

City Council Special Called Meeting Transcript – 06/25/2015

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[11:33:15 AM]

>> Mayor Adler: So while we're recessed here I'll call to order the special called city council meeting. Today is Thursday, June 25th, 2015. It is 11:33. We're in the Austin city council chambers, 301 west second street, Austin, Texas. Councilmembers, we have some changes and corrections. We have several items approved at the last meeting. In addition to that, we have two items I think that are going to be postponed. One is item 18, which is the fun, fun, fun fest. Ms. Gallo, you had pulled that, but we don't need to. It will be postponed to let the parties continue to talk to each other and come back to us if they need to in August, is that correct, Mr. Casar? And then also we can't postpone it now because it's been set for 2:00 time certain, but the red bluff matter will be proposed to our August August zoning hearing on 8-13. If we could go through then the items that we have, my suggestion would be let's find out if they're going to be handled quickly, and if they are we're going to handle them. And if not, then we'll put them to the back of the day. And before we get into that, I'm going to recognize councilmember Garza.

>> Garza: Thank you, mayor. I wanted to give a couple of thank you's. Many of you know I'm a first-time mother and I have to say that I've run marathons and completed triathlons and run into burning buildings and this pales in comparison these last six months.

[11:35:31 AM]

[Laughter]. I wanted to recognize my parents and my in-laws who have provided child care. My colleagues here who have been very patient and met with my staff when I had those first two weeks where I just kind of unplugged after the baby was born. So vice-chair Zimmerman, vice-chair Saldana and vice-chair pool, thank you for your patience. Campo luckily I was able to vote by proxy so thank you, councilmember kitchen for being my proxy vote. Those who took meetings with my staff, but would have preferred to meet with me, I thank you for your understanding. I will be back in the full swing of things at the end of July. And last but not least, my staff, Katherine, Laura, Alexandra, I'm so lucky to know that you're so supportive and the people of district two are lucky to have you also. I certainly believe it takes a village to raise children. So thank you.

>> Mayor Adler: Thank you. I also want to recognize that in the chamber today we have 16 ctm summer interns who are participating in our summer youth program. These folks represent various ISD's in the area in and around Austin and participating in a six-week program internship with the communications and technology management department learning about all the technology that it takes to run the city and city departments and to maintain the quality of life for the citizens of Austin. Today they are here to see how a city council meeting is run.

[11:37:35 AM]

It's important that we get out before 3:00 in the morning. They probably have other things to do. And so we'll work on that. Congratulations on that and thank you so much for doing this.

>> There were things pulled. There weren't a lot of things on here so reel run through it real fast. We're going to try to determine whether it's something we're going to be handled quickly. If we can we will and if not we're going to put it to the side until we can pick up the final two briefings on Austin energy. So I'm going to continue with item number 1, which is the deferred payment -- let me back up. The deferred payment -- it's minutes.

>> Kitchen: We passed that.

>> That's done.

>> Mayor Adler: So there is no item 1? There was no item 1. There is notum one because there's no minutes to approve. 2 was previously approved. 3 is the chilled water piping issue. Ms. Gallo, you pulled this item number 3, which was the chilled water piping issue. Is that an issue we should put off until later in the day?

>> Gallo: This was the issue where we had the person that came for citizens communication that was the second highest bidder and expressed some concerns about the procedures. And I think staff was going to come back and address those specific questions and talk a little bit more about the concerns she had. Depending on how long it would take staff to do that briefing and how many questions we would have for council.

>> Mayor Adler: Is staff here to brief on that issue?

[11:39:38 AM]

Do you want to give us a quick briefing on that and let us ask questions if they want more detail.

>> Mayor, council, my name is Jim Collins, currently serving as the director for Austin energy's on-site energy resources. It's commonly referred to as the chiller program. I hope I can answer those questions raised last week in about three minutes. I know the speaker from last week, Ms. Stanford, is here somewhere and she may have something she wants to say also. What I thought I would do is start by addressing those comments from the speaker and then if council had any other questions, go to that. Would that be all right with council?

>> Yes.

>> So the scope of the solicitation is to provide construction services inside new chilled water customer facilities. And the scope includes things like running pipe work, instrumentation for our controls and our revenue meter and this equipment called heat exchangers. The basis of mps's protest and what we heard last week is around the heat exchangers. And they quoted more expensive equipment which resulted in a higher bid. Their bid was about 50% -- almost 50% higher than the low bid. Choice of those heat exchangers were there decisions. They would have you believe that it's the city's fault, it's our fault that we either had an incomplete advertisement or that -- solicitation or that the city has set precedent because we bought specific heat exchangers and those are the higher cost heat exchangers. So with regard to the incomplete solicitation, the solicitation was complete. There was no secret addendum that the other three bidders got that mps did not receive. There was no addendum two. The solicitation, the original solicitation, included scope of work and then it either had attached or referred technical specifications for piping, for the instrumentation and for the heat exchangers.

[11:41:53 AM]

The specification for the heat exchangers -- I think this may be where mps's confusion comes from. The solicitation -- I'm sorry. The specification, thank you, for the heat exchangers was a four-page spec and on page 1, section 2.1 a under manufacturers it did not list any specific manufacturer's name. What it does is reference the bidders to an industry standard. This industry standard is called ahri, air conditioning, heating, refrigeration institute, an industry standard. We referenced that standard as our desire. You can provide whatever heat exchanger you want as long as it meets those specifications. Unfortunately that national standard is four hundred with addenda one and two. That's not our addenda. It wasn't associated with this solicitation. That addenda is in this national standard. And I think that's part of where the confusion arose. So apologize for that. I would say that if mps had read and understood that specification like the other three bidders they might have been a low bid, but we don't know. We don't know what they would have proposed. On the second issue about the city setting a precedence by these brand a, they're called trantore heat ex-changes, while that's true in the past we've done that, it's really not so relevant to this standalone solicitation. Again, in the past we've used a certain brand, but frankly we've recognized that the cost was going up for that particular brand relative to other brands, not really satisfied with the local service representation and so again, this specification we opened up to any manufacturer.

[11:43:58 AM]

>> Mayor Adler: Got it.

>> So our position is this solicitation stands alone. It doesn't matter what we've done in the past, doesn't matter what we might do in the future. This solicitation, it is what it is. Mps made a mistake. They bid higher equipment. The other bidders got it right.

>> Mayor Adler: Thank you. Anybody have any questions before I bring up Jennifer Sandefur. Do you want to address the council? Are you here? Mr. Zimmerman?

>> Zimmerman: Thank you for that clarification. I served professionally on some standards committees and verifying standards and testing to standards and the one that you mentioned, the hri, how many pages is that specification? Roughly.

>> Roughly I'd say 20, maybe 50. I'm not sure. It's a lengthy standard.

>> Zimmerman: They're lengthy. Some can be hundreds of pages. What happens is you can have disputes about what the specifications mean. How do you interpret them. So what happens is there are specifications out, but there's an understanding that of a class of equipment that claims that it meets that standard, there can still be one preferred vendor even though you have multiple vendors that all claim they meet the standard because there are sometimes issues in interpreting exactly what the standard means or how you measure it. So I think that could be part of the confusion too. Were your prior bids, was that particular vendor the trantor, was that called out in the bid formally and any request for quote?

>> Councilmember Zimmerman, that's true, in the prior bids we sole branded trantor. This vision, we again refer to that other -- this solicitation, we again refer to that other standard.

>> Mayor Adler: Thank you. Ms. Sandefur.

>> We would like to concede we read the specification in error with regard to addendum 2, however our focus shifts to the big nature of the specification that's there now.

[11:46:02 AM]

Excuse me. And as citizens, we just want to make sure that there's some oversight in place so that if a change order is issued, if this lower cost exchanger does not meet the requirements of Austin energy at a more expensive heat exchanger is then used by change order, that there's some kind of oversight for

that.

>> Mayor Adler: Okay. Would you let the council know -- if this is approved and adopted, if the according -- if the winning bidder comes back with a change order to go to a more expensive heat exchanger would you just let the council know?

>> We can do that if that's your request, however I would like to point out that going forward if a -- the difference between these exchangers are they may perform the change, but actually the piping configurations are different and so when we go to our customers who we require to design the mechanical room where our equipment is we have to tell them that prior to their design, which piece of equipment we're using. Our intent would be to have the providers provide what they bid, the lowest cost unit. But there may be occasion and it only --

>> Mayor Adler: I wasn't asking you to prejudge anything or to make a determination in the future. I was just asking you to let us know if that happens.

>> Yes, sir.

>> Mayor Adler: Thank you. Anything else?

>> No, sir.

>> Mayor Adler: Thank you very much. Any further discussion on this item? Let's go to a motion. There's been a motion to -- Mr. Casar makes a motion to approve item number 3, seconded by Ms. Gallo. Any discussion? Hearing none, those in favor raise your hand. Those opposed? Unanimous on the dais with Ms. Houston not here. Thank you very much. The next item that we have is the katet hiring issue, issue number 7.

[11:48:08 AM]

7. There are no speakers for this. If there's no discussion, we will take a vote. Ms. Pool? Ms. Pool moves adoption of item number 7. Seconded by Mr. Zimmerman. Those in favor raise your hand. Those opposed? It's unanimous with Ms. Houston off the dais. So that matter is now handled. That gets us to item number 8, which is the gap study issue. We discussed it this morning. Do we want to hear that now or bring that back later?

>> Gallo: I apologize. I had a note on number 7 that it was indicated by staff that there was an intent to post. Did we confirm that that did not happen with staff? To protest, I mean.

>> Mayor Adler: That there was a protest.

>> Gallo: Staff had indicated on Tuesday that they -- there was talk about an intent to protest and so that was their recommendation for it to be heard today. I just wanted to verify that that did not happen.

>> Mayor Adler: Are you okay with us hearing this today?

>> Excuse me, sir?

>> Mayor Adler: Are you okay with us hearing this item today, the cadet --

>> Absolutely.

>> Mayor Adler: So there wasn't a protest that was filed that would cause us not to be able to handle this matter.

>> The protest was filed and we reviewed the basis of the protest and we issued a protest decision denying it. There was no legal or factual grounds to substantiate the protest, therefore we resolved it.

>> Mayor Adler: Thank you. Thank you, Ms. Gallo. That was the issue. We're now on number 8, which is the gap study. And my question, we've debated that this morning, my question is whether we want to hear that now or go later? Ms. Pool?

>> Pool: I'd see if the dais is ready to vote on this.

>> Mayor Adler: Ms. Pool moves that -- do you want to make a motion and let's see?

>> Pool: You bet. The motion would be similar to the one that was made in our Austin energy committee meeting of the whole, which is to award the contract for consultation to navigant.

[11:50:11 AM]

>> Mayor Adler: Is there a second to that? Mr. Casar? Is there any discussion? Further discussion on this? Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I brought something up about this regarding how the climate plan plays into the report. And I don't think we talked about this this morning, but irrespective of who wins the contract -- I guess my question was how or if there were going to be costs, estimated costs, plus or minus 20 percent, but some broad idea of what the cost would be to implement the climate protection plan, and specifically what looked to me like arbitrary goals for renewable energy. I don't know if there's anybody from Austin energy that could speak to that. Maybe Khalil is the perfect person to speak to that. Thank you for whatever you can enlighten me on here.

>> Good morning, everybody. Councilmember Zimmerman, I understand your question is will this independent study outline the general costs of implementing the climate protection plan. It will. It will mirror the work that we did for almost a year on the -- so it's verifying essentially that study. So we will see the cost of the whole portfolio, so to speak.

>> Just one more quick question. I know there was a climate plan in 2007, wasn't there?

>> That's correct.

>> Zimmerman: Back in 2007. And then we got into the bio mass plant, 2008. I believe that was signed about a year later. I think the climate plan was referenced, right, in the decision making and the discussion to approve the biomass plant.

>> That's true of all out of resources, our generation resources. They're all based on our resource planning. So -- and that's going to be the case with solar and the new combined cycle.

[11:52:14 AM]

It all comes out of this decision-making process and we update it every two years.

>> Zimmerman: Okay. And I guess -- help me out if there's a legal opinion that needs to be made on this, but Austin energy is okay with any of the top three providers, is that right? Is that something that you're comfortable saying? I don't quite understand what's up with this as far as you having a preference or not having -- not caring.

>> Since I have lawyer behind me I'm going to let him speak.

[Laughter].

>> I think that -- sorry, I just ran down here. I think that Austin energy was okay with any of these three. But the legal opinion redistributed today got into a little bit of the reasoning that could go into choosing somebody and it has to be the highest evaluated offerer. So council would have to use the criteria that were listed in the rfp to change the evaluation basically to say based on those criteria that were used we found that the scoring needs to be changed for certain items. But the decision has to be made to award a contract to the highest evaluated offer. And so even though maybe it's true, I don't know the circumstances behind the previous council saying bring us three, there's really no way to do that because really you have to evaluate all of the bidders and bring back an award to the highest evaluated bidder.

>> Pool: Mayor? I really wish that we had heard this particular opinion sooner than today when we are poised to make a decision on this. Mayor?

[11:54:14 AM]

>> Mayor Adler: Two things. First is there was a discussion on the table about the qualifications.

>> Exactly.

>> Mayor Adler: My understanding is that the conversation we had the attorney indicated that that was all in bounds and all appropriate conversations.

>> Exactly.

>> Mayor Adler: I think we're tracking where we need to be, so we're fine. Second, if in the future the council wants to see the three highest rated bids, could that be built into the specifications so that those who are bidding know that the three highest bids are going to be given to the council?

>> I don't know the answer to that, but we could get you --

>> Mayor Adler: Would you check that in the future? Maybe there's a way for us to be able to do that.

>> Absolutely.

>> Mayor Adler: Further discussion --

>> Pool: We don't know this staffer's name.

>> Stewart Riley.

>> Mayor Adler: Thank you for running down here. Further discussion on this item? Ms. Kitchen.

>> Kitchen: I think if I heard you correctly, we have established reasons for choosing navigant within the context of what you've laid out. So I think we've had that discussion earlier.

>> Right.

>> Kitchen: There's no concern about that?

>> Mayor Adler: That's my understanding that our conversation has been fine. Any further conversation, any further discussion on this item? Ms. Gallo?

>> Gallo: I -- although it seems like from the process all three of these were very close in the points that they got, I would feel more comfortable evaluating my decision and basing my decision on the staff's evaluation of these. So I would support the staff recommendation of pace global, but not support one of the other two, although it sounds like all three are good choices. I just am in a position that we have experts within the department that go through a pretty lengthy evaluation phase and unless we all want to spend the time to go through that process our self, I think at some point we have to depend on the staff recommendation.

[11:56:16 AM]

So thank you.

>> Mayor Adler: Thank you. Any further discussion or debate. There's been a motion to award the contract to navigant. It's been seconded. All in favor please raise your hand? Those opposed? It's all on the dais voting yes except for Gallo, Zimmerman and troxclair and Ms. Houston off the dais. That gets us then to the next item in front of us, which would be item number 15, which are boards and commissions. We have what is our late backup, which came yesterday, which was published last night, and then in addition to that we have some names that are just being handed out on the dais that we are just seeing. So at the last meeting that I was at I said that -- just as a general rule I wasn't going to support items that come up that no one has had a chance to vet. I think if we have a policy like that for any of advertise we need to have the policy like that for all of us. I for one can't vote yes on these for that reason, I think.

>> Gallo: If I could explain the person that I just gave to you for the design commission who is Ben Lukens. We actually have a different nomination for this position, but we were aware yesterday that that person was actually one of your nominees to the planning commission. So rather than ask for a waiver to be able to include him on that, we pulled our -- that person's name off of our list and this is the person that would be constituted. So I would love to abide by all your rules, but there were a lot of last minute corrections that needed to be done yesterday.

[11:58:17 AM]

>> Mayor Adler: And I know there were and this is the issue here if we don't appoint now they don't get to take office until September. But for the record since they're listed at this point, let me read the names into the record because I think I have the responsibility to do that. Since they weren't covered. I'll read them real fast. African-American resource advisory commission, Jessica Faith Carter by the mayor pro tem. The mayor pro tem also puts on the list the following items: Building and standards commission, Curt Caldane Mitchell. Communications technology and telecommunications, Bessie Greenberg. Downtown Austin community court advisory committee, Elizabeth Brenner. Human rights commission, Nera Desilva. The Mexican-American cultural center advisory board, Julia Aguilar. The MWBE, W.B.E., business enterprise program advisory commission, Sheila Lowe. And also public safety commission Ed Scruggs. Councilmember Troxclair has on this list water and wastewater commission, Melissa Blanding and Ms. Gallo has the design commission Ben Lukens. Further discussion on this issue? Mr. Zimmerman?

>> Zimmerman: If I could ask to divide the issue on item 15. The names that were submitted prior to the Wednesday deadline we had in place could I separate those out so we could vote on one and then the other?

>> Mayor Adler: There's been a motion to approve those that have made it to the published late backup? Is there a second to that motion? I'll second that motion. Any discussion on that motion? This is to approve the people who are part of the earlier list. It does not mean that we're not going to approve the letter list. We're dividing the question. I'll call a vote on the others if this passes in a second. Those in favor of those on the original list, please raise your hand?

[12:00:17 PM]

Those opposed? Those names are approved..

>> Mayor Adler: Ms. Tovo moves approval of the additional names that were submitted. Is there a second to that? Ms. Poop. Ms. Tovo, you want to address this.

>> Tovo: I sure do. I want to apologize to Dena Estrada who has done an extraordinary job with a task that I don't think anybody within the city clerk's office has ever taken on to appoint this number of people at the same time and includes a lot of work. So thank you for all that you've done throughout this process. I want to just submit to my colleagues, I hope -- I understand that there may be a -- an interest not to approve people who are submitted late, and I appreciate that. I don't believe there's anything in our code that -- in fact I know there's nothing in our code that prohibits us from making nominations from the dais, though I completely understand the comments that have been expressed at wanting to have these ahead of time. I did put probably half of these on the late nominations form online last night on the message board, and I just ask for your consideration. I think we're all doing the best we can under a schedule that has been challenging over the last couple weeks, yesterday included. I think we had about an hour outside of committee meetings in the course of yesterday's day, and it's just been an unexpected week over all. Several are appointees in the case of Sheila Lou, serves on the board now is being reappointed. Liz Brenner served on the human rights commission, moving over. These are people who have served on city commissions and are potentially moving to a new commission. A few are new. I would ask for your consideration in their applications today, knowing that if there's an interest in reconsidering any among these eight or nine pages we have an opportunity to do that in August. I certainly haven't had an opportunity to review all of these names that appear before us.

[12:02:25 PM]

>> Mayor Adler: Okay. Ms. Kitchen?

>> Kitchen: I just have a question. I was thinking that -- whether we needed to add the language to allow the waiver for ed Scruggs to serve on more than one board because he's been appointed to another board?

>> Troxclair: Mayor, if I may speak to that?

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Thank you for asking that question, councilmember kitchen, and we had a similar situation as councilmember Gallo just described, where mayor pro tem had the same person on a list. Mr. Scruggs has since resigned from the parkland events task force because he would prefer to serve on the public safety commission. So I will be appointing someone new to the parkland events task force. I understand they haven't started meeting yet. If it is appropriate, I would like to add Michael Joyce as my nomination for parkland events task force. He had previously applied, and in an effort to get as many people involved in this process as possible, I would like to have the opportunity to appoint him now instead of waiting until August just in case the task force starts meeting in the meantime.

>> Mayor Adler: What's his name.

>> Troxclair: Mike Joyce. Thank you.

>> Mayor Adler: For the parkland board? You know, I just feel -- personally I just feel bound by what I said last week to abstain from this vote. But if this vote is not approved, I would urge all of these -- I would urge all of these people to attend the board that they're being nominated for because in all likelihood I would imagine they would be approved. It might mean there's a meeting that they can't vote, but that would be what I would suggest as the alternative. I just think I need to abstain. Further discussion on this item?

>> I have a question, mayor.

[12:04:25 PM]

>> Mayor Adler: Yes.

>> Garza: For law. Is there a difference it's a commission or task force? Do they still need a waiver to serve? Because I have someone appointed to a commission and task force. So I'm assuming I need a waiver?

>> Yes, would you still need the waiver if they were going to serve on both a task force and a board or commission.

>> Garza: Okay. Then I need to add one for -- unless it happened in the previous meeting, but I'm appointing Jackie Goodman to two different -- a subcommittee a task force -- or advisory group. Can that be added?

>> Mayor Adler: Yes, I mean, is that okay, Ms. Tovo? I'm adding to your motion Mike Joyce on the parkland committee and a waiver.

>> Tovo: For Jackie Goodman on the previous commission. That's fine with me. Since I have the mic I'll add an additional pitch that as we balance values, I think it is really important that as many much those boards be able to meet as possible in the next couple months and that the task force members are -- and commission members are able to get their training on time with their peers.

>> Zimmerman: Mr. Mayor.

>> Mayor Adler: Yes.

>> Zimmerman: I'd like to divide that question because I would be in favor of voting for the waiver for Ms. Goodman but I would not be in favor of voting for these late nominees because they're past the deadline. Could we divide the question or could I make the motion separately to approve --

>> Mayor Adler: Let's do that, any objection to the waiver for Jackie Goodman in hearing none, that waiver is approved.

>> Zimmerman: Thank you.

>> Mayor Adler: We're now back to the motion with the names that were handed out and red into the extraordinary also Ben Lukeens and Mike voice. Any further discussion? Those in favor of approving this list, please raise your hand. Those opposed? Those abstaining? Two abstaining, Zimmerman, Adler. Ms. Houston off the dais. Those are approved. That gets us then to the next item.

[12:06:26 PM]

18 was done. There's the way measure. I don't know if this is going to take a long debate. I would tell the council that there were conversations that were held that I was involved in also monitoring those conversations. Councilmember Pool and Councilmember Gallo, that ordinance I think has been provided in backup and in corresponding resolution that was handed out today. The gist of the work that was done on this, as you recall, Councilmembers, I was concerned, as I stressed back in February, that we were doing something with a part of the park without having a master plan that was done. I was concerned that there were competing uses or -- not competing, but several uses that were discussed to be in this parkland generally, not only way, which is a use which I think is great, and I'm supportive of it being down in this area. But, also, Pressler Road was addressed that was going to be in there, the Y, animal shelter. And as we go through a public stakeholder process there could be other uses that come up. The original agreement is signed by way. Maybe something way could argue, it could rely on to insist on a particular set of improvements, perhaps in a particular location. I wanted as part of any extension to specifically provide, as this resolution does in paragraph 6, that if a portion of the areas required by city for the construction of Pressler Street extension or other uses is identified in that master plan then that portion would not be available for the improvements.

[12:08:35 PM]

Any remaining rights or the extent of those rights that the way would have to be included in that plan, this document does not -- does neither extend nor limit. That document will speak for itself. So we're neutral on that. As part of this agreement, it does provide for the 25-year term, which is what is currently in the agreement that was signed, the difference being that the 25 years started two years ago. But they can't move forward, obviously, because Pressler hasn't been done and the park master plan hasn't been done. So there were conversations about giving them some period of time in order to be able to get that work done and then to be able to go out and raise money and build their improvements. So this provides for them to have ten years to do that rather than the six years that was in the original agreement. And then the 25-year period would start. It does not contain the longer 50-year extension that way yeah had sought and argued for. And I did that just because I personally was uncomfortable with a longer use agreement for a park, for parkland. I believe that there's no parkland -- as legal pointed out to us, the week before, there's no charter prohibition from us giving a long-term use agreement to someone in a park area so long as the use, as I understand it, is open to the public and going to be used by the public and fits with a proper park usage. So I'm comfortable voting for this use extension here.

[12:10:37 PM]

This is an agreement that contains provision where's way is providing services as it does for large areas of the community. Ms. Houston had asked for a listing of zip codes and it was provided, and the people participating come from large areas. This is an agreement that does give incident to their use and operation of this area, some exclusive rights in some areas, clubhouse areas and other things where way

could store equipment. Also, exclusive rights during certain periods of time for the field usage for the purposes for which it's working. It contains cost agreements that go back and forth from the city. I think it was pointed out by the attorney to us yesterday that the city underwrites a lot of the way activities to the tune of, I think, \$400,000 last year, that the city is paying way to provide because we find value in that, and I'm sure that will come up in the budget process that we have, but I will support that use because I think it's a good expenditure of the public funds. So there are lots of provisions in this agreement that are not addressed here but are part of the original agreement that we're ratifying by adopting this amendment. But those were the changes. This was approved by the way board as well. Is there a motion on this item, the way item? I need a motion to adopt. Mr. Renteria. Seconded by Ms. Gallo. Any discussion on this resolution? Oh, do we have a speaker? This is item number 19. And we do have a speaker, James proc. Do you want to speak, Mr. Proc? Okay, then we'll proceed.

[12:12:38 PM]

Thank you. It's been moved and seconded on this resolution. Any further discussion? Those in favor of the amendment, please raise your hand. Those opposed? Unanimous on the dais with Ms. Houston off. That gets us then to the next item, which is item number 21, which is the drainage charge. Ms. Kitchen, do you want to tell us, should we be handling this now.

>> Kitchen: No. This will take discussion plus the staff is providing information we asked them at the last minute. They've been doing a fabulous job for us so I would suggest we take this up after lunch. They said they would be ready after 1:30.

>> Mayor Adler: Let's go ahead and do that. Item number 18, by the way, postponed until August 6. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I do want to hand out a motion amendment here. Let me pass this out, this will come up later for agenda item 21. It just regards the possibility of doing tiers in the billing. It's a relatively straightforward, one paragraph so I'll hand it out now. Thank you.

>> Mayor Adler: Sounds good. We'll pick up that item then after we go back to Austin energy when this is concluded.

>> Kitchen: I'll also go ahead and pass out other amendments. That will give people time to look at them.

>> Mayor Adler: Okay. That way we'll have work we can do during lunch. The next item we have on the deal is the campaign finance filing bill -- ordinance. Ms. Pool, do you want to introduce that?

>> Pool: You bet. I think we have staff here, our city council, Jannette good all, and bob and Matt from ctm.

[12:14:40 PM]

What we have here is the first step in a process to be able to shine some more light and provide additional transparency and accountability in campaign finance disclosure. And what this does is provide the public with a means to have timely and user friendly access to electronically searchable and downloadable contribution, expenditure and other campaign data and that will greatly enhance our transparency. I would like to ask the city clerk to make some comment on the process that this will engage us in, if the dais would like additional information, staff is here for assistance. We did work through the cost of this. We are taking it entirely in house as the bill that was filed and introduced and had some debate on it, the capital did not pass, which would have opened the software application at the Texas ethics commission has for online reporting for statewide candidates. We were hoping to be able to use that same data program, and -- but instead we'll be working with a fairly simplified excel worksheet and some templates that Mr. Escobel will pull together for us and we're hoping to have this

ready to go for the next election cycle and we have a February 1 of 2016 deadline to have the system thoroughly tested and fully functioning. So if there are any questions -- I would -- just one additional I would like to say. It's a really important program change for a number of watchdog groups, the league of women voters, our own city council ethics review commission have been driving toward more transparency and accountability and easily accessible data, and we have the tools available to us to do it in-house at about \$8,000 I think was the fiscal note for that.

[12:17:01 PM]

>> Mayor Adler: 8,000? January yeah.

>> Mayor Adler: I'm going to second this motion. I think this is a great ordinance. I want to also give some recognition to Fred Lewis, who I think we've all been, you know, considering and talking about this, Fred and I started talking on the language of this ordinance back during the campaign, as it was going through, in order to be able to get this done. We in the campaign were posting our excel spreadsheets so that people could in fact go to our site and do that kind of search to see everybody that had participated. I was a little distressed to hear that the first look at this was something which was going to be really costly and I think that's one of the reasons why our original ordinance had said we needed to do this and it wasn't done, because the best way to do it, the way the state does it, is just cost prohibitive. I want to compliment you, councilmember pool, and the others on audit finance for sticking with this -- audit finance for sticking with this to find the way this could be done where just excel spreadsheets are required and post so that everybody in the public, including the media, can just readily do that sort under that. So I think this is a really important step forward. So thank you for that work. Further discussion? Mr. Renteria.

>> Renteria: Yes. I want to thank my colleague, councilmember pool, for sticking with it and, you know, my concern at the beginning was the costs and when she came back and said, you know, that it shouldn't have been put in there and she had worked with the staff to do it in-house, it wasn't going to cost us that kind of money, I really want to thank you for all that work that did you and thank you. I'm going to be supporting this.

>> Mayor Adler: Further discussion, please is this.

>> Zimmerman: Thank you, Mr. Mayor. I want to add to what councilmember Renteria's remark, that budget item I can definitely support it.

[12:19:07 PM]

I would not support it with the high price taking, but that's reasonable. I would support that.

>> Mayor Adler: Ms. Gallo.

>> Gallo: Councilmember pool, thank you for doing this. I remember very well the rush to get down and sparked up to city clerk's office -- parked up to city clerk's office in order to file this physically so this is a great step in the right direction for multiple reasons. Could you briefly summarize. I assume the version that's in our agenda notebook is different from the yellow version you submitted. Are there differences? Maybe could you explain just the reasons for the additions or subtractions in your resolution.

>> Pool: Right. I think there was just one timing change, and the original item that we talked about in audit and finance had within 15 days, and I think that was under the first be it resolved and what would have been underlined and otherwise struck through would be in 15 days and now it says at the first council meeting in August because that's a more specific time frame. You know, it wasn't really clear what the 15 days would be from. And then it could have been 15 days from today if this is approved, and we won't be meeting in July I thank everybody for the compliments, and I do want to -- a hat tip to our former colleague, councilmember Laura Morrison, who was instrumental in working on this in the

last council with staff, and she saw the possibilities and -- as with a number of items that our previous colleagues have handed off to us sitting now on the dais. I was just happy to have the opportunity to pick up the mantling and continue with it.

>> Mayor Adler: Thank you. I have a question. Two issues. First issue is having something that is searchable, excel spreadsheet so people can search to easily find the contributor's name or amount, which I understand this covers. The second issue is right now we have to -- candidates have to physically go down to the clerk's office and hand their electronic version over the counter.

[12:21:14 PM]

Does this change that process at all?

>> It doesn't change that process, per Se, other than we'll be working with a lot -- the law department. We've had some conversations whether or not we can establish kind of a guideline where you can e-mail it in to us rather than having to come down physically to file the hard copy. This is not filing, as in you file fill out your information and click a button and it goes off because that is the expensive part of this project. And so in working with Fred Lewis and councilmember pool's office, we narrowed the scope to develop a way that we can get the data out there on the data portal so that citizens and media or anyone who is interested can go and do searches. So we're working on -- our goal is to make it as simple and streamlined as possible. And if we can -- I'm hoping, figure out a way that we don't have to have so many people in our office on those days because that makes it hectic for us as well, we will incorporate all of those into this plan as well.

>> Mayor Adler: But at this point, all we're doing is we're making -- providing a mechanism and a limiter for people to submit their excel spreadsheet that's searchable so that can be done. At this point, still people need to physically go down to file those reports.

>> Right.

>> So this doesn't change that but you're going to take a look at that and see if there is a way.

>> Yes.

>> Mayor Adler: And that I think is everybody's preference, is -- if there's a way for people not to have to physically come down to make that filing short of the kind of expense that we've seen, please let us know.

>> We will definitely do that.

[12:23:15 PM]

>> Mayor Adler: Thank you. Further discussion on this item? Ms. Gallo.

>> Gallo: So the reason that we brought the disk was so that could be provided online. Is that correct? We had to bring a disk down in addition to the --

>> And the disk is kind of an old holdover from when the clerk's office didn't have reliable scanning equipment. And so we asked folks to give us an electronic copy of the PDF. And so now what you will be giving us is your form, completed form, as well as a spreadsheet that has the data on it. That data will get uploaded into a database that is searchable and we will create custom reports, as well as citizens will have the ability to create their own reports. But what I'm not sure at this point -- and we will have to confirm with law -- is if you remember on most of those forms you're required to have a notary signature. So how do we address that?

>> Gallo: Okay, thank you.

>> Mayor Adler: Further discussion on the motion? Ms. Pool.

>> Pool: I would say one other thing. This is the -- what is it, a journey of a thousand miles begins by taking the first step. And that's what we're doing here. And I thank staff for helping us begin to chart

that path forward. Thank you.

>> Mayor Adler: Okay. Any further discussion? There's been a motion and a second on item number 22 as handed out today on the dais. Those in favor please raise your hand. Those opposed? It is unanimous with Ms. Houston off the dais. That gets us next to item 23, no executive session. Number 4 is evaluating council is a briefing, we'll come back to that at the council meeting. Those are all the items. So there are two items we're going to come back for. One is the drainage fee issue, and the other one is the council appointee issue.

[12:25:22 PM]

Then I would recess the city council meeting. What time do we want to come back or what do we want to do with respect to the Austin electric briefings? Do we want to go back to those? Ms. Kitchen.

>> Kitchen: I think it's time for lunch.

>> Mayor Adler: What time do we --

[laughter] And I know that well.

[Laughter] Mr. Mayor?

>> Zimmerman: Time certain 1:30 to come back?

>> Mayor Adler: That would be the question. Also tovo?

>> Tovo: I was going to suggest if we're doing any briefings, if we're picking up on Austin energy, perhaps we could return right at 1:00.

>> Mayor Adler: It's 12:25 now. What's your pleasure? 1:00? Can we do that?

>> Zimmerman: No executive session.

>> Mayor Adler: No executive session on that issue. All right. So let's return at 1:00 for Austin energy.

We'll have those last two briefings. And then when they're over we'll take up the last two council items. Okay? And at 2:00 we're going to postpone item 25 until the zoning meeting in August, which I think is the second week in August or August 13. All right. We'll stand in recess until 1:00.

[Recess]

[1:06:22 PM]

>> Gallo: Do we have Austin energy staff here, ready for presentation? Perfect. Okay. It is now 1:05. I do believe with you a quorum available for the Austin energy reconvening meeting. We have two agenda items remaining. Item number 7 and item number 8, if staff would like to start on the briefing for item number 7, that would be great. And thank you, once again, for your patience as we have kind of evolved with this day.

[Lapse in audio]

>> Good afternoon again. I'm all messed up.

[Laughter] It's a good thing the rendition -- presentation was up. Better?

>> Zimmerman: We're good.

>> Good afternoon, council. I'm here to update you on item number 7, mainly on the solar rfp, and we threw in restores plan and independent review that are related to the solar rfp.

[1:08:24 PM]

I always like to start here. This is the resource plan, and the reason I like to start here is really to point out that this solar rfp comes from this plan, is not an independent effort. And we view that the decision making going forward would be part of this whole resource plan going forward. So we have two key activities underway. One is the independent review that you folks have voted on just this afternoon.

And, also, we have this rfp in progress for up to 600 megawatts of solar. Each of you -- each will be coming up for council consideration. The first one did already. And at a date to be determined we will be coming up with a solar rfp recommendation. I'm going to skip through most of this since we discussed this at length. The second bullet, that's important. This review is going to take about three months so we'll probably come back with results to the euc and back to you in the September /October time frame, after the budget association that's good. The final scope was expanded with a broader array of scenarios that was given the euc feedback and I would say that we're trying to do in three months here what we did in more than a year with the resource plan. Also, we will be using the latest pricing from the solar rfp so update the solar inputs. But that goes for all the inputs. We'll be using the latest market pricing, latest gas pricing, latest pricing for everything we have. Now we have good pricing for this rfp for solar. The findings for the review are all tied together. You know, which includes the gas and the solar, and we're looking in October to make a portfolio decision. On the solar, on the combined cycle.

[1:10:25 PM]

Essentially, to confirm what the previous council had approved, those five actions. Okay. Solar rfp. Just a reminder it was issued April 8, responses were due back may 15. This is what we got. We got a very robust response, 33 proposers offered 149 separate proposal variations and options. It's a total of approximately 8,000 megawatts of solar, of unique projects were offered. And about 1300 megawatts were offered at prices that are now below the 150-megawatt recurrent sole project that we signed last year and should be coming into commercial operation this year. The majority is located in west Texas. Just a little diagram here as to where most of the solar is. Most of it is far, far west Texas, some of it a little closer to Austin and some of it right here in the environment of Austin. Typically, as you get closer to Austin, the price goes up, mostly because of land prices. A couple of interesting tidbits the recurrent solar project we signed last year is one of those blue stars. Also, we own a site called Toya that we plan hopefully in the future to build a solar farm on. As the resource plan indicates, we would like to build and own some of the solar when it expires at the end of 2016 because we feel at that point we can use our low cost of capital to garner some advantages in price. So what's going on with solar? The biggest story from this rfp is that the cost of solar continues to decline. If you go back to the webberville solar project, which was over 160 megawatts -- megawatt hours down to the deal that we signed in 2014, when we issued the rfp, and that was in the \$50 range, and now we're seeing prices below \$40 in the latest rfp proposal.

[1:12:40 PM]

So this cost curve, this is not based on any sort of science, other than interpreting those points but if you continue to curve, you can see if the costs continue on this exponentially declining curve we expect to see prices in the future possibly below \$20 a megawatt hour. So the technology -- I mean, that's the good news. The technology is getting better and the prices are decreasing with time. The blue bar, that's a 2020, I'll try and explain that. What that is is the pricing we're getting in this current rfp if we were to build in 2020 as in post itc, so what we're seeing here is sort of a look at what the post itc price is, the investment tax credit, I'm using acronyms, sorry. I think I can get away with it today.

[Laughter] So and, you know, we were --

[laughter] As you can see, it's slightly higher so the itc today makes a very small difference in pricing going into the future, however, our belief is that the prices of the equipment and the installations are going down so fast that if you were to issue another rfp post 2016, you would wipe out that difference, which is very, very small, in the order of the single digits and you would see much better prices than we are seeing today. In other words, the itc is not a driver for us making a decision today. We don't have to

gobble up all 600 megawatts from the rfp because of the I ti C. It could be for other reasons but the itc is not what would drive that decision. Okay, sorry.

>> Mayor Adler: What happens in those intervening five years?

[1:14:41 PM]

Do you think that it states relatively flat over the five years? Does it increase over the next three years and then come down?

>> We believe it would increase maybe for 18 months and then within 18 months we would see prices exactly what we're seeing today, with the itc. And I actually have a quote -- couple quotes at the end of the deck from the CEO first solar, one of the larger integrated solar companies, they make solar panel easily, they have international factors and they do installation and project development like the developers we signed deals with, right? So that CEO is out on the circuit and talks a lot about solar. You'll see a quote from him that basically supports the fact that this itc basically for him is a non-issue. I think there's a couple questions.

>> Gallo: Any other cigarettes councilmember pool.

>> Pool: On that last bar I'm looking at, the -- so that 2020 is higher because the itc credit expires and --

>> That's correct.

>> Pool: And the deal in front of us would only be available five years from now? So would thereby an option -- we should get the best deal that's out there now, which is different from -- or is it the same as the best deal in five years?

>> We predict -- so if you were to lock in all 600 megawatts base on the this data you would believe, Austin energy or council would believe prices are going up, right? So put the itc aside but if you wanted to lock it in it's because you believe that solar prices are going up. I don't think anybody in the industry believes that. Right? So it's really a matter of how long you want to wait to wipe out the advantage of the itc. Most people, including the solar developers, are saying that's a year and a half, that we will wipe that out and then conceivably we would see much even lower prices if we were to issue an rfp, for example, in 2017 for additional solar.

[1:16:49 PM]

>> Pool: And can you show me on there the price of new gas during the same time frame?

>> Price of new gas?

>> Pool: Yeah. Did we see a slide earlier today on the --

>> Right. It's in the -- so the levelize -- so it's not comparable, right? This is the cost per megawatts hour of solar and the prices that we saw in that presentation from a speaker, Meyer, showed you the levelize cost of energy, right? So those are kind two of different things. The cost per mega watt hour for new gas -- so the new gas line we want to see, the efficiencies we're seeing with new equipment would be \$20. That's the marginal cost, right? And we would have to make up for the capital cost through that marginal cost. So doing that simple math, okay, not very simply, but at \$20 a megawatt hour that unit would essentially look at a \$30 average market price ten bucks a megawatt hour.

>> Pool: We would have to collide the cost of the gas plant.

>> We would have to include the interest on the debt for building the gas plant. What would happen the interest on the debt -- we think we can build this plant for about \$550 million, 6%, round Numbers here, would be about \$30 million. If you book ten bucks a megawatt hours it would be about \$30 million. At the very lease that plant would break en, right? That doesn't take into account load zone benefits which councilmember Zimmerman had brought up, whether it's here. So for every dollar per megawatt hour that plant reduces prices in Austin we would save about \$17 million a year, okay? So -- I don't want to

do all math right now because that's why we have the independent study and we're going to hire a consultant that will clear this all up for us.

>> Pool: The point I was driving to because it looked like overall that building a new gas implant the cost of gas ends up costing the city more than if we simply invest in additional solar.

[1:18:59 PM]

>> Well --

>> Pool: And I don't even need --

>> Okay, sure.

>> Pool: Okay, thank you.

>> We'll leave it to navigant. Any other questions?

>> Gallo: Mayor pro tem tovo?

>> Tovo: Yeah, thanks. I appreciate that line of questioning because I think it is very important, and I --

>> Sure.

>> Tovo: -- Concur with the question that councilmember pool arrived at. So I want to talk a little bit about this chart as well, and one of -- actually, a couple of individuals who followed the generation plan pointed out that this is a different -- this information is different in terms of costs of solar than was provided to the generation plan committee task force, in that the information they received was that solar costs are going to increase, and I think the number was about 2% in the increasing years. And here we see that it's actually decreasing quite considerably. So I guess my question to you would be has the market changes that drastically from the time they did their work or have your assumptions and modeling change -- what accounts for that difference?

>> Okay.

>> Tovo: I have another question as well.

>> I'm trying to remember what chart. I think what it did was took the itc and layered on the cost and said that prices would rise a little, 10, 15% going into the future. Yeah, that's right. I think we did use that input. You know, we just don't know what the prices are going forward until we get firm bids. I think this is good news. We have a firm bid under 40 and we can use that going forward. We do this with all our resources. It's the same thing with the installed cost of a gas plant, right? We just make assumptions and carry them forward, right? So -- and the cost of a new gas line, actually the efficiencies have been going down and we didn't predict that in our resource plan, that they would go down this much. Inputs are inputs and assumptions are assumptions.

>> Tovo: Good to know that they're nag our favor.

[1:20:59 PM]

>> Right.

>> Tovo: If we're a community, and I think we are, that wants to invest more heavily in renewables than we want to invest in gas.

>> Totally agree.

>> Tovo: It frankly makes gas look like even -- or I'll say it positively it makes renewables look like an even better option than it appeared to the generation task force plan they did, so some of those recommendations I think are -- could even have been enhanced and I think several -- at least one of the comments I received today is that, you know, there were questions raised about those costs, but in any case, as you said, changes happen. But I think that leads me to my second question, which is I see that you're projecting the costs are going down but I would wonder, since this is such a very low price compared to other options and compared to other contracts we've engaged in, why not do more solar

now?

>> If I could --

>> Larry wants to say something.

>> If you recall, when we did the -- Larry Weis, general manager. When we did the recurrent contract, that same question was asked, and our prediction was that the next contract we asked for would probably be less. So had we gone for through hundred megawatts of recurrent in 2014, we would not have gotten down to the lower prices. And I think that what Khalil is pointing out is that right now our forecast is that beyond this deal, is that it's going to go even cheaper. So that's kind of in the planning. And our staff, our expectation all along is that solar prices are going to go down. And the difference, though, is you have to consider a couple things when you look at the market. That's why I'm up here. Sort of at the whole global scale and the ERCOT market, the question you have to ask yourself is, if they're that good a deal, why is somebody not building a solar plant and simply selling it into the ERCOT market?

[1:23:00 PM]

And that's going to start happening when the prices get low enough. For example, wind projects in Texas, outside of the ones that CPS and Austin Energy have contracted for, those projects are merchant, which means they're getting paid out of the ERCOT market for the energy they're producing. As of yet, there is not any merchant solar plants in Texas, but they are coming. And so when the merchant plants start showing up, my belief is that we're going to start getting to the place where the price is really going to start creating a larger solar market in Texas, and I think that still will drive the prices down, irregardless of the ITC and the tax credits. So that's something that we really have to watch, to see what's happening in the marketplace overall. Just wanted to make that point.

>> I would also say, in defense of this, some of the inputs that we used, you know, this issue with really low prices is fairly new. I mean, I think it was ground breaking when we got that \$50 -- around \$50 a megawatt hour price, right? That's just about the time we started the resource plan, putting in solar inputs. I don't think anybody really in the market kind of envisioned what's going on here. So I can't say I can predict the future, but this is now a lot of us, the technology is actually declining at such a rate. I think we're all very happy about that, especially since our goals is so aggressive for solar.

>> Mayor Adler: Is this the first time -- you talk about recurrent being ground breaking at the time. I remember seeing a price for solar that is as low as this is.

>> Right so, again, we're breaking ground again yeah. I don't think there's a price -- I mean, the latest RFP, actually I've seen foreign, one was Dubai, so they got \$50 a megawatt hour and I think they were influenced by what they saw from our goal so she got this this year and Juror Donna is issuing a RFP for renewables, you're seeing them coming out, they call them tenders.

[1:25:11 PM]

Jordan might be seeing even lower prices than \$50 as well. This is all kind of new to the whole industry.

>> Mayor Adler: Okay. Thank you.

>> Are there any other questions? Councilmembers? Okay, thank you.

>> Okay. So some initial takeaway and I think we talked about a lot of stuff. Solar continues to exhibit a steady cost decline as technology improves. Good and bad news. Bad news is 18 months after our last contract we're seeing prices \$20 lower so there's a little bit of buyer's regret with the recurrent deal that we did, right? But, you know, that's part of the risk of being a bit of an early mover in the technology. Good news is we still need to buy a lot more solar and if it's going down, we like to see that. The reduction of the investment tax credit from 30 to 10, right now right now from the data we're seeing it's

not a driver to act big or immediate. Prices for 2017 to 2020, so post itc, are lower still if the itc is extended at 30% and only moderately higher if not. Right? So just to explain that, that point, that we got some bids that said, okay, if -- here's the price if you build by 2016, but if we build after 2016 and the itc was extended, then we'll give you an even lower price. And that kind of makes sense, with a 30% itc they're giving you an even lower price. It's less than a 4% adder right now. If we decided to buy 600 megawatts now versus 200 now and 400 later, using the bids that we have, right, we can just use the bids that we have now, by 200 now, 400 post-itc or buy all 600 now, the adder would only be 4%, which is, again, an indicator of how little the itc is affecting the prices. Direct build and ownership is also a tool we want to use post-itc because we want to retain that return on that -- that the developers are seeing right now.

[1:27:15 PM]

We want to bring that back to Austin and we can do that by building and owning the solar. For us the trend clearly suggests a measured approach. And we future future rfps will garner lower price opinions I'm almost done. Here are the quotes I mentioned. Jim Hughes is here for solar so I'll read directly, Hughes called the expiration of the itc irrelevant, saying in 18 months we will overcome the cost delta resulting in the cost drop from 30 to 10%. I fully believe within ten years we'll be talking about 3-cent from sole. Next steps, today you authorize independent review. We're going to complete detail analysis like I showed we have about 150 offers. That's a lot of work for our guys. Due diligence and we start negotiations. We're already talking to all these developers, clarifying the bids, you know, trying to figure out, you know, whether they're -- what they're -- you know, what their pain points are. So that all is ongoing. None of that is going to stop just because of the independent review. September /October we complete the independent review and we're hoping that in October we come back with recommendations based on what the consultant does in the independent review and all our contract negotiations for the rfp for solar. That's it.

>> Gallo: Councilmember Zimmerman.

>> Zimmerman: Before you go on, we're talking pricing. Most of this stuff is coming from China, is it not?

>> A lot of the panels being built right now are in the far east, not just China.

>> Zimmerman: Far east countries. The reason that's important, isn't there a potential currency risk because the prices presume some exchange, right, of the current U.S. Dollar?

>> Right and that risk doesn't come to Austin energy. It's to the developer. Because we lock in a price and they have to figure it out after that.

[1:29:16 PM]

>> Zimmerman: Interesting, okay. But when they're speculating about future prices they're not making any speculation about currency trends, right? They're just -- they're assuming base -- that the currency stays as it is now, the exchange rates?

>> The developers make all sorts of both assessments and foreign currency risk is a risk they assess and they also hedge that in different ways, either by building their factories overseas or importing at sentiments or taking hedges. Yeah, they take that all into account.

>> Gallo: Councilmember pool.

>> Pool: Thank you, chair. I just wanted to reconfirm, doesn't the gen plan state that a goal for Austin energy is to purchase the 600 megawatts of utility scale solar by -- in 2015 and then contract for up to this amount by 2017 if available and affordable.

>> If it's available and affordable, yes. So the -- what the -- let's go back there. So this is what was adopted, right? And all it says is issue the request for proposal. The plan itself outlined like a deployment

schedule, which said we'll buy 200 now. This was based on optimized economic model. By 200 now and build and buy about 400 megawatts later and then in the verbiage, about two pages after this, it says if affordable and available, go ahead and buy the 600 megawatts. Well, it's not going to be affordable if we buy 600 megawatts all right now. It will be above market.

>> Pool: At the 40 -- what was the number that you had previously?

>> I can't tell you the number.

>> Pool: Okay.

>> Yeah, at the Numbers that we're seeing, it would not be affordable to take all 600 megawatts.

>> Pool: Are you saying that -- it will be cheaper in three years to do more purchase?

[1:31:16 PM]

>> Possible, yeah.

>> Pool: Okay. Can I ask a couple of questions about the amount of theoretical we've already bought? I think we signed a contract last year for 150 megawatts.

>> That's correct.

>> Pool: I think y'all were hoping it would reduce rates, although maybe not much.

>> What's that? I'm sorry?

>> Pool: I think it was a statement that Mr. Weiss made, that the solar contract that was signed last year for 150 megawatts would reduce rates, although maybe not much.

>> Over the long-term, it would not reduce rates over the short term, you know, at the \$50-megawatt hour price it would definitely raise the psa going forward.

>> I think the key if you look at the breakdown of the bill, all of these purchase power agreements, are power supply adjustment. We did a long-term rfa forecast when we with did a recurrent deal that it would drop the psa slightly with the recurrent acquisition. I think while I have the mic too on -- on the recurrent, is that the other issue that we're watching is to make sure these projects come online. Okay? So the recurrent project is not energized as of yet, and we want to make sure that they are going to form and we have -- we have -- there's money involved if they don't perform but still at the same time from a matter of business we want do make sure that these projects go online and are executed nap being -- that being said, if we did a really big contract with someone and something happened and that contractor never performed, then we have to go through the process again. So that is in our thinking too, as we continue to acquire the solar projects, they're going to get cheaper and maybe we diversify those we do business with somewhat.

[1:33:20 PM]

So there's some benefits do that. Again, I'm really curious personally to watch and for our utility to watch what's going to happen this the marketplace. If these are the kinds of prices and trends, then we should be seeing developers build these strictly to sell into the ercot market.

>> Pool: Without the ppas.

>> Without any ratepayers have to support that in in ercot market.

>> Pool: Are you able, Mr. Weiss, to say whether you have bids that are lower or similar contract costs as the one that we already have? Are you able to say?

>> Lower.

>> Pool: Okay. Is it equal to or more than the 600 megawatts?

>> Well, my -- ca little explained it one way, I can explain it another. I can get another one of us up here to explain it another way. The way I look at it, first of all 600 megawatts of solar produces X amount of energy over a curve. Those are different types of resources than you have with any kind of machine that

would generate power 24/7 flat and inside of our load. So what you have to have is you have to have a diversity of the resources. We need some wind. We need some solar. We need some --

>> Pool: Agree.

>> Clean natural gas.

>> Pool: I agree online the wind and solar.

>> I know you do. We do too. But we also have very large utility to run against an ERCOT market and you have to really fundamentally understand that the ERCOT market is unique. These kinds of things can't happen in other parts of the country. It's a very unique market in the way we operate. We buy all of the power off of it. And we, like all of our solar projects, for example, are being used by virtue of the ERCOT market, not just people in Austin, not our customers. It's being used by the grid. We are supporting the advancement of solar being built in ERCOT. If you think about it that way.

[1:35:21 PM]

And wind. Now, wind, as merchant generate generators, companies went scout built -- they did not need our help or any other utility's help. The solar industry, we are really in a way making it happen by acquiring and doing deals for these resources to enable the developer to build and bring them online to meet our goals and for them to have that happen. I guess what I'm saying is, now I'd like to see some of these developers step up and build these without a purchase power agreement just to sell them into the ERCOT market and I think at these prices that we're getting to, I think that's going to start happening.

>> Pool: That's what I'm understanding also. Could I just ask staff to take down the -- that picture there so that people can see the commentary online?

>> Oh.

>> Pool: We're looking for the subtitles.

>> Closed captioning?

>> Pool: Yes.

>> I have to use it lots of time too.

[Laughter]

>> Pool: And then I just wanted to say that the \$40, \$35, that seems pretty affordable to me. But if you think they will go lower, maybe down to \$20, that's great. Terrific.

>> That's right. I mean, I think our goal is to reach 55% renewables by 2025, and with solar prices going down right now, the way they are, I don't think we want to be in a position of buyers' regret, with folks buying it in two years at even lower prices than we did. So we're going to buy 600 megawatts. We're going to build 600 megawatts. All we're saying is let's symptomatic a little we think kind of makes sense, we're willing to pay a little premium up front, right, but we also want to manage cost expectations going forward. And whether the cost declines aren't going forward.

>> Pool: Right. I think we want the same thing. I think we have two different approaches to get there, and we'll be working, working on that.

[1:37:23 PM]

>> Sure.

>> Pool: Thanks.

>> Gallo: Council, any other questions? Councilmember Zimmerman.

>> Zimmerman: Yes, I'm feeling some frustration rising here because I think the question of dispatchable versus non-dispatchable power which is an incredibly important concept still isn't being appreciated on the dais. Okay? So maybe I have a suggestion to try to get this important education across. Here's what let's do. When the sun goes down and the wind stops blowing, Austin energy needs to turn off all the

power. Then we'll have some education on what it means to have dispatchable versus non-dispatchable renewable power.

>> Let me answer --

>> Zimmerman: Because there's still no appreciation of the important distinction between the two.

>> Let me address that. And let me just say, it doesn't matter. It doesn't matter because of the market that we operate in. This is an energy-only market. And Austin energy, a number of years ago, used to operate all of our generation against our load. We used to dispatch every day against our load. We ran our own control area is what it's called, balancing authority. Today we're an energy-only market. All of our customers are buying off the grid whatever that energy is. That energy could be anything. The way the physics work, we really don't keep track of what it is. So all of our loads are being met off the grid, and energy is being acquired by price, by ERCOT. Now, when you're a solar producer or a wind producer, you're going to sell into ERCOT at a loss, frankly, some days, or at a gain because you really don't dispatch it, to your point. Now for Decker, we can press a button and turn it on, turn it off. The steam units. We're only going to turn those on if we have an economic reason to do it. If you have a renewable resource, it's going to run with the weather. It's going to run with the weather. So it's really a different resource, and it collectively the amount of energy renewables produce in the market is small compared to the overall grid need, and the real question is going to come, what happens when the renewable amount is so big that it really outweighs the other dispatch convention?

[1:39:43 PM]

What are you going to do with it? Today what happens in a lot of Zones inside of ERCOT, what happens today is schedules are cut. People can't move their wind energy into the market. So what they do is offer negative pricing. So, in other words, they're paying us to take it. ERCOT to take it. And so these markets are really what drives the difference there. So I know it's frustrating because you read in other parts -- the argument is, well, it's not dispatchable, but I just -- the way I explain it to folks is that not that it doesn't matter, but it's just a different way of thinking about it in the ERCOT market the way we operate. We're an energy-only market. Austin energy does not against this load. We dispatch it against the economics of what we get paid for.

>> Zimmerman: I appreciate all that. But still, in principle, we're talking about physics here, if the entire market decided to go renewable, seems to be a great idea. What I just said to start with would be true. If the entire market says we're all going renewable, okay, sun goes down, wind stops blowing, everything shuts off. That is in principle what's happening with the renewables. I understand we have a market where there's dispatchable power available any time Austin energy needs it. Got that.

>> It's what people do when they -- I don't know, I guess an analogy would be when we make our first trip to Mars, I would imagine that during the daytime they'll be charging their batteries to run at night. And maybe that's what -- or they will be run something kind of fuel cell or doing something else. Maybe that's where we're headed with innovation in our industry, headed toward a storage market and who knows how that works. You're right, for the time being, you cannot dominate a control area, if you will, with too much renewable because the way you dispatch against that becomes very difficult. They're dealing with that in California. You can read about it the Cal ISO, in the afternoon they've got so much solar on it starts to drop so fast they can't bring other generation on fast enough to keep up with it.

[1:41:53 PM]

There's a lot of planning going on to deal with what you're talking about. It's not happening overnight, right? We've got time to plan for it and work with it.

>> Gallo: Councilmember Garza.

>> Garza: Bear with me on this question because this is a lot to grasp, but if everybody -- if we're predicting that prices are going down and if everybody is waiting for that to happen, doesn't that affect the price? If people aren't buying -- are contracting now? Wouldn't that affect the price down the road?

>> Sure. I mean, demand affects price always. And supply and demand affects price. But so far whatever supply and demand we're seeing it is not just Texas, right? These prices are a reflection of an industry. So there's demand all over the world for solar, right? And right now that demand and the supply that we have is driving prices downwards and we don't see where it wouldn't continue to do that.

>> Garza: I thought you said earlier in the presentation that the prices were a lot lower than we expected. And then in response to councilmember pool's question you said that you wouldn't consider them affordable. And how are -- how are --

>> Right.

>> Garza: How do we reconcile those two?

>> Well, over the near term, over the next few years, those prices -- because our forecasts show energy prices in general go up, right? That's why when we brought the recurrent contract around \$50, we said over 20 years we expect our psa to go down -- actually we said it would be even to a bit lower. That was the exact analysis over 20 years. So we would take a little bit of a loss in the beginning and as energy prices went up we would start to make money, and the two would wipe each other out and it would be economic over the long-term. It would look even better but even at these prices for the next few years with energy prices this low, until they start going up, and with the dispatchability of solar, we will not be making money on these rfps right now, in the next few years.

[1:43:56 PM]

>> Garza: Okay. Thank you.

>> Gallo: Council, any other questions? Okay. Thank you very much. Thank you for being patient with our questions.

>> Sure, yeah. My pleasure.

>> Gallo: Next on the agenda is another briefing, item number 8, briefing and discussion regarding the demand charge report and current demand charges as they relate to small business.

>> Good afternoon. Thank you for having me back. This morning, I spoke to you about the process at a high level for Austin energy to conduct a cost of service study. This item now in contrast is more down in the weeds of rate making. More textbook-like. It's a little challenging for me to have this conversation with you on this topic because we really haven't had a chance yet to discuss rates and rate making and regulatory policy. So to avoid dragging you down into what could become a confusing economics lecture, I'm going to try my best to present to you some very technical concepts at a more conversational level. We've provided you a cheat sheet at your desk, which on one side has the rates for the customers we're talking about that I'll describe. And then on the other side has some definitions that will be -- I'll be referring to as we go along. The first concept that I want to introduce to you is demand. It's the second box on the cheat sheet. And demand is the minimum -- maximum amount of power used by a customer at one point in time. In other words, it's peak usage.

[1:45:57 PM]

And we measure peak usage in 15-minute increments. So demand is the -- we think of as the highest 15-minute peak of a customer during a month. So why do we care about demand? And the reason we do is that costs are driven by peak. And in rate making, it's a standard rate making principle that you do your best to align rates with the drivers of costs. So we try -- we create demand charges or charges for peak usage because costs are driven by peak and we're trying to align the way we collect revenue with the

way costs are incurred. Before 2012, we had a demand charge, a peak charge, for customers above 20 kilowatts of peak usage. Now, I think a large house in Austin has peak monthly usage of about 5 kilowatts. That's when your air conditioner goes on and your refrigerator cycled and other pieces of equipment in your home all go on together. So that's about 5 kilowatts of peak. Before 2012 we had demand charges for customers above 20 kilowatts of peak usage. So about four times the size of a large home. In the 2012 rate proceeding, the council approved changing the assignment of charges for peak users to commercial customers at 10 kilowatts. So about twice the size of a large home. Last spring and summer, and -- some small commercial customers approached the council and members of the electric utility commission about what they considered excessive demand charges for customers in this range of the 10 to 20-kilowatt customers who after 2012 had peak demand charges for the first time.

[1:47:59 PM]

Council passed a resolution last summer, calling for a study evaluating the impact of demand charges on these small commercial customers. We hired, as I mentioned earlier today, new gen to support the cost of service study, this is the first study they complete and I think they did a very nice job on the study. We presented the study to the euc in March and send you all a memo describing the study and the key takeaways from the study in April. And then mayor pro tem requested that we prereprise the presentation by seeing you today. I'm going to walk through the methodology of the study very quickly and I want to be clear that this study is about customers in what we call secondary voltage class two, sometimes we refer to these as s2 customers or mid sized commercial customers. These are the non-residential accounts that receive power at secondary service who are between 10 and 50 kilowatts of demand, so about twice the size of a large home to maybe a little smaller than a fast food restaurant kind of range of size of customers. In the study, the consultants reviewed the usage characteristics of all the customers in this k2 class from 10 kilowatts to 50 kilowatts. They conducted a focus group and spoke with some individual customers, and those were actually customers who council had referred to us last summer, and I gave the names of those customers to the consultant. They reviewed the rate design for these mid-sized commercial customers and a number of other entities for benchmarking. They looked at two inventor-owned utilities, they looked at three large, local power utilities, San Antonio, pedernales electric cooperative, bluebonnet, both of which have contiguous territory with ours and they looked at national public power companies with commitments to renewables and efficiencies.

[1:50:21 PM]

Those were the Los Angeles department of water and power, the Sacramento municipal utility district, and fort Collins, Colorado, electric utility. And they bench marked the effective rates of the customers in this class against those other utilities. I'm going to divide the observations about the study into some different categories. First is about the characteristics that the consultants revealed about Austin energy's customers in this customer class. First off, you'll father-in-law a comment this morning that our rates today are based on the characteristics of our customers in 2009. The consultants looked at the customer, a full data set of these customers from 2011 through 2014. What they found is that the characteristics of this customer class had changed a lot since 2009, the 2009 study, I think which reinforces the timeliness of the cost of service study we discussed this morning. They found first that there's a significant increase in the number of customers in this customer class from about 10,000 customers to over 13,000 customers is that there's a decrease in the entire customer class in average demand. So overall for these customers peak usage is lower now than it was in the 2009 data. And, also, the average energy usage of these customers is smaller. They also found that there's been a shift in the seasonal peak. In 2009, these customers as a group had peak usage in the summer. In the updated data

set, these customers have peak usage this the winter, which lowers costs for service for all of our customers and these customers also had a significant increase in load factor. And load factor is the second concept that I want to introduce to you.

[1:52:25 PM]

Load factor is about how much power a customer uses compared to how much power they have the potential to use. In other terms, load factor is about whether a customer's use is very spiky or very steady. So on the cheat sheet we mentioned a grocery store has refrigerators used all the time so the usage of a grocery store is very steady but, for instance, a gym might have to crank up the air conditioner for the afternoon rush so their usage is very spiky. That is factor. The load factor is important because customers that are spiky are more expensive to serve and customers that are steady are less expensive to serve. And with our rates, we try and send price signals that are consistent with our rate design objectives. Our objective to match rates with the drivers of costs. So the study showed that we have higher average electricity costs for customers with low load factors is in other words, higher average costs for spiky customers, and lower average cost for customers that are steady. And that is a positive outcome that shows that our rate design is aligned with the cost drivers of providing electric service. The study also showed that there is some evidence that customers are responding to the price signals that we have embedded in customer rates. So that's the change in the characteristics that I mentioned, that there is lower summer peak and now the peak for this customer class is in the winter. There's lower average usage, and there's just generally lower peak usage. The third concept I need to introduce to you is called power factor.

[1:54:29 PM]

Power factor is the efficiency with which a customer uses electricity. This is mostly relevant to customers that have machinery like motors. It takes a lot of power to start up a motor. And that power comes from the grid. And in an efficient motor, so it might be a printing press or the thing that drives the clothes moving around in a dry cleaner that's run by an motor. An inefficient motor takes a lot of power from the grid to start, and an efficient motor takes a little power from the grid to start. And because of something having to do with physics that I don't really understand, with an inefficient motor, more power is drawn from the grid than we're actually able to record in meters. So the customer customer is tagging more more than we're measuring. In other words we're billing them on the amount of power we can measure, which means other customers are paying the cost of the inefficiency of customer equipment and motors. That's power factor. These customers who have low power factors are being subsidized by other customers. In addition, ERCOT has requirements on us as a system to have a certain level of power factor across our whole system. We make capital investments to keep that power factor high. Those capital investments can be shared by all the customers in our system or the costs for those capital investments can be directed toward the customers with poor power factor causing us to have to make those investments. The really interesting result of this study -- and it was an unexpected result to us, is that the high charges that some customers perceive that they are having is not necessarily due to just the demand charge or the peak charge.

[1:56:36 PM]

What the study revealed is that the high charges that some customers are having are for customers who have both a demand charge and a poor power factor so that they are paying the power factor charge as well. I should mention that the power factor charge raises your demand charge. If you're already paying

a demand charge, you pay the power factor penalty, it raises the cost through your demand charge. The study showed in fact that of the 13,000 customers in this s2 customer class, there are 185 who are significantly affected by the power factor penalty on top of the demand charges. And I think that's the key -- one of the key takeaways for us, is that there is a limited set of customers who have a significant impact of the new rate structure as opposed to the entire class of 13,000 customers. Some key observations from the study in the comparison and benchmarking to other utilities. First is there's a lot of diversity across the state in how customer classes are designed. We designed our new customer class to have a breaking point at 10 kilowatts. But in Texas virtually all the utilities that are regulated by the public utility commission and we're regulated on appeal by the public utility commission have this same cutoff of 10 kilowatts. So we're consistent with entities that appear before the public utility commission, where virtually all of them have a cutoff at 10 kilowatts. But there is diversity in how demand charges are designed among the different customers -- companies. We also reviewed the average rate by load factor. The average rate by spikiness or steadiness at these other companies.

[1:58:41 PM]

What we found is that the rip here is steeper than for many of the other customers. So, low factor customers, very spiky customers who we intend to pay higher costs, have a steeper increase in Austin than on the other benchmark companies, and high load factor customers, the customers who should be paying less per unit, are paying even less in Austin than in other companies. So our rates are a little more extreme for these customers, the low load factor customers are paying a little more per unit than our benchmark and the high load factor customers are paying a little less per unit than our benchmark soigne the key takeaways, -- so again on the key takeaways, I think the most illuminating thing for us, power issue may be more than demand so any rate adjustments that we make should first be targeted towards the customers who are feeling the effects of this power factor adjustment. This is a great opportunity for targeted energy efficiency programs toward these customers with low power factors. And in fact we now have two dedicated customer account reps who are trying to market to these customers new equipment -- our rebate programs for new equipment, new machinery updated motors, et cetera. It's a clear takeaway from the study that our rates are providing the economic signals that they were intended to. Low load factor customers, the customers who are very spikey, are paying more on average and high load factor customers, the customers who are very steady, are paying less on average.

[2:00:45 PM]

And that's consistent with the incentives that are embedded in our rates, that are embedded in our rates because they're intended to achieve the goals that the council has set for us on energy efficiency and conservation. Were we to drop the demand charges for these customers, we would find that we were penalizing the efficient customers and rewarding the inefficient customers to some extent. We would be reversing the incentives that are in our rate structure designed to achieve our energy efficiency goals. And I think as I mentioned the study shows that there's significant changes in the character of the customer class and updating of the cost of service study and the cost of service study results are appropriate before moving forward with any changes. We had a brief conversation about this earlier that this is an issue that is very ripe for our upcoming cost of service study. We believe it should be addressed in the cost of service study because any changes in the rate structure for this set of customers then has impacts on other customers and impacts on revenues that are not entirely clear at this time. That's what I have for you. I'm happy to answer your questions.

>> Gallo: Councilmembers, any questions? You have been so incredibly thorough, there are no questions

here.

>> All right. Thank you.

>> Gallo: Thank you so much for the presentation.

>> Tovo: Councilmember Gallo, I guess I do.

>> Gallo: Not yet.

>> Tovo: I want to think about this more and talk with you, Mr. Dreyfus, but I think back to some of the customers who contacted our office that actually is one of the reasons why we brought forward the resolution to take a look at this issue in particular, and I'm just a little concerned.

[2:02:50 PM]

There were a lot of customers, as you've more or less indicated, who got caught up in this who may have their business open a couple of days a week or something like that. And so I guess I want to talk through what some of our other options are and it seems to me one option could be that we make adjustment, come back to 20, which is where it was before the rate case and during the cost of study service, look at whether that's the rate place to land. So as you mentioned, the other cities within the p.u.c.'s jurisdiction are at 10, but am I right that thinking that beyond Texas, I think we saw some examples where it was a little different.

>> There is great diversity, but the utilities divided by the public utility on rates are pretty consistent in this regard. I think our preference would be to try and identify targeted changes for the customers with the greatest impacts rather than a wholesale change to the thousand is of customers we're talking about in the 10 to 20-kilowatt range because if you think about it, if we take those customers and move them off demand charges, some of them will have lower rates. Some of them are going to have higher rates. And I think that impacts a little unpredictable, but again as I said, you're kind of rewarding the customers whose usage is inefficient and penalizing the customers whose usage is efficient. We would like to target the customers with the largest impact and reaching out to them with energy efficiency programs. But as you said there are some customers because of their process, because of the equipment they have, because of the time of day they use it -- day they use it who are more challenged than others and that's true and unavoidable. I would like to say one practical thing from the utility's perspective, and that is that as you know, changes to our billing system are sometimes complex and among the most complex changes in our billing system is adjusting customers across customer classes.

[2:05:05 PM]

So if we were to say we're going to take all the 10 to 20 kw customers and move them into the small commercial class and make the small commercial class now below 20 kw, that is a challenging, time consuming and expensive change. We'd like to do it once at the end of the rate proceeding next year rather than perhaps do it twice, a lengthy process to make those changes now and have to make other changes a year from now at the end of the rate proceeding.

>> Tovo: I appreciate that because I know you've issued that caution before about how long it takes to make those changes. I guess I just have to express how frustrating it is, as much money as we've spent on a billing system, that it's not more nimble and can't adjust to changes in rates and other things. It -- almost every time we're having a discussion about making changes, we have to confront the fact that the billing system is -- takes a lot of energy and effort and frankly a a ton of money to manage.

>> We've talked about this. The billing system is very powerful, but it is complex software and there's all these relationships built into the software. And so to make significant changes like this is time consuming and costly.

>> Tovo: But anyway, getting back to the point we were talking about with regard to customers and

pricing signals, I guess I still think about the couple of customers -- one I remember had a hair salon and as I recall her bills really, really jumped because again she was open two or three days a week. I'm not sure -- I'm not sure that that's the kind of customer that really benefits from going in there and installing energy efficiency equipment or strategies. I don't know she needs to be sent a pricing signal because she needs to operate her business in the hours she has the capability of doing that. And frankly, she wasn't the only one. There were a lot of small businesses stepping up. As we heard earlier from the executive of abia, 70% of small businesses in Austin don't own their own property and are unlikely or may not be allowed to invest in energy efficiency measures.

[2:07:20 PM]

It's just a dilemma really.

>> That's a continual challenge for us. The property that's rented and I think that's one of the reasons that we adopted the ecad, the -- darn it.

>> Energy, could that be the first?

>> It's escaping me. But the ecad ordinance, which requires us to go out and conduct and work with building owners to conduct energy audits, make improvements in homes and -- I'm sorry, in commercial spaces and provide that information to customers and potential customers as they're leasing that space.

>> Tovo: Thank you.

>> I wanted to address one comment about the billing system. Let me assure you that Austin energy, we bill for all utility services. And so one of the critical time pieces for us is we roll through the budget, any changes to water, electric, any of that all comes along so we have a stream of projects that go along when we change that, but from my perspective, our operation of the Oracle CC and B system is going very well. And we definitely respect that. I think the other thing I wanted to comment is that I personally helped a couple of customers myself with their issue. One had a pilates studio and her issue was lighting. She had so many high wattage lights that were in the studio, triple net lease, and so I suggested that she change those all out to led. And it fixed the problem. I know that that's what's happening with a lot of our energy efficiency folks, Debbie Kimberly's group, I've asked her to reach out to them on an individual basis and try to solve those. And as the council knows, we went from very antiquated rates that we had in place for a long time and those rates were frankly -- a lot of these small commercial customers, very under cost of service.

[2:09:32 PM]

And we've come up and that was a very painful step. And I think that part of that is we're going through that and we are trying to reach out to all of those customers and help them. So I think that anybody listening or any downtown association or any tenant, particularly triple net lease commercial space, we stand ready to help people. So we can work through it.

>> Energy conservation audit and disclosure ordinance.

>> Gallo: Any other questions, councilmembers? Thank you very, very much. You look like you needed to say something.

>> No.

>> Gallo: Okay.

>> I'm just thinking you might say something about the next meeting or something like that. I don't know.

>> Gallo: I think we're good for now.

>> All right.

>> Gallo: Thank you. I believe that is the end of our agenda, if I could have a motion to adjourn, we will

adjourn this month's Austin energy council committee meeting. Never mind, a I'm told I need a motion. We are finished.

>> Mayor Adler: All right. That gets us to the city council meeting. , We're reconvening. We have two matters. One's a briefing. One is a business deal. Let's do the briefing first. Is Mr. Washington here? Is he coming? While we're waiting for Mr. Washington to come, we had a public hearing scheduled on item number 25, which was red bluff.

[2:11:32 PM]

We're going to go ahead and postpone that matter to the zoning meeting in August, August 13th. Mr. Zimmerman moves to postpone. Ms. Gallo seconds. Any objection to the postponement? Hearing none, that matter is postponed by unanimous vote, Ms. Houston off the dais. So council, let me talk to you for a second about the personnel matter that's on here, as Mr. Washington is coming up to the dais. We have certain appointees that we make. This was to begin the conversation about what kind of process we want to use to evaluate our appointees. What I've asked staff to do, and I've asked both hr, Mr. Washington, and the auditor to be with us today in case we had questions for either or both of them on what kind of procedure we might follow. This would include personnel evaluation of the manager. My thought was that we would have just a general briefing and questions on that today. We could think about how we wanted to approach this over the month of July and then when we reconvene as a group in August, we could then set and determine what that process is going to be like. So no action to be taken today on this issue, but as Mr. Washington -- ask Mr. Washington to begin by just telling us, laying out some of the issues or background associated with this evaluation. I have some questions for the auditor, the role the auditor may or may not play in this for us.

[2:13:34 PM]

Then as I say again, we'll go away for July, come back the first week or two in August. We'll sit down and adopt the practice that we want to go ahead and use. Make sense? Mr. Washington, I think you have a powerpoint for us today. Why don't you teach us about personnel evaluations?

>> Thank you, mayor. As you said, I'll share a little bit of background and also cover -- highlight what the last council adopted as part of the evaluation process for all of the council appointees in the annual review based on 2013 resolution. I would highlight for you that even though the resolution has been adopted since 2013, that process has not been followed. So I will also highlight what is the current practice that has been used by the last council in light of the adopted resolution. And as the mayor said, also tee up some issues that this council may want to consider in the future moving forward and then practically speak or to get some direction from the council on the evaluation schedule. So just in general, the ideal process for providing performance feedback for employees in general or directors, executives, even frontline employees, would begin with a planning discussion highlighting agreed upon goals, objectives and deliverables to be accomplished over the evaluation period. And between the time the planning meeting occurs and what is at the 6:00 box, the evaluation.

>> There would be ongoing discussion and feedback based on the progress being made or the revision of goals that have been made since the planning meeting.

[2:15:39 PM]

And then at the end of the performance period in which most instances is about a year in this organization, particularly with the appointees, there would be a formal appraisal or evaluation of what has been accomplished over that performance period. And then discussions about either some type of

reward or recognition that is affiliated with successful performance. And that's a typical process for evaluation. I will say where evaluations have failed in the past in general is when the majority of what is discussed is just the evaluation and they're not clearly agreed upon goals or expectations that are established at the beginning of the evaluation period. Currently the council has evaluated annually for its appointees. The city manager, the city auditor clerk and the municipal court clerk, the judges are appointed every four years and the preceding judge evaluates all the other judges in the interim years. The council does not evaluate the presiding judge annually because they're -- Ms. Crawford can advise, but I do not believe that the council can remove the residing judge because of legal parameters. The annual review is conducted for those four appointees. It has been the practice for that to be conducted in closed session, in executive session as a personnel matter, and after the item is posted for executive session, the council has in the past had additional conversation about pay and benefits and have decided in public what changes would occur to any pay or Pitts benefits for the appointees.

[2:17:56 PM]

Prior to 2013 there were no formal forms used during the evaluation process. The council in 2013 did initiate a process change that established the forms. I believe that information has been provided to you along with the copy of the powerpoint presentation and you will see the written forms that was approved for each of the four appointees that formalizes the process and in general what it requires is by resolution the council required an expectation that each councilmember would complete and submit their review of each appointee and score the different sections of the evaluation and submit those scores to the human resources department within five days of the posted evaluation. Our department would then compile and average a score for each of the appointees as well as any commentary that the council would make about individual's performance and submit a report of that-- summarized report, analyzed report of the scores and results during the executive session when the evaluation occurred. Again, that was a process that was outlined in 2013. That has not been used. Just a little bit more information about the form itself, there are quantitative elements of the form that has multiple categories that vaults the appointees ability to manage staff orifice kel management and it varies based on who the appointee is, but each item is -- has categories and subcategories in which the council can rate someone on a scale of one to five with five being the highest.

[2:20:06 PM]

So if you look at the forms the city manager has 10 categories and each of those categories has subcategories so there are about 49 items that are evaluated or rated on on the city manager's evaluation in addition to the commentary. The city auditor has seven categories, 33 subcategories and you will see the others for the other appointees. So that is almost 150 items that has to be rated by each councilmember. And again there is a narrative portion and some open-ended questions that can occur in dialogue with the appointee. As I mentioned before there's the process. The process has been that the evaluation has been discuss based. That there's been no forms used even after 2013 when the resolution passed, 2014, all of the appointees did have conversations with the council in closed session. They did report on their progress over the year as I understand it. And their accomplishments. And again, the evaluations were discussion based. So I was asked by the mayor just to share some of the other practices in addition to what the current practice is, and the current resolution, and how other executives either in this organization or outside this organization would experience some type of performance appraisal. And in our organization as well as others, there's an opportunity for employees to self-appraise. And I'm speaking of the other department directors and assistant directors in which they would self identify or self evaluate their performance and ratings. And then their respective

supervisor would also evaluate them in consideration of what their self ratings were.

[2:22:16 PM]

Within the performance evaluation for other executives there are typically three to five agreed upon major goals or objectives. There could be more. But typically it's three to five major business goals are to be accomplished. And those are evaluated and ranked on a score of one to five and there are multiple competencies and we have organizational competencies that we identify. There are 15 that all executives should model and be proficient in. There are 10 competencies for all managers and five competency S.S.I.S for all employees. And the evaluation allows a discussion based on those kind of leadership attributes and competencies either dealing from anything from leadership style, management ability, diversion, communication, and there's a discussion that occurs based on those competencies and a person is ranked overall. It's a pretty simple tool with essentially you rate each of the major goals and give an overall rating on someone's competencies and take an average score of those. There's also an opportunity for personal and professional development that occurs, and that is between the supervisor and the employee.

>> Mayor Adler: Ms. Pool?

>> Pool: I have a question, back on page 5. I was just curious your item number 1, the forms that councilmembers completed would be submitted to the human resources director. I don't know what the council will do this year as far as forms because I know if we fill them out they become public record and that's an important consideration. But I might suggest that we employ -- possibly test maybe the city auditor or other person, somebody who doesn't already report in the chain of command to somebody who happens to be in the evaluation.

[2:24:21 PM]

Just to help with any kind of awkward situations that may or may not occur.

>> Mayor Adler: We have the auditor here with us today. There were some questions about that, so I asked her to join us as well. Mr. Washington, please proceed.

>> Okay. So some of the possible considerations that the council should be clear upon is the exact performance period. And that has varied over time. Is it fiscal year, is it a calendar year? Is it just a year from the date of the evaluation? And it again as I mentioned has varied in terms of the exact time. Typically now the past council amended to have evaluations occur in June, the summer months, and that's the most recent practice. But it is not -- doesn't allow for a full fiscal year nor a full calendar year. And so that's an opportunity for this council to consider when would be the appropriate timing of the evaluation. Also, a self-evaluation component that I alluded to earlier that allows the appointee to self-appraise. And again, whether or not the forms that have been provided -- sandy by the previous council will continue to be used or there's some desire for additional forms. And the other discussion the mayor and I had was a practice that occurs sometimes in our organization, and that is the concept of 360-degree feedback. Typically you could receive feedback from superiors, peers, subordinates or even end users in terms of giving feedback on some dimensions of the job.

[2:26:35 PM]

This feedback is -- it is subjective to some degree. It's not necessarily quantitative. And so what we have done in this organization whenever we use 360-degree feedback, we have used it, but we've done it for developmental purposes. We've had outside -- sometimes we've done it internally. In other instances we've had external -- people external to the organization.

>> [Inaudible].

>> Mayor Adler: What is a 360 review?

>> It is an opportunity for other people to provide feedback in the evaluation process, and that would be feedback coming from an employee's superiors, supervisors, feedback coming from an employee's peers or customers, and feedback coming from an employee's subordinates. And getting different perspectives as part of the evaluation process. And as I alluded to earlier, we have -- we have utilized that within the organization, but it has not been during the annual evaluation process. It has been used for developmental purposes in order to give people a different perspective of their abilities or leadership for areas of opportunities for growth and improvement.

>> Mayor Adler: Yes, Mr. Zimmerman?

>> Zimmerman: Before you go on, on the 360 review, obviously there are some subordinates who could be racially fearful of retaliation if they don't give a good review of their manager. So when those things are done are those in confidence or do they -- how does that work? Are they anonymous?

>> My experience has been the feedback is reported anonymously, but it is clustered.

[2:28:35 PM]

So there are multiple raters. So if you had five or six subordinates. If a person had 20 or 30 subordinates, five had feedback, it would be difficult for them to decide who was providing feedback, unless they self disclosed, which is always an option. But it is clustered and anonymous.

>> Mayor Adler: Please provide. I'm sorry, Ms. Tovo.

>> Tovo: That's a good question and my next one is how do you identify some subordinates will be selected to provide information? Do you send all 20 of them in the scenario you just described do you send all 20 of them comment forms and give them the ability to comment or you or whoever we task with that select five among the 20? Or what?

>> There are varied approach. In a developmental approach sometimes the participants are identified by the person who is evaluating, who is being evaluated and saying -- asking the person to provide feedback, giving them the list of people who they may contact. In other instances it's sent to all of the direct reports of a person. That's on the subordinate level. For peer feedback there would have to be some identification that could typically involve the appraiser, the person being appraised in helping to identify possible participants in the 360-degree feedback.

>> Tovo: And so I think the two options you described that relate to the identification of subordinates, one would be that the person evaluating picks those.

[2:30:37 PM]

The other would be that somebody else solicits a bunch and see who -- sees who responds.

>> That's correct.

>> Tovo: Thank you.

>> Mayor Adler: Thank you. Please proceed.

>> Okay. Relative to councilmember pool's earlier question, so the evaluation process is --

>> Mayor Adler: Mr. Washington, I may have missed it. The last item that was on page 9, public versus closed session --

>> Thank you very much. Relative to the actual discussion, the evaluation that's conducted in closed session is the privilege of the person who is being evaluated. And so if the person that is being evaluated requests to have the evaluation conducted in open session, the council would have to honor that. So it is that -- the evaluatees's privilege. I would ask if Mr. Crawford had anything to add to that.

>> You stated it correctly.

>> Mayor Adler: So the distinction is you're talking about process or systems or how we approach, that's a conversation that happens out here on this dais. When we're talking about any individual appointee or their performance, their situation, that's a kind of conversation that occurs in executive session, absent a request for it to be held out at the dais.

>> That's correct.

>> Mayor Adler: Okay. Thank you.

>> Okay. The support during the evaluation process has been provided by the human resources department. Since it is a personnel matter, our department has taken the lead in facilitating the appointee evaluation process including scheduling, developing scheduling options for the council.

[2:32:50 PM]

Typically we work directly with the mayor in developing the schedule for the evaluatees. We have salary and benefits for each appointee and comparing them to the relevant market to identify where they might lie in terms of competitiveness. And conduct briefings on the results of our analysis. That typically happens prior to the evaluation itself. Once the evaluation occurs, there has not been anyone else present in the closed session except the council member and the appointee. And then there upon we get direction from the council in public to determine what the outcome of the evaluation is relative to any pay or benefit changes that is made by actual either resolution or ordinance, depending on who the evaluatee is. And to that end the actual pay increase, over the past years it has varied. In some instances it has been general wage increase equivalent to what -- the general employees in the workforce have received. Based on budget some years it has been for some evaluatees no increase. In other years it has been an adjustment based on the pay relative to market. And I did allude to the possibility as was mentioned in the financial forecast of market study for all of the persons that are under market for fy16, and typically this is not for workforce in general, but every year for the appointee, we evaluate their market position.

[2:35:08 PM]

So this is just for council reaction and discussion to give some context for establishing the performance period. And as I mentioned earlier, one of the fundamental approaches to having an effective performance evaluation is to be clear upon the objectives over the performance period. So you have to identify what is the performance period is it a calendar year or is it a fy or is it a rolling 12 month period at the time of the evaluation, and what could be established as the agreed upon expectations and what can be accomplished over that period. So for purposes of example, for discussion here today, if it were a calendar year performance period that the council would like to have that they're going to use, just given the time we are now and the fact that the council started in January of 2016 and a lot of discussion has occurred, but mainly around establishing expectations for governance, I'm not clear as to how much discussion has occurred with establishing expectations for the various appoint dmhmrs. For discussion - - for the various appointees. If it were to occur in the month of August, the council could have those discussions with their appointees. October there would be a pay increase for the general workforce based on whatever is approved in the budget. That pay increase could be assumed to be applied to the appointees, but in January or February sometime after an actual year of performance, evaluation could occur in 2016 for the calendar year 2015.

[2:37:26 PM]

And the associated review of the market could also occur in line with how we also will implement the

market for the current workforce. I believe one of the strategies we're implementing now is to have a midyear market adjustment. The second option would be a fiscal year performance period that would be in alignment with the approved budget. And again, given the discussion occurring in August of 2015 expectations could be created. The pay increase would occur. In October, the same as other members of the workforce, based on council approval. And at the end of December 2016 evaluation could occur based on what has occurred in fiscal year 16 and then by December -- November or December 2017, the council would then be on track to have discussions annually at the conclusion of the fiscal year. So those are just options for discussion. Council may decide to do either one of those or something differently. So that is the direction that our -- the issue that we are discussing today. What is appropriate performance period? And what process does this council, this body choose to follow in light of the 2013 resolution, in light of the current practice that is not consistent with the 2013 resolution, and the other options for performance assessment that I've just shared.

>> Mayor Adler: Thank you. Again, I wanted to just have a conversation -- this is the first time we've laid this out. We obviously can't be deciding anything today.

[2:39:27 PM]

I would urge everybody not to try to come to any conclusions on anything today. Let's ownershipers and lay out questions. The manager has walked out here today without any notice on this conversation too. And I want him to have a chance to advise us and make suggestions and work with us on what might be a fair process. It seemed to me if we had this now over the course of July we could be thinking about it and sharing things on the message board. We got back together as a group in August and we could sit down and set some expectations or what we agreed would be good metrics or how we would actually have that evaluation conversation. And then pick when we would first have that conversation, which seems to me to either be in December or January time frame if we're keying it off of the fiscal year. January-februaryish time frame if we're making February, that first quarter, those first days, if we're doing it based on a 12 month period of time or a calendar year that would be off cycle for the budget. But this is the conversation I wanted to have and let's ask questions of Mr. Washington and I am going to call the auditor up because I have questions for the auditor as well. Mr. Zimmerman?

>> Zimmerman: I would like to echo councilmember pool's remarks about what seem to be some really good wisdom in bringing in the auditor to do that evaluation and kind of have the auditor's office in charge of that. That just makes a lot of common sense, it seems to me. And the second thing is if you go back on your slides, if you could back up, what we used to do, in my industry is we would do annual reviews, but we would always do them on your 12 month anniversary just prior to whether a pay increase was warranted or justified, but they would be annual prior to your hiring date.

[2:41:34 PM]

A and if you got a good review you could expect an increase. But if you didn't maybe you would get nothing. But going back to your dates it didn't make sense to me. It looked like the Numbers were backwards. If you go to the calendar you were talking about, the fiscal year, right here, it seems like when you create the expectations, say just prior to the new fiscal year, fiscal year is a good time to set your goals. You would need to see what happened in the ensuing year. I don't know how you set expectations in August and measure them a few months later. It doesn't make any sense. You set the expectation and then 10 or 11 months later, then do you the evaluation.

>> Yeah.

>> Yes. The first year is difficult, because we're over halfway through the fiscal year, and we're almost halfway through the calendar year. So the first year would be an awkward year for a reset.

>> Zimmerman: Hang on. I'm confused. I thought we were having a discussion about how we would have things work on a regular basis. I didn't know this was an exception just for our new 10-1 council.

>> Mayor Adler: It's a combination of both. In a perfect world, we sit down and we would come back potentially in August, and agree upon what expectations would be. We would have 12 months. And then our first evaluation of the manager in this context, or other appointees could be a year later in late 2016. We could do it that way. And that's a choice. We could do it 12 months of being here. We could do anything we want to do. So, in answer to your question, nothing is being decided. All those options are on the table for us to think through. Part of it is how much notice do we give on those performance? How long do you want to go before we have the first evaluation?

[2:43:38 PM]

All those things are on the table. Further questions for Mr. Washington while he's here? Certainly he can come back up.

>> Garza: Not for Mr. Washington. I realize we're floating ideas here. And about it going to the city auditor, she's one of the appointees. Are we saying the city manager would go to the city auditor? She's one of the people we're evaluating. I wanted to throw that out there.

>> Mayor Adler: All good issues. Ms. Gallo, and then Ms. Tovo.

>> This does not work. It's time to go home. Do we have access to previous evaluations?

>> Yes. There's not much of a record of formal evaluations previously, other than the resolutions the council has passed, with maybe some exception. But, most of the valuations were discussion-based. And so there was no tool that was used in previous evaluations. It was just the outcome. So there was no record of exactly what was discussed. I think in one exception, I can recall since I've been here, and that was last year. One of the appointees, but it wasn't an evaluation tool. It was just a memorandum by a councilmember. And I'm glad you addressed that, because it is not uncommon for other city councils to have evaluations knowing the sensitive nature of at-will employees who are appointees to not overly document the process and have the outcome of the evaluation be reflected in whether or not the person continues to remain employed. And then there are other bodies who have extensive evaluation tools.

[2:45:42 PM]

So, I think the practice of this city over the years has not been unique when we've looked at what other entities have done. But there are others who do have more formal evaluation processes.

>> Gallo: And were the discussions taped, or not taped?

>> I'm not in the setting during the evaluation. I would have to defer to the city attorney's office.

>> I can advise on that. When the council does go into closed session to take up a personnel matter related to one of the council appointees, the personnel matters are recorded on the tape recorder.

>> Thank you.

>> I'm sorry. I should've answered. When I personally go and brief the council on the market conditions, the analysis, I know that session is taped. I was speaking to the appointee specifically and their visit with the council.

>> Gallo: Would we have access to those tapes?

>> Mayor Adler: I don't know the answer. It's an interesting question. Would you get the council a copy of that letter that Mr. Spelman wrote a year ago and email it out there?

>> I absolutely can.

>> Gallo: Here's part of the reason for my question --

>> Mayor Adler: A question that was just asked. Is that tape of last year's or a prior year's sessions

available to the council?

>> The tape is generally not available to the public, absent a -- court order. In terms of making the tape accessible to council, I suspect we can probably do that. Before I give you a definitive answer on that, I'd like to check with the city attorney and some of my colleagues.

>> Mayor Adler: Please do that.

>> Gallo: Part of the reason for asking, evaluations should discuss both strengths and weaknesses of the employee. It would be helpful from a moving-forward standpoint to know that we love strengths, but know the weaknesses that were evaluated and recognized have been moving forward and are being corrected and turned into strengths.

[2:47:53 PM]

And so that would be some of my interest, getting a historical perspective of progress that we're making.

>> Mayor Adler: Any further questions? Ms. Tovo.

>> Tovo: Yeah. This gets back to the schedule. You had outlined a few scheduled options up there. I assume that one would be to stick to what the general process has been, to evaluate around this time of year through August, and then have those evaluations conducted in that period of time. It wasn't clear to me your second option there is what -- I mean, it looks a little bit like for fiscal year performance period. We would do our evaluations of our council appointees and create expectations in August. And then we would have, potentially, a pay increase. But it doesn't necessarily mean the same as a workplace, it could be not at all. It could be a different, it could be the same as.

>> Right. So the council chose to do it in August. Certainly, that scenario does not speak to -- and by it, I mean the evaluation -- that certain just speaks to the expectations being created, revisited, in August. And the evaluation occurring in December of 2016. And the following year, moving the evaluation period up to as early as November, so that a full fiscal year performance could occur with all metrics gathering that would be required to have that discussion in November.

>> Tovo: I see. So neither of these options would keep us on what has been the current schedule, but that would be another option, as well. That's correct.

>> Tovo: Doing the evaluations in August, and then continued to move forward on that.

>> That's correct.

>> Tovo: I assume the reason you've given us these two options was out of a sense that the new council needed time to become familiar with the appointees?

[2:50:05 PM]

>> Part of that is in terms of expectation creation, and the other part is, as you've alluded to, not enough time to have established expectations for some of the appointees. You haven't had a year of performance for August to occur.

>> Tovo: I misunderstood what you meant by expectations created. You mean -- yeah. We had a difference of opinion about that that meant. I thought --

>> I see.

>> Tovo: I thought that was -- it seems to me, as I remember the process, that sometimes there was a discussion after the evaluation about what the new salary rate would be, and some of those expectations going forward. You're not talking about budgetary expectations, you're talking about performance expectations absent of budgetary, financial compensation.

>> Correct.

>> Tovo: All right, thank you.

>> Kitchen: Mr. Mayor.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I'm assuming -- we obviously have some flexibility, particularly during this third year. I'm assuming we could also have an option of an evaluation or at least a touch-base at the six-month mark. For example, if we were to choose the fiscal year approach, it wouldn't have to be a year after setting expectations.

>> The council could choose to provide informal or excuse me, formal feedback through a scheduled meeting as a mid-year. That could occur.

>> Mayor Adler: You were saying agree on expectations in an August timeframe, and six months after that, roughly?

>> Kitchen: Yes. If we were to decide we wanted to move to a fiscal year format, instead of setting expectations in August and waiting until next August before there was any evaluation, we could do some sort of mid-year check-in point. That's what I was thinking.

>> Mayor Adler: You're saying, one option would be to do as this calendar year beginnings, begins, but not have the next one a full year later --

[2:52:10 PM]

>> Kitchen: Set expectations in August, and set up a Normal process for a fiscal year approach because it aligns with our budget, which would appear to make sense. But understanding that we wouldn't set expectations in August and then wait until August of next year before we had any conversation about evaluation, simply because we've had the opportunity to work with the city manager for six months now.

>> Mayor Adler: It would be a combination of these two.

>> Kitchen: That's right. Yeah. That's what I'm thinking. It might be an opportunity for all of us to have a conversation.

>> Mayor Adler: Okay. Further questions? Thank you, Mr. Washington. Before we have here, from the auditor, David king has signed up for this item. Do you want to talk on this item? Or do you want to wait until we get back from -- not signed up for this item? It's the next item. Sorry. The auditor. Thank you. So, kind of just general question. There's a lot of hr experience that Mr. Washington has, that quite frankly, we all rely upon. He's our hr person, professional. And, I think, has done a really good job for me, and for the rest of the council. But the question has come up that in this situation, where we have a direct report, is there an appropriate role for an auditor? Are you aware of other practices that involve auditors? Is that something that you could look at over the course of July, and then talk to us about when we reconvene back in August? Talk to us about the auditor's office and personnel review in this situation.

>> I'm sorry, I'm losing my voice. I sound a little bit like a frog. But I would say, I guess, first, kind of just commenting on the idea of the auditor. I understand there's a concern that the hr department reports to the manager, and the manager is one of the appointees being evaluated.

[2:54:17 PM]

That said, I am not an hr professional, and we do have many hr professionals in our hr department that are -- that have provided that service, I think, historically. A second concern for me is that I like audits. I like doing audits and spending time doing audits. To the extent that it detracts from our planned audits, it's not my favorite idea. Other cities, I would say, I reached out to a couple people yesterday. And in most cases, in those cases, I looked for some of my, you know, where I know the auditor who happens to be appointed along with the city manager by a council somewhere, and a council manager form of

government. And I think I had three cities get back to me quickly. Generally, I think the appointee evaluations are done in closed meetings as something between the appointee and the council, but, we can look. I didn't see any examples where the auditor -- I don't know of any examples where the auditor would be involved in that. But, we can look into that further and look at a longer list of cities and what the practices are, and how they handle that. And even what support role the human resources department plays in that.

>> Mayor Adler: It might be something -- is it also possible it could be kind of a hybrid deal, where there's responsibility of the hr department, but components might be more appropriately handled, if there was a 360 review and if people were coming back wanting to weigh in anonymously, that's something your office could process, I would imagine.

>> To basically collect anonymous input.

>> Mayor Adler: Yeah. So there might be components of it. Any further questions -- Mr. Washington, did you want to comment on that?

>> And, mayor, and council, with all due and, I certainly appreciate where the concern is coming from.

[2:56:22 PM]

And I always want to make sure that we never operate in a way that could be perceived as any kind of ethical issue or conflict of interest. But the practice that we have here with the evaluation process is not un-similar to the support that the human resources department would provide in many other large cities, not only in Texas, but across the country. And so, I just want to -- on the record -- acknowledge that I wish I had as much power as anyone might perceive, but my influence on the outcome of the evaluation process is little or none, actually.

[Chuckling] But I want to assure you that with all of the appointees, I take great pride in making sure that I maintain the confidence of the council, as well as the appointees, and make sure that the process is just fair. And I just felt like I just needed to say that.

>> Mayor Adler: Thank you. I have another question for you, Mr. Washington, real quick. We had an ordinance that was passed a year and a half ago that established a process. Any idea why it, then, was immediately not followed by anybody participating in the process?

>> I would not be in the best position to answer that. Perhaps one of the city councilmembers at that time could offer a better explanation.

>> Tovo: I'll give you my impression of it. I think somebody already mentioned one of the factors about the forms is that they all become public information the year before, immediately after we left executive session, we all received a public information request for any notes we had taken on the city manager's evaluation. So all of us who had taken notes had to hand them over to the bulldog, and they became part of the story that ran.

[2:58:26 PM]

I appreciated the work that several of my colleagues did in pulling together the forms that we use to evaluate, but I will just say personally, I did not have an interest in completing those or making those public information. To me, it was more important that we used those as guidance for our dis--- to guide our discussion that we had among the council, and with our appointees.

>> Mayor Adler: That makes sense.

>> Tovo: They certainly touch on a lot of key elements, and some important ones. I think they're generally useful as guidance, but that's just my perspective on why I didn't complete them.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I just wanted to clarify my questions about what was taped was not an interest in making this

available to the public, because I think that is private information. But, I think from the standpoint that the vast majority of us are new, it would just help from a historical perspective to be able to understand some of the concerns and what was addressed. So, I certainly would understand that that would stay in executive session. I just -- wanted to make that clear.

>> Mayor Adler: It would be my intent to put this back on the calendar for us to talk about pretty soon after our return in August, to then adopt what kind of process we wanted to use with our appointees going forward, so that they know and we know, and there's some measure of understanding and certainty for everyone. And we'll certainly involve, in that conversation, the appointees so that they can be part of that. Anything further? Then we'll go to -- thank you very much. Then we'll go to the last item on our city council agenda, which item 21, drainage fee.

[3:00:30 PM]

Ms. Kitchen, do you want to tee that off? Ms. Tovo, can you take the chair for me, please?

>> Okay. Sure.

>> Kitchen: I will tee it off, and then look to my fellow committee members if they'd like to add anything. I know we have staff here that are prepared to make a presentation. So, depending on what you'd prefer the order to be, I can do that. And then we have a number of amendments to make, also. So, I'll just -- let me tee it off first, and then we'll do a presentation. So, just as a reminder to everyone -- we did have this conversation on Tuesday. So I'll just touch quickly on this as a reminder to everyone, and just to, you know, for the public that may have not been able to listen in on Tuesday. So, first off, what we are -- what's in front of us is the methodology for the drainage fee, a proposed change in the methodology for the drainage fee. We -- in previous council meetings, we passed it on first and second reading, and then determined that we needed to look into some issues that had been raised by the public. That's what we've been doing as a committee. The context for the proposed change in the methodology for the drainage fee is the -- first off, there was a legal challenge last year that related to how the drainage fee is set. And just a reminder to everyone, that the state law does require calculation of a charge be directly related to drainage. And so, this proposal from the watershed department staff does that by including -- by a formula that relates to the amount of impervious cover adjusted by percentage. So, there's a number of other changes, for example, the charges to the owner or property, for example, on multifamily, over four units, it's the apartment owner, rather than the renter who would be paying the drainage fee.

[3:02:33 PM]

So that's the context in which we are considering these changes. Just quickly, a number of issues that the committee has been addressing and that we reported back on on Tuesday, and then you'll see addressed today in some proposed amendments, were first an issue related to affordability and the phase-in. In other words, public raised the issue of an impact which could be significant for some homeowners in the next -- in three months from now, as opposed to a longer period of time. For some homeowners, that impact could be as much as 100%, 200%, or 300% of the current charge. That was one issue we were addressing. Another issue was the impact of green infrastructure and concern that were raised about how to account for green infrastructure impact while reducing drainage, as well as concerns about denser developments with water quality features. So, at the right time, we'll talk about amendments related to that concern. And then the last concern was --related to the impact on renters. Renters in multifamily, I believe over four units, won't be receiving a bill. There were concerns about pass-through of cost and what renters might do to address that. We can talk about that as we get to amendments. With that, is there anything that councilmember Zimmerman

or councilmember troxclair would like to add?
[Chuckling] Or would you like to add anything? No?

>> Tovo: Councilmember Zimmerman.

>> Zimmerman: Thank you, mayor pro tem. I just want to call attention, when we get into the discussion, we'll get to them. But I've got a potential amendment relating to tiers, which is basically segmenting out the charges into a group. Of course it's all based on impervious cover, but there may be a number of tiers. It might be five, or ten, or some number in between. So I left a copy here to look at, but it's titled Zimmerman number 1. It adds a section C, and it references single family residential properties.

[3:04:39 PM]

And the reason the single family is segmented out, what's happening here is, I think what's happened in the past is the apartment-dwellers have effectively been subsidizing properties that take up more impervious cover. So, if you are, say, 200 residents living in a common apartment building, you're all sharing, you know, one footprint, maybe a parking lot. There's a community there. Your impact per person on impervious cover is much less than for a single family house, like that I live in. Also, if you think about the potential -- whenever we make a change like this, there's a potential for some questions about the calculation. There could be some protest as to whether the impervious cover calculation has been correctly done. So, the difference is, if you have 200 single family homes, you have a potential for 200 challenges. But when it comes to the apartment building with 200 residences, you have one calculation that's being done. So if there's a problem with that, you would have one protest in front of the watershed, or whoever hears the protests. So, it would also -- the tiers would also -- the cap would do the same thing. I think the cap is going to come up. It relates to phasing and the charge over time. So, this is another way, I think, of mitigating some of the increases and hopefully reducing the potential for protests as we bring in this new formula for computing the charge. So, thank you.

>> Tovo: Councilmember kitchen.

>> Kitchen: Yes, thank you, councilmember Zimmerman. That is one of the options for us to consider in the approach, is the tiers. I can set the stage now for the presentation, because I believe the presentation by the staff's going to focus on the options that we have that relate to the phase-in. So, basically, one of our amendments that I'll be bringing forward is a phase-in approach that would limit -- that would relate to limiting to paying a percentage of the increase, and not -- now, I want to say, before we start with the presentation, I think it's important for us all to remember that we are not setting the amounts now.

[3:06:57 PM]

We are focused on methodology. We are not setting the amounts of any percentage, or of a phase-in. We're not setting even the budget rate for the drainage fee. All that comes as part of the budget discussion, as it should, when we can talk about that in the context of our whole budget. We do have examples. The examples that we have that the staff is going to make available are useful in considering the methodology, but I don't want the people to misunderstand and think that by our action today, we are setting any set percentage or even any particular rate. And we're certainly not setting the budget for the watershed department. So, with that --

>> Tovo: Great, thank you. I understand we have some staff ready to present? Welcome.

>> Kitchen: And I'd like to say again, I don't know if you were listening earlier, but we talked about our appreciation for all of the work that you all have been doing very quickly. And in response to, like, thousands and thousands of questions. So, thank you very much.

[Chuckling]

>> Thank you, councilmembers. My name -- I'm an engineer with the watershed protection department. The brief presentation here, I have some handouts as well for you all that matches the presentation. So. This is in response to the -- primarily the question about phase-in options. We had the opportunity to look at two different phase-in options. We didn't have enough time in the past couple days to look at a tiered option, but we'll cover two different phase-in options that we've been discussing. First, I wanted to show this scatter plot that shows the full range of impact for all the single-family houses in Austin.

[3:09:03 PM]

So each dot represents a single-family parcel. On the X axis, the horizontal axis at the bottom, it counts up the amount of -- thanks. There's a board here, as well, that shows the same thing. The X axis counts up the amount of impervious cover of a given parcel, so that's on the horizontal axis. The Y axis takes the percentage of that impervious cover -- so relative to the parcel. So you can see the cluster of the points, the vast majority of them fall in 5,000 or less square feet of impervious cover, and may be between 20 to 60% impervious cover. So that's the dots on the X and Y axis. Then the curves are showing the cost based on the new formulation. So the big black line is the current charge at \$9.80, so you get a sense of how many dots to the right of that curve, kind of higher up to the right of the axis. Those would be the parcels that would be going up in cost. And then the dots to the left of that black line would be those homes that are either smaller or less percent dense of impervious cover, so they would be going down in the drainage charge. There's a wide variation across the board. You get a sense from the different values, there's a \$15, \$30 curve, these are monthly charge values so you get a sense of the wide spread of the data. So, with that, kind of, general sense of, you know, impact citywide, we looked at two specific phase-in options. The first one is what we're calling a 50% transition cap on the increase. So, I walk through just a few hypothetical examples here to give a sense of what that means.

[3:11:06 PM]

If your charge is going down, in other words, if you're paying the \$9.80 and it goes down to two, there's no increase, no cap. The amount of a increase, if it's \$4.10, half is \$2.05. That plus \$9.80 would be your charge. Basically, everybody that's going up would only see half of their increase. And then two more examples, higher examples. Okay. So there's a fair amount of Numbers on this chart. I'll go through it pretty slowly here. This is -- trying to summarize the impact of the 50% transition increase for single-family charges. First off, with any kind of cap there's going to be less overall revenue generated for that structure. And so that -- how that cap is structured would result in a revised rate. That's the number at the top. We've been trying to compare to \$9.80. That's the current charge not making an assumption of what the budget would be next year, we're talking about fiscal year '15. With the current rate restructure, the proposed rate would be less than half a penny per square foot of impervious cover. The revised rate with the cap implementation would be .00472, the two Numbers at the top. As far as the percentage impacts, we looked at comparing from the proposed structure to what the cap would do. For single-family, that would be an 11% decrease, because single-family would benefit, because it would be structured for them. But it would still -- when you compare to what they're currently paying, it would still be an overall increase. And then for the remainder, multifamily, green, nonresidential, the cap would result in a slight increase, although you see from their existing charges, generally, it would be a decrease with the exception of nonresidential.

[3:13:16 PM]

So, hopefully that makes sense. Okay. Keep going. Then, one more chart to discuss on the 50% cap on the increase, transition cap on the increase. This bar chart is showing, with the revised rate, on the X axis, is a range of impervious areas per parcel. The one on the far right is the really large parcels that have a lot of impervious cover. There's 2,500 of those parcels. Their average charge would be \$33. With the cap applied, their average charge would be reduced to \$22. So, the cap, in a sense, could be said to have the most benefit for those largest of parcels. But anyone with an increase would see a reduction in their cost, a 50% reduction in their increase. So that's the point of this. To show for the smaller ones, you wouldn't see as much of a benefit.

>> Kitchen: Could I ask a question on that?

>> Certainly.

>> This also shows us that those -- okay. This would give us an idea, also, on this end of it, that those that are receiving -- under this new methodology, that receive a reduction, are still seeing a

>> Yes, yeah. I suppose a third bar could be added to the left that shows \$9.80 for everybody, so 9.80 is their existing charge, then these are the two that would be the proposed and then the proposed with a cap.

>> Kitchen: Yeah. So you'll see that -- okay. So this does indicate for us that there's still a reduction, okay?

>> Yes, that's right.

>> Kitchen: Thank you.

>> Tovo: Councilmember Casar.

>> Casar: And I think, importantly for me, that the reduction -- the change in reduction is not so great on the left end of the bars that are no longer on the screen.

[Laughter] Thank you so much.

[3:15:17 PM]

They are under 1,000, 2,000 square feet of impervious cover in the phase-in proposal, this October, somebody that was previously being charged 9.70 or 9.80 would go to 5.10 and then it would be in the next fiscal year that would you see the full reduction to \$4.90. So it would be about a 20-cent difference.

>> That's right. Those Numbers are averages across that class. So each individual home would have a different charge.

>> Casar: Sure.

>> On average, yes.

>> Casar: On average in the 1,000, 2,000 square foot range you are seeing an \$4.80 reduction rather than a \$5, whatever it is.

>> Right. Okay. I'll keep going. So that was what we called alternative one. Alternative two, similar, perhaps simpler to describe, so rather than a percentage limitation on the increase, simply a fixed dollar amount cap. The \$16 is somewhat arbitrary, quite honestly it could be any number. But, for example, if it were to be \$16, then would you see any home that would have a decrease -- or some increase or decrease that's less than \$16 would not be affected. And only those that would exceed a certain amount would then be capped at \$16. This chart shows a similar comparison to that, with the \$16 cap assumption. The number for single family on the prior one, the 50% showed an 11% drop for single family. Here it's showing a 7% drop. That's simply because less single-family parcels would be affected by this \$16 cap, but, again, that could vary depending on if the 50% number changed or the \$16 number changed. And then for multi-family green, audio]

[3:17:41 PM]

>> Showing with a fixed \$16 cap on average most folks would see generally less than \$16. The reason it's not exact \$16 on the red bars to the right is because there are some homes that have -- would actually have seen a decrease and would not have hit the cap. So it would be a little bit less than \$16. So hopefully that describes well enough the two options.

>> Kitchen: Okay. Should I make a motion --

>> Tovo: Councilmember kitchen?

>> Kitchen: Just for purposes of discussion I'll go ahead and move one of the amendments, and that is the -- and you have it on your motion sheet. And it's the one that -- that's the first alternative, which is a percentage transition cap. So it states that after computing the monthly drainage charge as described in subsections a and B, the monthly drainage charge for single-family properties may be modified by limiting any increase in the charge to be assessed in 2015 as compared to the charge assessed previously if established by separate ordinance. So what this would do is basically set in place the percentage methodology that was explained to us as alternative number 1. It doesn't have the amount of percentage in it because that would be done as part of the budget process. So I make a motion for that.

>> Tovo: Can I ask that an extra copy of this be posted?

>> Kitchen: It has been posted.

>> Tovo: I meant overhead.

>> Kitchen: Sorry.

>> Tovo: On the screen right now. Okay, councilmember kitchen moves approval of this amendment to what I -- I assume to what we have already passed on first and second reading.

>> Kitchen: You know, I may have done this out of -- yeah, I guess -- yes, exactly. That would be. It would be, yes.

>> Tovo: Very good.

>> Zimmerman: I second the motion.

>> Tovo: Great. Councilmember Casar, you looked like you had a question before I moved to the motion.

[3:19:44 PM]

Did you have a question?

>> Casar: Just one clarifying question on the bar graphs one last time, just to make sure.

>> Certainly.

>> Casar: The difference between the red and blue bars that we were referring to here and the \$1,000 to \$2,000 range or zero to \$1,000 range, is it correct that is with the assumption we would make up the revenue lost by the transition by raising the drainage fee to keep this revenue neutral?

>> Right, let's say, for example, the \$1,000 to 2,000 square feet bars, those 22002 parcels, the reason they would see a slight increase with the application of the cap is because the rate would have to be adjusted to offset the slight reduction in revenue, yes.

>> Casar: Just wanted to make sure. I've checked twice but I wanted to check one more time.

>> Yes.

>> Tovo: I apologize, we do have one speaker on this item, and that is David King. Mr. King, would you like to speak on this item?

>> Thank you, mayor pro tem, councilmembers, mayor. I think this is a very important step in the right direction here. It's more fair and equitable than the current drainage fees that we have right now. I think it's important to just remember that impervious cover not only affects, you know, runoff and flooding but it affects our heat island effect, impact on our urban core. So although we're talking about the drainage fee today, I think we need to also be considering and preparing for the heat island impact that we're going to have as the climate warms. So I know that's a separate topic, but I think that's something that we need to look at. Dallas and Houston are already doing that. They have a plan for the heat island

effect, and I think we need to do the same thing. Back on the drainage fee here, I think we need to be careful about any exemptions or exceptions that we may apply to this drainage fee.

[3:21:45 PM]

The water retention facilities don't mitigate all the water runoff, particularly during heavy rain events. And some retention facilities are poorly maintained and don't effectively regulate during typical rain events. I think we have to be very careful about how we move forward with any exemptions. Then if we're going to exempt developers who utilize these retention ponds we need to remember they also already get attempts for those kind -- entitlements for -- they shouldn't be able to double dip and get a reduction in drainage fee at the same time. We need to look at current exemptions allowed. The current exemptions for ISD, for public and private higher education institutions nor the state of Texas, religious organizations and the county. When you add up all those exemptions bayed on this new rate that's over \$7 million, \$7 million that we're not getting. And guess who pays for that \$7 million? Everybody else. So I think we really need to look at the currently exemptions that we have right now. Again, I just would like to encourage us to look down the road at this heat island effect and start planning for that as well. Thank you very much.

>> Tovo: Thank you, Mr. King. It's come to my attention that actually the public hearing was close sod I apologize. I do see that our speaker system, however, is open so Mr. King had signed up. But unless our attorney tells me otherwise, I think we should probably make that offer to others here if they -- so if there's anyone else who would like to address this body on this issue? Seeing none, I guess we can continue. And I do think that we -- since we did not have a general motion on the table, would you like to withdraw your amendment and we'll start again on this front?

>> Kitchen: Sure.

>> Tovo: Thanks. So we passed this on first and second reading. Would anyone like to make a motion on this matter?

>> Kitchen: Okay. So I need to move the -- I move for the third reading, and then we'll do amendments after that.

[3:23:47 PM]

>> Tovo: I think that's probably best.

>> Kitchen: Okay.

>> Tovo: Now --

>> Kitchen: Now.

>> Tovo: Councilmember kitchen, did you have any amendments you'd like to make?

>> Kitchen: Yes, there's an amendment on the yellow sheet. Let me say a few more words about it. You have two yellow sheets. So this is the one that has part six on it, and you'll see the language down at the bottom and as the -- it adds a new C that provides for that methodology for a cap on the -- transition cap on the percentage amount. So let me just explain a little bit of the rationale behind it, and then we can move on to questions. But as we've been talking about, this is a phase-in so people would have a chance to plan for an increase. Particularly important for those that may be on a fixed income where the amount of an increase can be difficult initially. The other thing it allows for, it allows time for the staff to consider other ways that people might be able to mitigate their drainage fee, perhaps related to green infrastructure. We can talk about that in a minute because I have another amendment related to that. Then I would also just say that the most recent data indicates that there are 12,689, give or take, homeowners that would have more than 100% increase this their rate. Some of these would have as much as 300% increase. So the Howe households that are -- actually, people are impacted that have an

increase from \$9.80 to just, you know, \$1 or \$2, so that can be a big impact for some people. And the households in all parts of the city are impacted in all districts. With that said I think that the percentage stains an appropriate thing to do at this point since we'd be talking about changing this methodology in actually only three months.

>> Tovo: Thank you. Is there a second to that amendment? Is there anyone on the dais who objects to making that amendment part of the original motion?

[3:25:49 PM]

>> Casar: Mayor pro tem, I'm not going to object but do I want to speak on the amendment. I guess I can speak on the --

>> Tovo: Sure, I'm happy to take an up or down vote on it too if that's the will of the group. Why don't we vote on it separately. Councilmember Casar, discussion.

>> Casar: I'm going to accept the amendment, but not without having had some heartburn discussing it with my colleagues and with staff for the last few days. I appreciate that we're doing a phased-in approach as opposed to a dollar cap. I would be firmly against having some level of a dollar cap. I think we have to accept and understand that some significant portion of the homes that have this higher level of impervious cover that are going to be seeing a large jump are the highest-valued homes in the whole city. While there are thousands of homes that will be seeing an increase of over 100%, those homes still only comprise 3% of this city's homes that we'll -- will be seeing over a 100% increase. It's not like we're increasing this for tons of people. It's for are 3% of the city's homes or -- I forget if it's 6% or 3%. We can do the math later. In my own district it's about 1/10 of a percent of people in my district would be seeing that level of an increase. Some folks showing a sharp increase are people in smaller homes that have a circle driveway or had an old basketball court that now they just have concrete in the back of their house. But many of these, you know, folks, it's because if you have 5,000 square feet of impervious cover, you have an 8,000 square foot house that's two stories big and you're already paying \$25,000 to \$35,000 in property taxes so us saving you \$5 or \$10 a month is not probably -- they won't even notice it.

[3:27:51 PM]

But there are some people who this phase-in will help, and so I'm appreciative and supporting of doing that kind of a phase-in because there some folks that are seeing that increase and just waiting one more year for people to be charged the right amount is I think an important step for us to take. And, also, it's helpful to see those graphs and understand that the folks that have been charged too much for too long will still see the vast majority of their decrease and will just see those last few cents come in in the next fiscal year. So I'm supportive of doing that phase-in despite my reservations. My one question about the amendment language is, perhaps for legal, with this amendment, this only allows us within this ordinance to phase it in by October of 2016? We would have to have the full charge? Sorry, that wasn't even a real grammatical question. I guess if we make this amendment, could we phase it in any longer, or is 2016 -- by 2016 we have to be phased in to the full drainage fee with a -- using the formula?

>> I guess I'm saying does -- could we extend the amount of time that the phase-in takes without another amendment to the ordinance beyond October of 2016?

>> Mitsy cotton with the city attorney's office. The current language stops it at 2016 but we could either change that today or you could come back next year before budget and extend it another year.

>> Casar: I'll be supportive of the amendment, also knowing that we would have to come back and amend this ordinance if we wanted to make this take any longer than October of 2016. So another reason why I think that this is a thoughtful amendment that, you know, understand that's there are

going to be some people that need some help, and so I'm willing to support it considering all those -- all of those constraints on it.

[3:30:03 PM]

>> Tovo: Thank you, councilmember Casar. The mayor has a comment, and then councilmember kitchen.

>> Mayor Adler: I just want to join in with Mr. Casar and I just want to note, you know, affordability are issues which are hitting everybody in the city, and it's all relative. I want to commend you on recognizing when the affordability issues hit your district, as well as when they don't. And I think that this is a measured approach to deal with that situation, and I hope and trust that on this dais that puts capital in your bank when we come back and again start addressing other communities that might not be the focus of this particular effort.

>> Tovo: Councilmember kitchen.

>> Kitchen: And I would just add that everyone's questions, including -- and thank you, councilmember Casar. Everyone's questions have really helped us through this process, and just to -- it's a lot of complication, and we've been kind of living with it. So if you find yourself wondering who benefits from -- you know, from a transition cap, the scatter plot is a visual that shows you that, actually, there's a large number of people that benefit in some way. Even though there may not be that many that are -- well, there's still a lot over 100% but even if you're not over 100% you benefit. So if you'll see that big mass cluster of dots there, all those people benefit from this methodology for a transition cap.

>> Casar: I understand it much better now, that if you are going to see an increase from \$10 to \$13, then you get to go to \$11.50 in the intervening year and I think that is a key reason why I'm able to support.

>> Tovo: Councilmember Renteria.

>> Renteria: Yes. You know, this is a very difficult situation, decision that I'm going to have to make here because, you know, this is a -- been a real sore issue for me about always increasing the drainage fees when we're doing some capital improvement program.

[3:32:05 PM]

And I really hope that we can look back and -- look into how we spent the money, especially on the drainage at waller creek. You know, they have a tif there and I think we should really look and see the money that we have invested there through our drainage funds. And see if we could recover some of that money. Because in the -- in the future. By recovering some of that investment we have made on that waller creek tunnel, you know, it should go back to our ratepayers that -- you know, basically what we did is bailed out the plans that they made about waller creek and how they were gonna payback that huge investment we made in that creek. So, you know, those are the kind of things that really disturb me because, yes, there's just a little section of town and business are going to profit off of that, you know, that new development we're going to have there. But the rest of the city is -- paid into it but we don't get anything out of it. But, you know, I am going to be supporting it because that money does go to certain -- to bail out some of the flooding that we've had in onion creek and the other Williamson creek and we're going to have to focus about that. Still, it does give me heartburn.

>> Tovo: Any further comments?

>> All in favor of the amendment that you see post signal? So it's unanimous on the dais. Councilmember kitchen, did you have another amendment to make?

>> Kitchen: Yes. Do I. Let's see. The next amendment is also on yellow paper, and let's see. Yeah. This is -- it starts with part ufo and goes -- part 4 part 9, 2 amendments here. These relate to the other issues we talked about raising, so if you'll look on the back, you'll see that there is a change -- well, there's actually

three changes on this motion so I'm going to run through each one of them.

[3:34:19 PM]

They do a number of things. They clarify that the discount element is the customer assistance discount program. I think that we perhaps had that named wrong in the ordinance we passed on first and second reading. Second thing it does, under part 4, it allows combining properties for the calculation of impervious cover percentage in certain circumstances, and those circumstances include -- it allows properties that are -- that constitute a condominium regime or those that have a unified development agreement, it clarifies that those properties can be counted together on a composite basis with regard to impervious cover. And then -- so that's part 4. If anyone has any questions about that, I'd direct that to staff. And then part 9, what part 9 does, it adds some language to the annual report that is normally done that will bring us back more information about what we've -- about this change in methodology. And we're specifically asking staff to come back to include findings on the impact of green infrastructure on drainage and to bring forward some recommended strategies that could allow utility customers to reduce the drainage charge by reducing their properties' impact on drainage, and that includes strategies that would address the potential for credits or discounts for innovative stormwater controls that exceed land development requirements and or detention and water quality treatment requirements. This is to address the concerns that people have raised about accounting for innovative types of stormwater controls that people may be able to put on their property that would impact drainage. We need a little more time -- I'm understanding from staff we need a little more time to think through that and consider whether that would be possible.

[3:36:21 PM]

So that's the amendment.

>> Tovo: Is there a second? Councilmember Zimmerman seconds the amendment. Is there any additional discussion? Councilmember Gallo.

>> Gallo: I do have a question. I think John is here from the Austin apartment association. Perhaps. And I know -- I just want to make sure that I know that your organization has been very involved in some of these discussions, and I just wanted to make sure you've had a chance to review the amendments and if you had any comments or concerns with the amendments.

>> Thank you, councilmember. Paul with the Austin apartment association. I have not had a chance to review the amendments. At first blush, you know, I would imagine the green infrastructure one does seem to make sense. The percentages seem to -- on the phase-in, the percentages seem to be somewhat in line with what they were do [. There's no dramatic changes so I'd be happy to talk to staff afterwards and we can discuss the rate during the appropriate time.

>> Gallo: Okay.

>> But the mechanism of the calculation seems to make sense at first blush. Thank you for asking.

>> Gallo: Okay, thank you.

>> Tovo: Councilmember troxclair.

>> Troxclair: Can you just clarify for us what -- give us an example of what constitutes, let's see, the properties that are discussed in part 4 of this, you know, a unified development agreement? Because there has been some discussion about developments such as Mueller versus other properties that were just developed together. So just for clarity's sake, can you expand on that?

>> Mitsy cotton again. The languages, they were legally developed as one site so through a land development process. We review things on the basis of a site plan, one site.

[3:38:24 PM]

Sometimes people with more than one properties want to combine them and have them reviewed as if they were one tract and be one site, either for impervious cover or other compliance issues. So those people are unified in that way. We would also consider them one and send one drainage charge assessment to them. Does that answer your question?

>> Troxclair: Sure. But this is -- what you're talking about is different from a subdivision like Mueller that is not necessarily --

>> Yes.

>> Troxclair: It's one comprehensive subdivision but still separate lots?

>> Correct.

>> Troxclair: We had some discussions in our meetings about just wanting to make this as consistent and easy to apply as possible, and my understanding is that this will not be difficult for you to implement.

>> As proposed, no. It would actually make it a little bit easier for to us allow some of those combinations to happen, yes.

>> Troxclair: Great. Thank you.

>> Tovo: Ms. Cotton before you get too far away since that particular issue has arisen a few times and we've received commentary about that particular point, could you talk about why phased developments, why it's appropriate to, in your opinion, to treat them the way they are proposed to be treated in this rather than treating phased projects with multiphases as a unified project? For the purposes of this ordinance?

>> Well, for the purposes of drainage charge it may be more a question for sol than for me.

>> Tovo: Sure. Either one of you would be fine.

>> The only thing I would say is that what we're looking -- trying to focus on is the impact to drainage, and I'm not sure the phasing has that much of an impact. Where things are tied together, it's almost really an administrative burden to separate them out. If we've already put them together for the purpose of our review as a city, it's almost a burden administratively for us to have to separate them out just for the drainage charge but I'll let sol talk about --

[3:40:26 PM]

>> Yeah, we looked at trying to figure out how to define it for condos it was clear there was common ownership of the green space and the individual buildings that might be completely encased with a parcel for the -- for the second phase of that addendum, the -- I lost my train of thought. There could be apartment buildings that might be built on multiple lots. So one building might have two or three lots put together that the one building sits on top of, and so that was the intent. If they're legally developed together, for developments like Mueller or other, even for traditional subdivision, it's a -- sort of a bigger can of worms for to us tackle right now. There would be a lot of trying to figure out how to apportion that green space component to all the individual lots. And it would be a lot more complex to try to incorporate that this year.

>> Tovo: Thank you.

>> Certainly.

>> Tovo: For that response. Are there any other questions? Councilmember kitchen.

>> Kitchen: Would you consider the amendments that are being proposed for part 9 with regard to bringing us back a report -- the situation that Mueller is experiencing, or those types of situations, my thought was that they would fall under the kinds of strategies y'all consider and recommendations you bring to news the future on how to handle those kinds of developments?

>> Certainly.

>> Kitchen: Okay.

>> I see it as two particular components. One is the green space apportionment component that could apply to traditional subdivisions as it would apply to miler. The second is the infrastructure that Mueller built and the both they went above and beyond the minimum requirements requirements so that would be another point to look into further on the annual report.

>> Tovo: I'm glad you brought you up the annual report because that reminded me of another suggestion that was made, and that was that the annual report include an evaluation of the methodology's impact on residential and commercial property owners as well as apartment renters and small business tenants.

[3:42:39 PM]

And I would just provide that as a general direction, if that's consistent with the kind of reporting that you were envisioning in this ordinance.

>> I think it makes sense to evaluate impact for all ranges of folks, yes.

>> Tovo: And we don't need to specific that in the -- specify that in the language?

>> Right, that's right.

>> Tovo: Okay. Are there any further comments about this amendment? Councilmember Casar.

>> Casar: One other comment around the customer assistance discount program, just since it's on there. At first I had my hesitations with not billing individual customers because some lower-income customers and multi-family could then lose access to this discount program, but I'm actually now -- I actually am pretty supportive of this now considering if we stick to our commitments of around \$775,000 or more in this program in this upcoming budget, then we could actually shift those customer assistance discount program dollars over to the 2-unit, 4-unit, or 1-unit rental properties that oftentimes use more impervious cover and are going to see a higher charge. So otherwise some of these customers under this new drainage-free structure will be charged 1.50 a year so there's not much sense in reducing it to 75 cents, 50% discount. Hopefully there's some that will be seeing savings ten dollars can get the increase, as long as we keep the funding level or higher in the program and don't reduce the funding, now knowing that we can cut off some poor folks in apartments. As long as we keep it steady, I appreciate the utility's commitment, and I think this council's commitment to expanding that program where folks need it more.

>> Tovo: Thank you. Any other incidents all in -- comments? All in favor of adding this amendment? That is unanimous on the dais with councilmember Houston and mayor Adler off.

[3:44:45 PM]

Councilmember Zimmerman?

>> Zimmerman: Thank you, mayor pro tem. I have -- before I get into my other yellow sheet, I had a tier amendment to consider, but consistent with Mr. King's testimony and some other conversation we've had, I'd like to draw attention to part 12 and make a motion to amend by striking under part 12, page 6 of 8, the exemptions section, I'd like to strike -- it says section 15-2-13. I wanted to strike B, C, and D. Those three chapters. Leaving section a in place, but striking B, C, and D.

>> Tovo: Councilmember, I need to you repeat that again.

>> Zimmerman: Okay.

>> Tovo: 15-2-13.

>> Zimmerman: Page 6 of 5858, and whether it says part 12, city code section 15-2-15 as amended. And the title is exemptions.

>> Tovo: And you're moving to strike which section?

>> Zimmerman: To strike section B, section C, and section D. So that it would be limited only to section a. Section a remains in place under exemptions.

>> Kitchen: Could you just --

>> Tovo: Is there a second for that amendment?

>> Kitchen: I'll second for purpose of discussion.

>> Tovo: Councilmember kitchen seconds it for purpose of discussion. Yes, councilmember kitchen.

>> Kitchen: So you just explain the impact of that? I'm sorry, who would still remain exempted?

>> Zimmerman: There's a local government code provision here, benefited property described in section 552.053c, there are some exemptions specified there under local government code. Obviously we want to leave those in place.

>> Kitchen: Mm-hmm.

>> Zimmerman: I think if staff could, I've heard Numbers of around 6 to \$7 million that's being lost through these exemptions, and I don't know how accurate that number is, but -- are you -- do you have an idea of what those exemptions are costing?

[3:46:56 PM]

>> I can't say that I know the Numbers off the top of my head, and we have not done a specific sensitivity analysis for the various categories, 2002 speak to the local government code, I can say a little bit there. In the local government code it says that municipalities may exempt those categories, and so it would be a city choice to continue those exemptions.

>> Zimmerman: Okay. So, in other words, you know, we recognize our right to be able to make exemptions.

>> Yes.

>> Zimmerman: But for purposes of being fair and equitable, we said the whole purpose of this was to show that impervious cover is impervious cover, you know, and if we have a technical solution here based on how much impervious cover is being taken up, then the charge needs to be based on that. So if I have a -- if I have a school building, right, that's taking up impervious cover, the rainwater doesn't distinguish between a school building and somebody's business.

>> It does not.

>> Zimmerman: It doesn't.

>> That's right.

>> Speaker2: So impervious cover is impervious cover.

>> Tovo: I'm going to recognize councilmember pool for a question.

>> Pool: I think I have a question, a legal question. So I'm I don't know, sol, if you or mitsy. Thank you. The first group that would no longer be exempt from the drainage charge would be any property owned and occupied by the state of Texas. So is the city able to levy a drainage fee on the state -- the state of Texas?

>> The city does charge utility charges to the state. And we are -- we can do it.

>> Pool: Organic.

>> Speaker2: We've chosen to exempt them.

>> Pool: Okay. I guess it would be helpful to know the amount of money that we're talking about here because the other items are the county, independent school district or public or private institution of higher education. It's an interesting amendment, but councilmember Zimmerman has offered up.

[3:49:03 PM]

>> Tovo: I'm going to ask a question of you. I'm looking at -- you may have just said this in your

comments. I'm looking at the 552.03 of the Texas local government code, and as I read the amendment, there would be no properties that would be exempt were this amendment to pass? Is that correct?

>> No, that's not correct. Under 552.053c, that's where it shall be exempt, that's pretty limited. It's properties with a wholly sufficient and privately owned drainage system that doesn't drain at all to the city example. Property in its natural state and in a subdivision, subdivided lot before it's been -- had anybody built upon it. Those would be the three exemptions.

>> Tovo: Okay. So the only properties that would continue to be exempt would be just the ones you've described and the ones laid out in 552.053c?

>> Those are the ones. I just described those that are in C. The three things are what C --

>> Tovo: Right.

>> Yes.

>> Tovo: I'm saying those -- were this amendment to pass, all the other exceptions are removed except for the ones you read and those are captured? C?

>> Hold on. There would be one more. The as approved on first and second readings changes the letters, and one item that was added -- changes the letters to Numbers. One of the items that was -- that we're proposing to add is the city-maintained right-of-way would continue to be exempt since that's generally the drainage system itself.

>> Well --

>> Tovo: I'm not seeing that.

>> The motion made would delete B as already amended on first and second reading.

>> Okay.

>> So if you wanted to maintain that we'd need to leave that --

>> Tovo: It would strip everything out except what you've just read. Councilmember Casar, you looked like you had a comment or question.

>> Kitchen: I wanted to sitting, I don't know what the will of the council is, but I think it's -- it's an intriguing idea or interesting, one that I think it's -- the council should look at exemptions.

[3:51:04 PM]

I'm just not sure if I'm prepared right now because I hadn't thought through what might be appropriate to exempt and what might not be. And I'm wondering if councilmember Zimmerman would be -- would feel it was acceptable for to us take up these exemptions in our committee and bring back a suggestion? Because I think that we could determine exemptions -- well, actually I'm asking a question. Could we not determine exemptions in August? Would that have to be done right now?

>> That does not need to be done now. The methodology is what we're -- we need done in order to get it on the billing system. The exemptions, unless you tell me otherwise, I believe we could amend the ordinance at any time to do that.

>> I believe that's right, yes.

>> Zimmerman: I'd be agreeable to that. So if that's the will of the council, I would withdraw the amendment because it sounds like there's interesting in pursuing it.

>> Tovo: Councilmember Zimmerman withdraws his amendment. I'll just say I would hope then there will be significant outreach to the affected parties. We've made several commitments as a council to working with our school districts to do what we can to be good community partners, recognizing that their fate has a strong relationship to the fate of, you know, the economic and cultural and other -- and vit all the time of this city. It would be a real donor me if we're narrating the cost of those school districts or taking away their exemption -- which may be completely appropriate -- I would want it to happen after very significant outreach to let them know and ask for feedback on how that will affect their operations.

>> Zimmerman: Fair enough. The point of the amendment is to underscore the fact that impervious cover is impervious cover. And whoever builds the impervious cover, that's kind of what the fairness conversation was about here, is that people need to pay according to what the impervious cover is. So --

>> Tovo: Fair point.

>> Zimmerman: No one is exempt.

[3:53:04 PM]

>> Tovo: However, there's been a lot of public discussion of this ordinance but not a lot of public discussion around that particular change, and so I hope there will be before we consider it back here. Okay. Further amendments?

>> Zimmerman: I have one --

>> Tovo: Councilmember Zimmerman, did you have one more is this.

>> Zimmerman: Yes. It's the yellow page, upper right corner, it says Zimmerman number 1. This was an amendment to section, but I guess because we've already adopted a part 6, section C, this would be moved to -- a new section D, and this refers to clustering the billing into tiers. So it doesn't affect the formula for the calculation. It's only a detail that would affect billing, and it would say that we would group certain ranges, right, of impervious cover into single tiers. And it may be as many as four or five tiers, probably no less than ten -- ten, but we don't say how many tiers, we would just provide for that to be calculated by watershed and proposed to us. I guess as part of the budget cycle, right? As part of the billing -- not part of the calculation, but part of the billing process.

>> Tovo: Councilmember Zimmerman makes that amendment. Does anyone want to second it? Councilmember Troxclair seconds it.

>> Troxclair: For discussion.

>> Zimmerman: Just a few more comments about it. If I misunderstand, this let me know but it seems to me that this would still be consistent with the other amendments that -- with the other amendments that we've passed. I think the benefit it would have is we have thousands of properties and we have a potential for quite a few challenges for people that get their billing -- they get their calculation and they disagree with the numbers for whatever reason. So if we categorized this new formula and sent bills in tiers and showed that you're inside a certain tier, I think it would contract -- decrease the chance people would complain.

[3:55:20 PM]

So if you were close to one of the tiers and you thought there was an error, you might come and protest to get your formula recalculated to get you in a lower tier. But for the vast majority of the people that are kind of in the middle of one of the tiers, I think there would be less chance they would protest their calculation of the drainage fee. That's the idea. You could comment on that, if you could.

>> Sure, sure. We're working on the specific forms for the amendment process. We're anticipating that there would be a fair amount of appeals. We've spoken with the city of Houston and understood from their process that they hired upwards of 20 or 30 temporary staff to deal with the first year of appeals. We don't think it would quite be as significant but do anticipate some level of appeals. In generating forms we think we can make it a fairly efficient process for some of the easier types of appeals such as I have a wood deck and you all captured it as impervious cover and I want it to be treated as a wood deck not as a stone patio so we're looking at ways to expedite that process. Did I have one question. Are you envisioning the tier process would apply to single family or to commercial and --

>> Zimmerman: Well, the page here that we had up, it's FEMA residential properties.

>> Okay.

>> Zimmerman: Again, the rationale for that was -- well, we could have 200 individuals or 200 families living in one property in a condo, right, or an apartment, but those same 200, if they're in individual homes, you have a potential for 200 appeals versus one appeal. So that was another rationale for having it limited to single-family residential, the tiered structure, that is.

>> Okay.

>> Tovo: Councilmember kitchen, did you have a question?

>> Kitchen: She was first.

>> Tovo: Councilmember troxclair, sorry, didn't see you down there.

>> Troxclair: No problem. So councilmember Zimmerman, just so I understand what we're talking about when we're talking about tiers, so you're envisioning that basically we would set parameters for the tiers, say, based on the square footage someone who lives in, you know, 1502 to 2,000 square feet and has this amount of impervious cover would pay \$10?

[3:57:34 PM]

And then have graduated tiers? Or whatever, from there? So the next tier would pay \$11 or \$12 or whatever.

>> Zimmerman: That's correct.

>> Troxclair: Just wanted to make sure I was understanding what exactly we were talking about. I guess I would like to hear from our legal staff about whether -- about your opinion in regards to councilmember Zimmerman's view of how the tiers would affect our legal liability.

>> Okay. I may have not heard your -- what you had said about the legal liability. I'm not sure that the tiers -- it depends on how we structure them. Of course this would require action at budget time to establish your tiers. Like with everything with the drainage utility and all of our potential liability is based on whether we can relate it directly to drainage. Obviously, with the tiers, the more you're averaging people, the less it's based on their individual impervious cover and impact on drainage. So it really depends on exactly how you structure those tiers. I would let staff speak to whether you feel like you can structure those --

>> I would reiterate that point. We feel like we have sufficient capability to compute the charge individually and we were planning to address whatever appeals may come. The impact of the tiers I could see primarily having an effect on the edges, on the highest of folks and the lowest of folks, depending on what that lowest tier would be set and depending on what the highest tier would be set so it seems like that it could alter their charges the most.

>> Zimmerman: Yeah, to further illustrate the point, we basically have two tiers today, you know, you're in the \$9.80 or you're in the \$4 tier. So we have two tiers today. So obviously it would have to be, you know, more than five tiers, somewhere between five and ten. But it would depend on what your numbers looked like. You're right, again, it -- this could be determined later at budget time what those tiers might look like.

[3:59:36 PM]

I just wanted to provide for the option to have that.

>> I would like to make one more comment. I think we need to talk a little bit with Austin energy as far as the structuring and making sure they'd be able to still fit if we don't define how many tiers now, would they still be able to make that structural change for billing. Yes?

>> Tovo: Councilmember kitchen.

>> Kitchen: I have a question also, sol. I'd like to make sure that we are not getting confused because from your perspective, do you see the phase-in option that we just adopted as able to work with the

tier? Or are they two different things?

>> I hadn't thought so much of how they would combine together but I think we could be possibly structure it together.

>> Kitchen: Okay.

>> Assuming the tier concept is a permanent idea and the phase-in option being a temporary one.

>> Kitchen: Okay.

>> Tovo: I have a question. This seems just an approach we haven't necessarily spoke about before, and I guess I would ask our staff whether it's one they recommend and, if so, why? And if not, why not? I'll just say it seemed like the phase-in approach gets us to where we were going and allows people an opportunity to, you know, do that in a way that's less impactful. This is a -- just a different kind of structure. Anyway, thank you, director Lee.

>> This is Victoria Lee, director of watershed protection. We really appreciate the thought of creating tiers, and the purpose of creating tiers is to help the staff so that we can minimize the number of complaints or corrections. We appreciate that. But at the same time, because creating the tiers we will be creating more difficult issues, technically, when we try to implement the tiers.

[4:01:42 PM]

First we will have to decide the range of the tiers, how many of them, and also have to work with Austin energy in programming all that in. And, basically, when we try to categorize, do different things, we have to calculate individual ones anyways. So we will have to have extra work to save potential extra work after it's implemented. So staff did not want to recommend that the -- the tier approach.

>> Tovo: Thank you very much. That's helpful. Councilmember troxclair, I think you were next with questions.

>> Troxclair: Well, that answers my question. I mean, I think originally -- we did talk about doing the tiers, and there are some tiered systems in other cities, and from my perspective, when we originally discussed it, I was thinking, oh, well, having tiers would make it more simplistic so that we weren't having to go in and look at every single property individually. But after talking with staff it, sounds like they have to -- they're going to have to do that work anyway, to identify the impervious cover and square footages of each individual property. So I don't -- so I agree that I don't know that it would accomplish the -- my goal of making it more simplistic for y'all. As far as being consistent, which y'all have done such a great job of, in regards to the charge being directly related to the drainage, I worry, although we are in a 2-tiered system now, that's part what have has gotten us into a lawsuit. So I guess I'm worried that this is taking us away from being less directly related to each individual's property contribution to the drainage in the city.

>> Yes. Thank you.

>> Tovo: Are there further questions or comments on this amendment? Seeing none, we'll go ahead and vote. All in favor of this --

>> Just, I'm sorry.

>> Tovo: Ms. Cotton.

>> I just wanted to point out there was a little snafu with the backup so there's a late backup ordinance that actually is the ordinance that was passed on first and second reading.

[4:03:50 PM]

I want to make sure that's what we're looking and the making a motion on.

>> Tovo: Councilmember kitchen, I think you made that motion.

>> Kitchen: That's right.

>> Tovo: That was the one you moved approval of? Very good.

>> Kitchen: That's right.

>> Tovo: Any further comments on the amendment before simultaneous okay. All in favor? Councilmember Zimmerman is in favor. All opposed? And that is the remainder of the councilmembers, with councilmember Houston and mayor Adler off the dais. So that motion -- that amendment fails. Are there any other amendments? Any other discussion? Councilmember Zimmerman.

>> Zimmerman: I'd like to move approval of the item as amended. Final approval as amend -- amended.

>> Tovo: I will take that as a sort of calling of the question, more or less? All right? Any other comments? All in favor? So that passes unanimously with councilmember Houston and mayor Adler off the dais. So I believe that that almost concludes our business. Council, I'm not sure that we have postponed the public hearing. That we were scheduled to have today.

>> Did you not take a vote on it. The mayor just announced.

>> Tovo: Announced. Okay. So I will entertain a motion to postpone that item. If somebody gives me the number.

>> Troxclair: 25.

>> Tovo: That's item 25? Is there a motion to postpone item 25? Councilmember Zimmerman moves approval of postponement until -- does anyone know what date?

>> Zimmerman: August. Is that August 6? August six?

>> Kitchen: Yeah, I think August 6.

>> Tovo: Councilmember Zimmerman moves to postpone until August 6. Councilmember Renteria seconds that.

>> Casar: I think our zoning council meeting is August 13.

[4:05:52 PM]

>> Zimmerman: August 6 is the first regular meeting, isn't it?

>> Casar: Yeah, this is a zoning item.

>> Zimmerman: Oh, okay. So August 13 then.

>> Tovo: Okay.

>> Zimmerman: Okay, August 13.

>> Tovo: So the vote will be to postpone to August 13. All in favor? Unanimous on the dais. Councilmember Houston, mayor Adler off the dais. City clerk, do we have any other business before the council?

>> That is it.

>> Tovo: All right. Well, this meeting of the Austin city council stands adjourned at 4:05. Have a great rest of the afternoon.

[Meeting adjourned]