

Audit and Finance Committee Meeting Transcript – 2/6/2017

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>> Tovo: Good morning. Again, I'm Kathie tovo. I share the audit and finance. I apologize for today's delay. Thank you for being here. I don't believe we have anybody to sign up for citizens communication. Anybody who wishes to address this item on an item not on the agenda? All right. Seeing none, we will move on to item 1, to approve the minutes of the audit and finance committee meeting of November 14th. So moved by councilmember pool. Seconded by vice chair troxclair. All those in favor? That is unanimous on the dais with councilmember Renteria off the dais. We are going to -- I understand that item 4 is a relatively quick one, to we're going to start with that one. I know we have staff members who have a meeting at 10:00 and we're going to try to get as many of you out on time as possible, so we're going to start with the one that we think is the speediest. And I have no citizens signed up to speak on any of the items today, so if you are a member of the public and you wish to speak on any of these items, please get my attention and I'll make sure to recognize you for three minutes. >> Development agreements monitoring was done by Walt persons is the manager and Carl Stevens is the auditor in charge and Walt will make the presentation. >> Thank you. Good morning, mayor pro tem and councilmembers. I'm here to present the results of the development agreements monitoring audit. And let me start with some background information. There we go. All right. Chapter 380 of the Texas local government code authorizes municipalities to offer incentives to promote economic development, and the city has active agreements with the seven business entities shown on this slide. In total, the city has paid about \$69 million in incentives to these businesses.

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The businesses agree to meet certain requirements before receiving incentives from the city. Economic development department oversees these agreements and they develop compliance. First we reviewed

all the incentive payments made to businesses in years 2014 through 2016 and we found that the city made each of those payments only after the economic development department had reviewed and verified compliance with the agreements. And independent and third-party reviewer also confirmed the department's result before the city made those payments. Next we reviewed the department's procedures for verifying compliance and how well they carried those out. We found that, for the most part, they conducted a thorough review. In fact, nothing came to our attention that would cause us to question the business's compliance. Even so, we did note some areas where we believe the department can strengthen their review procedures. In two areas, current procedures rely solely on the business's own sessions theory complying with the requirements. Going a bit further in reviewing written evidence supporting the assertioning would require stronger proof of compliance. As part of their review, the department confirms whether the city paid the correct amount to businesses. For this, they rely on figures manually entered into their own public website, and although those figures do come from the city's accounting system, there's a risk of data entry errors, and in fact during the audit, we found two incorrect figures on the public website, and the department corrected those without delay. So as a result of our work, we recommend that the department strengthen procedures to address the documentation concerns that we have raised, and this would provide the department with stronger basis for ensuring compliance. Management has concurred with our recommendations, and I'm

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happy to answer any questions you have. >> Tovo: Very good. Thank you. Councilmember pool. >> Pool: So with the confirmation on compliance and the reviews in support and so forth, is that information uploaded into the -- onto the web so that the public can see it, or how is that tracked? >> Are you referring to the equal work that they do, or just the results? >> Pool: The -- where you were looking for the compliance where you say city the strengthen procedures for three compliance areas, where they rely on affirm assertion without reviewing support, where figures are manually entered in the department and without being reviewed for accuracy. Where where are those figures found? >> On their website, total investment to date and amount paid to businesses. And the economic development's own staff goes in and enters that information into the website based on what they see from the city's accounting system. And we had a recommendation because we found a couple of errors in that, in a transcription from the city's accounting system to the website. >> Pool: Okay. So the information is available on the website. >> Yes. >> Pool: Got you. Thank you. >> Tovo: I have a quick question. I believe it's for the department, though. >> Okay. >> Tovo: In the letter -- in the response letter back to the auditor there's a statement toward the end that talks about several companies having terminated their chapter 3 agreements and no agreements having come forward for program. And the line I had a question about is: Because of the growth of poverty and continuation of the high incidence of unemployment in our minority communities, a review of the chapter 380 performance-based agreements -- agreement tools -- agreement -- performance based agreements tools is timely. Can you help me understand what

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your argument was there? >> Yes. Kevin Johns, director of economic development. Excuse me. I was up late last night screaming for Atlanta. [Laughter] It didn't really work out well. In the -- in the -- in my capacity on the workforce solutions board of directors, there's a great deal of discussion about how to ramp up the creation of jobs for the middle-skilled individuals who are still unemployed. And part of the discussion seems to be, and I believe will show up when this regional master plan is ultimately created, that we have to take a serious look at encouraging companies, either through recruitment or through incentives, to look at the mechanism to encourage people to hire middle-skilled people in the city or in the -- along the NAFTA corridor. My thinking on this -- and I wrote that piece of it, but my thought is that we haven't done any incentives in quite some time, but we've also dropped off from being number one in job creation to, I think, now being 24th. And the people being hardest hit seem to be the people who are unemployed, who ding the unemployment rate for the minority population, black, is about 10%, and I think the unemployment rate for hispanics is 7 or -- anyways, it's easily double what it is for the non- -- for the white population. So I think part of what would be helpful for us to begin to look at is how this effective economic development tool might be applied to that population. I'm not saying that that's our

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only tool. I put this in the response because I just think it's relevant now that we're taking a fresh look at this, this additional level of detail. One of the items that we were asked to provide response to was, we get a letter each year from the company that says that they haven't deliberately hired illegal immigrants. And so I think that with all the discussions about trying to make sure that we're following the law, that we're going to a granular level of detail, that we have to look at the immigration hiring, we have to look at the minority contracting, we have to look at the jobs that could be created for low and middle income people as a priority. That's the kind of nature of that whole discussion. I just -- I thought it would be appropriate, since they're -- the auditors are drilling down to a level that I think -- they're trying to also make sure that we're documenting, that we're helping low and moderate income people, that we're following the rules, and I thought this was an appropriate place. >> Tovo: And as you noted, though, there are other tools within the economic development department, other than chapter 380 agreements. I mean, most companies that locate here do so without chapter 380 agreements, so I assume that you are also deploying those other tools and programs to assist with, I think, what we would all agree, you know, is a high priority of addressing unemployment, especially disparities across race and ethnicity. >> I totally agree. I think our highest priority is the small business -- small businesses because they hire the most people. >> Tovo: That's right. >> So I think our greatest focus

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is on that area. But this tool is just -- it has been effective in the past at getting a lot of people -- a lot of people jobs. It helped us get out of the recession. And so since we're having this discussion, I thought it would be relevant to at least say that, you know, when you're helping low and moderate income people, you want to use all the tools. But certainly our greatest tool is small business. >> Tovo: Thank you very much Mr. Jones. Other questions, colleagues? Is there a motion to accept this audit? Vice chair troxclair moves approval. Councilmember pool seconds. All those in favor? Thank you very much. Appreciate all your work. Okay. Let's take up the flood buyout audit, please. And that is number 5. And then we will circle around back to the audit of the historic preservation program. All right? >> This audit was led by my [inaudible] And Kathie Harrison as the auditor in charge. Neija will present this morning. >> Thank you. Good morning mayor pro tem and councilmembers. To provide some context for this audit, the city council expressed concern about the cost of city flood buyout projects. The watershed production department works with the office of real estate services to buy homes and to move residents out of the flood areas. The city has mandated these flood buyout problems since the 1980s and two projects are still in progress. There are two types of flood buyout projects, in-ual projects and wall buyout projects. For in-wall projects, owners are required to sell their homes [inaudible] Owners did not have to sell their homes. Throughout this presentation we'll be using these.

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The requirements to pay relocation benefits varies for in-wall entry projects and wall entry projects. For in-wall entry projects, for relocation assistance and real property, also called [inaudible], displaced owners are entitled to receive, in addition to the cost of home, the moving costs, closing costs, and replacement housing payments. The replacing housing payment is the difference between the cost of company built home and cost of original homes. For wall entry projects, the city has flexibility in providing relocation benefits and can adopt different policy. The objectives of this were to evaluate whether the city is managing flood buyout projects effectively and cost efficiently, and to review flood buyout policies for other government entities. This audit look at at relocation benefit policies for homes bought for onion creek and Williamson creek projects. We found that the city has adopted audit requirements as one model for in wall entry and wall entry projects to provide consistent relocation benefits to displaced owners. For both in wall entry and wall entry projects, the city pays the same relocation benefits, as indicated in the prior slide, the city has flexibility to provide a different relocation benefit project for wall entry projects. Thatting on of one model by the city may result in higher costs to the city for flood buyout projects.

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We know that while each flood buyout project has a relocation policy approved by the city council, there is no citywide relocation policy for wall entry flood buyout projects. For citywide wall entry buyout project the office of management of real estate services and watershed production department has presented three options for replacement housing payments. The first option is full replacement housing assistance under the new audit. The option includes payment of Ura cap amount of \$31,000 and additional assistance, and additional assistance is financial assistance if the company housing is not available within the cap of \$31,000. The second option is capped replacement housing assistance under the Ura of \$31,000, and the total option is cap replacement housing assistance set by the city at an amount less than the Ura. The next slide includes an example of replacement housing payment for option 1 and 2. As shown in the slide, the replacement housing payment of \$55,000 under the option 1 includes capped amount of \$31,000 and additional assistance of \$24,000. For option 2, the replacement housing payment is capped at \$31,000. The cost brought by the city that is under inspection options by \$24,000. As mentioned earlier, the city has adopted option 1 for replacement housing payment. We computed the replacement housing payment for the owner-occupied homes bought by the city in two project

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areas included in the scope of this audit. As shown in the slide, the city bought 207 homes with replacement housing payments. Of the 207 homes, 164 homes were bought with additional assistance beyond \$31,000. For these 164 homes, the city paid replacement housing payment of \$12 million to displaced owners. City management indicated that the requirement of providing comparable homes coupled with the rise in the Austin home values resulted in payment of replacement housing for majority of homes bought by the city for these two projects. We contacted five different entities that have experienced major flood events and have flood buyout program. As shown, offers a housing payment similar to city of Austin, however, the Harris county indicated additional assistance above \$31,000 is rarely used due to availability of comparable home. One entity provided replacement housing assistance that cannot exceed \$31,000 and three entities provide no replacement housing assistance. We made one recommendation which requires real estate officer to revisit the policy discussion with the city council to develop a citywide relocation benefits policy for voluntary buyout properties. Management has concurred with this recommendation. This concludes my presentation. >> Tovo: Any questions? Councilmember pool?

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>> Pool: With you tell me where the \$31,000 figure comes from? >> Under the url requirement, they have 31000 as a cap. >> Pool: Does it flex with the economy, does it go up by a factor or ever go down? >> Farce I know, 31000 is a cap which is stabbed -- I think in 2014 it was 22,500. >> Pool: Okay. >> Then it increased to \$31,000. >> Pool: So at the federal level they do allow it to flex based on what position costs are. >> Yes. >> Pool: It has some kind of relationship with what -- with what housing are. >> Yes. That's right. >> Tovo: Vice chair troxclair. >> Troxclair: So the -- so \$12 million -- am I understanding this chart correctly, that if the city complied with the \$31,000 cap, we would have an additional \$12 million to potentially spend -- >> Yes. This \$12 million includes both the additional assistance and a cap amount. So if you look in the report, we have a breakup. 46.8 million is for additional assistance and about 5 million is for the cap amount, for the onion creek project. >> Troxclair: So it's 6 point -- I guess my question is, if we had a policy that stuck to the capped amount of \$31,000, how much more have we spent over that amount? Is it 12 million? >> We spent \$12 million because we adopted a policy of paying a full replacement housing, which includes the capped amount and an additional assistance. >> Troxclair: So what is that amount minus \$31,000, perhaps? >> It's about 7 million -- I'm looking at page 6 of the report. It's actually 6.8 minus

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\$31,000. >> Troxclair: Oh, I see it. It's right here. So almost \$7 million. Okay. And the other entities that you contacted -- so if he had no replacement housing assistance, so like Nashville, so they don't even pay the extra \$31,000. >> Yes. That's correct. >> Troxclair: They just pay the value of the home. >> That's correct. >> Troxclair: So is there a measure of success for that program, or the level to which people who were bought out were able to find -- were satisfied that they were able to find another house within -- about the same value, under that amount? >> For the scope of this audit, we looked at what policies these entities have and we did not look in the detail of [inaudible] Of the program. >> Tovo: I have a quick question about that, too. How did it happen that you selected New Jersey and king county and Nashville? What guided you to those as comparable entities? >> And so we actually conducted research, and we looked for any type of entities that actually experienced flood, and they had an active flood buyout program, and then they actually had purchased a similar number of homes to Austin. And so we came out with a list of 20 or so, and that is how we narrowed it down to the five that you see hero. >> Tovo: And so the five that we see here hit all of those criteria? >> Yes, they did. >> Tovo: So if they did not have a similar number of buyouts, but they did have a buyout program, they had a buyout program, they had

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participated in voluntary assistance, but if they had not bought the number of homes they may have fallen off that list down to fivish? >> Yes. There were some entities that they had experienced flood and they had an active buyout program, but they may have bought like five homes, ten homes. And we are buying hundreds of homes. >> Tovo: So I think -- you know, I know one of the recommendations -- and this is an interesting situation because I think -- well, I don't think, I know, that as we were talking about the policy, we had this very conversation about what we're obligated to do, but what we -- but the council made a very deliberate choice to have a policy that directed our staff to do just what they've done, and the audit has found that they conferring -- did everything -- compliance with that. I know to adopt a policy going forward, a citywide policy, I think if we undertake that conversation, I probably want to see that fuller list of what the other entities are interesting. Are doing. If that's information that's possible to provide, I think that would be very useful for that broader conversation, you know, if the council undertakes it. Councilmember pool. >> Pool: I was looking at the state of New Jersey and remembering hurricane sandy. >> Uh-huh. >> Pool: Is it possible that the reason why the state of New Jersey didn't provide any replacement housing assistance is because of the severity of hurricane sandy and it was all covered by the federal government? Do we know ... >> They did receive a lot of federal grant money, and that was the majority of the money that they actually received, and so they are actually waiting until they receive that money, and then we've actually opted to go ahead and purchase homes in order to try to get residents out of harm's way, versus waiting for the federal money. Did that answer your question? >> Pool: And then to dig a little bit deeper into that,

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the homes that were affected by sandy, were they actually residences or were they, like, summer homes, that kind of thing, on the beach, that may also have affected the state of New Jersey's decisions on how they were going to proceed with regard to the cleanup and the purchase? >> It was a combination of, like, summer homes and owners and things, but they just opted not to provide any replacement housing assistance. >> Pool: I guess I feel like maybe the situation with new Jersey isn't comparable to what happened in Austin, for a lot of reasons. So I'm glad that the mayor pro tem is asking for the additional backup information to dig down into a deeper level on the details, so that we can try to tease out -- >> Sure. >> Pool: -- More what may be similar or not. >> Okay. >> Pool: Thanks. >> One last question, where is king county? >> That's the Seattle, Washington. >> Pool: Okay. And would they have been affected by a tsunami or -- >> It was flood. >> Pool: On the river, or on the ocean? >> I believe it was a river. >> Pool: Okay. Okay. Yeah, I think the additional information will be really helpful. Thanks. >> Tovo: Vice chair troxclair. >> Troxclair: And I had similar question about about federal money. Did your investigation -- do you know what the time frame is, if we decided -- if Austin had chosen to wait for federal money, do you know what kind of time frame that would have been and what amount

of money? >> I think [inaudible] Can answer that question because they have more information on this.
>> Troxclair: Okay. And, Cory, did you have additional information for councilmember pool's

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question? I saw you -- >> No, I was just going to say that's certainly information that we can get. I do think on king county, I do know that's a river. It runs east of Seattle and king county is like Travis county, the kind of larger incorporated area. >> Sorry, Alex gill from the office of real estate services. I know watershed has gone for some federal grants, and there's actually some cdbg money that we've had some discussions on that's still going through the process and being allocated to the city. But the amount, I think, allocated for housing is only \$750,000. So the timeline does last a little bit longer, and the amounts that get allocated for the funding is a lot smaller than our program that we're looking at. Prom that we're looking at. >> Troxclair: Okay. And if -- are you planning to develop a citywide policy and revisit this issue with city council? >> Yes, councilmember, we're going to make a citywide policy for both voluntary and involuntary. >> Troxclair: Okay. Great. And I -- I just want to follow up on what mayor pro tem tovo said earlier. This was talked about at city council when we allocated the money to the buyouts, my concern is that if we have -- you know, if we're potentially spending an additional \$7 million above and beyond the cap and we have continuing flooding in Austin and we have plenty of people who are potentially in need, that's \$7 million that could be spent to help more people. I mean, you know, it's -- either we spend a lot of money on a smaller number of people

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or we spend a moderate amount of money on a larger amount of people. And my preference, knowing that I don't think that the money we have spent so far is going to cover all of our needs, my preference is if there is a way for people to get into safe comparable housing within the \$31,000 cap, that's what I would prefer, but the city council did talk about it and not agree with me so -- anyway, I don't know where that leaves us, but thank you for the work the audit did and it sounds like the program was carried out as the city council intended. >> Tovo: Thank you all very much. Is there a motion to accept this report? So moved by councilmember pool and seconded by vice chair troxclair. All in favor? Thank you very much. All right, so that brings us down to our -- to number 3 which is the audit of historic preservation program. I have no members of the public signed up to speak so if you are here and would like to speak after the audit, please flag me and I'll recognize you. >> This was also managed by neha. >> Thank you. Good morning, mayor pro tem and councilmembers. To provide some context for this audit, there appears to be a general concern that due to city rapid growth, many potentially historic buildings are being demolished. Preservation is an ongoing effort to preserve the heritage of the city. The historic

preservation office is responsible for managing the historic preservation program in coordination with historic landmark commission. Currently there are about 600 locally designated historic

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landmarks and three locally designated historic district. We found several issues which indicate that planning and zoning department is not effectively managing the program. As shown in the slide, we identified issues in four areas. We also compared the city of Austin historic preservation activities with other entities. The next few slides detail our findings. Our first finding is about the application fees. As shown in the slide, for a selected sample of 30 applications the city did not collect or provide documentation to verify collection of 58% of the required fees. These fees include historic review fees, the sign fee and the notification fees. We also found that historic preservation office employees are not securing fees after collection which increases the risk of theft. Our second finding is about the review of application. City code provides authority to historic preservation officer to approve application for some property alteration and demolition permit without approval of landmark commission. Based on the availability cards, during the scope approximately 80% of these cases reviewed only by historic preservation officer. We found that the historic preservation office does not document review and justification for approval of cases under the purview. Without documenting the review and justification of everyone, the historic preservation office may not be able to provide explanation if decision is challenged.

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Our next finding relates to the preservation of historic properties. City code requires the historic property owner to preserve the property as per applicable criteria and maintenance requirements. The city has responsibility to ensure that property owner comply with these requirements. In addition to the requirement for alteration the historic districts to go through the review process, the city also relies on annual inspection and [indiscernible] To ensure that property owner deserve the property and maintain it. We noted that annual inspections are conducted only for [indiscernible] Of properties. A roof the inspection forms indicated that the inspection results are not consistently documented. We also found that there is no formal guidance on inspection rating criteria. In addition, the historic preservation office employees does not track citizen complaints related to historic preservation activities. The gaps in the current practices may result in loss of historic designated property due to delay and -- decay and deterioration. For this finding we surveyed all historic landmark commission members on their perception of city historic preservation program. Specifically we asked them about the designation criteria, the timeliness of the information and the legal support received by them. As shown in the slide,

on a scale of one to ten, ten being highest, members rated the effectiveness of city historic designation process at an average of 5.4. The rating ranged between 3 and 9.

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60% reported that either all or some current historic designation criteria are not clear. 60% reported that they do not have sufficient time to review backup information prior to making decisions. 90% feel that there is an inadequate legal support both at the meeting and when questions are asked for guidance. Without timely and educated information, historic landmark commission members may make uninformed decisions which could expose the city to legal suits as well as dissatisfied stakeholders. Additionally, we compared the city of Austin historic preservation practices with 21 other entities. As shown in the slide, the city [indiscernible] Are similar with those benchmarks in the areas shown on the left side of the slide. However, we found that city activities deferred with those of bench mark areas in areas shown on the right side of the slide. Specifically for backup information, Austin three days time frame is shorter than majority of bench mark entities. The time frame for the meeting ranged from three days to nine days. For legal support while Austin does not have a legal [indiscernible] At each meeting, the majority of entities reviewed indicated that they have legal staff at each meeting. For member qualifications requirements Austin has recommended qualification by the majority of other entities have recommended qualification. We observed and recorded some personnel issues within

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historic preservation office. Our second observation relates to historic landmark commission and the number of full-time employees. We surveyed nine entities to collect information about the historic landmark commission caseload and the number of full-time employees based on -- Austin has the second highest historic landmark commission caseload and one of the entity employs full-time staffing for the historic preservation office. We made four recommendations as summarized in the slide to improve the existing historic preservation program. Management has gone with recommendations. This concludes my presentation and I am free to answer any question. >> Pool: Thank you for this. This is really eye opening and supports some of the concerns that I've been hearing from the community. When we had -- we had conversation with Mr. Sadowsky, I guess it was at the last council meeting we were talking about how many cases per month go through the historic preservation office and he was saying it was around 900, between 900 and 1,000, right? And so the 600 number may be a little low, but maybe that's on a longer average? >> This is what we got from the records that there are 600 historic landmarks in Austin. >> Pool: Oh, landmarks, okay, not the number of cases. >> Number of cases which

we had like -- they were about 3,200 cases. And then -- yeah. >> Pool: Okay. And how many -- you say that we have one of the lowest fte staffing for the office. How many staff do we have in the office?

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>> Three fte. >> Pool: And that includes the division director, the office director? >> Yes. >> Pool: Okay. And I think -- yes, Mr. Guernsey. >> We actually converted an administrative position to the program so we have four. There are only three filled currently. We're advertising one of those positions right now. The vacancy. If, but I think what the auditor found that there was average in the state or average of the entities that they interviewed, it was -- I think there was an average of six. >> We found that there were like six fte in the nine entities we surveyed and it ranged from three to 19. >> Pool: When was the last time the office had the higher number? >> With all the positions filled? >> Pool: Yeah. >> That's probably about a year ago or so. We had actually two vacancies, promoted one person within and we had to go back and fill that. So we just had a new person start about three months ago, but we still have one more vacancy. >> Pool: So did you want to ask a question or do you want me to finish? >> Tovo: You finish. >> Pool: Okay. I've heard some community members have talked, I've met with and are concerned also about the status of the feats and the workload and the historic preservation office, so I was curious, the ftes, the number that you have, do they work sole on these office cases? Or do they also work on, for example, codenext? >> The majority of those positions they work solely on historic, although there are applications that come in for demolition permits or for reviewing the actual plans. Others cases -- other staff would review for preparation

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of cases be presented to landmark commission or staffing subcommittees for cities of appropriateness might be reviewed. It's maybe only recently maybe only one of two of them have helped for codenext in the last couple weeks, but for the most part they work solely on historic. >> Pool: Can you give me a better definition of maybe one or two of them have worked a little bit for codenext? >> In the last about -- I guess about two weeks, two and a half weeks, some of the members of the teams may be working on doing C.O., conditional overlay, because we've been working to approve every since 1986. I had to distribute some workload across the entire department. I don't believe all of them are working on, I would have to actually ask the staff individually which ones are or not, but I believe there are a couple that are and a couple that are not. >> Pool: And there's only three people in the office currently. >> That's correct. >> Pool: So that would be -- >> Only one of the three is currently working on that project. And that will wrap up probably this week. >> Pool: I have some additional questions but they are not on this topic. Go ahead. >> Tovo: I'm sorry, I'm having a lot of trouble following the staffing. How many staff

are currently -- and can you describe their function? >> So currently we have four ftes. Three are filled. They perform day to day review of applications that might come in for remodel or demolition. That's the primary task of one of the individuals. Another one of the individuals assists taking a look at the historic survey, doing research, working on local historic districts, and the third primarily has been working on actually preparing cases for the landmark commission. >> Tovo: And which of those three positions is now -- has been researching conditional

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overlays for the codenext process? >> I believe it's the one individual that is coming in and doing the day to day review of applications. We accept applications on a daily basis for review. I don't know, I might turn to my -- for clarification on that, but that's only been in the last, like I said, when two weeks, two and a half weeks. >> Tovo: Mr. Guernsey, which -- but I didn't necessarily hear -- >> It would be the planner 1 position. >> Tovo: Is that the one -- so you had said one is doing research or processing things, cases for demolition. >> That's the one that would review those cases that would come in initially to do that review. >> Tovo: Is that the planner 1? >> That's the planner 1. >> Tovo: And that's the person who is now working on codenext? >> Assisting. >> Tovo: And the fourth fte you are hiring for, did I understand that's a division manager? >> It's -- I believe it's a senior planner position. >> Tovo: Within the -- within the audit it talked about a division manager. >> Yes, there's a division manager position that's over urban design and historic preservation. Last year we moved the historic preservation program out of current planning and moved it under urban design so it had better oversight. We did that to also move codenext out of urban design and move that to current planning. It fit -- there was a better fit for the current planning program to have codenext under it, and given the design aspects of historic preservation, it was better to move that under the urban design section. >> Tovo: So the division manager that the audit refers to would oversee historic preservation as well as urban design, but that's not the fourth vacancy. That position is a senior planning position. >> That is a current vacancy, but the position I'm talking about is specifically in the

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landmark program. >> Tovo: And what would that senior planner do? >> That senior planner would be reviewing applications, assisting that may come in that may go to the landmark commission so they would be assisting Mr. Sadowsky, working probably more in the creation on local historic districts. The city does not necessarily provide support for the creation of the districts unless an application is submitted. Some cities actually proactively work with neighborhoods. Ours does not. Due to staffing levels. They would also help doing the surveys that are mentioned later in the audit. So that would be

distributed among four people rather than just being distributed among the three that I have. >> Tovo: Do you envision that that senior planner could be more proactive in assisting communities that want to do local historic districts? >> I think it would be helpful. I don't think we have the staffing level to actually create local historic districts on our own because there's -- it takes a great deal of information that needs to be researched and gathered. Although when we have the east Austin survey that we recently completed, that task becomes much easier and we can actually assist neighborhoods better because of having the survey done. Because that's the lion's share of the work. Which structures are historic or which are not and moving forward in those areas. So we actually could move forward easier with local historic districts in east Austin because of the survey work that's already been completed. >> Tovo: Great. And how long has the senior planner position been vacant and what's the time line? >> I don't know the specific time line -- as far as the time line, we've had I want. >> Views that were posted -- excuse me, had the job postalled and I think they went through applicants. I think it's been reposted. The position has probably been vacant about -- I guess almost

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about a year, I would say. 11 months. >> Tovo: It's been vacant almost a year? >> Yes. >> Tovo: And when was it posted for the first round of applicants? >> About -- about three months ago. >> Yeah, early November. >> Tovo: Why so long? Why did it take so long? >> I think it was a matter of we were looking at possibly reclassifying that position. The H.R., corporate H.R. Changed the planner family over the course of the summer and so the grade levels had changed among positions. And so that proposal went by the way side when that happened. So we had to go back and just leave it as a senior planner and move forward. >> Tovo: I don't completely understand that, but I don't guess I need to. Councilmember pool. >> Pool: Do you mean the reclass was going to change the title and salary of that senior planner and that didn't happen? >> We were looking at the possibility of reclassifying that position. >> Pool: To what? >> To possibly a development and services position. When the planning family was I guess reviewed, a lot of the planning positions changed grade level. There were some market issues that related to that job family. I don't have all the details, but basically it -- it made the planning positions and development services positions equal, so then it didn't make as much sense to go through reclassification. >> Pool: Would that position have moved to development services out of the historic preservation office or -- >> No. It would have stayed in the same department. >> Pool: So my fundamental question goes back to what the mayor pro tem was asking because it sounds like that was just last summer -- or

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this summer just a few months ago, about out the position had been open for a considerable time before that. So what would have caused the delay even before the reclass issue came up? >> I think it was a matter that we -- it was a matter of workload at the time, if you recall, I guess about a year ago, I've had several staff that have left the department. Those positions are currently going through and being filled. So I had assistant director leave and two of the division managers leave for work outside the city or for other reasons so I've been in the process of trying to fill those positions at the same time. >> Pool: Did this position come open before those people left their jobs? >> It did. The hiring manager has since left and moved to Colorado. >> Pool: Okay. I would just say as an up shot of this conversation we should definitely put -- light a fire under the hiring of that position because it has gone on for so long and, you know, if the position is gone for too long unfilled, council looks at that and scrutinizes it and says maybe we don't even need the fte and it's for difficult to put that fte back on the books. >> I understand the position has been readvertised and is currently moving forward. >> Pool: I have a couple questions about training. >> Tovo: I think I'll shift to vice chair troxclair and we'll go back and pick up your questions as well. >> Pool: Thanks. >> Troxclair: Under additional observations, it says in the 2010 historic commission audit oca noted a lack of coordination among staff which could potentially impede their ability to serve the historic landmark commission. We have noticed this situation still exists. I'm always concerned when there is recurring issues from previous audits that haven't been addressed. Can you expand on that a little bit? >> When we did the previous

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audit in 2010, the audit was basically for looking at the historic landmark commission. But then we had this observation and there was a lack of communication between the historic preservation office staff, and in this audit also we found the lack of coordination and if you see the finding 1 relating to fees, it is because of lack of communication among the staff, the fees was not collected. So -- and then the management can talk more about that. >> So regarding the fees right now, any revenue that comes into our office is -- we're assisted by the development services department. So when an application comes in depending on the type of application, some applications actually come through the development service department, others come directly to my staff. We're in the process of right now trying to automate all our fees because we are still writing fees out and receipts by hand and if -- I guess the receipt book is misplaced, there may be out of order, but right now we're working with development service department to file the cash handling policies of the city to make sure we're in tune with those or in line with those so when the fees come in, the fee is paid, it goes through development services and there's a double-check which is not occurring now and that's our intention. That's on the coordination of the fees. That's part of finding number 1 that we concur with. >> Tovo: Mr. Guernsey, did you see the receipt book is misplaced or if the receipt book is misplaced? >> If the receipt book is misplaced. >> Tovo: Identify sounded like you said is and it picked it up I just wanted you to clarify that. >> In this audit we found there were some receipts we were not able to trace whether the fees was corrected or not

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so we were informed by staff they could not trace those receipt books. >> Tovo: I see. So there was a circumstance where the receipt book was misplaced for at least a portion of the audit. Okay. >> Yes. >> Tovo: Thank you. >> Troxclair: So is the assertion that fees are not being collected or that fees are being corrected but we don't have receipts to prove they have been collected? >> So there are both type of mistakes because we picked up example out of 30, for ten cases the fees were collected. For 12 cases there was no fees was not selected because there was -- receipts -- we found the fees were not collected and about eight cases the staff asserted the fees were collected but then they not have evidence to show us that -- that those pieces collected by providing us the manual receipt book. >> So I think if the fees were actually automated like most of our fees for building permits or for historic zoning, perhaps, then we would be be able to track those fees better and assure they are indeed paid and there's actually records. Because I think the issue that we have is that we would charge a fee, but then there's no paper trail to show that they actually -- the depositive I have had been made and the check had been cashed. >> Troxclair: Remind me so I understand, so you are working on automating the system. >> But in the meantime also making sure there is a double-check basically in development services that the fees on the receipt are correct and accurate. >> Troxclair: Okay. And so the automation will be winter 2018 of -- >> Like I said, we're working with ctm and development service staff on that. Not everything is in the process and right now there are several different procedures that we're working to try to get into Amanda.

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>> Troxclair: I have more questions, but -- >> Tovo: On fees, I guess I wonder given the fact that the historic preservation office is understaffed by other -- by some measures, why not have the fees paid through development services? Or maybe that is what's happening. I mean I guess why don't you have clients that are applying for demolition or for certificates of appropriateness or other things, why can't they be consolidated within the regular process with regard to fee collection. >> It's a matter of upgrading the Amanda system to start allowing for the tracking of applications and fees. And that was probably envisioned back in the late 2000s, but there was not -- I guess a priority placed on the historic program to get it automated above other programs. Right now I know development services staff has been working with other departments like the water utility or other departments to bring them on board and the Amanda system the goal is bring all of those on board and in place. In 2012 we did a fee study regarding all our different processes and added a technology component to each fee that would actually pay to help bring some of these programs on to the Amanda system, but I think there's a limited band width of trying to do them all at once. So we are working towards that right now to bring them all

on board, but it's underway, it's not complete. >> Tovo: I get that. I guess I'm thinking in the meantime, before all of these systems are automated, is there a way to -- to have fees collected in one place? So if I'm applying for, say, a demolition permit, which I'm unlikely to do, by the way, but if I were, I would go to development services and do

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that. And even if it's a manual receipt that I could then show the historic preservation staff, is there a way to do that so the historic preservation office doesn't have to be the one responsible for the collection and recording of fees? All they have to do is look at a receipt, a paper copy and say you are all set, now we can schedule your hearing? I know it's more complicated, but you see what I'm getting at. Can you delegate that responsibility to a division that does it a you will the time. >> Yes, we can talk to dsd and we're in that process. I don't think the subject in this office was so much on demolition, but in particular in demolitions right now if a commercial demolition permit comes in, it goes immediately to my staff. If it's a residential demolition, it goes immediately to dsd staff and we're trying to remedy that so all the applications come through dsd and we're just a review agency, not also figure out the fees and process the fees in addition to do our review. Yes, that is in progress right now, talking with dsd about improving the demolition permits. >> Tovo: I was really talking about all fees. I was just using demolition as an example. Is there a possibility of having all the fees go through whoever is collecting the fees for any other kind of land use issue? >> Yes, we're looking at that as part of our process and talking with the auditor and dsd of making this process all automated, but yes, we're probably working towards that goal of having a central intake for the applications and then collecting of those fees. >> Tovo: Is it possible that could happen in advance of the automation? That the central -- that the central intake part could happen now while you are working toward the awed makes? >> I think we have to do a little more discussion with them. Because some of these applications would require change of process and they in our department are initially set up right at this moment.

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That is something we are looking at. >> Tovo: It does seem like that would be worthing about, especially if automation is a few years off, potentially. Because I hate to see us losing fees potentially. I mean it's not clear to me whether there's an actual loss of fees and I guess it's not clear to the auditor either because of the accounting and lack of receipts, but I hate for us not to be collecting all the fees we need to while we're waiting for the perfect automated system. >> Troxclair: So does what he's talking about with automation address the concern listed in the audit report about coordination among staff, or are there other issues that an automated payment system would not address? >> I think still it

requires a coordination among the staff because system -- you can put everything in a system, but their office are informed about when the fees is to be charged and whether it gets collected requires some oversight. >> Troxclair: Okay. So a double-check -- I'm trying to understand what is the recommendation that would help that would address the concern about coordination? Is it just more staff meetings? >> No, I think part of in the Amanda see it prompts you certain things. So if there's notification required, it would prompt you to say, okay, notification required, and then if there's notification, then there must be a fee paid for the mailout and a fee paid for the sign, we'll say. And so it's not saying notification is required and trying to figure out necessarily what that is. The Amanda system actually prompts you to check a box to say yes, notification is required and what type.

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It also prompts you by also having that fee. It puts it into the system so both the development services staff and planning and zoning staff knows the application, knows there has been a fee paid so it can be cleared to go to the landmark commission for review. So yes, there's in order nation that needs to be figured out, but it's probably how to set that Amanda system up and to make sure it makes the prompts of the staff person either looking at the application that would make sure that it would go, that those fees have been paid, but also on the cashiers side because it would know the correct amount that should be charged and the receipts paid actually match those amounts. >> Tovo: Okay. >> If I may, Tanya from planning and zoning. I am the acting division manager for this group, and I think also that the coordination item that you are referring to might be addressed by the fourth recommendation where we are trying to work with hlc to get backup and agenda information to them a little earlier so they have time to review and toward nature with -- coordinate with staff, ask questions of staff and make sure that any legal questions or just process questions are answered prior to the meeting. If that helps. >> Troxclair: I have additional questions on a different subject. Anything else on this? >> Tovo: Yes. Do you want -- I said I would go back to -- I know we have questions so we'll go back to expect and hit you again -- councilmember pool and hit you again. >> Pool: I have questions on two different topics, one is training and the other is legal support. It says here the commission members feel -- 90% of them feel there's inadequate legal

[10:34:50 AM]

support. Can somebody talk to me about whether we have a lawyer coming to these commission meets and if not why not? >> Yeah, there -- there is no legal staff available at that meeting so as we said in other entities there is a legal staff presence in those meetings. >> Pool: Right. So my question is why have we chosen not to especially since these decisions coming out of the historic landmark commission

tended toward controversy because there was a lack of maybe good information and the staff was understaffed, why did we not appeal -- did we appeal to the legal department to have a lawyer there? >> Councilmember pool, I think this issue has been resolved. We've spoken with the law department and they will provide staffing. I think they have adopted a new way to support the zoning and planning commission and they were looking at adopting that for the landmark commission. As I understand now they are providing support for the landmark commission. And adopt the proposal for the land use commissions that they were looking at. >> Pool: Okay. And the question I had on training. Yeah, we sure can. >> Tovo: I have questions on this too. What is the proposal? >> Well, right now the -- they plan to staff the meeting as far as the law department and the historic landmark commission. >> Tovo: So I had heard some concerns that staffing may end at 8:00. Is that accurate? >> The staffing does end. I'm not sure if it's provided later in the evening. If the commission or if staff identifies that there is a case that is controversial, then they can keep staff, the legal department staff later into the evening. That is something that is --

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something that's been done in the past with some other boards and commissions that law department has stand, but they would look to the chair and members of the board and staff if they would stay the entirety of the evening. >> Tovo: So I guess we need maybe some clarity from our legal staff about what the policy is and what it will be going forward. I get questions about this with some frequency. So when has -- when will or has this legal support already started for the landmark commission? >> It's my understanding they are supporting the landmark commission now. >> Tovo: I haven't seen -- I haven't -- I wasn't aware that that was the case. And in fact, I've walked a few recent land morning -- I guess I would -- I mean if -- if we could get some additional information about when that support started. And I'll just say by way of an example, while Mr. Sadowsky comes up here, I'm not sure it always arises just in controversial cases. I mean I've heard comments, maybe this gets more to training, but I'll bring up those examples as we talk about training. Mr. Sadowsky. >> Good morning, councilmembers. Steve Sadowsky, historic preservation office. We've had legal staff or the ability to have legal staff on call, but we do not have staffing at the landmark commission meetings. Hopefully that will start at our February 27th meeting. >> Tovo: Terrific. Thank you for that additional information. I look forward to seeing that legal staff there. I think there's been a request on for a while. So February 26th. Great. >> 27th. >> Tovo: 27th. Apologies. Okay, councilmember pool, you had questions about training. >> Pool: I want to talk a little about training. I understand there was a -- is

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there a -- a limit, and I don't know if the city auditor knows the answer or maybe staff, is there a dollar figure under which a city won't accept a grant because it's too expensive to administer it? >> I believe it's \$25,000. So a grant for less than 25,000 we have a policy to not accept. And I think it ties back not to just the cost of monitoring but the cost of having a finding. A finding or repeat finding can get very expensive for the city. >> Pool: Do you think it would be a good exercise for us to look at amending that policy to include grants that may be coming to us in a low dollar amount that focused on training particularly for -- who are volunteers. >> That would be a good question. >> Pool: I understand there was a small grant, it was about \$3,500, that was offered from the state preservation, but it had to be turned down, but the \$3,500 would have gone a long way to help our new commissioners, especially under the new council regime to become familiar with what the expectations are and with their duties in a much more informed manner. I was really disappointed to see -- and I did not know we had a policy that said we won't accept money under a certain poll figure. So I think we really do need to change that and if we are not going to pay for training for our commissioners and are offered some money from a state agency, why would we turn it down? Do we have any funds available to do training for our commissioners, especially folks new to the commission? >> Yes, we are planning to

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provide training. We just had two new members approved. We're moving ahead and playing through operating budget for the training that's provided for by the state. We were talking about actually trying to find a way to accept the money, and we found out there was a limit of \$25,000 and it could not be accepted. So with the two additional members that have been added recently, we're moving toward to provide the training, but it will be paid for from my operation budget. >> Pool: Is that grant still available to go back and say we need to take it? >> That's a good question. We haven't officially turned it down yet, but I don't know if the state has already allocated that money. >> Pool: Okay. Okay. Especially when we're working with a similar agency at the state level on issues that have so many issues and touch points, I would really support that. Yes, I think talking about that at a local level would be a really good idea. >> Tovo: I have a couple questions about training. My covered the same territory that we've already covered, but I wanted to also just say I hope that training will be provided to the board generally. I think there's a range of expertise on that board and in some of the sessions where I was looking at particular comments there was a board member who is not a new board member saying things like, well, ours is just a recommendation. It's going to proceed on to council and, of course, that wasn't the case, it ended at the landmark because of a vote they took. A commissioner was giving wrong information to his colleagues on that, probably just, you know, because it gets confusing.

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The landmark commission is counties different from others. I heard a commissioner making a comment that it's not -- that to rezone a property -- something along the lines of rezoning the property as a landmark with a H against an important's wishes is a taking and we're not allowed to do that. And that's completely inaccurate, again. One having legal staff to correct those faulty statements is essential and I think having that providing that training. I think that's great, I'm really pleased to hear you say that and I think it's a real value not just for new commissioners but for all of them. When I served on the planning commission at least once a year had a restreet, staff went over basics for even commissioners like Dave Sullivan, everybody attended. We all had that discussion together and I think it's important the new members learn from the old members and it's use actual -- useful to having those numbers. With regard to training or related issue, qualifications, I want to note on page 9 the auditorium shores it also notes that Austin has only recommendation -- recommended qualification while a majority of other entities have required qualifications. I just wanted to ask our auditor to speak to that point. I assume that in looking at similar bodies U.S. -- Rather then just helped. >> Yes. Some cities just told us that we require our commissioners and board members to actually be enacted, be a -- but the

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city of Austin just recommended and says consider these growth, but the other people told us we actually require them to do that. >> Mayor Adler: Thank you. So language you and hang you again for your interest. You raced -- raised that and I'm glad to hear you are figuring out a way to move forward without some training. Vice chair approximate Claire. You had several issues you wanted to address. >> So I am prying to understand how we implement the recommendation for the second finding about developing and implementing a document of a review and justification tore administrative approval, et cetera, et cetera. Without having clear and concise standards, I -- you know, it says under number 4, the majority reported some or all of the historic designation are unclear and that community value criterion is vague and subject to multiple interpretations. We've seen that at council too when some cases come before council there's often a lot of discussion about what degrees community very many -- what does community value mean. It seems the process overall is subjective to begin with, and then if they are not -- subjective to begin with and then the standards we do have are maybe not applied consistently. I think it leads to a lot of confusion and divisiveness. So how -- it seems like we need a broader overall strategy or plan. I don't want -- like a revision of the program or how we're addressing historic preservation. So I'm interested in hearing from the department about their thoughts on that issue and then also from the auditor

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about if any of the other cities that you looked at, I know that you compared things like designation criteria and whether Austin uses similar designation criteria and it says we do. Did you find they were implemented in the same way or that other cities had the kind of uncertainty or -- or muddyness that Austin seems to be dealing with? >> [Inaudible]. >> We didn't actually go in that depth. We just required asked of them what et cetera your criteria. >> Troxclair: Okay. >> We didn't study how -- >> And you found the criteria were similar, the architecture, the community value, things like that? >> Yes. >> One neat to -- I'm going to let Steve answer this. I know community value, I think we were the only city that had community value as its sole criteria that would be one of two you would have to meet plus being the sage of the structure. But I think what the auditor says it was holded into other standards when they did their research, but I'll let Steve talk about the criteria that's used to designate the infrastructure. >> Our Christ have evolved over the past 15 years, and we went through first about ten years ago and then about six years ago to revise our criteria because we were initially using a set of 13 that were very boiler plate,

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put out by the federal government as a template almost. Not saying this is what you have to adopt, but these are the things you should think about. And over time we looked at the designation criteria that other cities used. We looked at close to -- I think close to 50 other cities were, where their strengths and weaknesses in their criteria and we brought it up through the full commission, planning commission and council getting input along the way before the decision was made. So we have modified our designation criteria. To hopefully address some of the muddy innocence. I think it's always -- floodyness. It's always open for more work. >> Troxclair: Do you feel like those changes have been effective? Do you feel they've made the process clear and easy to follow? >> I do. I do. I think the changes we've made over the past 15 years have clarified our criteria to a great extent. Our 13 that we had before was -- they were very vague. They were more conceptual rather than these are the things we're actually looking at for evaluating the significance of any particular structure. >> Troxclair: So what is an example of -- in finding number 2, 80% of the cases were reviewed only by the historic preservation offers. What's an example of something that is only reviewed by you versus something that goes through the commission under the council? >> Well, the code gives administrators authority to the historic preservation office to make the determination as to whether to refer the case to the commission. The criteria we are looking at, from the landmark

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designation, if -- among the 830% there's going to be a lot of potential demolitions. So people are tearing down a wall. It's still something that I review, but it's not something that is going to affect the historic character of that property to the extent it needs to have a Normal hearing before the commission. When we get an application for demolition, the first thing is look at where the property is, if it's a sensitive area, historic district, that automatically goes to the landmark commission. If it's not within an historic district, we look does that property have the potential for landmark commission designation because we review everything -- demolition permits on several that's 30 years old, we have a the look of applications for demolition of houses that are not going to qualify for landmark designation. And our effort is to streamline that application process. There's no point in going -- in taking a case for the demolition of the house that does not meet the criteria through modifications, age, to drag that process out per the applicant and the additional notification fees when deep down with know there's no chance of this ever being designated as a landmark. So it really is a matter of parity and equity for our citizens not to put them through a process that we know is not going to provide any additional information. >> Troxclair: Okay. Thanks for that clarification. So I guess I want to go back really quickly to the designation criteria. I hear you saying that there's been improvements and that you feel like the process is operating nor effectively, but

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I'm still concerned a majority of the commission who -- I mean at this point have the -- you know, all of them probably have been on there for a decent amount of time. You know, two years or so if they were appointed within the council. I mean we have people who have spent a lot of time and energy on reviewing historic preservation cases, and a majority of them are telling us that the criteria are unclear. How -- how do we -- how do I, I guess, address in a issue if I hear you telling me you feel like the process is working? >> Well, I think our criteria, as I was saying before, our criteria can always be reviewed again. >> Troxclair: But? An interest -- I mean enough staff to do that? >> Tovo: If I could intervene, the one issue that I see noted as unclear is community value. And that is a criterion than the council asked the landmark commission to review and so that process is, as I understand, underway. That does seem to be the cry tear criterion that I noted needed a fuller definition and so it's not surprising the landmark economist identified that as an issue. Would you give us an update about where that is with the landmark commission? >> Sure. This is something we're going to present to the operations committee, which is the committee of the commission that looks at criteria, all the code sections. And get their -- again, we'll go through research, how other cities do this, what has failed, what has succeeded and base our recommendations on those findings.

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The community value has always been the vaguest of our criteria. And it has always posed a problem not only for staff but the commissions as well. To get back to our training Earth's too on this O. O. Efforts, whenever we have a new commissioner appointed by council, we have a binder we've made up of all the preservation code sections. Basically everything they need to know that is specific to their service in Austin. And every year we have a round table of commissioners, a retreat, but it's an opportunity for all the commissioners to sit down, voice their concerns, kind of set the course for their decision and knowledge and expertise in this area. >> Troxclair: Can I ask a followup question really quickly? >> Tovo: Sure glass the community value is mentioned and it says 40% of the hlc members reported that community value is vague. But it says 60% of commission members reported that either all or some historic designation are not clear. It does say it's not just the community value criteria. It seems like there is communication on other criteria as well. Is that accurate? >> Yeah, that's right. We did a survey and the response include that they are not clear on certain other criteria as well. >> Troxclair: Do you have any guidance as to what other criteria or what they were recovering to other than the community value? >> We actually don't understand that criteria very well. >> Troxclair: Okay.

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>> This one was specifically mentioned as an example. >> Troxclair: Okay. >> Tovo: I have a followup question about that. I see 40% identified community value and another two noted none for easy to understand. Is that how you got to 60, that 40 and 20? >> Yes. >> Tovo: I would just indicate 20 -- at least two of the members of the commission -- you know, there were some very strong feelings against historic preservation so, again, it doesn't surprise me nor does -- nor do I want to give too much attention to the fact that we have that response among at least two members. When you have people appointed to the commission who don't except pouter the basic ten anyways, we're very likely to get responses like that. >> One of the other things we note is the relative newness of the members. So eight of the ten at the time joined the commission since 2015 or in 2015. So you also have, regardless of their perspective about preservation, you also have people who have not been doing this very long. >> Tovo: Another excellent point. Thank you. Councilmember troxclair, do you have other -- answered your questions? >> Troxclair: Yes. >> Tovo: Councilmember pool. >> Pool: Back to the training, I wanted to find the training and the role of the landmark commission is really important. Are we also going to have training on Robert's rules of orders so the commissioners are comfortable with how meetings should proceed and encourage the staff, the attorney who may be there. If it looks like things are not proceeding properly. If we get errors based on bad procedures, we have problems. So training on how to conduct a meeting properly. >> Yes, that is something that we're definitely going to be looking at this year. Earlier these issues cut

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across all of our commissions, not just the historic landmark commission, but because of the relative newness of most of the appointees. And probably now would be a really good time to bring that back up to talk with everyone because they do have many of them already have like a year and a half or two years under their belts so the training and redirects and the realignment would be probably a really good time for that to happen. Thanks. >> Tovo: I found that I needed to show clarification about the attorney. So February 27th, an attorney -- it's jury understanding, Mr. Sadowsky, an attorney will be attending that meeting or be on call? >> It's my understanding they'll be at the meeting. >> Tovo: Super. That's what I heard you say, then I remembered there being a reference to on call and just wanted to verify. Anything else from our staff or from our auditor? Thank you all so much. Is there a motion to accept this audit? Councilmember pool moves acceptance. I'll second it. No, we'll have to wait till vice chair troxclair returns. Sorry about that. Let us move on to our last item or second to last -- item 6, staff briefing with regard to the municipal civil service. And give our issues can quorum, as soon as vice chair troxclair returns, we're going to vote to accept that audit so I may interrupt you midstream on this agenda item. >> Good morning, mayor pro tem council, I'm [indiscernible]

[11:01:09 AM]

Rios, with me are Joseph and Silva from the administrative department, Silva is administrator of the civil service commission. >> Tovo: Before you jump into your presentation, given that we've had some quorum issues today, I said I want to proceed with that vote. We had a motion and second to accept the historic preservation audit. Is there any more discussion? All those in favor? That's unanimous on the dais with councilmember Renteria off the dais. Thank you. I apologize for the interruption. >> No, it's fine. We will provide a brief background of the rules for the municipal civil service commission. Their current members and term and the selection, courtroom, and appointment process. Article IX of the city charter that was approved by voters in November of 2012 established the municipal civil service commission to have five commission members. The noted ordinance established the commission as a chapter 2-1 city board that designates the audit and finance committee to review applications and make recommendations for appointments. The ordinance also established that the rule that excludes city employees from being appointed. The role of the municipal civil service commission is to hear appeals and make final binding decisions in the case of discharges, denials of promotion, and disciplinary action. The commission meetings occur twice per month and last the entire day. Special called meetings are scheduled to accommodate the need of additional meetings. The commission also reviews proposed rules and potential rule changes from the human resources director and recommend the rules to council for deposition. The purpose of the presentation is to discuss the upcoming expired term of the current chair and how the community would like to proceed. The current members are Pamela Lancaster, who is the chair, vice chair Teresa

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Perez wisely, lotid, daily, Michael Murphy, and Melissa Rogers. There's voiced interest in reappointment to the commission. She was appointed in 2013 and reappointed in may of 2014. Chair Lancaster served two one-year terms as chair beginning in may of 2015 to present, and as mentioned, she has voiced interest in reappointment. So there are two options for the committee today. One is to recommend the reappointment of Pamela Lancaster to the full council, or to approve an open call for applicants to apply for the open position. Should the committee select option 2, the office of the city clerk will recruit commissioner candidates, collect applications, and screen the applications for minimum qualifications to forward the candidate documents to the audit and finance committee. The human resources department will assist our office and the council in the process and provide support to the municipal civil service commission. For the recruitment process, our office will work closely with the public information office to advertise the opening. It will be a 30-day solicitation with a requirement of the candidate being a resident and registered voter, and a preference that they have experience with employment, human resources, labor relations, and/or mediation. Our office will follow the standard boards and commissions application process. We will accept online and hard copy applications using the standard boards and commissions application form. Additionally, we will accept resumes to document any additional relevant qualifications. To ensure minimum qualifications identified in charter 2-1 are met, we will identify candidates with preferred background and

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provide applications received to all council offices through the standard process. After the recruitment process, the council audit and finance committee shall radio the applications received by our office from persons seeking appointment as a commissioner. Appointments are subject to approval by a majority vote of the council. And the council shall designate the commission chair annually at the time new commissioners are appointed. The next steps are for the committee to select option 1, which is to reappoint chair Lancaster, or option 2, to recruit -- recruitment, to include a 30-day advertisement, open applications, where we screen for minimum qualifications, where we review and -- for review and potential interviews by the audit and finance committee, then it goes to council for an appointment. So this concludes our presentation, and we are here to respond to any questions you may have. >> Tovo: One quick one I have. So the options do not include making a decision about chair today. They would just be whether or not to recommend an open call or reappointment of Ms. Last cast there. Ms. Lancaster. >> Correct. >> Ms. Pool. >> Pool: I go ahead and move to approve Ms. Lancaster's reappointment and I have already checked with various employee groups and stakeholders that make sure that her reappointment is something they would support. >> Tovo: Councilmember pool moves approval of reappointment. Is there a second? I will second that for the purpose of discussion. Vice chair

troxclair, I want to recognize you, you had a question. >> Troxclair: Are there -- are there term limits either for the commissioner members

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or for the chair? >> Yes. There are two-year term limits. Oh, my mic -- silva Everett, civil service administrator, there are three-year term limits. >> Troxclair: Three -- >> So every time they're appointed -- oh, you're talking about their total term. That's correct? Nine years. >> Troxclair: Nine years. >> I believe that's what's currently in the charter. Sorry, my apologies. >> Troxclair: Okay. And they're three-year appointments? >> Yes, ma'am. >> Troxclair: So they can be appointed and then reappointed twice. >> Yes, ma'am. >> Troxclair: Okay. Then what about for the chair position? That's appointed -- council designates commissioner chair annually. Is there a limit to how long somebody can remain as chair? >> Not that I'm aware of. >> Troxclair: Okay. I -- I guess I would -- I think that ava I've always erred on the side of people opening a call, whether it be very well health board or this board, so people are able to apply if it's something they're interested in and council thinks they're qualified for. I don't think I know Pamela Lancaster so I don't -- so it's very possible that I would happily support her, but I just always want to give the community the opportunity to apply. So my preference would be for option number 2. 2. >> Tovo: Okay. Thank you. I saw your hand up. Did you have questions, councilmember pool? >> Pool: I just wanted to get a little bit of the background on the three three-year terms, when that was -- when we were -- when the city was crafting the

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municipal service legislation, was there a discussion about looking -- the reason why the nine-year term was in order to build institutional knowledge so you wouldn't have turnover really frequently? Can anybody speak to that? >> Jeff Burton. I'm interim assistant director of human resources and I was involved in the rules drafting process at the beginning. And I do not recall any deliberate discussion around the rationale for the nine-year total amount, so I'm sorry I can't provide any insight to that. >> Pool: Looks like maybe our city auditor has some knowledge. >> Well, I was just going to remind you that the charter amendment itself, which I believe is where the nine years comes from, was not city-crafted or not entirely city-crafted. >> Pool: Oh, okay. Right. And so was there any documentation, maybe discussion, during the stakeholder process during the charter commission where they talked about the wisdom of the nine years? >> So we had a tremendous amount of discussion and stakeholder input with regard to the rules and where things were going, and it went over a year. But I -- and I was involved in the vast majority, if not all that and I don't recall any -- and my memory could be faulty, but I do not recall any deliberate discussion about the nine-year limit. We could go back and look at the -- the

notes or the history to see if there was any specific direction or rationale, if you'd like. >> Pool: Yeah. I think -- I think that would be useful, just so that we could kind of center ourselves on what the thinking was at the time. And it does sound like the nine years wasn't considered particularly controversial. If no one can remember, it seemed like an appropriate amount of time at the time when it was being discussed.

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>> Uh-huh. >> Pool: And I don't have any -- I personally don't have any reason to dispute that piece. The nine years seems a good -- that's a good amount of time for someone to gain the level of knowledge and historic perspective that I think is really important to have in these kinds of deliberations. So -- anyway, I have the motion on the table -- under consideration. >> Tovo: Vice chair troxclair. >> Troxclair: I think I'm familiar with the background of the other four members because they've gone through reappointment since I've been on council, but I'm not sure that I'm familiar with Ms. Lancaster -- Lancaster's background. Do you know, just a brief general background of her? >> Yes. Actually, we do. Ms. Lancaster had actually more exposure to the city process given that she was a hearing officer under the old process so much prior to municipal civil service, civilian appeals or grievances of these same matters, discipline, discharge, probation, suspension, denial of promotion could go to a hearing officer. And Ms. Lancaster served as a hearing officer, I want to say, for nearly 20 years. So she had been involved in the appeal process prior to the establishment of the municipal civil service. And she's currently an attorney. >> Troxclair: Thank you. She sounds very qualified. I'm still -- from a process perspective, I tend to always err on the side of opening up any appointments to community members. But I understand it's the will of the committee. >> Pool: Well, to follow up on that, we have what the process would be if we were going to go through recruitment. It's the solicitation and then the vetting.

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If the motion for Pamela Lancaster's reappointment succeeds today, what's the next step? It comes to council? >> Correct. It'll go to council. >> Pool: So that would be on the 16th, February 16th? So there would be time to get her vita circulated to everyone, then she may have the opportunity to meet with councilmembers who may want to talk with her? Maybe that would -- that would be helpful because that's about ten days -- yeah, ten days from today. >> Tovo: So the challenge we have before us is that with a dais of only three members, a vote of two in support of the motion would not be successful. A vote to follow the other alternative for opening it up to the community process, my guess is, would likely not be successful, either. So we have a few options. One would be to table this to next month, so then that puts us in a little bit of a bind in terms of if the decision is to do an open call, getting that done

in time. So I would ask my colleagues to think about either postponing this to next month or to send both recommendations forward to council, both options forward to council for the decision to be made there, so we can keep on track if we are doing an open call. So I'll offer that for consideration. >> So we can't forward one option because two out of three present -- you need a -- you need a quorum? >> Tovo: Yes. We need -- >> You need a majority of the four, even though you only have three. >> I think that rule has been implemented differently in different committees but that sounds like probably the right thing to do. I guess my preference is that knowing it's probably the will of the committee, if I'm understanding your -- would you have -- expand on -- >> Tovo: Yeah, I'll speak to that you know I am in a little bit different position because I served on audit and finance and had an opportunity to review all the candidates as staff have said, Ms. Lancaster came in with probably the most

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experience of darn near all of the candidates who applied for any round of civil service commission, so I feel very comfortable recommending her for reappointment. I understand the point you've raised, though, about reopening those positions and allowing everybody to have an opportunity to apply. But I would support reappointing her and would not support a motion to open it up generally, so that would - - that would keep that one -- >> Troxclair: Okay. I think my preference would be then to go ahead and recommend both options so that we can keep the process moving forward. >> Tovo: Councilmember pool. Did you have thoughts on that? >> Pool: Well, I don't support opening it up, at all, for the reasons that you've outlined as far as the qualifications and the impressive experience that Ms. Lancaster brings. I do think that the ten days between now and voting on the 16th should give everyone an opportunity -- who wishes to have it, an opportunity to meet with her and talk with her in order to keep the ball rolling, I will reluctantly support the -- moving both of the recommendations forward, but I just want it to be noted that I do not support -- because of the amount of work involved and the fact is that it makes it look like we don't have confidence in Ms. Lancaster, and I think in circumstances like this, it is really important that we signal that we do have support -- that we do support and have confidence in the incumbent. >> Tovo: So the other option before us could be to postpone it for a month. I guess I would look to staff is to whether or not that's an option that would put a lot of time pressure on the outside. >> I'll defer to you. >> Are we talking about time -- >> Tovo: Yeah. If we were to postpone this and take it up again in March, does that still give you enough opportunity to schedule the meeting in March? >> It's actually February. This is our January meeting

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despite it being February, so there is a February 22nd meeting, I believe, scheduled. >> Tovo: Got it. Thank you. So if question took this up on the 22nd and made a decision, and perhaps -- let's see, I know we have a meeting at the end of February, but that probably doesn't give us enough time to post it. Perhaps we could post some very general posting language that allows for either option on that council agenda, on the 24th. So if we postponed it today but had a placeholder on that council agenda that allows for either option, then we could make a decision at our audit and finance and then have a recommendation on the council agenda that week. So those are, I think, the two main alternatives, either we send both items forward for consideration at the council level or we postpone it until the 22nd. >> Pool: So the 22nd for our meeting in audit and finance is on a Wednesday. I was thinking it was a Monday. And the council meeting is the 23rd. I just wanted to -- I think I gave you the wrong dates. The 23rd. And, let's see, do we have a council meeting on that day? We do not have -- >> Tovo: I show it as -- >> Pool: We do not have a council meeting on that day. So that would be March 2nd. >> And that works. That should work. >> Pool: Okay. >> Tovo: So, colleagues, what's your reference of the two alternatives before us? >> Troxclair: I'm open to either way. I'm happy to support both recommendations and I think you would have the opportunity as the chair to explain when it comes before council the did you understand, the circumstances under which we took the vote, but I'm happy either way. I'll leave it up to you. >> Tovo: And I actually don't have a strong preference one way or another. Councilmember pool, you said you felt that forwarding to -- I think I understood you to say forwarding two options felt like we were expressing a lack of confidence. Postponing then would seem like the better of the two options, given that concern. >> Pool: Right. I still prefer moving forward with it today, but I

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am -- did the city have something else? >> We have new information. I was incorrect. I believe y'all's rules allow you a majority of a quorum, if a quorum is present, to vote on an item. >> Pool: Oh, good. >> To fast an item. >> Tovo: Well, this has been a very interesting discussion of all the potential options. [Laughter] >> Tovo: Now we know what they are. >> I stand corrected. >> Tovo: Thank you very much. >> Pool: Thanks for checking that. >> Tovo: So the motion that is still on the floor is is the one that councilmember pool made to reappoint -- to recommend reappointment of Pamela Lancaster to the municipal civil service admission. Is there any other discussion? Yes. Vice chair troxclair. >> Troxclair: I just want to reiterate really quickly that I am -- my vote to open up the process is not a lack -- a vote that signals any lack of confidence in Ms. Lancaster. Again, I just always err on the side of allowing new people to apply for inclusion in our city processes when possible. So I look forward to meeting her and I thank her for the work she has done thus far on the commission. >> Tovo: Thank you very much. All in favor? Opposed? So that passes on a vote of 2 to 1 with vice chair troxclair voting against, but with the comment that she noted. Let's see, do we want to talk about any -- so that brings us to our last item, which is any future agenda items. Any we need to discuss here today? All right. Vice chair troxclair. >> Troxclair: Maybe this isn't the right place to do it, but our -- I guess the continuation of this

committee in its current structure is status quo as of now until -- until if and when the council chooses to make any changes. >> Tovo: And that is scheduled on our agenda this week, so my guess is that by next month, we'll have a sense of -- well, one, the committee has to continue,

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but kind of who the membership is and who's leading it, we'll be covering by that discussion. >>

Troxclair: Great. Thanks. >> Tovo: All right. Well, we stand adjourned at 11:20. Thanks.