

## City Council Regular Meeting Transcript – 04/14/2016

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[10:12:42 AM]

>> Mayor Adler: All right. Are we ready to gear this up? So I'm going to call us to order. We have a quorum. Today is Thursday, April 14. We are in the Austin city council chambers. It is ten after 10:00. We're at 301w. Second street, Austin, Texas. Let's go ahead and figure out our agenda. It seems to me that, one, we should go through the consent agenda but we also have an item that is set -- that there was a request to set for time certain at 6:30, the 1-2 east matter. There's been a request for postponement of that matter. And I think we should decide that question, how we're going to handle that, so we can let the community know whether or not to come here at 6:30 or what the issues are. So if we have -- if you could help us with this, jerry. If you could help us with this or -- Greg? I think the issues we need to decide as a council are whether or not we're going to postpone this, if we're going to postpone this, when do we postpone this to. If we're going to postpone what do we do with folks that might be showing up today who had not heard that it was postponed before we leave? I think Ms. Houston indicates there's at least one person who is here now. But I'll let Ms. Houston address that issue. Did you talk to us about postponement generally. What has been the custom and where does this matter fall in relation to that custom? Has it ever -- go ahead.

[10:14:43 AM]

>> Good morning, mayor, council, Greg Guernsey, planning and zoning department. This is regarding item 16 on your agenda. It's a property known as 1-2 east, case c14-2014-019ateing. Last night we received a postponement request from applicant's agent signed by Mr. Drenner, that did two things, asked for postponement to may 5, second requested amendment to remove all height requests from the zoning application and also requested less floor to air ratio on the property. The postponements -- I had an email from a councilmember this morning, and asked -- regarding some of the postponements that have occurred, and Mr. Rusthoven has handed out a list of the postponements on yellow that occurred at both -- at the planning commission and when the item came before the city council back in February of this year, the planning commission action was on February 9. Staff had not completed all its backup material. We weren't ready for the meeting of the 13th but the applicant did request a postponement of that item. So coming forward, the council can grant any postponement request. There was a previous postponement request on the 11th of this year to may 5. But the council could grant another request.

[10:16:43 AM]

And as I said, the commission acted two days before that postponement on the ninth.

>> Mayor Adler: I'm confused again. Has there been a request of the city council to postpone this before?

>> Pardon me.

>> Mayor Adler: Has there been a request of the city council to postpone this before?

>> There was a request previously from may 11 -- excuse me, February 11 to today.

>> Mayor Adler: Who requested that?

>> And that was done by the applicant. And that was done two days after the planning commission acted on February nine.

>> Mayor Adler: It was postponed to April 14, requested -- councilmember Houston's motion, is that the one you're reading?

>> Mayor, council, the previous council postponements on this item go back to June 11 of last year. When we did have an indefinite postponement request by the applicant. However, as Ms. Garza alluded to at that time, it also postponed at the planning commission so typically the staff would request that postponement because we have not had planning commission action but we happen to have a letter from the applicant also doing for the postponement so we said it was their request. There were subsequent postponements of the chiropractic on November 8 last year, November 12, last year, and on February 11 this year there was a postponement request by the neighborhood to postpone it to today's date.

>> Mayor Adler: I'm confused. There was -- there was -- it was originally set before it had gone to planning commission.

[10:18:44 AM]

>> Yes.

>> Mayor Adler: In those situations, staff would ordinarily request a postponement.

>> That's correct.

>> Mayor Adler: Staff -- so I'm uncomfortable for me charging that to a property owner since that -- or an applicant.

>> I think that's our point.

>> Mayor Adler: And that's your point, okay. Has the applicant made a request for postponement thus far other than that in this case?

>> Just the one that came in yesterday, which is requesting postponement today to may 5.

>> Mayor Adler: And after it's gone to planning commission and it's come back, the neighborhood requested one.

>> Yes, back in February.

>> Mayor Adler: And that was granted.

>> Yes.

>> Mayor Adler: Okay. What -- has there been an established custom or practice by the council?

>> No. The established custom is each side gets one postponement request. In this case like you alluded to earlier I think the request from June of last year would probably have been more properly attributed to the staff because the case had not yet gone to PC, it did not go to PC until earlier this year.

>> Mayor Adler: Let's discuss whether or not to postpone, if we want to postpone we can discuss where we set it to.

>> Houston: Excuse me, mayor.

>> Mayor Adler: Empties Houston, do you want to speak?

>> Houston: Excuse me. Before we have that discussion there is a representative of the neighborhood here that wants to speak to the postponement so I would like to suggest we hear what that is before we have our conversation.

>> Mayor Adler: Okay. That would be fine. Eve Erin Stanrich.

>> Mayor Adler: Mr. Stanrich. Good morning.

>> Good morning. Mayor Adler, mayor pro tem Tovo and members of the councilmember, Eric Stan representing the Robinson neighborhood and organization of central east Austin -- I'm here to -- throughout the fall of 2015 this case was postponed every few weeks five times by staff request and it exhausted our community. Over the arc of these days we have repeatedly spoken to allowing sufficient time between postponements for area stakeholders, community groups, city staff and decision makers to understand a project of this scale.

[10:20:49 AM]

Revisiting it every few weeks is taxing on the staff, community and individuals' work schedules. Every time this case is on agenda, staff has to reevaluate the current version, we have to organize as if the case will be heard, communicating within the community, arranging for time off child care, transportation, and repeatedly asking people to commit to sharing their voice about this case only to have it rescheduled at the very last minute. We have committed considerable time and resources to the consideration of this case and details of which seem to be ever evolving. We will continue to evaluate any changes made to the request, including any that arise between now and the new date for the hearing. We have a responsibility to our neighbors, the larger planning area and the numerous community organizations across the city that have supported us. Three weeks is not enough time for volunteer organizations to understand a project whose details we only get at the very last minute. But whose legacy and precedent we will all live with forever. I think the most reasonable date would be to postpone the case until after the city adopts a new land development code that speaks to compatibility between adjacent uses. Barring that I respectfully request you postpone to your zoning meeting in September. Thank you very much for your consideration.

>> Mayor Adler: Thank you. Yes, mayor pro tem?

>> Tovo: Sir?

>> Sorry, ma'am.

>> Tovo: Thanks for your comments. Did you help us understand why September and not -- I understand --

>> Absolutely.

>> Tovo: I understand your point that most neighborhood associations meet once a month and it would be tough to try to pull together a whole new -- you know, to understand the whole new plan.

>> Yeah, the project details I believe maybe have changed as late as yesterday afternoon. That has implications to traffic, to scale. The overall development of the project has been distilled. We have to get that information. We also have to then share that information out with all the community groups that only really meet once a month. This month's meeting for our neighborhood has already occurred. Ocean's meeting is not going to be happening this month.

[10:22:52 AM]

It's been canceled so the next available meeting that we could reasonably have is --

>> Tovo: So Ocean won't meet until May?

>> Ocean is meeting in May, late May, at the end of May. So realistically -- we also have a huge key litigation of support that -- coalition of support we have spoken to this case about and if this project has dramatic changes we'll need to bring our position and resolution back to them to affirm that vote and that will require at least, you know, two to three months to do.

>> Tovo: Okay. I appreciate that explanation. Thank you. Mayor, are we going to hear from --

>> Mayor Adler: Is the applicant here? Thank you, sir.

>> Mayor, councilmembers, I'm deceive Drenner on behalf of the applicant.

>> Mayor Adler: So the question is, if the postponement is changing and we want to give the opportunity for the neighborhoods to be able to meet and react to changes, are you okay with a delay that goes to September?

>> I think that's beyond what is necessary. My suggestion would be if they need to be able to meet in May, that we try to extend until before your break. So maybe the zoning meeting in June would allow plenty of time, I think, for the neighborhood to have a chance to digest the changes that will be out in the next couple of weeks. That would give them more than -- what is the date in June for the zoning meeting?

[10:24:53 AM]

>> That would be June 16.

>> June 16. So essentially we're talking about two months. If we move to June. Other than that --

>> Mayor Adler: Is there a meeting in August, Jerry?

>> I don't have the council calendar in front of me, but it looks like the August meeting would be August 11 would be the Normal --

>> Mayor Adler: Yes.

>> -- Zoning meeting that month.

>> Mayor, my fear is if we go out that far, this will be moot because I think the developer will probably move forward with the other -- with the project that just is compliant with current rules and I think that would be a regrettable happenstance.

>> Mayor?

>> Mayor Adler: Yes.

>> Gallo: I would also -- as chair of Austin energy, we have layered on to us a pretty healthy schedule time, tomb incentive in -- intensive in August, first part of September. So I think as we have the ability to not Zuehl additional things for August we should be sensitive to that because I think both the Austin energy rate case and the budget protests are gonna really, really load up our August schedule. So just to remind everyone that we've got a pretty busy August already.

>> Mayor Adler: Ms. Houston.

>> Houston: And, mayor, August seems right for me because, again, our staff has to have time to look at it. We've been meeting with Mr. Drenner since March of 2015 on this, and it keeps evolving. Every time it changes and we have to spend time look -- relooking at it again, making sure the neighbors are involved. And so the May date is too soon. I've got travel in June. I would hope my colleagues would respect the fact that I would need to be here when we have this conversation. So we don't meet in July.

[10:26:54 AM]

Could we do it on an off-zoning date and take it up like the first -- fourth of August? Would that be a compromise?

>> Mayor Adler: Mr. Drenner, is it possible for you to speak with the applicant to see if we did it early in August whether that's something that might work?

>> Yes, sir, I'll be right back.

>> Mayor Adler: Would you check that, please? While Mr. Drenner is checking that, let's go ahead and look at the consent agenda that we have in front of us. Today that is items one-six. Item number 5 is pulled by Mr. Zimmerman. We have two speakers that have pulled items three, four and six so the only two items we have on consent agenda today are items one and two.

>> Mr. Mayor?

>> Mayor Adler: Yes.

>> Zimmerman: I'd move adoption or passage of consent items one and two.

>> Mayor Adler: Okay. Any discussion? I'm sorry? Approving items one and two. Those in favor of items one and two please raise your hand. Those opposed? That's unanimous on the dais. Yes? Mayor pro tem?

>> Tovo: You may be moving on to this but I'm wondering if on the 10:00 agenda there were items that were on consent.

>> Mayor Adler: On the zoning agenda? How many items do we have on the consent agenda?

>> The majority of them can probably be offered for consent or consent postponement.

[10:29:00 AM]

>> Mayor Adler: Why don't you go ahead and do that.

>> Very good. Item number 9 for the property located at 3311 south fm973 and 3326 east, sh-71 eastbound, limit industrial services, planned development or lipda district zoning ready for consent approval on second and third readings. Item number 10c14-2015-0154, for the property located at 7050 Elroy road, zone the property to community commercial conditional overlay or gr-co combined district zoning, ready for second and third reading approval. Item number 11, c14-2015-0165. This is to approve a zoning -- rezoning request at 5711 south congress avenue, to approve zoning to general commercial services commenced use conditional overlay, cs-mu, Co, np combined zoning, ready for second and third readings. Item 12, c14-2016-0008, 7809 old bee cave road. Ready for consent approval on all three readings. Item 13, known as the sun chase planned unit development at 15 -- 201, 15810 and 1670 Pearce lane and 7910 wolf lane. Staff is requesting postponement of this item to may 5 agenda. We are diligently working to address some questions that you came up with at work session and the applicant is agreeable to that.

[10:31:01 AM]

On your 10:00 agenda, for the zoning and neighborhood plan amendments these were the public meetings that are open and possible action. Item 14npa-2015-005.04, various properties on bastrop highway, bastrop highway southbound. I understand councilmember Renteria had inquired at the work session noting a postponement and I understand parties have agreed to may 12, which is your regular zoning meeting so that would be item 14, neighborhood planning amendment and the related zoning case which is item 15, case c14-2015-0104 for various properties on bastrop highway, again, to postpone item 15 to regular zoning agenda of may 12. Item 16 is the one we just spoke of and I'll zip that. Going on to item 17, c14-2015-0062 for the property located at 2900, 3,000, 3024 U.S. Highway 183 south, the staff is requesting a postpone of this item to your may 12 agenda. Item 18, c14-2015-0144 at 2105 pierce road, request for case to be withdrawn by the applicant, no action is required. On -- no action required on item 18. Item 19, c14-2016-0004 at 4400 east William cannon drive. I understand a councilmember would like to pull this item for discussion so I will skip that.

>> Mayor Adler: Which number?

>> Item 19.

>> Mayor Adler: Who is pulling it?

[10:33:02 AM]

>> I understand councilmember Garza would like to. Item 20, c14-2015-0133a, 1204 San Antonio street.

We have interested citizens that would like to speak to this days on item 20 so that will be a discussion item. Item 21 is case c14-2015-0133b, 120 --

>> Mayor Adler: We also have speakers to speak on that, 20, 21 both.

>> I have spoken to those folks and I understand they are in agreement in allowing 21 to go forward for doesn't for three readings with conditions imposed by the commission but not on 20, which is right next door. So I could still offer I think 21 for consent and I believe the parties are in agreement on that, on item 21. Item 22, c14-85-027 for the property located at 2102 Rio grande street and staff is requesting postponement to may 12 agenda.

>> Mayor Adler: So in review with respect to items nine, second and -- ten is second and third, listen second and third map was 12.

>> Doesn't, second and third.

>> Mayor Adler: 13 was possess polysilicon he postponed to 5/5, 15 to 5/12, 16 pulled, 17 --

>> Postponement to may 12.

>> Mayor Adler: Postponement to may 12.

>> 18 is withdrawn. No action required.

>> Mayor Adler: 18 withdrawn, no action required. 19 is pulled. 20 is pulled.

[10:35:02 AM]

21 --

>> May go consent.

>> Mayor Adler: May go consent and 22 being postponed for may 12. I'll announce I'm abstaining, not participating in discussion or voting on item 21. As part of this. I'm not going to recuse. I don't think it rises to the level of recusal but for me it could present the appears appearance of impropriety so I am going to abstain from discussion or voting on 21. I'll also be doing the same thing on item number 20. Mayor pro tem.

>> Tovo: I'll say that I'm doing a similar thing. I actually did file a recusal form on 20 and 21.

>> Mayor Adler: Okay. Ms. Gallo.

>> Gallo: Could you remind us, I know there's going to be meetings that you will not be here. Could you remind us if there are any -- remind us if there are any meetings in may that you will not be present as we talk about postponing to particular dates? We may want to get those postponed to dates that you'll actually be here.

>> Mayor Adler: At this point I don't think I'm missing any meetings in may.

>> Gallo: Thank you.

>> Mayor Adler: I may be missing a budget work session on the 25 of may but I think that's probably the only one.

>> Gallo: Okay, great. We just always want you present for the conversation. Thank you.

>> Mayor, I believe we could add 1-2 east item 16 possibly back on consent agenda. The applicant is agreeable to postponement to August 4 if that is agreeable with everybody.

>> Mayor Adler: Okay. So 16 back with a postponement to August 4.

>> And the neighborhood is okay with that also.

>> Mayor Adler: Okay. Is there a motion to approve the consent?

>> Zimmerman: I'll make that motion but are there a dumb of speakers on some of the postponed item we might want to see if they want to speak to them since maybe they're here?

[10:37:11 AM]

14 and 15 I believe. We scheduled to postpone.

>> Houston: Mayor, let's signal clearly to the people watching or listening on the radio that there will not be a hearing this afternoon at a time certain but we need to talk about if people do show up what will we do.

>> Mayor Adler: Okay. Let's go ahead and take a vote and see if that's an issue. We have some speakers that are signed up to speak on the consent agenda if they want to speak on it. That would be items 14 and 15 being postponed to may 12. Mr. King, you are signed up to speak on those. Do you need to speak on those issues?

>> [Off mic]

>> Mayor Adler: Okay. That's 14 and 15. 16 has been -- well, we have -- do we have six speakers here to speak on 16 that's being postponed to 8/4? Do any of these people need to speak today, Mr. King?

>> [Off mic]

>> Mayor Adler: Corey bomb? Eric Guerrero. Tracy white? Susanna Almanza? And Eric stanrich we've heard from. Okay. Those were all the speakers signed up on 16. And then we have people on number 21 but you said you've spoken to them and they don't need to speak?

>> That's my understanding.

>> Mayor Adler: Okay. The people that I had signed up on 21 were Alice Glassco, Blake and Ted sip. We all okay?

>> They're nodding.

>> Mayor Adler: I'm sorry?

>> Idea they're nodding yes.

>> Mayor Adler: And I saw the nods. With that said, is there a motion to approve the consent agenda on these zoning and -- matters?

[10:39:15 AM]

>> And close the public hearing.

>> Mayor Adler: And to close the public hearing.

>> Zimmerman: So moved.

>> Mayor Adler: Mr. Zimmerman moves. Is there a second? Ms. Garza seconds. We are not closing the public hearing on anything that's being postponed. Those in favor of the consent agenda please raise your hand. Those opposed? Okay. That takes care of that. Let's talk for a second, Ms. Houston, you want us to address the question of people -- so for the public to know and for people to know far and wide, the 1-2 east matter is being postponed until August 4 so there will be no council deliberation or discussion on that issue today. Ms. Houston has asked what happens if people show up before we recess the meeting and they haven't heard that the meeting was postponed? How about, Ms. Houston, can we say if that happens, if someone shows up, if you could find out, let's see how many there are and let's than on an ad hoc basis?

>> Houston: That would be fine. I wanted to make sure those watching know it's not going to be taken up today but people may be at work and not know and be coming down at 5:30 and whatever time so I want to make sure we're clear about what the practice will be. I'll find out who they are and I'll let you know.

>> Mayor Adler: That sounds good and we'll handle that then. Thank you. All right, then. Then that gets us then back to the items that -- I'm sorry, yes, Ms. Pool.

>> Pool: I just had a thought. Is there any chance that our meeting might actually be done before 6:30.

>> Mayor Adler: I think there's a good chance it will be done before then so we'll be gone by then.

>> Houston: If they show up, I'll be here and I will encourage them and invite them to come back or send theirs in electronically but I'll stay until I'm sure that nobody else is coming.

>> Mayor Adler: Okay, thank you.

>> Pool: Thanks.

[10:41:15 AM]

>> Mayor Adler: All right. Let's go to the items we have not yet handled on the agenda. We have two items, item number 7 and item none 2458 were not on the extent agenda but they both have speakers on them so we're going to hold off on those. Let's then go ahead and handle item 3 inspect speakers. Mr. Pen yeah you want to speak to item number 3?

>> I do, mayor.

>> Mayor Adler: Okay.

>> Mr. Mayor, I might not be in order but I can dispose if proper or appropriate three, four, five quickly with my comments.

>> Mayor Adler: I would allow that.

>> Thank you, sir. Good morning, mayor, council, Gus Pena, cofounder of veterans for progress on items number 3, four, five, six, I will speak to three, four, five, excuse me. Number 3 is approve a resolution directing city manager include certain requirements in the proposed remanufacturing hub solicitation and this is a resolution I understand that and it entails to enter into a labor piece equipment which is good and one of the things that we really recommend because we have female veterans in our -- and I hate to differentiate male from female veterans but that's the way it is with us, we have the associations that are female veterans, a preference for employees that graduated from local training apprenticeship programs and there many programs here in Austin but the one I really would recommend and suggest that I know of personally because I sent people to is capital idsd Jacobs and that's something to think about for item number 3.

[10:43:15 AM]

And item number 4, approve a resolution directing city manager the funding option for child care continuity services during fiscal year 2016-2017. Ladies and gentlemen, we know there are a lot of single moms out there and single dads also that need child care and there needs to be a continuity of child care services being provided, low-income people, people that have lost their jobs re-entering the job workforce and, again, it says whereas child care continuity serves two generations to promote family self-sufficiency by enabling parents to maintain high quality jobs and I stop there and, again, in order to have continuity and outstanding child care services people be able to obtain training, again, Steve Jacobs for capital id and there are others also, not just those, but when they're seek job training this is an outstanding one, that is for item number 4. And item number -- did you say six, mayor?

>> Mayor Adler: Yes.

>> Okay. Item number 6 is approve an ordinance on second and third reading amending process for public comment at city council and committee meetings. If y'all remember the comments David made last week at the city council meeting, we echoed -- I was not able to sign up for that particular item on the agenda but to allow due process and allow the people to speak, whether it be 15 minutes until the public hearing is heard, et cetera, I've been at this a long time, way before mayor butler was mayor so in the interests of serving the people and hearing from the people it would be appropriate hopefully that y'all vote on it to extend the time and I think David had a good point last week. Item last, Mr. Mayor, I know it's not appropriate but I'm going to say it because I've been asked -- actually ordered by my rank and file veterans quickliulate lakefront plan Moore park's tall buildings.

[10:45:25 AM]



This is not Seattle, Portland, Oregon. This is Austin, Texas. I'm a native east Austin night, and I'll cut it short --

>> Mayor Adler: As, you know, Mr. Pena, it's a violation of the open meetings act for you to come up here and start debating things not set.

>> I understand it. And you can put me in jail if you want to. I mean, I need [indiscernible]

>> Mayor Adler: The point --

>> The issue is let's do more appropriate planning and I'll leave it at that.

>> Mayor Adler: Thank you, sir.

>> Think about it, okay? Because that's not good.

>> Mayor Adler: Yes, sir.

>> Send me to jail if you want to. I haven't eaten yet.

[ Laughter ]

>> Mayor Adler: Is there a motion to approve item number 3?

-- I'm sorry, is there another speaker? John Lopez.

>> Mayor, he couldn't make it.

>> Mayor Adler: Ms. Troxclair, item number 3?

>> Troxclair: Mayor, I had passed out a pretty simple amendment to this item. I understand that the council has an interest in giving preference to developers who are going to meet these criteria, but I also want us to leave enough flexibility -- there's a lot of things that we need to take into did the when -- into did the except -- when we're putting out rfps, when companies are responding to rfps and when we make ultimate decisions like the fiscal accountability, how much it's costing. I mean, there's a whole slew of options. So I just was uncomfortable with the direction to specifically give preference to certain developers, and I talked with the legal department and I think that a more appropriate way to kind of get to where we're trying to go is to say, instead of giving preference, to say critically evaluate master developers that along with any other relevant criteria demonstrate a commitment to achieving the following goals. So we're not disqualifying -- or disincentivizing certain people from applying who might otherwise be a really great fit for projects and -- but we're still going to be provided with the information that's outlined here about how they're planning to achieve the following goals.

[10:47:45 AM]

>> Mayor Adler: Mr. Casar, do you want to respond?

>> Casar: I just want to understand better the purpose of the amendment because on its face it doesn't seem to make much change and I want to understand what the change it is making. The point here is that the first set of be it resolveds lay out requirements and the second set lay out things that would -- where communicating -- we're communicating to the staff to communicate to potential developers that there are things we think are good and that we'll evaluate those things with a good eye as opposed to neutrally or negatively and so I'm trying to understand whether or not your amendment says these things are neutral to us or whether or not these things are -- are in our interest and we would evaluate you better or well if you achieved these goals as opposed to not achieve them? That would be my question, because if -- if what it does is say -- if what I'm hearing is correct, that you think these are good things that we should evaluate as positive things the developer would do then I'm not sure what the amendment changes?

>> Zimmerman: Mr. Mayor, could I raise a point of order quickly.

>> Mayor Adler: Yes.

>> Zimmerman: I don't think there's a motion here for this. If councilmember troxclair would like to move adoption I'd like to second and we can go ahead and have debate and discussion because we're already in discussion and we haven't moved and seconded.

>> Mayor Adler: We can certainly do it that way. Do you want to make a motion? Mr. Casar moves the underlying motion. Is there a second? Ms. Garza seconds.

>> Zimmerman: Thank you.

>> Mayor Adler: I'm going to -- Ms. Troxclair makes her amendment, seconded by Mr. Zimmerman. We're now discussing the amendment.

>> Troxclair: So, yeah, even the language that you used when you were describing what you were trying to accomplish you said evaluate, and I think the fact that we're even -- we would even include this in an rfp solicitation would speak to the fact that you would be positively -- that the council or that the staff would be positively evaluating you based on those factors.

[10:49:47 AM]

I just -- I was worried about making the jump to saying that we're giving preference because I thought that it seemed like that that might be the only -- the only thing that we're going to take into consideration. I want to make sure you're provided with the information, that you're requesting here but that's not the only criteria that we take into account and that we need to see the responses that we get back and be able to critically evaluate them when we do have all that information.

>> Casar: You'll just trying to see what the difference is because the original language says along with other relevant criteria of course we're going to look at price, of course we're going to look at jobs created, all that stuff. But we -- there are some things that the city staff would need direction to also include as things council desired to see in solicitations so what I'm trying to understand before making a decision on the amendment is what this would change? And perhaps we need to hear from legal either in open session or executive session for me to understand unless maybe I'm not getting it, what the intended change is if my understanding of how legal drafted this alongside us is that of course preference meaning that you get additional -- that this council is letting you know we will look favorably upon people that commit to these things. So I guess I'm trying to understand what the amendment does.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: My question would be, without the amendment it says gives preference, which I would read as extra points in the solicitation process. Whereas critically evaluates doesn't say that. So that's what I would want to understand. That would be my concern, because giving preference -- I mean, it all comes down to how they score these, and that's a point system, generally speaking, if I'm understanding directly. So I would want to understand if that -- changing it from giving preference to critically evaluates actually makes that change so the way we originally have it we would be giving direction to give points -- extra points in the solicitation and evaluation process to these things as opposed to critically evaluates, which wouldn't result in extra points.

[10:52:00 AM]

That would be my question.

>> Mayor Adler: Hi.

>> Good morning, mayor, council, Cindy Crosby, assistant city attorney and I think the removal of the word "Preference" was in some way intended to avoid giving the impression that if you provide these items you would receive extra consideration in the final selection of the master developer. And so that's my understanding of the removal of that language. At this point the solicitation process is very early on and I don't believe that staff has all the criteria laid out, as well as the weight and score of each of these items. So it will be a very complex matrix.

>> Mayor Adler: Ms. Kitchen, do you want to follow-up?

>> Kitchen: Just to verify, then, so the change in wording would be interpreted as a change in the point system?

>> Perhaps. I don't think that necessarily stating preference automatically means extra points or that if these items would -- were included it would necessarily tip the scale because we don't know how these items will be scored and weighed in consideration in relation to the other items. However, I think that would be a valid point, that the change in the language is to make sure that there's no impression to the public that if you do these items you automatically get extra points.

>> Kitchen: Okay. Because I would think the intention of passing this with the language of giving preference would be to provide direction to staff to give extra points or consider -- you said consideration, extra points or consideration in the process.

>> It may. It may not. I don't know what the total scoring matrix would be and each of these categories would be weighted and evaluated separately. So how you make the determination that one submitter says I'm going to hire X number of employees, should they get extra points because the percentage or the number or because of other criteria within that evaluation?

[10:54:17 AM]

>> Kitchen: Then I guess I'm not understanding because I thought that by giving direction of giving preference that we were -- what we were accomplishing was that if they demonstrate this they are given preference in whatever -- in whatever kind of scoring process is used. If you're not reading it that way I would want to know what language would be necessary to provide that direction.

>> I think it does give the policy direction. I agree with you, to staff, to look at these items more favorably may be necessarily others. My point is directly on the point system.

>> Kitchen: Okay.

>> I don't necessarily know that that would -- giving these items would necessarily equal higher points. It would just be it's the overall evaluation of the submitter.

>> Kitchen: So there are other ways to give preference than the points system is what you're saying?

>> Correct.

>> Kitchen: Okay.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Mr. Zimmerman. Then Ms. Garza.

>> Zimmerman: I'd like to speak in favor of councilmember troclair's motion but I want to follow up I think on what councilmember kitchen is trying to get at, and I completely agree with her. It seems like we're in this catch 22 to where if we say -- and I agree with councilmember kitchen, if we say we're going to give preference, that is a specific direction to the city manager and usually the way we show preference is through points. And yet we hear from staff, well, that's not necessarily true. And if we were to go a step further and if we were to say we want to give preference through points, then the city management could say you're meddling in the details of how the city is run and that's not your place. You're only supposed to set high-level policy, in other words you're only supposed to say give preference, you're not supposed to say how that preference is given. That's the point I want to make here. It puts us in a catch 22, that it seems very clear to us -- I don't support this motion, but my councilmember colleagues are correct, we're trying to give direction, the city says no, necessarily we're not going to do that and if we try to give more specific instruction they say you can't do that because you're going beyond your authority as a city council.

[10:56:28 AM]

So those are my notes.

>> Mayor Adler: What I heard legal say is that if pass this thing, we would give preference to those folks. The attorney is saying, she's not sure how in the process preference would be given. That's what I heard, not that we can't direct that preference should be given for this policy. Ms. Garza.

>> Garza: I would not be in support of that amendment, because it really takes away the intent of this item. And that was that we give preference to any solicitations that provide these extra benefits. They would be on city land. And I think that if you're going to use city land and make some kind of profit off whatever business you have on that city land, it's our right to ask -- to make sure that there are some community benefits. So I would be voting against the amendment.

>> Mayor Adler: Any further discussion?

>> Houston: Yes, mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I'd like to ask a question. Does anybody know how close we are to developing that system, the evaluation system?

>> Casar: Mayor, I might be able to mention.

>> Mayor Adler: Yes.

>> Houston: Here comes the staff.

>> Casar: I didn't see them.

>> Bob getter, director of Austin resource recovery. We're within two to three weeks of finalizing the solicitation. We have not developed the scoring criteria at this stage. We have itemized lists that we had advertised prior in our solicitation for tenants, and that was our starting point. But we have not developed the complex scoring mechanism just yet.

>> Mayor Adler: We have the amendment in front of us. It's been seconded. Those in favor of the amendment, please raise your hand.

[10:58:29 AM]

Ms. Troxclair, Mr. Zimmerman, Ms. Gallo. Those opposed to the amendment, please raise your hand. The balance of the dais. The amendment is defeated. The main motion is in front of us. It's been seconded. If there's no further discussion, we'll take a vote. Mr. Zimmerman.

>> Zimmerman: I have one quick point of inquiry to our legal team. Do we have confidence that these kind of preferences that are kind of general and high-level, do we not run afoul of any kind of state laws on the issue of, you know, granting contracts once we start putting preferential language in? Companies that want to bid are going to start looking at that. They're going to scrutinize it. So what's our impression right now of the legality of what we're doing?

>> Mayor Adler: Legal?

>> This is a request for proposal. It's not a low-bid situation. Whatever interests are best for the community can be written into the solicitation. And there is language, if you notice, in item number 1 making sure that there's no conflict with the interstate commerce clause, and whatever solicitation comes forward, we will make sure it's in compliance with the laws.

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: Mayor, for people who are at home watching this, could somebody explain what the --the labor peace agreement is?

>> A labor peace agreement is generally an agreement in which the employer makes the commitment not to interfere or disrupt labor organization activities on the property. And in exchange, the employees agree not to strike or have labor stoppages at the property. And so it's basically an agreement between the employer and employees to make sure that the employees have that opportunity to unionize if they want to, and they agree that they will not interfere with the business operations at the property.

>> Houston: And do we have that in other resolutions?

>> Not to my knowledge.

[11:00:30 AM]

This is the first one I've seen.

>> Mayor.

>> Mayor Adler: Yes, Ms. Troxclair.

>> Troxclair: Does the fact that this resolution doesn't speak at all to our responsibility to be fiscal stewards and to take into account the financial details of entering into an agreement with a developer, does that mean that because that's not mentioned here that really important financial details wouldn't necessarily be given the same weight as every -- as asdemonstrating environmental stewardship, or being builder certified?

>> I don't want to call it boilerplate, but things like insurance, financial stability, reputation, all of those items will be included in the solicitation as the director mentioned, it hasn't been fleshed out and weighted. I don't know the correlation, but, financial stability, reputation, credibility will be important factors.

>> Troxclair: Not only the financial stability and credibility of the company itself, but also the benefit -- the drawbacks or benefit of the financial details to the city. If the city is going to be making money off of it or not, or what the cost is going to be.

>> Right. And I think those will all be details that will come back to council in a future action item.

>> Troxclair: I guess what I'm asking, since we decided to not accept an amendment that said critically evaluate instead of give preference, does that mean that these -- do I need to bring forward another resolution to say, please take into account financial information as well?

>> Those items will automatically be taken intoing. Into -- account. It's in your discretion -- I think those will be weighted higher, but I don't know.

[11:02:31 AM]

So those are all policy decisions that the staff will have to look at. But those will be definitely part of the criteria.

>> Troxclair: Okay. I guess that was mainly what was concerning me about the language of "Give preference," because it seems like we're giving direction to give higher preference to these things over other things that might be important. But I understand that you're not able to answer that question right now. And just the second objection that I would have to this resolution, we've heard time and time again from our small and minority businesses that they're the ones that have trouble meeting these kinds of requirements. They are not as -- always as well-equipped to, you know, hire contractors that will be better builder-certified or meet all the standards we set out in these rfps. I understand there are certain social goals the council wants to meet, but it comes at a cost of, I think, disenfranchising our small and minority businesses. So, I think that's a problem.

>> Casar: Mayor.

>> Mayor Adler: Mr. Casar.

>> Casar: Clearly, having a successful and working project is a critical goal of the remanufacturing hub proposal. This resolution is merely adding our intent and our policy preferences that aren't -- that potentially could not be included in the solicitation unless we do so before it goes out in two or three weeks. So of course we'll be considering these things as a whole package. And just like other solicitations like this one, we ultimately have the decision to make the decision about which respondent we prefer based on an evaluation matrix, and the staff present their recommendations. But, of course, we get to make the final choice of who it is what we want to work on this particular project. And I will

draw attention to the fact that there are portion in this that include and incorporate our small and minority business goals in the project, which tend most of the small minority business parents participants that speak to me.

[11:04:48 AM]

There are a large number, those in the construction field, and we are giving them some help through including that in the solicitation. I believe that we can have good small minority business participation, good wages for oftentimes, the people of color and women that work some of these jobs, and have harmonious relationships with employers and their workers, all on this site. It's exciting, it provides longer-term economic benefits, than the alternatives, which were things like paving it over and selling the parking lot. I'm excited about the potential of the project and appreciate y'all's support.

>> Houston: Mayor, one last question.

>> Mayor Adler: Yes, Ms. Houston, then Mr. Zimmerman.

>> Houston: Could someone speak to the public input into this resolution, public engagement?

>> This would be the first time that the public has had an opportunity to see and comment on this resolution.

>> Houston: Thank you.

>> Casar: And if I could respond to that, if we had more time, I would have brought this up before council earlier. But we heard that the solicitation was coming out here at the end of the month. And so I thought that it was appropriate for us to bring it up. And if we could get majority support, incorporate the standards, of course, there'll be more public participation as we get people coming back to the council.

>> Houston: I had a followup. Thank you for that information. The complaints that I hear from the community, including the businesspeople in my district, is that they don't get an opportunity to have any input prior to us doing a policy decision, so that's the reason I ask. It'll be too late after we pass it for you to get input from the contractors and the other businesses. So that's the reason I'm asking.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor, I have one more question for legal staff, looking again at item number 5, which is talking about the peace agreement.

[11:06:51 AM]

So item number 5 -- help me understand how this is legal. I mean, Texas is a right to work stating. Kind of generally means that we cannot require -- no one can require a worker to be in a union, nor can you prohibit somebody from joining a union if they want to. So there's liberty on both sides. But if you back up to what this says, it says that we're directing the city manager to develop a solicitation process and evaluation system giving preference to commitment to achieving -- another way of saying preference -- the following goals. And one of those goals is number 5. And number 5 says, whether there'll be a requirement imposed to enter into a labor peace agreement. So the labor peace agreement says here, with any labor organization, that would be a union, that requests a labor peace agreement, and which represents or reasonably might represent -- that is an incredibly broad statement. So if we have a group of workers who are not unionized, you could completely say that there's a labor union who would like to represent those people. Right? They might reasonably represent them, but they don't represent them. So it looks to me like we're writing in here a preference for labor unions. And when we have labor unions that we could require -- we could impose some kind of agreement between the employer and the union. Isn't this kind of begging for a lawsuit from the right to work organizations?

>> Mayor and council, Cindy Crosby again with the law department. We've thoroughly vetted this

requirement and provision. And because this is city-owned property, and we'll have a continuing proprietary interest in the property and the development, this is something that the city can do. And this is language that I borrowed from Washington, D.C. It is intentionally broad because we don't know if it's necessarily an organized labor union group, or it may be a group of employees that would represent the employees.

[11:09:00 AM]

So.

>> Zimmerman: So final followup question, is there any estimate of how this provision number 5 could affect the cost of these contracts? Because one way you could -- common sense. One way you could avoid -- or have a labor peace agreement. Let's say the market prevailing rate is 10 or 15 dollars an hour for some kind of work. You can make peace by charging twice as much. Give the workers \$20 an hour, when the prevailing wage is 10. They'd be happy with that and wouldn't want to strike. The city passes that cost to the taxpayers who are forced to pay. I see no statement in here about how our taxpayers are going to be affected by this requirement. Because I just mentioned one way to make peace is force the taxpayers to pay double the prevailing rate, and the labor unions will be happy to get twice the prevailing rate. The taxpayers would get shafted with the cost, but the labor unions would be happy. So I don't know . . .

>> Mayor.

>> Mayor Adler: Yes.

>> Pool: I'd like to call the question.

>> Mayor Adler: There's been a motion to cut off debate. Is there a second to that motion? Mr. Renteria. Those in favor of ending debate, please raise your hands. This is a vote to end debate. Those in favor of ending debate, please raise your hand. Those opposed to ending debate? We do not have the two-thirds necessary to end debate. Is there any further debate on this issue?

>> I have one quick comment.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I wanted to make a quick comment that I have learned that anytime, councilmember Zimmerman, we ask our legal staff in public about whether or not something is legal, their response is always going to be yes. So I think I heard the response saying similar to Washington, D.C. I think we have different state laws that govern what is legal and what is not legal here.

[11:11:03 AM]

But I don't think that you'll get the response that you're looking for if you ask the question in public.

>> This is based on federal law.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: And I just want to say, for my support for this particular measure, we worked hard last year during budget to raise our minimum wage up to \$13.03 an hour, and there is a national effort to move that up to the minimum wage of \$15 an hour, and that's an aspirational goal for me on the dais. I think folks who do the jobs that are at the bottom tier of wages -- they deserve to earn a -- decent living as well. If we can help to lift those as well, I would fully support those efforts. Thanks. And I appreciate councilmember Casar bringing this forward.

>> Mayor Adler: Any further discussion? Okay, Ms. Gallo.

>> Gallo: And I do appreciate you bringing this forward also, but unfortunately I'm really uncomfortable that -- I talk a lot about making sure we have a very transparent, predictable stakeholder process. And I am concerned that it appears that minority-owned business and women-owned businesses were not

pulled into this discussion, along with other potential business stakeholders. You know, our goal is to get the best project we can over there. And I think it's important as we try to embrace all of the community and all of our small business into that process that they be allowed to have the opportunity to voice their opinions and their concerns, and things that they might feel would keep them from being able to participate in this. So unfortunately I think I'm going to not be able to support this, just because I don't think the stakeholder process was there initially.

>> Mayor Adler: Mr. Casar, and then Ms. Houston.

>> Casar: And as far as the labor issues go, I encourage my colleagues to read Texas' right to work law, because it has nothing to do with whether or not people have the free choice to join a union or not.

[11:13:12 AM]

That's a federally protected right. And in states that do not have that law, workers can choose to either join a union or not. So we shouldn't just throw that term around as an antiunion term without understanding the details of those rules. The fact of the matter is that right to work laws require something totally different, and primarily have to do with union dues. So, you should maybe read up on that first. Because this does not require anybody to pay any union dues. It simply states that businesses bidding for this can, on their own, choose to comply with some of these requirements. And that we think that those would be good things for the long-term viability of the project and to achieve our long-term goals. But it's not forcing anybody to do any of the things in the second section. So, reference to these things as requirements also isn't accurate, because the latter part of the resolution is things that those companies can choose to do. And even the things that are required in the first part of the resolution are things those companies would be required to do if they bid. But in the second section, it's up to them, and we'll be evaluating those things carefully. As far as the stakeholder process, I think that these are long-standing expectations on city-owned land, and expectations that we can discuss before setting out this rfp process. Our rfp is going out at the end of the month. If we had more time, maybe we could have more discussion. But the city moves fast. There's lots of pieces to this, to the city. And I think that it's totally appropriate for us to let people know what we're looking for on a tight timeline like this one.

>> Mayor Adler: Ms. Houston.

>> Houston: Councilmember, I certainly appreciate your efforts in this, and would support them. But I just got an email back from one of my contractors that they had no input from the minority contractors, that they had no input, didn't even know it was coming up. So I'm going to have to vote no, because I think that one of the things that we say we're supposed to do is to ensure that the public is engaged in the process before we make decisions about policy that will affect their livelihoods.

[11:15:18 AM]

>> Casar: And I apologize. There was one amendment I did want to make to clarify this, that hopefully addresses the concerns that you were emailed about. And that is in the section 4, under be it further resolved, where it says whether the construction contractors and subcontractors will be building-certified, I'd like to say whether the initial construction project will be, because that certification is for the entire project as opposed to contractors and subcontractors, and I think that that has created some confusion.

>> Pool: I'll second that.

>> Mayor Adler: So you're moving to amend item number 4, the be it resolved clause, it would read whether the construction project?

>> Casar: That's right.



>> Mayor Adler: Will be better builder -- certified. Does anybody have an amendment? Yes.  
>> Mayor, may I clarify?  
>> Mayor Adler: Yes.  
>> I understand that the contractors and subcontractors are the ones that are better builder certified, not necessarily the project. But that the individual developers and/or workers.  
>> Casar: I would say it's the development as a whole would receive that certification, that developer for that project.  
>> And it was the initial. So whether the initial construction project --  
>> Casar: No.  
>> Strike contractors and subcontractors will be better builder?  
>> Casar: That's right, thank you.  
>> Mayor Adler: Say it again? Whether the initial --  
>> Construction project.  
>> Mayor Adler: Initial construction project will be better builder certified or by an equivalent program.  
>> Yes, sir.  
>> Mayor Adler: And does that make sense to you?  
>> Yes.  
>> Mayor Adler: Okay. If there's no objection, that will be included.  
>> Troxclair: I need to understand. It sounded like you just said that the individuals are the ones who are certified, not the projects.

[11:17:19 AM]

So can you expand on that? You said that, and then --

>> Right. I think what I understood from councilmember Casar is that the project itself would be the one certified. Because the developer can be certified as well as just the individual contractors and subcontractors. So if it's the developer that's certified, then that would constitute the entire project. We could also make changes to add if applicable, it's the project and/or apply it to the master developer.  
>> Casar: I think it's pretty clear if it's just the project in general. I think it's fine the way it is. I think it's just more clear that individual subcontractors and individual businesses don't have to go out and run around and get certifications. It's for the project. So I think we'll be okay.  
>> Mayor Adler: Okay. No objections, that'll be included, and that's done. Continuing on in the debate on this, this is a tough one for me, because I agree with Ms. Houston that this is something that fits within the ambit of things coming to the council for decision without it being properly vetted in the community. But I also hear councilmember Casar saying the exigent circumstances that would indicate an exception to the rule is that if we put this to public comment, then we're effectively ending it, because it's a forced choice because of the situation that we're in. So I'm going to vote for the exception this time, giving the exigent circumstances. I understand and hear the concern associated with minority/women-owned businesses competing for this, and it's probably something that I would take a look at when this came back to the council for the awarding of the contract to see if we lost people, or lost bidders because of that process.

[11:19:22 AM]

But at the same time, I think this is a good test for us to be able to see. We have a lot of people in this -- we have 40,000 jobs available in this community. We have almost 40,000 people looking for jobs in our community. And they're not matching up. We need to do a better job of placing people who live here in the jobs that exist here. One way that we're hoping to do that is to increase internship programs. One

way we're going to hope to do that is having coinvesting or supporting employers or businesses that are willing to recruit or train people that live in our community to take jobs in our community. We don't have much of an opportunity as a city to be able to test this kind of concept, because we can only do it in the situation of properties that we own where we're running a proprietary-kind of business. This, then, becomes an opportunity for me to be able to test this concept and see what we can learn and see. So I'm going to support this motion as an exception in these circumstances for me. Any further discussion? Those in favor, please raise your hand. Those opposed? Ms. Houston, Ms. Gallo, Ms. Troxclair, Mr. Zimmerman voting no. It passes 7-4.

[ Applause ]

>> Mayor.

>> Mayor Adler: Yes.

>> Gallo: Can I just make a statement? I wanted to mention something earlier, things went along quickly. Being that today is primarily a zoning council agenda, I just wanted to take a quick moment to thank our city staff. In the recent weeks, my office staff and I have had many, many meetings regarding a variety of zoning matters. And our city staff has exemplified the professionalism and demonstrated their depth of experience and knowledge on zoning matters.

[11:21:23 AM]

So I just want to say a special thank you to the city transportation department, development services department, and zoning staff, along with the support of the city manager's staff, and really want to thank them for all of their hard work. It's been a pretty intense last couple of weeks. And quite often, the staff doesn't get thanked for the work that goes on with the city councilmembers and their staffs, and I just want to take this opportunity to say thank you.

>> Mayor Adler: Thank you.

>> If I may, thank you, councilmember Gallo, on behalf of the staff. Thank you.

>> Mayor Adler: We're now going to go to item number 4. We have some public speakers on this, item number 4. Mr. Peña has already spoken. John Lopez is not here. Elitha Houston?

>> Thank you. My name is Elitha Houston, and I'm here representing the city of Austin early childhood council. This resolution grew out of a recommendation from our council. In brief, the issue is that people -- low-income parents who have lost their jobs or who have left job training also lose their childcare subsidies that are federally supported. The county has been running a pilot program for the last couple of years to provide 90 days of interim childcare funding for these people while they search for a job. Once they get the job, they are then eligible to go back into the federal childcare system. This program we recommend first of all because it enables people to get jobs and take advantage of the job training that we are providing quite expensively, often. But it also requires the use -- it enables children to be in high-quality early childhood experiences, and to maintain some continuity of early childhood experiences so that they're not being jerked in and out of childcare all of the time.

[11:23:25 AM]

The county program has been very successful. A great majority of people find jobs within the 90-day limit. And the cost of it per child is something like 1630-some dollars for that time period. So, our recommendation, very briefly, is that the city look into providing funding for this program in addition to that provided by the county, because there's a great need out there. And this is a way of attacking poverty on a two-generation basis by enabling parents to work and earn a living while at the same time providing good experiences for their children. I'm -- that's -- in brief, I'm happy to answer any questions if anybody has any.

>> Mayor Adler: Mr. Zimmerman.

>> Yes.

>> Zimmerman: Quick question. I don't know if you know or not, but a couple of weeks ago, we passed about \$40 million of health and human services. Do you know how many of those millions touch on childhood care? Because there is some in there. There's money in there already, in the 40 million that we approved.

>> Oh, yes. The money that specifically -- we do a match to federal funds. The city provides up to the maximum, which is -- I don't have the exact number with me, but -- of matching funds. Those funds follow the same rules at the federal fund, so they cannot be used for this purpose. The other city funds that go into early childhood services are a variety of different funds for quality programs and quality parenting programs as well, but none of them provide for this particular need, which is this sort of -- it's this gap that is formed when somebody either loses a job, or comes out of job training.

>> Zimmerman: This is a follow-on. So, that's exactly the answer I would predict.

[11:25:26 AM]

But -- so would this finally close all the gaps, or could we conceivably have dozens of other gaps, and millions of other dollars demanded by other groups that could come next week, next month?

>> Of course it wouldn't close all of the gaps.

>> Zimmerman, of course. Yeah.

>> There are a lot of people out there. Half of the children in this city live in families with low incomes. Many of them have single parents who are struggling to provide for their families. So there is a huge need in this community. This is a way of -- I think, using our funds very economically to provide a real benefit so that people can do what we'd like for them to do, and that is to support their families.

>> Zimmerman: Mr. Mayor, we have -- I think we have a resolution on compassion coming up. So I'd just like to say on behalf of the tens of thousands of people and family who are paying these subsidies and struggling to survive in this city, I just want to say, they can't be here. And I want to express some compassion for the people that are going to be expected to pay these extra subsidies, because they're also struggling to live in the city.

>> Mayor Adler: Any further discussion? Is there a motion to approve item number 4? Ms. Garza moves, seconded by mayor pro tem. Any further discussion? Those in favor of this item, please raise your hand. Those opposed? Those abstaining? Mr. Zimmerman voting no. Troxclair abstaining. Those voting aye. That gets us to item number 5. Ms. Kitchen, do you want to make a motion? Actually --

>> Kitchen: Yes.

>> Mayor Adler: Before you make your motion, let me go ahead and call the speaker here. Hold on one moment.

>> Kitchen: Could I pass this out?

>> Mayor Adler: Sure.

[11:27:27 AM]

>> Kitchen: I also wanted to let everyone on the dais know that you have a revised version. And the version that you have doesn't show the red lines. So I have a red-line version that I'm passing out right now so that everyone doesn't have to go back and forth and try to figure out what we changed. And at the right time, I'll just say these are in response to the concerns that councilmember Zimmerman raised at the work session. And we were hoping to address his concerns.

>> Mayor Adler: Yes.

>> Mayor, councilmember kitchen, I just wanted to ask. I actually have two revised resolutions without

the red

--lines. Is it B, kitchen B?

>> Kitchen: Yes.

>> Tovo: Okay, thank you.

>> Zimmerman: Mr. Mayor, I have a quick question, too.

>> Mayor Adler: Okay.

>> Zimmerman: For councilmember kitchen. Are these -- the B that is red-lined, and thank you for doing that -- were those red-line changes from what was originally in the backup material?

>> Kitchen: That's right, those are. I can lay it out real quick.

>> Mayor Adler: Go ahead and do that.

>> Kitchen: Okay. So, item number 5 is a resolution to support charter of compassion. And let me just speak to it for a moment. What this is is, this is just simply a statement by the city to encourage all residents to practice compassion. It's not intended to be a statement that we don't as a city. It's simply a recognition of what we already do as a city, and to encourage our residents to continue that action. As I said in the work session, other cities in Texas, including Dallas, Fort Worth, Houston, and San Antonio, have adopted these types of resolutions. Also, in 2013, the U.S. Conference of mayors passed a resolution endorsing the campaign for compassionate communities recognizing compassion as a key component of effective public policy.

[11:29:31 AM]

Also, I'd like to clarify, there's no cost involved to the city. And the city's not obligated to a specific or a particular course of action. It's simply a call to the community. There's also no intention to favor one religion over another. And I want to say to councilmember Zimmerman that I respect the concerns that he raised at work session. And what we did in working with councilmember Houston, we came forward with these revisions to try to address those concerns, to be a religious or to favor any creed over another one. And so we made those kinds of changes, and hopefully that will address the concerns. So -- also, I noticed that at the appropriate time, we can deal with councilmember Zimmerman's amendments. And I would just say that I would -- when I laid this out with the motion, I'll be accepting amendment a, of councilmember Zimmerman. Should I make the motion now?

>> Mayor Adler: Yes.

>> Kitchen: All right. I move passage of the revised resolution, which I passed out, with the addition of the whereas clause that councilmember Zimmerman laid out as amendment a.

>> Mayor Adler: There's been a motion. Is there a second?

>> Kitchen: Yes.

>> Mayor Adler: Ms. Houston seconds. Let's ask for the public speakers. Mr. Peña has already spoken. John Lopez is not here. Susana. Lisa walker.

>> Hello, everyone. I'm Dr. Lisa walker, and I've worked for many years in public health. I was born here in Austin. Because I love had this city, I'm really dedicated to the compassionate Austin movement.

[11:31:36 AM]

I want to thank you for bringing this resolution, to the mayor and for the city councilmember for bringing this resolution forward. I wanted to share with you some unique discoveries about compassion that make it incredibly vital to our community. Compassion research, and the research of the day in science, have shown some something qualities of compassion. It's a unifying principle found throughout the world in world leadership, and in various cultures, traditions, and societies. So it's a unifying principle. And research now shows it's essential to our well-being and meeting community needs. This is

valid research. In addition, it's a skill that can be learned, practiced, and strengthened, and measured. These qualities make it a powerful combination with incredible potential for positive social change and benefit. We have the tools to create a better world. So one quick thing. If we recognize the importance of compassion and work to strengthen our compassion skills, we can best create our future that's sustainable, livable, and healthy, and have well-being in Austin and globally. If we want to be leaders in meeting our community needs, and in being on the cutting edge of transformational social innovation, we must be a city of compassion. One analogy that might bring it home, if you're a conductor of an orchestra, and you know that there was a way to unify your musicians and create magnificent, harmonious music that would be the best the world had ever heard, it would be joy, health, and well-being to many. And you knew practice techniques that the more the musicians practiced, the better the music would be, what would you do?

[11:33:38 AM]

You would set your goal for every musician to recognize the importance of this and to practice as much as possible. It's like this with compassion, and compassion skills. We want everyone in Austin to become a virtuoso of compassion. Thank you very much.

[ Applause ]

>> Mayor Adler: Thank you. The next speaker we have is Sara black.

>> Mayor, city council. I'm against Austin designating itself as a compassionate community because it isn't. I met David duke several years ago. I was in Washington, D.C. With my mother. And he walked down the stairs, and he shook my hand, and he smiled, and he said, you know, hello. And he seemed like a nice guy. And I feel that's what the city of Austin would be doing, the facade of compassion.

[ Clearing throat ] I feel Austin needs to earn it, like it earned the title of most segregated city. All the decisions that the city made to become the most segregated city. If you start undoing those, that would lead you to, maybe, the outside world saying, Austin is a compassionate city. Just like Houston here mentioned, hey, we need the input from the community before we -- I'm going to vote against that, because we need the input. When I emailed the city manager and he responds, that would be more compassionate. When I'm asking for information, so that I can be part of the discussion on different topics, so that I would have the information.

[11:35:41 AM]

When the city withholds that information, and also makes it harder to get information for citizens, that takes us farther away from that compassion. It makes us more of that segregated city, and makes it a place that is hard to live in for some people. So I just feel you can't dance at two weddings. You can't be the most segregated city and a compassionate city at the same time. You have to decide what you want to be. Thank you.

>> Mayor Adler: The next speaker is Amy Litzinger. Amy Litzinger, yes.

>> Hi. My name is Amy Litzinger, and I have a few things to say. First of all, I just want to say that in response to the last speaker, I agree that we aren't perfect, but sometimes labels of encouragement are needed, that we need to encourage people to be more compassionate, and maybe we are labeling that we already are. And the second thing I would like to say is that compassion, in the English language, means that you have passion with people, which isn't necessarily something that a certain religion or religion in general has a monopoly on. You can be compassionate and not have any specific religious beliefs at all. So I would really hope that by calling ourselves a compassionate city, we learn to encourage each other to be more compassionate all the way around.

[ Applause ]

[11:37:41 AM]

>> Mayor Adler: Thank you. Those are all the speakers that we have. Yes, Ms. Gallo.

>> Gallo: I just talked to councilmember kitchen and asked her if she would consider amending her amendment, or her motion. Thank you, that word. Because I think one of the most important things that we're talking about is the first whereas clause, which says compassion is a purpose, principle, and unifying value that guides people to treat all human beings with justice, equity, and respect. And I would really like for that to be included. I think it would be appropriate for it to be included in the first "Be it resolved." So basically, the first one would say, the city council of Austin affirms the charter for compassion, which recognizes that, and then we go back and include the language from the first "Whereas." And my understanding is councilmember kitchen is okay with that friendly amendment to her motion.

>> Mayor Adler: Are you -- just to be clear, in the first "Be it resolved" clause?

>> Gallo: Yes, it would say the city council of Austin here by affirms the charter for compassion, and we would add the language, which recognizes that, and it would be the language under the first whereas clause.

>> Mayor Adler: Instead of the rest of the language?

>> Gallo: No. It would insert that and still continue to include the rest of the language in that first be it resolved. So it's just inserting that first whereas clause after charter for compassion and before and supports the city.

>> Mayor Adler: Is there objection to that amendment being added on the dais? No objection. Then that is added. Continuing on with the main motion. Is there any further discussion? Yes, Ms. Tovo.

>> Tovo: I -- councilmember kitchen, your main motion included amendment a, is that correct?

[11:39:47 AM]

>> Kitchen: Yes.

>> Tovo: Can you -- or can maybe councilmember Zimmerman help me understand? There are some changes. It looks to me like this language, in part, came out of the charter for compassion. The first whereas comes out of the charter for compassion. The second one is a little different. And I'm trying to understand, in particular, the sentence, "One's body is inviolable subject to one's will alone. The spirit of compassion, wisdom, and justice should always prevail over the written or spoken word." I don't actually see that in the charter of compassion. I may be missing it. And I wondered if you could speak to that, or if councilmember Zimmerman could.

>> Kitchen: I'd be happy. Councilmember Zimmerman can discuss why I included it. I don't see any -- I don't have any concern with this language. I think this language is consistent with the purpose of the resolution.

>> Tovo: Sure. Councilmember Zimmerman, you added -- you've proposed amendment a, which councilmember Zimmerman is including in her main amendment. I'm really trying to figure out what it is you're doing here. So the resolution itself affirms the charter of compassion. You are lifting some language from the charter of compassion, and that's in the first whereas. The second whereas includes some similar language, but I don't see that in the charter for compassion. It seems that you're using some language from the charter of compassion and restructuring it. So, in particular, I'm interested in what you see as the meaning of the second sentence -- the second clause in the second whereas.

[11:41:51 AM]

What do you mean by one's body is inviolable, subject to one's own will alone, the spirit of compassion, wisdom, and justice should always prevail over the written or spoken word?

>> Zimmerman: I appreciate the question. Mr. Mayor, this relates, basically, to two. I have several amendments. I had a total of three amendments. So I'd like to be able to deal with those together if I could, if that's okay with councilmember -- with the mayor pro tem, if I could deal with all three of them together when we get there.

>> Tovo: I think we're already there, though.

>> Mayor Adler: The first one has already been incorporated into the motion.

>> Zimmerman: I can speak to the first one when we get to the next two.

>> Tovo: I'll yield to the mayor. But if councilmember Zimmerman wants to explain that in the context of his two other amendments, then that may -- and then we can always come back. At this point, we would have to make an amendment to strike out that language, which I might do.

>> Zimmerman: Let's proceed, if we could.

>> Tovo: Once I understand where you're going with it, because I am interested to know why you've used some of the language from the charter of compassion, and then used it again in a different format. Something is going on, I just haven't figured it out yet.

>> Mayor Adler: That would be an appropriate segue to entertain your amendments.

>> Zimmerman: Good.

>> Mayor Adler: Ms. Troxclair?

>> Troxclair: I think I may have missed him, but I just got a note there was a boy scout in the audience working on his badge for community involvement, Andrew freedman from district 8. He may have already stepped out. I'm sorry I wasn't able to recognize you earlier, but, thank you for your involvement, and thank you for being here today.

>> Mayor Adler: And make sure you vote. Since councilmember Gallo's not here. Mr. Zimmerman, do you want to make a motion for an amendment to discuss them?

>> Zimmerman: I do. I would like to move together -- I handed out earlier amendments B and C. And I'd like to move passage of those.

[11:43:54 AM]

And I'd appreciate a second so we could discuss them briefly. And I want to put up on the overhead the charter for compassion so I can relate it.

>> Mayor Adler: Is there a second to the motion to add paragraphs -- amendments B and C? Ms. Troxclair makes that second.

>> Zimmerman: Thank you, Mr. Mayor. Let me put this up on the overhead quickly.

>> Zimmerman: Okay. So on Wednesday, I went back and reviewed what we had discussed. So I highlighted here, it says we acknowledge -- this is the charter for compassion, it's in the backup material. It says, we acknowledge that we have failed to live compassionately, and that some of it increased the sum of human misery in the name of religion. This is part of why I had that lengthy discussion on Tuesday. In fact, the charter for compassion is like a confessional. If you go to a church, they say, we sinned against you. It's kind of a confessional. There's a religious, confessional aspect to this. This makes the accusation to our neighborhood that we've increased the sum of human misery in the name of religion. So to be fair here, I would rather be talking about traffic congestion, but we're not doing that today, we're doing religion, so. Let me talk quickly about the two resolutions here. One of them, B, if we could put -- do you have a copy of resolution B? Let's put that up.

>> Mayor Adler: This is amendment B.

>> Zimmerman: Amendment B here. And it's in addition to the whereas clause, whereas Jesus of nazareth recorded in the new testament as saying, the scriptures say, you must worship the lord your

god, and serve him only.

[11:46:05 AM]

So that's the content of that one. You've already struck "Serve the Earth." So maybe this one -- because I didn't know you were going to have that one in there.

>> Kitchen: Yeah.

>> Zimmerman: Let me just talk to the first one quickly.

>> Mayor Adler: So, is the amendment now just really amendment B?

>> Zimmerman: Well, I think they're going to lose together, so let's consider them together. Why don't we do that. Let's just consider them together. So. And now I want to get to mayor pro tem's point, your question, sorry. As to -- I think it's obvious where amendment B is coming from. But if you could please put up on the overhead my source for the language that was so very nearly identical that it was accepted. Yeah, that one. Put that one up. So, those three sentences that I added came from the satanic temple website. And most of my constituents in district 6 believe in Jesus, that he's the resurrected messiah, and he's their savior. But I probably do have a handful of satanists, I would guess, in an area of 80,000 people. I should expect to have one or two constituents that agree with this religion. I don't think that's unreasonable. So, I was kind of dumbfounded when we looked through this that we found language that was so very identical to the charter of compassion language, and it's on a satanic website. That's why I put that up. On the flip side, the majority of my constituents believe, I think, in Jesus of nazareth. So that's what the second resolution was for. So I just wanted to see what the will of the council was, and what they were willing to accept. And after this next vote, I think I'll have my answer.

[11:48:08 AM]

>> Kitchen: Could I speak for a moment, Mr. Mayor?

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: With all due respect, councilmember Zimmerman, I can't accept amendment B and C because they're introducing a religious element into this. This is not a resolution that is speaking to any particular religion. That's not the purpose of it. As councilmember Gallo pointed out, the purpose is speaking to compassion. So, I certainly respected and understood that you were viewing certain words as religious, though those were not intended to be. And so we made revisions to take them out. So, I cannot accept amendments that now introduce back into the resolution a religious perspective. And that's why I cannot accept amendments B and C.

>> Zimmerman: Okay. Mr. Mayor, could I respond to that? I pointed out that the three sentences that came from a religious, satanist website, were included without objection because they're so very nearly the same as what the compassion -- the charter for compassion already has. So those are accepted, under the excuse that they're not religious. But they are religious. I think you would insult my satanist constituents, they say their religion and a religion, and that was accepted, so I can't understand why the biblical reference can't be accepted.

>> Mayor Adler: Ms. Pool.

>> Pool: Mayor, I was planning to ask the same questions that the mayor pro tem was teeing up, that second whereas that is in the Zimmerman amendment a strikes me as having some additional meaning, so that I am extremely uncomfortable with, even just on reading it without having it then pointed out to me, where it was sourced. My preference is simply to pass the kitchen resolution with only the changes that she has made to it.

[11:50:12 AM]



If it is this dais' decision to add anything that Mr. Zimmerman has offered, I would only support -- and that would be with serious reservations -- the very first whereas that he has offered up in his amendment a. But I am adamantly opposed to the second whereas on amendment a. I think the initiator of the resolution, and I as one of the cosponsors support her, has will not accept the other two amendments Mr. Zimmerman has added. And I would also just say that this really flies in the face of what the resolution is intending to be about. And I am very -- I'm really put off by Mr. Zimmerman's amendments, all three of them.

>> Mayor Adler: Is there a motion to move from the motion on the floor, the two whereas clauses that were added?

>> Tovo: Well, I'm prepared to make that motion at the appropriate time, but I think first we need to vote on the amendments that councilmember Zimmerman proposed.

>> Mayor Adler: I think that's true. So, what's before us now is amendments B and C. Any further discussion? Those in favor of amendments B and C, please raise your hand. Those opposed? Zimmerman voting aye.

>> Mayor Adler: I'm sorry? Troxclair is off the dais. The balance of the dais voting aye. Voting no. So the vote is 1-9-1. Is there a motion to strike the two whereas clauses that were added? Mayor pro tem moves, Ms. Pool seconds.

>> Tovo: I'll say, the first whereas -- as I'm seeing it and I'm reading it over pretty carefully again -- I mean, it is a clause that's lifted directly from the charter for compassion. I wouldn't -- again -- I want to be sure of that.

[11:52:16 AM]

I don't have any real issue with that first one, though I wouldn't mind if one of my colleagues just double checks that since I don't have my glasses on.

>> Zimmerman: If I could speak to that quickly, they are very close.

>> Tovo: I'm still talking. Let me say, I don't see the need for it, since the resolution itself is affirming the charter of compassion, but lifting out this one passage from the charter of compassion and putting it in there doesn't seem to do any harm, but I am certainly going to make the motion to strike out the second whereas.

>> Mayor Adler: Hang on a second. Mr. Zimmerman, how does that first one differ from what was in the compassion?

>> Zimmerman: That's what I was struggling to find out. I mean, the charter for compassion says that it's not religious, but a satanic religion looks so close.

>> Mayor Adler: Is the language in the first paragraph the same as the language in the charter of compassion?

>> Tovo: I think it is identical.

>> Zimmerman: The version I got from the backup material was identical. Unless it's been changed somewhere.

>> Mayor Adler: I understand. Thank you.

>> Zimmerman: It was identical.

>> Mayor Adler: So the mayor pro tem moves to take out the second whereas clause that was added.

>> Pool: I second.

>> Mayor Adler: Seconded by Ms. Pool. Is there any discussion?

>> Kitchen: That may not be necessary. I'm the person that put it forward with that in there. I can just revise my motion.

>> Mayor Adler: You actually can't. Once it's been seconded, it belongs to the dais at that point. Ms.

Houston.

>> Houston: Well, I just have a quick question, is where did the second whereas come from?

>> Zimmerman: That was what we just put up. It came from the satanic temple website. It's one of their core beliefs. It's verbatim their core beliefs.

>> Houston: Okay. So could we ask Dr. -- I'm sorry. Liz walker to come up and address that for us? Because --

>> Kitchen: Yes. And, you know, councilmember Zimmerman, if I just read this language, it doesn't speak to satanic culture. I mean, you may think that it looks like that, but I don't think that's what it's meant to be.

[11:54:23 AM]

>> Mayor Adler: Here's my concern. My concern is that we're spending one, a lot of time on this. And it's before us. While I could read this and maybe have no objections to any of the language now that it's been sourced, since this is symbolic and -- I just don't want to allow a meme that says that we had an amendment that the author sourced back to a satanic website, just because I think it will cloud the overall message of the symbolic measure that we are trying to pass. So I'm supportive of the mayor pro tem's motion to take out the second paragraph, just because. Is there any further discussion about taking that out? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I am going to be voting to take that out because I do have -- I'm virtually certain I have a few constituents that are, you know, satanist worshipers, but I just can't go with them on this one, and I'm going to ask to have this struck out. So I can't represent everybody. I can't go with the devil on this.

>> Mayor Adler: I am so excited that this motion on compassion is already leading us to compassion, and near unanimous votes on the dais. It's already doing its job. Those in favor of striking this paragraph, please raise your hand. Those opposed? It's all in favor with Ms. Troxclair off the dais. We're now back to the main motion, as amended, with Ms. Kitchen's amendments, and the first paragraph that was added. Any further discussion? Seeing none, those in favor, please raise your hand. Those opposed? Mr. Zimmerman votes no. Troxclair off the dais. The others voting aye. Let's go to our next item on the agenda, which is -- well. This is item number 6, but I'm going to hold that off. Item number 6 is what we've discussed. It's the public discussion is issue, but we had talked about holding that off until we had the menu list of things that we had.

[11:56:29 AM]

I'm going to hold this in case we have time and we want to discuss is later. But as we discussed on Tuesday, we're going to flesh it out before we finally act on it.

>> Tovo: Mayor, item

>> Tovo: mayor, item 7, it looks like we have two speakers, I'm not sure that a councilmember pulled it so it may be that we can get through it before 12:00.

>> Mayor Adler: Let's do that. It was actually outside of the consent area, both 7 and 8, so let's look at number 7. Mr. Lopez is not here. Mr. King, do you want to speak to item 7?

>> Yes, real briefly.

>> Mayor Adler: Okay.

>> Thank you, mayor, mayor pro tem, councilmembers. I think this is a good resolution. Needs to be approved. But I just wonder about the stakeholder process that the manager is being asked to -- or that would come along with this resolution. And want to go make sure that city manager includes a stakeholder process in developing the recommendations on the transit priority policies. So I don't see

that specifically stated, that the manager is going to come back with recommendations, but it doesn't explicitly state that would be done through a stakeholder process and I think it's born that we go through -- important that we go through a stakeholder process on this and ensure that neighborhoods are part of that stakeholder process. And I think that focus should be on funding new sidewalks, bicycle lanes, trails and transit corridors such as the south Lamar transit corridor. That's important to our neighborhoods. And that they're equitably distributed through our city, that they're not focused all in one area or a particular area of the city but that it's done equitably. So I think that needs to come -- be part of the recommendations, how are those funds going to be discredited distributed through our community. Some areas of our community have been ignored and way behind the curve on these needs so we need to factor that into the priorities, how we're going to set the priorities for where these monies are spent.

[11:58:37 AM]

And I want to make sure that neighborhood are included in the process of determining where the sidewalks would be built and the bicycle lanes and the trails in their neighborhoods and then put one last plug in for please no funding for more highways, let's focus on funding sidewalks, trails, and bicycle lanes in our corridors that really serve our neighborhoods. Thank you very much.

>> Mayor Adler: Thank you. Is there a motion to approve item number seven?

>> Kitchen: I so move.

>> Mayor Adler: Is there a second? Councilmember moves. Councilmember pool seconds. Is there any discussion? Yes, Ms. Gallo.

>> Gallo: Mayor, at the work session I asked to be a cosponsor so I wanted to make sure the minutes reflected that.

>> Mayor Adler: Ms. Gallo is a cosponsor. Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, I'm going to abstain from this vote. I think I've done this before, over objection to the second whereas clause, it says no single fix will address our mobility challenges, and that's basically been the language in the city for, I don't know, 30 years as an excuse to never build a single loop around the city.

>> Mayor Adler: Let's see if there's a second. There's been a motion to strike the --

>> Zimmerman: I would like to strike it, yes.

>> Mayor Adler: There's been a motion to strike the second.

>> Kitchen: Actually I thought he said he was not going to vote on it.

>> Zimmerman: I would like to strike it -- billion I'm not going to get a second so I'll just vote against because this doesn't -- the resolution is not going to address the problem because we're back in this pattern of never acknowledging that we are decades behind on expanding our highway system. So we have a single pressing need to relieve traffic congestion and this resolution points us in the opposite direction, says no we don't have a pressing need, we need bicycle, empty busses and trains to nowhere and we've been doing this 30 years.

[12:00:41 PM]

I think I'll vote against this whole thing.

>> Mayor Adler: Ms. Houston.

>> Houston: In the final be it resolved it talks about stakeholder groups. I'm just concerned it will be the usual suspect of stakeholder groups and it won't be any broader defined, the ones listed under the be it further resolved section 4a, B, C. Is there any way we can include people who actually ride the bus or -- so that there are more people who use systems to participate rather than advocacy groups or groups

that have been crafted to be specific about bicycles and sidewalks. There are other people out there that don't get input. So if we could think about expanding that, I would appreciate it.

>> Mayor Adler: I think it's a good point, we need it to be all-inclusive. I read sections 4a-f not to identify or limit the groups. It's more those are plans that we need to make reference to, but I still think that councilmember Houston's point is well made and well-taken and we need to include everybody in this conversation, especially those that use transit. Any further discussion on this item? It's been moved and seconded. Those in favor of item number 7, please raise your hand. Those opposed. Mr. Zimmerman voting no, Ms. Troxclair off the dais, others voting aye. That's item 7. That gets us to noon. Let's go ahead and get the citizens communication. We have several items identified after that for executive session as posted on the board. We will only be bringing up item 24, which is the bio mass plant. So let's go with citizens communication. The first speaker that we have is raved in a letter Olenick -- rey nadler-olenick.

[12:02:55 PM]

>> The March 31 city council meeting opened with a tribute to the late Mary gay maxwell, long-time environmental board chair who passed away last month. I knew Dr. Maxwell years ago through her work on the board, but only recently I ran into her at the post office. Her first words to me were, are you still fighting for

[indiscernible]? And when I said I was, she said good. Keep it up. Someone needs to. Now a little history. In 2009, after many months of fruitless advocacy before the then city council, we took our case to the environmental board. Dr. Maxwell at that time was completely open-minded. The idea of fluoridation or fluoride as an environmental issue had not occurred to her, but she was willing to listen and learn and for four consecutive meetings in the summer of 2009 we appeared before the board bring our own highly qualified experts including a dentist and ph.d. Chemistry. Our -- chemist. Our efforts culminated on August 19 in a unanimous recommendation to city council to appoint an independent task force, including but not limited to city personally to study -- personnel to study the impact of Austin's water fluoridation program. The recommendation was never relayed to council. Instead assistant city manager sidetracked it and commissioned a hasty all internal white wash report composed of cut and paste fluoridation endorsements from the CDC and Austin water utility plus some original material from watershed. The sham report was then released in November, not to the environmental board but via "The Austin chronicle." Mary gay maxwell, a gracious lady, as we know, was outraged by this affront to her hard working board and when the city's designated fluoride -- Jane and Philip Wong showed up at the December 2009 environmental board meeting to promote their Slaby document, she let them know in no uncertain terms you have not answered our questions.

[12:05:24 PM]

The board then voted for a second time to call for a truly independent task force to study fluoridation in Austin. That second resolution was ignored entirely up to this day. I think addressing the still unresolved issue of an honest look at fluoridation outside of the city's bureaucratic echo chamber would be a perfect way for this all-new council to honor her memory. And now let's hear what she had to say.

>> Mayor Adler: Okay. Next speaker we have, hang on one second, this is Walt Olenick.

>> Yes, sir. Just play that clip. Hear from Mary maxwell herself.

[Video playing]

>> That was the first question you had is a question for me and we [indiscernible] This form of fluoride and then

[indiscernible] We requested that there be a study conducted by -- that would be outside actually, not --

may involve some city staff and some city departments but also outside scientific experts who could give us some, you know, clear information and to this -- at this moment we have not received any response to our request and to our recommendation, which we forwarded to council.

[12:07:41 PM]

So I have some questions too and I just wanted to agree with Mr. [Indiscernible] In the sense that we didn't have this report from staff in a timely fashion. I have -- I have -- I'm going to just quickly sit here right now. Another unanswered question is that -- actually, the American dental association had changed their position regarding filtering [indiscernible] That happened in 2006 and that hasn't been mentioned. They have cautioned the use of water that has fluoride in it in the [indiscernible]. That is another -- seems like that's another unanswered question for me. It looks also, from the report, as I read it, that there is agreement among staff that there's potential for problems at higher levels, fluoride use at higher levels. It seems that [indiscernible] Watershed protection staff have mentioned that intention that they don't think it's a problem now. They haven't had any evidence of that but [indiscernible]. There's also an agreement it seems from what I've read that topical application works to prevent decay but systemic application doesn't necessarily prevent tooth decay. These are all unanswered questions that came up when we had this discussion in the summer.

[Indiscernible] My last point is that -- those are my unanswered questions.

[ Buzzer sounding ]

[12:09:44 PM]

>> Thank you.

>> Mayor Adler: Next speaker we have --

>> Zimmerman: Mr. Mayor, can I make a remark before he goes very quickly.

>> Mayor Adler: Okay.

>> Zimmerman: So I'm glad that we had that public utility commission meeting on fluoridation. I thought it was very interesting and I thought it was worth the time, just to let you know, one of the fallout pieces from that is now it takes two members of council to get something on the agenda. So I can't do it again.

>> Mayor Adler: All right. The next item that Bev -- next speaker we have is Michael Fossum and then Linda Greene.

>> Good afternoon, councilmembers, my any meetings in may is Michael Fossum, I live in south Austin I'm here to talk about the coyote management program. You have a copy of my slides and any emails referenced there on. At the public safety committee meeting on March 28 animal services officer stated Texas wildlife services frequently catches domestic animals in their traps and released them as they are not hurt. Then responding to councilmember Zimmerman's questions as to who reported this, the officer responded A.P.D. Police department. This is false. A.p.d. Did not report this animal officer April Moore did per her email. Furthermore, the officer knew that as her email shows. The allegation that Texas wildlife catches and releases domestic animals is also false as per statements by Mr. Hunt, boson chuck and their report to the commissioners court. You represent the city of Austin. How can you make effective public policy -- you are the board of directors of the city council. How long are you going to tolerate unethical behavior and misinformation. I'm a taxpayer and this change in coyote management is fiscally irresponsible. Our partnership with Travis county cost us \$10,000 a year for a scientifically based program.

[12:11:48 PM]

Instead we've task two animal control officers to coyote management that costs \$306,000 per year. This is 31 times the cost of our Travis county partnership for humane society of the u.s.-based program that is a failure wherever it is tried. The officer has given no details of how an aggressive coyote will be removed but emails tell us that aggressive coyotes will be tranquilized and relocated. The officer informed residents in that area of relocation of an aggressive animal? Is this a humane policy? To give us insight into this in studies 12 coyotes were tranquilized and relocated. All 12 headed home and within 48 hours and most of these were then run over by cars or shot by hunters. The removal program will still relocate coyotes with the understanding that it will likely result in death of that individual because relocation is more palatable to general public than euthanasia. So it's more humane to trap and -- or to tranquilize and relocate those coyotes so they can then be run over by cars or shot by hunt centers what's the not all this? Well, I have a couple questions. I request that you take action to restore our joint coyote management program with Travis county to protect the safety of Austin's citizens and their about I would ask you remember these points during the up coming budget process and officer Hammond will most likely tell you her management program is a great success and 311 calls are going down and by the way there's no need to fund the \$10,000 program for tws and she's wasting resources by asking for ten animal control officers when she's already diverted two to other duties. Thank you very much.

[ Buzzer sounding ]

[ Applause ]

>> Tovo: Mayor?

>> Mayor Adler: Yes.

>> Tovo: I know we've had a vigorous conversation about this issue, and I think it's certainly fair to come to citizens communications and express your displeasure, disagreement with policies that the city has enacted and actions that our staff have taken but I really want to encourage our speakers not to make personal attacks against our city staff.

[12:14:02 PM]

We have city staff who work very hard. They are public servants. You may disagree with them, but it just really -- I just want to does our speakers to not use their three minutes in citizens communications to make allegations like people are lying and doing other things. I hope that we can continue to have disagreements about policy and other matters without personal attacks on staff who are not here to defend themselves.

>> Mayor Adler: Points are well-taken. Thank you. Next speaker we have is Linda Greene.

>> Good day, mayor, city council. I'm going to postpone my talk on approaching zero waste and also refer to Mary gay maxwell who wanted to know the truth about fluoride in our water, the [indiscernible] Added to our water. You've been given house that include copies of both the environmental board's recommendations in August and December of 2009 plus a DVD of the December 2, 2009, environmental board meeting, a copy of the city's fluoridation report will be delivered to your office later today or tomorrow. We still affirm that this fluoride that's add to our water is a byproduct of the big August gra business, toxic, not your natural calcium fluoride and we'd like Mary gay maxwell to speak again [video playing] My concern about all of this [indiscernible] We had an opportunity in the summer to have a [indiscernible] Discussion. We had a lot of input from citizens.

[12:16:04 PM]

We had some concerns as a board. We asked for an independent study that would be based in science.

We asked that from the council. The city staff was directed by the city manager to do a study within the departments of the city. No mention was ever made that the environmental board had made this request. The dots were not connected. That puts us in a very awkward position. And we knew nothing about this report until Mr. Eckhardt actually heard that this was happening rather informally. That gives -- that puts our board in a difficult position, and I just want people to understand that. We were trying to do something that didn't need to get escalated to the point where we are now. This could have been avoided. And I want that to be in the record because that's the thing that gets to me the most. Is we did not have to have it come to this level of escalation at this point, and it didn't have come back to our board at our board's request, [indiscernible] Responded to in any way, shape or form. So I'm just registering my extreme displeasure at this outworking of this effort that we made in all honest and in goodwill we were not given anything that was

[indiscernible]

[ Buzzer sounding ]

>> Mayor Adler: I think that's time.

[12:18:04 PM]

Thank you.

>> Thank you, sir.

>> Mayor Adler: Next speaker we have is Cynthia Valadez. Is she here? That concludes citizens communication. Councilmembers, we're on the dais, but we have left in front of us that we can do before 4:00 are items number 19 and 20.

>> Pool: Mayor?

>> Mayor Adler: If weigh want to do those before we break for executive session, we can do that and then go into executive session and just come back at 4:00 without having to come back to the dais.

>> Pool: Councilmember kitchen asked me if we could delay for her return -- to take the break after citizens communication and then take up the additional items so that she could be here for --

>> Mayor Adler: That would be fine. That would be the other way to do it, which would be fine with me as well, break now, do executive session, and then come back at 4:00 or a few minutes before 4:00 if we wanted to. Hi. We're going to give you a chance to speak. Before you speak, though, while we're right here, what do we want to do on the agenda? So let's do executive session and then come back and the question is do we come back at 4:00? We have three items that are set at 4:00. The annexation item, land development code, Zucker report recommendation and the garage placement issue. Then we have two other issues, the porta zoning matter and San Antonio case on items number 19 and 20, which are those two items. We have -- let me look at speakers. We have no one signed up for 19. We do have five people here to speak to item number 20. We could take their testimony before we broke when they were here or we could just call that item back.

[12:20:09 PM]

Maybe we could have them come back later this afternoon when we reconvene. Anyone have any preferences?

>> Casar: So is the idea that we would get food in the executive session and come back and take up those two items and break until 4:00?

>> Mayor Adler: I think Ms. Kitchen wanted to be here so the only question we have, we have people here who signed up. The applicant is here, probably wants to be here for the issue itself. Ted [indiscernible], when I looked at that. Do you want to speak now or come back after the break when we speak on this issue at 4:00?

>> [Off mic]

>> Mayor Adler: My sense is we're not going to decide now because we're going to hold it until Ms. Kitchen can be here. Do you want to come back is this.

>> Kitchen: Do we know when Ms. Kitchen will be back?

>> Mayor Adler: Don't know. My guess is she was probably focused on the 4:00 when we would be reconvening. That would be my assumption. Let's do this then.

>> Gallo: I was going to say unfortunately I have to attend a funeral of an infant child this afternoon so I don't know -- it's at 3:30 in oak hill so I'm not sure I will be back for 4:00 so my preference would be if Ms. Kitchen gets back and there's items that we can take up before 4:00, if we could do that after executive session and we come back. But certainly understanding her wanting to be here.

>> Mayor Adler: Okay. Let's do this. We'll try to reach Ann in the meantime and we'll come back out to the dais after executive session. We're going to hear from Cynthia now, Ms. Valadez now. We're going to break for executive session and then we'll see if we can reach Ann but at this point we'll plan oncoming back out at 1:30.

>> Tovo: Mayor, I don't know that we've done item 8.

>> Mayor Adler: You're correct.

>> Tovo: That may be something else we can do before we break.

>> Mayor Adler: Okay. We have three citizens signed up for that. We might be able to knock that out. Ms. Valadez, do you want to speak?

>> I apologize for my lateness.

[12:22:09 PM]

My name is Cynthia Valadez, here representing the Latin American citizens, district 7. I'm currently their deputy district director for women and one of the things we have done in lulac historically participate in the budget process and recommend items for consideration, not only you as a new city council representing our various neighborhoods and cultures and demographic but also the previous city council. And it was under the previous city council and previous budget process that this original concept of the office of equity -- it was going to be an equity officer under the then office of diversity was originally recommended by the Latino hispanic quality of life that was chaired by frank Rodriguez at the time and included original members since as D [indiscernible], Martha [indiscernible], Sal Renteria, Diego

[indiscernible] And they were very, very courageous to have recommended this during that time when we really weren't looking at equity as being a lens that would be utilized to look at how the city of Austin employees and departments are made up and how the funding resources are allocated to -- to repair and resolve issues that existed within the city. It was subsequently brought up again under the second or later Latino quality of life commission chaired now by Joe Rodriguez and including Dr. [Indiscernible] Still,

[indiscernible] -- Oh, my god, Rios and others of course, including -- still including Dr. [Indiscernible] And they made their case to our city manager and to y'all to include this for funding in this last budget process.

[12:24:22 PM]

We thank you and we for are grateful for your vision and your forward thinking in doing so. However, what we want to make sure that happens is that we have the office of equity and the equity officer and their staff, whoever they may include, really look at equity through a lens that is reflective of -- or takes into consideration the actual makeup of our city of Austin, its inclusion diverse culture community,



various cultures, language speaking groups, ethnicities, gender, age. We want to look at all of that and make sure that whatever happens there is looked through the actual demographic --

[ buzzer sounding ]

-- Lens. It requires four things. It must be data driven and evidence-based. There must be community focus and residents need to be included and completely engaged. We must use a racial cultural lens and recommendations must be incorporated and operationalized into the city's structure and system, especially in this budget, policies, employment. Just like we have a fiscal note for --

>> Mayor Adler: You need to --

>> -- Revenues we ask that you use equity input note -- impact note and see how y'all spend your money and how your staff is reflective of our communities. Thank you very much.

>> Mayor Adler: Thank you. That ends citizens communication. Ms. Kitchen is back at 1:30 so we're going to be able to go back into executive session and then come back out so that we can handle the items that were set to come before 4:00. We do have item 8, which is the parkland events task force issue. There were three people that -- there's David king --

[12:26:25 PM]

>> [Off mic]

>> Mayor Adler: Okay. Is there a motion with respect to item number 8? Ms. Pool moves passage of number 8. Is there a second to that? Mayor pro tem seconds that. Any discussion on item number 8? Those in favor of item 8, please raise your hand. Those opposed? It's all in favor with troxclair and kitchen off the dais so number 8 is handled. We're going to break now for executive session. It is 12:26 lets reconvene back here at 1:30. We'll entertain items 19 and 20. Then we'll break until 4:00 for the last three items.

>> Gallo: Mayor, it may be that the garage placement is being postponed. Could we verify that because I think it would be good to let the community know if that's true.

>> Mayor Adler: Is there -- do we have the folks here on the garage item? The garage placement item.

>> Tovo: Mayor or councilmembers, is that a request from staff?

>> Gallo: I think so. I think it was because an impact -- my understanding is that there was -- the impact analysis was not included. I'm just saying I'm not positive, but that I'm hearing that it might be postponed, that if it is, if there is a staff request for that, it --

>> Mayor Adler: I don't think we know that now. Maybe we can get that information before we come back at 1:30.

>> Gallo: Just to let the public know.

>> Houston: What we going to do about six.

>> Mayor Adler: We're going to come back and discuss number 6. Any further -- let's go back to executive session. Back out at 1:30. As close to it as we can.

[Executive session] That regard -- government code city council will discuss legal issues related to item 24, which is the city's contract with nacogdoches power, 23 and 28 have been withdrawn.

[12:28:41 PM]

Without objection we'll now go into executive session.

[1:36:54 PM]

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>> Mayor Adler: All right. We have everyone on the dais back in. We are back in from executive session.

Where we discussed -- in closed session we discussed item number 24, I think it was. Let me just -- yes, it was item 24, the biomass matter. We're now back in session.

[1:38:56 PM]

We have a quorum maintained. Those were discussing by the way legal matters related to that item. We're now back to our agenda. We have three items set at 4:00 P.M. We have three items that we have yet to deal with. Let's bring up -- and see what we're going to do with item number -- item number 6. This was the public comment. , Mr. Where are we on this item?

>> Casar: I'll move that we go ahead and pass it and I know that the mayor pro tem had suggested during work session that she may have an amendment.

>> Mayor Adler: Okay. And I think there was a proposal that you made during executive session. So what is the -- what is the -- work session, rather. Work session.

>> Tovo: And so my amendment -- and I'm happy to accept editing changes if someone can word this more smoothly, but, in any case, the line would be as follows, in the circumstance that a large number of people sign up to speak on the same item, agenda item, council will likely limit the amount of time afforded each speaker as

follows: First 20 speakers will receive three minutes each. The next 30 speakers will receive -- or, no, I'm sorry, the next speakers will receive one minute each.

>> Mayor Adler: Okay.

>> Tovo: And then the understanding would be that that would be allocated fairly among the sides that are pro, con, neutral.

>> Mayor Adler: Okay.

>> Tovo: In a representative matter, not necessarily an even matter, if we have a lot of people sign up neutral.

>> Mayor Adler: Okay.

>> Houston: May I ask a question of mayor pro tem?

[1:41:00 PM]

>> Mayor Adler: Yes.

>> Houston: We go from three minutes to one minute, not three, two, one, just three to one?

>> Tovo: I thought in thees -- ease of simplicity -- if you want that number to be --

>> Houston: I wanted just to be clear.

>> Tovo: Right now it's 20 speakers three minutes, all the rest one minute.

>> Mayor Adler: Is there a second to that change? Mr. Casar seconds that. Pool.

>> Tovo: But I could play it round or flat. If you'd like me to come up with another tier for two minutes.

>> Houston: No. It's just the issue that as we know on the dais it's awful hard to say anything in a minute. When we had to do that on the campaign trail, but it -- that was pretty much it. It's really hard to say anything in a minute.

>> Mayor Adler: My sense is -- I'll support that. I think it's a good balance between giving -- at that point it would be 50 people that would get a chance to speak. I want people to be able to speak when they come down. I also want us to be able to have some measure of control on time so that we're not losing people by attrition because they can't wait. And we're doing this in an iterative way and trying to learn and try things as we go, and I will support trying that and see how that goes. I think councilmember pool --

>> Tovo: I have a clarification.

>> Mayor Adler: Okay.

>> Tovo: Mayor, I think when I read it the first time I did say 20 and then I had some other number. But I landed on language that says the first 20 speakers will receive three minutes each. The remaining speakers, no number specified, will receive one minute each. I just wanted to offer that clarification because you had added them to 50, which it was originally but it's no longer.

>> Mayor Adler: Mr. Casar.

>> Casar: I think the clarifying point being if there was a full hearing of 90 minutes of public comments, that would add up to 20 people speaking at three minutes so that first hour would be run as a whole hour and then we have 30 minutes left and so the remaining 30 people would speak one minute.

[1:43:10 PM]

That's why you would have 50 people speaking total under our standard rules, which of course under the ordinance language we can change by a vote.

>> Mayor Adler: Ms. Pool.

>> Pool: The reason I like that amendment from the mayor pro tem is that it does allow for a larger number of people to come and speak to us. It may be they have to be pretty darn succinct but we would hear from a goodly number more than if we were to scale it back by two minutes and one minute. And I wanted to err on the side of allowing more people to come and address us if that's what they want to do.

>> Mayor Adler: Okay. Further discussion on the mayor pro tem's amendment? Ms. Houston.

>> Houston: And so if 150 people show up and we go through the procedure you just outlined and there's still people who want to speak and -- I suspect we would go through the same motion, somebody would second that we extend the time and the speakers who would then have one minute each, according to the rule. Depending upon what time it is. It's very possible that we will be stopping people from speaking because we won't get a second to the motion or we won't get an affirmative vote. I just want us to be clear about the fact that we also may be shutting down people who do come to speak who don't get into the first and second tier. Joint yes, mayor pro tem --

>> Mayor Adler: Yes, mayor pro tem.

>> Tovo: I think that's a real serious consideration and I want -- I know that we had talked in the work session on Tuesday about the way that this amendment would tag on to the 90 minutes. And I think it is -- in this case it would be the 90 minutes that limits the speakers, not this one, because this really does say the first 20 are the only ones who get three but the remaining speakers will get one minute.

[1:45:12 PM]

So in the scenario you've addressed I would -- I believe the question before council would be do we want to go beyond 90 to accommodate everybody else, at least give them one minute up to those 120. And, you know, because I did see a comment this week that this measure that I'm attempt to go limit public speakers, I just want to be really clear, I am probably, you know, 98% likely over the course of time to vote against limiting speakers. I think we ought to listen to as many people as want to come down and talk. This is just a measure to try to strike a compromise between what I'm hearing about an interest in limiting public comment when we need to to try to make our meetings shorter. And so I also believe that councilmember Casar's ordinance change in imitation with this -- in combination with this amendment continues to allow us the flexibility to wave that and I think in a circumstance where we have a lot of people who have come down to speak, I want to hear from them. We just may -- I think it's important to give them -- to signal to them that they may have their time limited because people do practice their three everminute speech and probably want a plan B if they know it's an item that are going to be very popular and a lot of people want to talk about it, they might think about their three-

minute speech but also how to cut it back if they end up in the one-minute category so this signals to themes that an expectation they should be aware of.

>> Mayor Adler: Anybody else.

>> Renteria: I wanted to ask another question. Excuse me. What if there are just less than 30 people? Are we still gonna -- it's under 90 minutes so are we going to allow them to speak three minutes each or are they just going to go to the second -- first, second, third tier?

>> Mayor Adler: My preference would be to just -- to let us decide that at the time. We could look at the sign-up sheet. It might depend on what the time of day is.

[1:47:14 PM]

It might depend on whether there are five more items to get and it's 8:30. I I just think that it -- rather than trying to anticipate each situation, I think we have kind of two rules that for me I'm comfortable varying that at the time given whatever the situation is.

>> Tovo: Mayor? If I may, though, I think if there were fewer than 30 people they would all get three minutes because neither one of these rules speaks to items for which there are 30 -- fewer than 30. If we have 20 people speak they don't trigger this expectation and they wouldn't hit 90 minutes.

>> Mayor Adler: I understand that.

>> Tovo: I think they'd all speak three minutes.

>> Mayor Adler: I'd be fine with that. Understanding. Yes?

>> Pool: Just to reiterate, I think a comment I made at work session, for those people who would choose not to speak for whatever reason, even if we were to extend it, I'd like to ensure and make sure the public knows that we would read all their names into the record and what their position is at the time that we decided to end the public input portion of whatever hearing was. And I think that's our practice now.

>> Mayor Adler: And that's a point well-taken because I don't always call up the people who have indicated that they don't want to vote, and I should -- and I'll take help remembering to do that. But I should also read that into the record just on a routine basis when there are just eight people who have signed up. Any other further discussion on this? It's been moved and seconded with this amendment to pass on second and third reading. Those in favor please raise your hand.

>> Mr. Mayor?

>> Mayor Adler: Yes.

>> John steiner, law department. I really have no idea what you're passing.

[ Laughter ]

>> Mayor Adler: Okay.

>> I sort of need to make sure we know what to write down in the ordinance for you to sign.

>> Mayor Adler: That would be good. So it's Mr. Casar's ordinance with the language addition from the mayor pro tem. You would read that again, please?

[1:49:16 PM]

>> Can I ask a question?

>> Mayor Adler: Yes.

>> This is in addition to, not instead of, the --

>> Mayor Adler: That's correct.

>> -- The provisions we now have in the draft.

>> Tovo: Correct.

>> So we're amending in this respect two parts of the code. One is section 2529, and we're adding a

subsection I. So you would be proposing to add a subsection J to 2529. And it would say that the first 20 speakers on an agenda item --

>> Tovo: I'd be glad to read it again but do you mean K -- I mean, do you mean L?

>> No. I mean J.

>> Tovo: Okay.

>> After I comes J.

>> Tovo: Okay. That's -- mine ends with a J and a K. In any case, I'll just read my line and assume it ends up in the ordinance in the right letter order. Okay, in the circumstance that a large number of people sign up to speak on the same agenda item, the council will likely limit the amount of time afforded each speaker as follows. The first 20 will receive three minutes each, the remaining speakers will receive one minute each. And I will shoot this to the clerk.

>> You want this likely as a -- is an unusual construction in an ordinance. Usually you would either have something happen or not happen.

>> Mayor Adler: So can we put in language that says subject to modification by council? The first 20 speakers will speak three minutes?

>> I'm not sure how this -- I mean, I'm happy to put those words in if that's the will of the council, but I will tell you that they don't really do anything.

>> Tovo: Okay. Well, I think -- I leave it to the council. If you want this to be an operating procedure and we just develop some language that talks about our expectations somewhere in a visible way on our website so that people understand it, that's fine with me too.

[1:51:30 PM]

>> Mayor Adler: Are you okay with saying subject to council acting otherwise, the first 20 speakers will speak for three minutes and the rest go one minute?

>> Tovo: So in the circumstance of a large number of people, blah, blah, planning council will limit the -- where do you want to put that clause? I mean, yes, I'm fine with it but where do you want me to write it?

>> Mayor Adler: Just before you have the first 20 speakers it would add a parenthetical that would say subject to council modification so that everyone knows that the council can amend that or change that based on the circumstances, subject to council modification, the first 20 speakers will, and continuing on. So I'm taking out likely in essence and putting in that.

>> Tovo: So it would then read, that part, council will limit the amount of time afforded each speaker as follows: In parentheses, subject to council modification. Does that resolve your -- I'm judging by your face that that doesn't resolve --

>> Of course we're always happy to work with you in advance of the council meeting.

>> Tovo: I read the exact same line on Tuesday. I didn't realize there were legal issues involved in it.

>> The -- why don't you give me 30 minutes to write something for you, and then I'll come back and see if that suits your needs.

>> Tovo: Okay.

>> Mayor Adler: That sounds good.

>> Tovo: Thank you, Mr. Steiner.

>> Mayor Adler: Before we break though we do have one public speaker. Mr. King, you wanted to speak on this? Thank you, sir. Can you shoot him your language?

>> Tovo: Yes.

>> Mayor Adler: Thank you.

>> Thank you, mayor, mayor pro tem.

>> Mayor Adler: Yes.

>> Councilmembers. You know I hesitate to speak on this. Last time I spoke on this we got reduced from two hours to 90 minutes so I hope we don't get further reductions but I do understand that you're trying to manage your time here and give every citizen an opportunity to have their at least one minute here.

[1:53:31 PM]

You know, one thing that concerns me is that if it's published that there is a 90-minute limit on speakers, then just that particular information will tend to get -- you know, I think discourage people from coming down here. If I get down there I may not be in that group to speak 90 minutes. So I think it's very important that we emphasize that it's gonna be flexible. If more people show up, you will have your one plugin. I think that's going to be very important because I know you want to hear from everybody who takes the time to come down here. Thank you for listening to my comments and for your good service to our community.

>> Mayor Adler: Thank you. And I would point out that the copy I have of this also has a subsection K at the end as well or -- for the drafters in the sky.

>> [Off mic]

>> Mayor Adler: So we'll come back to that item. The next item that we have is -- we have both -- next item is item number 19, which is the porta zoning matter.

>> Thank you, mayor, councilmember. Greg Guernsey, zoning department, item 19, c14-2016 h0004, 4400 east William cannon drive, mixed use, commercial overlay combined district zoning. The zoning and planning commission recommended the zoning change to gr-mu-co. The property is .85 acres in size, about 3700 square feet. And it is a tract of land currently zoned family residence or sf-3 zoning and abuts vacant multiple family tract to the north and personal services and auto uses further to the east. The zoning that staff recommended that's coming forward is similar to the gr-co zoning that abuts the property to the east.

[1:55:37 PM]

The zoning and planning commission, when they voted they added some additional conditions to the staff recommendation, which brings the height from 60 feet down to 45, and also made drive-through services a prohibited use as an accessory use so they could not have a drive-through bank or a drive-through pharmacy perhaps on this property. The property, because of where it is on William cannon-it's limited to run turn in and right turn out so you wouldn't be able to make a movement off the property. That would be a left turn movement to go down William cannon without going further back down the street. I'll pause if there's any questions. I think we've got the -- a representative from brown and gray engineers here to answer questions should that be the case of the applicant -- arise of the applicant.

>> Mayor Adler:.

>> Colleagues, the reason I pulled this -- I'm sorry I didn't catch this before work session because I think there's a broader policy discussion that we need to have. And I've been, you know, very -- have said, you know, every zoning case is different, but this is one, I think -- so it's going from -- the request is sf-3, single family, so it's going from a single family zoning all the way up to gr, which is a huge, huge step up. You'll notice the -- there's a neighborhood right across the street. I know we always hear about traffic and zoning cases, but this road leads to the east, to the Easton park development, which is tens of units. This also leads to the area that the onion creek buyouts are happening in. And I guess the policy discussion I feel like we have to have is the 1-2 east item is one where a developer bought a piece of property and I don't know if -- what I've heard is they were told, oh, don't worry, you can go to city council and they'll give you a variance, you'll be able to get more.

[1:57:46 PM]

And so that person went and bought that thinking that they could get more and, you know, obviously we don't know what's going to happen with that one but this is where -- and I'm glad the applicant is here because nobody reached out to my office so I don't know what the plans are. But from what I could tell there are no current plans you? It seems it's being zoned to -- to maybe prepare it for sale, which could allow the seller to get more if it's zoned higher. And I have concerns about that because I guess I would prefer that the current -- if the current owner tell us what are the plans for this because that's where our discretionary right to decide zoning cases comes in. That's where we can have a developer come and say this is what I'm going to do with this property and, you know, they understand the things that we -- the issues that we believe in affordable housing, all that kind of stuff and they can maybe add things but anyway, maybe the applicant would like to talk about what the -- because, again, nobody reached out to my office about this.

>> Good afternoon, Seth

[indiscernible] Brown and Gray engineers on behalf of the applicant. I apologize that nobody reached out in advance. This project is being -- or this site is being rezoned on behalf of the owner by Ibg development, an affordable housing developer working on the multiple family site you see immediately adjacent, the sf-3 portion of that site, they have under contract as well as they control the commercial frontage on various projects that they have across Austin, two of them being constructed now. The site plan for the mf-2 multi-family project is submitted and under review right now. They don't have any current plans for that commercial development other than the plan to be able to develop it in the exact same manner as the project adjacent with the fairly extensive list of prohibited uses in the Co that could keep that use compatible with their multi-family project that's adjacent opinion.

[1:59:51 PM]

>> Garza: So this -- so where is the affordable housing project going?

>> The affordable housing project is going on the mf-2 piecemealed adjacent.

>> Garza: But there are no current plans for this --

>> There are no current plans for the tract that's going to -- getting rezoned.

>> Garza: Okay. So I guess my statement still remains the same. The same. I guess just not to have a long discussion I would ask for a postponement so I can understand the project and talk to the applicant and be able to understand what the -- why such a huge move from sf-3 to gr.

>> Mayor Adler: Is a postponement something that you can accommodate?

>> I think we can unless there is something we can answer right now other than saying there's an immediately adjacent gr-co tract.

>> Mayor Adler: Ms. Garza moves to postpone this item. Second from Ms. Houston. Ms. Pool.

>> Pool: You mentioned there was mf-2. I don't see it on the side.

>> Needly north of the tract. It's a large 24-acre tract.

>> Pool: And that's going to be developed multi-family too and right now it's a wooded undeveloped area?

>> That's right.

>> Pool: That's the part you are developing?

>> Yes, the Ibg is developing the site.

>> Pool: I would be interested in getting details too.

>> The site plan has been submitted for review.

>> Pool: Meaning my zoning staff would probably like to visit with you and talk to you.

[2:01:54 PM]

>> Absolutely.

>> Pool: Okay. Thank you.

>> Mayor Adler: Mayor pro tem, then Ms. Houston.

>> Tovo: I know we have a motion to postpone, but since you are here, can you give us some thoughts to think about in the next couple weeks or what is -- what's the reason for your request? I mean why are you pursuing a zoning change? Can you talk about the planning principles or other thoughts that are guiding this request?

>> Sure. The sf-3 site can cast pom pat built, but depending on the final site plan that's chosen and the generally because of the traffic it will be generated off a multi-family site don't like to have sf-3 and since there's already a gr-co tract immediately adjacent their commercial development tends to be a relatively low scale. We're talking about community-type retail services and that's what they are looking to do at some site in the future likely several years after the multi-family site is complete.

>> Tovo: So the reason this request is coming forward now is so that sf-3 doesn't trigger compatibility on the site you are developing behind it?

>> It would not currently impact any of the buildings on the site plan. But could.

>> Tovo: Thank you. That helps me understand a little bit here.

>> Mayor Adler: Ms. Houston.

>> Houston: Sir, thank you for being here this afternoon. How many units are you planning to place on the undeveloped parcel, the mf-2?

>> It's approximately 260 units.

>> Houston: Is there any reason why you didn't reach out to the city councilmember in the district where you are build to go have a conversation about what your plans were?

[2:03:56 PM]

>> I believe my client has had a discussion about the affordable housing project and may have neglected to pursue a discussion about the rezoning project that was adjacent.

>> Houston: Okay. Thank you.

>> Mayor Adler: It's been moved to postpone this. Do we need to postpone it to a certain date?

>> Yes. That would be helpful for staff, otherwise we have to

[inaudible] In terms of --

>> Mayor Adler: Would that be may 5th or 12th?

>> May 5th or may 12th. May 12 is usual zoning. You have a couple items on the 5th, they have been postponed earlier today. It's your discretion.

>> Mayor Adler: Do you have a preference?

>> May 5.

>> Mayor Adler: It's been moved to postpone until may 5th. So the motion is to postpone this in may 5th. Any objections? All in favor raise your hands. Those opposed? Unanimous on the dais. May 5th come back. Thank you. I don't think we're ready yet to hear item number 6 so that gets us then to item number 20. I'm going to leave the dais because I'm abstaining on this and I want to participate in the conversation as well the mayor pro tem. Councilmember kitchen will you take the chair?

>> Kitchen: Yes.

>> Mayor Adler: My preference would be if it's okay with you when you are done with this item you recess until 4:00. At 4:00 we could then pick up the language on item number 6, pass that and then handle the last three items that we have.

>> Mayor and council, just so you know, item 25 is related to cascades and staff last week withdrawal of



that case and no action required and I would expect the same today.

[2:05:58 PM]

And then item number 27, mayor, you had asked earlier if -- what was the disposition of that case and staff is going to ask for postponement. We do not have in our hand the affordability impact statement which is required by ordinance so we're going to suggest that to be postponed until the 5th. Just so you know 25 would be withdrawn and 27 staff would ask for postponement.

>> Mayor Adler: Thank you. Okay. I'll miss you guys.

>> Kitchen: Okay, so we're going to move forward with item number 20. Mr. Guernsey, do you want to lay that out?

>> Yes, thank you. Item 20, case c14-2015-0133a. 1204 San Antonio street. It's proposed for downtown mixed use zoning and the planning commission recommended the downtown mixed use zoning with a condition that was placed on the height of 90 feet and that the additional uses would remain prohibited including billboard service, pawn store, liquor store and outdoor entertainment and also prohibiting amplified sound on the premises. The property is about 11,000 square feet in size and it's located within the downtown planning area. The staff recommendation was for 60 feet instead of 90 as suggested by the commission, and originally the applicant was not asking for height limitation which could take heights up to 120 feet, but the applicant is agreeable to the 90 feet. There is existing development of a one-story office and there's a variety of office buildings that surround this on all sides. The zoning for the most part in the area is zoned G.O. Or Irco and there's some dmu as well.

[2:08:07 PM]

In this area. As I said, it was in the downtown planning area and it's in the northwest district that was adopted by plan in 2011. Being in an area where most of the height restrictions under the G.O. And it would be 60 feet or less. In height staff recommended the 60-foot height limitation, it was part of the adopted plan. It's similar to the zoning in the area. In addition this would be more sympathetic to the historic structures that are nearby. I'll pause if you have any questions. Alice Glasco is here with Alice Glasco consulting to speak on behalf of the owner and I believe we've got some neighbors here that would also like to address out this case.

>> Kitchen: Any questions before we move forward with the testimony? Okay. Ms. Glasco. And let's see, is Kim Lapeer here also? And Josh Bienvenidos? So Ms. Glasco, you have nine minutes.

>> Thank you.

>> I just want to mention too we're talking about tract a. So as you are looking at your backup for your ease we actually combined both items 21 and 20 but we're talking about tract a at 1204 San Antonio, just so we're clear.

>> Good afternoon, councilmembers. Alice Glasco representing the Texas association of counties. Just a little history about the association.

[2:10:10 PM]

The Texas association of counties was formed in 1969 in order to improve and promote the value of county government on a statewide basis. Tac is the representative voice for all Texas counties, all 254 counties in Texas. Through tac, counties communicate the county perspective to state officials and the general public. This cooperative effort is managed by a board of county officials and every county is represented on the board. The board establishes the scope of tac services and the amount of money that will be allocated to provide services. The sources that are provided by tac include a toll free legal

hotline, training, continuing education programs, representation at the state and federal government levels, health and employment benefits, risk management pool, unemployment compensation group account fund, and health and wellness programs. The two sites that are on your agenda is 1204 San Antonio which is one we are discussing now. It is currently zoned G.O. And at the time this did not have floor to area ratios so the floor to area ratios is two to one which is actually existing on the site. The building currently at 1204 San Antonio at its tallest point is approximately 50 feet so dmu-60 gives us the same height we have today. Under G.O. Zoning we had 60 feet. The building is approximately 50 feet or so. So the benefit of getting dmu zoning gives us additional floor to area ratio, we get additional square footage for the building.

[2:12:13 PM]

The height allows us to accommodate more square footage. You don't have to have the parking garage go underground, it saves you money so you can have above grade parking and then offices above that's where the height comes in because we already have 60 feet today. The total square footage that would be allowed under dmu zoning would give us 55,000 square feet on this site. This is one of very few sites in the city that is not in the capitol view corridor. As you can see the yellow fingers spread out, those are the areas -- the properties that fall under those arrows are controlled by the capitol view corridors. The areas that are white, that do not have any of those overlap are those properties that can go up in height should you allow it but do not affect the capitol view corridors as adopted by the state. The planning commission used this map to help them come up with the recommendation they did. They looked at the surrounding properties that have heights ranging from 120 so the build sites that have 120 feet of height can build tomorrow at 120 feet that are zoned, and those that are at 120 feet we're showing them in build as existing heights. So the planning commission looked at this map and looked at equity and felt like the subject site is surrounded by tall buildings already ranging all the way from 80, 120 feet and 100 feet on the most recently built building that is called the St. David's association building on San Antonio and 13th street. So this is what the commission looked to guide them as to height. Some of the justification for height is that a new building at this location will replace an aging structure.

[2:14:15 PM]

The additional space with retail will help consolidate some employees in one location and accommodate future growth and any additional spaces that are leased. Those funds are used by the county to help serve Texas counties. That's what they serve. The site is not in the capitol view corridor. Dmu zoning will allow Texas counties to continue to provide cost effective services. We have support from the adjacent property owners, the majority of them, with the exception of one. This map shows you and in your backup you do have letters from the majority of these property owners. Some gave us their verbal support so this shows -- everything in blue shows you the support for dmu-120 on this site. We would like to offer a community benefit. As we were making our rounds of visiting with council offices and with the economic development staff, we -- and you spoke very eloquently some of you recently about the need for affordable or reasonably priced spaces to house the creatives in Austin on a recent case, and this is an opportunity where the applicant would like to if you support dmu-90 on this property, they would like to provide 50% of the gross square footage, 10% of the gross square footage will have rents reduced to 50% of the cbd rates for a period of ten years. This offer is the same as that -- what you typically get on multi-family projects where applicants offer 10% of the affordable -- of units to be affordable at a certain median family income. So the process would be the same here where if -- should you accept our offer or volunteer to provide space so that a nonprofit -- I'm sorry about that -- can use it

to accommodate those entities.

[2:16:24 PM]

We have spoken to the Austin creative alliance. There's a letter that they sent to you indicating that they would be interested in partnering with us so they could be the recipient of that space where they can look at creating or managing co-working space for creatives. You have indicated in the resolution that was adopted -- that you adopted in Martha -- in March that's that you would like to create hubs. So we would appreciate your support and I'll be glad to answer any questions you might have at this point.

>> Kitchen: Any questions? Councilmember pool.

>> Pool: Thanks, Ms. Glasco. Could you go back to the slide where you were showing the heights of the buildings in the vicinity? I don't know if you are able to tell us, this is showing some taller buildings in the area. Can you talk about the height of the buildings that are not marked on here?

>> The -- the heights of the buildings that are not marked, their zoning would allow them to go to 60 feet. 60 feet, five to six stories.

>> Pool: And do you know what they are now?

>> What they are -- some of them are two or three stories approximately.

>> Pool: So that would be --

>> About 30 or 40 feet.

>> Pool: And if you could jump to the slide that had -- two forward, go forward by two. The next one. That one there. All of the blue there are the people that are supporting your change in height request with the exception of the building that is immediately adjacent.

>> Correct.

>> Pool: And I think that -- is that party here to speak to us?

>> Yes. Mr. Tollette is here and I have enjoyed meeting and -- with Mr. Tollette and Ted Siff.

[2:18:34 PM]

We've had lots of coffee cups together and we've been trying to reach a compromise so it's not that we have not spoken. I respect those gentlemen, I've worked with them for a long time, but unfortunately here disagreement on the height and I was hoping we can reach some accommodation on the height, but we have met at least five times and so --

>> Pool: And then I've walked along San Antonio street numerous times and been in Mr. Tollette's building and also in the tac building in the past, and one thing that strikes me is especially along San Antonio you have a lot of fairly mature trees and a good tree canopy. What is the fate of the trees on this site with the redevelopment?

>> I believe we can save because the building is already there and the trees -- so it will just basically the same footprint would go in, just three stories tall than what is there today.

>> Pool: So we know for sure the same footprint is going to be used?

>> The way the -- pretty much just going to go higher. It's the same footprint you have. You pretty much go up three more stories than what we have now. I'm not aware of the tree being removed at this point. At least the architect did not indicate that. I know there's a big tree right there.

>> Pool: Okay. Thank you.

>> Thank you.

>> Kitchen: Any more questions before we have our next speaker? Okay, Mr. Tollette. And then Mr. Siff will be after him.

[2:20:34 PM]

>> Good afternoon, members of the city council. Is this on? Sorry. My name is Blaker tollette. I'm here speaking partially on behalf of the old Austin neighborhood association which I'm secretary of the board. I'll also speaking as the adjacent property owner to this 1202 San Antonio. I brought this map. This is pulled down out of the downtown Austin plan northwest district. It shows the boundaries. The downtown Austin plan northwest district is the product of years of long -- a years-long process involving interested parties and stakeholders, city staff and various land commissions. It's a document that was reviewed and ultimately adopted by city council in 2011. From the -- directly from the plan it says without careful preservation planning and subsequent action polly changes and funding the downtown and particularly in northwest district is at risk of losing special character and unique identity. Therefore it's a competitive edge as a creative class city as well as a great place and community. That's -- and also it goes on to talk about the dmu zoning district that's been proposed for this area. This is a new zoning district called dmu-60 should be created to replace the current zoning district within the northwest district. These properties should be rezoned for this new dmu60 designation to allow MIX of permitted uses such as residential, office and commercial similar to those within the existing dmu zoning district. A dmu60 district properties would be allowed to build to the same 60-foot height limit currently permitted by the existing G.O. And cs zoning. What's important about that this property currently has entitlements of 60 feet. And I would speak to you've got in front of you the northwest district boundaries.

[2:22:38 PM]

Basically in this area the boundary is along San Antonio street. The property -- the slide Alice brought up showed a bunch of higher density or higher -- or taller buildings, but those are -- except for one, they were all outside this district. The one that's not outside the district is owned by the Texas association of counties. It's there on the corner of 13th and San Antonio. It is approximately 80 feet tall. I have -- I've owned my property since 1982. I was there when the property at 1204, the current property, was built. It's a -- it was quite a lesson in city planning when the red brick wall went up to me and actually touches my roof. I was told that was something that I just need to accept at that time, which it -- I've talked to Dr. Wright, who owns 602, it's a property they show in support. He is in support of dmu, I'm in support of dmu. We're against this basically what they are asking for is a variance to our neighborhood plan down there. We have --

[buzzer sounding] Thank you very much. I'm here for questions.

>> Kitchen: Anyone have any questions? Okay, Mr. Siff?

>> Thank you, council, for the opportunity to speak. My name is Ted siff, I'm president of the board of the old Austin neighborhood association, the old Austin neighborhood has submitted a letter to you supporting dmu, supporting the 60 feet height that is in the downtown Austin plan and in the northwest district plan, northwest district of downtown.

[2:24:40 PM]

The one significant difference between the applicant's proposal and the neighborhood's position is the 30-foot height difference and I would ask staff if you could to put back up the surrounding properties description that the applicant put before you and councilmember pool asked about. With the red dots on the tall buildings. As Blaker tollette mentioned, all of those red dots are east on the central business district or downtown side of San Antonio street. Except for one. That's the applicant's property at 13th and San Antonio. There's a reason for that. The downtown Austin plan and the northwest district part of the downtown Austin plan provided San Antonio as the boundary between -- that's the map. Except it's - yes, that's the map. And all of those red dots except for one are east of San Antonio street. The

northwest district plan provides for 60-foot height west of San Antonio and higher heights going all the way up to cbd zoning just a few blocks east of San Antonio street. Councilmember pool asked very important questions about the height of surrounding buildings that aren't in the red dots. The vast majority of these are original single-family structures. They are not -- an analysis Glasco, very competent advocate that she is says some buildings are two and three stories. The vast majority of the buildings of the neighborhood are one-story buildings, some are two-story buildings. They are 10 -- I mean 20-foot, maybe 25 to 30-foot height buildings at the most.

[2:26:44 PM]

The tract we're talking about here, Alice Glasco says is 50 feet. By our measures it about 30 feet high, it's three stories off the sidewalk. With the staff recommended plan you would get double that density on that tract and that's what's in the plan. We would simply ask council to support staff recommendation. And I'd be very happy to answer any questions if you have them about the proposed community benefits. Of the applicant.

>> Kitchen: Any -- thank you, Mr. Siff. Any questions, councilmembers?

>> Casar: I do have a couple. And so a lot of those smaller structures in the downtown plan, are they -- is it planned for those to go also to -- 60 feet?

>> Yes, the neighborhood and the neighbors, all of those owners who are painted in blue and Ms. Glasco's slide that did participate in the northwest district planning process agreed on dmu zoning, converting L.O. And G.O. Zoning that is the vast majority of the land use zoning in the neighborhood now, to dmu. That's in the process of being put in under codenext into the city code as I understand it. That would increase the entitlements in terms of uses. Over just the local office use or general office use that's currently available. And it would also increase the height compared to the current structures like I described before.

>> Casar: So in short, those many blocks during the planned rewrite of the code would all go up to about 60 feet with mixed use?

>> They would have potential to under -- with just the implementation, the codification of the northwest district plan.

>> Casar: But the idea being west of San Antonio the plan was to zone all that --

[2:28:45 PM]

>> The plan had boundaries to take into account step downs in density toward the creek and step up intensities toward the central business district. This is downtown but it's not the central business district. For example in the community benefits the major one is a discount on rent, but it's 10% of the square footage is offered to be discounted up to 50% of the central business district rates. I rent property for my office a couple blocks away and I pay less than 50% of central business district rates today. Market rent in our neighborhood is not central business district, it's 50% or less of central business district today. So while that looks like a nice community benefit, it really in reality is market.

>> Kitchen: Any further questions? Councilmember pool.

>> Pool: Mr. Siff, thank you, I appreciate you adding to the information on the height of the buildings in the area. For me neighborhood plans that are established and compatibility with existing neighborhood structures is a huge driving value for me in making zoning cases and that's why in this case I am -- I am looking to maintain the neighborhood plan as you have described it for the very reasons when compatibility with existing structures. It's really important to me to see that that continues. And especially in those areas where neighborhoods have put a lot of effort, time and trouble and inspiration into drawing up those plans.

>> Our neighborhood really appreciates all the councilmembers' advocacy and their support of neighborhood plans.

[2:30:50 PM]

We hope you can see your way clear to do that today.

>> Kitchen: Other questions? Okay, do we have a motion? Does anyone want to make a motion? Councilmember Casar.

>> Casar: I'll move staff's recommendation on first reading.

>> Kitchen: Do we have a second? Second? Okay. We have a motion and a second. Do we have any discussion?

>> Pool: If we could just have staff outline clearly for us all how the staff's recommendation may or may not veer away from what the neighborhood plan would be.

>> Well, the staff's recommendation is in accordance with the downtown plan. So the difference, if you were to adopt the city staff's recommendation versus the condition, city staff would have the 60-foot element that I want to point out the planning commission did have some prohibited uses which I understood the staff doesn't object, the applicant doesn't object, the neighbors would support, and I'm not sure if that's still -- everybody is -- the applicant and the neighbors are in support of. So -- I'm just saying that you could --

>> Casar: I'll happily amend my motion to include those.

>> Pool: Outline those.

>> Those additional uses agreed upon prohibited uses, bail bond services, cocktail lounge, pawn shop, liquor store, outdoor entertainment and prohibit amplified music basically amplified sound outside as prohibited uses.

>> Casar: And chair, if I may explain my motion further.

>> Kitchen: Please do.

>> Casar: So I appreciate that in this particular neighborhood plan there's been work to -- to adopt for the growth of the city and the growth of downtown at 60 feet all throughout an area that right now is much smaller than that, and so I think that I'm very comfortable sticking to that sort of a plan unless there was some exceptional reason, some dire sort of need for difference or some great community benefit.

[2:33:12 PM]

And so as we move on to second reading I hope that the staff will sort of look closer at what the community benefits are that the applicant has described because it sounds to me like it's not part of one of our existing programs and I'd like to better understand it before making any final decision, but for now I'm happy and pleased to start moving toward 60 feet in the northwestern part of downtown.

>> Kitchen: Okay. Let's see, we -- go ahead.

>> Houston: Thank you. Can I ask the staff a question, please? So tell me again what are the heights in the downtown planning area?

>> 60 feet.

>> Houston: 60 feet. And -- and the downtown area is the one, the map that they showed us that's west of San Antonio?

>> The downtown plan covers this entire area where we're talking about blocks in all directions. As you progress further east across San Antonio, heights are increased. The area that's west is at 60 feet. The existing zoning under the G.O. That you see that covers a lot of this area is limited to 60 feet currently as well.

>> Houston: Thank you.

>> Kitchen: Okay. We -- we normally allow the applicant to close if they desire to. Ms. Glasco, is there anything else?

>> Well, thank you, councilmembers. I can read tea leaves. But I just wanted to make two points and clarify, I'm not sure if it's really clear that everybody today who has G.O.

[2:35:15 PM]

Zoning has the ability today to go up to 60 feet. So they are not getting 60 feet through the downtown plan. So tomorrow everybody who has G.O. Zoning can build a building that is 60 feet tall if we wanted to. The dmu zoning giving us 60 feet, we already have 60 feet, that's the point I'm making. There's no difference in height between G.O. And dmu-60. It's all 60 feet in height. I just wanted to clarify that. And to also indicate that -- I know councilmember Casar indicated staff to look into the community benefit. We're glad to explore that if council's desire is for us to look further into that, if there's a desire to do that we can do that, and if not then we'll live with your decision obviously. So you can give us whatever directive you want, we'll pursue that if there's still an interest -- we truly do want to accommodate the creatives in the space if we can work in accommodation so we're not shutting it off if you desire us to explore that, we can do that. Something that is agreeable and acceptable to all parties as the Austin creative alliance folks indicated, they have a board of directors, they spoke to several of the board of directors. You see their names on the left-hand panel who the board members are and they were interested in exploring the opportunity so they are also interested in exploring the opportunity if you so desire. Thank you.

>> Kitchen: Councilmember Houston.

>> Houston: So there's nothing in writing to say that this would be a community benefit. This is one of those things that we're talking about it and we hope that it will happen, but we don't have a firm commitment that this will be a creative space.

>> We'll do that, we'll provide an agreement that is signed by both parties, but council's motion we're not getting -- in order for us to explore that, we are hoping to get a height of dmu-90 because then we would be getting a density above today.

[2:37:26 PM]

Your motion does not give us a density bonus in order to give them 10% of the space in a discounted rate.

>> Houston: And likewise, Ms. Glasco, if we give you the additional height and then nothing happens and once again we've been fooled.

>> I understand your concern, but I'm saying that we can still even after today go and -- we can come up with something and see what you can come up with.

>> Casar: And I think that we would appreciate staff and the creative alliance looking into that between first and second reading so we can understand it better.

>> We can certainly explore that.

>> Kitchen: Councilmember Renteria.

>> Renteria: I would like to see if they are able to sit down and come up with the 90 feet and -- if the applicant and the community can sit down and agree that we will get some benefits and it would -- you know, we could really benefit because, you know, we're losing a lot of space, a lot of creative people because they can't afford to live downtown. If there's a way, I would support that also to have [inaudible] Look into negotiating with the community to see if we could come up with a condition where we could, you know, wherein

[inaudible] Situation.

>> Kitchen: The motion is for first reading only and I think that the discussion on the dais is that continued conversations can occur. Councilmember pool.

>> Pool: Thanks, and I -- I take what Mr. Siff said about the market rate rents there that he's -- it's not immediately in this location, but it's nearby and his rates are less than the 50% so I agree. I think it would be -- it's good for us to try to expand the way we look at our development agreements and try to be as creative and possible and maybe there is some additional information that you can put together working with Mr. Ready and ten creative eye lines and anyone else to try to answer some of the additional questions and maybe flush out the proposal more.

[2:39:37 PM]

I get the idea maybe 50% reduction in the rental cost for those 10% of the units may not be sufficiently deep, but if there's some more work that you are able to do between now and second and third reading, sounds like there would be some interest here at council to -- to learn what you are able to come up with.

>> Absolutely. Thank you.

>> Kitchen: Thank you. Okay, we have a motion in front of us. Any further discussion? All -- and this is on first reading. All in favor?

>> Casar: And we'll close the public hearing.

>> Kitchen: Thank you very much. All in favor?

>> Casar: It took us over a year to remember.

>> Kitchen: All in favor? We're voting on the motion, all in favor? Okay. That is -- anyone against? No? That is, let's see, that's seven in favor and the remainder off the dais. Okay. I think the mayor asked us to recess now. We come back at 4:00. Is that right? Oh, wait a minute, we do -- we could go ahead and take care of item 6.

>> Councilmember kitchen --

>> Kitchen: I think the mayor wanted to be on the dais for that.

>> Zimmerman: There may be a typo here. There was a draft handed out that was on my desk.

>> Kitchen: We're going to deal with that when we come back. I think the mayor wanted to be on the dais. We're going to go ahead and recess until 4:00.

[3:51:32 PM]

[4:09:23 PM]

>> Mayor Adler: What do you guys think, are we ready? We have four items left on the agenda. Let's start with item number 25. Greg, I understand, Mr. Guernsey, that there's no action to be taken on this because the M.U.D. Stepped up to the bar?

>> That's correct, mayor. There's no action required on 25, and you can move on to the remainder of the agenda.

>> Mayor Adler: Then item number 27?

>> Yes, staff is requesting a postponement of 27 related to the neighborhood plan design tool known as garage placement. We need to have a signed affordability impact statement on the dais for you to review with this amendment. We don't have it at this date, so we are requesting postponement to your may 5th agenda.



>> Mayor Adler: Okay. Is there a motion to postpone this until may 5th? Ms. Pool. Is there a second? Mr. Renteria. Any objection? Those in favor of postponement, please raise your hand. Those opposed? I think that was everybody on the dais, with Ms. Troxclair gone and Ms. Gallo gone.

>> Thank you, mayor.

>> Mayor Adler: Postponed 27 until may 5th. That leaves us number -- on that last item on the postponement, we had David king noticed. You weren't here. We just postponed number 27 until may 5th. Okay. Then the next item, let's do number 26. You want to lay that out for us?

>> Mayor and council, Rodney Gonzalez, director for development services. Item 26 is conduct a public hearing and consider an ordinance amending title 25 and 30 of the land development code to change staff review time, modify the life of a site plan, establish a stop provision, and establish expiration dates for subdivision vacation and subdivision construction plan application.

[4:11:40 PM]

Staff is here to answer questions following the public hearing.

>> Mayor Adler: Okay. Let's go ahead to the public hearing. Mr. King, and then Mr. Hirsch.

>> Thank you, mayor, mayor pro tem, and councilmembers. You know, the only thing I really have a concern with about these proposed changes is the 180-day period that would be combined with the initial 180-day period to remove the right to appeal -- the neighborhood's right to appeal, you know, a plan that would be -- that would otherwise expire. So, I'm concerned about that. I think if you have a 180-day period -- you know, it gives the developer a specific window of time to get all the work done, and to get all the comments cleared off of their report. It provides an incentive to do that. If you extend it to the full year, then I think it's going to slow things down. They're going to wait again until the last minute to get all the issues cleared. And that -- I don't think that's going to be a good thing. I think it's good to have what we currently have today. You have 180 days to get your plan done and approved. And if you don't make it, then you ask for an extension. That gives the neighborhoods time to step in and chime in about their concerns if they have any. And it puts -- it keeps the heat on the developer to get the plan done and get all the issues cleared off the plan. So, I would say, let's keep the current system the way we have it today and not change that. Thank you very much for listening to my comments.

>> Mayor Adler: Thank you. Mr. Hirsch.

>> Mayor, and members of the council, my name is Stuart Harry Hirsch, and like most in Austin, I rent. I have no problem changing plan review times from calendar days to working or business days as long as all city reviewers are expected to comply with the law.

[4:13:43 PM]

This requires adequate performance measures, adequate funding, and adequate training. Point number 1, it is disappointing that the draft ordinance does not memorialize smart housing fast track review as I suggested at early planning commission codes and ordinances subcommittee review stages. Once again, promised incentives for S.M.A.R.T. Housing will likely not be realized. Number 2, most new commercial and multifamily buildings require an electric service planning agreement, which re-ual espla in our business, but I spelled it out for you, councilmember Houston, because I I know you like that. It is not clear that Austin energy will have to meet the deadlines. Point three, most new commercial and multifamily buildings require a service extension request, an ser, to determine whether water and sewer lines are adequate or must be upgraded at owner expense. It is not clear whether Austin water will have to meet the draft ordinance deadlines. Number 4, health reviews are required for certain multifamily and commercial uses when food may be served, and it is not clear whether these reviews will have to

meet draft ordinance deadlines. And finally, while the intent of the draft review times ordinance is to begin addressing some of the customer faction issues of the Zucker report, it is not clear that this will be accomplished unless concerns listed above are addressed. Please do not pass on all three readings today, and modify the draft ordinance by third reading to address what I consider to be legitimate concerns. Thank you very much.

>> Mayor Adler: Thank you. Ms. Houston.

>> Houston: Mr. Hirsch?

>> Mayor Adler: Mr. Hirsch.

>> Yes, ma'am.

>> Houston: Thank you so much for reminding us. I don't know about everybody else, but so much information comes in that sometimes we forget some of the things that you say. So thank you for reminding us. And thank you for not using the acronyms.

[4:15:44 PM]

It's not about me, it's about the people who don't understand what we're saying. I can't tell you how many times people said, I thank you for making them say what they're talking about, rather than using acronyms. Other people appreciate it, too.

>> I do, too, because I don't know all those, either, councilmember.

>> Mayor Adler: Okay. Back up to the dais. Would you come up just for a second, Rodney? When we met with the -- some of the stakeholders -- sorry. When we met with some of the stakeholders in talking about it, one of the questions that came up with a cross-departmental responses. And my understanding is that the way that the manager has set up the structure within staff, you now have, kind of, oversight over the other departments as it relates to compliance with the review process. Is that right?

>> Yes. You know, when Mr. Zucker completed his analysis back in February, you saw a memo that --went from me to council, as well as the department directors. We called out the S.M.A.R.T. Housing review times, also called out in the second Zucker analysis, mandating that they adhere to that. Important to that, of course, is that we be able to track that by department. And as you know, not every department is in the Amanda system, and that's also going to be a requirement. Recently, on March -- I think it was the 31st -- council approved the contract with unisys, which will help us get the departments into the system, so we can track review times and specifically those for S.M.A.R.T. Housing.

>> Mayor Adler: Okay. And what about the Austin energy, and Austin water, and the health reviews?

>> Yes. Austin water just recently joined Amanda, so we're able to track their review times as well. But all other departments, as well, will be included.

>> Mayor Adler: Okay.

[4:17:44 PM]

And you have oversight over those departments as concerns their need to be responsive to the review times, is that right?

>> Yes, with regard to the review times, yes. What we'll do is work with those departments, track their performance with regard to review times, report that as well, similar to how we report our review times, work with the departments, make sure that, you know, they're meeting their targeted dates.

>> Mayor Adler: Okay. And, I mean, in that regard -- I'm just trying to understand. The concern was, there wasn't one person in charge of the review process. And my understanding is that that's you now, even as concerns other departments like water and Austin energy and those things. Is that correct?

>> Well, I don't want to speak too broadly, because, of course, you know, there are ordinances that are

administered by some of those departments, of which we don't oversee, such as the watershed protection ordinance. And in the code, only the director of the watershed protection department can administer that code. I can't do that. But with regard to review times, yes. You know, the city manager does want us to take the lead with regard to departments' monitoring of their review times, making sure that they have got those review times front and center with regard to responses.

>> Mayor Adler: Sounds good. I intended my questions only to relate to as regards review times. Yes, mayor pro tem.

>> Tovo: I want to talk a little bit about -- well, first of all, I want to say I think a lot of these changes -- really, nearly all of them -- make great sense. And I appreciate you bringing them forward, and the responsiveness to the Zucker report, and the concerns that you heard from stakeholders. And so I think that these are good changes. I do have some concerns about the 180-day extension from two aspects. I just want to follow up on some of the questions I asked. I submitted a question through the q&a, and you confirmed that while now interested parties and other stakeholders will be noticed and have a right of appeal, that would -- if it shifts from a six-month extension, they would lose one of their appeals, in essence.

[4:19:59 PM]

>> Yes.

>> Tovo: So, that gives me pause. And then I want to understand part of your response. Denying an extension requires the applicant to withdraw and submit the application, which does not impact code compliance of the project, yet creates significant delays and additional permitting cost for the applicant. Can you help me understand that? If I extension is denied, the applicant has to resubmit the application, so they would need to comply with the current code at the time of their resubmittal, right?

>> Yes, we can ask Adams to help.

>> That's correct. Rarely are there significant changes in those periods of time. Also, there's the potential for vesting, which is part of our process when they bring in a new application. Regarding the other aspects, the withdrawal and resubmittal process also involves, as the name suggests, withdrawing the application, submitting what is considered a new application, paying fees all over again, being assigned a different case number, which then has to be ideally assigned to the same staff who were reviewing it initially, but many times, or in many cases, that doesn't happen, so you start over with a new reviewer. Also, the process for registering as an interested party on the neighborhood or resident side starts over again. They have to participate in that process, renotify that they want to be considered as an interested party. One other thing that's mentioned in the response that I'd like to speak to as well is that we did some research, and over the last four years, concerning, you know, somewhere between 151800 site plan and subdivision applications, we had seven appeals filed for -- regarding this, regarding the 180-day extension.

[4:22:07 PM]

Six of those were denied, and the one that was approved was really a quirk of the application. The application did not have the appropriate zoning, and they hadn't filed a zoning change request, so the commission determined that they weren't following order of process, and that was the basis for the denial. So the appeal process is seldom used. It's even less-frequently upheld. And we feel like it just creates confusion for the process overall. Mr. King also identified a concern regarding extending the process. And another part of this overall package of items that we're bringing forward is a rule that essentially says -- and I'm looking at staff to correct me if I get this wrong -- essentially says you have a certain amount of time once you've had your initial submittal and we provide comments to the

applicant, the applicant has a certain amount of time to file an update, and if they don't do that, the project goes inactive. I'm looking for the right word. The project goes inactive, and when they bring in an update, they have to pay a small fee to reactivate that process. So I bring that up because that is incentive on the applicant's side, because we're putting a lot of focus on meeting our review times and moving applications through the process efficiently, and want the applicants to have that same responsibility.

>> Tovo: Thank you for that. I saw that in the response, that information that you just provided. I want to get back to the question I asked, though. Denying an extension requires the applicant to withdraw and resubmit the application, which does not impact code compliance to the project. I just don't understand what that means, because as I understand it, they will need to comply with the current code.

[4:24:11 PM]

So if the code changes from the time they submitted the application and when they would need to resubmit it, they will have to comply with the current code at the time of that resubmittal.

>> Donna, development services department. So, yes. If an applicant sees that an ordinance is coming through that would affect them and they thought they might need to withdraw and resubmit, they can withdraw and resubmit before that ordinance was going to go into effect, if they needed that amount of time.

>> Tovo: Is that what you meant by this language?

>> What I meant by that language was, more specifically -- so assuming that that's not the case, most of the time when cases withdraw and resubmit, they come back in, they go through, like George was saying, a whole other review, a new group of review fees, and the comments are the same. So, I mean, staff has to go through all of this time to look at -- it's the same plans. It is -- you know, in most cases, it is the same regulations. And staff has to, you know, reissue the same comments for the applicant to then, you know, start over. So a withdraw and resubmit basically puts about a three-month delay on getting back into the review cycle. And if an applicant thought that, you know, regulations were going to change that were going to affect them, and that applicant was running up against their deadline, they could choose to withdraw and resubmit prior to that.

>> Tovo: Okay. I think I understand. I mean, I understand all that. But to me, I think that language is just not as clear as it needs to be, because they will have to comply with the current code when they resubmit. But, anyway, I think that is helpful, what you've just said. There was something else. In the discussion, it raised some other questions for me. But I think what -- I'm going to suggest that this is a provision that we really need to spend a little bit more time looking at. I'm comfortable with the others. I'm not yet comfortable with this one.

[4:26:11 PM]

In the rca, it talks about modifying the life of a site plan and subdivision application from 180 days with an available 180-day extension to one year with no extension. As I read the ordinance, though, what we're doing is moving from a system where that period of time where that application is going to be alive is specified to moving that to administrative rules. Am I reading that properly?

>> Yes. The review times would be moved to administrative rule with regard to the length of the time, the 360 days. Does that stay in code?

>> The 365 days, the one year from the time that you start the clock to the time your application expires, that's sort of the full life of an application. That stays in code.

>> Tovo: Can you show me where it is? I'm not finding it in the ordinance before us.

>> Yes. The review times that are moving into rules are just the cycles of review within the life of the site plan. So --

>> Tovo: It's entirely possible I missed it, but here's why I'm really -- want to be sure that we look carefully at this provision.

>> Yes.

>> Tovo: We spent a lot of time looking at the project duration profession of code and if we're -- providing of code and if we're opening up a situation where applications can stay -- could potentially stay alive for an undetermined period or a period to be determined by administrative rule, then I'm really going to be concerned because it is -- you know, if any of those codes change in the period of time and you've got an application staying alive for five years we're going to have a problem

>> Part six, subsection D, an applicant may file with the director an update to application for preliminary plan that's not later than one year. And then part --

>> Tovo: I'm sorry, which provision is that? Page 6.

>> Part six, page 3, subsection -- page 3, part six, near the bottom.

[4:28:14 PM]

That's subsection D. This is an applicant may file with the director an update to an application for preliminary plan approval not later than one year. And it is also in part seven, part D. That's about one year for plat approval. It's different types of applications that have one year. And the one for cite plan -- site plan --

>> While done donna is looking that up it's not our intention to move that one ached or 365 to administrative rule. We intend to leave that in code.

>> Tovo: Okay. I'm looking at that passage that we just saw -- thank you --

>> And part 11.

>> Tovo: I had not zeroed in on part 6d. It does say unless days have been added --

>> Those are late -- so those are late days and that's a clerical error that I need read into the record at some point. 25188, when we drafted it last, we flipped a and B so there are three references that say 188b, which should now say 188 -- 1-88a. That's late days. So if staff is late for three days, we add three days to the life of an application and that stays in code. That's been in code before, and it will remain in code.

>> Tovo: Except as I read -- okay. So you're saying in -- okay. So unless days have been rad add add -- it's one year unless days have been added under 25 1-588a but a says some of those review times are going to be established by rule.

>> Yes.

>> Tovo: And so that, again, I guess I I would -- I would like to see those administrative rules before I voted on an ordinance that makes a lot of things contingent on it because it could impact -- and I guess I look to the mcmansion and some other situations we had a lot of application that's were not complete being filed trying to get ahead of code changes.

[4:30:26 PM]

>> I Shi you're saying. On this 1-88a it's supposed to mean late days like I'm three days late and you get three days on the end of that and we could change that to that second on the -- 188a on page 1, 3rd line from the bottom where it says period of time established by the director, it would be equal to the number of days exceeded by staff. Because that section exists now, just numbered differently. And it roughly says equal to the number of days exceeded by staff.

>> Tovo: So I think that would help. I guess I would suggest to the council that I would be a lore more

comfortable -- it sounds like there are some little changes here and there that would address a situation that I think we ought to be really careful about and I would suggest we not try to pass this on three readings today.

>> Thank you, councilmember. We do want it to be accurate because it's not our intention to move the 365 days to administrative rule.

>> Tovo: Thanks, really glad to hear that. It is for walking us through where that is in the provision and I think if those sync up that would give us time to hear from community members about whether they're concerned about that six-month notification of appeal go away given there haven't been that many uses of it it may not be an issue.

>> Mayor Adler: Is there a motion to approve item 26 on 1st reading only? Mrs. Pool moves that. Ms. Troxclair seconds that. Any further discussion? Those in favor of approving on first reading only please raise your hand. Those opposed. Unanimous with Ms. Gallo off the dais about.

>> Thank you, council.

>> Mayor Adler: Thank you very much. I think that gets us just to item number 6. Suspect six has the language that's been handed out.

[4:32:27 PM]

Does that language look good to you, Ms. Tovo? I'm going to --

>> Tovo: Yes, it looks good to me.

>> Mayor Adler: Is there a motion to -- I think you have, Greg, already moved item 6. Does your motion - - anybody object to amending Mr. Casar's motion to include the language as shown on the handout from legal? That we've all gotten? Croup is the maker okay with it?

>> Mayor Adler: Yes.

>> Kitchen: You have a quick question.

>> Mayor Adler: Mm-hmm.

>> Kitchen: So this keeps the -- I'm just trying to see where it keeps the language that we adopted on first reading.

>> Mayor Adler: Which language was that?

>> Kitchen: The 90 minutes.

>> Mayor Adler: Yes. That's part three as concerns city council meetings and part --

>> Kitchen: Oh, I see it. I see it now.

>> Mayor Adler: Part five as concerns committees.

>> Kitchen: I see it. Okay.

>> Mayor Adler: Okay? If there's no further discussion, those in favor please raise your hand. Those opposed? It's unanimous with Ms. Troxclair off the dais -- I'm sorry, Ms. Gallo off the dais. Ms. Troxclair is here. Ms. Gallo is at a funeral this afternoon. It passes 10-0-1. I think that's everything that is on our agenda. I tried to learn by the mayor pro tem's example. It's good we ended quickly. That's all that we have. I would urge you to take a look at the message board. The secretary of transportation is going to be here the third Tuesday on may to talk about smart city days.

[4:34:29 PM]

That's a work session day. I've suggested we hold that meeting here in this room so that everybody in council can participate with him in the stakeholder meeting ask then the press conference afterwards if wished. That would have us starting our regular work session meeting at 1:00 on Tuesday, may 17. Giving people a chance to comment back to me if they want. And the mayor pro tem and I and manager will get together to propose a day for the workshop that we would have and there was a question about

how to do that one and a half days, if everybody would take a look at the message board and give us feedback on that, that would be helpful as well. Ms. Pool, did you have something? You raised your hand or --

>> [Off mic]

>> Pool: But I'd be happy just to mention that the comment that I put on the message board was just to say that if we happening to late on a Thursday that I would suggest that if we had a Friday, Saturday retreat that we would start Friday afternoon and have the full day on the Saturday so we'd have a chance to kind of catch up with ourselves, if that -- just hoping that made sense to folks when they read it.

>> Mayor Adler: I'm going to start using the word by the way -- in reference to this I'm going to start using the word workshop instead of retreat. There's some people in the community that found that confusion to them so since we're working very hard during that period of time that's how I'm going to refer to it. Did someone else have something?

>> Zimmerman: Mr. Mayor, I'm going to be out of town the weekend of April 23 and weekend of may 14. I'm out of town.

>> Mayor Adler: Okay.

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: I figure this is as good a time as any to let the council know I'll be out those days the transportation secretary is here, I'll be missing the council meeting on the 19th and the -- and the work session on the 17th for some family business.

>> Mayor Adler: Yes, may 17, I'm.

[4:36:29 PM]

I'm afraid, Mr. Casar, we're not given the choice of rescheduling with the secretary.

>> Casar: That's fine.

>> Mayor Adler: Anything else? Then we stand adjourned. Thank you.