committee agenda for discussion purposes. That's not the same as wanting to sponsor it.

>> Pool: And if I could also say, I don't think we have decided that we're going to reduce the number of the members of committees down to three. That's an open question.

>> Zimmerman: It's one of the things being discussed and there's a consequence of it and I'm trying to get to the consequence of reducing committees to three members, because it is being proposed.

>> Pool: Well, and I guess I have betrayed my support or lack thereof by assuming that two people

would, in fact, not be the majority, although I suppose they might be if it went down to three members of a committee, but I -- right now I'm leaning toward maintaining the membership on the committees as it is currently.

>> Kitchen: And I also would -- I believe that three is too small for a body the size -- this size.

>> Casar: Mayor? I'll also suggest that co-sponsoring something for discussion or for posting on an agenda can be done through our staff, as it oftentimes is when we can't discuss items with other council members. So regardless of where we fall on committees at four or committees at three, regardless on whether we fall on committees being -- items being sponsored by two people or by a majority, I think that we have very competent staff that can help us make sure that things are co-sponsored without us necessarily discussing it with those other members. Because you're not necessarily co-sponsoring something saying you've discussed it with those members or are working on it with them, just that you want it on the agenda.

[4:14:26 PM]

>> Mayor Adler: And by the way, I would love as you're codifying stuff to have that written somewhere, that sponsorship of something does not imply endorsement but just participation to put something on an agenda. Ms. Troxclair.

>> Troxclair: As idealistic as that sounds -- sometimes perception is reality. I don't think the reality is that when you're a co-sponsor of something, even if it's just to bring it up for discussion, that it's going to be viewed as support. So I -- our legal staff -- I still don't think that he got to say an answer to council member Zimmerman's question, so I would be curious to hear your answer. But I -- I did have that same concern, was just that -- not only -- not only do I have a legal question about the majority of a committee sponsoring an item, but practical questions as well as kind of -- I think it undermines maybe the purpose of the committees overall because if you already have a majority of people saying they're willing to talk about it, why even go to the committee? Just come to full council. I mean, what's the point of even talking about it in committee? So -- and maybe that's --

>> Casar: I think there's benefit of talking about things, but, you know.

>> Zimmerman: But there's a point. If you consider the position, council member troxclair and frequently -- we have a minority point of view, so effectively what this does it prevents the minority point of view from being discussed. I have to get two members on a committee just to have something discussed. So nothing gets discussed unless I can get some other member, and I'm in a minority position, so -- you know, I have better things to do than going to ribbon cutting ceremonies, but if we put these rules in place I don't see the point of me showing up. I can't represent my constituents by showing up to committees, basically.

>> Troxclair: Can we hear the response to the legal question?

[4:16:29 PM]

>> John steiner, law department. At the risk of being anti-climatic, I would say these are topics better discussed in executive session.

>> Mayor Adler: Thank you. Yes, Ms. Garza?

>> I'm going to speak to my amendment, which is you have to have four total, which is the policy. If you're bringing an item before council you have to get three other council members, and the point of that is to -- it's a test of viability of the item. And if you don't have at least three other co-sponsors, the chances of your item passing the full council are very small. So I -- I feel like -- I am a supporter of the committee system, but we also agreed that we were going to look back, we promised the community that we were going to reevaluate and look at it again. So I am for if we want to delay this Thursday, but I

think it's been a year, we promised the community we would make some changes and come back. I understand that the -- some of the items in council member Casar's, which I'm a sponsor on, were not things that were discussed in the transition committee, but regardless he got three co-sponsors to bring this before the entire council. And so whatever him and three other of his colleagues believe should be in there is what's in there right now. We can all, you know, continue discussing what should and shouldn't be in there, but I think we need to make a decision with regards to, you know, the difficult issues being discussed at the committee level and how that might save time. I think the biggest test of that not being true are the tnc item and the str. Those two spent hours in committee -- at the committee level, and they might have spent more at the council level. So I think these are all just -- you know, we're trying to find the best balance to, you know, do our job more efficiently, but I guess -- you know, concerns with our meeting going past 10:00, that's part of our job.

[4:18:46 PM]

We either -- we either go past 10:00 or, all due respect to the city management, we give city management more power to make decisions for us, so we have to go past 10:00 sometimes because we're -- you know, we're a giant city with \$3.5 billion budget. That's what we signed up for. So I hope we can, you know, vote on this, if we're going to delay it this week, I hope we can get to it soon.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I have to -- I just have to say that it's just going to have to be flexible, because there -- it's not the same for every issue. So I could give -- yes, I would give the same examples of tnc and str are something we really need to deal with as a full council, but it helped in the committee. And there's just as many examples of other issues that worked through the committee structure. It's just not going to be the same. It's not the same for every committee. It's not the same for every issue. So it's just not that black and white. So I just think we have to make sure that we've got enough flexibility in our -- in our rules so that -- so that we can deal with circumstances as they come up, because there's judgment calls about each circumstance. I raised the question about taking four and not allowing a committee to -- to recommend and send something to council, because I -- I'm not aware of any situation in which that's been a problem. So I just didn't -- I didn't understand what the reason was for that change. But we can certainly discuss it more. That's -- that's why I raised that.

>> Mayor Adler: Okay. Any further discussion of this item? Ms. Troxclair?

>> Troxclair: I guess if council member Casar is looking for our thoughts during this public meeting, I'll just say that I agree with most of what council member kitchen and the mayor have said, you know, whether it relates to the public comment or to the committee being able to bring something forward.

[4:20:50 PM]

I do have one more question that I don't think has been addressed. Is there in part 4b -- is there a reason that that has been changed to say the city manager and city clerk shall each appoint a staff liaison for each committee to assist the chair? And that's been changed to say "The committee"?

>> Casar: I believe that's because the -- under this understanding, the committee controls its agenda, and so the staff liaison would be reporting to members of the committee that co-sponsor an item to be placed on the agenda.

>> Troxclair: But -- I mean, we're just talking about the entire -- the agenda for the entire committee, which a lot of times is briefings and other things outside of ifc --

>> Casar: Right, of course the chair -- of course the chair would still ultimately work with the staff liaison to assemble the -- to assemble the agenda, but given what's written in the ordinance where two committee members are required for putting something on the agenda, the staff liaison needs to

actually work with the committee to make sure that an item has two committee members that want to hear it.

>> Troxclair: I don't know. I don't know if I agree. I just think that's a little bit convoluted. Honestly, the process -- it's taken us -- our office at least a little bit of time to iron out the kinks in the agenda setting process between the staff liaison and the city staff and what they want to put on and what my committee members want to put on and what I want to put on, and it seems like for simplicity's sake it's a lot easier. I don't want to have control of the agendas on the other committees upon which I sit. I'm happy to take on the responsibility of the economic opportunity agenda, but I don't -- I just think that that's going to complicate the issue a little bit, and I'm not sure that there has been an issue with that, so I would -- I would just lean towards trying to streamline, trying to be as few people involved in the process as -- just -- the administrative process of setting the agenda as possible.

[4:22:58 PM]

>> Casar: And I just view those two things -- these two sections in conflict, where if it's going to take multiple committee members to take something on the agenda, then the staff liaison is going to have to confirm those people, and I just see it mirroring the process on the full council, where the staff works together with the body to make sure -- to figure out what can go on an agenda and what cannot, because there are enough council members that want to hear it. And so this is just all about streamlining our time and what items come up and what items don't by making sure that there is an interest and a -- before the items come up for committee. For me I think there are lots of great discussions to be had at committee and what we need to do is have fewer items there for us to discuss that are really what the committee members want to talk about so that we can have the thorough sort of level of policy work that we want to be having there. And if there's -- and I understand there's probably disagreement around that, and I think that people -- that what I would like at the end of this process is for us to just all have a shared understanding of what committees are best used for, regardless of sort of where we come out on different provisions so that we're all working in the same system.

>> Troxclair: But do envision that you would need two committee members to put every single item, even a staff briefing, even a recommendation from a board or commission, that kind of stuff?

>> Casar: Yes.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I'm not aware that -- we're trying to find a solution for something that I'm not aware of it being a problem. So if it's a problem -- because if -- as chair, when I sit down with staff liaison, then I try to work around and tell people, is it anything else? Sometimes council member -- one person can say, and I think that's the prerogative, and that's the grace about having a small committee. With person can say, I really need to put this on the agenda and we massage it so that that can happen. I don't think I've ever told anybody no, we're not going to do that.

[4:25:04 PM]

Maybe one. Maybe one.

[Laughter] But I -- I don't think that as small as the committees are, that we should have two sponsors or two people to say, we're all equal and somebody can bring it to the committee, and if it's a problem, I'll have to say, you know, we've got such and such this time, maybe we can do it the next time. But so far we've been able to work those things out and sounds like we're putting a whole lot more structure in this than we need to.

>> Mayor Adler: Ms. Tovo?

>> Tovo: A couple things I'm weighing and I support this. A couple things as we evaluate where we are and what's worked well and what we want to change, it's always a consideration of mine not just how we're spending our council time but how we're spending our staff's time, not just council staff but the staff that needs to support the committees. And I think when we've heard -- we've heard from some of the staff and from some of the management, and frankly, people in the community are talking about how the increased workload for city staff as a result of the new system. So I think we need to be mindful of that, not just because we have staff who have the ability to do the rest of their work -- their work that extends beyond just supporting council but also, you know, it's a taxpayer resource, our time, their time, the work that we all need to do here at the city. And so I am -- that's one of the reasons why I was really open to and supportive of the changes that we're contemplating here in addition to those -- the one that council member Garza mentioned about showing -- you know, demonstrating a certain level of viability before we spend all of our time, again, which is a really precious resource for all of us, to discuss it. So I think we do need -- in my opinion, I think we need to balance that, the ability to talk about all ideas that come up with the need to really be efficient about -- about our collective time here.

[4:27:12 PM]

>> Mayor Adler: Ms. Kitchen and Ms. Garza.

>> Kitchen: I would say one other thing as we think about this, I have to say I think it is important to understand that there are minority opinions on our council, and I think it's important for us to understand that there's got to be at least some opportunity for discussion of all points of view. So I'm not sure how that translates into exactly what we do with these requirements, but I do think it's something we need to think about.

>> Mayor Adler: Any further discussion of this item? Ms. Garza? Yes.

>> Garza: Folks are asking for examples of when it's not been working, and I will give an example. With all due respect to council member Zimmerman, there was an instance where he was not happy that there weren't certain things on the public utilities' agenda. I'm almost certain that if those things came to the entire council they would not have been supported. So we had an entire -- we had two staff going off of council member -- mayor pro tem Tovo's example of our staff time, we had two presentations on two issues, so I don't know how much time staff put into that. I'm sure a couple of people had to work on the powerpoint, a couple of people had to send emails to each other and organize the -- those presentations, and that's my concern, is -- I hear the we have to have a way for the minority voice to be heard, but like I said, that -- that is the whole reason for co-sponsors, is to have viability. If someone doesn't have -- if somebody can't get three other council members to support whatever issue they want to bring forward, then I don't think we should be, frankly, wasting time on that issue on committee, wasting our staff's time, my staff's time.

[4:29:13 PM]

My staff is running -- I'm sure other council offices are running ragged having to prepare for committees, for, you know, printing stuff out, having to plan the agenda. I mean, it's just -- it's been an extremely time consuming effort, and there's -- frankly I feel in part it has taken time away from me to be able to work on policy when the intent was to give us more time. I think it's done the opposite. So I really hope we make some decisions to make this more efficient and less time consuming.

>> Mayor Adler: Ms. Houston.

>> Houston: Well, and I understand that. I think all of us have those same concerns about not only our staff time but our staff time and our personal time. But because you get four sponsors for a resolution

does not mean that it's viable, because I can say in the last year we've had several instances where there were four sponsors to bring it to council, and in one committee we took an inordinate amount of time to talk about that, and it was not viable. So I don't think the number of people who you can get to sign on to a resolution indicates its viability, because we all know that that has happened, and we've wasted a lot of time, but I think everybody on this dais has a right to bring forth something, and we can either deal with it in committee or then you can take your four and come to the whole council. But I don't think we should cut off people by saying you need to have somebody else that thinks like you. Because a lot of people on this council don't think like me, and so I would say have a hard time. [Laughter] I would have a hard time getting another sponsor. I just don't think that's where we need to - - we need to work it out in the smaller group and listen and be thoughtful about it, and then we either move it on up or we don't take any action on it. So -- I'm not going to be able to --

[4:31:14 PM]

>> Mayor Adler: Okay. Further discussion on this item? Ms. Pool?

>> Pool: I was just going to ask, how many other items did we want to go through? I have an engagement that I need to beat 5:30, and would like to be able to depart without rushing. So what time is it now?

>> 4:30.

>> Pool: So we have about an hour -- no, we have about 30 minutes, and we have three more items to discuss?

>> Mayor Adler: I have four more.

>> Pool: Four more.

>> Mayor Adler: The items were pulled, the ground transportation item, the metrorail, item, I have a quick question on that. The open space about renaming parks, and the -- a resolution about general water fund transfer.

>> I can jump in real quick on the resolution on -- parks --

>> Mayor Adler: Hold on. We haven't got off this yet. We can't just do --

>> Houston: We don't have to vote --

>> Mayor Adler: No, we're not voting on it but I want to make sure the dais is okay with changing topics here. I didn't know if people want to continue to talk about this one. Ms. Troxclair?

>> Troxclair: I want to say thank you to council member kitchen and council member Houston for recognizing that we're -- we aren't -- that minority viewpoints are important and I think it's part of a healthy discussion and a healthy democracy and all of these things, and I think it would be a scary day if we were all agreeing on everything that was ever brought to council. And, you know, I think that this is part of the reason behind the (indiscernible) Representation to begin with. A big reason 10-one passed, or at least in my district, is because they felt like there was a minority viewpoint that wasn't being represented. So just because -- I don't think that just because something might not ultimately pass council and something isn't, quote/unquote, viable, that doesn't mean that we shouldn't have the opportunity as council members to raise issues or to discuss them as we see fit in the council committee system. Of course we need to be respectful of the other council members' time and not waste time of the other committee members, but I do think that when we set up the committee system we set it up in a way so that not only was it a way to vet things before they came to council but that there was an opportunity to have issues discussed that may not be appropriate or may not be passed by the full council.

[4:33:33 PM]

So I just -- I think that having minority viewpoints is healthy, and of course it's easy for me to say that because I'm normally in the minority here, but not always. And even when I'm in the majority I appreciate the discussion of the people on the other side of the issue. So I really want us to be cautious of making structural -- permanent structural decisions based on one or two instances, you know, that we want to -- that somebody doesn't like. And I do have to say on the -- on the -- I think that we're going to have to discuss -- or come to some kind of agreement about the length of council meetings and the amount of -- amount of public testimony that we take, but to council member Garza's point that we signed up to go past 10:00, I don't think that that's what we signed up for. In fact, I think that we made it a point as a council of one of the very first things that we did together was to pass a committee system with the specific intent that we would be able to shorten -- to shorten council meetings. Of course that hasn't happened, but it's for a variety of reasons, and I -- and when you look at the auditor's report that compared us to our other peer cities, we are -- we have significantly longer council meetings than other cities. So it's not just -- it's not a -- to use the mayor's word, binary choice of, you know, either we have long council meetings in order to effectively run the city or effectively represent people or we don't. It's a balance of having -- the main difference between Austin and some of those other peer cities is the amount of public testimony they take, and of course we put a high value on public testimony here in the city, and I don't see that ever changing, and I hope it never changes, but I don't think it's fair to say that we signed up to be here past 10:00. I think that we signed up to make effective and informed decisions and to put processes in place that allow our -- the public to interact with their council members and their city in an effective and productive way, which doesn't always equate to 15-hour-long council meetings.

[4:35:51 PM]

Mr. Zimmerma N?

>> Zimmerman: Thank you, Mr. Mayor. I just want to make one more comment. I want to accept some criticism. I think that I've gotten from council member Garza. She's right in the sense that the fluoride issue that I brought up, it was not supported by any of the committee other than myself, so I accept some of that criticism, that it seems like that would be a waste of time. On the flip side, I should note that in the city of San Marcos just down the road, just a few months later they passed an anti-fluoride ordinance with 61% of the votes. So we have some neighbors very close to us that voted to remove fluoride. So I don't think it was a waste of time. But -- and let me make one more quick comment. Just because the vast majority of the council agrees with something like the tnc ordinances, that doesn't mean the majority of the population supports it. So that cuts both ways, right? It's possible for our council to be overwhelmingly in favor of one position, but it's not clear that that's what the community believes either. So that works both ways.

>> Mayor Adler: Okay. Mayor pro tem?

>> Tovo: So I do have a -- two points on a different topic.

>> Mayor Adler: Okay. Are you okay moving past this one?

>> Casar: I wanted to wrap this one up. Since I wrote it and sponsored it and folks have talked about minority viewpoints being quieted by this, that's not at all the intent. I think, frankly, that those with -- hear a minority viewpoint than not are very well heard on this dais and the question is not whether or not minority viewpoints get heard, it's whether or not something that doesn't have enough council co-sponsors rises to the level where we discuss it on the dais and that it's up for a vote. But there are lots of ways that minority viewpoints can be heard. The question is, considering how much time we're taking up on this dais and in our committee system, what gets the public discussion and can have people come and talk about forever and that we can continue to talk about as long as we don't table it or take a vote to deny it.

[4:37:59 PM]

So I think that's the balance. I think minority viewpoints are very important. The question is with our limited time and the staff's limited resources and the community's limited time, what do we take up to the dais. And finally I know a lot of people have been very polite about it. My feeling is that if we don't start doing something to limit the time of council meetings and committee meetings, that it hurts governance and it hurts the city, and a lot of people that know that are out there and have been very polite about it, but the fact of the matter is the amount of staff time and the amount of time that we don't work on policy issues I think will hurt us. And so I urge that we -- that we be pretty -- that we reform this pretty significantly, but in the end I'm happy with whatever the majority of the council thinks as long as we move forward.

>> Mayor Adler: Okay. Are you okay with this baking for another week, not coming up on Thursday?

>> Casar: I of course would vote to pass it, but if a majority of people want to postpone it, I understand.

>> Mayor Adler: Anything else on this? I'll probably vote to postpone it because I think it needs a little more baking. Anything else on this issue, on committee structure issue? Ann, do you want to take one sentence and tell us about item 44?

>> Kitchen: I just wanted to tell you all what is in it in case anybody had some questions or wanted to signal any concerns. This is item no. 44. This is ground transportation. It does not impact or change or in any way touch the tnc ordinance. It is ground transportation only, and it does three things. It makes all ground transportation background checks national, which is something that we've been talking about since the fall. So it actually makes that change. Then the other things that it does is relates to the ground transportation, the limousine ground transportation.

[4:39:59 PM]

And this was brought to us by the limousine association, and at this point in time I'm not -- there's no opposition to it that I'm aware of, and it does three things. It takes -- it takes away the minimum fare that's currently required for a limo driver. So it gives them more flexibility. They don't have to have a minimum dollar amount, which is currently \$55. Second thing it does, it takes away the waiting period. Right now they cannot pick up a passenger if it hasn't been at least 30 minutes since the passenger called them. So it takes that away. And then the last thing it does is it clarifies the kinds of vehicles that they have to use. Basically to be a limo service it has to be a luxury vehicle, but it doesn't require them to have an actual limousine. So the purpose behind those changes and the reason they brought them to us is so that there was more of an equal playing field for that kind of ground transportation.

>> Mayor Adler: Okay. Thank you. Any questions about this topic? Yes? Mayor pro tem.

>> Tovo: I know the code was set up initially to create distinctions between limousine service, taxicab service, and so I guess, you know, this is moving toward treating them -- well, let me ask a question. Is there going to be an accessibility requirement for limousine services?

>> Kitchen: All we're doing at this point is addressing the very -- what I call quick and easy. I mean, the more initial kinds of equal playing field kinds of things. I don't know about accessibility. I don't know how that applies to limousines. That's certainly something we can look at in the future. I'm just bringing this one forward right now because it seems pretty clear. And there's still -- a limousine service requires a luxury vehicle. That's essentially the distinction between that and other kinds of ground transportation.

[4:42:00 PM]

>> Tovo: But as I -- as I remember the ordinances for the taxicab, there are accessibility requirements for those --

>> Kitchen: Right.

>> Tovo: -- And so I think if we're moving toward an equal playing field I would hope that we would apply that accessibility requirement to limousine services too, especially if we're removing some of the provisions that had made them distinct, like the waiting time, the caps on fleet size and the minimum -- minimum --

>> Kitchen: You are welcome to bring that kind of thing. I wouldn't -- I think that that's an issue that takes a lot more thinking and discussion, and this is certainly not the only kinds of provisions that need to be discussed about an equal playing field. This is just the initial -- something that we can do right away while we -- I'm sorry, I should also explain, and I forgot to mention this, our staff, our atd staff is going through a process of looking at all the ground transportation requirements and is supposed to be coming back to us -- I'll have to ask them the time frame, but in a few months, to look at other kinds of provisions that might be needed for -- or might -- should be considered. And accessibility would certainly be one of those.

>> Tovo: Okay. Thanks, and we'll have a discussion with our transportation staff too, I guess, in advance of Thursday about whether that's an easy addition to this.

>> Kitchen: Yeah, I -- the reason I think these are an easy addition is because they were brought to us by the association. There's no opposition that I'm aware of, and it's relatively straightforward.

>> Mr. Mayor?

>> Mayor Adler: In that conversation about trueing things up, because I agree with mayor pro tem, that we need to continue doing that. What I'm uncertain about is to what level are we trueing up too? Because you can true up either to this side or true up to that side, and I think there's some discussion within transportation about overall regulation, and I would hope we'd be able to get to that and hit it kind of holistically rather than in pieces, which might not be ultimately the best way to do that.

[4:44:03 PM]

Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. So council member mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I see,.

>> Kitchen:;, there's a -- I see, councilmember kitchen, there's four sponsors. Could you put me in that vacant spot.

>> Kitchen: Yes.

>> Zimmerman: Seeing how there's no opposition and brought by the parties involved. I appreciate your cooperation.

>> Mayor Adler: Any other snug.

>> Troxclair: What is the part 3 D talking about that they have to inform a potential customer of estimated fare? What is that?

>> Kitchen: The reason that was added is because the minimum of 55 was taken out so the thinking was because that was no longer in there it was important to tell the customer how long the cost was going to be.

>> Mayor Adler: Okay. Anything else on this? The next item we had was item 45. This was the conceptual plan for downtown. My questions on that, I see that it's going to one of the committees for tomorrow. And it's going to be discussed in a committee tomorrow. I didn't know if it was appropriate to discuss on Thursday. There's I think work happening rights now within the city with respect to working at traffic impact analysis by quadrant downtown and I wasn't sure how this interacted with the work that staff was already doing, whether staff needed this in order to do that work, was it kind of like the

staff swap where staff was saying can you please authorize us to do work that we're doing or if it was happening outside of that and so with respect to this particular area there's the metro station, metro rail station that I think has txdot funding for it and I wasn't sure how initiating this did or didn't impact the work that capital metro was doing on that.

[4:46:04 PM]

Whether it was intended to or not and what ramifications might be with respect to the flow of work that was already happening and the funding associated with that work. So it was just those kinds of questions.

>> Troxclair: Sure. And there may be some more pointed questions and in fact I think the first one you asked about the traffic impact analysis would probably be one that Mr. Durr is better able to handle, but I'll just say that we've worked very -- my staff has worked extremely close by with cap metro on this resolution and I would hate -- I hate to speak for them, but I believe they're very comfortable with the process and all of the stakeholders noted within here are real eegtory have this conversation and to -- eager to have this conversation and to do so with the council's sanction. I would say one of the reasons why it's on the council agenda for tomorrow -- one reason why it's on the committee agenda for tomorrow and then council on Thursday is that there's really a time sensitivity to it. They are moving forward with this. And if we want to have this conversation we need to act kind of quickly to make sure that those staff resources -- that our staff resources are in place to work with those stakeholders with the downtown Austin alliance and with cap metro on really visioning this together.

>> Mayor Adler: Mr. Renteria?

>> Renteria: I also reached out to capital metro. They had no problem with that. And I also met with the downtown commission and they're biggest concern is about the realignment of the whole area was traffic. If we're planning on closing fourth street and we really need to find out what's going to happen to that whole area transportationwise, but I will let the staff discuss that.

>> Kitchen: Mr. Mayor, I also reached out to cap metro staff and they concurred that they felt like this was a positive approach.

>> Gordon durr, assistant transportation department. This resolution gives us some latitude, but to kind of give y'all perspective, I really think this kind of needs to be a two-stage study.

[4:48:11 PM]

We have the most immediate question about what do we do for fourth street, the closure of fourth street and the operations of traffic in that immediate area. That's really something that needs to occur by the fall. For capital metro to stay on their schedule to move forward with their project. The bigger issue about the construction and development that's currently underway, for example, the fairmont hotel, the discussion about the expansion of the convention center, there's some much bigger issues that we need to take a longer term view of. So we would probably come back to you proposing a kind of two phase study here, one to look at the operations, to look at the impact of the closure of fourth street, and second to look at the entire transportation system serving the southeast quadrant of downtown. And how that relates to the improvements that are proposed for interstate 35 and the other development that's occurring.

>> Mayor Adler: It would be helpful if you would take a look at for me this item 45 and see if there's any additional direction that you would want to get out of this or if anything in this is inconsistent with anything that you would want. And it may already be -- I just don't know.

>> We can certainly do that and assist with any changes beyond just do the right thing, you know.

>> Okay.

>> Tovo: Mayor, I just want to point out, we have actually been in touch with transportation staff and I think we did incorporate some language that I hope addressed some of their needs, but I just want to point out there is language in one of the whereases on the phase of accessibility and I think that is what Mr. Durr was talking about is this is going to have to happen in phases, the traffic analysis is going to have to happen in phases.

[4:50:13 PM]

>> Mayor Adler: Okay.

>> I think as we get further into this we also need look at the downtown Austin plan and see in relation to what's occurred since the adoption of that, probably need to look at some base assumptions in there and how we move forward. So I think there's the short range and then the immediate range, but it's in here. We'll look at this tonight.

>> Mayor Adler: Thank you. Ms. Houston?

>> Houston: Mayor, I know this particular resolution is focused on the downtown area, but there are a lot of transportation mobility kinds of studies and things going on. And I'm just wondering is that going to all be collected in a bucket so that we're not duplicating some things? And how do we keep from having those duplications? Because UT is going to be doing analysis and you guys are going to be doing something, and somebody else is and rocky mountain institute is going to be doing something. So how does all of that come together so that at the end of a process and some time frame we have a path on how we build out the city as far as mobility goes? So you may not know the answer, but those are things that we're paying for some. Some we're not paying for, but many of them we'll have a fiscal impact and I think it's important that we know how we come together in some sort of holistic fashion.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: That's a good question, councilmember Houston because there are a lot of moving pieces happening now and a lot of planning process around transportation. I think perhaps the best place for that, and we could certainly talk about it with the transportation department and speak to that in a way that is more helpful to everybody and understanding how it goes together, is perhaps the strategic mobility plan. The staff has started a process for strategic mobility plan which I would think is more comprehensive and cohesive in order -- in bringing all these strands of planning that's going on together, but I will ask the staff to help us visualize how all of this is working together and, you know, perhaps at our next mobility committee meeting, which is next week, we're going to have a briefing, short briefing on the strategic mobility plan.

[4:52:37 PM]

So at that committee meeting and/or in front of council we can have some briefing to show how all those strands of -- those different planning efforts are working together and what comes out at the end.

>> Houston: I would appreciate that because on Thursday's agenda is money for UT.

>> Mayor Adler: Okay. Thank you, sir. All right, the next item that we have on the agenda is the open space -- the renaming of the park issue. Did you want to address that?

>> Pool: I put that on there just so I could give councilmember Houston an opportunity to let everyone know about an amendment that she wants to make to it. And then I have a request after she's done.

>> Houston: Thank you, councilmember pool. As we were talking about the naming of facilities and features on dedicated parkland it became very obvious to me that there's nothing in there about cultural significance of people or places or who we name things after. And whether it's in a community and we name it after somebody that nobody in that community ever knows because it's based upon how much money they gave or whether they were significant in a particular community, but maybe not

in that community. So I've added some -- I will be offering an amendment on Thursday to add some large Lange about cultural significance or contributions to the surrounding area so that the people in those areas have a relationship to the naming of the feature or the park.

>> And I'll just note that the amendment that councilmember Houston is talking about is up on the message board. I believe her staff posted it up there. So if there are any other questions about it. And then I wanted to ask councilmember Casar back on agenda item number 43, the council committee agenda item, I see you have a fifth sponsor slot open and I wanted to see if you would be willing to add me as the fifth sponsor so if we wanted to work together at the language that we talked about earlier, we could actually do that in the quorum.

[4:54:56 PM]

>> Casar: I think that staff can add you on and I'll check in with my staff if we've spoken with a quorum of councilmembers or not.

>> Troxclair: Councilmember pool, can you give us a quick background of why this park renaming is coming before us?

>> Pool: I sure can and I see Marty stump out in the audience. He may be able to give more insight, but awhile ago there was -- I think it may have begun with the previous council. There was a request from the council to put together some guidelines and some guidance for council on naming structures and facilities because we were getting competing applications and so it was felt by staff and by council that it would be really good to have some bright line direction. This was all vetted through the parks board and I see Mr. Stump is here with some other staff.

>> Marty stump, assistant director of parks and recreation department. With me is Greg Montez. Greg was instrumental in the writing of the draft and the ordinance. I'll let Greg answer those specific questions.

>> Troxclair: Really that was enough background for me. I wanted to at least bring you up to the podium. You sat here for awhile. If there's anything you wanted to say.

>> I needed to stretch my legs. Thank you.

>> Pool: Why don't you go ahead and touch on some high points? Staff did make a good presentation at least twice to the open space committee and between the two times went back and did some additional work with the stakeholders.

>> We did. We had a number of meetings with the land and facilities committee and in the full parks board as well that we presented last month to open space committee. As councilmember pool mentioned, this really kind of stemmed from conversations that we had with board members about some challenges that they were facing with some applications that were being submitted to name parks.

[4:56:59 PM]

So it opened up that discussion and we talked with staff about reopening the existing ordinance. That's what we started to do and here we are, this Thursday coming to present to the full council.

>> Pool: Will you be bringing the powerpoint that you used with the open space committee on Thursday?

>> Yes.

>> Pool: That's good. It has some additional detail on structures and facilities and how we're trying to expand the information about the people who we may name a structure after so that going forward people will have more than simply a name, but have some history about a person.

>> Just add to your points. The law department also took in some of the language that came out of conversations and presentations we had at the open space. So the draft ordinance in the presentation

have been done.

>> Pool: Do we need a time certain on this item so we can take care of it during the day as opposed to the evening?

>> That's fine with us.

>> Pool: Mayor, what do you think? Could we set maybe 2:00 for the presentation -- for the briefing from staff?

>> Mayor Adler: My sense is we can take it up any time after 10:00 that we wanted to.

>> Pool: Okay.

>> Because it's set as item number 43, which is set in the morning block of items. Yes, Ms. Tovo?

>> Tovo: Am I understanding we're actually having another briefing about it?

>> I believe it's a non-consent agenda item.

>> It was slated for presentation unless you feel differently.

>> Tovo: Okay.

>> Pool: My understanding is --

>> Tovo: I guess I'm not the person to answer that because I heard the briefing at the committee meeting. So I feel fairly well covered on it.

[4:58:59 PM]

>> Mayor Adler: It's on the consent agenda. For Thursday.

>> It's coming from a council committee so it's on the non-consent agenda. It's not set for a briefing necessarily, just set for you all to discuss.

>> Mayor Adler: Got it.

>> Pool: I can say that the presentation was pretty streamlined, but very informative.

>> Mayor Adler: I think we have to have some measure of discussion on it because it's coming from a council committee and council committees can't act so that's why it's not on the consent agenda. That gets us to the last item, which was the item with respect to the public utilities, item number 55. I had pulled that. My thinking on this now is that it gives rise to one of many different kinds of budget issues that I would see us raising and I think that this is more appropriate handled as part of the budget process rather than being pulled out of line. That was my thought. Ms. Troxclair?

>> Troxclair: So I agree with you that when -- if and when we get to a point where we're going to make a decision based on the report we're requesting, the appropriate thing would be to do it during the budget, but all this is is a request for information so that we understand what our options are and what the implications would be when we get there. And I did raise this issue during the budget last time and the response from many councilmembers was that we needed more time to thoroughly discuss it outside the budget process. So that's what I'm trying to do now.

>> Mayor Adler: As I read this what this is basically saying is if you were to cut \$20 million out of the budget where would you cut it? If you were to cut \$30 million out of the budget where would you cut it? Am I reading it wrong?

[5:01:03 PM]

>> I think we were again -- again, it's just a report for options and basically we talked at the committee level about having -- I'm mostly interested in the financial implications and the financial information and we talked about even though this kind of specifically talks about four percent, six percent in total revenue or eliminating it completely that staff could bring forward a whole range of options if they saw fit. I didn't envision -- I didn't envision that they would go so far -- in fact, actually, we had a little bit of a presentation at the public utilities committee and our financial staff told us if we were going to make up

that same amount of revenue. Here's the tax rate that you would have to implement, here's the impact on property taxes, but there is no mention or discussion of -- or expectation that the staff would come back and say here are the places that we would recommend to cut. This would be a decision that would be up to the council to talk about, depending on what level.

>> Mayor Adler: Help me understand. As I read this what this is saying is if we cut the transfers by a certain percent how would -- what would be the impact of that? So that would be less money coming in to the general fund? So we could either raise more taxes to do that or we could cut things in order to do that. And I don't know if you're looking for something beyond those two things, how much money would we have to cut from things? If you're not asking where would we come from, but in total. So what would be the total amount we would have to cut if we did that and what would the tax rate increase have to be if we wanted to not have the transfer, but instead just raise taxes to do it? Is that -- you're just looking for the tax rate and for the dollar amount that's represented by the transfer?

>> Troxclair: Yeah. And when you get -- it is a little bit after complicated issue.

[5:03:04 PM]

It's not just as easy as we're going to cut here and put it here. There was discussion about if we did that how that would affect whether they could lower water rates or not and whether the money could be spent for bond obligations. It's something worth discussing between now and then and I don't know if councilmember kitchen wants to chime in. We did pass this out of public utilities

>> Kitchen: I understood it as just coming back with the financial implications, not what would we then do.

>> Mayor Adler: When we say financial implications we're saying what's represented by -- if we did -- if we were at four percent or if we were at six percent as opposed to the eight percent, what happened that mean in -- what would that mean in terms of money? So what's the total amount there and what would be the tax rate? I'm trying to figure out what's the information we're looking for back that goes beyond that?

>> We did talk to the -- I'm not remembering. We had a conversation at committee with the finance staff about what they would bring back.

>> Troxclair: And it could just be simple math if you pick one percentage and do it immediately, but I also wanted to understand what the financial implications were over a period of time. It is a little bit more detailed financial information and our staff is here if y'all want to pipe up. But it seemed like ed, Mr. Van eenoo had a good summary presentation and then understood kind of what we were looking for.

>> Mayor Adler: Ms. Tovo?

>> Tovo: I share the mayors concerns. I think we know clearly what the options are so I'm not entirely clear on what we're asking staff to do. And I sure don't want to be in a position of agreeing to any of those reductions well before we're thinking about the budget comprehensively?

[5:05:08 PM]

>> Mr. Zimmerman?

>> Zimmerman: Mr. Mayor, part of this is that it and that our transfers are out of line with standard practices and other municipalities. So we want to bring that up for conversation. I hear a lot from constituents that they don't like this practice of cost shifting. That I've got a water bill that's five, 10 percent higher than it could be because we're doing transfers to the general fund. Let's have a water bill that pays for water. So there is a policy conversation to have there too and when you're thinking about the Numbers and maybe phasing the transfers out over time or reducing them, there is a point where

you could do a revenue neutral thing and not trigger the rollback rate for the tax rate, things like that. And to councilmember Troclair's point, we should start that discussion now before we get so far into the budget that there's just not time to consider it, which is what happened last year. That's why I voted for this on the committee.

>> Troclair: And I do want to say quickly that I don't want -- again, this is just a request for information. I don't know if the other committee members who voted to forward this, I don't know if they would -- I don't know -- I don't know what the ultimate decision of any of us in fact would be. So I don't want to set the expectation that supporting this means that you would ultimately support a reduction. It's just -- it's similar if it helps, it may be similar to what we did with the homestead instead exemption last year. We had an idea, we wanted to explore it, we requested in advance of the budget process, we requested information about what the financial implications of that would be. I -- then we used that information during the budget process to make an informed decision.

>> Mayor Adler: And I don't have a problem with having the conversation generally or asking for what the financial implications would be if taking it to six percent or five percent or four percent. But beyond we would lose this much money to the general fund or this would be the tax rate, I wasn't -- that information I think would be helpful and to get it seems pretty simple to get us those numbers, but if there was more information that we were seeking I was just asking what else was it that staff should be coming back with other than that because I just couldn't tell from reading this.

[5:07:27 PM]

Unless you were asking for how would we actually implement this much in cuts, which I don't think is appropriate and is not what you said you're asking for. So I'm just -- how would you respond to this resolution if it were passed?

>> Mayor and council, Elaine Hart, chief financial officer. Ed and I worked on the presentation and I watched the replay and he did a great job of explaining the material to the committee. Based on discussions that you had in work sessions earlier in the year we had plans to bring back a policy discussion in the transfer for Austin energy. We certainly think that's relevant with your consideration of their new proposed rates. The last time we made a policy change was in 2012 with respect to their general fund transfer and that was lengthy discussions during the rate considerations. Based on the committee's interest I think we would bring the same sort of policy discussion and well rounded presentation back to the full council that not only does the math of the reductions and what it would take on the general fund side, but looks at rating agency considerations, looks at what other utilities are doing, what's the standard and those kinds of things. So this would be a piece of the presentation that we would expect to bring back to the council both for Austin energy and Austin water. Austin energy's committee on Thursday, I have a presentation, a portion of a presentation on the general fund transfer and other payments that Austin energy makes. So you will see a little bit more information there. I'm not going to talk as much about the policy considerations, but we'll cover that in more detail later.

>> Mayor Adler: Okay. Thank you. That answers my questions. Thank you.

>> Renteria: Mayor, I also -- if we're going to be doing that, I would like to see also included that if we were to reduce our transfer how would our bond rating increase and if there's a savings if we do that just so that I could feel good about making a decision if I am going to make a decision in the future.

[5:09:47 PM]

If it's really going to give us enough savings on our bond rating.

>> We'll certainly talk to the city's financial advisor about that so that he will advise the city on that. Any time you change transfers policies, that can affect both the rating of the general government as well

as the utility. So we will want to look at that very carefully and look at the criteria that they look at on both sides.

>> Zimmerman: Mr. Mayor, that's another interesting point that we want to discuss because in the conversations that was claimed that if we have transfers brought into the general fund, in other words, transfers, if we have monies from the water bill that are encumber and earmarked for transfer to the general fund, common sense says that's completely disingenuous to claim that that money can cover your debt. It cannot cover your debt. Because if the money that's coming in from those water bills is dedicated to be transferred to the general fund, it means that it's not available to pay down your debt. So I just -- there's got to be some rational explanation for this claim that we can't reduce the transfers because it reduces our debt coverage because it does not by definition. That was another thing we want to discuss in council.

>> Mayor Adler: Okay. Anybody else have anything else on the work session? Yes, Ms. Kitchen and then Ms. Garza?

>> Kitchen: I was going to reiterate what councilmember troxclair said. I voted to move this forward from the committee because I thought it was good to have the information. And I don't know where I would finally be in any kind of discussion, but I felt like it was appropriate to ask the information in from our discussions with ed in the committee, it was an appropriate thing to be asking for. So that's why I voted for it.

>> Mayor Adler: Ms. Garza?

>> Garza: I just wanted to add in that discussion at the committee level it was discussed to include the effects to the ratepayer.

[5:11:49 PM]

If we do to four percent all at one time how does that affect the median ratepayer? If we cut it to six percent then there was discussion on if we did one percent a year how would that? I wanted to make sure that's part of the report too, like what the difference on their actual bill would be.

>> We'll work with the water department to get those calculations. I have -- I'm not clear. I do have the presentation to the committee in my background material but it's not posted as backup. I'll get it posted as backup for this and you might find it information before Thursday.

>> Mayor Adler: That would be great. Thank you. Ms. Pool.

>> Pool: This is on a different topic.

>> Mayor Adler: Anybody else have something on this topic?

>> Troxclair: One more quick comment. I wanted to mention that I have a very similar resolution that is on the Austin energy committee agenda for Thursday. Originally I had both water and energy together just in one resolution, but this was added to -- the topic was added to our public utilities agenda and so I thought it was relevant to bring it up then so I ended up splitting the two. So there is a very similar resolution that just has different Numbers as it relates to Austin energy that we'll be talking about Thursday morning and if that goes well I can make an amendment to add that kind of -- to this resolution and the financial stuff can both work on -- the information for both utilities at the same time.

>> Mayor Adler: Thank you. Ms. Pool?

>> Pool: I had mentioned before our lunch break a voluntary collection agreement that air bnb had provided to me and I think some other folks -- I had an opportunity at the break to talk with Mr. Salinas about the timing for this. And he was amenable and willing to bring this back in March, toward the end of the month, and what the action that in my office will be working on, it will be an mou that would engage us in this voluntary agreement with air bnb.

[5:13:57 PM]

So if there's anybody he would else that would like to be a co-sponsor, we'll put it up on the message board. And this is tax collections from rentals. Air bnb has crafted a voluntary agreement that --

>> [Inaudible].

>> Pool: That they would like to offer up and they would like to engage with the city in this. So the end of March I'm thinking that I don't know what the date would be, but staff can help after the spring break.

>> Mayor Adler: Thank you for picking that up. Mayor pro tem?

>> Tovo: I wanted to talk about timing about a few different things. One is on Thursday it's my intent to request a time certain for 49, number 49, to allow our staff -- that's the item that would add an option -- would direct staff to go forward and would request that they initiate changes to our municipal civil service commission to include anti-discrimination claims within their purview. And we have heard from some representatives of staff that there are staff members who would like to attend that discussion and so I would request on Friday -- I mean on Thursday a 4:30 -- it's been a long day -- a 4:30 time certain so those staff members can come and at least listen to the discussion we have here on Thursday. So I hope I'll get a co-sponsor and your support in that time certain. It would probably be a great idea if we could give them some sense that that would be the time.

>> Mayor Adler: I'm fine with doing that at 4:30.

>> Tovo: Thank you, I appreciate that.

>> Mayor Adler: Ms. Kitchen?

>> Tovo: I had one other time sort of issue. I just wanted to let you all know that on March 3rd, which is a council meeting, I am -- I am unable to attend most of that day, if not all of it. I have an unavoidable conflict, medical procedure a family member of mine is having. I will likely get here later in the day, but I will not be here for the bulk of that meeting and I wanted to give you a head's up as we think about postponements and things of sort.

[5:16:06 PM]

I apologize. I'm almost always here. I think this is only the second meeting I've misunderstand five years. I don't do it very often, but I will I be doing it on Thursday.

>> Mayor Adler: If you look at that agenda and indicate to me anything that you would rather not have considered while you're not here --

>> Tovo: I appreciate it, thank you. I'll do my best. Again, if there are a couple of items like that to try to get here for the evening part of that session. Matured okay. Ms. Kitchen?

>> Kitchen: I will be requesting a time certain for item number 44. So what we have so far is one time certain, is that right, the 4:30?

>> Pool: Then I had asked for one on the presentation on the parkland.

>> Kitchen: What time?

>> Pool: I was suggesting 2:00 for staff. And that's the parks piece.

>> Kitchen: I guess I'll have to -- can I get with you later on the time certain? It would need to be sometime in the afternoon, but I'm certain I could fit them between those two.

>> Mayor Adler: Let's do that and post megawatt on the message board. Any further discussion? Then this meeting stands adjourned.