

Regular City Council Meeting Transcript – 10/29/2020

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[10:04:30 AM]

>> Mayor Adler: Today is Thursday, October 29th. This is the Austin city council meeting. We're having this meeting -- [loss of audio]. Item 10 postponed to November 12, 2020. Item number 43 is withdrawn. We don't have any pulled items yet, but we'll come back to that in a second because I know that we will, but we have late backup in items 10, 20, 25, 26, 34, 40, and 44.

[10:05:37 AM]

Colleagues, are there any items to pull off of the consent agenda? Any items to pull? I think that -- I have questions for staff on item number 7. They could be quick, but I'll pull that so that they have time to be able to get here. That's the Daugherty arts center. Any other items to pull other than that one? Councilmember harper-madison is not with us here. I know that she's raised questions with respect to item number 20. I'm not comfortable having that move forward without her being here. >> I'm pulling 20 myself. >> Mayor Adler:

[10:06:39 AM]

Councilmember Flannigan pulls item number 20. Councilmember harper-madison had a -- what are those things called? Explosion of the power thing in her neighborhood, so power is out and she's getting to a place where she can have her family settled and still participate with us in the meeting. She said she thought she would be about 45 minutes late and then she will join us. We have item 7 and 20 being

pulled. The consent agenda is items 1 through 27 and also 41 through 43. Is there a motion to approve the consent agenda? Mayor pro tem makes the motion. Is there a second in councilmember Casar seconds. We have some folks to speak

[10:07:40 AM]

so before we take a vote on the consent agenda, let's hear from speakers. How are we doing on speakers? Are we ready to do that? >> Yes, mayor, we're ready. The first speaker is Tom Wald. >> Hi, this is Tom Wald with the red line parkway initiative speaking on item 31 and also note that it relates to the item in the special called meeting that's happening today as well. This is regarding the Austin energy site at 2412 Kramer lane and change in the -- or basically a plan amendment to north burnet gateway plan or to possibly rezone a portion. And I wanted to give some background. Red line parkway initiative is focused on the red line trail on this particular parcel. We want to make sure there's a good alignment and city

[10:08:42 AM]

staff urban trails have been working with Austin energy for some months now, but reached an impasse. We are looking for an alignment that goes along the red line itself and is not circuitous. And our understanding is that adding a substation here could -- that that was Austin energy concern and creating a direct route for the red line trail. And so as a result we just want to make sure that the red line trail is given a good alignment. We believe it can be done safely given the -- you know, any concerns. We are not opposed to the substation itself and definitely think that's important for the area. We did meet with Austin energy last week and had some good breakthroughs, but we haven't yet received a good agreement on that. I will note that planning commission saw this item on Tuesday and for item 31 they

[10:09:45 AM]

recommend -- or the subject they recommended that there be a -- the uses for a substation be granted as a conditional use and that that would allow the -- that would require the site plan to be brought back to the planning commission again and thereby we would have an opportunity to make sure Austin energy has done all they can to allow trail alignment on the west side of the property. So the -- the other option for the rezoning would also provide some options that would safeguard the ability for people to bike and walk directly to destinations and also to access the new broadmoor train station that's planned for the area. And again, this is for a 32-mile corridor, it would be the only continuous north-south urban trail from downtown up to the urban metro edge on the north. And this -- the proposed alternate alignment would add about 80% of length to the trail and it would create more car conflicts with the driveways.

[10:10:46 AM]

That's our concern. So again, thanks very much and I'll give the remainder of my time. >> Mayor Adler: Okay. >> Mayor, that -- we only had two speakers and only one called in. So that concludes speakers. >> Mayor Adler: Okay. Collection, we have a motion to approve the consent agenda. The consent agenda items 21 through 47 and 41 through 43 he noting that 7 and 20 have been pulled. 10 was postponed and 43 was withdrawn. It's been moved and seconded. Those in favor of the consent agenda, mayor pro tem? Did you want to say something? >> Garza: Sorry, I may have gotten item numbers

[10:11:47 AM]

confused, but the Kemp case, I understand it will be withdrawn, but that comes up at 2:00. Is that right? >> Mayor Adler: Yes, 43 has been withdrawn. That is not the Kemp case. The Kemp case is item 40 and it will be -- it's not being considered today, but all zoning cases will be brought up this afternoon. >> Garza: Thank you. >> Mayor Adler: Councilmember alter and then councilmember Casar. >> Alter: Thank you. I just wanted to acknowledge item 9, which is a service agreement portion of make it now, which is a collaboration of a workforce -- for workforce investment between Travis county, the city and workforce solutions. This is a very important project that's going to involve rapid retraining and reemployment, and I'm glad

[10:12:47 AM]

that we were able to include this initial portion in the budget and just as we are thinking about our next steps for any future federal or state aid that comes to us, I just want to put a flag in it that these workforce investments are really important for our recovery over the long term and I'm glad that we're able to take this initial step, but we will need more funding to make this [inaudible] As can be and help people get back to work. Thank you. >> Mayor Adler: Okay. Thank you. Councilmember Casar. >> Casar: I just want to thank council for moving forward on item 27 and for the law department's continued work trying to win this legal fight so that our anti-discrimination rules in housing can stand. Right before the 10-1 council was seated, I know that mayor pro tem and

[10:13:47 AM]

councilmember tovo and many others worked to pass the anti-discrimination rules to protect people trying to pay for their housing with a voucher. I know many people managing -- or several people in my

own district managing apartments and homes who are prepared to implement them and end anti-discrimination based on somebody trying to get housing using a voucher, and unfortunately that was -- the legislature essentially legalized that discrimination by passing a law saying that you can -- essentially can discriminate based on social income. So I appreciate our law department continuing that work, moving it through the courts and the law department helped us in conversation to get this going. So thank you city attorney and to the council for continued work here. It is relevant to our work to end homelessness. Housing vouchers are a critical way for us to get people quickly into housing that are living on the

[10:14:47 AM]

streets, and then also low-income people, working class low-income people. And so I urge and we continue to work with landlords to voluntarily not discriminate, but I just feel like with our civil rights laws, it makes sense for discrimination to not be [inaudible]. Thank you. >> Mayor Adler: Okay. Thank you. I note that item number 10, this is the temporary 380 program and it's being postponed until November 12. I'm out that week so I hope staff can get with me and my office and the rest of council prior to then so that if I have any thoughts or concerns or reservations or suggestions or the like, I have the opportunity to be able to participate in that. I think as we are focusing in that resolution that we passed now twice with respect to helping those iconic places that were in danger of losing and that

[10:15:50 AM]

they disappear won't be replaced, can't be replaced, that we look at the 380 as a really important tool to be able to help. Separate and apart from that prior direction with respect to 380, I think we should consider in a different context and expand the 380 to help things like restaurants generally. I don't know the extent of that or what the cost of that would be, but -- and hopefully the federal government is going to come in to help with that larger group of folks, but I think we should be thinking about the things that we can be doing or that larger group that might include an additional and separate application to the 380, might include making it easier for people to have tables outside, might include anything else we can in order to be able to help. Joran that would be part of -- I don't know that would be part of what's

[10:16:51 AM]

coming back on the 12th, but I think we need to be doing that also. Anything else that we need to -- conversation? Then let's take a vote. Those in favor of the consent agenda please raise your hand. Those opposed? It's unanimous on the dais with councilmember harper-madison not with us. Colleagues, now items that we can consider. Is staff here to speak about the Daugherty arts center? >> They are and if

you wait a minute, we'll get [indiscernible] >> Mayor Adler: Okay. That would be good. Just ask few questions. Item number 20, we're going to hold until councilmember harper-madison is -- is with us. That would enable us, I think, to consider at this

[10:17:51 AM]

point number 43, I think we could consider public hearings items and the audit and finance items, so item number 28 and number 29 are two resolutions that come to us from the audit and finance committee. Councilmember alter, do you want to lay those out? >> Alter: Sure. Just give me one -- >> Mayor Adler: 28 was the joint inclusion committee bylaws and 29 was the ordinance relating to the auditor. >> Alter: Sure. So 28 alliance the bylaws for the joint inclusion committee with actions that we took before to change the composition of the committee and to clarify its purpose. Pretty straightforward.

[10:18:52 AM]

And then item 29 addresses concerns that the city auditor office had with respect to issues related to their investigative authority -- authority due to some changes that were made in the last two years where we've discovered that there was -- there were situations with a the auditor was having to spend significant time on diminimus use situations which could be better handled by the city manager's office. So this just sets up the process so those diminimus use cases can be dealt with by the city manager rather than the auditor's office. We recently had four misuse reports that were small in scale and those could have been referred had this proposed change put in place, we would have had a better use of our auditor resources.

[10:19:56 AM]

>> Mayor Adler: Okay. Thank you. Is there a second to the items coming from the audit and finance committee? Councilmember pool seconds those. >> And I just have -- I have one thing to add. To the second one, item 29, I believe, and maybe councilmember alter can confirm that afscme has already reviewed these changes and also are supporting them. >> Alter: My understanding is that afscme said that is referenced in some of the backup that we have. And the city manager's office also supports it. >> Mayor Adler: Okay. Any further discussion on these two items? Items 28 and 29 have been moved, they've been seconded. Let's take a vote. Those in favor please raise your hand. Those opposed? Unanimous on the dais with councilmember harper-madison not with us.

[10:20:58 AM]

>> Pool: And Mr. Renteria is off the screen. >> Mayor Adler: And Pio is also not with us. Two councilmembers absent on the vote on those two items. Kimberly, I think I saw you pop in. Ms. Mcneely? >> Yes. >> Mayor Adler: Thank you. I have questions with respect to item number 7 before we take a vote on it. This is the Daugherty arts center. When this came before us before, we had -- the council added unanimously an amendment which spoke to a couple other issues that related to expanding perhaps the buying power of the bond programs that we had. And as we go forward, I just want to make sure similar to that amendment that was raised before that we're going to be doing -- that we are in fact doing those things. And specifically the Daugherty arts center, as I understand it, has funding

[10:21:59 AM]

for both the 2012 bond and the 2018 bond for a total of \$27 million. That's going to enable us to build a new Daugherty arts center at the proposed location as well as tear down the building and remediate that site that where it currently exists. We want to make sure that the city was reaching out to fill philanthropists, people like the friends of the Daugherty art center and the community so see whether or not there would be additional funding that could be obtained so we wouldn't be limited to a project that fit within the bond funding that we had in case there were additional things that could happen. Also with respect to the parking garage, maybe there are ways to do a parking garage

[10:23:00 AM]

by looking at shared properties with neighbors and parking enterprise including underground parking and transportation and management strategies for the area. Again, with an eye to enabling us to use more of the bond funding for the spaces in buildings that can be possibly programmed. And then we want to make sure the designs that were coming back were designs that were susceptible of being expanded. So it's possible you would come back in the spring and say, hey, we had a \$5 million gift and now we planned a building that also incorporates this 5 million-dollar gift. So it's a -- we can do more in that space. But the designs would also come back and allow for future expansion of the creative space facility so that that option would exist into the future. And I guess my question is, are you already doing these things or are these things

[10:24:02 AM]

that you will be doing as we head into the spring if we pass this? >> So I'm Kimberly Mcneely, director for parks and recreation department. The simple answer is yes, we are doing those things. I believe in

reading the motion sheet it provides additional clarity and expectations that will allow the department to ensure that what we bring back to council for consideration will meet the expectations that the council has laid out for us. And so I see that as additional direction that -- as additional direction that provides clarity to the things we'll be doing. Just to be sure that we are on the same page with regards to philanthropic arm, the parks and recreation department is not as far along with regards to identifying philanthropic opportunities other than one particular entity. So giving us this direction allows us to have some more concentrated efforts in that

[10:25:02 AM]

area also. >> Mayor Adler: Okay. So what director Mcneely is referring to is we had written this up by way of direction that I would like to read to you and then we'll give a chance to -- >> Kitchen: Mayor, I have questions too. >> Mayor Adler: I was going to read this and then we were going to give you a chance to comment. If you have other questions, we can certainly do that too. >> Kitchen: Could I ask the questions now first? >> Mayor Adler: Let me read it so people can see what we're doing. >> Kitchen: Yes, my question is -- anyway, go ahead. Zoo thank you. >> Mayor Adler: Thank you. I would propose the following direction. This is what director Mcneely is reacting to. That the city manager has directed part of the development and designs for the Daugherty arts center, one, two include future phases that offer the opportunity for expanded create a space and

[10:26:06 AM]

alternatives. Include alternatives by exploring but not limited to the following. Shared parking with neighborhood developments and property owners, parking enterprise or revenue based financing including underground parking. Transportation demand management strategies for the area. And then number 3, activate gauge stakeholders who have expressed or may have a fill and tropic interest and provide a framework for contributing to the new center. And with that language the intent would be to make sure that we're maximizing the funding that we have as well as incorporating into the designs philanthropic support that we would be getting. And that was the language, Ms. Mcneely, you were reacting to? >> Yes. >> Mayor Adler: Ann, did you want to comment or have questions? >> Kitchen: Yeah. I have several questions. Concerned about the last clause, director, that says

[10:27:08 AM]

and provide a framework for contributing to either the new center or the parkland replacement of the current site. So my question to you -- >> Mayor Adler: So Ann -- >> Kitchen: My question is for director Mcneely. >> Mayor Adler: That's not what I read. So in response to your concern earlier, took out the word "Either" and also took out "Or the parkland replacement of current site." Interest in this project or

provide a framework for contributing to the -- that's what I'm. >> Kitchen: Okay. So let me ask my question. And provide a framework for contributing to the new -- >> Mayor Adler: Uh-huh. >> Kitchen: I want to confirm that last clause has changed -- as changed, do you read us doing anything differently than you are already pursuing? >> I do not read it as anything differently than having direction as to understanding the importance

[10:28:09 AM]

of pursuing alternative funding options. Inclusive of and not limited to philanthropic arm and opportunities. Additional direction providing clarity and it's something that I'm understanding to be helpful to expand already existing -- to build upon existing -- to perhaps meet more of the needs of the community. >> Kitchen: There's a couple of things I would like to clarify. So first thing is that -- and I want to clarify this because this is -- I don't want the constituents in the area to think that we are -- they haven't had the chance to see this and I haven't had the chance to tell them about it. So I want to make sure that they understand that it's not anything different than what we talked about previously and the language we brought to you

[10:29:10 AM]

previously. So that's why I want to confirm with you, director Mcneely, this is not changing the direction that you -- or expanding it. So could you just confirm that for me? >> Yes, ma'am, I see it as further clarification. >> Kitchen: Okay. And the use of the word "Expanded" is something we have talked about as well as you have talked to the neighbors living in that area, the idea free up as much green space as possible around there. So this direction is not intended to use up the park space with more buildings. And that's the -- when we talk about this direction before, that's what we clarified, so I just want to make sure that's -- that even though this uses the term "Expanded" we're not changing the intent and not talking about using up more green space and the intent is free up as much green space while still building

[10:30:10 AM]

out the -- while still providing space for the dacc there. Am I understanding correctly? >> I just made a note as to that and yes, we can -- you know, there's an opportunity to -- expansion doesn't necessarily have to be taking up more park space. It can be in a vertical way, so yes, I understand that direction. >> Kitchen: Okay. And then my last question is, we've been working on this with you and we appreciate the ability to work with you on this, can you just -- my understanding is that you are working on a number of scenarios and you will be working with the community on those scenarios and that that will be brought - - that you anticipate in the spring sometime that those scenarios will be ready to brief council on and

bring back and have a conversation about. Did I say that right about the path that you all are on? >> Yes, ma'am, we would want to bring forward -- you've

[10:31:11 AM]

asked us for three distinct different things we would like to bring forward a recommendation for design [inaudible] But make sure the council is able to see all of the schematics drawings so there could be a comp hence of decision made, and yes, that is our intention and goal. >> Kitchen: And then finally, I know you've been working on this and I appreciate it so I just want to clarify with folks on the shared parking, the concept there was to do what was possible in terms of not using up space for, you know, for parking garage. And also just to bear in mind the concerns that exist for traffic on Toomey and consider alternatives to that. I know you have built that into your process and that's been a major concern for the neighbors living around there and I just want to make sure that -- just want to confirm that that is part of what y'all are considering.

[10:32:11 AM]

>> Yes, ma'am, and that was part of the original direction, so it's -- no different than the original direction. >> Kitchen: Okay. Thank you. >> Mayor Adler: Okay. Any objection to the -- yes, ma'am, councilmember alter. >> Alter: So mayor, I'm not sure I've seen -- very least reread it so we know what we're voting on. >> Mayor Adler: Yes, and what it says is item 7, I think it's actually 8 maybe, item 7, item 7 with the following direction. Consistent with the prior direction, and it makes reference to the earlier direction that we had given the council that staff unanimously. This says the city manager is directed as part of the city's development of designs for the Daugherty art center to include future phases that offer

[10:33:12 AM]

opportunity for expanded space and all design alternatives. 2, two include alternatives to parks bond funding for parking facilities by exploring but not limited to the following. Shared parking with neighboring developments and property owners, parking enterprise or revenue based financing including underground parking. Transportation demand management strategies for the area. And then the third bullet point is active engage stakeholders who have expressed or may have a philanthropic interest in this provide and provide framework for contributing to the new center. Those things are consistent with the things that a very similar kind of direction that we gave back on may 9th which this was raised before, and I think that there may be additional stakeholders, the friends of the Daugherty art center that would like perhaps a

[10:34:13 AM]

greater opportunity to be able to participate and help assist in the project. Go ahead, councilmember alter. >> Alter: So I wanted to clarify. Does the language include that it is prior direction? Is that part of the direction or is that something you just added as you spoke right now? >> Mayor Adler: It says motion to approve item 7 consistent with prior direction 201905-0 -- which was the prior resolution. >> Alter: So it's not exactly verbatim what you said at the beginning. I just want to make sure I understand what we're voting on. >> Mayor Adler: It is verbatim to what I read before. The first line says what I just read to you. Yes, that's correct, when I explained 20190509-08, I described what that was. But the motion --

[10:35:14 AM]

>> Alter: Tell me that first sentence what it actually says. >> Mayor Adler: Motion to approve 7 consistent with direction on 20190509-08. >> Tovo: So I am comfortable, you know, with encouraging conversations with philanthropy and seeing if there's innovations that make sense for the parking or some kinds of collaborations. A little uncomfortable with the city taking on designing what -- without the other party having expressed that they want to do it or having an idea of what that is because the design costs a lot of money and I'm just -- it seems to be putting the cart before the horse and we only have so much funding and that funding could be used for other parts of the project. So again, I'm not -- I'm totally fine if we have a partner that I'm not aware

[10:36:14 AM]

of that wants to move forward that we need to be co-creating something better. I'm totally fine with that. But just to provide direction that they have to come up with these other alternatives without a viable partner, I would be uncomfortable with. I haven't been part of the conversation so I don't know whether that's there, but I think it's one thing to be open to conversations and partnerships and to seek [inaudible], it's another thing to be putting money into design of something without a clear partner in mind. And so help me understand the balance that you are looking for because so much of saying you have to have design alternatives implies the city is paying for the design that could be more expansive without having a partner necessarily identified and a process moving forward. >> Mayor Adler: I think the intent is not to have 2 parks department having to

[10:37:15 AM]

design for stuff that -- and spending significant sums to design something that we don't have the capacity to be able to do. What the intent was was to say if you have people -- one, when it talks about design alternatives, it's talking about the design alternatives that the parks department has already said they are bringing back. I think they said they were going to bring back three different alternatives. The goal here is to make sure whatever alternatives come back are alternatives that those designs have been designed with an eye to be able to be expanded. I'm not suggesting that they have to go through the same kind of detail with future expansions that they do with the design for what it is that's going to be built now. But it also allows for the possibility that the initial design might be able to include more than the \$20 million in the bond package if there's someone that steps forward that says I would like to give you another \$5 million, you know, you have now \$25 million to design.

[10:38:16 AM]

But clearly it's not the intent, councilmember alter, to have the staff do the same level of design work for future plans that there's no funding to do. But you can design-buildings that are capable of being expanded and you can design-buildings that cannot be expanded without a cost and this is just something that has the possibility built in. >> Alter: So it's about creating the possibility that in the future it could be expanded, which is city might want to do 15 years from now anyway. It's not saying necessarily that that has to be, you know, all mapped out with all the design and all of the other pieces. Is that -- >> Mayor Adler: Yes, the answer to that is yes. But it also includes if someone steps forward and says I give you another \$5 million, you don't have to be limited to building a

[10:39:17 AM]

\$20 million facility, you can design to a \$25 million facility. >> Alter: And that part I'm comfortable. Have I no problem if we actually have a real person or organization. I have no issue with that. I just don't want to be wasting money on design that we have no prospect of getting done beyond saying okay, here, you could build a little bit more 15 years from now if you wanted to expand it. Thank you. >> Mayor Adler: I agree with that 100%. Further comment? Councilmember pool. >> Pool: I also am a little bit uncomfortable -- a couple things here. One, mayor, could you please post to the message board so everybody can see it? And I don't think that the -- had an opportunity to revisit there similar to what has been happening on some other issues lately which is [indiscernible]. Everything that I am concerned about -- another thing I am concerned about

[10:40:17 AM]

is privatizing of civic assets. I see a clear movement in the public-private partnership space where the city of Austin ends up inviting entities in to help us fund civic assets which in and of itself isn't a bad

thing, but we end up also having to fight for the public access to that civic asset. A significant instance is what happened with republic square. And trying to ensure that republic square after it was helped along by downtown groups, we had to -- I think it was councilmember Casar who led on trying to ensure that there were very few dates which the public would be excluded to the site and this would have private parties, for example. The privatization of civic assets, I see us moving in that direction and may want to flag that because I think if that's a way we move for

[10:41:20 AM]

expeditiously, we need to be aware from a public policy perspective what those impacts are. Now, directly to the actual amendment that the mayor has brought to us this morning without us having any chance to read, I would like to get -- I would like the director to -- director Mcneely to look at potential for impact on staffing. To the extent that we would potentially have various parking agreements with an array of different entities in this vicinity, how much time and resources would be necessary in order both to track -- to craft those agreements and then to monitor and track and ensure they are in fact a benefit to the public. And then that also goes with any movement with regard to support from philanthropic

[10:42:21 AM]

groups. These get pretty darn complicated. And so we need to be aware, we may need to expand potentially this is something the economic development, the edc, the preparation that we are crafting, but if we are moving more specifically into this space, sharing [inaudible] By private concerns, we need to have policies in place that both provide predictability and transparency so that the public understands what portions of these civic assets will no longer be availability to them -- available to them at any given time. The specific ask is for pard, please, to come back or to consider what the various potential for staff impacts that would be time and resources should we end up having a more complicated role in the Daugherty arts

[10:43:22 AM]

center. Rebuild. Thanks. >> Mayor Adler: Katy has sent to everybody a copy of what we're looking at. And also already posted at backup was the amendment that we unanimously Adon't as council back in may with direction to staff. And the words that we used in what we have previously unanimously adopted is that prior to issuing an rfq and negotiating a design contract, the city manager should consider alternatives to funding from any garage from a parks bond, sharing [inaudible] Revenue finance parking including underground and parking and exploring transportation demand management

strategies for the area. The language we're talking about is listening we've already given staff to direct. We can tell that hasn't happened here. So there's nothing new,

[10:44:23 AM]

and -- the intent was not to limit public access to any public spaces of any kind. It's just trying to make our parks dollars go as far as they can go and to take advantage of people on a facility like this that may be contributing -- want to contribute to it because of its mission. >> Pool: That's great, mayor, but then I don't understand if in fact that language was already in our resolution, then why -- what is -- what is the value gained to your amendment today? >> Mayor Adler: Because it doesn't seem to be happening. >> Pool: It doesn't seem to be happening. >> Mayor Adler: Yes. Councilmember kitchen. >> Kitchen: I think our -- mayor, with all due respect, my understanding is our staff has been proceeding with the previous amendment. And the language that you are bringing is not exactly

[10:45:23 AM]

the same as what was brought before. So I would like to suggest on your first line where you say consistent with, I would like to change that to which is the same as. I want to be clear that the intent is what you are saying to us, the intent is the same as what was brought before. So I would like to change consistent with to -- which is the same as. So do you -- do you accept that change? >> Mayor Adler: Yes. >> Kitchen: Okay. Then my next question is for legal. I just want to make sure that this direction fits because not a design contract. What is in front of us is a pre-construction and construction contract. So I just want to make sure what we're doing fits. So -- so -- so can you -- can you tell us that this is

[10:46:25 AM]

appropriate whether this is an appropriate direction for this item which is a pre-construction and construction contract, not a design contract? [Inaudible] Design contract? >> Discussion about -- is much in line with backup. I think it's consistent with what's already in your [inaudible] >> Kitchen: I'm sorry, could you repeat that for the record because I couldn't quite hear it. >> Mayor Adler: If everybody would mute themselves, please. >> The discussion you've just had is the language that the mayor is proposing is consistent with the information that's already in the backup. So I think it would be consistent with that. >> Kitchen: Okay. And it's the same as. We just changed it to the same as. Thank you, I just wanted clarification there.

[10:47:26 AM]

>> Alter: I think you called on me. So this is a construction manager at risk contract and so it's slightly different and it -- usually that does include design, I believe. I just wanted to clarify for the record understand what was being proposed. If there is a philanthropic donor that is interested in helping us to do more with the facility, I want to be very clear that would be very welcome. The arts are really important to our community and if we have an opportunity to do more than we can with the bond, that this conversation is more to understand what is being proposed and how it alters things than anything else. And that we would very much welcome the participation and while we do need and do have guardrails for fill

[10:48:28 AM]

philanthropic and parks, the various answerance that step up every day are important for ability to deliver improved quality of life and that would be the case in this situation as well. >> Mayor Adler: To that end, I think pard is doing a great job on this project and by this action and adding this Williamson creek may be elevating the opportunity for people in the public to step forward to be able to help us here and provide us additional options and capabilities. And I hope that by elevating this issue we -- we help encourage people to step forward and be part of this project. Ann? >> Kitchen: Yes, I do not -- I don't want to set -- you know, set unrealistic expectations here, though. Because we've been using the

[10:49:30 AM]

word "Expanded." This is on sensitive parkland and so just to set it in the context so that people are not expecting that this -- that we are saying as a council that you can use more park space or that you can put it at whatever height. So I think that that's just important that, you know, we'll be -- when we see the [inaudible] We can have those conversations, but I don't want to set unrealistic expectations for people. >> Mayor Adler: I assure you there is nothing nefarious in this amendment nor am I suggesting we're making any design decisions here. It's to increase and expand the reach of our dollars. >> Kitchen: I wasn't suggesting that, mayor, I'm speaking to the [inaudible] Because my constituents have not had a chance to see this. So I just want to make sure that it's understood. >> Mayor Adler: We're not making any design decisions today. Absolutely true.

[10:50:32 AM]

Any further conversation? Anybody have any objection to this direction being added? Hearing none, the objection is added. Is there a motion to approve this item number 7? Councilmember Renteria makes the motion. Is there a second to the motion? Councilmember alter seconds the motion. Any discussion?

Those in favor please raise your hand. Those opposed? It's unanimous on the dais -- >> Kitchen: Mayor, I did not raise my hand. I'm going to -- this is councilmember kitchen. I'm going to abstain because I haven't had the chance to review and have a conversation with constituents about this direction. >> Mayor Adler: That's fine. >> Pool: Mayor, I'm going to abstain with respect to councilmember kitchen and await her signal back after she's had an opportunity to talk with her constituents there that are most directly affected by the changes. Thanks. >> Mayor Adler: Councilmember alter?

[10:51:32 AM]

>> Alter: I'm sorry, were we motioning for the whole thing or just direction. I thought your direction was accepted. >> Mayor Adler: The direction was accepted. We're voting on the whole thing. >> Alter: That's fine. I just wanted to make sure. >> Mayor Adler: Yes, and the vote is eight in favor, with two abstentions and with councilmember harper-madison off the dais, this item 7 with the direction passes. All right. We've now handled those two items, 28 and 29. I think we can handle items 30 and 31. 31 I think we need to probably hold until 6:00 to take up with the same time we have the special called meeting. I don't know what people's druthers are on that, but we can handle item 30 at this point. Which is the affordable housing, the residences at

[10:52:32 AM]

Howard lane. Is there a motion with respect to item number 30? Yes, councilmember Renteria. >> Renteria: I move that we pass. >> Mayor Adler: Councilmember Renteria moves passage of item number 30 and close the public hearing. >> I'll second, mayor. >> Mayor Adler: Councilmember pool seconds. Any discussion? Those in favor of item number 30 please raise your hand. Those opposed? Looks like everybody is voting aye on number 30 with the exception of harper-madison who is off the dais. Mr. Flannigan, you look like, I don't know are you okay with us taking this up? Okay. That vote is as I announced it. That item passes. What about item 44, which is the audit and finance committee audit plan?

[10:53:33 AM]

Is there a motion on this item? Councilmember alter moves passage of 44. Is there a second in councilmember pool seconds. Is there any discussion? Okay. Yes, councilmember alter. >> Alter: So this is just -- this is a motion that passed that adewpoints the auditor plan -- adopts the auditor plan recognizing the auditor's office will take time to do the redistricting for council seats, but it has some important audits that are included including with respect to reimagining public safety and costs and cyber security and covid, et cetera. I want to review the specific audit so I want to thank our auditor and her team for putting this together and for my colleagues for providing

[10:54:34 AM]

input on this. We also have several audits that are on their way to being finished as well that are recognized here. >> Mayor Adler: Okay. This item 44 has been moved and seconded. Discussion? Those in favor please raise your hand. Those opposed? It's unanimously adopted with councilmember harper-madison off of the dais. I think that we've handled everything at this point with the exception of item 31, which we'll hold, and then the zoning matters which we cannot call up before 2:00 P.M. And item number 20 that I know councilmember harper-madison wanted to -- my sense she would want to address that so we're going to hold off on that one. Councilmember alter.

[10:55:46 AM]

>> Alter: I was wondering if we could have conversation on 30 and if we can't vote on the other item until we have the special called meeting, but just want to -- I think we're inclined to the special called meeting, but if we could have a little conversation on the direction. I know this is in councilmember pool's pool district and she has given this a lot of thought. I would welcome to have a sense where colleagues are at on that because it was my understanding we set the special called meeting so we would have options, which I appreciate, but I don't know that I have a clear sense of where everyone the at. >> Mayor Adler: That sounds good. So let's call up item 31. Does anybody want to address item number 31? Councilmember Flannigan.

[10:56:50 AM]

>> Flannigan: There it goes. Yeah, so I think councilmember alter I agree with you that I think that's the direction that we're headed to pick this up in the special called meeting for a number of reasons, but I thought the testimony we heard from Mr. Wald was pretty compelling about letting the P zoning process or the process that you get with P zoning by going to planning commission will help the planning commission handle the possible debate between department uses of the property. So that would be my preference. >> Mayor Adler: Further discussion on 31? Okay. Councilmember pool. >> Pool: You know what, my computer is about to sign on with an update with my

[10:57:50 AM]

system and I can't stop it, although I asked I.T. To help with this, so I will hold my comments because it's looks like it's going to close me down for a short amount of time. I can't stop my commuter from

updating. Sorry. >> Mayor Adler: Anybody else on 31? What we would do next is recess, come back at noon -- there we just lost councilmember pool. We could -- we'll come back at noon because we have citizen communication, not many, just a few. We'll take citizen communication at noon. We'll then recess again to 2:00. We'll invite all the speakers to speak. I don't think that there are very many, again, just one potentially.

[10:58:51 AM]

But not many. We'll then call the consent agenda on zoning. My understanding is I think that most of the items are consent. So at that point maybe there's more discussion on 31, if people want to just go ahead and pass 31 or we would then come back at 6:00 to initiate the P zoning. Or have the broader conversation. Yes, councilmember alter. >> Alter: [Inaudible] >> Mayor Adler: We lost you. >> Alter: When will we take up item 20? >> Mayor Adler: We can take up 20 at 2:00. Let's say we'll take that up at 2:00 and give councilmember harper-madison the greatest amount of time to come back. I'll reach out to see if that's something she wants to hold on. I guess Jimmy Flannigan

[10:59:51 AM]

pulled it as well, so I anticipate calling that at the 2:00 portion of today's meeting. >> Tovo: Could I get clarity why we would -- >> Mayor Adler: If we have councilmember harper-madison we can. I just don't know, if she's here and we've time and people want to do that during lunch, we could do that. We could also do it as 2:00, looks like that is going quickly and I thought that was the best way people would ensure when they were going to be taking their lunch break, councilmember tovo. The 2:00 call is going really fast because it's a consent on zoning mostly, but I -- >> Tovo: Okay. >> Mayor Adler: Just seemed easier that way. Okay? Colleagues, let's do this then. It is 11:00. We're going to recess the city council meeting and come back at noon so that we can do citizen communication. I'll see you all then.

[11:00:53 AM]

[Recess]

[11:11:03 AM]

[In recess]

[11:40:02 AM]

[Music] [Music].

[12:02:24 PM]

[Music]. >> Mayor Adler: It's 1202.

[12:03:25 PM]

Today is Thursday, October 29th, 2020. This is the continuation of the city of Austin city council meeting being handled virtually. We've taken a recess to come back to hear citizens communication. After we're done with citizens communication the intent is to take another recess to come back at 2:00 2:00 to handle consent in zoning. We can touch base on 31 and see if people want to do 31 or go into the evening at 6:00. The only item that we have outstanding other than zoning is that item 20, which I said I would try to call at 2:00. Hopefully councilmember harper-madison can be with us then. With that said, clerk, are

[12:04:29 PM]

you ready to call citizens communication? >> Yes, we're ready. >> Mayor Adler: Go ahead. >> The first speaker is zennia Wong. >> Hello, everyone. My name is zennia Wong and I'm a junior public health major at the university of Texas. I'm also a member of the hla health leadership apprentice program in Dell medical school. The goal is to improve the health of the greater Austin community with partnerships of different communities throughout the area. Throughout the past year the team has helped residents on bruin drive to investigate improper waste management on brownie drive. So this is located in east Austin near the rundberg area and it includes fourplex homes rented by the residents. In September of 2019 she pointed our attention to the growing issue of improper waste management in the area. Currently brownie drive

[12:05:29 PM]

doesn't receive the same services as other let's den. The residents have reported illegal dumping of items like sofas and items along their property along with difficulties coordinating bulk pickup with the

city. One of the residents told us that people have been leaving junk from car accidents near the dumpsters and the police haven't helped fix the situation or tow the cars. The specific area is resided by mostly person of color and so it's not merely a random sample of austinites not getting city benefits, but a certain group of people who are more likely not to receive the benefits. This highlights several systemic disparities within the neighborhood alone. So problems that created by the dumpsters, they are piled around, can breed bacteria, insects and vermin and there's also a correlation that we found that there's an increased crime in neighborhoods that contain dumpsters more than those that have just individual trash cans. In Austin the Austin

[12:06:30 PM]

resource recovery, also known as arr, notes waste removal with the waste management department. From our research we found out that the delegated negotiations are inconsistent across various neighborhoods. Somehow services such as individual trash cans, cycle recycling and trash annual bulk item pickup, brownie drive doesn't have the same access. When we talked to ar they said we were not to pick up bulk services on brownie drive even though it is set for services according to austintexas.gov. A group came up with two weeks to fix the problems the dump stirs created. First brownie drive should have trash pickup a couple of times a year. They will need more systemic changes to create a long-term solution such as individual trash bins rather than dumpsters, enclosed dumpsters or something entirely different. It is very similar to the arr plan survey.

[12:07:32 PM]

This gives a solution that can be used to implement systemic changes to the waste management system in the community. So we appreciate the time you have spent listening to us and we hope that we can continue to work together to make changes to the waste management of brownie drive. Thank you. [Buzzer]. >> Carlos Leon? >> Carlos Leon, first and foremost, thank you for letting me speak on October 29, 2020. Again, city government evil to legally defeat and remove at city hall on July 6 and 7, 2020, inside locked bathroom lower, 11 open was unlocked from the outside, allegedly by two alien sicko, homo stalker peeping Tom male city hall employees. White security guard James Lawson and black male custodian Charles who allegedly knew I, a Christian man is, was inside when they started to open the door. I had to push back to stop

[12:08:32 PM]

their attempted invagues. Because the Texas department of public safety prevents me from date time stamped video catching the guilty in the act, my amended pir sought a written description of who was in that hallway, when they were there and what they did while there because justice wall drop severed

that public information from the images themselves to comply with the Texas public information act. However, city hall security's inaccurate, incomplete, response embedded in the city of Austin law department [indiscernible] Blocked the ruling by not specifying the public employee Americans by name, position or employer, the date or time of their actions or the July 7th attempted invasion which the custodian admitted to me in person affirmed when I confronted him. The unsigned response was approved by the security supervisor who appears to be criminally tampering with truth to protect the guilty,

[12:09:32 PM]

to punish me, the targeted whistle blower. The law department's pir team can see security's response did not legally fill my request. Amanda brown, James catholic and Erica ore approved it. Misconduct supported by their superior, under city attorney Ann Morgan, failing us austinites by not complying with the act. Similarly, cap metro ethics officer Kerry butcher said there's no outside video of their July 20 security guard incident against me that took place inside cap metro's transit office on camera to illegally deny requested public information video that's legally mine. Therefore vote no on proposition a to punish cap metro's alleged criminality and coverup against us, the public they are legally bound to serve. Globally. This evil, alien, upside down, anti-human, anti-institutional troll

[12:10:34 PM]

interrecollection should be defeated for us to thrive on Earth and beyond. May god grant us the victory in this war. In Jesus' name I pray, amen. Thank you, lord. God bless Texas, the united States of America, constitutional law and truth. And above all, god's word. Trump slide 2020. Cancel big tech, unplug this matrix, overturn roe. I'm out. [Buzzer]. >> Paul Robbins? >> Council, all of you want Austin to be a leader and example in the fight against global warming. I again call attention to the lack of constructive action by Texas gas service, the main natural gas utility that serves the city. Recently I received an email from the gas company asking me and other customers to lobby council on the company's preferred ways to

[12:11:34 PM]

deal with the city's draft climate protection plan. I have two responses. First, the company is using my private information to contact me about an issue not related to my gas service. I provided the company with my email address for billing purposes, not for political or marketing campaigns. I question if this is a misuse of customer information and I have filed a complaint with the Texas attorney general. I also question why city legal and the city office of regulatory affairs have not taken their own initiatives to protect this consumer information. The second reflection is that this is another example of the gas company's lack of commitment to do its part to stop global warming. During the last rate case

[12:12:36 PM]

that raised costs by an estimated \$51 million over a five-year period, the company fought against efforts to reduce global warming. Specifically it likely defeated Progressive rates that incent conservation and help the poor and it completely defeated efforts efforts to fund research of fuels for solar energy. Research would not have reduced company profits by a penny, would have only raised customer bills by a small fraction of a percent and would have made the company an example for the nation. Yet the company opposed it. Texas gas service continues its fossilized business model based on fossil fuels. Council has the power to change this dynamic. First you need to assign oversight of gas utilities in Austin to either the electric utility commission

[12:13:36 PM]

or the resource management commission who can advise council on the best ways to deal with rates and global warming. And second, policies -- policies to reduce global warming should become a central part of all future rate cases and franchise negotiations for natural gas utilities that serve the city. Thank you for your attention. >> Mayor, that concludes all of the speakers. >> Mayor Adler: Thank you. Colleagues, those are all the speakers. I think that at this point we will take a recess, we'll come back at 2:00, we'll do the consent -- first I'll ask the speakers to speak. I think there are three this afternoon. And then we'll -- it's not

[12:14:37 PM]

many. And we'll do the consent agenda and then bring up items 20 and we'll see whether or not we're going to handle 31 or reconvene at 6:00. With that at 12:14 we are in recess until 2:00. I'll see you guys then.

[2:03:17 PM]

>> Mayor Adler: Colleagues, we are back into our city council meeting here today on October 29th , 2020. It's 2:02 and this is the continuation of the Austin city council meeting being held virtually. This morning we took care of most everything except for zoning and also items 20 and 31. We're going to hear first from a speaker signed up to speak. I think there's just one on zoning. We'll take care of the consent agenda. If there are pulled items, we can take care of those. We'll take care of then item

number 20 and figure out what we want to do with 31 in anticipation of the special called, which is set for 6:00 and we can't move to any earlier than 6:00. With that said, do we have

[2:04:19 PM]

any speakers on our afternoon zoning cases? >> Yes, mayor. We will begin with Zenobia Joseph. >> Mayor Adler: Thank you. >> Ms. Joseph, please unmute. >> Yes. >> Go ahead. >> Are you on the line? >> Mayor Adler: Yes, Zenobia. >> Hello? >> >> Mayor Adler: Ms. Joseph, go ahead. >> Are you ready for me to speaker, mayor? I'm listening on the radio so there's a delay. I'm a little off as to where you are in the meeting. >> Mayor Adler: That's okay. We are just convened for the afternoon so we're recognizing speakers that have signed up on zoning cases, and you had signed up to speak on zoning cases.

[2:05:22 PM]

So it's now your moment. >> Okay. Thank you, mayor, councilmembers. I'm Zenobia Joseph. I signed up for item 36 which is one way out. In my opposition to this case, I know councilmember kitchen and councilmember alter asked when you had this case before you last tight it's a benzene zone. What I mean by that there are two gas stations in the proximity of this development off of Nixon and fm 969. And specifically 0.9 millions from this Nixon site is Craig, wood, two gas stations and a station at 969 and 183. You have essentially five gas stations within about a mile, 1.2 miles of the site. I have relied on information as relates to benzene

[2:06:24 PM]

from -- there's an attorney that gave a presentation on line and his name is Shawn Collins and he basically talked about vapor intrusion and the volatile organic compound. Vapor seeps up through the ground and basically you breathe it and it's unknown. Sort of like carbon monoxide. My concern is I don't know so much that councilmember harper-madison actually listened to the video of the initial zoning and platting commission, but the members were quite extensive. They discussed this item and talked about the water quality. And specifically commissioner Aguire is family with flooding, and so she talked about that area. The other reason that I asked for them to put the conditional overlay for the gas station is because this zone is actually considered an activity corridor, but you only have gas stations

[2:07:25 PM]

and liquor stores in the area where you have predominantly African-Americans residing. And so my opposition was just so that developers understand that African-Americans deserve more than gas stations and liquor. You can get liquor at two gas stations -- you know, the quick marts and the two liquor stores, but you can't buy a lemon in that area because it's a food desert. And so that was my opposition. And if you recall when you met on -- I believe it was October 15, on or about, that's when you discussed the pier. There were many individuals from west Austin who were opposed to a gas station and they talked about the water quality and things of that sort. And my precedent is that councilmember alter actually read into the record December 2017, on or about December 17, 25 conditional uses for the area near the arboretum. They were going to be

[2:08:26 PM]

rezoning the theater there. And so I really don't understand why -- [buzzer sounding] -- The opposition to the one use over there. She actually eliminated the use of gas station and convenience stores, which I actually wanted them to put both of the uses, but they settled on the one. And just my last comment is that the applicant agreed to it on the first night, July 7, 2020 and they said it multiple times. I really don't know what changed between that and taking the conditional overlay off of this case. Thank you. If you have any questions, I'll gladly answer them at this time. >> Mayor Adler, can you see my hand before we lose Ms. Joseph? >> Mayor Adler: Councilmember harper-madison. Now you are muted.

[2:09:28 PM]

>> Harper-madison: Mine says I'm unmuted. >> Mayor Adler: You are good. >> Harper-madison: I just want to take the opportunity, if I may, to address Ms. Joseph and her concerns. Ultimately on this item it would be literally impossible to build a gas station on this site because of floodplain restrictions. I confirmed with that both dsd and watershed. In fact, having a conversation -- my office had a conversation with Randy Scott and this -- this -- I think there might be just some misunderstanding here, in which case I would encourage Ms. Joseph to reach out of my office and let's make certain we are on the same page with this conversation about this particular property and what is prohibited here. So Ms. Joseph, if you wouldn't mind, reach out to my office. I would love to engage in a conversation with you about what can and can't happen on this property and what it

[2:10:29 PM]

was that my rationale was for moving forward with this particular designation. >> Mayor Adler: Sounds good. Thank you. >> Harper-madison: Thank you. >> Mayor Adler: Thank you. Councilmember alter. >> Alter: I imagine Jerry is going to get to it in a second, but it looks like this I postponed anyway. Is that correct? >> Mayor Adler: Jerry is shaking his head yes. >> Alter: Okay. Thank you. >> Mayor Adler: Is

there anyone else signed up to speak? >> Mayor, that concludes all of the speakers. >> Mayor Adler: Thank you very much. Jerry, do you want to take us through the zoning agenda? >> Sure, mayor. Zoning agenda item 34, c14-2017-0148. This is a postponement request by the neighborhood to November 12. The owner is is not opposed. Item 36, npa-2019-0003.01.

[2:11:32 PM]

Postponement request to December 3. Item, let's see, 36, c14-2020-0057. This is the one Ms. Joseph spoke of. This is postponement request to December 3rd. Item number 37, c14-2020-0055, this is a postponement request by the staff to November 12. Item 38, npa-2020-0019.01 ready for consent on second and third reading. 39, c14-2020-0026, ready for consent approval on second and third reading. And finally item 40, c14-2020-0038, the Kemp case. This has has been withdrawn by the applicant and no action is required. That concludes the zoning agenda. >> Mayor Adler: Councilmember harper-madison? >> Harper-madison: Yes, thank you. I appreciate the recognition. I think I'm probably not the

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only one, but the truth of the matter is while I can appreciate the Kemp case has been withdrawn, there's some commentary I have. I would like to offer the opportunity to my colleagues to -- if there's anybody else who has commentary, I would like for them to have the opportunity to speak on the item because I kind of have a lot to say about this. In which case if we could start with somebody with not so much to say, I would appreciate offering them the opportunity and the gratitude, the grace, rather, to let them speak first. >> Mayor Adler: And with the understanding this matter is not in front of us for consideration by way of just personal privilege or statement, I want to give people a chance to talk if they want to. Does anybody else want to talk? Mayor pro tem. >> Garza: I don't know if mine will be shorter, but

[2:13:33 PM]

I'm happy to go first as quickly as possible. I don't want to replay the comments I made last time this case came up. In giving the realities of the choice we were presented with this case, it wasn't nothing will be built there or you would pass the zoning that was [inaudible] Units would be built there. It was something will be built there. And how could we have a say in what that would be. And so because it's been withdrawn, there will not be affordable units on this piece of property. I've been to habitat for humanity projects in this area. In fact, I believe I was at one with councilmember kitchen probably about three, four years ago. In helping do the ceremonial lifting of -- of, you know,

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[inaudible] And meeting the families who benefit from these kinds of projects and seeing how they provide labor for the projects as well and seeing the work that habitat for humanity does. When this originally came to us, I think the applicant knew pretty quickly that there was no way she would get -- they would get support for market rate. There was no way. And when it came back to us, I was absolutely amazed at what was brought back to us. I have seen the offer of we can give you 2% affordability you can maybe up to 4, maybe up to 10%. And I really am proud of the work this council has done and commitments to getting more. And people hopefully understanding that we cannot demand a certain amount of affordability in the zoning changes. It's against the law. We can all work as hard as we can in a variety of ways

[2:15:35 PM]

to emphasize our policy priorities, but we can't ask for it. We also can't ask for them to do certain things, you know, with regards to development. It's against the law. So lastly, that's mostly what I wanted to say. I did want to quickly -- sorry. It's easier to find on my phone. Read a quick email from habitat for humanity. That was just sent to us. It reads, dear mayor, mayor pro tem and councilmembers, words cannot describe the sadness we feel today over the loss of 17 affordable homes in the montopolis neighborhood. Over 35 years of building safe, affordable homes with hard-working austinites, we are proud to have built 98

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homes in this amazing neighborhood. 98 lives who were changed -- safe, decent affordable home. We were disappointed with the information analyze circulated about this case which brought the project to an end. The accusations Austin habitat was not going to build these homes are completely false. We had a restrictive covenant and a contract to ensure the project's success. Now instead of 17 affordable homes that were going to [inaudible] Subsidy and 16 market rate homes, our community will get five to ten -- five to ten enormous -- five to ten homes on enormous 22,000 square foot lots. We all know what this looks like. We had a chance to use affordability and do better for this community and I'm just sad we could not make that happen. Public-private partnerships

[2:17:36 PM]

like this one are part of the solution that must be embraced if this community truly wants to provide affordable homeownership. We can do better. That's by Phyllis -- CEO of Austin habitat for humanity.

Lastly, ask austinites, thank you for chiming in on this case. I ask you to please be vigilant when you decide to put the power of your activism behind a case. Please inform yourself just because people throw out terms like displacement and gentrification does not mean that's actually going to happen. That's all I have to say, mayor. >> Mayor Adler: Thank you. Councilmember Casar. >> Casar: Thank you, mayor. I think mayor pro tem covered most of what I would say about this and I'm sure councilmember harper-madison will add. I just want to -- some people have been asked whether or not this will

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indeed be zero period of time affordable housing now. The latest that I have heard is that likely that seems to be the likeliest outcome. Instead of 50% affordable housing, that it's most likely zero percent income restricted. I hope that's not the case but I suspect that is likely. I believe and understand that there are a lot of people concerned about gentrification and displacement in montopolis and I count myself amongst that group and think everyone on the dais is concerned about displacement in montopolis and other neighborhoods like it. I think that we can learn and we should reflect if this winds up going from potentially 17 income restricted homes to zero and just more expensive homes, we can reflect and learn from this. And potentially find other ways to get income restricted homes there either when land is in private hands or to try to use our housing dollars and some of the energy we saw around this case to get habitat for humanity or

[2:19:40 PM]

another trusted community partner to help get something done here. But it is -- if indeed what ends up happening is more expensive homes are built here, they will have been a real loss and very disappointing for any of us who care about affordable housing because it could have potentially cost the city zero dollars to get these 17 lower cost homes, and then our subsidy still would have been around to do so much more. So I do -- I'm certainly count myself among those disappointed in this outcome if it bears out that we wind up with zero percent affordability and [inaudible]. >> Mayor Adler: Councilmember kitchen. >> Kitchen: I appreciate what everyone has said. I am hopeful that we can work with our housing department, as councilmember Casar said, but perhaps there are other ways to get

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better options in this area. What concerns me is that I really want us as a city to -- to do even better. And look forward to continued work with our housing, our housing department. Perhaps there are some other options for this area and I think it's important for us to look at them. I don't -- I appreciate what my colleagues are saying. From my perspective, we need to do better for this area. >> Mayor Adler: Councilmember Renteria. >> Renteria: Can you hear me now? >> Mayor Adler: Yes, go

[2:21:43 PM]

ahead. >> Renteria: Thank you, mayor. When this case came before me and I was telling the applicant that there was no way this was going to pass without affordability and that -- don't even bother bringing it back to me. And when I saw what they brought back was amazing. It was [inaudible] With 17 homeownership housing there. And habitat called and said we've been trying to build single-family housing. There is just no more land that's affordable. We can not afford to buy any of this land to build single-family housing or family housing for ownership. He said and that's going to be the problem in the future in this area. And we have to go beyond the city limit now to build affordable housing. And so I was -- you know, I was excited about this opportunity, but it didn't happen. When I did talk to a couple

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members of the -- specially one resident on Kemp, you know, and I noticed that he had a brand-new two-story house when I was talking to him and I asked him, I said well, how did you get this piece of land? He said this family was -- wanted to sell because he wanted to go back and take care of his dad and they were aging themselves, so he said they had got into a bad deal and I helped him out and I paid them twice as much as they were asking for. And I was very alarmed about that. I said whoa, wait a minute. I mean you are paying twice as much for the land value, and if that comes out, you know, everybody's lot is going to be going up there. And as soon as they build those houses, single-family housing on what habitat said are huge lots, I said that's just going to be a cost for

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more affordable -- more high-end housing there. So, you know, this is very concerning to me, but, you know, the -- the misinformation that was coming in, I was telling myself this is really not worth going through this because these people are really going to be -- really leaving the low-income people out of montopolis if this gets developed further on and further on. I can see it. So, you know, we lost a great opportunity there, mayor. >> Mayor Adler: Okay. Thank you. Anyone else? Councilmember Flannigan. >>>> >> Flannigan: Thank my colleagues for their comments. We have to be clear how we're going to do this in the future. The developers who are operating in this

[2:24:48 PM]

affordability or income restricted model where they are not getting a subsidy from the city, we have to be clearer what the path is for that. If the answer to every zoning case, well, we want more, obviously there's a point at which the math doesn't work. So we have to have a better model. We have to have a better way to do this or what we'll find is no developers will provide any affordable housing without requiring subsidy, and we could never subsidize all the housing we need. We need to spend for subsidies we've got voter approval for and do that faster and I commit working harder on doing that, ensuring city-owned land and affordable housing bonds are spent faster because the longer we wait, the less we'll get for those dollars. But at the same time we need to be clearer with the community how we're going to make these decisions. Because if the only answer we ever provide is we should be able to do more, we're not going to get anything and I think Kemp

[2:25:49 PM]

unfortunately is the first in these series of situations we're going to be facing. >> Mayor Adler: Okay. Councilmember Ellis. >> Ellis: I agree with the sentiments my colleagues have shared so far so I'll be brief, but it's incredibly sad to see something that could be 50% affordable ownership get withdrawn because it can't make it through the council. It's very disappointing and I wouldn't be surprised if it ended up being big single-family homes. And I don't think that's going to assist with affordability on the east side. I don't think that's the way. It is an incredibly sad day. >> Mayor Adler: Councilmember Tovo. >> Tovo: I hadn't intended to comment because we know we had conversation on this before today, but I do want to say that council didn't vote on it on second reading. We voted on it on first reading and there's considerable changes that happened reading to reading as a case goes through the

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council. So I just -- I want to -- because one of my colleagues did say [inaudible] I want to be very clear to the public that's not what happened here. What happened here is that our very last meeting on second reading there was a request from several on this dais for postponement. We voted on that postponement and the owner of the property withdrew the application. So that is how we are in the position we're in. And obviously there was a lot of public comment and concerns and whatnot, but in terms of what has actually transpired, that was the process. >> Mayor Adler: Mayor pro tem. >> Garza: I really hate to start a back and forth here, but my frustrations in wanting to discuss this as inaccuracies and mischaracterizations and I hope we're not going to start doing that amongst

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ourselves but it is not in fact true it was simply on second reading that they asked for a postponement. They asked for a postponement and in fact we were all concerned about the postponement because it

was clear there were not nine votes. If it was clear that there were nine votes to pass a valid petition, we would not be having this discussion right now. So let's please not mischaracterize the truth. There were not nine votes to pass this. If there were, it would have passed. We wouldn't be here. It was because of the action of this council the case has been withdrawn. We don't know what's going to happen. It's looking like there will be market rate single-family homes on giant lots. >> Mayor Adler:

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Councilmember harper-madison. >> Harper-madison: Thank you. I appreciate the contributions of all my colleagues thus far. I will monitor my contribution to the discussion if for no other reason I think one of the things that mayor pro tem was just trying to establish was we cannot find ourselves in a position where we as a body are not in agreement with what the truth so. So we are not always ideological aligned and that's the beauty of having a body like ours. The beauty is I respect, I appreciate, and I believe that all of my colleagues contribute in a way that they believe is the appropriate way forward. I appreciate alter, kitchen, pool, Garza, Casar,

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Renteria, Ellis, Adler, Flannigan. I appreciate the contributions of the three people that I noted -- that I didn't name by name, but I appreciate the fact that we all are contributing to this process by way of our clear commitment to our communities. I don't for one minute believe that there's a person on this body that is doing and/or saying anything they don't believe is the appropriate way forward. That they are not moving with integrity. I know how hard this job is and I think all of my colleagues do this hard, hard job in a way that they think is the appropriate path forward. Now, whether or not we agree all the time, we get to question that. We get to have our constituents recognize that the beauty of what we should be producing, which is a

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diversity of thought, means we won't always agree. I think this was a bad call. I think I'm watching people celebrate on social media. They think they won. I think they lost. I think the community lost on Kemp. I think us as a body we lost on Kemp. If for no other reason recognizing what happens, what could have happened and then subsequently what did happen and then what will continue to happen if we don't utilize tools like affordability unlocked. If we have the general community not buy into and understand that as stakeholders, this is a brilliant opportunity. I appreciate the time staff spent working this with my office, with my colleagues. If you don't mind, I have a few additional questions.

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And so as opposed to doing what I otherwise would do, y'all now I'm long-winded, I won't do that is correct but I will do this. I will say other people can speak to these questions and if so the Q and a states an equitable purchase for the high-density downtown area, would staff mind expanding on that for me? >> Mayor Adler: We're not set to discuss this today with the matter being withdrawn. So I think rather than us bringing up staff and considering it, everybody gets a chance to make a statement. >> Harper-madison: So then I just make a statement. So then my statement would be something along the lines of I think we were fully prepared and positioned to have the opportunity here to -- what would have

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yielded 33 units, 17 of which would have been affordable at 60 to 80% mfi, will now be ten units on five lots with no affordable units. I think with zoning cases like this one, council is faced with the decision to either approve a zoning request or we will have to figure out from a community benefit perspective do we maintain existing zoning? Does that result in a project that has far more expensive homes. No community benefit and ensure that they are in fact what we were trying to fight against. Which is gentrification. The developers were attempting to move forward and building what is allowed on the land, but only because we forced them to.

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This case breaks my heart. Nobody won. Property taxes are based on the valuation of like structures. Maintaining the existing zoning and building new single-family houses will cause the property taxes of existing family houses in this neighborhood to rise. It means that existing residents will continue to be pushed out. It means that this historically working class neighborhood will continue on its trajectory of becoming inaccessible to young families, working class residents. The creative classes and communities of color. There is nothing wrong with cherishing your neighborhood, but together as a community Austin will decide who is included and who is left out. Zoning for more homes opens

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access to opportunity. To convenience, to quality of life, to schools, to jobs, to community investments like transit. When exclusionary zoning is maintained, demolitions and flips still occur. They just turned a \$300,000 single-family house into a 700,000 single-family house. It's gentrification in its purest form. One to one replacement of working people for wealthy people. The reality is that Austin is a desirable

place to live. There's only so much land to go around. The rarer, buildable land becomes, as our city grows, the more expensive that land and subsequently housing

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will be. I don't know about y'all, but I'm not into the idea of building walls. There's not enough room in this town for all of us. Or there is, rather, enough room for all of us, but we have to be willing to accommodate new neighbors. Zoning laws that make it illegal to construct new homes, to accommodate more neighbors on smaller lots contributes to both climate destructive sprawl and gentrification. I would like to thank my colleagues to say things people are going to take you to task for, but they have consistently been the voice of reason you surrounding these difficult decisions around housing. We have a the look of work to do but working together I know we will achieve in Austin that has equitable

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land use practices. Land use practices that aim to keep current residents in the area and develop projects that promote people's health, well-being, prosperity, and allow for a more sustainable and affordable future. But if we are not as a body, as a community open to having this conversation with one another and what our decisions ultimately mean for people, I got to tell you, I -- I will shake my head at this process because we have got to be a better body. We have got to be a better body. At what point do we say do we want housing or don't we? At what point do we [indiscernible] Building more housing for more people in all parts of the city,

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and not have another opportunity like this one pass us by. I literally, I have 13, I decided I'm not going to read them off. I'm going to cut myself off, but I have 13 that I could present to you that could have been amazing. Like a Kemp. Over 50% of the housing would have been affordable. To regular people. Tapping off at 235. I have so many examples of that. At what point do we as a body recognize we can build more housing for more people in the whole city or not. That's the part where I love the diversity of thought on this council, but we're all going to have to make a considerate, mindful, thoughtful, deliberative contribution to the process

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and say we want more housing or we don't. Period. I think you are muted, mayor. >> Mayor Adler: Thank you. Councilmember alter. >> Alter: So I appreciate all the voices and all of the concerns. I do believe that we need to have the record -- motion was made to postpone this on what could have been second reading. And it was postponed and that postponement that was supported by the very people who are criticizing the rest of us is what led the developer to choose not to do this. We do not get to guarantee affordable housing. It is a choice. A developer gets to use

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affordability unlocked or not and that's true whether it's sf-3 or whether it's sf -- [inaudible]. We didn't get a chance to vote. Several of us were very up front that we were concerned about a situation with affordability unlocked where we were adding to the zoning level of what could be done in that area on the premise that an order jacket unlocked was used. We received a restrictive covenant, my office did at least, the night before the council meeting and was not told until the middle of the more than on Tuesday that legal could not verify whether the covenant was actually doing what we were told it was doing or not. That they would not comment. And I think it is important to understand that those of you who are saying that you are [inaudible] in what we would have done didn't have courtesy to ask what our concerns were with the

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exception of one person, Mr. Casar, who went ahead and did the postponement which was a shock to me when that happened. And I think that we have to do a better job of listening to one another, we have to do a better job of trying to reach across areas. Just a few weeks earlier I voted against a valid petition to place density in what Mr. Flannigan called west Austin. It requires us to listen to one another. It requires us to not assume things about other people and where they are coming from. It requires us to listen to each other. I had a zoning case in my district, a simple zoning case that was derailed without colleagues even giving the simple courtesy

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of speaking to the applicant or with me about their concerns. It wasn't a big case for me, but there's -- out of collegiality that is missing right now. And if we want to solve the problems and we want to do this, we ought to listen to one another. And really think through things. Because again I will go back to what councilmember tovo said and repeat that this was postponed on second reading. We had a choice of taking a vote on second reading. That was not the will of the majority. And that is a fact. And you can assume all you want, but if you don't talk to us, please tell me how you know how we are going to vote and what we're thinking and what we're trying to figure out. >> Mayor Adler: Councilmember kitchen.

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And then councilmember Flannigan. >> Kitchen: I want to circle around to what council Flannigan said that we need to have a conversation. I would like to have that conversation in a setting where we can talk with our experts at nhcd, where we can talk through what we can and can't do in terms of housing. And also where we can talk through how we can think creatively beyond that box that we -- that sometimes we find ourselves in. So this is not the setting to do that because we don't have our staff here and we're also talking about one case. This is not about just one case. So it is about -- it is

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about the constraints that we find ourselves in and it's about the desire of all of us to try to do -- do more when we can. And so from my perspective, when I looked at this case, I thought, well, I would really like to do better on this case. And so, you know, maybe that was -- that's what I wanted to have the time for, to have that conversation. Because I heard those people that were living along Kemp and I was thinking, and yes, I agree with what everyone is saying that -- that kind of affordable housing presented to us is better than no affordable housing, but I was not convinced that we were stuck with that kind of choice. And after this -- after that meeting I called nhcd and talked to them about this and I said why can't we buy that location? Why can't we do something

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else to help those other folks that are living along that street. Why can't we think more creatively. I trust as others have said, I know that everybody here, every single person here cares about housing. We have done much more as a council in recent years and I'm very proud of what we've done in recent years. And I just want us to continue that and I want us to have a conversation, I want us to do the kind of thing that -- I think I heard councilmember Flannigan say, or at least my takeaway from it, was that -- I felt that everybody did what was the appropriate thing to do here and you know, we didn't all agree on that and that's

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okay. >> Mayor Adler: Anyone else want to address this issue before we move on? Councilmember Flannigan was next. >> Flannigan: Thank you, mayor. It's weird to be going back and trying to rewrite history. I pulled the Kemp case on Tuesday work session so that there would be a place where we could

talk as a group because obviously we can't talk in private outside of a subquorum, we all know that, most of the public know that. You have to do it in work session. And nobody -- I will just say that only seven people spoke in support and we didn't hear on Tuesday any concerns from any other councilmembers to say what it would take, to say what they wanted to see, to say what they wanted to do differently. So I appreciate the indignation but I don't think that it's accurate because the opportunity was afforded to have that conversation, the space was created to listen and

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nothing was offered. >> Mayor Adler: Okay. Ready to move on to close this out? >> Harper-madison: If I may, mayor, just to be clear as we're having this conversation, I don't want it to sound like this landed in the lap squarely of the council. The truth of the matter is the bank would not extend another extension! The bank said no! They couldn't go forward with the process that was going to process over 50% of affordable housing because the bank said no. We've extended as much as we can. I just want to make sure to be clear about the facts here. There's obviously something in the way of like contention, and I'm okay with that. I think it's beautiful. I think the fact that we get to have this level of diversity of thought is exactly what people want from their municipal government.

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This is how we want to go. If we all agree with each other all the time, guess what that means? Echo chamber madness. We don't want that. We want people to have differences of opinion. We want people to have differences in the way of what our takeaway from this particular scenario was. I will just say it wasn't a matter of the second vote, the third vote, the whatever vote. The bank said no. That's important for the general public to understand. The bank said no, we will not extend another opportunity for you to go back to council and get what you need. And now, now what we get is five lots, 10 units, expensive units, and the community did not win, period. >> Mayor Adler: Okay. All right. With that, guys, the consent

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agenda for zoning is in front of us. Is there -- I don't know if we got a motion yet on the consent agenda. Let me ask for one. Is there a motion to the consent agenda? Councilmember pool makes it, councilmember Ellis seconds. Any discussion? Those in favor of the consent zoning agenda? Councilmember pool, did you want to say something? Those in favor please raise your hand? Those opposed? It's unanimous on the dais and everybody is here so the consent agenda is passed. That gets us then -- let's call up item number 20, which is the pard item. Is there a motion for approval?

Councilmember tovo makes the motion. Is there a second to the motion? Councilmember alter seconds it. Any discussion on this item? Councilmember Flannigan.

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You're on. >> Flannigan: My webex is really slow on my laptop for some reason. Ms. Neck Neely, are you with us? -- Ms. Mcneeley. >> Yes, sir. >> Flannigan: Thank you. I was looking at the parkland dedication process that would determine this site in terms of priority and it's not clear if the standards that are used to determine this, which was like this four-part waterfall test where it's land and then in a close area and then land in the two-mile radius and then land in the whole park service area, and then finally the fourth item is recreational amenities or improvements that exist in parks. Is that part of the council adopted ordinance or is that part of a staff rule-setting process.

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>> I can tell you this, I'd have to look up the actual ordinance. It's [indiscernible], but I can tell you there is a proximity principle, right. So in case law basically what it says is when you are going to have a parkland dedication ordinance, you need to do things within the proximity of the space in which the developers are paying the parkland dedication fee so that residents within that space are able to enjoy -- access that space. >> Flannigan: Sure. >> I can tell you that within the ordinance, yes, there is -- within the procedures, I would have to look it up, that it does say a half mile. It does specifically then say two miles T does say within a certain time frame. It does say if you cannot do it within that time frame and you can't do it within that space then there are other options for amenities. So it's layered on top of --

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on top of that is the layers of the other kinds of criteria that we put on top of that, but you're not asking me about that criteria, you're asking me specifically about the ordinance. >> Flannigan: Yeah. I'm just trying to figure out if the process that the staff uses is a staff-created process for a council-created process. In reading through it and those at home that are trying to find it, it's code section 14-3-11, you can go and see the four-step process. It starts with that the fees must be used within the service area, which then led me down a rabbit hole of how are the service areas defined. And then I went into the long range master plan and I see how the park planning areas are defined. So my concern with this -- I don't know that it's the same concern that any of my colleagues may have had, but my concern generally is about the process by which we're prioritizing the spending of dollars and whether or not we're

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spending the dollars with whatever the next thing is as the path of least resistance or if we're really doing a more thoughtful prioritization. So I don't necessarily have a debate with staff because I think I understand the process you used. And where I get stuck in that first one where it says located within a half mile radius if it's deficient, and of course this is not a deficient area, or if the land would serve a critical parkland need or provide increased connectivity so that to me seems like a rationale folks from the council would want to weigh in on how we define critical parkland need or increase connectivity. And in this particular case adding a third parcel to two existing city owned parcels meets that test. And if it doesn't you get into the waterfall decisions. But it all seems governed at the top by the service area, which at this particular location is across the creek from a different service

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area. So it seems that the way the rules are written are the fees can't cross the creek. So if you had a project on one side of the creek and there was a pedestrian bridge you couldn't spend those parkland fees on the other side of the creek. It seems those service areas are a hard line. >> I would say if I could just add to that, first of all I want to answer your specific question, which is in 25-1-603 and it's also part of the parkland dedication operating procedures. So that was your first [indiscernible]. I was able to find that. To answer your second question, the other thing that we have to think about in this particular specific case, we have eight different developments within a given service area that are contributing to the [indiscernible] Of the parkland dedication fees that are being used. So there's some more complexities that come with that because based upon where those are within the planning area and then how you want to use those, we're trying to make sure that we're satisfying the criteria for each of those eight developments to be able to put this money

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together to be able to purchase the land. And you're right, we have planning areas in which we have considered, so that when we are -- if we are ever challenged as to whether or not we are spending within a given space we have some parameters by which to point back to some consistencies. >> Flannigan: So that all makes sense to me. And these always get challenging because I don't want staff to feel like I'm digging into -- that I'm implying that staff followed the process incorrectly. What I'm saying in this particular case I think since it's not in a parkland deficient area that there's just a little more thoughtful analysis that I think is reasonable to have at the council level. So credit to staff for trying to untie a complicated puzzle of source of fees and service areas and all these different things that are partially a

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constriction of state law. So thank you for that. For my colleagues, my perspective on this is that the way that those rules are drawn up I don't think are necessarily very equitable. You find most of those service areas divided by I-35 and so you might have a project just on one side of the highway and now you can't spend it just on the other side of the highway. So now you're requiring all the parkland dedication in one part to be funded by one part as opposed to maybe exploring a more equitable version of that. I'm also concerned about how it was drawn through the downtown area because while this area and the residents who are in it are very likely going to benefit from all of the lady bird trail and all of that within one mile, some of it within a half mile, because of the ways the rules and ordinances are written you couldn't spend those monies in that way. I think it ties specifically into the conversation we had earlier about Daugherty arts center because it is less than a mile away from this

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particular site, but because of the way the park planning areas are drawn you couldn't put the fees in that way. And it may have been true that you could have used the parkland dedication fees to fill funding gaps or create more creative spaces as a recreation AI facility or do other things instead of a third parcel adjoining two other parcels. So I'm still voting no on this because I am not convinced that this is the top priority when there are already two city-owned parcels on the trail and that I don't believe that you need to vacate the right-of-way in order to create a trail connection because that is a transportation action we've done in other places, and so that's my frustration. But I do think there's value in having an equity review of the planning areas in the master plan, certainly in areas like this where the half mile and the two mile radius are not in a circle, they're within a planning

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area. And I think that is a little challenging for you. >> Mayor Adler: It's been moved and seconded. Councilmember harper-madison? >> Harper-madison: Thank you, mayor. I just have a couple of questions. I'm glad we have director Mcneeley and I appreciate that councilmember Flannigan already acknowledged the hard work that they do, but I do have a couple of questions. The q&a states this is an questionable purpose for the downtown high density area. I want staff to expound on what they mean by that. >> So when you're trying -- when we try to put an equity lens, we're asked to put an equity lens on all the things that we do. So if we are going to purchase a piece of land in accordance with the regulations that are set forth in the parkland dedication ordinance and within the procedures -- >> Harper-madison: Nectar

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Mcneeley, don't think I'm not listening. I have allergy issues. I'm going to turn off my camera, but I am absolutely listening. >> Because we have these parameters of within the planning area and within a certain space within that half mile, within the two miles, first of all there's not very many pieces of land, if any pieces of land. At this particular point in time this is one of our only choices or only choice. But if we're going to apply an equity lens it has some historical and cultural significance to allow us to tell a story that may not be allowed to told in any other piece of land. So when we think about what kind of purchase of land we're going to make in a downtown area where we know that the population on -- putting an equity lens on the population that lives there, that's not using the race of the individuals that live in this space, that may not be the part of the lens that we can specifically use

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but we could specifically say if all of the pieces of land that we have, this particular piece of land gives us the most opportunity to increase the story or to tell the story that is from an equity perspective. If that makes sense. >> Harper-madison: Yes, that makes sense to me but it also invites more questions for me and I appreciate your patience. So what that tells me is with he need to have a conversation about just generally speaking, when we say equity what does that actually mean. So when we're talking about acquisition of property, what does that mean from an equity-based perspective. Do we have a system that we're establishing proficiency here. Just give me a general understanding of what that means to us as a

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municipality when we say from an equitable perspective when we do parkland acquisition it means, and this is what we expect to extract from that. >> When we work with the equity office, we've selected as a city that race equity is the definition of equity for us, for the city of Austin. So we're not talking about social equity or any other kind of equity. We're really concentrating on race equity. So when we're putting the race equity lens on the different things that this department does, capital improvements, and we have all things exactly the same and we're going to make a choice about what it is that we're going to purchase or what it is that we're going to build or where we're going to invest or allocate funds, we are going to do things that will help to further race equity in that -- that would mean that in most cases that would mean that we are going to try to stop the disproportionality that

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occurs. When you're trying to buy a piece of land in a downtown area, I don't know that you can apply the race equity lens in the same way that you can it for programming or for capital improvements, but what we can do is say if there is a piece of land that helps us further the story of what -- about race equity helps further the story of Austin and how Austin has not made policy or specific choices in the past until an interpretive story to the community, then we're helping to further the idea or we're helping to further the understanding of why race equity is so important. And that's the equitable component of this particular piece of land. >> Harper-madison: I appreciate that and I think going forward we need a larger conversation about what do we mean when we say equity? When we acquire parkland what do we mean? I think we should be explicit.

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And another question I have is are parkland fees appropriated for expenditure at the time that they are collected? >> No. There is a time frame in which there's an amount of time that passes in which the money -- before the money can actually be spent. It's sort of in escrow or it's in a holding pattern and then they are appropriated usually a year later. So then we find out how much money from a particular development. And then there's also a key [indiscernible] That talks about how far along a particular development has -- whether they have gift% of their development -- 50% of their doors are available. So the answer to the question is it's not as though the developer pays the money and the money is immediately available. There's definitely about a year's time frame before that money is available for us to go ahead and make a purchase. >> Harper-madison: So the extension of my question there would be, you know, how long.

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I think you're saying ultimately about a year? >> Approximately a year. Every development is a little bit about different, but it's approximately a year. And then there's a time frame in which we are bound or we are obligated to spend the money that the developers gave us so that the developers know that we're not just holding on to it and their fees are being used to serve the [indiscernible] Into their development. So first it takes about a year to get the money to spend and then we have to spend it within about five years. >> Harper-madison: In which case I think a continuation -- I look forward to being able to work with pard and you and my colleagues to recognize some of the circumstances around a scoring matrix of sorts. A write-up, anything that details how a project aligns with our priorities when it comes to council. If it is difficult to determine if a proposed acquisition is the

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appropriate investment or adequately aligns with our priorities, I feel like frankly this is in large part a conversation that we're having if for some other reason, we don't have those clear details and I don't know that that's me saying that I'm holding anybody accountable from the perspective of you didn't do your job well, but I'm ultimately saying I think from a policy perspective we all need to recognize that we need to recalibrate here. In an effort to maximize community benefit with our parkland dedication dollars for situations where fees are eligible to be spent on amenities, it would frankly be helpful to have a way to rank acquisition alongside the need for amenities for an existing park, the service areas where fees can be expended. So much of what you're saying to me makes sense, but I also agree that as the

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city grows the amount of parkland accessible to our residents needs to keep pace. I don't want to find ourselves in the situation where we have pocket parks scattered across the city but we lack funding to maintain our parks and provide what you mentioned earlier, desirable amenities, desirable programming in parks that we already have. >> I hear you and that is absolutely a policy discussion and it's also a legal consideration because the way that the ordinance is written now and it's based upon case law is that parkland dedication fees cannot be used for maintenance or cannot be used for operation and the reason why is you are collecting the fees specifically to be able to provide for additional park space for the new residents that are moving in. So I understand exactly what you're saying and I agree with you that it's more a policy discussion and also a case law discussion. >> Harper-madison: I think

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my colleagues and I would like the opportunity for us to continue this conversation and for us to allow you to do a better job as policymakers to recognize what it is that we're doing in a way that makes it so that this process is deficient. I really look forward to being able to continue this conversation and for you all to offer us what you have in the way of subject matter expertise to help us do it better. I think we all want the same thing. We all want parks and green spaces, but we want to do this in a way that makes sense from a policy perspective to where we're actually creating policy that exists, you know, in perpetuity that extends beyond our tenure, you know. I may be here two more years or five more years. Y'all might be stuck with me for eight, who knows!!?? But in the interim we want to make sure that what we're setting up is an opportunity for us to have clearly defined explicit language that says this is how we do this moving forward. >> I appreciate your comments. Thank you.

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>> Harper-madison: Just out of curiosity, I think you may have said something along the lines of this is not appropriate in terms of its being applicable to amenities. Can you expand on that for me? >> So the parkland dedication, I think what I was trying to say is that the parkland dedication ordinance doesn't allow for operations and maintenance and that in the way that the ordinance is written, our first priority is to purchase land so I think what I was trying to say is that that's our first priority so that's why we're bringing forward a land acquisition. It wouldn't be until later in the process that we might spend money that we might consider amenities. >> But not that it's disallowed, to be clear. >> It's not disallowed, but it's certainly written in the ordinance in a particular way that says your priority is within a half mile, then within two miles, within a certain time frame and then to consider that. So there's a listing, a priority listing of how we should consider the expenditure of parkland

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dedication. And I will go back to that principle that I talked about in its the proximity principle being that you're supposed to be purchasing it within the space that moving are moving in. I don't mean to repeat that because you surely heard me say it and I know you understand it. >> Harper-madison: And you know when you sent me addresses approximate to this projection I looked it up and made the determination of how many residents this affected. So I just look forward to at this particular time Asian of conversation. Thank you so much for your time. I appreciate you very much. Thank you. >> Mayor Adler: Thank you. Anything else before we vote? Councilmember Ellis. >> Ellis: I appreciate the comments that my colleagues have outlined here because I had very similar thoughts. I struggled with thinking about this project in a way that I'm hearing what councilmember harper-madison and Flannigan are saying about equity, trying to make sure we're really providing access to park space for as many austinites as possible.

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But I can clearly understand there are some legal parameters to it. Every time we get into parkland dedication I feel like I have to clear my desk, put on my special parkland dedication hat and really get in that moment of understanding what is a very complicated ordinance. So I really also appreciate this is a deeper, longer conversation and I would love to be involved in if there's a subquorum or all of council, however we want to do it. But I understand at this moment for this particular project I'm supportive of it only because I think it fits in line with what we currently have but I completely understand and think these comments are valid and I'm very curious about this conversation moving forward. >> Councilmember alter. >> Mayor Adler: >> Alter: Thank you. I had a question. So it's my understanding that, you know, as Ms. Mcneeley said that the ability to impose parkland dedication fees allow it

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because there's this nexus between the new residents and the need for parkland. And once that nexus is broken you can be challenged for imposing the fees and so the structure of the ordinance is set up very carefully so that we can maintain that nexus. And as part of that if you can acquire land you have to acquire land before you can do amenities. And in this case we have a land purchase that's available to make. So legally I think we would have to make that purchase before -- you know, given that ability then any investments we would make in amenities subsequently would be questioned -- questionable from a legal perspective. So I think there are some risks here that we should keep in mind. The next council meeting I think we're taking up street impact fees and it's the same kind of logic that

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allows us to impose street impact fees and you have the same issue that you have to have certain service areas where the money can be spent and it's a very similar process so that as we're going through that discussion in two weeks, there are parallels for that in parkland dedication and how parkland dedication is set up so that we are legally able to even impose these fees in the first place. I also want to remind us from a policy perspective we have long range plans and we have the strategic plans for the parks department so that we are able to be able to say what our priorities are. We have that long range plan so that when certain properties come available we know that we should be looking at those particular properties that has happened. Another thing I want to say

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is we have a portfolio of fund tools or a tox of funding tools for parks and I am for all funding of parks all over the city. I think everyone deserves access. Because we have that toolbox we use the tools in different situations and for different things. I think when we're talking about parkland dedication it is one tool, it is not the only tool that we have for equity. And if you guys haven't read it yet, I want to refer you to the q&a where it talks about [indiscernible] Acquisitions, I think for parkland dedication that are east of I-35 amounting to approximately 147 acres or maybe it's there are 13 purchases and they will use parkland dedication where there are funds available for that. But I think I'm really proud of how over the years pard has really emphasized

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parkland acquisition, where those opportunities have been, I think it's made a huge difference in people's lives all over the city. I'm obviously going to support this item today. >> Pio? Councilmember Renteria. You're muted. >> Renteria: The only reason I'm not going to be able to support this is the cost.

I know it's a downtown property, but it's close to the floodplain there and I just can't see myself paying that kind of money, 1.2 million for a little piece of land like that. It's so expensive. I mean, I hope we can get our appraisals correct so that we won't be paying this outrageous price for a land

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like that. I know that it's right next to the creek and we have long-term plans to develop that whole area and make it safe from flooding. And eventually in the long future we might be able to build a tunnel to bypass the creek there that floods that whole area. I can't see paying that kind of price for square feet on a land that's right next to a creek that's not. I don't think it's -- the value that -- we're not going to get the value out of the money that we're paying for it if we can find a way where we can reduce the cost, I would support it, but I can't support it the way it is now. >> Mayor Adler: Councilmember Flannigan. >> Flannigan: Thank you. That was what I forgot to mention is for me again it's

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that this is not in a parkland deficient area and I know many of us -- I certainly do in my district have parkland that we've acquired through this process that has never been developed. And there are more parkland dedication fees that might make a park actually usable as a park, then I would want to see that be the thing that's done. And so there is a very conflict in the text of the ordinance versus the text of the rules where it's not quite clear if land is available you must purchase it which to me would disadvantage us in a real estate negotiation if the property owner knows this is the only thing we can spend the money on, then magically your appraisal goes up. Not because the land is more valuable, but because they think we're the only buyer and I don't like that as a reality, but secondarily we have parkland purchased and acquired all across the city that we've never been able to turn into parks. And if there's a path to use this much like in the

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impact fees for an existing road as opposed to only use the money to build new roads, all the [indiscernible], to be fair that's where my head is at. >> Mayor Adler: I'm going to support this one myself. I do appreciate councilmember harper-madison's suggestion. I think that's been born out by the conversation. It's appropriate for us to take a broader look at how we do this area from a policy standpoint to take a look at what is statutorily required and what we do here locally. I think the broader conversations happening in the community about equity, about institutionalized practices that have a real clear impact on what the end products are, that us taking a longer look at this to see if we can affirmatively

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address deficiencies in the city and where those deficiencies actually exist. This particular tract is real expensive. Property downtown is expensive. But as I look at the laying out of this, the ability to be able to bring together this tract really does create a usable tract associated with the triangle already owned and the ability to be able to get the right-of-way released creates a significant trail head that I think does have a really compelling story and captures an important moment in this city. It's a same the buildings here were torn down in 2014 because it would be great to have those buildings there as well. But before the land disappears I think it's important to have a moment to -- or forcefully capture

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at this time. So councilmember harper-madison if you're going to help push forward with that other conversation, I know councilmember Ellis said she wanted to be part of it, we'd love to put our shoulder to that as well. I will be supporting the motion here now. The item has been moved and seconded. Any further discussion before we vote? >> Harper-madison: If I may, mayor, I'd like to ask you and one of my other colleagues, whether or not procedurally this is appropriate. You know I often have to ask am I doing what's right here? Pio said something that really piqued my interest in that he couldn't support this particular motion given the expenditure but his concern about it was explicitly about the cost. So if I could ask him to offer me the opportunity to expand on it. Because it might actually change my vote. If I could ask him to really

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expand on what he thinks would be a better expenditure and then you said something that actually piqued my interest as well just now about like moving forward from a policy perspective how we can do this better. If you wouldn't mind expanding on when and if we take the opportunity to do this better, so if I could just ask two of my colleagues, first, councilmember Renteria and then you, mayor Adler, what do you mean? If y'all could just expand on that for me because it might help me find myself in a different position. Personally I was standing on the side of voting no on this item if for some other reason I don't think that this is the appropriate expenditure, but I do recognize -- I want for us to have more access as a community, I want to have more access to those spaces, but I also want us to have

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clear, concise, explicitly equitable policy. So I'm trying to find a place where this makes sense to me. So if I could respectfully ask councilmember Renteria and then you, mayor Adler, to just kind of expand on your contribution to the dialogue. So I could find myself in a place that feels less confusing. >> Renteria: My biggest concern is I don't believe that piece of land is that valuable even though it's close to downtown, but to develop that whole area, by the time -- it's just -- it's so close to the floodplain that we're having there and it seems like the flooding is getting higher and higher. Look at shoal creek saloon, it's been flooded twice. I don't believe that the value of that piece of land is that valuable because

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it's so close to a floodplain and the creek there that overflows and rises so that's my big concern is we're buying a piece of land there that we're not going to be able to develop too much or put too much in there until we take care of the problem that we're having at shoal creek and do what we did at waller creek, build a tunnel there and that open up the whole area for development. But if purchasing a piece of land like that that's so small for the price that we're saying so that we can sit on it for long-term to get to the point where we get development down there, I just think it's a little bit too high, especially around this time of how the economy is functioning and all that. I just can't vote for it. That's my whole thing. The appraisal wasn't half the value or a little bit higher than half of what they're asking for now, I probably could have supported it, but I cannot support it the way it is

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now. >> Harper-madison: Thank you, councilmember, I appreciate that because that definitely addresses some of my concerns here. One of the things that I can't keep -- not keep, rather, asking myself is who else wants it? Is somebody else bidding against us for this and so I just really very much appreciate your candor because I just can't help but wonder -- but mayor Adler, if you wouldn't mind just expanding your thought there. >> >> Mayor Adler: Sure. And I'll say I'm shocked at the price of land downtown as is councilmember Renteria. I was shocked at the price of land downtown five years ago. 10 years ago. I can remember the sale of the tamale tract at the corner of congress and Cesar Chavez, couldn't believe what that was, and that was probably 20 years ago. But my understanding from what Alex told us earlier is that the value of this tract

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isn't what can be built on it, the value of this tract is what it enables an adjoining tract to be able to build with the entitlements associated with it. And I know that to be a proper way to come to the market value for a piece of property because that's how properties trade in the marketplace. So while I am shocked at the price as I am downtown property values, it's something that I can understand. With

respect to taking a look at the policy, I think that given the conversations that we've had historically in the city and the conversations that I think this council has really pushed forward by virtue of the work we did, the work with strategic planning, the questions of equity are really I think help facilitate pushing those in the forefront, work on racism and systemic

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inequities, the work that we're pushing to the forefront. And when you look at the conversations of what's happened in the pandemic and we see in ways that maybe shine an even brighter light on the systemic challenges that we have as a community in terms of an historic institutions and the way it happens, the impact on people's lives today. And then this summer that we had of really enhanced conversations in this city and across the country and as a matter of fact across the world given the conversations that started here. I think consistent with and just as we are having conversations about policing, I think that we have an opportunity to take a look at other issues the same way, to be looking at access to capital issues, health care delivery issues and housing and all the other areas which I think

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it's also present. So to take a look at how we do dedications of parkland and now we're making sure that we're getting fullest advantage of opportunities we have to not only be equitable, and what it is that we're doing is a really welcome opportunity. I think that it doesn't necessarily mean that what we're doing is wrong, or even needs to be changed because I don't know. But I think surfacing the kinds of -- christmasing the -- surfacing the data and the experience. We've had a couple of councilmembers on this dais here mention those numbers. I think this is a real opportunity for us to really examine all aspects of what we do and I think the question has arisen with respect to this particular program and I think we shouldn't let it go. We should take it and make sure that it's something that we actually look at.

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And I think that's the kind of thing that perhaps the housing committee could pickup and staff could take a look at. I don't know exactly the right way to segue into it, but with the -- there seems to be an interest to do that oink among at least some, if not all of the dais. Maybe that's something the manager could look at and figure out what is the best way to facilitate that conversation. This conversation shouldn't only be about policing that we're having right now because it's broader than that and we lose confection if we just make it -- context if we just make it about one area. So I look forward to a fuller conversation. That's what I meant. Councilmember Casar. >> Casar: Thanks for bringing that up, mayor. When we have these conversations as it relates to specific acquisition it's always so much harder than when we're having the broader conversation. We recently brought this up when looking at the tract on

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bull creek which while it gave me some heartburn I recognize the watershed benefit and water quality benefit of that tract just like while it has a significant price tag it has a citywide asset hopefully along the trail. So I think we should welcome that conversation. We should do it. Last time we voted, when we voted on that we asked for the parks department to provide us some information on equity, especially in the parks non-spending. And since then wife had some meetings with pard just to be transparent about it and some of the good things in that report and also some of the places where I think it needs to be better. Some of it was broken down on how much have we spent west of mopac, between 35 and mopac and east of 35. I think we need to get way more granular than that because between mopac and 35 you have literally in that geographic space the highest incomes in the city and the

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lowest incomes in the city. You have -- we have to figure out really what our most prioritized, equitable investments should be. Whether parkland dedication is right for them because there might not be development happening near them and how are we making up for that in bond money. And how much we are spending per district which could be useful in some ways, but also right in my district I have a lot of areas that are right around Bartholomew park and some areas that are nowhere near it. But ultimately in that breakdown it did show that if you added it up the current expenditures as they're allotted that four and five are getting the least and at minimum I know my district has the least park acres of anywhere in the city. So I think it is a conversation worth us all having, maybe not around a particular acquisition, but now that this has come up around two of these acquisitions, let's set up a conversation. I know park is already working on it.

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I don't doubt in the least the commitment of director Mcneeley and their staff towards working on this. I also don't doubt that institutionally turning around a ship isn't easy to do and it might take call of our input and doing hard work because if we turn the dial a little bit towards equi it will take us forever to undue previous decisions. So I think we probably all have to be there if we want to turn the dial a little bit further. >> Mayor Adler: Okay. Councilmember alter? >> I just want to -- I believe that John Trevino park and some of these other parks at Walter long, these are parks that we land banked, whether parkland dedication or not I'm not sure. But one of the reasons that we have the park system we have and that we have ability to build out some of

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these parks is that we have taken advantage of acquiring parkland even knowing that it might be quite awhile before that land can be developed into a park. And I think that as we have any additional conversations that we have that it's important for us to recognize the importance of that practice and that land is being able to acquire land over time just as a general practice. Obviously we have to make choices over where we're spending our money. There is value to that over time and it's one of the tools that we have to increase access over time as we grow and whatnot. And it's -- there's a lot of history, it there's a lot of legal stuff as part of this conversation as we move forward. And I think that we're -- what has been accomplished just in the few years since

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we changed the ordinance in 2016 and we've had that in combination with the bonds and the way that the parks department has maneuvered that I feel like we have accomplished a lot with a very minimum amount of money. So I'm excited to see if there's more that we can be doing and I hope that this conversation will further reinforce the importance of these fees to our park system and help us to see that maybe we need to be making additional investments in our parks of our constituents. >> Mayor Adler: Great. Colleagues, let's go ahead and take a vote. Those in favor of this item please raise your hand? Those opposed? Those abstaining? I have the mayor pro tem abstaining, I have Flannigan and Renteria voting no. Harper-madison, how are you voting? >> Harper-madison: Abstention. And I still have commentary, if there's still time for that. >> Mayor Adler: Go ahead.

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>> Harper-madison: Just -- in response to my colleague, I just want to be clear that along Walter long we've had a plan since the '70s and we still don't have a park! My hope is as we move forward through these conversations and talk about equitable distribution of parkland dedication to the city of Austin, that it's actually meaningful at some point. But unfortunately as much as I really, really wanted to be able to vote yes here because I thought we were going to find ourselves in a place where we could talk about -- from a procedural perspective how we move forward I will have to abstain on this one. I cannot in good conscience vote yes on this one. So I'm an abstention. >> Mayor Adler: Understand. Councilmember tovo? >> Tovo: Thank you, mayor. I want to thank my colleagues for their

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conversation around this tract. And I'm really glad to see it moving forward. I want to also support the idea of having a broader council conversation. As I sat with with lots of information and have asked the staff over the last couple of weeks for lots of information about not only this tract, but about some of the previous purchases that we've made, typically these are on the consent agenda. We've had a few happen that went through on consent, went from more than a million dollars, one a much smaller tract. Typically we don't really spend maybe enough time talking about these acquisitions, but for all the reasons suggested I think this is a useful area of conversation. I would like to suggest that it happen at a work session. I was really -- I know our staff reached out to us and offered us all a presentation and a couple of us did follow -- did respond

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and were able to have that discussion. So I want to also suggest to the public there's a site that might be of great interest. It's linked in our backup and it's an interactive map where you can see directly where in this one area of parks funding where those fees have been generated, by which project and if they have been expended, where they've been expended. You can also see the service areas and we've had a conversation about where we draw those service area boundaries and a useful one and I look forward to having that in the context of the council, perhaps a council work session. I want to point out that there are balances in various areas, various other service areas so those are eligible funds that can be used in those areas to purchase parkland and it's my understanding from talking to staff that they have pretty active lists of potential acquisitions. So that might be an interesting conversation for us to have in a real estate

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executive session. But I found it to be very useful to walk through with staff parkland dedication, how they make decisions, how they -- there was a question earlier about what the criteria are. I got a list from the park department about the ways in which this tract meet goals of the long range plan and there was some important ones about prioritizing new access or in the existing [indiscernible] And shoal creek clearly is not only a north-south access, but it also connects up to a very important piece on third street and all abilities or accessibility or all abilities ones. They were able to provide me with key elements of the long range plan. I also want to say that I appreciate very much, staff, your -- it's not very often that we're able to acquire some of these tracts because the city is obligated to pay

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and do what some private folks can do, which is to offer higher bids. I regard this acquisition as a real win for all the reasons that the staff have talked about over the last couple of weeks. It does provide

access to a really important ability corridor, it is also, though, I think an important historic site and as we've discussed, as director Mcneeley talked about, this is a neighborhood that was an African-American neighborhood, then it was a mexican-american neighborhood and that history [indiscernible] On really with the demolition of any of the structures that were in that area. And this is -- I found the feasibility study that staff have in the backup really compelling. And the opportunities on this site I think are -- will really live out the value for it. So I'm excited about the potential and I want to thank the staff for their help with this. And again just to suggest

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that a work session might be the appropriate place to have those conversations so that we can all be present, we can walk through the parkland dedication site together that I think is really valuable and the things the staff talked about is the ways they have since 1998 really strategically tried to address under investment in areas of our town, more than 80% of the acquisition since 1998 have been east of 35. That is not to say that there aren't other matters of equity that bear consideration and discussion, but I think that it is a really critical that we have these conversations all together so we can look at the [indiscernible] Together and brainstorm about it. So again, thank you, staff for bringing this forward. I think it will be a very good addition. >> Flannigan: You're muted, mayor.

[3:40:04 PM]

>> Mayor Adler: I was about to call the vote, but apparently we were not ready for that yet. >> Tovo: I think we're ready. >> Mayor Adler: I was in the middle of counting the votes when people raised their hands to speak. Now I have more people's hands that are ready to speak. So councilmember Renteria. >> Renteria: I just want to make it clear that the reason why I'm voting for it is because I think it was appraised too high. I didn't like the idea that we're buying this from a previous city employee that left the city around 2018. And I just eye owe I have a problem with that -- I have a problem with that. I think we really need to set a policy about who we're buying land from. And the city employee used to work for the parks department and now we're paying that person \$1.2 million for this little piece of land. Now, that's my biggest problem with this whole issue. I love shoal creek. I think it needs a lot of

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love, needs a lot of improvement and a lot of work on. It's just the cost. It has nothing to do with shoal creek, it has nothing to do with parkland acquisitions. You know, I voted for a lot of those. It's just that this piece of land, I just would not feel comfortable with it. >> Mayor Adler: I understand. Anybody want to say anything before we call the vote? Mr. Flannigan. >> Flannigan: Just a couple of kind of like statistics for framing the -- I don't think it counts for equity if we're buying parkland or building

improvements that tick in this casey people from all over the city can go to because there happens to be a longer corridor that connects to it. It's not how equity works. And the last time I was on the all-abilities corridor it ended at I-35 and I think the fact that -- if that 80%

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number is accurate about parkland acquisition, because of how parkland acquisition works it means that 80% of the development is in east Austin which is the opposite of the equity conversation we're trying to have. So it is more complicated than that and I felt like I needed to say that part. >> Tovo: Mayor? [Inaudible] I said 80% of acquisitions is, that was my understanding from the parks staff and director Neely would be able to verify that. It wasn't about parkland [indiscernible]. If our parks department could verify that information. >> Councilmember, I would prefer to go back and look at my statistical information and provide that

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to you in writing just to make sure that I'm giving you the right information about what the 80% reference is. I'm looking through the questions right now. >> Tovo: Thank you. Could you also verify, it was my understanding the all abilities path went all the way to Chicago con. -- Chicon. >> Mayor Adler: Anything else before we vote? Anybody else? Councilmember harper-madison. >> Harper-madison: I wanted to say I appreciated councilmember tovo's contribution to the dialogue because it sounds to me like we're saying the same thing. Often times we're saying the same thing, but how it comes across doesn't represent for the general public. I think we're saying the same thing. We want to make sure this process is appropriate and that we're doing the right thing, that we're getting the maximum extraction by way of our investments. And she just said something during the course of her commentary there towards the tail end that I think was so comprehensive in that what

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she's saying is I'm saying the same thing she's saying. We're is a saying the same thing, but it sounds like we're on opposite ends of the thing. So my abstention in this process I would like to make sure to point out for the general public, councilmember tovo is a yes vote and I'm an abstention, but we're saying the same thing. Generally we want the best for our community and I think we all want that just want to offer the people to recognize more often than not even if we -- even if we're opposed to one another we want the same thing. We both want what's best for our community. I want to say thank you, councilmember tovo, for your contribution to the dialogue. I think at the end of the day we're saying the same thing. We just want what's best for our community. Just wanted to point that out. I think given the the current climate around politics, people really need to know that it's not as

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ugly as it might appear. Like we really just want the same things for our community. >> Mayor Adler: Thank you. So I think the vote in this is councilmembers flan and Renteria voting no, and councilmember harper-madison and the mayor pro tem abstaining. The other seven voting aye. The vote is 7-2-2, and this item passes. I guess that means we got that right. Now we'll go on to the next item, which is item 31. We discussed this at a higher -- in front of us. We have a special called meeting at 6:00 that would concern the same property. But instead of handling it in 31, it would have the council initiating P zoning. Does anybody want to discuss

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this now, does anybody want to move something now with respect to 31 or do we want to come back at 6:00? The default is going to be coming back at 6:00 to handle it that way. My intent is to hold the items concurrently so we would be able to go in either direction. Councilmember pool. >> Pool: Thanks, mayor. Yeah, I'm fine with approving both this item and the special called item number 1, as belts and suspenders. I almost said boots and suspenders, which doesn't make any sense, but I would like both Austin energy general manager Jackie Sargent and potentially the city manager to address the need for moving forward with approvals on these two items today so that Austin energy has the certainty that it needs in order to be able to

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start on this really important infrastructure project. Thanks. So I thought it would be good for director and potentially the city manager also to give us the -- their perspective because it is a city project. APD them I would be happy to either make a motion just for 31 now or wait and make a motion for both 31 and 1 in about an hour and a half or two hours. >> Mayor Adler: Okay. From where I sit at a high level, I'm fine going with the P zoning at 6:00 6:00 if we're going to actually pass this in 31, I think that says something if we're going to approve the item this evening, I would not

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support [inaudible]. >> Pool: Well, then that's where, mayor, it's important for the general manager to weigh in and explain about the time -- >> Mayor Adler: You asked for that and certainly staff will get a chance to be able to talk. My concern is just the time that it would take for the route that's being

suggested in the special called meeting. And I'm also not understanding why it's necessary. I know we've had some conversation about it, but both of these -- both of these routes involve the notice so it doesn't seem to

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me that item number 6 is necessary -- if I'm -- not item number 6. The 6:00 special called meeting, I'm happy to support both, but I'm not understanding why the item at 6:00 is necessary. I think people are saying that they think that item 31 is not a legal way to move forward, which doesn't make any sense to me because both of them require notice and notice is being carried out under both. So I'm prepared to vote to -- to support them both and the reason that I want to support 31 is the time frame. So I think we need to be moving faster. >> Mayor Adler: And I

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would interpret passing 31 as council agreeing for a use change without giving people the opportunity to file a petition or have appeal rights. Councilmember harper-madison. >> Harper-madison: I wanted to be able to leave us with something before we left off this afternoon. Should I hold off? >> Mayor Adler: Why don't you hold off. I don't know if manager? >> We have our general manager to talk about the need for this project and

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for how important it is to move forward. I'll defer to our planning experts on just the process in which the different paths that it would take, but the most important thing for us is that it does move forward in an expedited way, but first I'll let Jackie Sargent speak. >> Thank you, Spencer. Thank you, mayor, councilmembers. Austin energy relied on the advance of the landlord use experts for the best way to move forward to address this extremely critical need and that's why item 31 is on the agenda today. Our concern, Austin energy's concern is with regard to electric reliability and our obligation to serve customers in this rapidly growing area. We are on a critical path to initiate construction of this much needed substation to increase capacity, ensure reliability and minimize the impacts of outages.

[3:52:19 PM]

This location is actually deal a-- deal and there are transmission infrastructure and lines crossing the site. So we have a need to move this forward and we are acting on the advice of our land use experts. >> And mayor, item 31 is not specific to any one property, the Austin energy property, whether it changes the land use chart within the burnet gateway district so it would allow two civic uses for all properties that are similarly zoned. It happens that Austin energy falls in that zoning category. >> Mayor Adler: Councilmember alter. >> Alter: I know that Jerry said that was notification to the community registry, but I

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think that the crux of the issue is that we could do 31 if everyone was noticed, but I'm not sure if those two are the same list. >> Councilmember, the code requires that all code amendments are notified to the community registry so that's why it was handled in this case. A zoning case would receive the 500-foot notification. >> Alter: Okay. So again, I think the issue is whether the -- the -- I think the question of concern for doing special called versus this has to do with whether or not we have [inaudible] A violation of the Acuna case. So when you say it's the notice that has not been noticed sufficiently to meet that level of notice as if it were a zoning change.

[3:54:21 PM]

I'm not talking about whether the code requires it or not, but I think that is the choice that we're trying to understand. And so if it hasn't been noticed, then we can either move forward with the special called meeting or we can do the notice and continue to pass it. Or we could do both of those to get it done. Am I understanding correctly what -- whether we have noticed it or not? For zoning. >> Councilmember, we have not noticed it in the manner that we would notify a zoning case with the 500 feet. >> Mayor Adler: Okay. Councilmember kitchen. >> Kitchen: Thanks, Jerry. Just a quick follow-up. Does that mean it's different people?

[3:55:21 PM]

So we haven't notified all the same people or is it just the form of notification? >> No, councilmember. It's a difference in the people. So the code says when we're doing a code amendment we notify the community registry, which is what we did in this case because as I stated earlier, the permitted use table we're not changing the zoning, not with this item. That's the 6:00 item. So we notify the community registry. If it were a zoning case or if the 6:00 item were to pass then people within 500 feet would receive a notice. >> Kitchen: Okay. I guess I'm not understanding the difference between the community registry. I don't know what that's composed of. Traps you can elaborate. >> Sure. The community registry is basically all registered neighborhood associations within the city. >> Kitchen: Okay. >> Mayor

Adler: Okay? It would be my intent to recess this meeting and call us back at 6:00 for the council to discuss what it wants to do. But before I do that, one

[3:56:21 PM]

last thing by way of privilege and then I'll go to councilmember harper-madison because it sounded like she might have had something. I just want to point out that Janette has been elected and presented just a few moments ago with the prestigious honor of being selected the 2020 Texas municipal clerk of the year by the Texas municipal clerks association. She was nominated by the local chapter for this award. The award -- the Texas municipal clerk of the year selected annually. Nominees have to meet certain requirements in order to be able to be eligible. Active member for five years, provide service to other municipal clerks or other state level, exhibit leadership abilities and hold the Texas municipal

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clerk certification. Given the fact that she was just awarded that just a moment ago virtually, I wanted to take this chance, I'm sure we all do, in congratulating Janette. Is Janette here? >> There she is. >> I'm here. >> Mayor Adler: You're actually there. Congratulations. >> Thank you. >> Mayor Adler: Well earned. >> Harper-madison: Mayor? I was going to say I'm -- I'm surprised she hasn't been no, ma'am fated for sainthood with the amount of patience here. >> Mayor Adler: Way to go. Natasha, did you have anything you wanted to do before we recess? >> Harper-madison: I love your haircut and Janette,

[3:58:23 PM]

get 'em, yay you. And we missed it by a couple of days. On the 26th it was intersex awareness day but we have an opportunity to make up for it that comes up on November 8th. I think it is entirely important that as we, as Progressive council have conversations about members of our community that are unfortunately overlooked far too often that we have conversations about intersex members of our community, so sorry we missed you all on the 26th but we, my hope is that we as a body show Upton eighth and say that we see you, we recognize you, we appreciate you being a part of our community, and we will do everything that we can to be mindful and considerate and deliberate about making sure that you are seen and represented in our community. So that was about all. >> Mayor Adler: Sounds good, colleagues it is 359 and we are going to be in recess until

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4:00. We will convene the special call as we come out of recess for two meetings rung concurrently so we can move back and forth. But we will come back -- >> Mayor. >> Mayor Adler: I am sorry -- >> Did you mean to say 6:00. You said 4:00. >> Mayor Adler: 6:00 o'clock we will -- sorry. >> Can I ask one question of Jerry if he is still on the floor so I can have clarity. So I am trying to understand, so are we -- is there more than just -- that is having its uses changed. >> Mayor Adler:. >> Yes. It could apply to all properties that are zoned tod within the district. >> Thank you. >> Mayor Adler: Councilmember kitchen. >> >> Kitchen: Only the tod in the north gateway? >> Yes. North way gateway has tod in it, it is not the same as crest

[4:00:26 PM]

view. Those are entirely different. There is just within the gateway. >> Right. I think it has been confusing. >> It is. >> Mayor Adler: Councilmember kitchen, do you want to say something before we leave from. >> >> Kitchen: Well it is about the item at 6:00 o'clock so if it is appropriate here. I just wanted to understand, it made me think I am clear on the scope of what is being proposed a 6:00 o'clock for the P zoning. >> Councilmember, the 6:00 o'clock item is initiate a zoning change for P zoning. On the portion of the property that would have the subsection at it. So. >> Okay. That's what I thought. I just wanted to double-check. Thank you. >> Mayor Adler: Okay. 4:00 o'clock. We are in recess. See you all back here at 6:00 o'clock. See you then.

[5:30:25 PM]

[6:02:35 PM]

-- today is Thursday, October 29, 2020, and the is the continuation of the Austin city council meeting, begun this morning. One item left. It is item 31. I am also going to convene the special called meeting set for Thursday October 29, 2020. This called meeting to convene no earlier than 6:00 and we are convening this virtually and running concurrently with the regularly scheduled council meeting. We have a quorum present. And before us is the figuring out how best to have Austin energy, help Austin energy move forward with the substation to be constructed on the site.

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My sense is that we are all joined in the effort to get the Austin energy out there just as quickly as possible think we all understand the urgency of this project and getting the project done. Looking at what was set in front of us I was concerned some councilmembers did not want to approve a use change with a text change, meaning that property owners within 500 feet were not noticed and given the appeal rights for a use change. If you personally think you can do that but obviously we have a case now up in Austin that may or may not rule on that

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question. But anyway, it was seeing that and recognizing how important and urgent it was for Austin energy to move forward that put it on the special called meeting an alternate path, which would have a council initiate P zoning, go down a planning commission. I think what legal is recommending is that if we took that route we should take item 31 and postpone it indefinitely rather than either saying no or just out of -- postpone it indefinitely so that had it hanging out there and could be brought back to the council for whatever reason we needed to do that. By taking it down it would be treated like a zoning case for a change of use on that property. It would be clear notice and process that isn't under any debate and is not subject to being challenged or delayed or held up. It just seemed like that might represent the path with the

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least amount of risk. >> I think that if we did that and in conversation with Jackie and give you a chance to talk to her in a second, Jackie can answer the questions that council might have. I think it is important that if we follow this path that we follow it with kind of the understanding to the planning commission that they should, you know, work tout trail aspect that I understand that Jackie says is something that will be worked out at that level but to make sure that it just comes back clean with just that, so it is not held up with other kind of issues right now, like affordable housing, or other kinds of issues that, if that is an issue and if there is space we can deal with that kind of thing in the future but get it down and get it back to us as

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rapidly as possible. Jackie, do you want to speak to any of these issues or what is before us? >> Sure. I can do that, mayor and councilmembers, I am Jackie sergeant, manager of Austin energy, we brought forward item 31 because we felt that that was the clearest path .. For moving this project and advancing it, we understand the issues that are being brought forward and in our consultation with our legal team we believe that advancing both items would be in our best interests and that would allow us to submit a complete site plan, and Mitts situate can address that, mitzy can address that. And with that said -- I

apologize. My dog is chiming in for some reason. While, you know, we want to proceed down this other path -- we will do our best to meet the

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deadlines through that process and I can't say for sure how that process -- >> Jackie your dog just got my dog going so I am going mute myself, because I am going to tell my dog, that your dog is not in fact talking to my dog. So -- >> I apologize for that. I closed the door. I probably should have just left it open and let him come in. Just a minute. I am going to do that. Jackie sergeant the dog didn't see the 0 no whining fine? The back, exactly that is actually for my granddaughters, that is the rules at Natasha harper-madison's house, don't get hurt and no whining. But I want to commit to you that my team and I see that Susan

[6:08:47 PM]

gross that joined us has already reached out to the red line trail. We are in support of trails. We are looking at the best alternatives to accommodate a trail on the site. There are other requirements that we have at the site and there are other easements and so before we can fully commit to a specific path for that trail, we have to work through those issues, but we are ready and we are willing to roll up our sleeves and to make that happen, because we appreciate the efforts for mobility that this council and this community have been striving to bring forward. So I don't see the, so I don't see the trail as an issue. We are committed to it. My team is committed to it and I have instructed them that that is something we need to make happen. We are concerned about the uncertainty with moving forward can with the P zoning process

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and we cannot -- I cannot stress enough we cannot have anymore delays for this project. The need that we have to maintain reliable service, the commitments we have to some of our specific customers and the need or that capacity so that we don't have people coming forward for service and we have to say, I am sorry, but we can't serve you. So this is very critical. It is of the utmost forms and we need a path forward. Whatever that path is, our team is committed to working together to make it happen with your support. >> Mayor Adler: Thank you. Alex. >> Mayor pro tem. >> I just want to make sure --

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the recommendation from Jackie was to pass both 31 and this special -- and this item? >> Yes? Okay. Thanks. >> And mayor, if I may, I don't know if you see me. >> Mayor Adler: I can, yes. >> So I would like, if Jackie might be able to speak to what the hesitation was around the item in which case I think ultimately I am trying to make sure that general public understands what it is that we are presenting. >> I apologize, councilmember, I am not sure I understand what your specific question is. >> So we are asking the general public to engage in, you know, after a long day of council deliberation, we are asking to additionally be a part of this

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particular meeting in which case can we be real clear about what it is the item that is before us and why we are deliberating it. >> So in order for us to construct and put into operation a needed substation, we have to have a text change to the code to allow us to proceed and to be able to construct that. The other part is the change in zoning and Jerry rest Hoven can speak more specifically to the text change and the requirements that are there because of the north burnet/gateway regulating plan and the current use that we have of this site under tod zoning. Our attorney mitzy cotton can

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speak to the desire to move forward approving both items .. >> Harper-madison: I think to explain exactly what we are up against and I don't think Jerry or Mitzi or anybody else has to -- I just want to make sure, you know, as we proceed with these deliberations that people understand exactly what it is we are doing, but I think you already responded to that, thank you very much. I appreciate your time. >> And I would move to postpone epiindefinitely item number 31 subject to call and to pass item number 1 in the special called meeting with direction that -- to the greatest extent possible that get back to us as clean as it can, having worked out the trail issue, notice of the case, as we notice zoning cases to the

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owners within [indiscernible] They have the opportunity to have whatever appeal rights and also noting any text changes that would be required to affect the purpose. That would be my motion. >> Is there a second to that motion? Councilmember Ellis seconds. Any discussion? Councilmember kitchen. >> Kitchen: I just wanted to ask Jackie again, so I think we just confirmed that your thinking was that it would be best to go with both of them. Is that because that would give you the most flexibility to move forward on them? Is that the thinking or can you just speak to that again? >> Well, in consultation with our attorneys, it is our understanding that, in that

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scenario we would be able to move forward request submitting any complete site plan as opposed to trying to carve out just a specific area, but right now we are trying to figure out the best location so that we can accommodate the trail and that need as well, along with addressing all of the necessary water features and drainage issues with the property. >> Okay. Thank you. So I would like to vote on -- if I hear your motion correctly I think you were putting the two things together in your motion? I would like to separate them. >> Mayor Adler: If you wanted to, you could amend the motion to say that you want to make the use change now without having giving people the appeal right. >> Kitchen: Mayor I would like to vote yes on both of them and

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so that is what I am wanting to do and so that is why I am thinking that all we need to do is just separate out your motion. I am not intending to amend your motion such that we wouldn't be voting on the item that is in front of us. >> Mayor Adler: I am fine doing that. >> Kitchen: I am sorry what did you say? >> Mayor Adler: I am fine. The first motion is to approve item number one that is in the special called meeting. It has been moved and seconded. Any discussion? Councilmember pool. >> Pool: So what does that do with item 31 under the councilmember kitchen's -- what is the second part? >> Mayor Adler: -- We are going to divide that and we will have a vote on the 31 after we have the vote -- >> Pool: Because I am prepared to make a motion to -- because I think that gives the maximum flexibility as I think was appropriate to the staff, specifically -- energy in order

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to move forward as expeditiously and with the most certainty, which is important in this case to this -- I am sorry. Is somebody talking while I am. >> Mayor Adler: I was going to say, so -- >> Pool: Are you short-circuiting my comments, mayor? [Laughter] >> Mayor Adler: No, I am trying to make sure that it is clear what is in front of us. So I had suggested one motion that had us handling item number 31 and number 1 at the same time. Councilmember kitchen in essence asked to divide the question and have a separate vote on each. >> Pool: And that's what I was trying to ascertain because I think what the city staff is a is to approve both 31 and 1. >> Mayor Adler: That is correct. So I said we would do that, and the first vote is on number one in the special, and then we will handle the vote on number 31 in the regular called meeting. And then what I heard you say is

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that you explained why you thought 31 which should pass. I promise to give you the opportunity to do. But we will consider that in just a second. We are going consider them both, as I told Ann we would do. Okay? >> Pool: So I think actually the Robert rules call would be to take out -- to take up item 31 first but I recognize that there is a thumb on the scale. I do want to say I support the city staff in what they are asking for because I realize the importance of the ability to move quickly on this particular situation. I clearly have identified that I support both of these. This is not my fight. I mean, I have supported Austin energy moving forward with this case since may when they first brawl it to us, and I have signaled that pretty clearly that we don't go wrong by following the city staff's lead

[6:19:00 PM]

in this specific instance. Thank you. >> Mayor Adler: I am trying to decide whether or not to address the debate about having a thumb on the scale or the suggestion that what we are doing here is inappropriate under Roberts rules. I am not going to do that. The item in front of discuss number one on the special called meeting. Any discussion? Councilmember alter? >> Alter: I think we are all trying to pet to the same place or trying to get the substation built and do it in an appropriate way and get it done fast. I am wondering if staff could say, if it would be appropriate for us to provide any guard rails for this process or ti timing, you know, I have heard wildly different estimates of how long it would take to move through process, which I think

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is the real concern here, so I am wondering if staff could speak to how long they think that the process would take to be able to get the substation up and running and if they could also -- not up and running but how long it would take to get the zoning case back to us and then if there are any additional direction that would be helpful to make sure that this zoning case is posed on getting the substation and doesn't get derailed in some other fashion, you know, it is a lot of dangers of a substation and having things too close to it. So I just want to make sure that we can move as quickly as possible, so if Terry could provide that information I would appreciate it. >> Councilmember, the resolution on this item does direct the city manager to have an expedited case to not cause

[6:21:01 PM]

delay so we have that direction in the resolution but with regard to how long it would take I can't give you an exact number. I can tell you that the resolute directs us to rezone only the portion that is needed for the substation, so the first step would be for Austin emergency to determine exactly where the substation is going and then we would have to get a survey of where that area is for the application. At that point the application could be submitted, I would then have to do the staff review, the hoiftion, of

the planning commission hearing and then of course bring it back 0 to the city council and notify city council as well. So I am not sure. I think the first part is the most important is identifying the area to be rezoned because that is what the notification would be based off of. >> Pool: So is that retired because of how our draft ordinance is written or because that is required in the zoning process because when we grant stoning to other people we don't tell them exactly where a building has to go, for instance, rusthoven ..

[6:22:01 PM]

>> No because -- >> Go ahead. >> It is because the resolution says to initiate the rezoning of the area needed for an electric substation, so instead of -- recent think item number one on to the special called does not say rezone the entire site, it says rezone the needed area needed for the substation, so I need to get that information from Austin energy and get a survey of that area because that survey would be determine the area we are notifying, you know, 500 feet around. So once that is determined then I can move forward with the zoning case. >> Would this all go faster if we just rezone the Austin energy property as a hole? Like without all of this, allow this process to move more quickly. >> >> If it were, I don't know if it is already subdivided yes because we wouldn't have to wait for the survey part. >> Can legal speak to that because I am way out of my league here. >> I am sorry. >> Mayor Adler: We had this conversation with legal and to

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allow it to proceed against the whole track. If that is what they needed. But I think to your point, I think the goal is to get this done as quickly as possible, Alison, so I don't know why it couldn't be initiated as to the whole tract and that is Austin energy determined more and more what land is needed you could amend the case. I mean, don't we amend to pull back the area that is involved in other zoning cases? >> Yes, we can do that. >> Mayor Adler: So you could start immediately with respect to the notice. You could start immediately, you don't have to wait, the goal here is to not wait and to move forward on everything that you can move forward on as quickly as you can move forward on. But if there is a language change to councilmember alter's point we would certainly make it, it is just the language that we had a discussion about all or part, my understanding and -- in the notes from my staff that

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were working on this, this was discussed with Mitzi and that the zoning case would allow for the whole site and allow for part of to site, but the goal here is to move it as quickly as possible. >> Let me just say the resolution is drafted for portion of to site because my understanding is that there was an interest in zoning just the portion, but we didn't have to know where that portion was. We can -- you are initiating

it so if you want to initiate something different we can talk about changing the language in that resolution to say something different, to say the entire tract or the portion, whichever -- >> Mayor Adler: I think goal and we will take whatever language you suggest, is to make sure that we cover the greatest number of contingencies so as to allow Austin energy to get this back to us as quickly as they

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possibly can, as according to whatever it is that it determines that it needs. Councilmember Casar. >> Can I finish, mayor? I was still going down a line of reasoning. So if -- okay. So -- this is written to get the fastest through the process since this is not about whether we want a substation or not. Is this drafted to get the fastest through at process because it seems to me if it was the whole thing, we don't have to wait for them to do other things. I mean, this is just like another zoning case that we change the use and we don't get to see the fancy models and other kind of stuff with that. >> Alter: And even, you know, a trail would come at the site plan stage as I understand it for most of our zoning, because we are not making this contingent on them doing a trail. We are saying we as a council,

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if there is a solution that allows a trail we would like a trail. But that seems to me to be a site plan issue, not a zoning issue, because we all agree that we have to change the use. And if we are going go down the road of zoning we should be able to skip through zoning pretty quickly and get to site plan so that the questions come up then, assuming that makes it faster if it doesn't make it faster then don't follow that. >> I can suggest some language change if you want in the first be it resolved it could say the city council initiates the rezoning of the property generally location at 2412 Cramer lane to zone the property as needed for an electric substation, take out the portion of. And then if it turns out that it is a more restricted area that's fine. >> Okay. >> Alter: I mean I am

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imagining, I just want to be clear, I ammaning this is a Rhett straight forward zoning case and we are just granting the uses and I am not sure where all of the other discussion comes in the process. It seems to me that would be a site plan -- zoning. You know, because we are not adding -- the goal here is not to add -- to this property, it is to get the substation built. >> True. I think there was concern initially with how much land, because there will be a companion text to take whatever portion of whatever amount of land is zoned P will be removed from the gateway, the north burnet gateway plan so I think there was some concern from a planning perspective to limit that but we will write it if we use the language you suggested that allows the whole tract or if we know what it is and it is a smaller tract or run into issues,

with doing the whole tract and it is faster to do a smaller portion, we can do that, we can do that as well.
>> Mayor Adler: Just figuring

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out what that wording is, we would gladly take that word change. Alison, did you have more before we went to someone else? >> Alter: I guess I am just wondering, I understand that we need to rezone it. I am just wondering why it has to be removed from the plan and you couldn't just change the plan for that one thing. >> Jerry may have a better answer than I, but since P zoning doesn't exist in north burnet/gateway and we are not going to amend the north burnet gateway plan to change uses there, it has to be -- it can't be both in the north burnet/gateway plan and have the tod subdistrict zoning it has now and a P zoning, so the amendment to the gateway, north burnet gateway plan was changing the uses in the district that this area is as opposed to changing the plan to add P to the plan, and I think that is

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more complicated. So it is all just a matter of the path of least resistance. >> Alter: Okay. Thank you. >> Mayor Adler: Colleagues? And Mitzi, when you have that language, raise your hand and we will enter that into the record. Go ahead. >> I do. I thought I read it before but I must have been on mute but I have got it on my screen. And the first be it resolved, I would just change it to say the city council initiates the rezoning of the property generally located at 2412 Cramer lane to zone the property as needed for an electric substation to P zoning district, so we are removing the portion of and adding the as between property and needed. >> Mayor Adler: Any objection to that change being made? Hearing none that change is made. Further discussion? Colleagues? Councilmember Casar. >> Casar: I am good with everything we just did. That makes sense to me.

[6:30:07 PM]

Is there any -- is there any reason to not just rezone the whole property P? Would that save people time? Is there a thing where the smaller thing is actually faster? >> This is rusthoven? Not means we have to have a survey to get the case started if we get the entire, do the entire property we can get started sooner. >> Casar: So the fastest thing is to zone the whole the thing. Mitzi, the language you just read to us that we just incorporate asked achieve that we don't need to change it. I just wanted to double-check, because I have no problem just rezoning the whole property and we have no questions. But if what we just did covers that, then we are good. >> It covers it. >> Casar: Okay. And I think everything is -- >> Mayor Adler: Councilmember kitchen. >> Kitchen: Just a quick question. I mean, it sounds good to me

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also, but just a quick question. So-so what we are doing is, so Mitzi, what we are doing is measure 88 it for the -- how did you put that, for the purpose of the substation? Is that right? >> I have to unmute and then -- no, that's okay. So what I had put in there was initiating rezoning of the property at 2412 Cramer lane to zone the property as needed for an electric substation. >> Kitchen: So that means that's the limitation on what we are doing here. I think the mayor mentioned it earlier, if I heard him right, but that is what the focus is here. So it is not for doing anything else as part of this particular stoning action, it would be only for that purpose, correct? >> Correct. >> Mayor Adler: Okay.

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Further discussion? Councilmember alter. >> Alter: So just to be clear, is there any other language that we need to provide to focus on simply getting this substation the, the zoning needed for this substation through so they can do their site plan and move to the next stage. >> No, councilmember, not that I can think of. >> Alter: Okay. And the site plan does that have to go back -- >> Well, under P zoning, if P zoning is approved by the council can this is initiating the zoning but presuming the council later approves the P zoning, that would require an approval of the planning commission, because all uses over one acre in P stoning require the approval of the planning commission and the decision they make is appealable to the city council. >> Alter: Okay. And -- >> If it was just item 31, then it becomes -- with the staff recommendation it becomes a

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permitted use and it wouldn't require any further approval from the planning commission. If you went with the planning commission's recommendations it would still require a return trip to the planning commission. >> Alter: So the staff's recommendation on 31 does not require a return trip to the planning commission. The special called one does require a trip back to the planning commission? >> Yes. >> For the site plan, yes. >> Alter: And that plan is appealable? >> Yes. >> Alter: To the city council. Okay. So if we -- I am still trying to figure out why we don't do both but if -- let me just go down this part first. If we -- if is thinking that we ought to be provisions ah to the planning commission to make sure that we focus on substation P and don't add, say, affordable

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housing or add weird things? >> With regard to the zoning -- with regard to the zoning case, separate from item 31, you already made the recommendation on 31, with regard to the zoning case, the resolution just directs us to ensure an efficient and expedited zoning process to not cause unnecessary delay. That's the direction of the city manager. We would of course have to take the case to planning commission for the recommendation to you, but it would be up to them as to what their recommendation was. >> Alter: And there is no direction we can provide, because they are a sovereign board; is that correct? >> I believe so, I think Mitzi could address that. >> Well, they are a sovereign board and subdivision but on this they are just providing you a recommendation on the zoning. >> Alter: Okay. Thank you. >> Mayor Adler: Further discussion on this item 1, special called meeting? Councilmember kitchen? >> Kitchen: I am sorry. So the planning commission goes back to the planning commission and provide a recommendation,

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but isn't there a recommendation, the scope of the recommendation set by the language that you just said, which is the purpose of this is for the substation, right? >> Yes, councilmember, with regard to the zoning case, we would take it back to them, you know, as a P, you know, zoning case, and they would make a recommendation to the council, my point was that when -- if the P zoning were approved by the city council, any use to Sony property that is zone P, any use that is over an acre would require approval of the planning commission at the time of site plan. So they would make a recommendation on the zoning case, but if you approved the zoning case, then the site plan would have to go to the planning commission, you know, further down the road. >> Kitchen: But the scope of 0 what the planning commission would do with the site plan is, if we felt we wanted to put parameter on it we could do that when the zoning case came to us? >> I don't think you can put parameters on the, whether it goes back to the planning

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commission or not. >> No, no, I don't mean that. I just mean on the scope of what the planning commission would be looking at. >> I don't know that you can do that with a zoning ordinance but if the commissioner were to approve the site plan in a way somebody wanted to appeal with council then you can make changes to it. >> Kitchen: Okay. >> Mayor. >> Mayor Adler: Further discussion? Councilmember pool. >> Pool: So Mr. Rusthoven, which is the quickest path toward authorizing Austin energy to begin its work on this critical infrastructure project? >> If item 31 were approved today as recommended by the staff, with the substation would be a permitted use on the effective date of the ordinance which would be ten days from today. >> Pool: And if we move forward only with special called 1, what is the time frame on 0 that? >> We would have to go through

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the O zoning process and get the P zoning approved by the city council and the site plan would have to be approved by the planning commission. I don't know how long it would take. >> Pool: And a we are all assuming in the end what we want is to have Austin emergency to be able to move forward on this critical infrastructure project. That's sort of a rhetorical point that I think that pretty much sums up the intent of this council is to move forward with this project, so the question is, sooner or later. >> Mayor Adler: Okay. Any further discussion on this internal called number one is? Councilmember Ellis? >> Yes, I think question all want to make sure Austin energy can all move forward with this. We are all supportive of what they need to do to make their department and the city run really well. Think I for me especially the talk about doing both doesn't quite make sense because, one, it keeps it in the regulating

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plan and as a permitted use to the whole regulating plan, and the other removes it so that it does have that P stoning and so they both will allow for that use, but I think there is a concern about understanding the notice requirements and making sure that this particular site can be used for this particular infrastructure without necessarily changing the whole plan in the process. So that's kind of where I am approaching this. But I think we are all in agreement that we want them to be able to move forward. I think I just prefer to see this particular use and this particular spot not necessarily changing the whole plan for it. >> Mayor Adler: Further discussion on this number one? Let's take a vote. Councilmember pool. >> Pool: Yes, I just wanted to double-check, are we changing the whole plan by changing one use that applies across the -- Mr. Rusthoven? >> In the tod. >> What 31 does it amends the permitted use table, so it would

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allow that use to, it would allow them in anyplace that has similar zoning. So. >> >> Pool: And how many places in tod do we have utility zoning like this? >> Well, none, because it is a civic use that would require to be a government agency. >> Pool: Right, so the point is it is only in this case. So, you know, I am fine with you all voting against 31, which is what the staff wants, and for special called item 1, which is what the mayor has advanced but I just want you all to understand it will delay any kind of action on Austin energy moving forward with this critical infrastructure project by probably four to six or nine months, and so I leave that with you all and as I have said many times, this is not my fight. Did not bring this. This is a staff proposal, I supported the staff proposal as far back as may when they first first advanced it, I don't know how it has gotten so freaking complicated, for me it is pretty

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simple, we should endorse Austin energy moving forward with this critical infrastructure, which is going to provide electricity support for the upcoming soccer stadium and for the 6 million square foot development to be dash cam pus which is the brandy wine development and for to the other .. Development that is happening, you know, not just in district 7 but in the northern, northeastern, northwestern part of the city. You know, it is not my fight. I think we move forward with the quickest path forward that is possible, which is item 31. It has gotten complicated. Which I don't think is necessarily helpful or necessary. So if we can step back from all of that, maybe we can make the appropriate public policy rational decision which is to endorse the request from Austin

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energy to move forward expeditiously on this critical infrastructure project. >> Mayor Adler: Further discussion on item number 1 in the special called? Hearing none let's take a vote. Those in favor of item number 1, please raise your hand. Those opposed. Those abstaining. Councilmember pool abstains, the others voting aye, Kathie, I can't see you so I don't know how you are voting. >> Tovo: Aye. I was voting aye. >> Mayor Adler: And with a 10-1 vote, item number 1 in the special called passes. That's all the business in the special called meeting. So I am going to adjourn the special called meeting here at -- well, no. I am going to keep it open just in case people -- well, I am going to close it. 6:41 that meeting is adjourned.

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We are now continuing in the council meeting. >> I don't know, I don't know if anybody else's computer has decided right now is the time to restart, but mine is trying to right now. I don't know if you see me but -- okay. >> Mayor Adler: We can see you. >> That gets us back into the special called meeting. I mean the regular meeting. Item number 31 is the last item in front of us. I am going to let somebody else make the motion. >> Councilmember pool, what motion would you like to make a? >> Thanks, mayor, I will move the staff's recommendation on item 31. >> Mayor Adler: Councilmember pool moves the staff recommendation on item 31. Is there a second? >> Councilmember kitchen seconds that. Discussion.

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Councilmember tovo. >> Tovo: Just to emphasize something that councilmember pool and others have said, I think -- sorry, I have no idea why my camera is frozen but -- excuse me, it seems that this option gives Austin energy the flexibility they need to be able to move forward quickly and I agree dash priority so I am going to support this. >> Mayor Adler: Further discussion on this question? Councilmember Casar. >> Casar: Two points. One, I -- even though this has been hard and more complicated than I think

any of us would want, I appreciate some of the conversation here, because it seems like there is pretty unanimous agreement that we can move forward with a text change like this one without giving individualized notice to every property owner and that's how we

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did edus in the past and that's how we did affordability unlocked. That is item 31 before us is making a change to the stoning text and we have a property, we have not sent individual notices to everyone, so I think it is good -- I think that is what state law says, I think that is what we are allowed to do if we pass this, that's what this would do. There might be some folks out in the community who disagree but it seems clear that everybody here is on the same page there and that's a good thing and I hope that precedent continues to be set. I think that, though, bypassing the P zoning it negates the feed for 0 this item. I think we can go way faster than the timelines -- I think we can go really fast and get it done, and my hope is that by pat moving forward with P stoning and keeping this off the table we don't get into that question of individualized notice because we can, with the P zoning do the individualized and get it done.

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>> Mayor I have a question for Mr. Rusthoven. >> Mayor Adler: Yes. >> I am frozen with my hand up so -
- >> Mayor Adler: Go ahead, Kathie. >> Tovo: Yes. Councilmember Casar, I appreciate you voicing that assumption because I just have to counter it and say that is certainly not -- I don't subscribe to that view as we have talked about on council, and it seemed to me that Mr. Rusthoven was saying this is an extremely limited action in which we were adding a use, we are adding a use as permitted to a regulate -
- we are not changing uses throughout the city. Mr. Rusthoven can you please verify that because certainly if that is the interpretation the community or the -- will make of this I am certainly not going to support it. I absolutely believe that the uses we were talking about in codenext, since that is the backdrop of this conversation,

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we are -- absolutely required notice, and so this is very important to me that I correct I heard you said it is an assumption we all support moving forward on this without requiring. Mr. Rusthoven can you please describe again, to me what I thought we had before us is adding -- adding as permit add use within a regulatory plan -- to keep it narrow. >> Yes, councilmember we are adding, asking to use two uses within the burnet gateway plan and only the burnet gateway plan. >> And that is fundamentally different from changing family homes to a category that would be eight or more units, keeping some

single-family homes the same, keeping other single-family homes, some other kind -- I mean, that was a fundamentally different matter in which I believe individuals should have received -- again, as to the --

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>> Mayor Adler: For me, guys, I mean, I hear that, Kathie, but I am not sure that there is any real difference. We have a piece of property that has certain use limitations to it and we are about to change what is allowed to be used on the piece of property without having provided individualized notice to surrounding property owners. I think that is allowed under the law. And I think it is allowed because we have done it in the past. This is consistent with council action that we have had for some time. We change uses on property without giving individualized notice when we don't change the underlying zoning classification, excuse me, but when we change the -- what is allowed within that zoning classification. And that's what we are doing, that's what we would be doing

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here. And I would consider this to be consistent with that longstanding practice with the city and also to be continued precedent for us to continue doing that in the future. I mean, because Jerry, aren't we changing the use allowed on this property? >> Mayor, we would be changing the uses that are allowed on properties -- within burnet gateway, this is one of them. >> Mayor Adler: And we would be changing a use on a piece of property without having provided individualized notice as is required with a zoning change; is that right? >> Yes. We -- this was notified different than the way we would in a zoning case. >> Mayor Adler: Okay. Councilmember alter. >> Alter: So I am not really -- I think we can see where the vote is going and I am not 0

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trying to debate -- if we wanted to leave no ambiguity we could simply notice this to the properties that need to be noticed and then this could be done in a month. Which would be faster which I mean is the issue, which we talked about before, airport overlay, et cetera, that you could simply notice the properties and then you don't have to feel like you are running afoul of everything and because this is so constrained that wouldn't be particularly challenging to do. >> Mayor Adler: And my concern with doing that, councilmember alter there is disagreement as to whether or not we need to notice for a text change that gives rise to a change in use, so this is the clearest investigate path that had us doing something on which we all agree was the item 31 that we

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just passed. I don't think it is five, six, or nine months in order for Austin emergency to move forward. Is it going to take that long to get it back to us? >> Uh-huh. >> Councilmember, I am sorry, mayor, I will try to have the zoning case back as soon as I can. I don't have an exact amount of time but the resolution says to bring it back as quickly as possible. >> Mayor Adler: Okay. >> I guess, mayor -- >> Mayor Adler: How quickly could we bring it back? Maybe -- how quickly can we bring it back? >> Mayor, there are certain state legal requirements that we would have to meet specifically with regard to notice for both the planning commission and the city council, we have to take out a newspaper ad, put out signs, et cetera, but I will try to do whatever I can to make it go as fast as I can. >> Mayor Adler: Okay. Councilmember alter. >> Alter: Again, my brain is not functioning well enough to

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navigate all of the legal issues here and really focused on trying to get the substation done but I think that, you know, there is, you know, depending on where this falls out, you know, if there would be an option to see if -- stoning commission to still do this and have the poet happen and then you wouldn't have to have the concern at a later date. I just want to throw that out there. If we got into a problem at the planning commission. Which we may not. >> Mayor Adler: Okay. Councilmember pool. >> Pool: So this was in front of the planning commission on Tuesday, I believe. And it would still need to come back and go through the same process again, because it would be a zoning case as opposed to the change of use case; is that correct, Mr. Rusthoven? >> Yes. This case, the 31 has already

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been recommended by the commission on Tuesday night as you said. This case would have to go back to the planning commission on the recommendation for the zoning. >> Pool: Thanks. >> Mayor Adler: Okay. Councilmember kitchen. >> Kitchen: Just one last question. I was trying to understand what councilmember alter was talking about. So basically the thinking is for this particular case, we could just delay it while we send notice and then we could use it as a vehicle which is a change of use as opposed to a change of zoning and that would potentially be faster, is that what you were thinking, councilmember alter? >> That's what I was thinking but it sounds like what councilmember pool and Jerry rusthoven suggested that that would actually mean it would have to be a zoning case so it would have to go through the whole process. >> Okay. >> Again. Whereas I was thinking that the issue is, the issue is the notice happening as opposed to

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it going through the zoning process of planning commission, et cetera. In my view it was the zoning process, but I don't need to go down -- I don't need to go down this road. It is not important. >> Mayor Adler: Okay. Councilmember pool has a motion, councilmember pool do you have -- >> Pool: Yes, I have one more question for Mr. Rusthoven. When we have provided notice by way of the community registry, which is our standard practice with use changes, correct? >> Yes. >> Pool: How different is that from this specific individualized notice either within 200 feet or 500 feet and I know that there is some question about whether it is from -- the actual substation is located which is disort of interior to the site or the edge of the property. >> So councilmember, the way that the previous item passed on the special call, we will notice everybody within 500 feet of the boundaries of the entire property.

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The way the 31 was notified as you said was to community registry which is what the land development code requires for a code amendment. >> Pool: And do we know who all, what the size of the universe is? >> There were several hundred mailed out, it is every registered neighborhood association in the city. I think there are around 400 of them. >> Pool: Is that an apartment or is it a neighborhood, did you say? >> It is every registered neighborhood association. Pal pool and that is -- do you have a map to show where those are located? >> We do have a map but we mail it to all of them so every single one of them received it. >> Pool: And that is within the 200 feet of the edge of the property or 500 feet at the edge of the property? >> No. It is for the entire city. It was every, it was every neighborhood association within the city, even those north, south, east, west, every neighborhood association in the city received notice of this.

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>> For item 31. I am talking about 1. >> Oh, no for the special called 1 we would only notify within 500 feet of the Austin energy property. >> Pool: Right. So it was the, if it was the entire community registry which sounds like it was actually a larger universe than disim my the affected properties that are within 500 feet of the edge of the Austin energy property? >> Yes, I don't know at this time how many notices would go out for the 500-foot for the zoning notice, and there are several large, you know, single properties around there, like the brandy wine property so it wouldn't be that many but I would have to see how many rentedders or whatever would the exact amount right now. >> Pool: My understanding is there is at least one apartment complex on the other 0 side of one of the streets on the northside of the property; is that correct? >> Yes, it is. >> Pool: Yes. I think we have actually notified a whole lot of people

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in advance of this action than we made with the notification of a specific property owners under special called 1, which is great. I mean, I am all for notifying more people rather than fewer people. For me, again, the issue is how quickly can Austin energy move forward with critical infrastructure project and so thanks for that, Mr. Rusthoven. >> Mayor I have another question. >> Mayor Adler: And go ahead, Kathie. >> Tovo: >> Tovo: This is for our legal staff. I believe the answer is no, but we can't waive the requirement that a case go to planning commission, right? That's only for a code amendment? >> Right. We can't waive the zoning case going to planning commission because that's statutory. >> Tovo: Can someone remind me why this has been

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postponed so many times this spring? This was on -- >> Mayor Adler: Kathie can you get closer to your microphone? >> Tovo: I can try. It's like a half inch from my mouth. But. >> Mayor Adler: We can hear you better. >> Tovo: Thanks. Can somebody explain to me why this didn't come forward sooner? >> Issues were raised with regard to the Altuna lawsuit and the notice, but we did take it to the planning commission and they initiated it and between when they initiated in June and now, there have been ongoing discussions about the notice. So -- >> Tovo: Thank you, Mr. Rusthoven. >> Mayor Adler: And for the record when we did the land development code we

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provided notice to much, if not all of the city, but there were some questions about whether or not notice was sufficient and whether we actually had to give people not only notice, but appeal rights associated with the notice. That was one of the objections I think that was raised in the Acuna appeal. Legal staff, is there a way to approve alternate notice? Is it there something that if we had like eight votes we can notice a combined public hearing or something and move more quickly? >> There is a provision in state law for a combined planning commission and city council meeting on this that we can do notice for. We might want to think about that just since we've never done it, I'm not sure if it would end up being that much faster. We were sort of discussing this among ourselves offline

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offline. And there is a process for that, we just have never done it. So we could look at that and see if we think that would save some time. And given that the resolution says to do this as quickly as possible, if we think that's something we can do, we can come back to you with that. >> Mayor Adler: I think clearly there would be eight votes to do that. And if it required -- if it saved us from -- it saved us time, I'm sure everybody would do that. But let's continue on. The item in front of us is item number 31. We'll take a vote on that. If it passes then we're done. And we'll move forward. If it doesn't pass, then I'll entertain a

motion to indefinitely postpone. But the motion in front of us is to pass item number 31. The staff recommendation, different than the planning commission recommendation. Any further discussion? Okay. Let's take a vote.

[7:00:53 PM]

Those in favor of pool's motion please -- councilmember kitchen? Did you want to speak or are you voting? Those in favor please raise your hand? Councilmember pool, councilmember kitchen. Kathie, I can't see you to see how you're voting. >> Tovo: Thank you for asking because my hand got stuck up. >> Mayor Adler: Okay. I'm not voting in favor. >> Mayor Adler: You're not voting in favor? >> Tovo: I am not. >> Mayor Adler: Okay. Those opposed to the motion please raise your hand? Kathie, how are you voting? >> Tovo: I am going to abstain. >> Mayor Adler: Okay. Two votes in favor, Kathie abstains, the voting no? >> Alter: I'll abstain. >> Ellis: I'll abstain as well. >> Mayor Adler: Not sufficient votes to pass.

[7:01:54 PM]

Is there a motion to postpone indefinitely. Councilmember Casar makes that motion. Is there a second? Councilmember Ellis seconds? Any discussion? >> Kitchen: I have a question. >> Mayor Adler: Yes? >> Harper-madison: If I can speak after -- >> Kitchen: Go ahead. >> Harper-madison: You go first if I can just get the opportunity. Thank you. >> Kitchen: Can you please tell me the necessity of postponing this indefinitely? We voted it down so how do we continue to continue it? >> Mayor Adler: Because that's what I was announced before. >> Kitchen: I'm not saying we can't, but I don't understand why we would do that. >> Mayor Adler: Legal has suggested when I asked the question about the different ways this could pass through that it was in the best interest of Austin energy for us to postpone this indefinitely rather than voting it down or not taking action so that if there was

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a reason if the zoning ran into any issues, it could come back to us without being renoticed. It made it quicker and easier to bring it back from Austin energy. Further discussion on the motion. Councilmember harper-madison, you wanted to be recognized. >> Harper-madison: Thank you, chair. I appreciate it. I think councilmember kitchen already asked the same question that I was going to ask. >> Mayor Adler: Further discussion on the motion to postpone indefinitely? Let's take a vote. Those in favor of the motion to postpone indefinitely please raise your hand? Those opposed? Kathie, you voting no on the motion to postpone indefinitely? >> Tovo: Sorry, it just froze at the wrong time. No, I was voting in favor of the motion to postpone indefinitely. I don't know why -- in the evening somehow -- >> Mayor Adler: That's okay. >> Tovo: It just got worn out. >> Mayor Adler: That's okay, it's working.

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Councilmember pool, how are you voting on the motion to postpone indefinitely? Councilmember pool, I think you said you abstain? Okay. So with everyone voting aye except for councilmember pool, who abstains, 31 is postponed indefinitely. With that, colleagues, I think we've taken care of everything that's on our agenda for today. If no one has anything else, then at 7:04 this meeting is adjourned. Thank you.