

# Austin Housing Finance Corporation (AHFC) Transcript – 02/03/2022

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## **Part 1: Speakers**

>> Mayor Adler: Let's go ahead at 1:22 and recess the Austin city council meeting and at 1:22 let's convene the Austin housing finance corporation, also at 1:23. Today is Thursday, February 3rd, 2022. All of the board of directors are present. We're going to begin the meeting by noting that we have late backup in item number 1, it's

[1:23:27 PM]

exhibit a. There's a version two. Let's go ahead and call speakers. I think we have one that's signed up, and then we'll recess and go back to the city council meeting.

>> Zenobia Joseph.

>> Thank you, mayor, councilmembers, I'm Zenobia Joseph. I just wanted to make a comment as it related to the candlewood suites hotel. My opposition is really to process. It's not necessarily to putting homeless individuals in northwest Austin. I am looking as I mentioned last week at the may 3rd, 2021 spreadsheet that was posted by KXAN. And that particular spreadsheet has the hotel conversion of candlewood suites at 80 permanent supportive housing units, in line with the 78 in the backup materials, pretty much. However, I am really confused about how it changed from being permanent supportive housing to being a domestic violence

[1:24:28 PM]

shelter secretly to now it's going to be for the elders. And you didn't use that thoughtfulness when you put 171 units next to Cook Elementary at Rutland. In your backup materials it specifies there will be healing arts. It mentions services provided by the team will include case management, service coordination, living skills training, housing stability. All of these things are wonderful, but were you that thoughtful in northeast Austin? I don't think so. So my opposition is not to putting the homeless problem in northwest Austin, but it is because you're not treating these properties equitably. And I would ask you to do so. And recognize that you're handling this with kid gloves. I think our elders are probably least likely to engage in criminal activity, but there are schools around there, just like the outcry about schools being near this particular site. Those are my comments. I could cite a whole lot, but

[1:25:30 PM]

just be equitable, mayor. And please be transparent about where you're placing properties. If you have any questions, I'll gladly answer them at this time.

>> That concludes all the speakers.

>> Mayor Adler: All right. Thank you. Colleagues, the consent agenda is in front of us. Consent is items 1-40 and items 50-52.

>> Mayor.

>> Mayor Adler: Yes.

>> You need to adjourn the ahfc.

>> Mayor Adler: I'm sorry, I'm going to adjourn the Austin housing finance corporation meeting here at 1:26 -- not adjourn, we're going to recess the Austin housing finance corporation here at 1:36.

## **Part 2: Action Items**

[2:23:51 PM]

And I'm going to convene the Austin housing finance corporation again -- reconvene that meeting. It is 2:23. Is staff here to take us through the consent agenda? Hello.

>> Hello. I think Andy is coming over. We have one item, approving a resolution authorizing the formation of the nonprofit corporation. We can offer this on consent. I would also note there is late back-up to this item.

[2:24:51 PM]

>> Thank you.

>> Mayor Adler: All right. Is there a motion to approve this item number 1? Only item on the agenda. Council member Renteria makes the motion. Is there a second? Council member Ellis seconds. Any discussion? Those in favor of this item, please raise your hand. Those opposed? Item passes unanimously. I think that's all our business. No?

>> That is. Thank you very much

>> Mayor Adler: We're going to adjourn the meeting then here at 2:25. I'm going to reconvene the Austin city council meeting at 2:25.

>> Mayor, as you close the meeting, just thank you to the housing staff who have gone to work with -- as chair of that committee. I hope and expect that we'll as

[2:25:53 PM]

a community keep onramping up the amount we can do. Thank you for all your work.

>> Mayor Adler: Thank you. Council member?

>> Harper-madison: The 12th council member Rebecca Kelly voted on the last item

>> Kelly: I'm sorry about that.

>> Harper-madison: The 12th council member voted as well

>> Mayor Adler: She looked like she was tired. All right we're back in Austin city council meeting. Colleagues, let's go ahead and take up item 49. Council member tovo, do you want to make your motion?

>> Tovo: I do, mayor. I'd like to pass this on first reading with some additional direction to this. When I get a second I will talk about what that direction is.

>> Mayor Adler: Motion to approve this on second reading with direction? Council member pool seconds that.

[2:26:54 PM]

Council member tovo?

>> Tovo: Thank you, mayor. Our back-up talks about the historical significance of this, and this particular property does meet the requirements for historic zoning under several classifications of the ordinance. I would like to ask my colleagues to pass this -- to really confirm the historic landmark commissions assessment and to allow more time for the property owner and the property owner's representative to

consider what options exist here. We are losing lots of our historic fabric. Have already and commercial buildings are in particular I think in jeopardy of demolition. Back a long while ago as a community member I attended the downtown Austin planning sessions. There were conversations about some really innovative strategies that other cities deployed to craft a careful

[2:27:56 PM]

balance between retaining some of those buildings that helped tell the story of a city and a place with allowing for significant redevelopment. One of the tools was transfer of development rights. When you look at other places you can see many of their commercial buildings have been retained and have been redeveloped and also, you know, often a lot of density has been able to be added to that site. We have never gotten far enough in our community in exploring the option. I would like to ask my colleagues to support this on first reading with additional direction to our staff to, one, consider whether there's an opportunity for transfer of development rights either to another property that this property owner owns and I think there may be some in close proximity or to potentially to a tract the city might own. Second, I would like the developer or his representative

[2:28:57 PM]

to come back and talk to us about what is possible on this site. It seems to me with some set backs that it would be possible to retain this structure and to develop on top of or around it. I don't know if we want to have that conversation today given the storm situation and the time. But that is something I would like the applicant to say -- to speak to. Again, doesn't need to be today. I would prefer it happen at our next session, which is why I'm not asking for postponement. I'm asking for passing on first reading.

>> Mayor Adler: Motion in front of us. It's been seconded.

[2:29:57 PM]

Discussion?

>> Mayor?

>> Mayor Adler: Yes?

>> We have staff from housing and historic preservation office present if you'd like to get a presentation on the staff for this. We have the representative of the applicant. There is a valid petition on the vase

>> Tovo: I would like to request we hear from Mr. Settling and historic preservation unless there's a will to pass this on first reading. I would request we have the presentation from historic preservation

>> Mayor Adler: Okay. Council member tovo, I'm inclined to have the presentation from historic preservation so we have that in the record. I would probably call that first and then give the property owner agent the chance then to speak at that point so they can respond to anything raised in the staff

[2:31:01 PM]

presentation.

>> I don't like when people interrupt you, but my hand is raised. I also have questions.

>> Mayor Adler: I'll call you in one second. That would be the order I would call that, colleagues. Council member Harper Madison?

>> Harper-madison: I would like to follow your path. I'd like to hear from staff. I'd like to hear from the agent but I'd like to understand the path forward. I personally -- because there are so many cases similar to this in d-1 that -- I'd really like to understand the path forward.

>> Mayor Adler: There's a motion in front of us to declare the property historic zoning. There's a petition. We can -- if we take a vote and the vote gets six or more votes, then that's sufficient for it to pass on first reading. If it doesn't get six votes, then the matter is denied.

[2:32:04 PM]

If it gets six votes and moves forward --

>> Harper-madison:

(Indiscernible) Nine votes. Can you clarify? Six or nine?

>> Mayor Adler: Six votes to pass on first reading.

>> Harper-madison: Thank you

>> Mayor Adler: If it's passed on first reading with six votes and comes back looking for final approval, that vote will require nine votes. If it doesn't have nine votes, it won't happen. It's six votes for first reading subject to that later vote for final passage. Colleagues, we want to hear the presentation from historic preservation, and then we'll hear from the property owner or agent. Staff, call that up.

>> Sure.

[2:33:04 PM]

>> Good afternoon, mayor, mayor pro tem, and council members. I'm with the city of Austin's historic preservation office. This is regarding agenda 49, C 14h 2021-0181. Staff and the historic land mark -- the planning commission recommends denial of the proposed zoning change. This building is a 1912 warehouse significant for architecture, historical associations and community value. In terms of architecture the building is a good example of a large warehouse. It is typical of rail side warehouses for wholesale distribution of commodities

[2:34:06 PM]

when the vast were on rail lines. This qualifies for historic landmark. It's not just high style. Prominent buildings that meet the requirement for architecture. Code allows a fine example of a structure such as this also meets that criterion for architecture. For landmark designation. This is a one-story, rectangular plan, flat roof, brick warehouse building. I don't know if we have photos that can be shown. That might be helpful at this juncture. It has brickwork, including arched windows. This brickwork shows a sense of aesthetic detail when that level of attention was paid to

[2:35:09 PM]

utilitarian buildings. This demonstrates the masonry construction from that era. It has a raised landing at the west end that speaks to warehouse use. In terms of historic integrity it has some alterations, most notably the replacement of the original windows. The window openings are still those original bricks around and it remains recognizable from the historic period. In terms of historic associations the warehouse was constructed around 1912, operated by am ali. Around 1917 the company appears as the owner in city directories. These warehouses also sold produce and were coffee roasters. Around 1923 the building was

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sold to the John Vermont company, a grocery wholesaler. John Vermont's company was one of the most prominent businesses in Austin for many years. They supplied grocery stores and restaurants in the city. Business was established in 1947 with the grocery store opened by John Vermont. The family expanded the territory into the hill country. This served as the Austin warehouse until the building closed. The Vermont name is part of the history of the development F O our city. John Vermont and his family were a major force in commerce, banking and civic life. There's a state historical marker at the site of the first grocery store on 6th street but that building no longer exists.

[2:37:14 PM]

Again, that former building no longer exists. So in other words, while the Vermont's grocery business predates this building, it's the oldest remaining structure associated with the business. It imported foods into Austin that couldn't be obtained from local farmers and ranchers. It was a game changer for the city, allowing for the city to import manufactured and cultural items. The railroad transformed Austin from a settlement into a city and it was firms like this that brought urbanizing influences of food to the city. Historic landmark commissioner Kevin Cook performed analysis based on research by the late historic preservation officer

[2:38:15 PM]

Steve Sidowsky. It meets the criterion for historical value. Most of us think of the warehouse district being west of Congress Avenue. Historically warehouses existed along the length of the east/west rail line through downtown. At present only the Nelson Davis warehouse is designated as a historic landmark. This would be eligible as a historic district unless there's a grassroots effort from the property owners -- the way we most often see property such as this is through demolition request and the response to proposed demolition, the tool the city has to apply is not whether or not it qualifies as historical district but does it stand alone as a historic landmark. Based on that analysis,

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Commissioner Cook believes and staff agrees that this is the remaining warehouse in downtown, in addition to the Nelson Davis warehouse that meets two criteria for landmark designation. As a reminder to council meeting one criterion is not enough. They must meet at least two criteria to become historic landmark. This is the candidate that most clearly fulfills those criteria. Preservation of the building is an opportunity to mark the length of the rail line into downtown with the Nelson Davis warehouse and the warehouse district at the opposite end. This building is near the downtown rail stop, forming a connection between past and present in terms of the importance of the rail. Further, its preservation would round out in a way of landmarks near the convention center. And so it would provide a

[2:40:18 PM]

broader array of Austin's history at the city's doorstep. That concludes my staff presentation and I'm happy to take any questions.

>> Mayor Adler: Thank you. Colleagues? Any questions for staff?

>> Tovo: I may have some but I'll defer until after the applicant's presentation.

>> Mayor Adler: Applicant will have five minutes.

>> Harper-madison: I think you can't see my hand. I have questions I would like to ask after the applicant speaks. Want to make sure you know my hand is up.

>> Mayor Adler: Got it. Thank you.

[2:41:27 PM]

>> Hello?

>> Go ahead.

>> Hello, mayor. Council? Can you hear me?

>> Mayor Adler: Yes.

>> My name is Richard settle. I'm here on behalf of descendants of the warehouse. I want to take an extra 30 seconds to say thank you to commissioner -- council member Casar. I've enjoyed working with you all these years, even before you were a council member. Thank you for teaching all of us how reasonable minds can differ and yet still be friendly to one another and usually work out compromises. I appreciate how you've handled your business with me as a council member. So thank you. Mayor, members of council, like I said, I represent the families that owns that warehouse that's subject to the zoning case. I want it on the record and it's in writing that they oppose the zoning, which will

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require a supermajority of the council. The owner's position has many elements but first and foremost the owner does not think it meets the criteria except that it is at least 50 years old. The staff contends it meets three. I'll go through and give our position on the three. On the architecture, the staff report says this is a, quote, good example of the utilitarian architecture but our code doesn't use the term "Good." It uses terms like "High artistic value, rare example, outstanding example, particularly fine example, or one of a kind" when they describe architecture. We maintain this warehouse does not meet any of those criteria under the architecture section of the code. As pointed out the doors and windows have been replaced. There have been exterior modifications in forms of ramps and sidewalks.

[2:43:30 PM]



It just doesn't meet the high bar of an architectural specimen we usually give tax breaks to and give the honor of having historic marker. The Vermont is an important family in Austin and the descendants still own the building. They have been honored with an entire block. There's a full historical recognition of the Vermont family and their contribution to the development of our city. When it's said that this would be the only thing associated with the Vermont business, that's not true. On community value, the -- when you read through the justification, it's basically this is the only warehouse east of congress. The community value was not recognized or even raised when this property owner was asked

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to negotiate with the city for a long time about the convention center expansion. When the city wanted to expand the convention center this was in the past. The historic designation never came up. It was only after the city asking this family to hold up for a long time did this community value of historic community value come up. The -- there's just not -- it's a warehouse. It's a cool building, but it's -- there's already a warehouse designated downtown honoring the warehouse district. In fact, arguably the warehouse district is on the west side of congress now, but we just maintain it doesn't meet the criteria. The owners don't want the tax breaks. What they want is to be able to redevelop this block in the tod. Designation of historic would prohibit the redevelopment.

[2:45:31 PM]

I know -- I'll be interested to hear council member tovo's thoughts on transfer of development rights, but we've shown in this downtown scenario that that really doesn't work. He doesn't have a market for those. Essentially designation of this would prohibit the redevelopment of the site. The building can't reasonably be incorporated into a new building because it's -- the way it's constructed, it's five feet off the ground. The loading docks are five feet off the ground. You can't have the sidewalks and entries and all the landscaping we currently demand of our downtown buildings to be incorporated. Story is told to me by the family that at one point early on they sandblasted this building to repaint it and the brick was so soft they nearly sandblasted the brick right off. We know the integrity of the brick is not that great and couldn't be incorporated into a new building anyway. Planning commission voted to

[2:46:32 PM]

deny the zoning. We ask that you not vote for historic zoning. Even on first reading. First reading simply delays the case. We will have to come back for second and potentially third. That basically stops in its tracks any future planning and any future redevelopment plans for the structure. So we ask that it not be designated as a -- with H zoning and I'll be happy to answer any questions you might have. Thank you.

>> Mayor Adler: Thank you. Any questions for the applicant's agent? Okay. Council member tovo, did you have questions for staff? And then we'll go to Harper Madison

>> Tovo: I have a couple and I know my colleague has some. I'm still thinking through what the applicant said. My question -- Ms. Brummet, I

[2:47:33 PM]

want to address the first issue -- one of the issues the applicant's lawyer just raised and that is in the conversations around potential convention center expansion there weren't references to this building as historic. Were you or anyone from the historic preservation office involved in the convention center negotiations?

>> To my knowledge, the historic preservation office does not involved in those conversations. That was prior to my time with the city. It's my understanding that we were not part of those conversations.

>> Tovo: That was my understanding too. I'm not certain if the manager can confirm that. Manager, do you have a policy of involving the historic preservation office and do you know if they were consulted as part of the work real estate does doing with property owners in that area?

>> Some of that may be before my time.

[2:48:34 PM]

I'll have to check with staff and get back to you

>> Tovo: I think it was within the last couple of years.

>> I'll get back to you.

>> Tovo: Thank you. I guess I want to point that out because I don't know that -- it's my understanding that historic preservation was not part of that. I think that's a good practice especially if there are conversations that may contain a structure that is historic. So the fact that this was not identified as a historic property to me is not -- the applicant's argument -- the property owner's argument is not -- does not to me mean the property is not historic.

[2:49:36 PM]

Our historic landmark commission -- none of those folks who are best equipped to talk about whether a structure does or does not meet the statute we have on the books were involved in those conversations so it's not surprising to me that that conversation didn't happen. If -- land historic buildings are being

restored or redeveloped, can you help me understand how that interacts with our code requirements for sidewalks or other kinds of access? Applicant's lawyer talked about that this building couldn't be made to meet those requirements because it is above the street and wouldn't meet the requirement for sidewalks. Can you help me understand? Could the two of you help me understand whether this building would be required to have a sidewalk down at the street or how you work with historic properties to comply with codes of different sorts?

[2:50:36 PM]

>> Certainly. In terms of the building itself, the building is accessible. It has a relatively long ramp -- ramp on the front. There are existing sidewalks adjacent to the building. The sidewalks in front of the building appear to meet the great street requirements in terms of having street trees and expansive sidewalk there. Where there is more of a limitation is on the west side of the building where the loading dock is. That is a significant historic feature of the building and there is an accessible sidewalk on that side but there -- without extending into the traffic lanes, there wouldn't be enough space for a great streets quality sidewalk at that location.

>> Tovo: If the applicant was able to proceed with a project that incorporated the building

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would be there be a waiver or other variance they could seek given the fact that they -- this historic feature would prevent them from doing the sidewalk on the loading dock side exactly as a new construction would proceed?

>> I believe so. I believe we would work with those colleagues to come up with a reasonable solution.

>> Tovo: Does that sync with your experience?

>> Yes. If it were a new project compliance with great streets would be a requirement. The urban design section which is over great streets is under my purview as well. We'd have to work to find a modification for the historic structure if that were the case.

>> Tovo: My guess is you've had to do that with other historic structures as well.

>> We have

[2:52:37 PM]

>> Tovo: That's not really an impediment as far as I see it. So Ms. Brummet, the applicant's lawyer talked about that the family who owns this structure does not wish to have a tax break. The way we proceed here in the city is that a building is zoned historic if it meets the designation and received an affirmative vote at city council but there is another step where an owner of that property would have to seek that tax exemption. Is that correct? So granting designation does not equal an exemption. The owner has the ability to seek that exemption but is not required to do so and in fact I know at least one property owner in this city, and I am sure there are more, who have buildings stoned historic -- zoned historic but don't apply to the council for that

[2:53:38 PM]

exemption.

>> That's correct. Our staff inspects land mark properties every year to ensure they're being maintained with the requirements to receive that tax exemption and we prepare a list that gets approved by the historic landmark commission and ultimately city council in terms of which properties can receive that tax exemption. From the property owner's perspective, they have to apply to the Travis central appraisal district in order to receive that exemption -- order to receive that exemption and it's an annual application process.

>> Tovo: If you don't wish to seek that exemption you don't have to. You can have a historic property that never receives a tax exemption.

>> Correct

>> Tovo: Thank you. Could you speak to the applicant's lawyer -- the property owner's lawyer's discussion about whether or not this is a significant building?

[2:54:39 PM]

You talked about it its significance and the way in which your estimation and the estimation of the landmark commission it meets several of the criteria for historic designation. The applicant -- the attorney brought up several points about this. One, that there were alterations and that this is maybe not historically significant given there are other structures associated with this family. From what I understood from the application, this is not about honoring a family. So if there is a structure or other ways to honor that family, that really has no bearing on whether this structure is historic. Could you address that piece of it but also whether the architectural integrity -- whether it meets that

[2:55:42 PM]

criterion, please.

>> Yeah. The requirement in the land development code to meet the architectural criterion, it does include high artistic value, you know, it's -- the words used were in there, but it includes a particularly fine or unique example of utilitarian or vernacular structure. That's the criteria that -- that's the area of the architectural criterion we feel this building needs. It does have changes. The replacement of the windows and doors is -- it's -- it is a change to the building. But the most important features are the load-bearing masonry and those arch lentils, the brick belt, the loading dock -- those elements are still there. And so despite the changes, the building can still convey its

[2:56:43 PM]

architectural significance. In terms of the historical significance for the building, Mr. Subtle is correct. There's a whole block of buildings associated with Vermont family in the western portion of downtown. This is not necessarily akin to residential property where we would only see one landmark associated with a particular individual. We wouldn't then seek to nominate second residence that was associated with a particular individual or, you know, that family. This is different in the sense that this is representative of the commercial side. You know, certainly we can understand the history and significance of the Vermonts through the Vermont block but this is a piece of the

[2:57:46 PM]

commercial development of the city. It's significant for its contributions to the development -- growth and development of Austin as a grocery warehouse.

>> Tovo: Thank you for that.

>> Mayor Adler: Colleagues -- Kathy? I'm sorry. And I hate to interrupt. I apologize for this. I said earlier we were going to take a forced break at 3:00 o'clock. There's a call that I have to get on. We've also lost council member Renteria who has had equipment problems. He texted he and is trying to get back on so he can be part of the conversation as well. Here at 2:58 we're going to take a recess in this meeting. I would anticipate I can be back probably in 20 minutes or so, would be my guess, and then we're going to be able to continue on. And I apologize. I'm the only one here, and I

[2:58:48 PM]

have to be here to move this meeting forward. Council member kitchen?

>> Kitchen: Why don't we give you a

>> Kitchen: Why don't we say 3:30?

>> Mayor Adler: Okay. Councilmember harper-madison?

>> Harper-madison: Is it fair, mayor, for me to request that, one, my colleague, councilmember tovo gets to complete her thought and line of questioning, but then that you call on me next?

>> Mayor Adler: I will call you -- on councilmember tovo when we come back after the break so she can finish her line of questioning.

>> Harper-madison: Please, absolutely.

>> Mayor Adler: I'll call on you after I call on councilmember tovo.

>> Harper-madison: I would appreciate that. Thank you.

>> Mayor Adler: We'll see you back here at 3:30. We're in recess.

[3:37:30 PM]

>> Mayor Adler: Let's see who we have here. One, two, three, four. Okay. All right. We're going to go ahead, then, and reconvene the Austin city council meeting. It is 3:37. It continues to be February 3rd, 2022. Councilmember tovo, in the intervening break, it's my understanding that the applicant understands your request, obviously can't support it, just to maintain their position, but doesn't feel like there will be prejudice with a two-week delay, and is willing to engage in a conversation with you and with staff to see if there's an option that they haven't seen. If that's the case, then I'm going to go ahead and support your motion to pass this on first reading, coming back in

[3:38:33 PM]

two weeks. And if that is voted on and approved, then we can go into executive session, keep this moving, since we just learned that when the sun goes down, we're going to get a freeze tonight. The roads are wet, which is the other thing that I would say. Tonight, precipitation is probably going to stop in the next two-three hours and we won't have it probably through the weekend, but the roads are still wet. So it's anticipated the areas where it's slushy it's going to freeze tonight. Nobody should be out if they can avoid being out and driving. It's going to be freezing tomorrow. So I think that many of the institutions and schools, and the city are going to be continuing their call today to tomorrow, remaining closed. That includes aid. And on Saturday, we should get

[3:39:34 PM]

to a place where things then begin to thaw. Sorry for that little commercial message. Kathie, I support you on your motion to pass on first reading coming back in two weeks. Given that, is there any more discussion on this item? Councilmember Renteria?

>> Renteria: Yes, mayor. I'm not going to be able to support that, besides the fact that the owner doesn't want to be zoned historic. And it reminds me of when we were down here trying to protect some of these houses. And to the department, and they said they couldn't recommend it because they had changed the windows and the doors, and it was not the same historic building. And, you know, this was over here in east Austin, so I just

[3:40:35 PM]

don't -- it's an equity issue to me, so, you know, so I'm not going to be able to support it.

>> Mayor Adler: And I understand that. And just so that it's clear, my favor in vote of this is not a substantive vote, it's a vote to allow the conversation to happen in the next two weeks. And I would suggest that anyone looking at this vote hear that vote that way and we'll have the substantive conversation in two weeks. It's been moved and seconded. Any further discussion? Let's take a vote. Those in favor, please raise your hand. Those opposed? I'm showing two votes against, three votes against. Harper-madison --

>> Harper-madison: Mayor, I'm not voting against, I -- [ clearing throat ] -- excuse me. Sorry, y'all. I thoroughly support my colleague's decision to give us

[3:41:36 PM]

further opportunity to discuss this further.

>> Mayor Adler: Okay. So, I have two votes against, councilmember Ellis and Renteria, the others voting aye with councilmember Casar off the dais. First reading passes, and we'll have the conversation over the next two weeks, and then we'll have actually the substantive conversation in two weeks. All right. That gets us, then, to the place where we can go into executive session. Let's go ahead and do that. We'll call that we still have to come back out and vote on items 39 and 40. And we also have the settlement item that we can't consider before 4:00. So we'll come back out and handle those three things. But in the meantime, we're going to now go into closed session, potentially take up three items

[3:42:39 PM]

pursuant to 55107.1 of the government code, discuss legal issues related to items 39 and 40, and pursuant to another code, personnel matters related to item 46. Without objection, let's go into executive session. If you guys would just go straight on over there and sign into executive session, I'm going to call that up here as well. 3:42.

[4:56:55 PM]

>> Can you hear me?

>> Yes.

>> Mayor Adler: Yes, we can hear you.

>> You don't see pool?

[4:58:04 PM]

>> If ctm could send me the invitation again. I'm on my phone and I don't want to do this on my phone. This is Leslie. Just send me another invitation. Someone dumped me out of the meeting when we went into executive session. It completely removed me and I was not able to use the invitation I had previously. I'm going to hang this up and look for a brand-spanking-new link.

>> Mayor Adler: So that they don't have to come in tomorrow, we're going to post the agenda that normally would be posted tomorrow, we're going to post it on Monday.

[5:02:34 PM]

>> Mayor Adler: Okay, again, we're waiting for Pio. The council, the staff, rather than posting the agenda tomorrow, is going to post it on Monday so that they don't have to come in or some measure of them will have to come in tomorrow. If you have an ifc pending and you were looking for comments from the attorneys and the like, I and they urge you to look at your emails, because the attorneys may still be communicating with you about ifcs. Councilmember Fuentes.

>> Fuentes: Yes, thanks, mayor. I just wanted to have the record show that for the vote regarding the zoning -- the historical zoning for the stake house building that I was off the dais. I was having trouble getting moved over to be a panelist. I was not present for that vote.

>> Mayor Adler: Okay. The record so notes. I did not call that out.



[5:03:40 PM]

Okay. I'm going to go ahead and reconvene the Austin city council meeting. Today is still February 3rd, 2022. While we were in closed session, we addressed legal issues related to items 39 and 40 and personnel matters related to item 46. Colleagues, we are now back in our meeting. I think that gets us to items 39 and 40. These are ifcs from councilmember Casar. Councilmember Casar, do you want to make a motion on that?

>> Casar: I move to pass these two items with the amendments as posted by the mayor.

>> Mayor Adler: Okay. The motion is to pass items 39 and 40 with my amendments incorporated. Councilmember Fuentes seconds that. Discussion? Councilmember Casar, you can go first if you want to.

>> Casar: I appreciate everyone who cosponsored here

[5:04:41 PM]

and for the work on this over time. During the pandemic, we put in place important protections as a council, along with support from the mayor, and were able to keep our eviction rates amongst the lowest in the country. But with the escalating housing costs that we see and with the daily emergencies that we know so many families face, it's clear to me that we need permanent renter protections and these two resolutions would move us closer to having that. If we want to push fewer people out of the city, then we need protections for the 500,000 renters that we have here. And if we want to reduce homelessness, then reducing evictions is a key way of doing that. So, thank you.

>> Mayor Adler: Okay. Further discussion on these two items? Councilmember Kelly. Your amendment, if that's what

[5:05:44 PM]

you wanted to do.

>> Kelly: I'm sorry. I posted a motion sheet on the message board and I was wondering if you would be appropriate to discuss that.

>> Mayor Adler: Yes. You can either discuss it, or you could make the motion if you wanted to and then discuss it after you make the motion.

>> Kelly: I'd like to make the motion to include my motion sheet.

>> Mayor Adler: Okay.

>> Kelly: Item number 40.

>> Mayor Adler: Councilmember Kelly proposes her motion sheet. Is there a second to that motion? Councilmember kitchen seconds that. Councilmember Kelly, you can discuss it.

>> Kelly: Yeah, absolutely. So, there's different parts in this motion sheet. The first part of my motion is to replace the term shall with the term may. This would help because the term shall to me is too proscriptive and predetermines how city staff would draft this particular

[5:06:44 PM]

requirement in the ordinance regardless of the feedback they may receive throughout the stakeholder process. I also believe that with this change in this motion sheet, we will be able to allow landlords to have some say in the process as well. I understand that we do need to provide renters with specific rights in regards to the eviction process. I'm a renter myself. But I also recognize that we have to have some kind of happy compromise with the landlords and the tenants themselves.

>> Mayor Adler: All right. Thank you. It's been moved and seconded. Discussion of the amendment? Councilmember Casar.

>> Casar: Mayor, I'd like for us to consider taking the motion sheet up as three different amendments. And I don't know whether you need a motion for that at this point, or whether that's something we can do by assent of the group.

>> Mayor Adler: We can do

[5:07:45 PM]

that. There's been a request to divide the question, so we'll divide the question. What makes sense as a division, the language at the end makes sense as something that could be considered by itself?

>> Casar: I think there's three changes, but I'll leave that up -- I'm interested in what councilmember Kelly thinks here, because I'm fine with one of them and pretty close to fine with another one. But one of them, as councilmember Kelly mentioned, was the change from shall to may. I would see that as one. And the next sentence about a minimum time period to respond I think is a second topic. And then the third topic is that of additional languages beyond English and Spanish. And that third one, for example, I'm fine with. So we could just pick that up and see if everybody would be fine with incorporating that one, for example.

>> Mayor Adler: We grant motions to divide questions. And we'll do that here. Are you comfortable dividing it those three ways, councilmember Kelly?

>> Kelly: I'm okay with that,

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and I'm glad that you like the final edit that we proposed, because my district, for example, has a very high population of Asian Americans, for example. And I know that people speak languages other than just English and Spanish across the city, and it would be fair to do that. So, sure, we can take them up as three separate items. Thank you.

>> Mayor Adler: Okay. So, with respect to the last one, where it adds shall be in English striking and having Spanish and adding any additional language that may be required. Any objection to including that into the motion? Hearing none, that's included. We have then two amendments in front of us. We'll take them one at a time. The first one is the change from may to shall. And the second one is the adding sentence about the notice may include. We'll take up first the may to shall issue. Yes, councilmember kitchen.

[5:09:47 PM]

>> Kitchen: Yeah, so, just for a question, so, councilmember Casar, I see on the message board that you posted an amendment to councilmember Kelly's amendment. I'm a little confused about what we're -- is that different than what we're doing now, or . . . ?

>> Casar: Mayor, if I may?

>> Mayor Adler: Councilmember Casar.

>> Casar: Councilmember kitchen, so, as I'll lay out here, we're looking at councilmember Kelly's motion sheet. There's three changes to it. The third one we just accepted, which is about incorporating a variety of languages. And then there's two others. This one we're talking about right now is the change of the word from shall to may, which I'll lay out why I disagree with that. And the second one is about tenants responding. And what I posted on the message board was sort of a compromise in between place I thought I would be okay with when we get to that one.

>> Kitchen: So that one is relevant -- what's on the message board is relevant to the

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second one.

>> Casar: Correct.

>> Kitchen: Okay.

>> Mayor Adler: Okay. So let's focus for just a second on the change from "May" to "Shall." Or "Shall "-- the motion is to change from" shall "To" may." That's what we're talking about now. Councilmember Casar.

>> Casar: And mayor, I will vote no on this change, because I think this is just the core of what we're directing the staff and the community to look at and deliberate, is having a notice that gives tenants the ability to have adequate time to respond and prevent an eviction. That's what the core of this is. And so by changing it to "May allow," if it doesn't allow for it, I don't know what we're getting everybody together for in the stakeholder process. So at the end of the day, I

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think functionally, we'll have an ordinance that provides the ability for there to be more time. And if we don't want it to provide more time, then I think we just don't have the ordinance and people can argue about why we shouldn't have it or why we should. But at its core, the notice giving people time to respond is what this is about. And we just want some clarity for the stakeholder group about what the ordinance does.

>> Mayor Adler: Okay. Councilmember Kelly, then councilmember Ellis.

>> Kelly: Thank you. For me, leaving the word "Shall" makes the sentence read in a manner that the notice would prevent the landlord from pursuing an eviction case if the tenant cues the issue, and I don't think the goal is to take away their right. If the tenant has a history of

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lease violations the landlord should have a right to pursue the case if they believe they have just cause, which is why I have it changed to "May" incity instead of "Shall." Thanks.

>> Mayor Adler: Councilmember Ellis.

>> Ellis: Thank you, mayor, I'm going to agree with councilmember Casar here on the original intent of what the notice would do. I'm more comfortable with it just maintaining the language of "Shall" for this step in the process.

>> Mayor Adler: Any further discussion before we vote? Let's take a vote. Those in favor of changing "Shall" to "May," please raise your hand. Councilmember pool, this is the first one of your amendments. Councilmember pool is in favor of changing from shall to may, councilmember Kelly is in favor. Those opposed to that change, please raise your hand. It's the balance of the dais, so that change is not made. Let's now discuss the second

[5:13:52 PM]

change. The language of the sentence as we can see that is proposed by councilmember Kelly is the notice may include a reasonable minimum time period, by which a resident must make initial contact or provide an additional response after receiving the notice of proposed eviction. Councilmember Casar, I guess what you're doing is in the nature of an amendment to the amendment, because you're adding language to it, is that correct?

>> Casar: Correct, mayor.

>> Mayor Adler: I'm going to recognize you for your amendment to the amendment.

>> Casar: So, my amendment to this amendment is to -- sorry, I'll make a motion to amend this amendment which would say is that a resident has to respond to this notice, make initial contact with the landlord, if we wind up requiring two weeks. So basically, if there's a

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two-week grace period or longer, then it may require that a tenant get back to the landlord and make initial contact earlier.

>> Mayor Adler: So are you adding -- you're amending by adding that parenthetical phrase at the end?

>> Casar: Correct.

>> Mayor Adler: Okay. Councilmember Casar moves to amend the amendment by adding to the end of the sentence comma if the proposed notice creates a period of 14 days or more. Is there a second? Councilmember Fuentes seconds it. Any discussion? Councilmember Casar, then councilmember Kelly if she wants to address it, then councilmember Ellis.

>> Casar: So, to me, because we are starting a discussion about how long grace we should try to provide in the case of an emergency and somebody isn't able to pay their rent, I

[5:15:55 PM]

understand that folks may think we're going to provide a week, or a month. There's different best practices in different cities. And so I had some concerns about councilmember Kelly's amendment, potentially, because if we only provide people, say, one week and the current law gives you three days, then putting the onus on tenants to get back to people before that week, what's the point? We haven't really created much extra time. But if the notice and the final ordinance comes out to be lengthier, let's say over a couple of weeks long, then having a check-in point required of the tenant might be something

to consider. So instead of -- I was trying to figure out if there was a good middle ground way to say yes, if this winds up being an extended notice period, it might make

[5:16:56 PM]

sense to have a check-in. That's why I crafted the amendment this way, to try to strike a middle ground.

>> Mayor Adler: Councilmember Kelly.

>> Kelly: Thank you, Greg, for laying that out. I appreciate it. If our intent is to foster communications between tenants and landlords, these conversations can only occur if both parties are at the table. Thanks.

>> Mayor Adler: Okay. Councilmember Ellis.

>> Ellis: I have a question, and I'm not sure if this is for the authors of these amendments, or if maybe legal could just help with the terminology. When it uses the word "Must," I just want to understand the relationship of if the tenant doesn't respond in the given window, what changes? Do they just proceed through with the rest of the process of an eviction, or -- I'm kind of hung up on the word "Must" and not sure if we should change it to something like should or is expected to. I just want to be sure if none had

[5:17:57 PM]

thoughts about that -- anyone had thoughts about that word and the strength of the tenant having to respond versus choosing not to.

>> Are you on the line?

>> Mayor Adler: Did someone say something?

>> By having a must, the idea would be -- and we've seen it in other cities -- is that if the tenant does not respond back to the landlord, then that grace period doesn't -- for that opportunity to cure doesn't stay in place. So let's say hypothetically we want the 30-day, and the ordinance required the tenant to check in with the landlord at day 15. If that tenant doesn't do that by day 15, then in theory, they would not have that additional

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15 days. That's the way some other cities have done -- have utilized the check-in period. So it's an incentive to give the tenant -- make sure that the tenant and the landlord have the communication.

>> Ellis: So the way it's written right now seems straight and narrow on the tenant would be given that information and they could choose whether or not to respond.

>> They could choose. The question would be when it comes back, whether or not -- what the consequence for not responding to the landlord would be.

>> Ellis: Okay. That makes sense to me. If the authors of these amendments are good with the must staying in there, I can be okay with that, too.

>> Mayor Adler: Councilmember alter -- mayor pro tem alter, sorry.

>> Alter: Since councilmember Kelly's motion is based on the

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original draft that we're incorporating the mayor's language above that and his changes as well. Just having a little confusion trying to read through it. It occurred to me that we might want to just clarify that in adopting her amendment, we're not saying we're going back to the old language. Is that correct?

>> Mayor Adler: In drafting my amendments, that's what I had intended to do. So there was a stakeholder that had provided that language that councilmember Kelly has brought forward. I thought it was stated most neutrally in terms of the discussion between parties with the language that I had had in the sentence above that. And that's why I had taken out the next sentence in what I had proposed. So that was my intent in doing that, thinking that change would then have been covered.

[5:21:02 PM]

>> Pool: Mayor, I have a quick question.

>> Mayor Adler: Councilmember pool.

>> Ellis: If I can just finish. So, right now we're adding --

>> Alter: Your amendment didn't delete anything, though.

>> Mayor Adler: It didn't delete anything from councilmember Casar's, but some of the stakeholders that asked for the amendment that councilmember Kelly and I did not move that recommendation forward, instead made the change to the proceeding sentence.

>> Alter: Oc. Okay. If I'm reading through that section, it would be the part on line 19 would be what you have written, those two sentences.

[ Coughing ] Then we would go to the third sentence where we kept it as may. And now we're debating the fourth sentence.

>> Mayor Adler: Correct.

>> Alter: And we added a fifth sentence.

>> Mayor Adler: We added -- we

[5:22:04 PM]

extended the fifth, yes. Councilmember pool.

>> Pool: I just wanted to make sure, I thought that -- maybe the clerk can read it back to us, the original motion. I thought the original motion was councilmember Casar's language without yours in it, mayor.

>> Mayor Adler: His motion included my amendment. What is in front of us right now is the Casar motion including my amendment.

>> Pool: That's the part that I don't remember him saying. I thought he just said that he moved his amendment, his resolution.

>> Mayor Adler: No. He moved his amendment --

>> Pool: Okay. Does the clerk reflect that, too? Myrna?

>> Mayor Adler: That's how I called it out. You can ask that question.

>> Pool: Let's just double check. I think we all expected Greg's

[5:23:06 PM]

motion would include your amendment. I just don't remember hearing --

>> Mayor Adler: I'm 99.9% sure that I did, but in the event I didn't, the motion in front of us includes the amendment.

>> Pool: Okay.

>> Mayor Adler: Okay? And that was the motion, okay? Oh, I see. But there were more changes than that.

>> Pool: I don't think -- sorry, I'm on my phone, so I don't have everything in front of me. Can we just confirm that the motion is the original --

>> Mayor Adler: I'm confirming that for you. The base motion is my change. And Casar motion with my amendment. And the question we have now in front of us is whether to add the sentence "The notice may include a reasonable minimum



[5:24:06 PM]

time period by which a resident may make initial contact to the landlord or provide an initial response after receiving the notice of proposed eviction." That's the question in front of us. Councilmember Casar has amended that sentence so as to add to the end of that sentence the language about so long as it's a 14-day period of time. And it is that amendment to the amendment that's in front of us -- not at the amendment yet, just whether we add the Casar parenthetical phrase.

>> Pool: All that's good. It was the base motion piece I missed, because I don't remember hearing you put in your change, and then I just remember Greg saying he was moving his -- making his motion with no change.

>> Mayor Adler: No problem.

>> Pool: All right. Thank you.

>> Mayor Adler: Okay. Question in front of us, do we add the 14-day parenthetical phrase? Is there any further discussion on this? Let's take a vote. Those in favor of adding the

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parenthetical phrase, please raise your hand. Those opposed to adding the parenthetical phrase. I'm not seeing anyone voting no, so I'm showing everybody voting in favor of the parenthetical phrase as added. Now the question in front of us is, do we add the sentence, now amended with the parenthetical phrase? Any discussion before we take a vote on that? Let's take a vote. Those in favor of adding the Kelly amendment as amended by Casar, please raise your hand. Those opposed? Councilmember Ellis votes no and councilmember harper-madison, how do you vote? No. Two no votes, others voting aye. That amendment passes. We now have the main motions, items number 39 and 40 in front of us. Item number 39 is as Casar originally proposed. Item number 40 adds the language

[5:26:18 PM]

about languages and it also adds the sentence we just added. Any further discussion? Councilmember Casar.

>> Casar: Mayor, I meant for item number 39 to include your amendment as well.

>> Mayor Adler: Yes. That's how we called it. It was 39 and 40, inclusive of the amendments that have been posted. That's the base motion. We just made some changes. Ready to take a vote? Those in favor? Councilmember tovo.

>> Tovo: Sorry. Are we voting on the overall motions?

>> Mayor Adler: Yes.

>> Tovo: I wanted to just make a few very rapid comments. I really support this. I'm happy to be a cosponsor. Thank you, councilmember Casar, for your leadership on these. These are necessary protections and I appreciate the work that several of you on this dais did to incorporate feedback we heard from stakeholders. But I'm solidly supportive of making sure that tenants have these rights to organize.

[5:27:18 PM]

I shared a story at the press conference earlier this week of our -- my staff and I standing up with some of the residents of an apartment complex in district 9 where families had repeatedly tried to get reasonable repairs made so they would have safer places to stay with their families. And, you know, in addition to -- when we went and I stood alongside one of the residents in the property manager's office, the resident was asked to leave. I was asked to leave. And while the group of us stood outside the property manager's office talking about what else we could do to support those tenants in trying to get their work -- trying to get these needs met, I left to go to a meeting. My staff member Ashley remained and some of those other residents remained as well and the police came. To me, that illustrates, along with many other examples, the

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need to make sure that renters throughout our city have the ability to organize, have the ability to raise those concerns that are necessary to making sure that their families have safe places. One of the women who we worked with through that period did get an eviction filed on her several months later. It was eventually dropped, but it was a concern. And I think it's enough of a concern for many of our neighbors that it makes sense to really make sure that families who advocate for themselves aren't going to face retaliation in terms of eviction. Thank you again, councilmember Casar, for your leadership on this and many other issues. And thanks to the others on the dais for helping work with some of the issues that were presenting challenges for some of our stakeholders. I look forward to seeing these come back to us.

>> Mayor Adler: Further discussion? I do appreciate your leadership on this and I appreciate being

[5:29:20 PM]

part of a council that has worked to strengthen consumer and tenant rights. I also appreciate the involvement of the organizations that spoke today against this concept, the apartment association and some others that I know are going to get involved with this effort, rica and the Austin board of realtors,

all really important organizations in our city, all organizations that are doing much for our city, including great assistance on the homelessness response we have in the city, for example. And I hope by the amendments we've set up a process that really gives everybody the opportunity to be able to raise concerns and raise issues. And I think that will help frame the debate and the discussion that we have as it hits boards

[5:30:21 PM]

and commissions and works its way back to us. Anything else before we vote? Councilmember Casar.

>> Casar: Thank y'all for moving forward on this. I want to just highlight the story of one person who spoke at this, Ms. Jeannie was talking about how during the pandemic, she lives in east Austin. During the pandemic she was in the hospital and had a bunch of unexpected bills, and couldn't easily get back to figuring out what was going on back at home at her apartment complex. But knowing she wasn't going to get evicted while she was in the hospital was something she appreciated and thanked this council for. So these are really important rules. I know I won't be here for the final passage of the ordinance, but this is a city trying to figure out how we address affordability and housing. That's one of the great challenges that still faces the

[5:31:22 PM]

city. Here on my last council item to set forward, I choose and we all choose to be hopeful about how we can have an outlook on protecting renters' rights and homeowners while also adding a diverse set of housing options to deal with the supply crunch while also focusing on subsidized and lower-income housing for people, that we can be a city trying to address the issues of gentrification in our neighborhoods and affordability, and keeping working people in the city. And I just appreciate how hard that work is. So, I want to thank each of you for continuing that work.

>> Mayor Adler: Let's go ahead and take a vote. Those in favor of passing 39 and 40, as 40 has been amended, please raise your hand. Those opposed? I'm seeing it as unanimous on the dais. Both those items pass. I think those are all the things we needed to take care of in

[5:32:25 PM]

this agenda, so I'm going to adjourn this meeting here at 5:32.