

**City Council Questions and Answers for  
Thursday, May 15, 2014**

These questions and answers are related to the  
Austin City Council meeting that will convene at 10:00 AM on  
Thursday, May 15, 2014 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Lee Leffingwell  
Mayor Pro Tem Sheryl Cole  
Council Member Chris Riley, Place 1  
Council Member Mike Martinez, Place 2  
Council Member Kathie Tovo, Place 3  
Council Member Laura Morrison, Place 4  
Council Member William Spelman, Place 5**

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## **QUESTIONS FROM COUNCIL**

1. Agenda Item # 8 - Approve an ordinance creating an economic development program for film, television and digital media projects as authorized by Chapter 380 of the Texas Local Government Code.
  - a. QUESTION: 1) Please provide incremental increases in the number of productions that filmed in New Mexico and Louisiana after adoption of incentives programs. (Staff have provided information, for example, that the number of motion picture projects increased from 1 in 2002 to 119 in 2009; please break down those increases year-by-year if that information is available.) 2) The Austin Police Department currently absorbs the costs of providing security for films within its budget. If the number of films is projected to increase after adoption of this incentives program, would staff also be proposing a maximum for the total expenditures for security? 3) In the last three years, please indicate the Austin Police Department's total costs for providing security for films. 4) How much do Louisiana and New Mexico allocate for their film incentives programs? COUNCIL MEMBER TOVO
  - b. ANSWER: See attachment
2. Agenda Item # 28: Approve a resolution directing the City Manager to bring forward funding options for a buyout of homes in the 100-year Onion Creek floodplain and the 25-year Williamson Creek floodplain as part of the Fiscal Year 2014-2015 budget process, conduct stakeholder meetings with impacted homeowners, and provide a report to Council regarding the history of the monthly drainage charge. (Notes: SPONSOR: Council Member Mike Martinez  
CO 1: Council Member Laura Morrison)
  - a. QUESTION: 1) What were the terms under which the City bought out homes in Onion Creek before now? Please provide the dates of those buyouts. For the homes the City already bought, and/or for the homes the City is currently under contract to purchase, please provide an itemized spreadsheet of what costs the \$250k per house covers. 2) What is the likelihood of additional federal funding? 3) How does flood insurance currently work, especially with regard to payouts? Please give information/explanation about how insurance payout amounts are currently handled with regard to buyouts- is the amount deducted from buyout amount? Why or why not? 4) What is the current method for appraising these homes, and what is the formula for buyout amounts? 5) Please provide a map of the onion creek floodplain buyout area. COUNCIL MEMBER SPELMAN

b. ANSWER: See attachment

c. QUESTION: 1) Has an audit of flood area buyouts ever been done using past bond funds or other sources to ensure proper compliance with federal rules and that fund disbursement has been properly been managed? When is the last time that the Bond Oversight Committee reviewed the buyout program and did they have any comments or recommendations on its administration? 2) How many of the properties in question are homesteaded? 3) How many of the properties in question had flood insurance? 4) Please provide an update on the status of the buyout partnership agreement with the Army Corps of Engineers MAYOR PRO TEM COLE

d. ANSWER: See attachment

3. Agenda Item # 59 and # 60: 59- Conduct a public hearing and consider an ordinance amending sections of City Code Chapters 25-1, 25-2, 25-5, 25-7 and 25-8 relating to Lake Austin (LA) District zoning regulations and general regulations for boat dock and shoreline development. Related to Item # 60. 60- Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2 to create a Lake Austin (LA) district zoning overlay extending environmental protections from the LA base zoning district to certain properties within 1,000 feet of Lake Austin. Related to Item # 59.

a. QUESTION: The staff-recommended changes delete the current requirements for OSSF's from the LA zoning district, and instead, reference applicable regulations of Chapter 15-5. This also effects the new LA overlay. These changes seem to weaken the current regulations in some regards, e.g. lifting of prohibitions on certain components on slopes greater than 15%, or setbacks of non-advanced systems moving from 100 feet to 75 feet. Please provide the results of technical analyses which assure that the new OSSF regulations provide equal or greater protection along the shoreline, including considerations of the practicalities that systems can fail and that the tracking of these systems by the city has been inadequate. COUNCIL MEMBER MORRISON


b. ANSWER: See attachment


4. Agenda Item # 60: Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2 to create a Lake Austin (LA) district zoning overlay extending environmental protections from the LA base zoning district to certain properties within 1,000 feet of Lake Austin. Related to Item # 59.

a. QUESTION: For each of the PUD tracts that overlaps or is located within the boundaries of the proposed district overlay, please provide the date of PUD zoning and zoning prior to PUD designation. COUNCIL MEMBER MORRISON

b. ANSWER: See attachment

**END OF REPORT - ATTACHMENTS TO FOLLOW**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance please call (512) 974-2210 OR (512) 974-2445 TDD.*



### Council Question and Answer

| Related To                    | Item # 8 | Meeting Date | May 15, 2014 |
|-------------------------------|----------|--------------|--------------|
| Additional Answer Information |          |              |              |

**QUESTION:** 1) Please provide incremental increases in the number of productions that filmed in New Mexico and Louisiana after adoption of incentives programs. (Staff have provided information, for example, that the number of motion picture projects increased from 1 in 2002 to 119 in 2009; please break down those increases year-by-year if that information is available.) COUNCIL MEMBER TOVO

#### ANSWER:

##### Summary of Major Productions in New Mexico

| 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|------|------|------|------|------|------|------|------|------|
| 5    | 7    | 16   | 21   | 22   | 30   | 24   | 14   | 21   |

Source: "Film/Media Production Statistics FY 2003-2011," New Mexico Film Office, retrieved from [http://www.nmfilm.com/uploads/files/FILM%20PROD%20STATS%20-%20MASTER%20FY03%20-%20FY11%2012\\_22\\_11.pdf](http://www.nmfilm.com/uploads/files/FILM%20PROD%20STATS%20-%20MASTER%20FY03%20-%20FY11%2012_22_11.pdf)

##### Summary of Motion Picture Projects in Louisiana

| 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010<br>(Est) |
|------|------|------|------|------|------|------|------|---------------|
| 1    | 15   | 32   | 36   | 49   | 86   | 46   | 112* | 118           |

*\*Please note that the 2009 figure provided in the presentation should have been 112 productions, not 119.*

Source: "Fiscal and Economic Impact Analysis of Louisiana's Entertainment Incentives," BaxStarr Consulting Group, 2011, retrieved from: [http://louisianaopportunity.com/documents/additional-resources/2011\\_Entertainment\\_Economic\\_Impact\\_Analysis.pdf](http://louisianaopportunity.com/documents/additional-resources/2011_Entertainment_Economic_Impact_Analysis.pdf)

**QUESTION:** 2) The Austin Police Department currently absorbs the costs of providing security for films within its budget. If the number of films is projected to increase after adoption of this incentives program, would staff also be proposing a maximum for the total expenditures for security? COUNCIL MEMBER TOVO

**ANSWER:** EDD is not proposing any changes to Ordinance # 20080306-038 which established the provision of peace officers for film and visual media productions and did not set a maximum for total expenditures. However, the cost of providing security will be accounted for when calculating each incentive grant made under the Creative Content Incentive Program.

**QUESTION:** 3) In the last three years, please indicate the Austin Police Department's total costs for providing security for films. COUNCIL MEMBER TOVO

**ANSWER:** In the last three years, the Austin Police Department has provided free security for one film production. APD was unable to provide an estimate of the costs waived, but has set up a system for tracking such costs in the future.

**QUESTION:** 4) How much do Louisiana and New Mexico allocate for their film incentives programs? COUNCIL MEMBER TOVO

**ANSWER:** Louisiana has not put a cap on the annual allocation of tax credits for its film incentive program. On its website, Louisiana Entertainment has the following question and answer: "Will Louisiana run out of funds for the incentive program? No chance. As long as there is tax liability in Louisiana, there will be a market for tax credits." The website also states that there is no "annual cap" on the program.

Sources: Louisiana Entertainment Frequently Asked Questions, retrieved from:

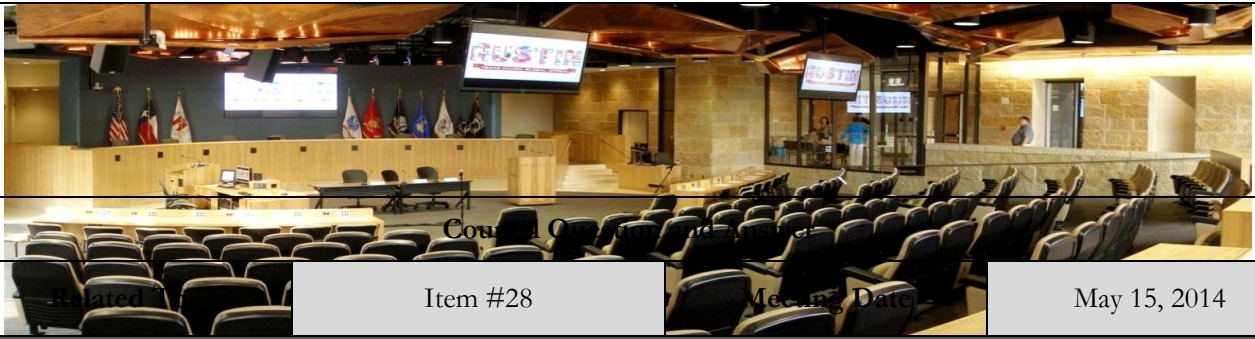
<http://louisianaentertainment.gov/index.php/film/faq/incentive>

Louisiana Entertainment Film Incentives, retrieved from: <http://louisianaentertainment.gov/index.php/film/why-shoot-here/incentives/>

New Mexico has capped allocations for its film incentive program at \$50 million per fiscal year.

Source: New Mexico Film Office, retrieved from:

[http://www.nmfilm.com/Incentive\\_Frequently\\_Asked\\_Questions.aspx](http://www.nmfilm.com/Incentive_Frequently_Asked_Questions.aspx)



Item #28

Meeting Date

May 15, 2014

#### Additional Answer Information

**QUESTION:** 1) What were the terms under which the City bought out homes in Onion Creek before now? Please provide the dates of those buyouts. For the homes the City already bought, and/or for the homes the City is currently under contract to purchase, please provide an itemized spreadsheet of what costs the \$250k per house covers. 2) What is the likelihood of additional federal funding? 3) How does flood insurance currently work, especially with regard to payouts? Please give information/explanation about how insurance payout amounts are currently handled with regard to buyouts- is the amount deducted from buyout amount? Why or why not? 4) What is the current method for appraising these homes, and what is the formula for buyout amounts? 5) Please provide a map of the onion creek floodplain buyout area. COUNCIL MEMBER SPELMAN

**ANSWER:**

1) Following the flood of October 1998, during which some homes in the lower Onion Creek area were inundated by more than 10 feet of water, Austin voters approved \$2.4 million in bonds to buy flood-prone homes. Buyouts began in 1999. After extensive study of a variety of options to reduce flooding, the U.S. Army Corps of Engineers Feasibility Study of 2006 recommended the acquisition of 483 properties in the City and additional properties in Travis County. Austin voters approved an additional \$28M in bonds to support the project in 2006. Through 2006, the City completed the acquisition of 109 properties in the project area. Also in 2006, the City received funding through FEMA's Hazard Mitigation Grant Program to help with the acquisition of 114 properties in this buyout project. Since the completion of the grant, the City has acquired an additional 171 properties.

The costs associated with the buyout program change over time and with fluctuations in the real estate market. In the current phase of buyouts, the average estimated cost per parcel for owner-occupied single-family properties is approximately:

- Property acquisition + Closing Costs: \$115,000
- Relocation Benefits, Moving Costs: \$65,000
- Demolition & Abatement: \$21,000
- Real Estate Services, Appraisals, Administration, Property Management, Asbestos Testing: \$30,000

2) Now that \$11.8 million has been appropriated to the project for this fiscal year, and the President has included a request for \$3.6 million in his budget for FY 15, the project has moved beyond the "new start" barrier. Each future year, it is highly probable for the project to be funded along with other on-going projects of the Army Corps of Engineers, until the project is completed. What we do not know is whether or not we will be reimbursed for expenditures we make beyond our allocated share of the project, which we have already exceeded. We are working with the Corps on the "project partnership agreement" which may clarify to what extent we will be reimbursed. We hope to complete that agreement by the end of August this year.

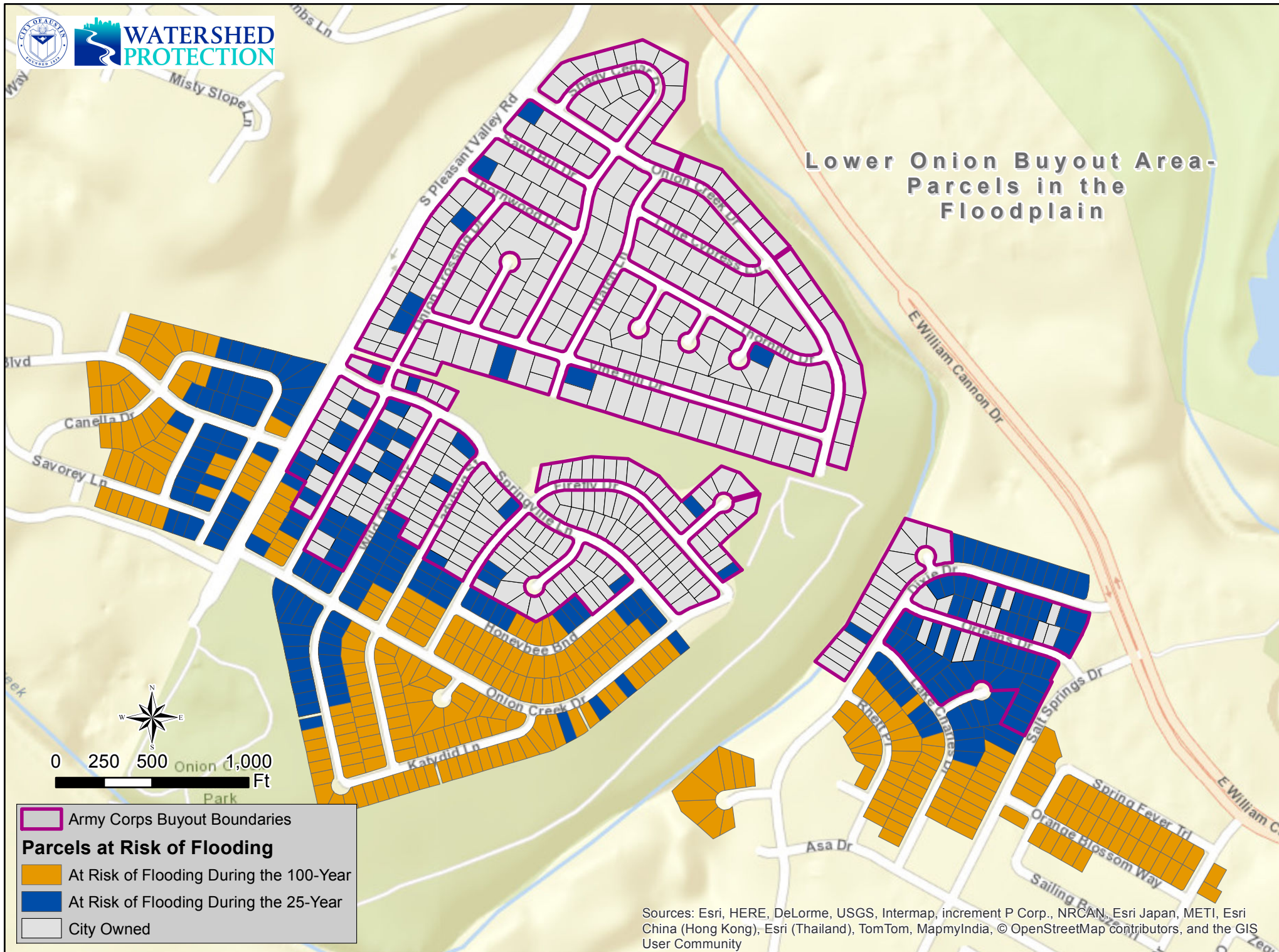
3) 49 CFR Part 24.3 of the Uniform Act prohibits duplication of payments. Payments received under Federal, State, or local law, or insurance proceeds which are determined to have the same purpose and effect are considered to be a duplication of payment are deducted from the just compensation valuation. Appraised values for the 116 properties in the recovery buyout area were based on a pre-flood valuation, therefore, any insurance proceeds received for structural damage were considered a duplication of payment and deducted from the just compensation valuation. However, if an owner made repairs to the structure that could be documented by paid receipts, that amount was added back in to the amount offered as just compensation to the property owner.

**4)** Responsibilities and policies for acquisition and relocation of occupants for the Onion Creek Buyout Program are governed by the Uniform Act and implementing regulations found at 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs and in supporting guidance and/or manuals. These regulations apply to all acquisition and relocation projects where the City of Austin will seek reimbursement through a federal agency.

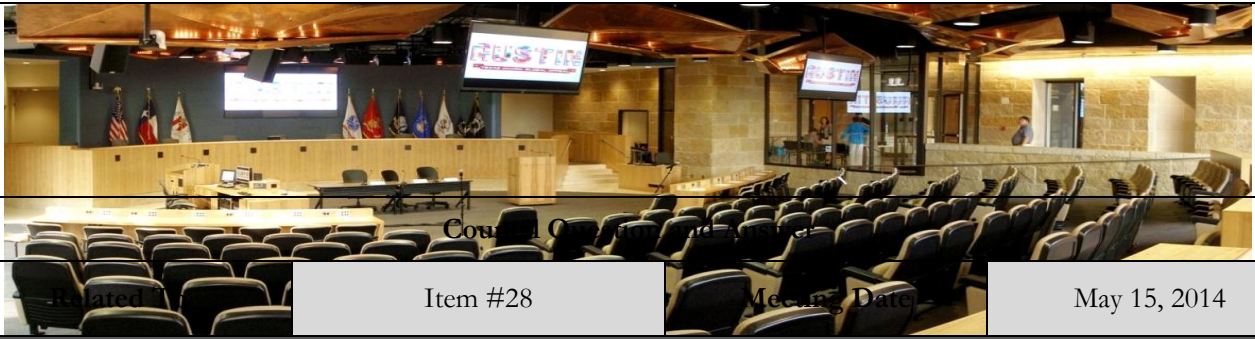
The Uniform Act requires that the property be independently appraised before the City of Austin begins negotiations to acquire it and that the amount of the approved appraisal be the basis of the offer of just compensation. In addition, the Uniform Act regulations in 49 CFR, Part 24, Subpart B require that appraisals be reviewed by a separate independent appraisal firm and the final appraised value has to be approved by the City as just compensation. Not only do the appraisal and appraisal review firms adhere to guidance provided under the Uniform Act, but must follow guidelines set forth by the Uniform Standards of Professional Appraisal Practice as well as any additional policies set out by the City of Austin.

**5) Map Attached Separately**

# Lower Onion Buyout Area- Parcels in the Floodplain



Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



Item #28

Meeting Date

May 15, 2014

#### Additional Answer Information

**QUESTION:** 1) Has an audit of flood area buyouts ever been done using past bond funds or other sources to ensure proper compliance with federal rules and that fund disbursement has been properly been managed? When is the last time that the Bond Oversight Committee reviewed the buyout program and did they have any comments or recommendations on its administration? 2) How many of the properties in question are homesteaded? 3) How many of the properties in question had flood insurance? 4) Please provide an update on the status of the buyout partnership agreement with the Army Corps of Engineers MAYOR PRO TEM COLE

**ANSWER:**

1) FEMA and the Texas Department of Emergency Management performed an audit of the HMGP DR-1606 funding that the City received for buyouts of 114 properties in lower Onion Creek. This audit was successfully completed in December 2012.

The Bond Oversight Committee also discussed the buyout program at their January 15, 2014 meeting. There were no comments or recommendations made during that meeting.

2) The estimates below represent the best available information about homestead exemptions based on TCAD data that has been provided to the City.

- Properties not yet acquired in the Onion Creek on-going Recovery Buyout Program: approximately 65% of 45
- Properties in 25yr floodplain of lower Onion Creek: approximately 65% of 140 (revised from 142 due to double-counting of two properties)
- Properties at risk in 100yr floodplain of lower Onion Creek: approximately 60% of 298 (includes the 229 properties cited in the resolution as well as all other properties affected by the floodplain with estimated finished floor elevations above the 100 year floodplain or vacant lots)
- Properties in the 25yr floodplain of Williamson Creek (along Heartwood Drive, Radam Circle, and Meadow Creek Drive): approximately 80% of 72

3) Information about flood insurance is provided by FEMA. The estimates below represent properties that had active flood insurance policies at the time of the Halloween flood.

- Properties not yet acquired in Onion Creek on-going Recovery Buyout Program: approximately 71% of 45
- Properties in 25yr floodplain of lower Onion Creek: approximately 55% of 140 (revised from 142 due to double-counting of two properties)
- Properties at risk in 100yr floodplain of lower Onion Creek: approximately 50% of 298 (includes the 229 properties cited in the resolution as well as all other properties affected by the floodplain with finished floor elevations estimated to be above the 100 year floodplain or vacant lots)
- Properties in the 25yr floodplain of Williamson Creek (along Heartwood Drive, Radam Circle, and Meadow Creek Drive): approximately 70% of 72

4) Now that \$11.8 million has been appropriated to the project for this fiscal year, and the President has included a request for \$3.6 million in his budget for FY 15, the project has moved beyond the “new start” barrier. Each future year, it is highly probable for the project to be funded along with other on-going projects of the Army Corps of Engineers, until the project is completed. What we do not know is whether or not we will be reimbursed for expenditures we make beyond our allocated share of the project, which we have already exceeded. We are working with the Corps on the “project partnership agreement” which may clarify to what extent we will be reimbursed. We hope to complete that agreement by the end of August this year.



Item #59-60

Meeting Date

May 15, 2014

#### Additional Answer Information

**QUESTION:** The staff-recommended changes delete the current requirements for OSSF's from the LA zoning district, and instead, reference applicable regulations of Chapter 15-5. This also affects the new LA overlay. These changes seem to weaken the current regulations in some regards, e.g. lifting of prohibitions on certain components on slopes greater than 15%, or setbacks of non-advanced systems moving from 100 feet to 75 feet. Please provide the results of technical analyses which assure that the new OSSF regulations provide equal or greater protection along the shoreline, including considerations of the practicalities that systems can fail and that the tracking of these systems by the city has been inadequate. COUNCIL MEMBER MORRISON

**ANSWER:** Existing LA zoning regulations require set back of septic systems a minimum of 100 feet from the lake shoreline and prohibit drain fields on slopes greater than 15%. Because of the significant enhancements to the City's requirements for on-site septic systems detailed below, Watershed Protection Department and Austin Water staff believe the new City wide septic system regulations make these requirements no longer necessary.

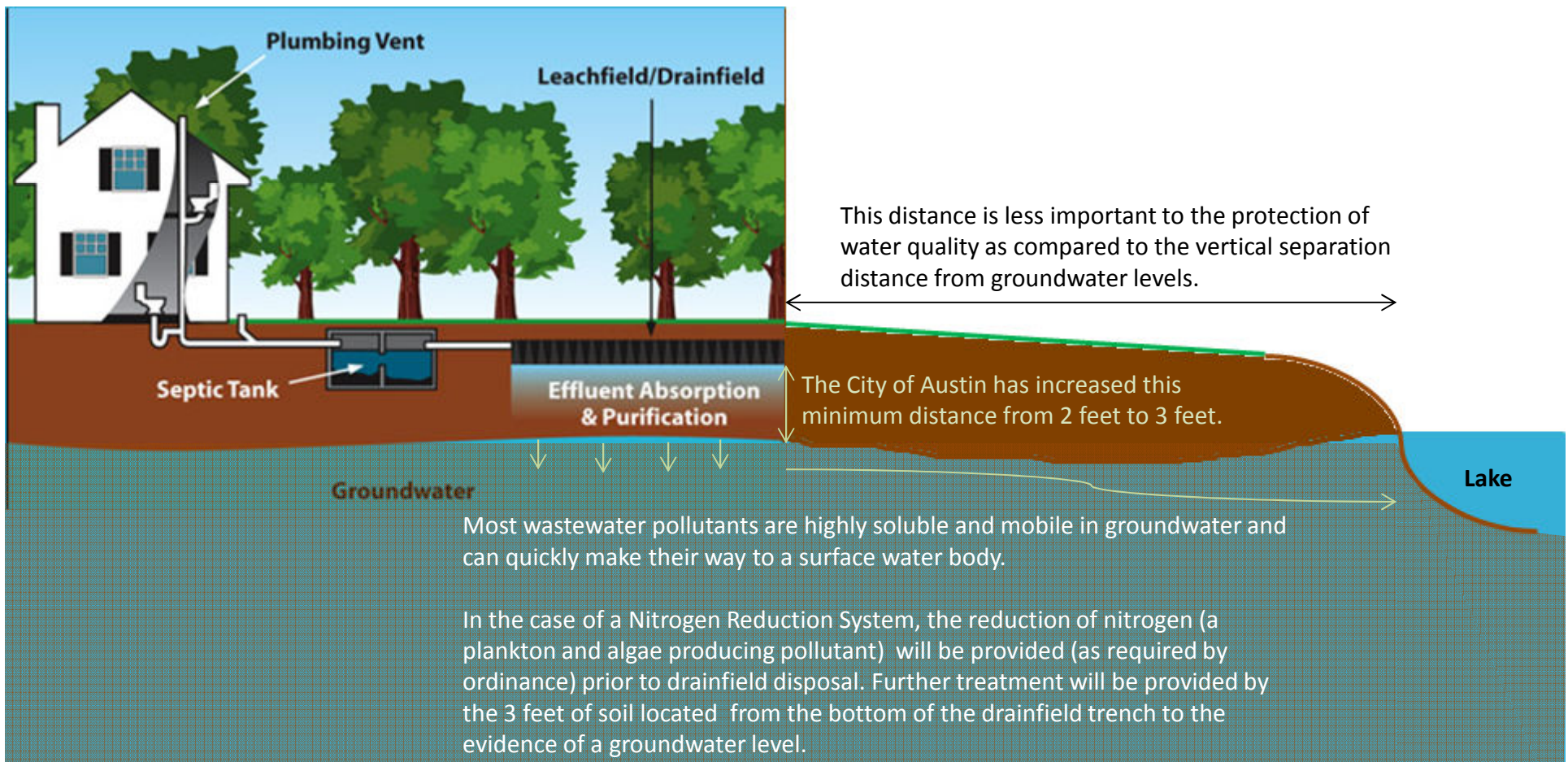
The recently modified Austin City Code Chapter 15-5 provides more protection than the existing Lake Austin Zoning District requirement that On-site Sewage Facilities (OSSFs) are located no closer than 100 from the lake. Chapter 15-5 now requires a minimum of three foot vertical separation between the bottom of a standard drainfield and the presence of groundwater instead of the previous two foot of vertical separation. The attached diagram demonstrates the importance of a vertical separation requirement to groundwater over a horizontal setback requirement to surface water. As shown, water tables often extend beyond the shoreline of a lake and an additional 25 feet to the current requirement in Chapter 15-5 will not provide greater protection to prevent pollutants from entering into the water table and reaching the lake. A greater depth of separation provides a greater buffer within which wastewater treatment occurs. Chapter 15-5's new vertical separation requirement will provide better treatment and protection for the lake at any distance from the standard drainfield to surface water.

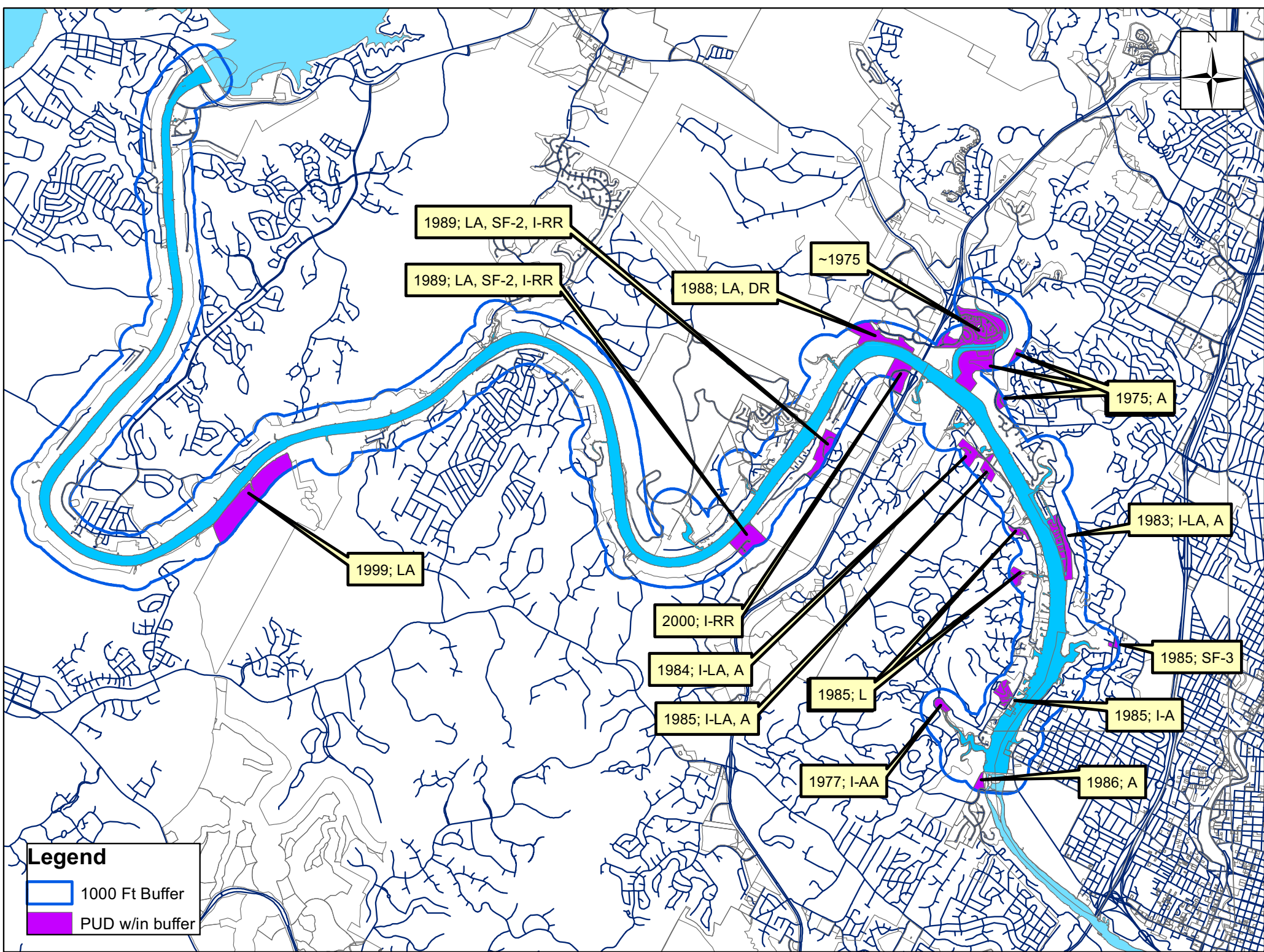
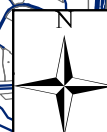
Regarding the tracking of OSSFs, Austin Water is now tracking secondary and tertiary (non-standard) treatment systems maintenance reports because those types of systems require more involved and frequent maintenance which is crucial for the proper treatment of wastewater.

Chapter 15-5 allows standard drainfields to be installed on slopes between 15% to 30% if a serial distribution system is used. Serial distribution systems do not have a hydraulic head between individual trenches and therefore do not force wastewater effluent to the lower end of the drainfield where the effluent can breakthrough to the surface. Technological improvements over time have improved the efficacy of treatment systems such as drainfields that use pressure distribution which can also be installed on slopes greater than 15% because they deliver wastewater effluent to all areas of the drainfield and likewise do not have increased hydraulic pressure at the end of the drainfield which can cause breakthrough to the surface. Moreover, regulations have improved over time and have greatly reduced the amount of treated effluent that can be allowed to be disposed of per square foot of an application area than allowed many years ago.



A horizontal verses vertical setback slide is attached.

Since many of the natural processes required to treat wastewater depend on adequate aeration, unsaturated soil is essential for wastewater treatment. Therefore, the vertical separation to groundwater is much more important to the location of an OSSF (aka septic system) than is the horizontal separation to a water body.





**Legend**

-  1000 Ft Buffer
-  PUD w/in buffer