

City Council Special Called Meeting Transcript – 12/20/2021

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[9:13:50 AM]

>> All right, thank you. We have a quorum present and everyone who is bringing forward a motion is present. Today is December 20th, 2021. And the time is 9:13 A.M. We are here in Austin city hall and some of us virtual for a special called meeting of the Austin city council to take up four items concerning the creation of a tax increment reinvestment zone for the south central waterfront. We have a quorum present. Colleagues, we'll call up speakers first before we discuss today's item. It looks like we have two in-person speakers and two remote speakers signed up. Everyone will get two minutes to speak. And we'll hear in-person speakers first and then remote speakers. Just a moment. I had a request this morning. >> Kitchen: Mayor pro tem? >> Harper-madison: Yes, ma'am. >> Kitchen: Sorry to interrupt you. Can you let us know who is in person. >> Harper-madison: Councilmember tovo and councilmember alter and me.

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And we also have city legal and the city manager. >> Mayor pro tem, if you like I could call the speakers for you. >> Harper-madison: Actually, there was a request that came in and I just wanted to make certain that I was taking things up in the appropriate order. So just a moment. Okay, so I believe that what I need to do at this period and time is recognize councilmember tovo for the introduction of an item. >> Tovo: Thank you, mayor pro tem. I'm councilmember Kathie tovo and I have the great honor of kicking off a really special presentation today for one of our -- our fabulous staff members, Steve.

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And I believe that Steve is online for this, and, good morning, Steve, we're happy to be here to honor you. All of us on the dais, virtual and real, we have worked with Steve in a variety of capacities. I've known -- I've known who Steve was longer than I have sat on the dais because in the days before I was on council I used to spend a lot of time in the Austin history reading room, researching different historic houses for one reason or another. And it didn't matter what time I went to the history center, Steve was always there. In the reading room doing research, whether it was during a work day or in the hours after work, Steve was there researching cases. Which is one of the reasons why whenever our cases hit the dais that involve historic elements that they're always super well researched and well documented and for a lot of my time on the dais, Steve has been the only staff member in the historic preservation office. That has changed in recent years. Steve was honored recently by

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preservation Austin with a lifetime achievement award which is a well-deserved honor, mayor pro tem and I were both at that event and had an opportunity to hear the conversation. And Steve, it's just a pleasure to work with you, I appreciate your work. You have been a tireless advocate for historic Austin. And it is really very fun now to welcome your colleague, Jerry rustoven, who will say a few words and the mayor will read a proclamation. >> Thank you, councilmember. I'm Jerry rustoven with the housing and planning department. Steve, I'd like to reiterate a few things that councilmember tovo just said. A lot of us who work here at the city, aside from dealing with other city departments as well other things, we deal with

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advocacy groups. Each department or almost all of departments have one of them or more than that. We have sos on the environmental side and the historic preservation world we have preservation Austin. As councilmember tovo said, they recently awarded Steve a lifetime achievement award. I think that it is important to stress how important that is. These advocacy groups, their job -- you know, they have a passion for whatever topic that they're interested in, and it's their job to push the city staff to try to further their goals. That means that we are not always 100% in agreement. That is fine. That is their job is to push us, and it is our job to listen to them, and sometimes we agree, sometimes we disagree. However, for an advocacy group like preservation Austin, though they and Steve have been at times at loggerheads over a particular issue, the fact they granted him a lifetime achievement award really speaks to Steve's character and the fact that his heart and soul was

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in historic preservation and everything that he did. I can't imagine that being a historic preservation officer in a city as fast growing as Austin -- I think for Steve's entire 21-year career, we have been in the top five of the fastest growing cities in the nation. With that comes pressure, and pressures for demolitions and it was Steve's job to review those demolitions and decide when a building should not be demolished because it's too important to the story of the city to be demolished. Steve has worked diligently to make sure that story is not a single-sided story of the wealthy and gentrified, to make sure that includes everybody's history, not just those recognized in his field. During my career at the city, I'm the city planner, so my job -- my education, my work experience, is all about the future. How can we plan for the future of Austin. I find it somewhat ironic that

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the two employees who I have learned the most from here, Betty baker and Steve Sadowski, were both the city historic preservation officers. I would anticipate in my career that I would be a planner that would be the person that I would learn the most from. In fact, it has been Steve and Betty who have taught me the most with regard to -- it's not always about the future, sometimes it's about the past as well, and we need to balance. One important thing that Steve taught me he says a lot is that the city is not a museum, it is not his desire to turn these historic buildings all into museums that we go visit. That adaptive reuse is an important tool in historic preservation, and when we save a building that doesn't mean that it needs to stay exactly what it is, and we can both preserve the building and make it useful and economically viable for the owner as well. And I think that we can see that along, for example, congress avenue, 6th street, and the

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judge's hill neighborhood where we have taken buildings that were one-time use for something, and change them into something else, and yet we still have the benefit of being able to look at those beautiful buildings. So, Steve, I would just like to say on behalf of -- on behalf of myself and the employees of the housing and planning department, as well as the -- I believe four iterations of the planning department that you've been through over the past 21 years, I want to say thank you for your great service to the city of Austin. And most importantly, for being a great friend to many of us. We'll miss you here at the city but thank you for all that you have done. [Applause] >> Harper-madison: Thank you, councilmember, and thank you, Mr. Rustoven. I believe that mayor Adler has something that he'd like to bring forward as well. >> Mayor Adler: I would. We now have the opportunity to bestow upon Steve a city of

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Austin service award. For his extensive contributions to the city of Austin, to see Sadowski is deserving of recognition. Steve has served the city of Austin as the historic preservation officer for more than 20 years. His public service at the city of Austin corresponds with a period of unprecedented growth during which time the historic preservation office has been inundated with demolition programs and applications for historic landmark designation. In addition to personally preparing or reviewing hundreds of applications for historic landmark status, Steve has presented these cases to the landmark and planning commission and the city council, often staying late into the night to do so. Commissioners and members of the public and policymakers respect Steve for his well-researched positions and for presenting his recommendations with conviction.

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And unflappable demeanor and a ready smile. And for volunteering his time off to lead hope tours or successfully advocating for a name change to highlight the formerly enslaved person who began the first African-American newspaper in Austin and perhaps in Texas. Steve Sadowski has played a vital role in protecting Austin's historic fabric and hearing diverse stories of Austinites. The city council commends Steve Sadowski for the role, for playing a vital role in protecting Austin's historic fabric and sharing the story of diverse Austinites. The city council commends Steve Sadowski on his public service and the contributions that he's made to the city of Austin and to the broader community with his distinguished service award. And declares December 20th of

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the year 2021 Steve Sadowski day in Austin, Texas. Signed by me as mayor of the city of Austin, on behalf of the mayor pro tem and my other colleagues on the city council. Steve, congratulations, and thank you so much for incredible service to the city. [Applause] >> Harper-Madison: Thank you very much. I see a box but not a face. Mr. Sadowski, would you like to share a few words? >> I would, thank you, madam mayor. I'm overwhelmed. This has always been a job, it's a dream job of mine, to work in historic preservation in Austin. And I just want to say that I really appreciate this

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recognition, but more than that, I appreciate the support that I've received from my fellow staff, by managers, and Jerry Rustoven, Elizabeth Grummet, from the city manager's office and from the city council. It's not often that you get a city council and a city government that supports historic preservation program the way that the city of Austin has, which has made my work so much easier. But I appreciate the trust that you all have put in me to make the right decisions. I think that historic preservation, as has been stated today, is a series of compromises. I've tried to respect persons

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from both sides of the fence and listen to their arguments, listen to their work they want to accomplish, and then work very hard to try to accomplish a little bit of each, so that everybody walks away from a deal feeling satisfied that their voices were heard. And that their voices were heard is really a step for preservation. We as most cities have in the past have really paid I think a little bit too much attention to the movers and shakers in our community, and commemorated their lives, when this is not a city of wealthy white people. As communities of color have moved into the city after the end of the civil war we had

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established communities of their own. We've had hispanic Americans that have moved to the city and established communities of their own. And it is time that we start being much more inclusive and making sure that their voices are rendered and the decisions that we make and I look forward to hopefully still being a part of those decisions, even if not actively. But I think that it is important to remember that we have to be as inclusive as we possibly can. Every citizen of Austin deserves a voice to speak to the city council and make their positions known. And a big part of that is recognizing their heritage. So I hope that the future of

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historic preservation continues in a much more equitable manner. And I look forward to -- to the future with preservation being an important program for Austin. So, again, thank you very much. I also -- like I said, I want to acknowledge just the trust and faith that city government has put in me and helping to devise policies and recommendations for the council, and I know that we have mentioned Betty baker. I would also like to mention soe others who were just as important, people like Jim Christianson, people like -- now I can't remember his first name and I'm very sorry -- Blake

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Alexander. People like eilian Reid who were also quieter, but just as influential in pushing the interests of historic preservation in ways that most people didn't recognize but in ways that were very, very -- very important in getting the message across to the decision makers. So thank you all so very much. I really appreciate your faith in me. And I -- I've never been prouder than to tell people what my job is. So

thank you. >> Harper-madison: Thank you, Mr. Sadowski, both for your inspirational commentary and for your service. We really appreciate you very much. Colleagues, any other comments before we move forward? Seeing none, like I said earlier, we're going to take up

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speakers before we discuss today's item, and we have two in-person speakers and two remote speakers. Everyone will get two minutes to speak. So we'll hear from our in-person speakers first. Okay, if I'm not mistaken it appears as though -- Mr. Bunch? Good morning, and thank you for joining us. You will have two minutes to speak. >> I have an exhibit that was sent in that I would like on display before my time starts. Thank you. I'm bill bunch, I'm a lawyer and a resident of district 5. I sent to all of you a letter signed by me and two other attorneys saying that this proposal is both illegal under Texas tax code section 311, and also grossly offensive to your

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own values as community members. This is a massive transfer of wealth to the richest, most profitable developers in Austin. And it requires for you as this quote says to make the biggest whooper of a finding and put it right in city code and declare that this property would not develop in the reasonable foreseeable future without handing the developers \$278 million in tax giveaways. There's not a person in this city that knows anything about development or that can see the cranes in the skyline that would ever make any sort of conclusion. There's really only one answer to this. I ask that you vote no on it in good conscience, in fairness, and in compliance with the law. It's also highly offensive that you're taking this up in

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holidays when nobody is paying attention on a rush, rush basis with slipshod and no support. The main report you're relying on from 5 1/2 years ago says that the project costs are only \$100 million and now it's \$278 million. You say you have a project plan, it's a one-page list of buckets of projects. There's no plan there, there's nothing there, it's all vapor. And then the cutting off speakers to two minutes, this is called public input on something this monumental for the future that's going to lock in this money for 20, 30 years? There's three words for this deal -- stink, stank, stunk. Thank you. [Buzzer sounds] >> Harper-madison: Thank you, Mr. Bunch. Megan Matson. Doesn't appear as though Ms. Mattson is here and, in which case, clerk we can move to

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the remote speakers. I believe that the first is Lorraine Atherton. >> Mayor pro tem, she has not called in and we can move to the next speaker. >> Harper-madison: Fred Lewis. >> Good morning. I am asking you to either delay or vote no on this. The literature, the academic literature, and the economic literature, has many, many reports about the abuses of tax increment financing Zones. And the types of abuses are exactly like in this case. Weak findings, booming city with no real need for this, and the development area that will be developed anyway. As bill said, you are required to find that the agreed development would not occur without the public investment in the reasonably foreseeable future. The development is already

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occurring in this area, and in the reasonably foreseeable future it will occur. You are basically saying \$300 million in infrastructure is better spent here on a property that's going to be worth \$7 billion than on flooding and the other needs in the other parts of the city. When you look at the economic analysis, you have 200 pages of stuff, but there's only one page that really matters related to the legal findings required by law. It is one paragraph, it is conclusionary based on outdated data. And it also says clearly that most, if not all of the increased valuation will be from this. And so your own data, your own plan, is legally insufficient. And you really are subjecting yourself to the prospect of property taxpayer standing litigation. Lastly, there is no reason to do

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this at the end of the year. This report was supposed to be conducted in June of 2016. The report was finished September 24th. You could have done this when you received public thought and input on such a momentous decision. \$300 million based on this weak analysis is -- [buzzer sounds] -- Thank you. >> Harper-madison: Thank you, Mr. Lewis. Did Ms. Atherton dial in? >> She did not. >> Harper-madison: Okay. So I think that we'll go ahead and move forward and should they call back in, we'll revisit the opportunity to speak. So thank you for participating in today's meeting to our speakers. So today we take up items 1 and 3 and 2 and 4 but items 3 and 4 both need to be taken up as a part of the public hearing in which case I think that I'll open up the public hearing.

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Then we'll take items 1 and 3, and dependent on the outcome of that discussion, we'll -- mayor Adler? >> Mayor Adler: Is it possible to make a motion to approve item 2, which I think that is the one that has all of the geographic area and to close the public hearing on item number 4? >> Harper-madison: So

take up items 2 and 4 and then 1 and 3 is what you are proposing? >> Mayor Adler: Yes, I would move to pass item 2 with the direction that I've posted on the board. And close the public hearing on items 3 and 4. >> Harper-madison: So, mayor Adler makes a motion. Is there a second to the motion? Councilmember Ellis seconds the motion.

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Mayor Adler? >> Mayor Adler: Thank you. Colleagues, again, this is the continuation of the conversation that I think that we've had in several different meetings. The intent of this is not really to decide today whether or not to do a ters. I think that there needs to be, as the speakers said, a really full conversation on this, not only with the community but also for us to have a -- have a work session. But by initiating this action this calendar year, we have the flexibility or the ability to initiate the -- the date on which the analysis and value can be captured. We can certainly decide in -- next year, early next year, whether or not to do a ters at all, and, if so, what that ters should look like or include or not include. We can at that point discuss the

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issues that were raised by the speakers today. You know, in my view, what we need to understand better is the law surrounding the situation where we have land that's undoubtedly going to develop on the south waterfront, but unless we put in a grid system of roads it's not going to develop the way that it best should. Both for the -- for the part of our city, but also with respect to the tax value that could be generated that we could spend all over -- all over the city. Item number 2 is one that has the largest geographic area. We could certainly decide later that we wanted to exclude part of the area, the pud or anything, actually. We don't have to make that decision today. But by adopting no. 2 we have the ability to include it in we

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ultimately decide to do that. And then I've also added language that speaks to -- also asking staff to come back and tell us how to include affordable housing as a priority in the ters. My understanding is that there are several different ways to do that. But, again, we don't know that either because we haven't had the briefing from staff yet. And so I would urge passage of item no. 2 of the direction to come back and actually do the work, have the public hearing and the discussion, but also for us to get educated as well. Thank you. >> Harper-madison: Thank you. Any further discussion, colleagues? Councilmember tovo. >> Tovo: Yeah, and I'm going to need the staff's assistance with this. At our last meeting I circulated an amendment regarding affordable housing and as I indicated at that time I plan to

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amend the project list to include affordable housing within that tier. And I agree and I'm about to make another amendment that we set a date certain for having the more substantial conversations about a lot of these elements so that we can really work through them. But I am -- among other things, I would like to amend it to include the affordable housing piece. So, colleagues, this was circulated again at our last meeting and I have asked Katie powers to circulate it again. It would amend the tier 1 projects list on page 128 to include affordable housing. It also provided direction that the manager should work with Austin water to review the preliminary financing plan to determine if it should include infrastructure costs related to the district-wide water management framework. So, staff, is that -- is that germane to the -- to the motion that is on the table?

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In fact, if you would, maybe as a back-up, if you could walk us through the four items and how they are distinct from one another. As I understand it, item 2 and 1 are the same with the exception of 2 being a broader geographic area. >> Mayor, council, deputy cfo, you're correct, councilmember tovo. The first item is one that excludes the area known as the Riverside, and the item 2 has that area in the ters zone. So it would adjust the overall long-term capture value for this accordingly. >> Tovo: And then items 3 and 4 correspond to items 1 and 2 with the geographic -- >> Correct. >> Tovo: -- Area. So, colleagues, I move approval of my amendment to add affordable housing as the -- as

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a project within the preliminary -- within the tier 1 projects. >> Harper-madison: Councilmember tovo makes the motion and it looks like councilmember kitchen seconds that motion. Further discussion? >> Tovo: Yes, mayor pro tem. So, you know, we've had some good conversations, and I've got another amendment that I want to talk through with the staff that also responds to some of the concerns that we have heard. I've been involved in the south central vision plan for a very long time. And one of the key components to make this work is to make sure that we have affordable housing being built in this area. Much of it might end up being on public land, but we also expect that there will be a participation from those who are building housing in this area. And so my colleagues are members of the public who have come here today or written and have said

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that this area is developing. This area will develop in the future. We need to make sure that it develops correctly and in a way that all of Austin can benefit. And that was the intent of this south central waterfront plan. It was the intent of the corridor plan. Many, a decade or so before that. This is our opportunity. We need to get these details right to make sure that -- that this framework really does support those public benefits. And key among them is affordable housing. I believe that our project list has to state it, has to articulate it very clearly. I want to make sure that it's in the project plan today. And will not support moving forward if we can't include it as a priority project. >> Mayor Adler and councilmember kitchen. >> Mayor Adler: I'm going to support the amendment because I think that affordable housing is certainly something that we want to have in the ters district.

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I don't know enough to know whether it should be the best way to accomplish that is by including it in the tier 1. I just don't know yet. Which is -- I think a real important part of the conversation that we need to have with our staff and with our community next year when we actually are able to lay everything out and figure out the best way to do this or even to do this ters at all. I want to support it today with the understanding and expectation that we'll lay out all of the different ways to include affordable housing so that when we're actually making real decisions with respect to -- or the final decisions with respect to the final plan, that we'll -- I'll be at that point considering what I think is the best way to do that. I hope that collectively we do that. >> Harper-madison: I believe it was councilmember kitchen and

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then councilmember tovo. >> Kitchen: I am going to support the amendment. From my perspective, in order to be able to -- to finally support this ters and the final project plan, affordable housing has to be a key component. This really has to be an area and a list of projects that the whole city benefits from. I support what others have said about the fact that -- I agree that this area is going to develop but it needs to develop in a way that is for the whole city. And we've seen too much development occurring in our city that doesn't benefit everyone. So this is an opportunity for us to make sure that this benefits in a way that is important for the whole city, and for me fundamental to that is affordable housing. And fundamental also is affordable housing in places in our city that people are not just pushed out of being able to

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live in these areas. So I look forward to having further discussions about that. And I'll have some other questions but I'll wait until the amendments are on the table and then I have some other questions. >> Harper-madison: Councilmember tovo. >> Tovo: Yeah, thank you, mayor pro tem. Staff, can you help me

understand -- so, mayor, you had initially suggested that perhaps we set the increment benefit at zero percent. And I'm wondering if that's not the best path forward today, given that we are going to have a conversation, and we're going to work through and have more time to answer some of the questions that members of the public have raised. I have some questions myself. I think that it sends a better signal if we set the increment contribution at zero percent. If there's somebody else appropriate on your staff, could you address that? As I understand that, that is a matter that we can very easily amend when we come back and have the fuller conversation. Is that correct?

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>> You can certainly amend the preliminary plan as you move towards a final plan. The language and state statute is that the final plan should be substantially similar to the preliminary plan. So I think that would be a consideration in setting a value capture at zero percent is what does the final plan look like that is substantially similar to that. Lela is on the line if there's additional discussion about that legal requirement. >> Tovo: Ms. Fireside, do you see a challenge if we decided today to set that at zero? And I would -- and by -- I believe that I am going to suggest that we come back in February, at our February meeting, rather than our January meeting but let's schedule it today for our February meeting to come back and to have that fuller conversation. I'm looking to see what that date is. >> Mayor Adler: That's part of

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my direction, Kathie, I don't know if you saw that in my motion? >> Tovo: I did not. Mayor would you -- >> Mayor Adler: Yes, it says that the manager is directed to set a work session before the end of February 2022. Where the council to better understand the pros and cons of doing a ters and the elements that could be part of a ters plan, including without eliminate iation, to do one that is the appropriate geographic area if one were done and how to have affordable housing as a priority for the ters. >> Tovo: My apology, I did overlook that you scheduled a work session. I think that it should be a work session and we should be scheduled for action so we can make any changes that we need to or that we have decided on. I thought that you had said -- I misunderstood and thought that you had offered direction to bring it back down to zero. >> Mayor Adler: As I figured that we could just do the amending of that number if we wanted to do that when we were together, when we had a chance to actually discuss what that

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means or what the impacts of that are. >> Tovo: Yeah, that to me made best sense in our last conversation, but then I thought more and more about the idea that you had offered of setting it at

zero, and I believe that might really get us across the finish line today here, and really account for some of the -- really the legitimate questions and comments that we've heard from members of our public. If we set it at a baseline of zero and having that fuller conversation, knowing that we'll have it very early in the year and can make those amendments quite quickly, that would be my preference. Ms. Fireside did you have commentary on whether that would impact our establishment of it today? >> According to the statute, we're supposed to have the ordinance effective immediately and begin setting up a tax increment reinvestment zone fund. By setting it at zero, obviously it's an empty fund.

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>> Ms. Fireside, it's difficult to hear you. >> Sorry, is that better? So the challenge is that the statute requires that the tax increment fund be set up immediately upon passage of the ordinance. It will be an empty fund. But that is something that it sounds like you all will be talking about and possibly considering in the new year. >> Tovo: I'm sorry -- >> We may need to re-notice because the legal requirements also include that the final plan be substantially similar to the preliminary plan. It may be that when we're coming back for that second hearing, that there may need to be notice and an opportunity for a hearing in the same way that we've done before for amending tax increment reinvestment Zones. >> Tovo: I see. And maybe you could remind us of

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what that is. In terms of -- of setting up the fund, we have a second street tax that is also set at zero. So I assume that that is not legally challenging to set it at zero since we did that with the second street tax increment? >> The second street fund is very different. And there are funds that go into that, but in a different mechanism, and it's not being used to back bonds. >> Tovo: Well, I know the funds that go into it are general fund dollars, but are you saying -- I guess what I'm trying to determine, is there a legal challenge -- is there a legal complication to us setting it at zero today? >> I think that the complications can be addressed if need be by re-noticing. >> Tovo: Great. Okay. Very good. >> And that would also include the affordable housings since that's not in the preliminary plan at this time.

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>> Tovo: Thank you. >> Harper-madison: Councilmember kitchen. >> You said that it is a preliminary plan but if the amendment passed, which it just did, it would be in the preliminary plan. >> If that's your intent, the amendment states the final plan, but, yes, if we add it to the preliminary plan -- >> Tovo: Yes, my apologies -- >> Then it sounds from your conversations like you would like this to look different than staff has initially proposed. And the best way to address any legal concerns about that would simply be to renotice so that we have all of those pieces clearly noticed to the public. >> Mayor Adler: We do a

final vote next year. >> I'm talking about when you take your next vote next year, yes. >> Tovo: Thank you. And Ms. Fireside, thank you for pointing that out. Colleagues, I'd like to re-issue

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my amendment. I intended to add affordable housing to the preliminary plan, in addition to the final plan, but, certainly, to the preliminary plan that we're voting on today. >> Harper-madison: Councilmember -- councilmember kitchen. >> Kitchen: Yes. So councilmember tovo and everyone, I think that I'm understanding that in part 7 to set the -- set the amount at zero percent. Is that part of your amendment also, councilmember tovo? >> Tovo: I wanted to hear some feedback about it, but I am prepared to make that motion. Thank you. >> Kitchen: My feedback is I think that is the most prudent course right now. And Ms. Fireside is saying, and I appreciate that there's a clarification. So it sounds like we can legally do that and able to notice in a

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certain way when we come back to consider -- consider, you know, what the figure might be. So I would prefer and I would support an amendment at zero percent if that is what your intent is, councilmember tovo. >> Harper-madison: So where we're at is that we had two amendments, but mayor Adler, it sounded as though you accepted councilmember tovo's amendment to your motion. In which case the addition now is the -- is setting the rate at zero percent. So those are the two motions. Your original motion with the addition of councilmember tovo's affordable housing component, and then separately the motion to set the rate at zero percent, correct? The two motions on the table? >> Tovo: Correct. And just -- not to complicate things further, but Ms. Fireside, I'm looking at my amendment sheet and it does

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clearly state that we're amending the tier one projects list on the preliminary project and financing plan. So I think that's -- I believe that captured the request that the plan we're voting on today include affordable housing? But I need to be really clear about that before we take our final vote. And then it asks that the manager shall add and revise the tier one project costs prior to returning to couple and the board for a final plan. So we expect it to be in both the plan that we're voting on today as well as the final plan, is that clear enough? >> Yes, I think that is clear. Thank you. >> Tovo: Okay, great, thank you. And, then, yes, mayor pro tem, if that amendment is accepted without a vote, then the one that I would like to vote on is setting the rate at zero. >> Harper-madison: Thank you for the clarification. It looks like councilmember Fuentes and then councilmember alter. >> Fuentes: Thank you, I just wanted to go back really quickly to the comment that was shared with us when he talked about the

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importance of whatever we set is close or near to -- near the final plan. And so I just want to get clarification if that is in regards to what we are voting on today? If that needs to kick in now? Or if that is in regards to what our final vote will be whenever -- after we have the work -- dedicated work session and community input on the subject? >> So councilmember Fuentes, I think that the way to address this is we'll need to take a look at where you all land today, and if we feel that it is -- there's a legal risk that it's not clear then we would renote as an amended to basically have an amended plan that would include the items so that the preliminary plan and the final plan would be substantially similar. Because the idea is that the public needs to know what's in the plan. So as you're adding things and

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you're adopting that, we just need to make sure that when you're having your final conversations in February that everything lines up and that we've given the correct notice to the public. >> Fuentes: Okay, thank you. >> Harper-madison: Councilmember alter. >> Alter: I had a question going back to the affordable housing, if I might. So can you tell us what our ters policy is with respect to affordable housing?

[9:58:44 AM]

>> Council, in the -- in the fiscal year 2020 budget, that is one that you updated, the tif financial policy and within that policy it states any housing development that is part of a tif project plan must provide for at least 20% of the units to be affordable house holds earning at or below of 60% of median income for rental housing and 80% for ownership housing for duration of the tif housing plan. >> Alter: How does this proposed ters satisfy our policy? >> As was submitted in the original preliminary plan, it does not. It does not include affordable housing. Because as -- in previous -- ters, we typically have a development partner where there was a plan in place that -- such as the Miller development that gave us all of the affordable housing expectations and specifics. In this case we do not. So it would have to be handled either through the eventual

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developments occurring in the ters, or through another mechanism outside of the ters. >> Alter: So, thank you. I just want to signal, you know, I'm uncomfortable with how this was presented without

satisfying our policy, that we recently adopted. And I appreciate councilmember tovo's amendment that provides one mechanism, but as we're moving forward to the next set of discussions that we may have on this, I think we need -- we need to think about how we can best accomplish that goal. I'm really uncomfortable with just having set a policy and then already immediately having a ters that we could have anticipated violate that. You know, and there may be good -- there may be ways to do it where it's not coming from the tif money but it still has to be

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satisfied within the development, but I think that a lot of the conversation today is pointing to that this is not fully baked yet. That's part of the process to go from the preliminary to the final plan. And I think that is part of what we're struggling -- we're struggling with here today. And I -- I am -- I also want to comment on the zero percent. Did I understand correctly, leela, that you think that there's a risk if we were to go to zero percent -- thank you, Ms. Olivers -- if we were to go to zero percent that would not be considered substantially similar for the final plan? Is that what you suggested? Or did you -- so it seemed like you suggested that first and then it sounds like there might be a middle way where we could plan to do an amendment to the preliminary plan, which would then allow us to be aligned as

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we get further concrete information about how we want the final plan to be. Is that -- correct? >> I think that the answer to your question is yes to both. If you just set it at zero for the preliminary plan without doing anything else, there would be a concern that the final plan wouldn't line up and people wouldn't have notice of what the final plan was going to have. So the solution to that is if we need to amend the preliminary plan and re-notice as an amended plan for your February discussion, we can do that so that everything is lined up and the community has the appropriate notice. >> Alter: So then what we essentially would be accomplishing today is simply to set a baseline for the tax calculations? >> Well, you would be doing that, but you would also be making the legally required

[10:02:49 AM]

findings that are required by the statute that were discussed by some of the speakers and that are stated both in the ordinance and reflected in the plan. >> Alter: And were we to set the tax rate at zero, and then change it, say, in February to the 46% that staff had initially suggested, what happens to the tax receipts for next year? Are they zero -- >> -- [Indiscernible] At the moment. >> Alter: Okay. So what I'm trying to understand is whether there is a consequence for the tax receipts that would come in by setting it to zero, should we want to proceed with the ters. I don't know how else to ask that question,

because it seems like if it's zero at the start of the year, maybe you don't get to take anything. I mean, I don't know at what

[10:03:50 AM]

point during the year that you can change that percentage and actually take some of that tax revenue and put it towards the ters. >> The major -- >> Kim may be able to answer that better than I can. >> The main action that impacts what you are talking about is just setting that base capture value. By taking action to set the base capture value, it gives you the ability to collect on it, whether it's zero percent or 46%, but you have to that base capture value set now. >> Alter: At what point do we have to determine the percentage to be able to take in revenue for next year? >> At which -- before the end of the fiscal year I think would be ideal. We would want to be able to account for that in the budget process. >> Alter: Okay. So that's more of an accounting -- >> Yes. >> Alter: Accounting process. Okay, thank you. >> Harper-Madison: Any further discussion, colleagues? Councilmember Kitchen and then

[10:04:50 AM]

Councilmember Kelly. >> Kitchen: Just a quick question on the affordable housing, just to make sure that I'm understanding it. So if I'm understanding correctly, Councilmember Tovo's amendment will establish affordable housing as part of the preliminary plan, and that combined with the Mayor's direction allows us to discuss how it fits into the financing plan. And so my question is this -- would that not give us the opportunity to comply with the policy that we had set for affordable housing? I couldn't tell from what Councilmember Alter was asking and, Councilmember Alter, I appreciate you looking into and making us all aware and reminding us of the policy that we had adopted. But the combination of Councilmember Tovo's amendment and the Mayor's direction, would that not give us the opportunity to discuss and align the affordable housing in the final

[10:05:51 AM]

project plan and the financing plan with our policy? I want to make sure that we're not -- we're not by taking this action today, that we're not precluding the possibility of complying with the policy that we have set before. Mayor, I see you -- >> Mayor Adler: Yes, that's my understanding. >> Kitchen: Okay. >> Mayor Adler: The Tovo amendment and the direction that we have, we have a whiteboard and we can do whatever we want as we amend the preliminary plan and bring it back here. >> Kitchen: Okay. So that sounds great, because that's what I am wanting to do, and that's what I understood from what you were all saying, you know, because we did set that policy around affordability and I want to make sure that we have a path to comply with it. And it sounds like we do based on the amendments and the

direction. >> Harper-madison: You wanted to elaborate on that? >> Council, it is also important to note that if as a body you

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set the capture rate at zero percent for now, we would also need to amend the preliminary plan to eliminate the estimated costs and bond indebtedness accordingly. For example, in the preliminary plan, depending on which version that you are looking at, there's a bond indebtedness that speaks to \$103.7 million and that would drop to zero, and I would request that in your motion that you note to -- to edit the preliminary plan accordingly as -- because of the effects of the zero percent capture rate. >> Harper-madison: Mayor Adler -- I'm sorry, councilmember Kelly and then mayor Adler. >> Kelly: I have questions that are separate from this topic, so if mayor Adler has a question related to this, he can go first. >> Mayor Adler: Thank you. I just want to make sure that we're all clear and then I think that councilmember tovo and

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councilmember kitchen both asked this question. If we go to zero percent in the preliminary plan now, staff, my understanding from what I'm hearing, at least if I'm hearing it correctly, that we could notice and amend the preliminary plan next year to bring the number up to 46% if we wanted to. That way the final plan -- if we did a final plan -- could be at the 46%. And then the final plan would be in accord with the amended preliminary plan. And that that would still enable us to take advantage of acting this fiscal -- acting this calendar year as opposed to waiting until next year, we still get that advantage should we elect to -- to take it? Is that correct? >> Mayor, the chief financial officer. I certainly think that is one possibility. I think that between now and that point I'd want to check in with legal. Another possibility is that council might need to first

[10:08:54 AM]

adopt the final plan that is substantially similar to the preliminary plan. And then anytime in the future you can amend that final plan that you have adopted by going through a process of a public hearing notice, adding projects and changing the percent and all of those things. It's possible that we could do it the way that you talked about as well, just straight up amending the preliminary plan, prior to the final plan, I just don't know if that is done before and we would want to look through the statute and see how that works but certainly we could do it and adopt the final plan first and then amend the final plan. So we can get you there. >> Mayor Adler: So that is as long as there's a path then -- >> Yes, sir. >> Mayor Adler: We could do legally and then not only would I support councilmember tovo's published

amendment, which had the affordable housing and also the question for staff to come back with, but I would also support amending -- going to zero percent and amending the preliminary plan and finance

[10:09:57 AM]

plan consistent with that to be at zero. >> Harper-madison: Thank you. In which case -- oh, councilmember Kelly. >> Kelly: Thank you. I'm just wondering if staff could maybe explain what community input mechanisms are or will be in place for those living in and around the project site, if that has been determined yet? >> Harper-madison: I'm not certain which staff member would speak to that. I see economic development on the line and housing on the line. >> I'm happy to start with that. And I want to make sure that I'm understanding the question correctly. Although I wasn't directly involved with it, my understanding is that as part of creating the south central waterfront framework that there was extensive public engagement done by the time the planning and zoning department.

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And so there was a lot of planning and with creation of the ters, given the council direction on this just came in October, there was an extensive public engagement about the ters, though there's the statutory need to hold a public meeting that has been met. As we move forward from the preliminary plan to adopting a final plan, I think that we would maybe look to economic development or staff from the Austin economic development corporation about public engagement that they might want to do as part of moving towards the final project plan. >> Kelly: Okay, thank you. And I'm on my phone and I was having technical difficulties so I appreciate your patience with getting me un-muted. I want to vote for this item today and I want to do with hesitation just because I feel that we had more public input. It's my understanding though after this discussion that we will bring this item back to council and there will probably

[10:12:00 AM]

be renotece. So I feel comfortable voting but, again, it's frustrating to hear from the community and they don't feel that their input has been heard and I want to make sure that we do a better job as a council of ensuring that we're able to listen to people's needs and to give them enough time. I mean, it is a holiday week. So, thank you. >> Harper-madison: Thank you, colleagues. And so, councilmember Fuentes. >> Fuentes: Thank you. I also wanted to share that similarly I'll be supporting today's item moving forward with the preliminary plan as amended. You know, I do think that it is extremely important that we emphasize to the public that this is -- we're still at a preliminary juncture of creating the tirz, and whether or not to create the tirz is still on the table. We'll be having those conversations in the coming

months and we invite the community to engage, speak up, let us know what you think about the potential creating of a tirz in this area.

[10:13:00 AM]

I want to thank the council and staff. I know that for nearly six years this has been a topic of conversation on creating the vision for this, and so I look forward to that continued conversation and know that we are still in a preliminary state right now, and look forward to digging in on the details. >> Harper-madison: Councilmember kitchen. >> Kitchen: I too will support >> Kitchen: I will support it today with all the amendments. When it comes back to us and we have further conversation, one of the things I want to see is the details of the projects and how they relate to what would be required otherwise with the impact fees and things that we have. I want to make sure that the projects that we're investing our tax dollars in are projects that are truly directed towards public benefit for the whole community. So I will want to see more detail in the final plan in

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terms of how these projects -- or whatever projects we finally agree upon -- do that.>> Harper-madison: Councilmemb councilmember Renteria, mayor Adler, did I see your hand, councilmember alter, then councilmember alter, then councilmember Ellis. >> Renteria: I am going to support this. I also want to just remind council and the developers that are going to come in city. And it's very hard. And as you can see what's happening downtown right now, there is a lot of workers wanted

[10:15:02 AM]

signs all over. They're hiring. They just can't get enough people. And so I'm going to be supporting this, because I think we're all going to get some affordability out of this project. >> Harper-madison: Mayor Adler. >> Mayor Adler: So, do I understand, mayor pro tem, where we are right now, if there is no objection, does the base motion include my direction, obviously, because it was part of that, but also councilmember tovo's amendments 1 and 2, as well as her third amendment, which is to change it to 0% and make the corresponding changes to the preliminary plan and preliminary finance plan? >> Harper-madison: That's the way I understood it. I didn't get my the opportunity to ask my colleagues if there was objection, but the way I understood the motion was you moved we take item 2 with your

[10:16:03 AM]

direction. Now with the addition of councilmember tovo's direction, and then close the public hearing on items 3 and 4. Do I understand the motion correctly? >> Mayor Adler: I think tovo has three amendments. >> Harper-madison: Correct. >> Mayor Adler: 1 and 2, and 3 is to go to 0% and make the corresponding changes in the finance plan. >> Harper-madison: That's what I have. Councilmember alter and then councilmember Ellis. >> Alter: Thank you. I wanted to move my direction that I posted on the message board, and this would be slightly modified given the rest of the direction, but I did leave the timing open. But I think these elements are still important, should we be -- wanting to move forward, and I know I would want to understand them at the next stage. So the direction is the city manager is directed to provide

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council with clearly-defined roles and responsibilities of city staff, and it should be the aedc, with respect to implementation of the tirz including but not limited to any associated related financing or regulatory tools that need to be identified to fulfill the south central waterfront vision in relation to affordable housing, parks, green infrastructure, and financing. The council recognizes that the value of the potential south central waterfront tirz goes beyond the financial contributions and includes improved governance, monitoring, and oversight structures and mechanisms to achieve the vision. Accordingly the city manager is directed to outline a timeline and process for building on the preliminary plala to create the comprehensive implementation plan for the tirz required by statute. The process should include regular opportunities for council briefings, input from the public, as well as public and private actors committed to achieve the south central waterfront vision and should involve interdisciplinary participation of the city departments and the aedc.

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I put forward that direction for council consideration. After we've taken care of that, I've got some other comments. >> Harper-madison: Mayor Adler. >> Mayor Adler: Second. >> Harper-madison: So, the motion by councilmember alter is seconded by mayor Adler. Any further discussion? >> Mayor pro tem. >> Harper-madison: Mr. Van eenoo? >> Staff would like to have clarity about the February work session. It is posted to schedule a work session before the end of February to continue the discussion on all these items and move us towards a final financing plan. Somewhere in this conversation was discussed about having action at that February work session. So that would be the clarity, is what you're looking for us to come back with in February a work session, or are there specific actions that council also would like to take at that work session? >> Harper-madison: Mayor Adler. >> Mayor Adler: I would suggest that we right now

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schedule the work session. At least my sense is it may take more than one work session. And I think obviously, as soon as we think we're ready, we can set it for action at a council meeting and public comment at a regular council meeting. But councilmember tovo, I had put in just the setting of the work session in February thinking that we would not be able to determine if we were moving toward more work sessions or whether we were ready to bring it to the council for a vote. But I join you in getting this question one way or another and the issues resolved as early as we can next year. >> Harper-madison: Councilmember tovo. >> Tovo: So I would suggest that we set it for 2/3 and that way we have an option of bringing it back on 2/17. And perhaps Lela can remind us what the lead time is for setting it for notice, if we're going to notice -- need to notice it again for any changes to the preliminary plan, is that

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a month process, is that a couple weeks? What timeframe should we give staff? I just want to be sure that when we're ready to make those amendments, we have an opportunity to do so at the first available chance. >> Sure, councilmember. The notice is required to be in the newspaper for seven days before the hearing. However, it does take some time to get that notice into the newspaper. So, giving staff at least a couple of weeks would be very helpful. >> Tovo: Okay. There was a siren going by. I think I heard you say a couple weeks. Perhaps on 2/3 we can determine whether or not it would be appropriate for 3/2 to come back for action on 3/2 at the council meeting. >> Yes. >> Tovo: I'm saying 2/3 but the work session would be on February 1, would be our work session. And then at that point we could decide whether we wanted to schedule another work session on

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February 17th. I'm sorry, February 15th, with action potentially on March 2nd. Okay. Thank you for that framework. I did have a question for our city staff. I want to make sure that the interlocal agreement -- the draft interlocal agreement with the Austin economic development corporation is a part of what we're considering today, or was that just backup information? This relates to the direction that's on the table for a vote. >> That was simply backup information. There's no action required on that at this point. >> Tovo: So that doesn't become an exhibit in the preliminary plan that we're considering today? >> No. >> Tovo: Okay. Thank you. I'm certainly supportive of the direction and I thought the inter-- the draft interlocal agreement with the aedc is moving in the right direction. I do think there needs to be the additional conversation that you've drafted with your language, councilmember alter. We don't need to -- I know we

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have a short timeframe here today. I just want to say I'm not understanding well, the conversation about our being out of compliance with the affordable housing policy for tirzs. So if it's a matter of setting of income level, that would seem to be in the future. But what is the element that we are out of out compliance with regard to affordable housing? I'm looking over the staff memo from last December and just not understanding, based on the information there, why adding affordable housing -- why we would be out of compliance. >> Harper-madison: We skipped over councilmember Ellis a few comments ago. Thank you for your patience, councilmember Ellis. So we'll let you go ahead and then we'll come back to that additional question. >> Tovo: Sounds good. >> Harper-madison: Thank you. >> Ellis: I appreciate that. I was following the conversation as well. It worked into what councilmember tovo was talking about. I wanted to mention I am

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supportive of this moving forward today given the additional amendments and directions that have been incorporated into this. We want to make sure that the public has more time to provide input and clue us in on some of their thoughts about this preliminary plan and the final plan moving forward. But since we are leaving the door open to having these discussions in early next year, I'm supportive of us getting this started right now and making any adjustments should we choose to do those in the future. >> Harper-madison: Councilmember alter, and councilmember tovo. >> Alter: Councilmember tovo, I think your question was directed at me. So, the tirz policy says any housing development that is part of a tif project plan must provide for at least 20% of units to be affordability to households at or below 60% and 80% for ownership housing for at

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least the during of the tif project plan. So that doesn't mean that the funding has to come out of the tif, but it does mean that housing developments that are in the tif are supposed to achieve the 20%, which is in line with the south central waterfront vision plan, but was not in line with the proposal that came forward to us. And so I was not saying that putting yours violated that. I think putting your amendment in allows us to get closer to that. And I was expressing that I was uncomfortable with us not meeting the policy as we have laid out. >> Tovo: Thanks for that exploration -- I mean, explanation. I think the 20% as it's currently in the south central vision plan is 20% of the housing total. But I agree with you that that is different from what you're describing of all housing. Well, I don't know. I mean, I think that's a conversation we can have in February, whether or not that is

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in alignment with that, if 20% of the housing across the south central area and projects is affordable at that level, then it would seem to me to be in compliance. >> Alter: There's a way it can be, but it needs to be in the final plan appropriately. >> Tovo: Yeah, okay. >> Alter: And there's ambiguity as to whether it has to be paid for out of the tif, ambiguity about whether it is one every residential tower, or if it's across. But it's something that we have to get clarified. And the initial plan had nothing about the affordable housing. So it was clearly not meeting it. And I think that the document they gave us, you know, indicated that as well. >> Tovo: Okay. Good. Thanks for the additional conversation. I look forward to making sure that we nail that down in February. I did want to just quickly address -- so, I'm going to

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support -- I think this is important to establish it today and get that baseline. I appreciate the feedback we've had with our public about what are some of the legitimate concerns that we need to resolve. I certainly am not going to support moving forward with the establishment of a percent rate of contribution without well-understanding how those public benefits are going to accrue to this vision plan and how we're going to achieve those. For me I also want to understand to what extent the regulating plan is really critical to making sure that we can establish those community benefits, those open spaces, the access to the public, the street view. So I would just remind staff that the other part of my resolution did talk about laying out a timeline -- a real concrete timeline for that regulating plan. And so hopefully we can get an update about that well before February so that we can really go into that conversation, that work session, understanding how those two elements go together.

[10:27:21 AM]

Councilmember Kelly, you asked earlier about public input, and I think that's a really important conversation. In some ways this conversation has gone on so long that we've lost track of some of those elements of public participation. But I do want to call my colleagues' attention to the fact that we do have a waterfront -- a south central waterfront advisory board that has been following this issue for years now, possibly since 2016. I had established that via resolution and I think it was back in 2016. And that includes designated representatives from just the areas you mentioned. You wanted to know what kind of public input there is in terms of neighborhood -- residents of areas surrounding there. And the advisory board does include a representative from the Bolden creek neighborhood association, as well as the south central -- south river city citizens neighborhood association as well, in addition to somebody from the trails

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foundation, the planning commission, and some other appointed positions of folks who serve on other boards, but it does include very intentionally the two neighborhoods that are immediately adjacent to the south central waterfront to provide some of that feedback. But I agree. I want to make sure that as we're moving forward with really establishing a final preliminary plan, or an amended preliminary plan, that we have all of that input, if that is the direction that we decide to move forward with in establishing this. So, all of those questions for me are still on the table, whether this is a mechanism we want to use to achieve those public benefits and if so what that level of contribution should be of our tax dollars, and what are going to be the priority elements in that project plan. >> Harper-madison: Councilmember alter. >> Alter: To. I'm going to assume -- thank you, I'm going to assume there were no objections to my direction, that I heard. I want to point out, councilmember tovo, that to some

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degree my direction addresses the need to have the regulating plan, because it's one of those associated regulatory tools that needs to be in place for the successful implementation of the tirz. And I want to underscore, you know, that if we were to move forward more fully it's really important that we have the disciplinary workings of the departments and the aedc coming together, because it's ultimately that combination and where we go forward that is providing the governance elements of the tirz, which would in my view include the regulating plan, etc., that is going to allow us to capture the public benefits above and beyond just the financial contribution. This is going to require corralling 30-some different properties, etc. And so we have spent a lot of time talking about the financial aspects, but the governance

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structure, the ability to play the role that we launched them for is also really important. I'm going to support this today, but I want to just foreshadow a couple concerns that I have. One is if we set this at 0% there's no funding for the aedc to do its work to do the analysis that we're asking for. Now, that may get fixed by february/march, and so I'm not sure that that's a major problem as long as we're addressing that earlier in the new year, but I just want to flag that we eight set it at 0%. There's no funding mechanism for that. We can always take that out of general fund. It's still our money. It's not like the money disappears. But I want to flag that as an issue that we will have to address and perhaps negotiate with the aedc in terms of their work. The other thing that I wanted to say is that I am still really

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uncomfortable with the snoopy P.U.D. Being in there with a baseline of 2021 as opposed to 2022. That's a shift from 12 million up to a couple hundred million dollars. And I'm just not comfortable with the "But

for" analysis for that situation. I am comfortable that there will be some incremental increase to that property value from '22 on if we establish the tirz, but I'm not really comfortable with that baseline. That is still something that we can determine and we'll have to figure out legally whether that is appropriate as part of our larger conversations. As I see, hearing, I'm going to take my colleagues at their word, if we are leave our options open I'm okay with leaving the option open but I am not really comfortable with that as the way forward and I think there are some questions that need to be resolved.

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I want -- resolved. I want to signal that going down to 0 does not give us license to go above 40% unless there is a slightly higher -- I don't know which direction -- unless we can establish the "But for" to go with that, it's clear there would have been some development. We have to capture the "But for." We get in a slippery slope under a situation of revenue caps if we're not really focused in on that "But for" analysis in the clearest way possible. So I wanted to just flag those two issues for my colleagues move forward, that those remain open questions for me as we move forward, and just, you know, to also notice that we will have to figure out how we're paying the

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aedc to do the work that we're asking them to do. Thank you. >> Harper-madison: Thank you, councilmember alter. So, to your point, it sounded as though we didn't have any objection to including your direction. So I believe where we're at is mayor Adler's motion to move forward item number 2, close the public hearing on 3 and 4 except direction from councilmember tovo that was items 1, 2, 3, and direction from councilmember alter. Am I direct in that there were no objections? Okay. With that, I think we might actually be ready to vote. So, all those in favor of the mayor's direction, including councilmember tovo's contribution and councilmember alter's contribution, let's go ahead and take that vote. All those in favor? It looks like we're unanimous virtual. We're unanimous on the dais. So the vote is one, two, three, four, five, six, seven, eight,

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nine of us. That's councilmembers Casar and pool. So that vote is unanimous with councilmembers Casar and pool off the dais. And with that, I do believe I need to -- we've conducted the public hearing for items 3 and 4 and heard from all speakers. And so now the public hearing is closed. All right. And unless there's anything additional from my colleagues, I believe we are about to be adjourned. So, I hope everyone has a wonderful and safe holiday season. I will see you in the new year. It has again been truly my honor to serve my hometown as the mayor pro tem this year, and really looking forward to

councilmember alter's term as mayor pro tem as we move into the new year. So, at 10:35 A.M. This meeting -- the final meeting of the Austin city council -- is adjourned. Thanks, everybody.