

# City Council Work Session Meeting Transcript – 3/1/2016

Title: ATXN 24/7 Recording

Channel: 6 - ATXN

Recorded On: 3/1/2016 6:00:00 AM

Original Air Date: 3/1/2016

Transcript Generated by SnapStream

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[9:11:28 AM]

>> Mayor Adler: I think we have a quorum, so we could go ahead and get started. I'm going to call to order the work session. Today is Tuesday, March 1. It is 9:10 A.M. We are in the board and commission room at city hall. We have several briefings up before us, some people associated with those briefings that have limited time this morning. So we're going to begin with the briefing on the water capital recovery fee, back to that and pilot knob.

>> Morning.

>> Good morning mayor, mayor pro tem, council members. I am David anders, assistant director and chief financial officer for Austin water. With me, Greg mezeras the director of Austin water. We're here to provide crf policy and affordable housing waivers. This presentation is in response to a February 11 council resolution that asked for a briefing on the history and current policy on capital recovery fees, sustainability fund payments and capital recovery fee waivers for affordable housing. So that's what we'll be talking about this morning. So just talking about capital recovery fees and a policy development. I just wanted to mention what the purpose of the capital recovery fees are.

[9:13:31 AM]

The Austin water invests hundreds of millions in water and wastewater infrastructure to accommodate new growth in customers. This cost of the infrastructure must be recovered either through all the ratepayers of Austin or through those growth customers only of Austin water, or a combination of both, which is our current Austin practice. Crs provide a mechanism for new growth customers to sort of buy in to the system by charging for a portion of the growth-related projects at the time that those new customers connective. The new growth customers help pay for the cost of providing that infrastructure, and instead of spreading all of those costs over the existing customer. So in a sense it's a way for growth customers to pay for growth. Just some policy background on capital recovery fees. This is covered by state law, and they call it in the state law an impact fee, so capital recovery fees and impact fees are the same. It's Texas local government code chapter 395 that governs the calculation of the capital recovery fees. There's a five-year update requirement for all cities to update their crfs. There's specific calculation methodologies that are prescribed by the state law that all cities must use. So it's basically the capital program includes only growth-related projects that the city would construct or has constructed, and the actual calculation produces in that methodology a maximum allowable fee. And of course the maximum allowable fee is by state law, and the council would set policies at that level or below based on just approved ordinances.

[9:15:33 AM]

The use of the capital recovery fees are restricted by state law to be for construction costs for growth-related projects, or debt service on those growth-related projects after they've been built. And this includes defeasances or paying off debt early. So one suspect of the capital recovery fees it's important to note is that the fee that is in effect at the time that the subdivision is platted is what follows that particular subdivision, so even if the rates change later, then when it was platted is the time that that -- that fee is charged for that particular subdivision. As far as recent updates for Austin water, we did one in 2007 and 2012. The 2007 update produced this maximum allowable fee. We worked with an impact fee advisory committee, which is state mandated. There's a public involvement process for stakeholders, and in this 2007 update we maintained the discounts for Zones that had the -- the council had approved previously, and I'll go over that in a moment. The fees were implemented on October 1, 2007, so any properties that would be platted after that time would be on this particular fee. This next slide provides for the 2007 fees. The maximum allowable at that time was calculated at \$5,159 for a five-eighths inch meter. The council approved fees significantly discounted from the maximum allowable amount. The discounts varied by Zones as much as a 25% discount for sort of outside city of Austin fees, up to a 79% discount for the desired development zone in the urban district.

[9:17:43 AM]

And the blue box over there shows you the different Zones that we had, the drinking water protection zone and the desired development zone were the ones that were primarily used, and these were incentivized to push development toward the desired development zone. So those fees were lower than the drinking water protection zone or the outside city as an incentive, and then additionally the urban water sheds or even the central urban district downtown were further incentivized to promote development.

>> Mayor, may I ask a really brief question?

>> Mayor Adler: Yes.

>> Casar: Since the capital recovery fees have to be, within my understanding, set at the time the subdivision is platted, since certain parts of desired development zone say central east Austin were platted a long time ago, talk to me a little bit how that works and what I'm miss whg they set the capital recovery fees at a certain discount off the allowable rate considering that those are old neighborhoods?

>> Okay. If -- when a developer comes in or even a single lot developer comes in, then we do check the plat date on that particular lot. If that was platted, you know, back in the '70s, then there is a fee schedule that is used that is still highly discounted from the maximum allowable. If a new development comes along that is being platted just now, then obviously they would be at the rate that's currently in effect. But that's exactly what happens, is we look back when it was platted, we look at the fee schedule that was in effect at that specific time when it was platted, and that's what we charge those customers. And there is a big difference in that.

>> Council member, I would add too that occasionally in the older parts of the city, people will come in for, like, adding a unit or an Adu or something, and they don't have platted land.

[9:19:46 AM]

If their land might have been a combination of a couple of lots, they have to go through what's called land status, and when they go through land status project the ladder that's given to them to make their lot conforming, per Se, that's the date of their plat. So they -- some of the older areas that are like that, their plat date is modern as opposed to in the past.

>> Casar: Thank you.

>> Mayor Adler: Yes?

>> I have a follow-up question to that.

>> Mayor Adler: Go ahead.

>> Pool: So if the fees that are the ones affected are the ones when the property was originally platted, what happens if a plat expires and site plan expires and nothing happens and then it's refilled years later? Do we then go to the next -- the next approved site plan or plat?

>> If for any reason there is a replatting of that particular lot, for whatever reason, then yes, that new plat date would be the controlling part of the fee schedule, similar to what Greg mentioned. If there is no real platting and they come in and they have to do a land status, that is the controlling part of when the fee would be charged.

>> Pool: Okay. So you update based on the plans for the property, but only if original ones, if there are any, have expired?

>> Right.

>> Pool: Okay.

>> And one of the things you might see as well is, you know, in a large development they might not plat them all at one time. They plat them in sections as they go through and as they develop. So in that larger development you might see a -- if a fee changed during that time you would see part of that subdivision -- or that area being charged at a different rate than one that's later developed.

>> Mayor Adler: Yes?

>> Garza: It's the previous slide actually, slide 7.

[9:21:47 AM]

Is the calculated maximum allowable -- is that also in line with the cost? Is that the cost of the service?

>> Well, the -- the state mandated calculation, basically you take all the projects that are growth-related projects, and then you determine sort of the cost of those projects as far as debt service associated with those that have already been constructed, and debt service or project costs into the future, and it's a ten-year window snapshot. And so you take all those costs for all the growth-related projects within that ten-year window, and then identify those costs and identify the anticipated units that would be growth-related that's projected in that ten window, and then it's just a division between the cost versus the number of units that are potentially out there in growth, and that calculates that maximum allowable fee.

>> Garza: So it's the anticipated cost?

>> It's an anticipated cost. It's an anticipated amount of growth that goes into that calculation.

>> Garza: So the actual costs could be higher, could be lower?

>> The actual costs could be higher or lower than that particular cost. But when you update that each five years, then that next ten-year window is a little bit farther out, you have more information on what has happened versus what is going to be projected.

>> Garza: And so -- so what the -- the previous council did with the assessed fees part is, if the 5159 is the anticipated cost, kind of the estimate, the discount -- they discounted those fees?

>> Right. The discounted fees, and then that would have been made up by the other -- any of those other costs that would not have been covered by the crf is made up by the other ratepayers of the city of Austin.

[9:23:48 AM]

>> Garza: Okay. Thank you.

>> Casar: And mayor, I just wanted to clarify that we're all on the same page here, any public listing is on the same page. With council member pool's questions I think there's a difference between the site plans, which expire, and my understanding of plats, which are just the divisions of land which last and sit under the ground for -- for a long time.

>> I believe so.

>> Casar: And so -- and so my understanding is that those plats, as long as you're conforming with them, those can be decades old, whereas the plans follow our grandfathered rules and non-grandfathering rules. So I think there's -- you may very well be adding something to your house, and as long as it's been platted since the '30s or '40s, then you have the old capital recovery fees associated with those.

>> Yes. The most recent update was in 2012 where we went through the same process of long-terming growth projects and living units. We had a public involvement process that was a little bit more extensive in 2012. We had the impact fee advisory committee. Currently at that time the joint committee on Austin water's financial plan was in effect. They also looked at the -- and weighed in on the capital recovery fee policy. Of course the stakeholders and the home building community were involved in this process, and the council approved the new fees that were implemented on January 1 of 2014. So this slide shows what those fees are currently. The maximum allowable fee at that time was at \$7,600, so there was an increase for the five-eighths inch meters, and the council approved that all fees were consistently set at the maximum allowable, so you see there are no discounted Zones. All customers are at \$7,600 for that five-eighths inch meter.

[9:25:53 AM]

It increased the fees by as much as 4 to 5 times what they were before. If you remember the fee for the desired development zone was \$1,600. Now it is \$7,600. That's 4.75 times greater than what it was in the past. And this was designed to have new development pay for more of the growth that was -- and those costs as opposed to some of the other ratepayers of Austin. So growth paid more for growth, and one of the reasons why the actual maximum allowable went up was that it was the first time that we had an update that included any costs associated with the water treatment plant 4. So that has some growth components within that particular plant, and so those are estimated and included in the calculation by state law. This graph here just shows historical collections that we have on impact fees. You can see back to 2011 we were just under \$5 million, and in 2015 we were almost \$19 million. You can see the difference in the collections since the 2014 rates have gone into effect. However, it's interesting to note that while 20% of the units that we see that are coming in to purchase crfs are at the 2014 rates, so a small portion is at the 2014 rates, but it's generating 80% of the revenue that you see in 2015, whereas conversely, 80% of the units that are coming in are on the 2007 rates but are only generating 20% of the actual revenue in 2015. So it sort of shows you how that increase in rates in 2014 has increased the amount of revenue that we would expect coming in from crfs to the utility.

[9:28:02 AM]

As far as use of the capital recovery fees, historically Austin water has used those for paying debt service on growth-related projects, and that's state by -- state law, and it is a revenue source that basically helps us pay debt service, so it definitely offsets the need for any rate increases for that. But in the future Austin water is doing something a little bit different by state law, and it's going to actually happen in this April. We are currently working on our next bond issuance, and as part of that bond issuance we're including an \$18 million defeasance of our debt going forward, and so what that basically does is it repays some of our debt with those crfs. And so that 18 million in defeasance will result in \$21.6 million in debt service savings over the next 14 years. If you defeas debt longer term out in the next five to ten to 12 years, then you actually can get more savings from the crfs than you actually would contribute at that time. So that's something that we are working on, and in the future, because of the revenue from crfs is starting to increase significantly, it allows us more funds to be able to use defeasances to target some of our debt service that is spiking in the future to try to maintain our debt service at a more constant level and hopefully allow for further slowing in our growth and rates over time.

>> Mayor Adler: Yes, Ms. Pool?

>> Pool: Question. Can you remind me what our total debt is for the water utility?

>> We have about 2 1/2 billion dollars of outstanding debt currently.

[9:30:06 AM]

Our debt service each other is about 200 to \$210 million per year. It's about 40% of our total requirements each year.

>> Pool: Okay. And it's about 10% of the actual debt?

>> Yeah -- of outstanding debt, yes.

>> Pool: Okay. Thank you.

>> So next we'll talk a little bit about the capital recovery fees and some of the affordable housing waivers. The capital recovery fees have been waived traditionally for affordable housing. It started in about 1999. I think it might have started as early as 1997. There's still? Looking and reviewing with that, but it started on a 500 unit initial limit for affordable housing. That was increased to 1,000 unit limit in April of 2000, and then in 2007 that amount has risen to 1500 unit limit. In 2015 waivers, there were around 661 waivers for affordable housing at a cost of about \$1.7 million. Additionally for affordable housing there were about just under 400 units for Mueller, rmma, that do not count towards those 1500 waivers, but that was around 172,000 as well. We wanted to provide sort of the value that affordable housing waiver limit and how that has changed over the last few years because of the new rates. So the previous fees at the 1500 limit would have been a cap of about \$2.4 million per year under the 2007 rates, whereas in the current fees at the \$7,600 rate that waiver equals about 11.4 million per year if we were to hit that 1500 limit.

[9:32:07 AM]

So it has also significantly increased because of the increase in the fees.

>> Mayor?

>> Mayor Adler: Yes.

>> Tovo: It's my understanding, though, the capital recovery fees are no longer among the fees that are listed as able to be waived by the S.M.A.R.T housing project, that they're not in that list anymore of S.M.A.R.T housing fee waivers.

>> I think law had provided some clarification on the background of those fees and that list and why they're still being waived. So I'd probably need to defer to that description.

>> Tovo: Yeah, I hope we have an opportunity then to talk about it in -- in executive session, but just in looking at the S.M.A.R.T housing ordinance, it doesn't list -- it no longer lists capital recovery fees as one of the fees that's being the only waived.

>> Mayor?

>> Mayor Adler: Yes?

>> Those limit changes, the 500 to a thousand to 1500, was that done administratively?

>> No, those were council-approved waivers with an ordinance.

>> Okay. And then the value of the waiver limits, shouldn't -- my assumption would be would be the actual value, which would be not the 1600 but would be the 5159, because that was the maximum allowable. Isn't the actual what it could be what the value of something is that --

>> Definitely the -- you know, the discounted portion that is that difference between the fee and the maximum allowable under the 2007, you know, definitely has some value shown there, but, you know, really what was being charged prior to to -- you know, when a developer comes in and says I have this S.M.A.R.T housing waiver, what they would have been charged would have been that \$1,600, not the 5159.

[9:34:11 AM]

So that other part is really sort of the discount that was lost due to the -- you know, the council-approved policies on those particular fees.

>> Garza: Yeah, I get that, but I'm just saying if we're talking about value, I don't understand why we're calculating the discounted rate, if we're talking about value it would be the value, which is higher than the discounted rate.

>> Yeah, I guess the value in this instance is sort of from the developer standpoint. The developer is going to have to either pay it or they're going to get it waived, and what they would have paid would have been 1600, and then they get that waived, so the value to that developer is \$1,600 that they didn't have to pay.

>> Garza: And I guess it would have depended on which development zone it was in. So it wouldn't -- okay.

>> So this graph here just shows the affordable housing waivers over time. You can see back in the 2011 time frame it was under \$500,000, and over the last couple years it's been closer to \$2 million, and increasing. That is showing as well that as the fees increased in 2014 the waivers amount would tend to increase, and as we would expect into the future our revenues from crfs would go up as well as the

potential for waivers to go up into the future as well. On this slide here, you know, we have continued to work with housing and Austin water, because clearly there is a need for us to collaborate further on the universe of outstanding waivers and what's coming forward and how that might be seen. So it's very difficult for us at this point to determine sort of this current universe, but that's something definitely that we'll begin tracking and setting up a system to track better into the future.

[9:36:16 AM]

But we wanted to try to provide some sort of approximate estimate of the amount of affordable housing commitments that might be outstanding there and, you know, in working with the housing just within the last week or so and trying to come up with this, we looked at an approximate 17,000 of smart waiver commitments that are potentially out there, and I want to qualify that by saying that that includes approximately 9500 units for pilot knob that were certified back in December. It includes some almost 800 for Mueller that is really not part of the limit but is a part of the affordable housing. And there's a couple other larger developments that are there currently or will be there soon as we continue to work this. This is just a snapshot of time that changes quite a bit as certain properties might be decertified as being affordable and those kinds of things. So I just want to caution knew trying to provide this as just an illustration of some of the dollars that might be out there from a waiver that would come in over a longer period of time. These waivers -- some of these waivers might be, like in pilot knob, over 20, 30 years out into the future. But it does represent a significant universe out there of potential waivers into the future, significant dollars that would be committed to waivers for affordable housing. So we just wanted to mention that universe, and also that, you know, the possibility of reaching the 1500 limit with some of these larger developments is real, that we could get to that point, and at this point I don't believe housing and/or Austin water does not have a clear direction on how we would proceed if we reached that 1500 during the middle of a fiscal year, if we would just tell the developer, no, you can't have a waiver, we would have to come back to council for consideration when we got closer to that for increasing that limit from 1500 to higher.

[9:38:44 AM]

I mean, those are all the possibilities that we would have, but as we get closer to that limit it would be a policy decision going forward on how we treat that particular developer when we reach that limit.

>> I would add too that the actual fee waiver for units varies. A single-family unit is a different kind of fee waiver than multi-family, so even -- like it's probably not a fair statement for us, like just taking units times the maximum allowable, that it's really a whole combination of different fee structures. So this is

very dynamic, and I think that's one of the follow-ups with housing is to, you know -- as David said, a better system for us to track and forecast the upcoming fee waivers.

>> Mayor Adler: So that I can understand a little better -- sorry -- so I guess it's good that water is now talking to housing to kind of square this. So there was -- there was -- there's the existing policy of the city is to allow up to 1500 fee waivers for affordability. That's our policy; is that correct?

>> That is correct.

>> Yes, and --

>> Mayor Adler: And do you keep track -- up until this exercise have you kept track of how those waivers were going with respect to how close they were getting up to 1500 in any given year, what they were cumulatively, or is this something now that you're just beginning to track?

>> We track it at the utility when it comes in for an actual hard fee waiver, where they come in and say, we're ready to build and here's our letter from housing and we want a fee waiver. We track all of that. We have expensive data on that -- extensive data on that. What we haven't been tracking and what housing tracks but I think they would acknowledge, you know, they'd probably need to make some improvements there too, is the up-front decision to certify that development as a whole. So --

>> Mayor Adler: That's what I'm saying. So you keep -- when someone comes in and says, I've been granted a fee waiver, they give you the letter and you honor that letter.

[9:40:48 AM]

But in terms of from a budgeting standpoint, from a projection standpoint, you haven't been involved in the city's policy of housing. They can grant up to 1500 of those. You don't hear about that or learn about that until later in the process when someone shows up and says I'm entitled to this, is that correct?

>> That is correct. And from a budgeting standpoint we don't necessarily -- we do not budget for a 1500 limit each year coming in. What we budget for is the graph that we show as far as collections, actual historical collections. So, you know, as our collections of crfs that are actually paid, then we look at that historical trends and then project for the actual collections each year. Imefded within that collection -- embedded within that collection is the current trend of affordable housing. So if they're at about a thousand, then our projections -- you know, that historical collections is there's so much collected and there's so much waived, and that historical trend is what we use. So we don't have a 1500 limit that we automatically budget for. It's just where we are currently in the projection.

>> Mayor Adler: So that I understand that, because I think that's important too, so you're not keeping track of those up to 1500 as the contingent liability. You're just saying historically, we're going to get

these many paid capital recovery fees, and then you expect to see the performance that year be exactly -- maybe the budget that you predicted.

>> That is correct.

>> Mayor Adler: For example 2015 you would have projected but you would have thought the capital recovery fee collections would have been -- what you thought they would have been. How do your projections rate to what was actual?

>> Well, that's a good question. The -- you know, we have been projecting over the last several years approximately about \$10 million per year, and in 2015, as you see by the slide, you know, it was a significant increase.

[9:43:01 AM]

So we still do not have much history of the MIX between the 2007 rate and the 2014 rate, and obviously we were -- you know, we were assuming that the 2014 rates being so much higher, that our capital recovery fees would tend to increase from that 10 to \$12 million range up to as much as 30 to \$40 million into the -- into the future. So we know that there's going to be a significant increase in capital recovery fees. It's just how quick is that going to change, and so we're --

>> Mayor Adler: So I'm trying to figure out what the relationship is between projected and actual for the time period we have those. So 2015, you have --

>> I think in 2015 we budgeted approximately like \$14 million and we got like \$19 million. So.

>> Mayor Adler: So thus far -- so thus far it would be fair to say that the affordable housing fee waivers have not cost -- have not resulted in any negative budget impact for water based on your projected budgets? In other words, what I'm trying to figure out is if the actuals are so outperforming the budget requests, that the experience that we've had with S.M.A.R.T housing thus far is not causing a decrease in -- or a miss in your budget.

>> Definitely our crfs that we are budgeting for in '16 and '17 are beginning to increase, but I think that question is also -- you have to be very careful because, you know, as our waivers tend to increase with additional development that is starting to come in that is getting more waivers, then those increases into the future will be less than what we would have anticipated in our -- in our projections going forward.

[9:45:08 AM]

>> Mayor Adler: Oh, no, I understand, and I think it's good that we're taking a look at that. I was just trying to get a feel for up to this point, it hasn't resulted in you missing -- or has it resulted in you missing a budget projection?

>> That is correct.

>> Mayor Adler: Okay. Ms. Kitchen?

>> Kitchen: Just a very quick question, and I probably missed something along the way. But on slide 13 you said that 2015 waivers were 1.7 million per 661 units. I'm -- am I looking at apples to Oranges? Because you were talking about tens of millions right now.

>> Which slide again, was it?

>> Kitchen: It's slide no. 13.

>> On 13, the 1.7 million -- is that what you're?

>> Kitchen: Yes.

>> That is the actual waivers that have been waived for S.M.A.R.T housing, affordable housing. The actual 10 to 15 million, or 18 million, is actual collections of crfs that were not waived, and that's what's much higher than the -- so the waived amount is a small portion of the total each year.

>> Kitchen: So the impact on -- the impact on us of the amount waived is a small portion?

>> Yes, at the current point it's only 1.7 million waived out of 18 million collected.

>> Kitchen: And that -- for 661 units -- the reason I'm asking that question is because on slide 15 you were talking about the possibility of reaching the 1500 limit is likely. Just wanting to make sure I'm understanding that the 1500 limit there, where it's 661 we're at 611 toward that 1500.

>> There have been years in the past, not in 2015, that we've been closer to the thousand range of waivers. I think in '14 and '13 it was around a thousand units each year. So as we talk later about pilot knob, if that was 350 per year, and some of the other developments that have been waived as well continue to come in, then it is likely that I think we would get to the 15.

[9:47:18 AM]

Is it next year? No. Probably a few years out into the future as some of these larger developments start doing 300 or more per year.

>> Kitchen: Do we have a projection? Do we have a graph that shows us how many? Because we know that -- if I'm understanding correctly, we know that in 2015 it was 661 units. I hear what you're saying in

terms of expecting more in the future, but can we not -- do we not have a projection about the number coming in?

>> We -- we have not in the past projected for the future waivers in trying to do that. We just take actuals and historical actuals of waivers and historical actuals of collections to make our projections.

>> Kitchen: The reason I ask that is the statement here is that the possibility of reaching 1500 limit is likely. So I'm just wondering what data that's based on. I hear you saying that -- I'm is not -- I'm not questioning whether it's likely or not. I'm just saying there must be some data behind that, and I would think that you would have some kind of projection so would have some idea on what years you think that might be likely.

>> I believe the main statement on that is that we have reached a thousand units over the last -- a couple years ago, and so that possibility is there. If a couple of the larger developments that have been approved for S.M.A.R.T housing start ramping up, that that could be 3 to 400, at least, per year, and that's getting close to the 1500.

>> Kitchen: Okay, but there's no graph or chart that shows --

>> We do not have that projected into the future. Mr. Zimmerma N?

>> Zimmerman: Thank you, Mr. Mayor. I want to tackle something I think you were trying to get out earlier that I have a completely different take on. The irony of this to me is that supposedly the fee waivers, the idea behind the fee waivers was pay for growth. You know, the idea of not having fee waivers is paying for growth.

[9:49:18 AM]

The idea of putting in capital recovery is to say, all right, when I have some growth, let's assign some fees to that growth so that the existing payers don't have to shoulder the cost for new growth. Basic philosophy of cost recovery fee. So once that's put in place, now it becomes a science of, again, doing cost shifting. So if you back up to why we have recovery fees in the first place, when new growth comes in we don't want to burden the existing payers, paying capital for new growth. I thought that was the original purpose. And so now it's gone from that original purpose to now granting these waivers and doing cost shifting that we were trying to avoid in the first place. Because every one of these waivers that goes in where people don't pay for their cost recovery are -- they don't pay for their capital, somebody else has to pay. And so we're back to the shuffle. We're back to the shuffle game again. And the fact that -- it sounds to me from listening to you, and I appreciate the candor, you don't have an accurate way to know what these -- what these waivers are going to cost, you don't know precisely what's going to come in, and it sounded like you weren't even sure in the pilot knob case, you didn't -- you weren't aware of what was coming down the pipe and that's kind of why we're talking about this. So

I think that under scores the fact that you really don't know, you're making estimates, because it's the only information you have, and to say that -- that you haven't blown up your estimates in the past and suggesting that that's not a problem to me seems a little bit ridiculous, you know. This whole conversation we're having is we were trying to avoid forcing existing users to subsidize new growth. That was the original purpose of capital recovery. Now we're into waivers, and we're right back into cost shifting between, is it S.M.A.R.T housing or a pilot knob project, this project, that project, it gets confusing. I'm also confused about why Mueller would not be counted toward this limit.

[9:51:19 AM]

It shows -- council member kitchen was talking about the 661, but there are 400 units here with Mueller and it says the units are not counted toward the limit. Why not? I heard something addressing that, and it didn't make any rational sense to me. The waivers are waivers. So I could see why people are still going to be confused about this. And finally, I'm going to -- I'm going to contest this term of affordable housing. This is not affordable housing. This is subsidized housing. This is cost shifted housing, where some people are paying more so that a few can pay less.

>> Mayor Adler: Since you raised the question to me I'll respond just real fast and then I'll pass it on. I think that the idea of the capital recovery fee was exactly as you said, so that growth could pay for itself. But we have more than one goal in this city, and one of the goals we have in this city is to have -- maintain in this city the people who have lived here for a long time so that they can continue to stay here so that we don't continue to lose people and communities. What we're talking about here on these Numbers historically is the cost recovery fee to the tune much 90%, pure. And when we're talking about 10% of it that is being also applied to another goal that we have in this city, and that's to make sure that we have housing that is available for people at different economic levels so that we maintain that measure of diversity in our community as well as geographic dispersion of mixed incomes in our city, and for us to do that to the tune -- to the small percentage we are is something that I'm proud that our city does. These are competing priorities that we have. Ms. Garza, Ms. Pool and mayor pro tem.

>> I guess to councilman Zimmerman's point, if I'm understanding correctly to this point there hasn't been cost shifting.

[9:53:21 AM]

In 2015 it was estimated 14 million -- a \$14 million budget. What actually came in was 19. That's a \$5 million difference. The cost of the waivers were not even \$2 million. So if I'm understanding this

correctly, there wasn't any cost shifting. You were able to absorb the amount of the fee waivers within your budget. Is that right?

>> Yes, in a sense it is, but, you know, had those waivers not been there, I think those would have come in as more revenues, I believe that's maybe what the council member was discussing.

>> Garza: And I understand that but there wasn't -- there didn't need to be any shifting because the budget -- there was money available in the budget to cover that cost.

>> Yes.

>> Mayor Adler: Ms. Pool?

>> Pool: So if we have a cap of 1500 fee waivers each year, how did we get to a total affordable housing waivers of 2,069,000? It's on page 14. I'm not understanding the metric on the bottom of that graph.

>> That 1500 is, you know, based upon whatever fee -- either the 2007 or the 2014 fee that would have been waived based on that. The total of that came up to that \$2 million --

>> Pool: This isn't -- okay, at the bottom -- is that --

>> The 1500 is just --

>> Pool: Affordable housing waivers. So that must be a dollar on the -- on the vertical axis it says amount in dollars, but down at the bottom, is that just telling us what that --

>> Yes, it's just the data for -- sorry, it should have been a dot down there, but it's the data of that particular year, 1.9 million.

>> Pool: Okay, and so that would equal how many -- how many waivers?

>> That 1.8 million is the combination of the 1.7 million for the 661 units that were against the 1500 limit, as well as the additional 399 units in Mueller that were not a part of that limit.

[9:55:33 AM]

So, you know, this chart is for housing waivers, regardless of the limit, whether they count for it or not. It's just total waivers for affordable housing per year.

>> Pool: And then on the next slide, 15, you say approximately 17,000 smart waiver commitments since 2014, which includes the 9500 for pilot knob. So it looks like we're making more than 1500 S.M.A.R.T housing waiver commitments every year?

>> We -- we count the waiver when they claim it. Housing -- they don't like only approve 1500. I mean, obviously like pilot knob --

>> Pool: So it's an accumulated over time total?

>> Yes, yes.

>> Pool: And how long has the program been in place? Was it the '90s?

>> 1999 --

>> Mayor Adler: Your microphone.

>> 1999.

>> Pool: 1999. Okay. And then last question on this slide, 9500 waivers that we approved in December for pilot knob. I know from my perspective I didn't realize I was bust in that 1500 limit, so completely -- so maybe that isn't the way to look at that? And would our passing of the ordinance mean that we had approved any overage should there have been any?

>> No, I think the 9500 is for the development as a whole spread out over 20, 30, even longer number of years. The limit talks about a 1500 limit for actual waivers for that particular year. So pilot knob, for example, they might do 300 a year, and so that 300 per year that they actually physically come in and get that waiver, that would be counted towards the 1500 limit.

>> Pool: Okay. That's very clear. And then what would be the policy, and I don't know if that's -- you all want to take a crack at it, because it's a policy -- policy justification for providing -- maybe it's up here at the dais -- for providing the fee waiver for the homes that are not, in fact, part of the S.M.A.R.T housing program and are full-price homes.

[9:57:53 AM]

Why would we be -- so that -- that's the policy question that I'm I've been considering since early January, what is the justification for granting that fee waiver for homes that are market rate?

>> Mayor Adler: I think for me, the policy is there different ways we can help facilitate affordability in the city. We could help with affordable rents. We could buy down rents for a year or two, or three or five years. That's going to have a certain cost associated with it. With respect to homeownership, there are also options. I could provide -- or the city could provide, and it has -- affordability on the first sale only of a home. Or, we could reach deeper at a higher cost and provide permanent affordability with respect to a home that was purchased. For me, where we can, I think we need a MIX of all of these things. I think the city provides those. For me, having permanent affordability is real important, because it avoids the situation where somebody buys the home, down to the 85% mfi level, but because there's

no permanent affordability associated with it, it's put on the tax roll as full market value, which means the very next year, the person at 80% mean family income has trouble paying the property taxes because it's been taxed at a higher value than what they could afford to pay for the home. And we build in an of the dynamics that contribute to gentrification. Somebody is in a home paying taxes that are higher and not related to the price that they paid, and they have -- because it was bought down for that initial sale -- \$50,000 worth of equity in the house.

[9:59:53 AM]

So they sell the house to somebody who can afford to keep it at that level, and it's a gentrification issue. It is more expensive to provide the permanent affordability. And that's why the S.M.A.R.T. Housing policy that's in place in the city right now has grades. If you're offering this level of affordability, this is the fee waiver you get. If you offer this one, this is what you get. And it goes all the way down to where you're offering permanent affordability for homeownership. Then the corresponding existing policy in the city is that in order to pay for that, in order to justify that, you get the fee waives on all of the homes, because it's a more expensive deal. So it's a question of a menu of products and affordability that we can help to assist with, and the associated price tag of those.

>> Pool: And I understand that and appreciate that. The thing is, though, that their description of the purchase price of a home that then increases the next year or the next year is exactly what's happening to all of the homes in Austin right now. My home is worth considerably more today than it was when I purchased it, and that's -- I would guess the case for 90 plus percent of the people who live in our city. And so I come back to the justification for that, for how are we also helping all of the other people who live here now, people whose homes have not been built yet, don't live there, and we don't know if that I live in the city or not. I know in-migration is really high. How do I help my neighbors, the constituents of district 7, who are are being that very thing that you described, is pricing them out of their homes and they don't have the ability to either buy it down or have permanent affordability.

[10:01:57 AM]

And if this action, while doing a good policy thing, I agree, in one area of town, ultimately raises the cost through utility shifts for everybody else in the city, who I'm still trying to figure out how I can keep them here and keep our schools vibrant, because folks with kids aren't coming into the city. They're leaving. I'm still stuck on how this effort here has the broader application citywide.

>> Mayor Adler: And I guess no one tool, I think, hits everything. What we're doing here is the same thing that happened in Mueller. And it could be that the policies that we have in Mueller aren't the

policies we should want to have, but Mueller has built into their program the permanent affordability with respect to homes the same way it is here. And I agree with you. There is a cost. What they are telling us is that if we would -- the pilot knob decision, as was intended by the folks -- and we can talk about how to effect that -- was that this council can make the decision every year on whether we wanted to take down those homes and take the money. Because we keep using the word waiver, but the developer is paying the money, and the question is where do we send that money. And we can figure out what the vehicle is to ensure we deliver what the intent was. But the intent was every year the council could make that decision. What we're told is, if the council made the decision every year to use this waiver to the fullest extent possible that it would result in a change of utility bills at less than a dollar. And the question ultimately we have with respect to any social program in this city is, every time we do any social program, as Mr. Zimmer points out, somebody pays for it. It's a dollar amount that has to be paid somewhere.

[10:03:59 AM]

And the question is, what programs do we as a council give a high enough priority to that we say, you know, this is important enough for our community that everybody's going to pay a less than a dollar toward achieving it. But you're right. It's that way.

>> Pool: And then I would just say, to end my preferences would be to try to aid the people who lived here now, and who have lived here and invested here in their homes for a considerable amount of time so that we're not pushing them out. And it is accumulative over time. If we do the waivers here, if this stands, and we do it -- originally the context for this conversation was we were going to continue to do this in any number -- 50 different developments. And then that's where that 64 cents a month really becomes something much greater, and does have that downward press on the affordability for folks who have lived here and put down roots, and invested in our community, raising their families here.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I have a couple questions about the presentation. I just -- I'm not sure if this is the time or not to explore this, but there are some significant differences to projects like Mueller and that process, and what we're talking about here. That was the subject of a multiyear public discussion, and it's within the city of Austin. And so while it is within a tif, the sales tax there, it's my understanding, actually comes back to the city. So I think that that is -- for those two reasons, a pretty significant difference between what we're talking about here. With regard to -- my question is this -- I have two questions. The first is on page 13. You cited several other projects, the thousand-unit approved in 2000, the 1500 in 2007. Could you provide us either now or later with which projects those were?

[10:06:04 AM]

And I think you said they were not approved administratively, they were a council action. I'd like to ask that second question. You know, I think there's a lot of -- the discussion on the public on this issue has been confusing, the discussion in the code is confusing, the discussion we're having here is confusing. And we have what sometimes sounds like separate information in our attorney-client. It is not clear to me how the passages of code about what is and is not allowable, as a fee waiver, lines up. And I think that is probably a conversation we need to have in executive session, but, you know, there are passages of code that talk about the fees -- about projects not being eligible if they're outside of the corporate limits of the city of Austin. So can you tell me whether the projects you've cited here were within the city of Austin, or were they in something more akin to pilot knob? Were they in limited purpose?

>> I would assume that most of the projects that would've triggered the council approving an increase in those units would've been more inside the city. I think that's what, traditionally, most of the S.M.A.R.T. Housing waivers would have been. But I don't believe that there was any -- I don't recall any specific projects, necessarily, that would have triggered the increase on its own from a thousand to 1500. But just that the waivers were intending to be a little bit higher. And we didn't want to reach that limit. And so --

>> Tovo: Ah, okay.

>> Either housing decided we were close to the limit, we should change it higher, and that was determined probably based upon a myriad of information, as well as projects that are continuing to come through, growth picking up in the city, all of those factors.

>> Tovo: Thanks. I misunderstood that. Those are just increasing the number of --

>> The actual limit. The high limit of that particular year was increased for that -- at that time.

[10:08:09 AM]

>> Tovo: Okay. Thank you. I guess the second part of that would be -- and this is really probably a question for S.M.A.R.T. Housing. And we may have the information in one of our q&as already. What of those units were outside the city limits?

>> It's my understanding pilot knob is the first.

>> Mayor Adler: Okay. Mr. Renteria.

>> Renteria: Yes. My question is, you're talking act fee waivers for affordable housing and S.M.A.R.T. Housing -- I mean, the thing is that -- are there -- when you say, you know, that there was 1700 of S.M.A.R.T. Waivers, that doesn't match -- necessarily mean that they were affordable houses. Isn't that

correct? I mean, there are other units that if they're in a preferred zone, growth zone, they could get fee waivers.

>> Yeah. The waiver typically is -- once it is certified to be a S.M.A.R.T. Housing project, the waiver is typically for all of those units. So some of those would be S.M.A.R.T., actual affordable housing units. Some of those would also be just regular units that also get that waiver as well. So there's a MIX of that.

>> Renteria: But it doesn't necessarily all have to be -- I mean, there are some waivers that have been given that have nothing to do with affordable housing.

>> The only administrative authority to waive fees is invested with housing. No other department with waive fees other than the council can waive fees.

>> Renteria: I know that it's under S.M.A.R.T. Waivers, but, there could be units in the preferred growth that meet the S.M.A.R.T. Definition that doesn't provide any affordable housing. Is that correct or incorrect?

>> That would be for you.

>> Renteria: I mean, I have -- we have an item that I pulled, 37, that it's getting somewhere like \$7 million in waivers that's in the triangle, and it meets the definition because it's in the desired development zone.

[10:10:17 AM]

Is that correct, or is that not?

>> I'm not sure if I'm following you, councilmember.

>> Renteria: Well, I'm just wondering if it's 10% affordable, then you're waiving all the units. Isn't that correct, on affordable housing?

>> No. If they commit to doing 10% affordable, the waiver is 25%.

>> Renteria: 25%.

>> Mhmm.

>> Renteria: So there's no other waivers at all that y'all give that doesn't have anything to do with affordable housing?

>> You know, the council will sometimes waive fees on individual transactions, if that's what -- but the staff doesn't have that capability.

>> Renteria: Okay. So it's the council. When we vote on it, we waive the fees.

>> Yes, if --

>> Renteria: Okay.

>> Mayor Adler: Okay. Ms. Houston. I'm sorry. You want to go ahead and respond?

>> Tovo: I'll make it very short. Councilmember, I think maybe the confusion is that if a project is S.M.A.R.T. Housing, the fees that get waived get waived for all the units, even those that are not affordable. So it's 10% affordable, and then 90% --

>> No.

>> Tovo: I thought that's what we were talking about. Under the smart housing program, when you're waiving fees, they apply to the market-rate units as well.

>> There's a difference. If it's the regular S.M.A.R.T. Housing, if they do 10%, 25% of the fees are waived. The difference with pilot knob is if you put 10% of the units in a land trust for permanent, long-term deep affordability, then you get 100% of the fees waived. So the traditional S.M.A.R.T. Housing, the developers are not putting -- have not put the property into long-term permanent affordability.

>> Tovo: Right. But the fee waivers apply to each of the units, I thought, under the regular --

>> I apologize. It's only --

>> Tovo: I wasn't saying they get 100% of the waivers.

[10:12:17 AM]

I'm saying whatever waiver you get, 25% or whatnot, applies to every unit on that site, including the market rate ones.

>> Yes, ma'am, I apologize. I misunderstood.

>> Tovo: I'm glad you mentioned that. I think that's something we should consider if that's the right MIX. Do we want the waivers to apply to every unit on a S.M.A.R.T. Housing tract, but I have to look back at 37, but I wonder if that's what it is. You might have 90% of the houses on a tract who have gotten fee waivers, maybe it's 25%, not a hundred, but some of them are going to be market rate.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. We've talked about it a couple of times, but I'm not sure I understand, why was Mueller excluded, not counted? Why was that not included in the 1500 count?

>> It was a council decision at the time. They just -- the city, you know, was working to develop Mueller and had all the negotiations in it, and as a part of the contract, they just carved it out of the cap.

>> Houston: Okay, thank you. And then the other thing is that we have been talking about cost-shifting and moving funds to subsidized housing, but I want to remind my colleagues that from the beginning of time to 2015, the burden of the cost has been on the residents who have lived here for long to help pay the cost. I don't see that any differently than what we're doing now. The cost was shifted on the backs of the homeowners who lived here, because the cost of service was not accurately noted. Now we've upped those fees. I don't see that as cost-shifting. I just needed to say that.

>> Mayor Adler: Okay.

>> I just want to add, to councilmember pool's point, the people moving out to developments like pilot knob are not from California, or Florida.

[10:14:21 AM]

These are working-class families that can no longer afford to live in Austin. So I just want to clarify the idea that we're helping non-austinites is not accurate. These are austinites like my husband's family that have grown up here and can't afford to live here anymore. So I just want that to be clear, that, you know, the whole suburbanization of poverty, that's why our poverty rate is going down in Austin, Texas, because they're having to move outside of Austin. And that's what the purpose of this was to do, was to help those families -- keep them a little bit closer to Austin and not out to pflugerville or Kyle.

>> Mayor Adler: Okay. Yes, Ms. Troxclair.

>> Troxclair: I guess I just want a clarification on that point. Is there any requirement that somebody who moves into one of the houses that would be affordable is a previous or current Austin resident? Is there a residency requirement?

>> No, ma'am.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Zimmerman: I have one more quick question on the math. Councilmember pool touched on this, but, I want to go back again. Top of page 15, on this number of 17,000. So, if it's forward-looking, if I understand that right, I want to talk about the 7,500 that are not part of pilot knob. If you take out the 9500, doesn't that leave me with 7500? And so we do -- in 2015, we did 1,060. Are we talking about a term of 10 or 15 years? Are we looking forward, or are we looking back to 1999?

>> We're looking forward, sir. When we sign the certification, we send it to all the affected departments so they're aware. Pilot knob is a very good example, 9500 units over the course of 25 years.

[10:16:24 AM]

We would not expect that they would come in and require -- or request -- all 9500crfs in one year, and it's the same for all the other projects. I think it's also important to note on the 17,000, about 9,000 of those are multifamily. And the multifamily are .5 Lue for every unit. On the multifamily it's not a one to one. It's important for everyone to note that's also part of the calculation. So, as of yet, we have not hit 1500 per year. Some of these projects are three years out. Some could be over the course of ten years. And some could be 20 years. So they are projecting forward, but none of them are timed at the same time.

>> Zimmerman: You see why it makes it difficult for me to understand this information. Some of it is a term of 25 years, others might be 3 years. I'm struggling to understand what I'm reading because of the lack of clarity on what the Numbers mean. I'm struggling. So, how many of these, say, 7,500 would come from the housing corporation in terms of the 9% housing tax credits?

>> Again, there are some of the multifamily, either the 4% or the 9%. The finance corporation is not the developer. It's still a separate developer. But, as with all projects, we are assigning the administrative certification, but they're not the finance corporation's projects. We only bring forward the certification for them to use when they develop the project.

>> Zimmerman: They kind of do belong to the housing corporations in terms of the authority to grant those waivers.

>> Correct.

>> Zimmerman: That's the reference I'm using. I'm not saying you're building the units, you're authorizing the waiver.

>> Correct.

>> Zimmerman: We're not talking about building things, we're talking about authorizing waivers and who does it over a period of time. Thank you. I don't have the information to know what this means.

>> Mayor Adler: Okay. Continue with the presentation.

>> Okay. I just have a few more slides.

[10:18:27 AM]

Starting on slide 16, there's another affordable housing contribution called the sustainability fund transfer that was in effect between 2001 and 2014. And basically, this was initiated in 2001 to set aside 1% of Austin water's total revenue to go to affordable housing. So during that timeframe, we transferred about 2.3 to about almost \$5 million annually through 2014. Over that whole timeframe, we just transferred just under \$49 million to affordable housing contributions. Initially, in 2001 through about 2004, these funds were used for housing operations, housing capital costs, as well as some of the other department -- I think parks and recreation, as well as public works had a few capital projects that were funded by part of the contributions to this sustainability fund transfer. But since 2005, it's basically for affordable housing operations in capital budget and came from Austin water. And I believe arr. In 2015, it was eliminated from the Austin water budget with the general fund providing replacement funding for those housing operations. So this is something that is not a part of our current budget, and wouldn't be going forward. With that, we'll --

>> Mayor. If I may add some context as we move forward now on the pilot knob Numbers you're going to see, you're going to see some different estimates from the water utility. I want to explain why. When they originally did their estimates on the potential fee waivers, it was based on the M.U.D. Data. We've since met with a developer and a room full of staff trying to understand the projections that that will achieve.

[10:20:31 AM]

And so these Numbers reflect that conversation with the idea that in a development agreement, the fee waivers would be capped to these Numbers. So the developer agrees with that and so does staff. This is a more accurate reflection of what those fee waivers could be if the council chose -- their the capped they're capped. If the council chose every year to waive the maximum amount of fee waivers in this development, these are the Numbers you're going to see from the water utility. That's why the Numbers have changed from the previous estimates, to reflect that more accurate estimate.

>> Mayor Adler: Mayor pro tem.

>> Tovo: So these are not the total fees, these are just the water utility fees.

>> That's correct.

>> Tovo: Okay. Development service would be in addition. Have they made revisions?

>> That would be based on the number units.

>> Tovo: I think they offered a more refined estimate. I'm trying to find the memo, they had a low and a high range. They may've been closer.

>> We would move forward in the development agreement to cap those as well, as we move forward. So both the utility and the department would know what that potential impact would be.

>> Mayor Adler: Just to make sure that I understand, when we considered this, the information that was available at the time would be that there would be about \$55 million in wastewater -- approximately \$55 million in wastewater fees. There were some Numbers that came from water that indicated that the number would be significantly higher than that. And at the time we said, but wait a second, those Numbers aren't right because they're not based on what is actually planned to be built here. What's happened now is you've gone back in and looked at what is planned to be built here, and your Numbers have come down back to the range when we were originally discussing this, and as laid out in this room. But even with that, there's still the question of, when you did the Numbers that were about the city, did you assume one Lue for each one of the units?

[10:22:42 AM]

>> No. As far as single family and/or townhomes, it is a one for one designation. I believe there's about 6500 of those. But then the 3,000 of potential multifamily -- typically, we might say it's about a half of an Lue per unit.

>> Mayor Adler: That was taken into account?

>> But what the developer provided us this particular time was actual meter counts. And so they said, for multifamily, we're going to put in 22 three-inch meters, and we're going to put in X number of so many meters. So when they identified what they expected as meter sizes, then we were able to actually go and look at the specific capital recovery fee associated with that meter size to calculate these Numbers.

>> Mayor Adler: And would that be for all of the 3,000 multifamily units?

>> Yes. And the commercial units as well.

>> Mayor Adler: Okay. Great. And this -- these Numbers assume that the city council elected to take each year -- the city council elected to get the maximum number of affordable units as would be allowed with this development.

>> Yes.

>> Mayor Adler: Okay, thank you.

>> So if you look at the pilot knob crf waivers and financial consent agreement that we were under previously, before the P.U.D. Was agreed to, would've paid a hundred percent crfs with no waivers, while the P.U.D. Agreement that was approved for S.M.A.R.T. Waivers would waive 100% for the single-

family lots, and then the -- in the multifamily units, there has been some discussion around that, because it seems as if the P.U.D. Agreement would have included 100% of the multifamily being completely waived.

[10:24:58 AM]

But the interpretation by the developer, the Numbers he had provided us in our discussion, is that they were assuming a 25% waiver for multifamily units. And so the Numbers that you're seeing today assume that the developer's interpretation of 25% waivers for multifamily units would be something that we could get within any development agreement going forward. So that's those Numbers, I want to make clear. But there's 0% waiver for any commercial or civic, recreational-type units. And the pilot knob development would pay 100% of these crfs. That's some of the difference you saw from the original number that we provided to council earlier, the \$81 million, is because we were assuming 100% was waived across the whole number of units, including commercial. But as we got more into it after that meeting, then obviously the commercial is not waived, and so that will be a difference that you see this time.

>> Mayor Adler: And one last time, just so people don't get confused, we're using the word waiver, which tracks the statutory usage of the words. But nothing about pilot knob had the developer not paying these monies. The developer is still paying all of these monies. The question is, ultimately, where do those monies get spent. Does the council ever year decide to spend it in water/wastewater, or does the council ultimately, effectively, have that money being spent to ensure the project can go into the land trust to have permanent affordability. Is that correct?

>> That's correct.

>> Mayor Adler: Okay. Thank you. Sorry, mayor pro tem.

>> Tovo: Back to the -- not that slide, the one before it. So, it sounds like a couple assumptions changed. One is the number of units, but the other is the percent waivers on each of those.

[10:27:00 AM]

I assume you based your assumptions on the ordinance. Are you assuming that some of that will be -- how will -- and, again, I think at some point, we're going to need to talk about this with relationship to the attorney-client memo, but I'm not clear on how what you identified there gets --tized, it seemed like, it does not appear to be what is currently in the ordinance. And so, I'm going to need to hear some clear guidance.

>> That will be in the development agreement. We would capture the assumptions the developer gave us.

>> Tovo: In the development agreement. Okay. An opportunity to talk about what a developer agreement can do in relationship to the zoning ordinance that we already have passed that seems to be pretty clear on some of these issues.

>> Mayor Adler: Okay. Continue, please.

>> So the Austin water financial impact -- you know, under the M.U.D. And P.U.D. Agreement, I wanted to mention -- because it was brought up, I believe, at the last meeting, that the developer is paying for \$26.5 million in infrastructure cost for either some cost reimbursements or oversizing of infrastructure, that Austin water avoided these costs under both agreements. And so we just wanted to make certain, as you've probably heard from the developer, that they did pay for some infrastructure costs that would've normally been paid for by Austin. So we wanted to make that clear.

>> Pool: Question, just for some context. What percentage of the total cost is the 26.5 million? How did you arrive at the 26.5, would be a follow. Follow-on question.

[10:29:09 AM]

>> The service request ordinances in place at the time the M.U.D. Consent was negotiated, we would've normally paid those fees for oversizing and certain sizes of infrastructure. And so as a part of the M.U.D. Negotiation, the developer agreed to take those costs on themselves. And so Austin water would not reimburse them for that infrastructure.

>> Pool: And so my question was, what was the total that is not being reimbursed, and how did you arrive at the 26.5 million?

>> Well, that was the estimate before the M.U.D. Negotiations of council-approved service extension request commitments. And so there isn't a percentage of that. That was an either/or kind of transaction. Either we were going to pay it, or through the negotiations, they agreed to pay it.

>> I'll just add to that, those service extension agreement Numbers that came to the 26.5 would've been dependent upon the actual infrastructure that was going to be built, the cost estimates of those projects at that time.

>> So this isn't a fee waiver part of the deal.

>> Pool: I'm just trying to get to where the 26.5 million figure came from. Was there, like, engineering done to know?

>> Sure. Yes. Yeah. This would've been --

>> Pool: Like?

>> At the time they come in for development, they go through an engineering review of their development, and the various infrastructure configurations. And as a part of that, there's estimates on how much the utility would contribute based on sizes of infrastructure. And that's how it's calculated, yes, based on engineering calculations.

>> Pool: Okay. And does that include tapping into an existing water line, or do we -- since this is outside of the city limits and isn't -- this area isn't planned to be annexed until 2047, what infrastructure do we have in this area, and are we having to send new water mains down the road in order to provide the hookup potential?

[10:31:24 AM]

>> Yes. Prior to pilot knob M.U.D. And this larger region, what we call the southeast 35 corridor, the utility starting in approximately 2008 through roughly 2012 invested about 100 million in various water and wastewater infrastructure systems -- large transmission systems and tunnels and the like to open up this corridor for future development. So that large-approach infrastructure was in place -- or is in place now, and allows for developments like pilot knob and others. That serves a much broader region than just pilot knob.

>> Pool: And so how far south does that large transmission line go?

>> We have service capability through most of that area, all the way through the jurisdictions of other cities. I'd have to show you on a map, but it goes well south on 35 and through other areas.

>> Pool: I would like to see a map that shows that. That's interesting. And I guess the foundation for that effort is in the, kind of, historical policy of the council that I-35 was the development corridor, which hasn't actually borne out in the ways, I think, people expected it in the '80s and '90s. But wasn't -- down to San Antonio was intended to be the development corridor for Austin.

>> Yes. This was -- is part of the desired development zone. It's been a long-standing council policy to drive the development there. This was a little before my time, but I think in the '06 legislative session there was a lot of discussion about establishing a lot of M.U.D.S through this corridor, and the city of Austin wanted to be involved in how those M.U.D.S would be configured, and making sure that they protected service territory and annexation, building the future, and that was another driver for being proactive in investing in infrastructure in this corridor, so this area would develop in an orderly way and that the city would have continued influence on how the area developed.

[10:33:36 AM]

>> Pool: And would you be able to get us a map that shows the infrastructure expansion? That would be great, and maybe with a time line on which pieces were done in which timeframe. Thanks.

[ Off mic ]

>> Mayor Adler: Two curious thoughts. The first one is that, by paying for the oversizing of this line, we're in the unusual situation, I guess, where this developer is paying -- being asked to pay not only for its growth, but is also paying for the growth of others, the growth of others outside of pilot knob. Is that correct? Contributing toward that?

>> There is -- one of the transactions was an oversizing of the line that was essentially for serving areas outside the M.U.D.

>> Mayor Adler: Okay. And then beyond that, when somebody hooks into this oversized line outside of pilot knob, will they pay a capital recovery fee, all other things being equal, to in part reimburse for these expenses?

>> Yes, provided they weren't waived in some form, we would expect that they would pay that fee.

>> Mayor Adler: So the city -- the developer pays for an oversized line, and then gifts it to the city. And the city can nonetheless charge for cost reimbursement for something that actually didn't really cost the city anything. So the city's able to get capital recovery for -- in part -- a line that was gifted to the city. Is that correct?

>> That's not what I'm saying. The actual -- the cost of the developer oversizing that particular line, by state law, that cost cannot be included in the capital recovery fee calculation.

>> Mayor Adler: Okay.

>> So the capital recovery fees only cover infrastructure investments that the utility made on its own.

>> Mayor Adler: Gotcha. Thank you.

>> Pool: Mayor, I would also point out on page 2 of the questions that were submitted that we got answers to, it talks about the oversizing of the water/wastewater mains and the reimbursements.

[10:35:49 AM]

And according to this answer, which I think came from the water utility, in order to gain council approval of the M.U.D. Consent agreement, which predates pilot knob entirely, it was back in 2012, the M.U.D. Waived \$23 million in eligible reimbursements for water and wastewater mains, and agreed to pay for

oversizing the infrastructure in the amount of 3.5 million at its own cost. The 26.5 million cost avoidance for Austin water utility was integral to the approval of the m.u.d.'s creation.

>> Mayor Adler: That was my understanding, too.

>> Zimmerman: Mr. Mayor, this council has approved several reimbursements to developers for oversizing infrastructure. One of them was in my district, 6, in the Avery ranch area. I think there are provisions in the state law. The city cannot force a developer to oversize from what its needs are. And we have approved -- I recommended it -- that whatever the percentage of oversizing of infrastructure, that money gets reimbursed to the developer. So this council has already done that. And it's something we do routinely. If the city asks a developer to oversize in addition to what they need for their project, we do reimburse that developer. That's standard practice.

>> Mayor Adler: Anything else? Please continue.

>> Okay. As far as the assumptions that were provided by the developer when we met with them last week, there are 6500 lots that are receiving 100% S.M.A.R.T. Waivers. That's 5,000 single-family units, 1500 condo and townhome units that make up those Numbers. They have 3,000 multifamily units receiving the 25% S.M.A.R.T. Waivers that they had included. And these Numbers are really something that is beginning to be sort of a discussion point for a potential cap by the developer in any developer agreement that we would put forth.

[10:37:57 AM]

They also identified 128 commercial, civic, and recreational meters, as I mentioned before. And those would be paying full crfs as the 7600crf amount. As far as the pilot knob M.U.D. Agreement, we would have collected at Austin water an estimated 68.3 million in collected crfs, based on the assumptions on the prior slide. The crfs would've been used for debt service. In the pilot knob P.U.D. Agreement, that 68.3 million in crfs is either waived or collected in the detail below. 51.5 million is -- under these assumptions -- are waived from the 100% single-family units, along with the 25% of multifamily at the current crf fees. There's an additional \$16.8 million in collected crfs from the other 75% multifamily, as well as the 100% of the commercial units that got no waiver. So, in a 20 or 30-year build-out scenario, the average fees would be about 2.6 or \$1.7 million in average fees waived per year. Obviously in the very first year, it would probably be much lower than these averages. Later, as they ramp up to, sort of, a 350 level, then it would sort of even out to about these average fees waived per year for pilot knob.

>> I have a question, mayor.

>> Mayor Adler: Yes.

>> Garza: And I think this is to, but I just want to be clear. The developer initially gave us an amount of 56 million waived. And then a number came back that was 80 to 100 million. And that's what caught all the headlines. But now we're saying it's actually 51.5 million, is that right?

[10:40:02 AM]

>> Well, this is just for crfs. This doesn't count the other development fees, which were in that 100 million estimate.

>> Garza: And so where is that presentation?

>> That's -- we don't have that. That's the other department. This was just in response to the crf element.

>> Garza: Okay.

>> We can provide that data based, again, on the developer discussion and the cap. One of the reasons it's changed is because the developer has agreed -- and I think everybody would be comfortable with that, if you move forward, these will be the caps. So that's the maximum impact to the utility. The utility didn't know that before that discussion, so that's one of the reasons it was based on the M.U.D. Rates. We'll bring forward -- we'll give you written information on what the cap would be on the development services side. That number will be refined as well.

>> Garza: The 80 to 100 was also used in the context of, that was what was going to be affecting people's water bills.

>> We have new Numbers now.

>> Garza: In fact, what could, is the 51.5.

>> In the next slide, I'll show you new Numbers on the impacts.

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: I apologize, I know we need to use the word waive because that's the technical term, but this makes the assumption, the 2.6 and the 1.7 makes the assumption that we then choose to use all the funds that the developer is paying us for the trust fund and to use our options on the housing. Right?

>> That is correct. These would not be assumed over this time to come to the Austin water utility.

>> Kitchen: Right. So this is assuming that the city choosing to use the full amount that might be available to us for the housing, right?

>> That is correct.

>> Kitchen: Okay.

>> Mayor Adler: Yes, Ms. Tovo.

>> Tovo: Assistant city manager Goode, I want to follow up on what you said. So, development services had estimated a low range and a high range from 18 million to 24.8.

[10:42:06 AM]

And the units -- and I can't make the units match what is in there, because none of them fall exactly. I think it looks like they're looking at the low range, 5910. Anyway, they're -- it's apples to Oranges with the information at this point. But are you suggesting that they will be -- one, of course the units will transfer to this chart. But are they agreeing to the same caps in terms of 100% for the residential lots, 25% -- they're going to agree to that for the development services, too?

>> Yes.

>> Tovo: Okay. And do you have a sense of how soon you would have information back for us about where it falls with regard to development services?

>> I think it's within a few days. I don't think that's a tough calculation now that we have the data.

>> Tovo: Okay.

>> The more refined data, so we'll try to get that before your Thursday council meeting.

>> Tovo: All right. Thank you.

>> Mayor Adler: Okay. I'm sorry, Ms. Troxclair.

>> Troxclair: So, to follow up on councilmember kitchen's question about the 6,000,001.7 million over 20 or 30 years -- every year, over 20 or 30 years -- in the ordinance that was passed in December, the direction is to direct that money on a consistent basis every year from the water utility into the affordable housing fund. Right? There's not a direction that every year we take a new vote and start from a clean slate and decide where to put that money. The ordinance assumes that the money will be diverted from the water utility to affordable housing. And although the council can change that through a budget amendment, regardless of that -- or in the absence of the action, the money will -- these Numbers what was passed in December.

[10:44:12 AM]

Is that right?

>> Yeah, at least correct.

-- That is correct. The process, as the developer decides to build 100 homes, they would come to our office and say I'm building a hundred homes at pilot knob, I have those 100% fee waivers. We would waive those fees, give them the taps, and they would go ahead -- in my understand from the ordinance in December, they would take that same amount of dollars and put it into the housing corporation in the same amount as another fee to that, or another payment to that particular thing. So, from an Austin water perspective, we just don't see that money ever. And then they put that in there. And this assumes that all those would be, each year, put into those funds and not transferred back in any way towards Austin water.

>> Troxclair: And you make that assumption because that is what is in the ordinance. There's not --

>> I think that's the anticipation of the ordinance, yes.

>> Mayor Adler: I disagree with that. The ordinance says the money is deposited for that use, but it doesn't say it has to be put to that use. The developer's understanding, as was our understanding, was while they had to put the money for that use, and that satisfied their obligation, there's nothing in the ordinance that says it has to be spent for that use. And what you've heard here over the last 30-45 days is the developer say that they believe that that money could then be spent however it needs to be spent. It doesn't have to be spent to buy down the affordability, although that option is available to the city. And while you say you would never see that money again, the city council has the ability to take all of that money and put it back into the water budget, and then you would see all of that money again. But those are the terms that were intended to be taken into account in the development agreement.

[10:46:15 AM]

And we still have the issue associated with whether that's an appropriate way to do it, or whether we have to handle it in a different way. But clearly, everyone that has gotten up to talk about this associated with that has said or testified, or confirmed, that that was the intent of it. And it was not the intent -- the fact that they posted the money available for that use meant that you would never see it again.

>> Mayor.

>> Mayor Adler: Yes.

>> Troxclair: But I think the question that I was asking was would a decision to use the money -- was, is it assumed that the money, under the ordinance that was passed, that the money would be used for that purpose, absent a decisive vote from the city council to reverse that action? And the answer is yes. I

understand your point that the council could, in 20 years, or in 10 years, make a decision to reverse what we passed in December and to spend that money in a different way. But the process that is outlined under the ordinance that has passed requires a specific council action in order to reverse that. And I'm doubtful that the council -- whoever is on the council in 20 years -- is going to be reminded there's money here. There's not an automatic trigger every year that allows the council to make the decision of where to send that money. And I'm doubtful that a council in 20 years would remember this conversation, despite the best intentions of preserving their ability to move money to a different plot.

>> Mayor Adler: I appreciate that, but I think we took other actions in December with respect to tifs, and with respect to homestead preservation districts that were presented to the council the same way, where there was money that would be available for this use but doesn't have to be spent on this use.

[10:48:18 AM]

And the question of having this opportunity in multiple developments, like pilot knob, in answer to councilmember pool's question earlier, was not that we would do it to the full extent in all of those subdivisions. But I could easily see this council on an annual basis taking a look to see what we could do within the budget constraints of any given year with respect to affordable housing, because I think it's going to become an ever-increasing top of mind issue for the council, as opposed to something that we forget from year to year.

>> Mr. Mayor.

>> Mayor Adler: Ms. Kitchen.

>> Mayor Adler: I just raised it in the first place because all I'm trying to do right now is get the facts. There's a lot of policy questions here that we all need to talk about, but I think it's just important for us to keep our eye on the ball, right now, for me anyway, to understand the facts. I mean, this conversation's similar to conversations we had about, you know, having -- whether or not we wanted to go down the road for a homestead exemption, whether or not we want to go down the road to look at the amount that we transfer for water or electric. It's all about what would the impact be if we did X. So I appreciate what you're saying, that we've already done something and we'd have to undo it. That's okay. I just want to know the facts. I'm trying to hone in on what the dollars are if we do X. If we do X here, we don't change anything. We keep the full amount for housing. That's all I'm trying to get to, because there's just been a whole lot of conversation about the action that we took is going to result in people's water rates being raised. And I'm trying to get down to what's really the facts, so we can quit scaring the public, understand the impact, and then decide what we want to do about it. So that's the only reason I waived it. I wasn't questioning whether or not you should make this assumption, not at all. I just wanted to know what it meant. So I think I understand that now.

>> Mayor.

>> Mayor Adler: Yes, Ms. Pool.

[10:50:19 AM]

>> Pool: I think part eight c.1 in the ordinance, it says these funds will be made available -- and this goes to councilmember kitchen's questions -- the funds will be made available to the Austin housing finance corporation or other entity "For the purchase of lots or units within the pilot knob P.U.D." It doesn't say that it can be used for any else but that. So to the extent that we're talking about waivers are shifting the money that is not going to the water utility according to the ordinance as it was written, was to go directly to be made available for the purchase of lots for units within this P.U.D. There's no other opening to remove that or to shift the monies anywhere else. So I'm actually not sure that we could, in fact -- outside of amending the ordinance -- make that change. We would have to open the zoning case in order to take the monies from the pilot knob P.U.D. And put them somewhere else, including back into the water utility, if I'm reading 8c.1 correctly.

>> Kitchen: I'm not there yet in terms of the conversation. Others may want to talk about that, and that's fine. I'm just trying to understand the potential impact. That's where I'm at.

>> Mayor Adler: And I think ultimately -- and I think we're going to talk about this in executive session. I think that there are different arguments that could be made with respect to both the interpretation of this agreement, and any inherent powers the city council has outside of this. But I'm not defending this. What I'm defending is what the intend of all the parties were. And if this is not the proper vehicle to get this done, then I would want us to find the proper vehicle. And I'm open to that. I'm just trying to drive to that intent.

[10:52:23 AM]

Okay. Continue.

>> This is the last slide. This is the Austin water bill impact. And I want to mention, you know, we are assuming in any type of bill impact or rate impact, looking at the incremental difference between what was maybe prior to the agreement for pilot knob versus the pilot knob agreement. And clearly in the M.U.D. Agreement there was ability to collect all the crfs, and then in the P.U.D. Agreement there was some portion of that amount being waived. And so we're trying to identify that rate impact over time. But I wanted to caution you that this bill impact and rate impact is over a multiple number of years. It's not going to be initially in 2017. It's as this development builds out, either very fast or very slow. As that builds out, there will be small incremental rate increases that add up over time to the Numbers that

we're going to provide you today. And so we looked at -- similarly to our work earlier last month, we were showing a 20-year build-out as well as a 30-year build-out to just provide sort of a range of that impact. So for the 20-year bill-out, which would be a little bit more accelerated, we have in that the \$2.6 million in average fees per year is what is creating that incremental impact. And so that would be a total rate increase of about .5%. And we're assuming that it will take at least 5 to 7 years before they ramp up to that average. And that rate impact will typically happen as we start seeing more of those waivers come in. So in that timeframe, it would be approximately \$11.49 annual build impact per customer.

[10:54:32 AM]

That's 96 cents per month bill impact per customer. So, like I said, it's not in that first year of 2017. We would expect the impact in 2017 to be very minimal for pilot knob. And then as they really start putting homes out there and ramp up to the 350, at that time that's when that full total impact would be realized. And then similarly on the 30-year build-out, we only see it's about a .3% total rate increase. That's an average of about \$1.7 million in average fees waived per year. About a \$7.66 annual bill impact per customer, which is 64 cents per month. And as I said, the 2017 would be minimal, but it would build over to that time. And, you know, I want to stress that, you know, this pilot knob development is not going to happen in exactly 20 years or 30 years. We just don't know. And it takes time. Some of these developments don't really get off the ground, and they really lag in time. So -- but this tries to put forth to the council a rate impact that sort of accumulates that expectation, and then puts it into a one bill impact or a rate impact for you to consider.

>> Mayor Adler: So, to make sure that I understand that number, if it took a 30-year build-out, you're saying that the impact on -- and if the city elected to exercise 100% each year, and then kept it in, so the maximum possible impact would be an increase in customer's bills of 64 cents per month. And that would be the maximum impact in all the years -- each year, 7 through 30. It would never have -- if it met the schedule, it's not cumulative.

[10:56:33 AM]

It's not like it would be 64 cents in year 7, and \$1.28 in year two. There would be that 64 cents each year for that 30-year period of time.

>> Right. For example maybe the first year might be 10 cents, the second year would be another 10 cents, so it would be 20 total. But once it reaches that total 64 cents -- and we expect that, generally, to be in five to seven years -- once it reaches that 64 cents, and you've had any rate impact associated with that, then you pay that same amount. There is no other bill impact. That impact has been paid for by

small, tiny incremental increases during that timeframe, building the 64 cents, and then every customer in the future would pay 64 cents as part of their bill. It would be related to pilot knob. That's the expectation.

>> Mayor Adler: Thank you. Further questions or comments? Yes, Ms. Garza and Ms. Troxclair.

>> Garza: Going back to slide sound like it's pilot knob that's creating this possible incremental -- it's a cumulative effect of this plus others. Because if in 2015 we budgeted for 14 million, we actually received 19 million. So, again back to that 5 million difference. That year, we were able to absorb the 1.8 million that the fee waivers that year cost. Assuming the 20-year build-out for pilot knob, this was 2.7, in 2015 we could've absorbed the 2,007,000,000, plus the 1.8 million, which would've had zero effect on anybody's water bill for that year. So I'm just wondering how we get these projections, that this incremental 64 cents over time -- that's what it would be every year -- in 2015, assuming the 20-year build-out, there would've been no impact.

[10:58:44 AM]

>> I guess the best way I can explain that is, the incremental difference from a pilot knob perspective is that your housing waivers that you see on slide 14 would tend to increase. The waivers that are shown on the other slide that are collections would tend to be that same amount less than what they would have been had we not waived pilot knob. And that's the incremental difference, the MIX between collections of crfs and waivers is currently at this MIX. But then as pilot knob -- it's not just pilot knob -- any additional increase in affordable waivers have an impact to where the amount of revenue that we would get from crfs is less. And less than it would've >> And that's what creates that incremental difference for pilot knob. Now, we have identified, I believe, in the previous word that if we were to be at 1500 limit waivers, that was \$11.4 million of potential waivers in that particular year at the current fees, well, that has a much bigger rate impact associated with all waivers, 100% of all the waivers, not just pilot knob. So we tried to identify in this analysis that incremental difference from a decision about pilot knob only.

>> Okay. I guess I'm still not clear on how that estimate can be done, because at this point in time these waivers are having no impact on people's bills. And then slide 15 shows that there's -- if you subtract the pilot knob units that's 7500. If you subtract the Mueller that's 6500.

[11:00:47 AM]

So even without pilot knob there would be 6700 waivers -- even without the 6700 -- it could be any variation of those. But it just seems like there's just so many estimates being thrown out, and so I understand, this is a very basic estimate of the 64 cents, but I don't see it -- at this point in time they're not having any effect. At some point I could see where they do have an effect but it wouldn't just be this development. It would be an accumulation of many other developments, but you're saying you all were able to pinpoint exactly what this specific development would --

>> Based upon the developer's units that he has put forth and the amount of crfs that \$51 million in waivers -- that's what that rate impact was based upon, but the impact of the full housing waiver program on all developments is a much bigger number.

>> Garza: Okay, and it's a policy discussion that we're going to have about if that's an okay number, 64 cents a year. For me it is for what we achieved here, and while there is no requirement that the people at 80% mfi live in Austin -- or are from Austin, the anecdotal evidence strongly suggests that these are austinities. When this was -- when this project was first -- first came out before all the controversy, my office was contacted by austinities, east austinities, people that were born and raised that were very excited about the possibility. I have not heard about anyone that's coming from Lockhart to come live in pilot knob, to come live at William cannon and pleasant valley, so they can live in one of the affordable - the market rates, I can't speak to the market rate ones, but any impact for austinities would be -- would be a subsidy for the affordable units, and again the anecdotal evidence that I've received strongly suggests that these are, in fact, austinities that can no longer afford to live in Austin.

[11:02:58 AM]

Ms. Troxclair R, did you want to speak?

>> Troxclair: Well, I wanted to understand. We're using the estimate of 20 years and 30 years, but is 20 years the minimum amount of time that could be -- that -- in which this development could be expected to be complete, or could it be ten years?

>> Well, I think realistically it could be ten years -- it could be much quicker, but I think realistically from the development standpoint, I think it would be very difficult for them to put much more than 350 units per year going forward. I mean, it just -- the ability to build that many homes or build that many apartments that quickly is a limiting factor in pretty much any development. And so yeah, there would be somewhere in between 20 and 30 would probably be a reasonable estimate that this project would develop in.

>> Troxclair: But is it -- I'm trying to understand if it's the lowest and the highest estimate, or is 30 years the highest but 20 years isn't necessarily the lowest?

>> I don't think 30 years is necessarily the highest either.

>> Troxclair: Okay.

>> A lot of it depends upon the development in Austin. I mean, if there was a downturn in development for numerous years, then it would extend a little bit farther, and that's where that fluctuation is. Clearly I think the developer wants to develop the property and sell those units, get that infrastructure in and get it out of their hands and into the home builders' hands as quick as possible, and so it just depends on that process.

>> Troxclair: Okay. And what is the -- this -- if this -- if these estimates, the, you know, \$11.49 a year or the \$7.66 a year increase is specific to pilot knob, do you know what you anticipate to be bill -- the bill impact to be with all of the affordable housing -- including all of the projected --

[11:05:16 AM]

>> No.

>> Troxclair: -- Affordable housing over the next 20 to 30 years?

>> No, we have not looked at individual projects in a rate perspective, other than pilot knob, but clearly we have identified at the current rates, if we were to reach that 1500 limit, that that would be \$11.4 million under the current rates that would be waived each year, and that would definitely have an impact that's much more significant. I don't have the exact dollar, but it was 6 or \$7, that total program, if it was implemented be, and we were running at 1500 every single year, that that incremental difference would have been in the 6, \$7 range over time. But we're not there yet.

>> Troxclair: So if we -- if this -- okay. So assuming that we do reach the \$1,500 cap every year, and I know that this is just going to be rough Numbers, but I'm trying to understand the total impact. The affordable housing units specific to pilot knob, if we looked at, that would total -- that would basically max us out for six years, if we did them all in the first six years we would reach -- if we reached 1500 every year it would take up six years. So if we look at a 20 to 30-year range, we're talking about four times as much in order to get -- over the next 24 years we would have four times as much. So is it reasonable to assume that a ballpark estimate, if we are reaching that 1500 unit max every year, would be about four times these Numbers, so about \$45 a year for the 20-year build-out?

>> Yeah, I think we had -- had that calculated. I just don't recall. But I recall it was about -- between 5 to \$7 if we were to currently take the 11.4 million that would be at the 1500 limit, that it was in that 5 to \$7 range, but that's something we could definitely follow up with you to give you that exact number, because that calculation can be done as well.

[11:07:33 AM]

>> Troxclair: And that also doesn't include -- that is on top of expected and projected rate increases that the water utility thinks that we will see over the next 20 to 30 years as well.

>> It would be a part of those rate increases over the next several years as well.

>> Troxclair: Well, not -- I'm saying if we're talking more like \$45 -- \$45 a year total impact just from affordable housing, that is not including any additional rate increases that the water utility is projected to see over the next 20 to 30 years?

>> That is correct. It would be on top of whatever we see, but that would be spread out over time as well, because we're currently not at that 1500 limit.

>> Troxclair: I guess that would be -- that information would be helpful for me to have back to the -- to the mayor's comment about, you know, if -- whether or not this is the proper vehicle to fund affordable housing. I need to understand -- in order to understand whether or not a diversion from the water utility is the proper way to fund affordable housing, I need to understand the total projected impact, not just for this project but for all -- for all potential affordable housing projects that we're expecting to see in the future. I mean, it's hard -- I understand interest in kind of wanting to say, oh, this is a good -- this is a good process and a good way for us to fund affordable housing, and then on the other hand to make the argument that this money doesn't really have to be used for affordable housing and the council can change its mind in 10 or 20 years and take that pot of money and put it elsewhere, but it's -- it's really -- we can't have it both ways. Either this is the right way -- either we want to fund affordable housing and this is the right way to do it and we're willing to say that people's utility bills are going to go up because of it, or we say this is -- we want to fund affordable housing and we don't know what the right way is and it might not be from the water utility and we're not going to make the statement -- or we're not going to commit to the fact that water rates will have to increase if we make the decision to fund affordable housing this way.

[11:09:45 AM]

I don't think that we can have it both ways. So I want to get clarity on what the -- what the will of the council is or what our plan is going forward. One more thing that I just wanted to mention, because I'm not sure -- we had an opportunity to talk about this audit in audit and finance a couple months ago, but I don't think that we ever really discussed it with the full council, and I think although it's not specific to the funding mechanism that we're talking about right now specific to the water utility, I think it is pertinent to our conversation about affordable housing and making sure that we're getting the -- the best, I guess, return on our investment. So I think it would be good if the -- I saw the auditor's office here earlier, if maybe they could send a copy of the audit reports from November 2015, titled prioritization of affordable housing development audit, to the full council, and just as a quick overview, they found some

major flaws in our execution of affordable housing, even though that there has been certain commitments made, that the people who are living in the affordable housing units don't always qualify or the commitments to long-term affordable housing aren't always followed through with after a certain number of years. They said the auditor -- we found flaws in how hcd council affordable housing production which resulted in ahcd significantly overstating accomplishments and creating affordable housing. Nhcd has incomplete information on affordability restrictions for a large portion of affordable housing units produced. Nhcd has incomplete information on the full cost of affordable housing production, and nhcd has gaps in their monitoring process for affordable housing developments -- affordable housing units. And one just piece of information that I thought would be really pertinent to this discussion is on page 13 of this audit, says we found that monitoring was not performed timely and not all affordability restrictions were enforced for the sampled projects.

[11:11:53 AM]

During our testing we also noted that some additional -- some additional issues. For example, a sample project which receives city funding to develop a single-family subdivision, the city enforced shorting affordability restrictions than established by city policy. Affordability period per city policy should be 40 years when general obligation fund -- bond funds are used. But the affordability period per the sampled sales deeds was ten years. Also we noted that for projects that received fee waivers in exchange for setting aside a portion of the -- for affordability development, nhcd does not require the developers to provide assurance as required by contract terms. Not collecting such assurance may limit the city's ability to enforce the affordability requirements or recover the amount of fees waived in the case of defaults. And I remember this conversation, I think that we had this conversation in our hearing -- at some point. I think it was with pilot knob, the developer. The developer said, well, I think the city is going to be in charge of enforcing affordability and the city staff said well, I think the developer will be in charge of enforcing affordability. So if we are going to take a true look at -- number one, at our affordable housing goals in general and whether we're reaching those goals, I think it's really important that we follow through on some of the gaps that were outlined in this audit, because the money that we're putting towards affordable housing or the tools we're using to support affordable housing right now are not being -- are not effectively producing affordable units, and the people who are living in those units may or may not qualify either in the short-term or in the long-term for those units. So -- and it concerns me that if we are going to continue with this decision that was made in December going forward, that this audit was done so recently and I know that -- I know that the -- that the staff and the department is surely committed to making sure that these issues are addressed, but we haven't had a follow-up audit, we don't know -- I mean, there still has not been, you know, kind of a general strategy outline of how to address affordable housing in our city, and it worries me that we're making the decision to put -- making such a serious decision to put so much money into this program at the detriment of one of our -- of the water utility that is already in financial kind of disrepair, when we don't

really have assurances that anything that we're talking about today is going to be followed through with in 20 to 30 years.

[11:14:27 AM]

So I just -- I hope that you all will take a look at this audit and that we can follow up maybe as a full council. I mean, I know that we will follow it up in audit and finance. I think that the auditor will do a follow-up report for us here in a few months, but I think it's probably a conversation that we should have as a full council at some point as well.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: Oh, I don't think I really have much to add. I still remain concerned -- I'm still trying to get at the best number that I can to understand the potential projections, and these Numbers are very, very helpful. I appreciate that. But I'm still -- I still have some concerns about the questions that council member Garza raised and the impact of those on these projected rates. So I will -- I will submit some questions separately because I have concerns about these kinds of estimates. I also have concerns about the kinds of Numbers that council member troxclair was throwing out there. I'm just trying to get as precise as possible, so I'll submit some questions.

>> Mayor Adler: And to the degree that it's helpful, because I -- you know, in listening to council member Garza speak and then council member troxclair, the Numbers -- my understanding is, is that you make and are making assumptions out into the future based on past experience. Past experience would show that we were at a thousand of these a, 1500 units for two years and last year went down to 60, whatever that was. So half to two-thirds of the 1500 units would be the historical evidence we would see. So those will already be baked into your rates and any estimate about rate increases. So if we were to maintain the same level, up to a thousand of the 1500, there wouldn't be an incremental charge on top of the rates.

[11:16:27 AM]

You can't have it both ways, as Ms. Troxclair said. You can't say that the housing program would be on top of the rate increases since the rate increases that are projected already take into account the historical behavior that we have. And in this instance with respect to pilot knob, there was 1500 units in the city's policy that apparently you weren't taking into account that way, because you were just looking at the historical stuff. So adding 20%, because that's all pilot knob is, 20% of the 1500 units, throws that -- throws that out historically, that would be one of the questions to take a look at. So the incremental

change over time would be the increment that you're assuming is going to happen above and beyond whatever the historical history has been that you are presently taking into account as you figure out what your rates are going forward. So I have those questions as you're doing the kind of look that both council member Garza and kitchen and troxclair have asked for. The question I had asked earlier that I want you to take another look at, and just -- maybe I misunderstood, you were assuming one Lue for homes and for townhomes, but you went to the developer to look at what the actual meter sizes were with respect to the multi-family project, is what I heard you say, my understanding is. Doesn't a townhome at -- add .75 of a meter? I know -- so not a full Lue?

>> You know, according to the developer, and I'm not sure exactly how those townhomes would be distributed, but he said that the -- you know, the 1500-unit townhome cap that he was looking at would be single-meter, five-eighths inch equivalent. And so that is what we --

[11:18:28 AM]

>> Mayor Adler: What you use.

>> -- Use for that particular development.

>> Mayor Adler: Okay. Thank you. Anything else further on this? Mr. Casar?

>> Casar: You know we've taken -- I know we've taken up probably enough time on this so I'll be brief. Seems to me, just to sort of lay out my position to my colleagues here, it seems to me that there's three broad issues that we're tackling. One is whether or not the pud agreement as it stands, or with the adjoining development agreement achieves the goal and intent that was laid out by both the developer and the city and council members Garza and the mayor, and whether or not that intent is achieved, and I think we'll be talking about that in executive session, but for me, however we can expeditiously and transparently make sure that that intent is what is actually in the law, whether that be by development agreement or by modifying the zoning case, I think that that's -- for me that's a goal, to make sure that what everybody understands about this deal as it's been described actually happens, so that the questions that council member pool brings up are answered and that indeed this is just a way of funding affordable housing with an option to buy at pilot knob. The second question brought up by council member troxclair, if we're going to fund at increasingly higher levels -- that's important to me, and I think it's important for all of us as we go into the budget cycle. So we need to make sure if there's an affordable issues, we want to fund programs, we want to make sure they achieve the goals we set forth. And the third one is really just how much money do we want to put in the affordable housing fund and from where, and to me we need to have all options on the table from the utilities to the property tax rate and other sources of revenue to fill that fund up, because that's the crisis that we face now, and we seem not to be talking in much as proportionately from where and from where do we need to fund it. I think there's sort of a more global question that we're facing, but I do think that there's this competing

argument and healthy debate amongst council members about who pays for affordability and when and how, and in my view if we don't start making significant investments from that fund with all options on the table, then we -- we're going to pay for it in having a -- in having not given ourselves the shot of trying to fix the affordability issue, from my perspective, with this tool.

[11:20:58 AM]

So I think we need to get money in the fund, and I appreciate the attempt through this development case to significantly bring some funding to it, and if that means that we pay for it through some water bills and the electric bills and property tax rates, that's something I'm willing to say out loud and accept as part of the price that we're going to have to pay, but if we don't try through using our communal community kitty to address it, then the price we pay is not having tried.

>> Mayor Adler: Anything else on this? Mayor pro tem?

>> Tovo: So I assume that some of the questions I submitted had to do with the purchase of the units, and it looks like some of them have been shifted over to attorney-client answers, but I just want to highlight another body of questions that I have with regard to this. Specifically, we had a M.U.D. Agreement that required the developer to provide 650 units that were affordable at the time of sale. What it looks like to me now is that we have an agreement where we are going to use the fees they would have paid to purchase those units and make them available to sail. And I understand the significant difference is that they would now be permanent afford -- I mean, affordable -- they would now be affordable permanently and we would have a mechanism for assuring that they were sold to people who qualified, but a very significant question for me is, if the council opts not to use the fees in that way, we could end up with fewer affordable units on this tract than were in the original agreement. And so I really need some help understanding -- it sounded to me in our last discussion as if that too was not the intent, that there was an intent to make sure that there are at least 650 -- that at least the original provisions will hold true, regardless of whether the city enters into that option or not. And so that is a subject I'm eager to talk about how that would happen.

[11:23:02 AM]

>> Mayor Adler: And to that regard, I asked for written confirmation from the developer that that was, in fact, his intent, and I asked him further practically speaking how could that result be achieved? And he gave us something yesterday that I think my staff talked to your staff about and they provided a vehicle to do both of those things. And again, I would want that specifically put into either the development agreement, if that was the way to execute it, or a pud amendment or whatever it is, but just to reiterate

that is his understanding, that the obligation to give us toward affordability the costs associated with the 650 units under the M.U.D. Agreement is separate and apart from and in addition to what we've been focusing on here today with respect to the M.U.D. And that he agrees to and believed that part of the understanding was, is that that would have to be something. And we've laid out one possible scenario for how that could be done. There might be other scenarios. That was -- the original intent was to work that out in that section 8e agreement. But however we need to pay for that, we need to pay for that, I agree.

>> I guess I just wanted to add that it might be a hard apples to apples comparison with regard -- you said that we we could in effect be helping less families, because on one hand we would have helped 650, period, that's it, because it was on first sale. On the other hand, even if half of those units -- it came to fruition that only half of them were for permanent affordability, let's say 300, those in effect could help 900 families because that house could be flipped several times. So that's a really hard comparison to make. So just something to think about.

[11:25:03 AM]

>> Mayor Adler: Okay. Thank you very much for the rather exhaustive presentation.

[Laughter] We have another briefing on the disparity study. Can we get that?

>> Good morning, council. Veronica Latta director of small business minority resources department. I'm pleased to be here with you today to discuss the findings of our disparity study. As you're aware the study was commissioned in 2013. The city of Austin commissioned with Mira, or the national economic research association, to look at a disparity study for mbe/wbe, women business interfaces minority business 13wr-7s enterprise participate. The results have been presented to the city and next steps we'll reach out to the community, to all stakeholders with the wmewbe program, share the findings with them and come back to council with revised ordinance provisions in June. On Wednesday you have your first step in this process which is to accept the study, which you are going to hear about today. On Thursday you'll be merely accepting the study as the city of Austin and asking the city manager to go forward and consider proposed changes. So with that I have our consultant here with us today and I'm going to turn it over to him to present the findings of the studies. John Wainwright is with nira.

>> Good morning mayor, council members. Thanks for having us. I'm Dr. Jane Wainwright, senior vice president with nira economic consulting and principal investigator for the disparity study for the city of Austin.

[11:27:07 AM]

With me today is Don O'Bannon, who is our attorney on the project and collected speaker a lot of the anecdotal evidence which you'll be hearing about as well as the statistical evidence which I was in charge of, and also helped us to formulate the recommendations at the conclusion of the study. We're proud to have a wonderful team of subconsultants with us on this project, starting with business resource consultants, a local MWBE firm here in Austin headed by Carol Hadnot and her wonderful team when helped us facilitate the kickoff for this and the hundreds of business owner interviews that we did throughout the course of the project and along with the rest of our team of subconsultants made -- team of subconsultants made up of minority women-owned and inventor owned businesses from around the city and around the country. I want to hit with you kind of the one slide of the key points, and as you know, council members Casar and Houston and Pool and Troxclair have previously seen this presentation as part of the economic opportunity committee that we met with a couple months ago. But here's the key points. The study period looked at six years of spending at the city and overall during that time between 2008 and 2013, over all MBE participation in city contracting and associated subcontracting was 21% or -- or \$876 million. We calculated that M/WBE's in the Austin metro area make up 26% of all available firms in the metro area. We also found interestingly that when contracts did have M/WBE goals placed on them, overall participation was almost twice the level of what you saw when goals were not placed on contracts, and there are -- there are some caveats about why that is the case, but clearly there is a profound difference when goals are put on contracts.

[11:29:29 AM]

We did find importantly that disparities do continue in the private sector or the overall economy in the broader Austin market area from which the city draws its contractors and subcontractors to a large extent. We found that when we spoke to business owners and surveyed business owners, both MBE and non-MBE alike, the anecdotal evidence they provided to us support and is generally consistent with the statistical findings, which is a key -- a requirement of constitutional strict scrutiny, which I'll be talking about in a moment, and that our findings support the continuation of the program with some potential suggested modifications and revisions that we'll also be speaking about in a moment. Just very briefly, and I know your time is probably even more limited now than it was when we started, I'll try to move through this very quickly, but I'm certainly happy to come back and go into more detail on any of these slides. But the race and gender conscious programs must meet the standard of strict constitutional scrutiny, the most demanding level of court review that is available. That's been true ever since the 1989 City of Richmond versus Croson decision that brought us kind of to this point. Strict scrutiny requires strong basis in evidence that the government has a compelling interest in remedying discrimination in the marketplace within which it purchases and contracts for goods and services, and that compelling interest is generated through statistical evidence, demonstrating disparities in the market area and anecdotal or qualitative evidence of barriers to full and fair inclusion that is consistent

with those statistics. Furthermore, in addition to meeting the compelling interest prong of the strict scrutiny, any remedies must be closely tailored to that, and all these things are quotes of terms of art under the law.

[11:31:38 AM]

What does that mean? Each are group that is a beneficiary of the program, there must be some evidence of discrimination facing that group developed in the study. The overall goals that the city adopts must reflect the evidence. You're unable to pick just any goal that suits your fancy. It has to be tied to the evidence in the study. Contract goals that are set on particular cases must reflect the relevant scopes of work in any particular project. The beneficiaries must be both socially and economically disadvantaged. Goals must be flexible. I almost hate to use the word "Waiver" again after what we were just subjected through, but goals should be available to be waived in those cases where the contractor has made a legitimate good faith effort or where the scopes of work really do not facilitate participation by mwbes. It is a goal program, not a quota program that's a very important consideration and equally important race and gender neutral considerations must also be used in tandem with race and gender congest measures, and a way to think about that, I'm an economist, so I think about that in terms of the demand side of the market and the supply side of the market. When you place goals as a council on a contract, you're generating demands for the services of those mwbes. When you promote race and gender neutral things, things that help promote bonding capacity, technical support of the plan room you make available, the other types of outreach services that the city provides to all small businesses, those help increase the supply of small and m/wbe businesses to the marketplace and both of those things, the court says from Croson are very important and well-rounded -- to a well-rounded and constitutionally viable program. We have to quickly go through chapter by chapter in the study what were the key objectives and findings.

[11:33:40 AM]

First we took six years of the city's contracting data. We collected all the subcontracting data that was already on file. We went back to the prime contractors and filled in the gaps in that data, which is a very extensive effort that we undertook. As you may know, jointly with Travis county and the Austin independent school district, who each did their very first ever disparity study as part of this process that the city was very generous in kind of saying, look, we'll pay for what's already getting -- getting paid for. You two pay for what incremental costs are needed to come into the pool and it allowed them to really jump in and get a study, where otherwise it might have been very difficult. We took a sample, a very, very large sample of the city's prime contracts during the six-year period. We were able to obtain

complete data for about 80% of all the contracts that we looked at and upwards of 93% of all the contract dollars that those -- that those contracts represented. So I would be very comfortable defending the city in court on the basis of the statistical viability of the Numbers that we put together from all that empirical data we collected we're able to see where are all these contractors located, where are their establishments located by zip code, and what we found is that approximately 75%, a little more in some cases, a little less in others, depending on the procurement category, came from the Austin, Round Rock statistical metropolitan area, which is our five county msa, Travis, Williamson, hays, bastrop and Caldwell county. I'll add I don't have a slide for it, but we also were able to go and determine what industries are important to the city, what industries do these contractors and subcontractors represent, what fraction of the city spending, either through prime contracting or subcontracting, is made in these different industries, so that we were able going forward to only look at those -- those areas that are important to the city, and furthermore, to weight the Numbers in the study more heavily for those industry categories that are more important to the city in terms of where they spend their dollars.

[11:36:02 AM]

So once we knew the industries that were important to the city and the geographic location of its contractors and subcontractors, we went to the Dunn and Bradstreet database which is not a perfect database but any means, but it's certainly the best establishment-based list of business enterprises that is available anywhere in the country, both mwbe and non-mwbe. We pulled out all the establishments in there for the market area within the relevant industry codes, the it stands for North American industry classification system, and it assigns one six digit number for electricians, another number for plumbers, another number for marketing consultants and so on and so forth. We merged that data then with a customized director of m/wbes just to add to the race and ethnicity and gender qualifiers that were already in the dun & Bradstreet database. We collect the the local chambers, all the trade associations, every list we could get our hands on that might provide us additional data on race, ethnicity and gender for these businesses in Austin. We went a step further and did a telephone survey to validate. Once we had done all of that work and we had a -- kind of a first-stage idea of what we thought was African American, hispanic, white male, white female and so on and so forth, we would then survey a sample of each of those types of businesses and ask them what, in fact, was their ownership. And so, for example, if we had 100 firms that we believed were African american-owned, we called them you mean and asked them to verify that. We might find out that 85 of them were, in fact, African American owned. The other 15 were something else, and then we could use those results to further statistically refine our availability Numbers, and we did for m/wbes, and we were asked to look at the veteran owned businesses, and vobe, and service disabled, the sdvob acronym, and you can see in table 2 of the study, you can see the veteran Numbers, but here today I've included in the slide show the overall m/wbe availability Numbers for the study.

[11:38:32 AM]

And if you look at the second to the rightmost column there shows you the aggregate m/wbe figures, and they vary, whether you're looking at construction, professional services, other services or commodities, but they range from anywhere from just under about 19% to almost 30 -- in professional services, to almost 30% in nonprofessional services. There's two versions of each number because we had not only the award dollars from the beginning of the contract, which included change orders and extensions and what have you, but we also had the ultimate dollars that were paid at the end of the contract, and you'll see there's some slight differences there, depending which dollar metric is used. And these Numbers, as I mentioned, are weighted by those dollars, so if the city spends 80 times more money in street and utility construction than it does in retail florists, those availability Numbers for utilities and street construction are counted that much more heavily in these overall Numbers, because your spending is that much heavier in those categories. And you see as well with the breakdown for African Americans, hispanics, Asians and pacific islanders, native Americans. Mbes as a group, first four categories as a group, nonminority females, and M wbes together and of course the balance for non-m/wbes, having three-quarters to four-fifths of the availability in the market area. So now we know what geographic markets we're interested in, what product markets we are interested in. We have a pretty good idea of the percentage of the businesses in the Austin market area that are minority or women-owned. We're now going to expand our view a little bit to look at disparities in the larger market within which Austin contracts for.

[11:40:32 AM]

And this is a very, very important part of the study from a constitutional standard because one of the touch stones is -- is city -- are city contracting dollars flowing into a larger market area from which there is evidence of lingering historical and possibly current disparities and discrimination in the market area. So using a wide variety of census data, we did a variety of highfalutin statistical analyses that tried to control for a number of other factors in addition to race and sex, to try to compare similarly situated individuals, minorities and women on the other hand compared to the balance of the population. And we looked in three general areas. Disparities in wages and salary income, because generally business ownership outside of silicon valley is not an entry-level job opportunity that most business owners come from rising through internal labor market of private sector and public sector employers, so we looked to see if there were disparities in wages in the Austin metropolitan area, and then and then specifically in the earnings of business owners, and also in business formation rates, which means at what rate do people move from working in the wage and salary labor force to working on their own account as entrepreneurs. And in those -- certainly, if you're interested in the details of those studies, they all show

up in chapter 4 of the report, and there are many, many tables in there that for the nonnumerically inclined will make your eyes glaze over very rapidly, but for those of you otherwise, I tried to summarize it into one large table. We looked at construction and construction-related services, and then other goods and services across those three categories that I identified for you, wages, business owner earnings, and business formation rates.

[11:42:34 AM]

We looked at all the specific groups that are participants in the city's current m/wbe program, and what we found, we found statistically significant adverse disparities affecting all of these groups in all of the areas that we examined across the board. So that right there is the -- is the -- is the constitutional touchstone, largely, for the city to move forward with reenacting its ordinance and extending it through the next sunset period, which you'll see in a moment is indeed one of the recommendations that we have made and I'm certainly happy to talk to you in more detail about those results. We did similar analyses for veterans and disabled and found similar results as we did for the m/wbes, a little smaller in some cases and again you can see the specifics in chapter 4 of the study. Now, an important question once you've identified these disparities is what's causing them? Maybe there's some perfectly race neutral explanation for why those disparities exist. More likely than not there are multiple explanations. One very important one that we actually had good data that we could go in and examine in very great detail, and though Foss of you that are small business -- for those of you that are small business owners or minority business owners and have worked with those over the years, you'll probably agree with me that the number one -- usually one of the number one problems that you hear about is lack of access to capital and credit among those -- those businesses. We had a wonderful data set from the federal reserve board and the small business administration, along with some of our own complimentary similar surveys that we have done over the years that looked at denial rates for commercial credit applications.

[11:44:39 AM]

And in just the raw data, the denial rates for m/wbes compared to everybody else are vastly, vastly higher. And again, there could be a perfectly nondiscriminatory reason for why that might be. It could be that their balance sheets and all the other things that loan officers look at when determining whether to grant or deny credit are simply not as good, and that explains the disparity. So we wanted to test that possible explanation using this data source, and the thing that makes this particular data so wonderful is in addition to oversampling minorities and women and asking about not only loan denial rates but the price they paid in terms of interest rates on those loans when they were granted was they collected all of the other balance sheet information, all of the creditworthiness information and credit scores to go

with that. With all that we were able to do a statistical regression analysis that holds holds them constant, assets and liabilities, where we really were looking at almost exactly similarly situated individuals from a loan officer standpoint with the exception of race and sex to see what the differences were, and what we found was that even controlling for all those other things and holding those constant, that the loan applications of m/wbe firms, and in particular African American owned firms, were still statistically significantly more likely to be denied than non-m/wbes, and even more troubling, when those firms were able to receive credit they paid more for that credit, almost a full percentage point more for their credit than for their non-m/wbe peers. Those results were not significantly different in the region, the census region, including Austin, than in the nation as a whole. They were fully consistent with results from near zone past credit surveys we've done, and more recent academic research that's being done by folks like Dr. Alicia Robb over in Washington at one of the foundations.

[11:46:59 AM]

So really that is one very, very important factor that helps explain why those disparities exist in the Austin msa, as well as in many, if not most, other metropolitan areas across the country. Next we looked at moving to disparities in the city's own contracting. Now, these aren't quite as telling in terms of indicating whether discrimination exists because the utilization -- you have two percentages in here. Let me just explain a little bit what you're looking at here. This is all contracts combined over the six-year period from 08 to 2013 that we looked at. It's over \$4.2 billion in contract spending across almost 3500 prime contracts and over 8500 associated subcontracts. So so it's almost 100% sample of the city spending during this time. The utilization column is the percentage of that \$4.22 billion that flowed to these different types of m/wbes. The availability percentage we talked about previously is their fraction of business establishments in the relevant marketplace, and dividing the one -- the utilization number by the availability number, multiplying the quotient by a hundred, gives you an index at the lower bound is zero and has no upper bound, but zero indicates perfect disparity. At 100 indicates perfect parity, and over 100 would indicate the firms doing actually better than you would expect based on their current availability. The reason I said it isn't a great touchstone for measuring discrimination is that the utilization Numbers are presented in the presence of an ongoing m/wbe program, so the analogy I already used and I'll poll apologize to those of you who heard me do this ten times already, is I have high blood pressure and I take a pill for it every moment, so assuming I didn't sit in traffic that morning, if you put a blood pressure cuff on me when I'm taking my medicine, you'd find that it's 120/80, perfectly healthy-looking, and if you concluded from that number that I didn't have high blood pressure, you would have reached a completely false conclusion, because you're ignoring the fact that I'm taking medicine to remediate the symptoms.

[11:49:28 AM]

And so that's exactly what's happening here. The presence of that remediation we still see very large and significant disparities for African Americans, native African Americans, minorities as a group, and white females, with hispanics and Asians overall still showing some disparity, but in that 94, 95 range out of a hundred is not as -- quite as troubling as some of the other Numbers are. And now I've also broken up these Numbers into looking -- we're going to compare contracts that didn't have any goals on them, compared to contracts that did. And here you see the bottom line overall, about 15% utilization compared to almost 26% availability, or a very large disparity ratio of 59.3, and you really see that replicated across the board regardless of the type of m/wbe you're looking at. Now -- okay, I guess I don't have the contracts with goals, but you could imagine -- and those are in the study, quite a bit higher. The other thing to note here is contracts without goals were \$3.17 billion. You heard a moment ago that the total spending over this period is \$4.22 billion, so almost 75% out of every dollar spent on contracting is going into a contract that over the six-year period did not have a goal placed on it. Yes, ma'am?

>> Pool: Thank you for that point. I wanted to point out even in those areas where we do have goals we're significantly falling short of being able to get contracts to our minority and women-owned businesses.

>> This those contracts where you -- where you have -- in those contracts where you have goals, because the previous table is a blend of those -- 25% of the money where contracts do have goals, and the ones -- and the other 75% of the money where they don't, but those contracts that do have goals, you're actually doing very, very well, by and large, benefit considering that again the medicine is in place.

[11:51:45 AM]

So you would expect to see that, all these affirmative efforts at smbr and throughout the city departments are -- are definitely paying off. I think the area for a challenge in the future is those other contracts where goals are not being set and could be. Now, some of those are contracts where you just absolutely -- you're buying something that there's no scope for. It's highly specialized and there's no scope for participation or it's an emergency contract and you don't have time to go through that whole process. But we found many, many contracts where, certainly from what we were seeing, there was a lot of scope for participation.

>> Pool: And that's the refrain that we have been hearing all year since we took office, from Ms. Hadnot and other folks with the minority and women-owned business associations and the specific firms, is that we don't have the goals set in many of these contract areas to allow women and minority-owned businesses to participate. And hopefully you'll -- are there some slides in here later on where you give us

some suggestions on how to reach it? What we're finding is that from what staff is telling us, it's hard to set the goals when we don't -- what we're finding is that people are not available to bid on the different service requests or contracts.

>> Yeah, and we will talk about that, and certainly that refrain you're hearing is consistent with what we found in the study. One of the challenges is -- you know, whereas we were able to count all -- for availability purposes all firms where the touchstone was actually their minority or female ownership. The city is a little more restricted in terms that they have to have firms that are certified in specific scopes of work to do the work for the city, and where we have the luxury to look at, you know, 4,000 contracts all from this 30,000-foot view, the city's job has to deal with one contract at a time and also its fiduciary and public responsibility to get those things built and get those things done and done well.

[11:54:01 AM]

So one of the challenges certainly going forward is getting more firms into the certification pool and into different scopes of work, and we have some suggestions also for the city to perhaps expand how it goes through the goal-setting process and taking a closer look at those contracts or goals are not being set. I think it's probably fair to say, and this is true not only of the city of Austin but almost any program of this kind that you look at, the historical focus has been heavily centered on construction and construction-related services, and that is certainly a very, very important area. The city spends a lot of taxpayer dollars in that area, but there are other professional and general services and commodities categories where -- that have not been the traditional source of that focus, and probably that's where maybe if there is additional low-hanging fruit to go after, you may find it in some of those categories. As far as construction, I think -- and I don't have the Numbers right at my tinker tip, but I think we -- fingertip, I think we found almost the opposite was true of what was true overall, is that the city was capturing 75% of its construction dollars were going on to contracts that had goals. So the capturing construction and construction-related stuff is being handled, I think, very, very well. Looking at veterans and service-disabled veterans we also found overall very, very large disparities, albeit it's a very, very difficult group to measure. Now that we have statistics not only for the economy as a whole, what the city is doing specifically, we wanted to go see is there qualitative evidence from talking to business owners, not only m/wbes but everybody else that either backs this up and is telling us the consistent story or is telling us a completely different story.

[11:56:03 AM]

And in the cases -- if it's telling you a completely different story you really have to sit back and think about whether the -- the constitutional standards are being met. But in our case we were convinced that

the -- the qualitative evidence was fully consistent with what we found in the statistics in the study. So we did two types of qualitative data collection. We did a very large-scale 25,000-piece mail survey that was just very short, 14 questions, front and back, because as you know, with surveys, a lot of those end up in the proverbial circular file. So that's one reason we send out so many to begin with so we get a good sample back. We also do a survey of nonrespondents to actually test that what we're getting back is -- is still representative of the population we were -- we were interested in and the questions we were interested in asking. And what we found in a nutshell, and you can look at chapter 7 for greater details, but more m/wbes than nons experienced -- reported experienced disparate treatment over the last five years, even in capacity-type factors like revenues, years in business, and employment counts were held constant. More m/wbes than non-m/wbes reported that business environment factors like the size of the contract, previous experience doing business with the owner, ability to obtain commercial insurance and bonding, and things like that made it harder or impossible for them to obtain contracts, again, even holding the size of the firm and other relevant capacity factors constant. And most troubling to me, two questions at the end of the survey. When we asked firms that had worked as subcontractors for primes on projects that had goals placed on them, be they by the city or some other entity, if they were contracted by those same primes to work on contracts without goals, either public or private, and two-thirds to three-quarters of them consistently reported to us that they were seldom or never afforded that opportunity.

[11:58:12 AM]

So again, a potential race neutral explanation is that maybe they did lousy work, and so that's why we didn't hire you on these other contracts. So we asked them a follow-up question, were you even solicited by these firms to do that work? Which should kind of wash out that potential response, and we got the same answer, sad to report. I'm going to turn it over to dawn. Dawn then moderated for us hundreds of interviews that we did during the summer of 2014 with -- we did an African American stakeholder group, hispanics, Asians, native Americans, nonminority females, nonminority males, veterans, and then we also did a series of industry specific focus groups for construction, architectural and engineering, other types of services, and other types of commodities, and I'll turn it over to dawn to run you through -- don't run you through those results and then he'll talk to you about the recommendations we came forward with in the study.

>> And before I begin going through the

>> Before I begin, the study also includes some very positive comments. And I wanted to start will therebefore I got to going down this list. Many of the m/wbe firms indicated that the smbr program was essential for their success. There were also many who reported that the program resulted in them meeting businesses that they otherwise would not have met. And many of those individuals or firms expressed pleasure having developed these relationships and were, in fact, working with these particular firms. I'd also like to say that there were also comments about the program itself, which

indicated that over the last year, two years, that there was an increasing -- that the quality of the program and the responsiveness of smbr was dramatically improving, and things were definitely getting cooperation, collaboration, communication was better.

[12:00:30 PM]

There were a wide variety of positive comments that were not included, and I don't want this council to walk away with the impression that everything that was said during all of these meetings were, in fact, negative. We have a tendency to focus on the negative, because that's what we are -- that's what we're paid to bring to your attention.

[ Laughing ] Yes.

>> Just a quick question. I'm not seeing it here, so I'm just curious whether you received any feedback on the timeline for payment. In other words, did you -- I've heard concerns in the past about slowness in payment. Did you --

>> Oh, absolutely. A whole section with significant comments on two components. One is payment. And the other is closeout of projects or retainage.

>> Kitchen: Okay, so that's in the information.

>> That is definitely in the reporting, and you will see that, hopefully, coming up. In a nutshell, though, starting I can't see without my glasses. On the slide is that there were, in fact, reported, many discriminatory attitudes and negative perceptions about the competency or the quality of work of minority- and women-owned. There were also comments about workplace harassment, not being paid on equal terms, exclusion from informational and industry networks, as well as general comments about the inability to access capital, and also barriers to working on not only public sector projects, but also private sector projects.

>> Go to race-conscious, and then go backward.

>> Okay.

>> Go one more.

>> All right. In terms of -- we have two categories of recommendations.

[12:02:33 PM]

One, race-conscious, and then we have race-neutral. I'll start with race and gender conscious. There is a strong basis in evidence for this program, and you should adopt a renewed m/wbe ordinance and accompanying program regulations. That really is the heart of our recommendations. The second recommendation is to tailor the m/wbe ordinance to the specific type of procurement. And what I mean by that is the current approach -- if you look at each of the various sections as they talk about construction, professional services, goods, they are basically the same sections -- cookie-cutter sections. You just basically go one, and if you read one, it's exactly like reading the other. And this comment really goes -- or this recommendation goes to, there are different procurement methods, different evaluation criteria, different delivery methods for each of these in that the ordinance, I believe, would be much stronger if that was tailored more specifically to those types of issues. For instance, on A&E services, that is qualifications-based. It's not low bid. And that should be taken into consideration in the way you construct the ordinance with respect to architect and engineering services. The next one is revised certification eligibility standards. You guys already have a c&w test. So we said review firm size, review the certification period, take a look at your database. Basically, look at this entire area to make sure that your certification and your eligibility standards are current and up to speed.

[12:04:34 PM]

Standardized good faith efforts, waiver requirements and related policies were also an area where there was some concern. Many of the m/wbe community and also some of the prime contractors really did not believe that there was uniformity in the application of the good faith efforts test, and, you know, there are definitely, based upon where you sit on that chair, differing perspectives about good faith efforts. Obviously, many of the minority community felt that it was granted too liberally. On the other side of the table, many of our prime contractors felt that it wasn't granted enough. So, you know, there were definitely different perspectives based upon where you sat in the contracting process, and whether or not you were a prime or a sub. There were also some concerns about making sure that each of the firms was performing a commercially useful function. And to make sure that there is an economic purpose, that it's not just meeting the goal, that there is actual work being performed in the context by that m/wbe firm, or by that, you know, by that firm. And that was also something that we just wanted to bring to your attention. M/wbe goal-setting, we're basically -- a wide variety of areas. Obviously, continue to set contract-specific goals. Look at availability and consider the impact. There was major concern in the African-American community, for instance, that having a 2% goal on a project simply was not beneficial to that, because you were capping them at 2%.

[12:06:39 PM]

And you want a large enough piece of the pie, so to speak, that you're able to grow and develop. And there is a tendency by the prime contractors to say, I've met my goal, I don't need you anymore. So one of the examples that was given to me was, there was a landscaper. And he said he was working on one side of the project, the right of way, and he had his work where he was doing his landscaping. On the other side of that same project was another landscaper, nonminority, who had -- was doing the same type of work. And he was at a quandary. You know, I'm the landscaper, why am I not -- I have the capacity to do both sides. Why did I not get the entire project? You know. And the prime basically said, you know, I got my 2%, I don't need to do more, and that's where I'm going to stop. So that's the type of feedback we got in terms of some of the goals. And really, it applied across the board whether you were Asian, hispanic, it just went across the board that once you hit that goal, that was the end of it. So that's looking at that commercial use function.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Yeah. Got to stop you right there. If you're in business, you want to expand your business. If you win a contract, you want more business. I don't understand the remark that you just made. It's irrespective of what my ethnicity is, if I'm a minority business owner or not, I want more market share. So the guy that's on one side saying why can't I get the whole project, the guy on the other side says, why can't I get the whole project? They both want to expand their market share, and it has absolutely nothing to do with ethnicity.

>> But I think you need to understand, because I prefaced it with the comment that I have a 2% goal. I'm going to cap it at 2%, regardless of the quality of the work of that m/wbe firm.

[12:08:43 PM]

So, again --

>> Zimmerman: I understood that and I got that. But did you just miss my point? If you're in business to do business, the more business you can do, the better. More, give me more, you know? I'm dumbfounded by the observation of the remark, because both sides want all the business. Everybody wants all the business. We're in business to make money. And the more business we get, the more money we make. All of us are like that.

>> I think one of the key findings of the study suggests that without programs like the city's m/wbe program, the m/wbe community would be getting none of the business, and the non-m/wbe community, as you said, would be taking all of it, because they can. I think historically, that's what these disparity studies are telling us.

>> Zimmerman: Yeah. And so that comes back to the crux of the issue, and why I've been all over this issue since I got here. My interest is in getting the best work I can for the taxpayers, the least amount of

money. That's my interest. Couldn't care less about your ethnicity, gender, or anything else. I want the best work for the least amount of money. My concern is people are showing preferences. They're not giving my taxpayers the best service I can get for the least amount of money. That's my concern.

>> Tovo: So, thank you for that -- that example, because that helps understand what you mean with this recommendation. Can you explain what exactly commercially useful function is, and how that works within a recommendation? I assume it would capture those kinds of examples where you have one person doing half of the work up to that 2%.

>> Commercially useful function, again, is the purpose of the program is to provide opportunity for these businesses, and provide opportunity for these businesses where historically they have not had access. What you don't want to happen as a byproduct of your program is for someone to say, "I've got a 30% goal."

[12:10:48 PM]

And you do an award of 5% to a particular firm, a WBE firm. And the only thing that firm is doing is shuffling paper. Under that circumstance, you have to look at the responsibility, the work performed by that WBE firm to look at it from an industry standpoint to say, is this a commercially useful function. Does it add value to the business, or is it merely a way of meeting the goal without providing value? So you want to make sure that the program achieves its intended results, which is real experience, real opportunity, real firms, real capacity, and growth. So that's what that goes to.

>> And I would add, I think it's important, also, for protecting the integrity of the program. Because as in any area, there will be firms and people that try to game the system. And the issue of front companies that are posing as m/wbes but really are not, we've seen this in the federal government. They have a set-aside for small businesses, and you find that companies like Boeing are getting contracts under the small business set-aside because they're gaming the system, and the contracts aren't being monitored sufficiently. So it's very important to keep the integrity and the legality of the program, that you're keeping those firms at bay and preserving those opportunities for the firms that really are performing a commercially useful function and will benefit from the experience and grow in that program.

>> If I could add a clarification to the scenario with the landscaper, our m/wbe program doesn't allow for that scenario to happen. That would be a violation to our program. I don't know specifics of that particular contract, and this information is kept completely anonymous. Had that been brought to our attention, and if, in fact, a firm was listed for that scope of work but that work was given to another firm once they had reached that goal, that would've resulted in a violation.

[12:12:59 PM]

>> Houston: Mayor. Thank you all again for bringing this information to us. Many in the community know this, and it's good to have data to be able to support this. And it's difficult for individuals, I suspect, who don't believe in institutional and systemic racism to see the benefit of why it's necessary to have these kinds of programs in place. So I appreciate you coming today.

>> In addition, in terms of just rounding out the race and gender-conscious recommendations, you know, we thought that you should take a look at your sanctions policy to make sure that it is adequate, and that the policies and procedures are there. You have a really well-written program, but, again, because of just changing laws, changing circumstances, we'd like for you to take a look at that. Also, you know, once you continue the m/wbe program, you should also have a sunset review process as well in the same way that the current ordinance does as well. So, that's also essential. In terms of race- and gender-neutral recommendations, again, we go to payment. The number 1 complaint was payment. And whatever efforts can be implemented to ensure prompt payment should be looked at. I know that during the process of this study, smbr was working with the advocacy groups in order to provide more prompt payment under certain circumstances, which is historically needed. And I commend your team for making that effort -- ensure better non-discrimination, review surety and bonding and insurance and experience requirements.

[12:15:06 PM]

There was always concern that the insurance requirements become standard or routine. And at least from the perspective -- you have to remember what my role is. My role is to collect data, information, from the perspective of those people who actually do business with prime contractors, who do business with the city. And this is their perspective, which I am actually trying to address. So, one of the concerns, obviously, was that sometimes the insurance requirements may seem excessive, or sometimes the bonding requirements may seem excessive. And, again, you know, we caution, just take a look at that to make sure that the city is adequately protected, which is what you have to do under those circumstances. But at the same time, to make sure that those insurance requirements and those bonding requirements do not act as an artificial barrier to those who want to participate. And especially those who want to move from a subcontractor to a prime role, which we heard continuously, which goes to unbundling the contracts. The larger the contracts, the less opportunity for some of these smaller firms to participate. And we encourage the city to continue to look at these contracts, and look for opportunities to unbundle these contracts, to bring them more within the reach of a larger number of firms. You'll increase competition, provide more opportunity for firms to participate, not only as subcontractors, but as prime contractors. In addition, we looked at -- you know, looking at programs that facilitate access to capital, adopt a mentor-protégé program. And on that program, one of the comments was, you know, take into consideration when you're developing a program the development of a business.

[12:17:08 PM]

Not all m/wbe businesses are startups. So a mentor-protege program that is geared towards startup should address the needs of a startup. You also have firms which are much more mature. They need mentors, as well. And to develop a program that addresses startups and firms that have been in business for a while and want to grow their capacity even more -- they have a track record, they're more mature, and they're looking for whatever insight and guidelines they can receive as well is. We implement a small local business enterprise program, initiate record-keeping, third-party contracts. All of those are areas that we thought would be beneficial. All of them are race-neutral. And they would provide more opportunity.

>> Also, as smbr pointed out to us during the study review process, a few of these that have been asterisked are already under way at smbr. And I know that they're taking all the other recommendations under consideration. So with that, thank you very much. Happy to take any questions.

>> And if I could just follow up on that, I mentioned we would be bringing recommendations back to council in the form of ordinance revisions in June. That process will include stakeholder input, and we are also working with our law department, who's also contracted with outside counsel as well, who will be developing a policy matrix. And we'll take each recommendation, look at what we're doing now, and what we can do to improve our processes. This is than an going piece of work. Each office has received the study. It's large. We distributed it to you on a thumb drive. It's available on the department's website if any of your constituents would like to read the study.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Thank you very much. You just answered my question. I was wondering next steps.

[12:19:10 PM]

>> Mayor Adler: Thank you very much. We look forward to the recommendations coming back. Mayor pro tem, and then Mr. Zimmerman.

>> Tovo: I had a quick question. On slide 14, you talked about -- this is really an interesting piece of data, in the large majority prime contractors who used m/wbes on contracts with goals really used them on contracts without goals. I wasn't clear. I apologize if I missed it. Were you able to ask any of those business owners why that was the case, and collect any information about why they were not using --

>> No, because that particular piece came from the survey. So those responses were anonymous.

>> Tovo: I'd be interested in getting some information about that. I don't know how one would assess that, but . . .

>> And we would need to look at apples to apples. We would need to look at prime contractors -- the same prime contractor working on a goal versus without a goal, which might be difficult to do. But we can delve into that information.

>> Tovo: Sure. I'm not asking for that work to commence, I'm more musing that it would be interesting to know and hear some of the thoughts about why that was the case.

>> Right. I could add anecdotally that we've seen in many instances around the country, when these programs go away, either because they're abolished for whatever reason, or legal action causes them to be suspended, you do see participation drop. So even in 2016, a lot of these practices are so institutionalized that without that pressure from entities like the city of Austin, participation will dwindle, without that contract. There are great examples. The city of Houston, that several years ago, pursuant to some litigation over their program were forced to remove white women as one of the groups included in their goals.

[12:21:18 PM]

Over the next two to three years, their participation dropped off to the point where when I did their disparity study, we were able to see statistically significant differences in their participation, and where ostensibly the only difference was the absence of their eligibility for goals. So if they're not eligible, there's a lot of firms that still won't look to that segment of the marketplace.

>> Tovo: That adds to councilmember Houston's point.

>> I wanted to add, we hear from firms quite often the same primes, and city contracts, when they work on a private sector project, they will not use those m/wbe subs, so we do hear that quite a bit.

>> It's not, however, 100% across the board. As don mentioned, we had several they were telling us -- we've met firms as a result of this program that we're now work with. Two-thirds to three-fourths told us that never happens. There is a fraction out there that it is happening for, and that's one of the larger, higher objectives of the program, is to break down that lack of familiarity and desire to keep doing business with the same old folks because of your comfort level with them, and break some of that down and have an opportunity to show these primes that these m/wbes can do good work as well, and they're worthy of becoming longer-term partners in that process. And we did have some firms that told us that they were there, and that the spur for that was the presence of the program.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I want to back up to something that might get into a little bit of, kind of, legal speak and legal definition. But I think it's very, very important. And it starts with the word disparity, what disparity is. It starts on the first page. Then on page 3, under remedies must be narrowly tailored, I guess these are legal standards.

[12:23:24 PM]

It says each group must have some evidence of discrimination. So I want to use an illustration I've used before. And I can't get a rational answer to this. So, if I look at the university of Texas football team, the makeup of the football team -- it might be 70% or 80% minority. Then I look at the university of Texas student body, and it might be the inverse. It might be 70% nonminority. And so no one is alleging that the football coach is deliberately doing racial preference. Everybody understands he's putting the best players on the field he can. Under the disparity, legal definition, isn't that a racial disparity case? There's no direct evidence that somebody's being discriminated against, but it doesn't look like the ethnicity of the team matches the ethnicity of the school. Isn't that an instance of racial disparity?

>> I'll let don take that, but, you are familiar with what our record was last year.

[ Laughing ]

>> It's about the best team. That's all I'm saying.

>> Zimmerman: We did our best. But, yeah. One of the things you look at -- and I think what distinguishes this effort from the effort that you talk about, there are certain areas -- let me back up. One of the things that is apparent in this study -- and really, all studies -- is there is a divergence of opinion. Many of the prime contractors long for the end of race as a factor. Many of the minority contractors long for the end of race and gender in the decision-making process. Prime contractors generally say, however, that discrimination no longer exists, or it is an anomaly and not very prevalent.

[12:25:32 PM]

Many of the minority contractors have an entirely different perspective, that there is -- discrimination, and that it continues to persist, and continues to be a problem. The example you gave is probably one of the few examples we have in our society where merit and skill are the primary decision-making functions used to make that determination of who the starting quarterback should be, or who the running back should be. It is a merit-based determination, for the most part. For the most part. Nothing is absolute. In the area of business, I don't think you can apply that same analogy, because many of these businesses, for whatever reason, have built-in networks that are established. They have dealt with

subcontractors for 15 or 20 years. They have strong relationships with these subcontractors. And they don't want to do business with anyone else. So if you have --

>> Zimmerman: But that has nothing to do -- it's not that they determine deliberately that they're going to discriminate against certain contractors.

>> Well, that's a matter of are looking for the opportunity -- you're standing on the outside, trying to get in, you know, you're saying how can I get in? Let me in. I want to participate in public dollars. These are public dollars, and I should have a right to participate. If these legacy contractors refuse to do business with this group, are you not institutionalizing the ongoing effects of prior discrimination, because in the past, these same firms did not have the opportunity to participate.

[12:27:34 PM]

They did not have the opportunity to do city contracts. And therefore, these relationships have developed and grown. But these firms, their growth has been retarded because of their lack of ability to participate. I think it's an entirely different analogy.

>> Zimmerman: You're right. Everything you said is true. That sounds to me like the quota argument that was made 40 or 50 years ago in the '60s and '70s. It sounds very much. So, I mean, I don't see that there's a distinction -- or any difference -- between goal and quota, kind of, in the way you described it.

>> I think there is a difference. I mean, because we're not saying as part of this programming -- a component of your program is that the goal is aspirational. There is a waiver requirement for a reason, because firms who go out, make a good faith effort to find firms and legitimately can't find those firms, they then have the options of saying, waive your goal. There's an evaluation done objectively to determine whether or not that effort was a sincere effort to achieve the goal, not merely pro-forma. And if the decision is made that there's no availability, or the capacity of the firms is not there, or that the majority of the firms are tied up in other projects and they're simply not available, that that contractor no longer has to meet that goal. So I had a discussion with a friend of mine, and we talked about two things -- opportunity and outcome. It's the opportunity that these programs focus on, not the outcome.

>> Mayor Adler: Okay, anything else?

>> Houston: Mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: And, again, I'm saying thank you, because almost from day one, I was talking about friends and families, and the process that the city goes through.

[12:29:40 PM]

And you called them "Legacy vendors," or prime and subcontractors. And so I think that this is a first step that I've seen in the city where we really are going to address those kinds of issues. And I appreciate the fact that when there are subcontracting, a goal is established that people do better. And I hope that some of the other things that we will roll out over the next several months will come to fruition, because I hear in my community, regardless of the ethnicity of the folks, is that it's that locked-in system where no one can break in. It's because everybody's comfortable with the people who have always done it, because that's who we always have done it with in. And so there's no reason to have opportunities for new people to get into the system where public dollars are being expended. So I thank you for your data-driven analysis of this problem, and maybe we can focus on it now.

>> Mayor.

>> Mayor Adler: Yes.

>> Garza: I just want to comment on the football analogy. And, you know, sports -- is the one area where there really is a level playing field when it comes to sports. And really, there's probably not, because there's a lot of minority athletes who don't have access to summer camps, and yet, in some sports they're able to have success more than other races. I would point to slide ten, where obviously in business there is not that level playing field. When the fact that minority business owners are denied loans at a higher rate, and when they get loans their interest rates are higher, because of one factor -- the color of their skin. So, you have used that analogy before, and I don't think it's a fair analogy.

[12:31:42 PM]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I would like to speak to that briefly. I'll tell you something that is happening as we're sitting here right now. I happen to know something about the way that car dealerships do business on a daily basis. They bring people in when you buy a car and offer you financing. They'll look at your credit scores. If you have a pretty good credit score, 780, you're entitled to, in the market, irrespective of the color of skin, you're entitled to, you know, 3% interest rate, whatever it is. And that business -- the car dealership -- which kind of acts as a bank -- you're entitled to 3% under the market that everybody gets, irrespective of race. They'll say, I can give you 4% on your loan, which is true. It's also true that you could get a lower interest rate of 3%. You could get 3%, 4%, but they'll offer you something higher than what you're allowed to get in the market, okay. Stay with me. So they do that all day long to everybody. They

try to oversell, they try to charge more than what the business is entitled to get under the market. So they offer it to you. Would you like to pay 4%? If you've done your homework and you went to your credit union and got your own financing, you would know you're entitled to a better rate. A lot of buyers or educated. They say, I know I'm entitled to 3%, and get a lower interest rate. Now we bring in the professionals after the fact. They do a data analysis and they find out that as it turns out, the minority customers may have ended up paying 4% instead of 3. Is that because the business discriminated against them? No. They tried to overcharge everybody. They're just trying to get more money. Then you come in after the fact and find out that some group paid more than others and then you say that there's discrimination, and it's not.

>> Mr. Zimmerman, I would like for you to read the anecdotal portion.

[12:33:50 PM]

There was one story that was particularly telling. I think it is the most chilling of all the accounts. It is a story about a hispanic contractor who has a crew working. He's working his crew, and they're doing an excavation. The excavation exceeds the five-foot limit where it is no longer safe to do the excavation. And he comes to the superintendent without support. He comes to the superintendent on that particular, and he says, this needs to be shored. This is not safe. And the response that he gets from the superintendent is, "What are you worried about? These are just Mexicans." That's the type of stories we hear in these anecdotal accounts, and I think they go to more than that's by chance, or that's not, in fact, influenced by race or gender.

>> I just have to --

>> Mayor Adler: Just so that -- larger group speaking here, which I think is important. A lot about it that I don't accept as true, because I think that there are relationships between credit scoring and where people live, and background, that go beyond what you indicated. But even if we were only to look at the one aspect of what you identified, which are two people going into a bank and one person knowing more about what issues to raise than another, we're talking about something that I believe has been institutionalized by virtue of practice over years. And I think that one of the benefits of a program like this is that it gives people greater access to participate in programs, greater access to participate with other businesspeople, greater access to get experience and to learn, and to grow in sophistication.

[12:35:54 PM]

So, even in that one element that you point to, I think that's one of the reasons why these kinds of programs are real important for the city to do. Anyone else? All right. Thank you very much for the presentation.

>> Thank you.

>> Thank you.

>> Mayor Adler: It is 12:35. We have one more briefing with respect to real estate. What are people's pleasures?

>> I would like to start going through our items, so -- because, you know, we have just a few. And we may be able to go through them quickly. And I'd like to get -- well, I'd like to get through the Thornton road one before we break. So I don't know if others have ones that they want to get through also. So.

>> Mayor Adler: And then -- so we have some matters that are not really discretionary that we need to speak to in executive session, although some of them might, again, be things we could push.

>> Pool: Mine were short, too.

>> Renteria: I have a couple questions, also.

>> Mayor Adler: Let's do that. Let's move off the real estate thing. And I apologize for you sitting here so much. Is that time-sensitive for us? Yes, it is time-sensitive? Okay. Well, if it's time-sensitive, too, why don't you come up and gives the presentation, and then we'll hit the items that we is have, and then we'll break.

[12:37:55 PM]

>> Thank you, mayor, and we will be brief. We've had a chance to talk about this. We understand you have a lot today. We can walk through this in somewhat speedy fashion. We do want to highlight certain issues. I'm Greg with financial services, joined by Lorraine, and people from the municipal court to talk about some issues we're having over there. We're here to provide the council an update on our facility planning efforts. We were last with you in June to get authorization with cbre to initiate our space programming efforts, which was a new approach to dealing with our, kind of, longstanding un-resolved facility issues. I think at the highlights, the facilities we have are built for a 20th-century small town, not what we have. They're overcrowded, we have inflexible space that has made it challenging. We have a lease on demand model where we lease as we need and spend a lot of money. And it's an inefficient approach. Today we're going to talk to you about our alternative approach and recommendations, go forward on the development services, Rodney was before you last week to talk about an update on the Zucker report. One of the key findings was to move towards a new standalone facility. Mary Jane is going to talk about the municipal court, and the dire conditions of that building right now. And then also

just a quick update on some of our other efforts that we've initiated. I think a question to think about, as we have broached this, is how can our real estate occupancy strategy improve customer service delivery, and how can we best steward the financial resources, our time, and our personnel, in executing a strategy. So, we want to look back a little bit. Back in 1955, the municipal court opened.

[12:39:55 PM]

And there's a picture of it. It opened and housed the jail. Austin was a much different place. We had a population of 160,000. We had only 38 square miles, and our employee count was 2,000. That is a copy of our 1955 budget there showing our municipal court with ten employees in 1955. We move forward to the '80s, 1 Texas center opened in 1982. That is now our main administrative office building with nearly a thousand employees. The city of Austin had 345,000 folks, 120 square miles, and our employee count was 7,000. So here we are now in the 21st century, 15 years into this century, and I think we all know the Austin story about where we are, very much. We've doubled in land. Our employee count has grown, but at a slower rate than the population. And we are in a place, really, now, where the way we've approached our facilities and dealing with the growth and the safety for our employees has been suboptimal at best, and failing at worst. And many of the projects we're going to be talking about today, we've been talking about for 15 years. And I think our approach, in order to move forward and solve these in a more efficient way for our taxpayers, a fair way for our employees and citizens is to walk through a new approach for that. So, to talk a little bit about where we are and how we got here, I think Lorraine has some information.

>> Councilmembers, we're currently on a lease-by-demand -- lease-on-demand model. Almost constantly, once a month, I've been bringing more lease space to you. You can see that we're in approximately 170,000 square foot of office space right now.

[12:41:56 PM]

And that's just the administrative space. That equals to about \$5.6 million a year that we're paying in lease. And it's projected to go up every year, as we're seeing a steep increase in lease rates for the office. Also, we have repeated costs for moving, and for finish-out.

>> So, as we talked with you last June when we initiated this process, an alternative approach to addressing these long-term issues is really moving towards a build to suit, lease to purchase option. And how it works is we would go through an rfp process. We would select a developer. What would be different this time is a developer would bring land and financing to construct what we need. There would be a credit-tenant lease structure, commonly used in the private sector. It's becoming a more

common trend in the public sector. The idea is, because where the city of Austin is the tenant, the lender to that developer, whether it's a bank or a penchant fund, they can get really good rates, rates almost similar to what we would issue our debt at. And what makes it valuable to us is at the end, we can lease to own. It's an owned asset as opposed to, as Lorraine just mentioned, an asset we keep throwing lease monies in, on improvements we don't own. We can get a fixed payment that we know what it's going to be like over 20 years versus being at the whims of the market every year or two when we have to re-up leases. The advantages of this model, we believe that it can produce significant savings versus our traditional model. Our core business is providing citizen services. We're lucky and very fortunate to have cbre and their team with us, the world's leading real estate broker.

[12:43:59 PM]

They're in the marketplace every day on behalf of clients, so that when we have responses, we're able to get the most quote

--competitive pricing. The developer might be responding to a city rfp, and a week ago they might have been responding to a private sector deal. And with cbre there to help vet that, we believe we're going to be able to get significant savings, versus when we go to the market, which is quite infrequently on big deals. We can transfer the risk of construction and timing and schedule to the folks that do it for a living every day. They build buildings. We can still have recourse in that. And this is a model, again, that frost bank used, Google uses, apple uses what they're getting their buildings done. They're not building the buildings, they are working with the development community. And we believe this is a way to advance our objectives. And then most importantly, I think very timely, considering the conversation you just had, we would continue during this process to achieve our policy goals when it comes to procurement. Our m/wbe, our prevailing wage, our green building, all the policies that council has adopted. We can include those as part of our process. So we initiated a space programming process. I won't spend too much time on this, but we wanted to do a needs-based approach as opposed to sitting with -- typically when we've gone through these in the past, we have ended up in a place where, because of the timing of having to come up with an answer, we haven't had the time to thoroughly go through what do we need. That's what we've been doing for the last nine months, working with the staff, the stakeholders, doing group planning sessions, looking to come up with what we need for our space in the 21st century. It's been a thorough process. As Rodney mentioned last week, the current development services and planning departments occupy six floors in 1 Texas center.

[12:46:09 PM]

They are not at all oriented towards citizen or customer service. They are overcrowded, even with all the new staff that Rodney and Greg brought in, we are doubling and tripling up. We have employees working out of closets. The Zucker report is to eliminate the multi-floor approach, as Rodney mentioned, especially when it comes to customer-facing functions and to pursue a standalone facility. Fortunately, there have been some facilities, San Antonio, down the road, San Diego county, including doing a typical similar third-party finance deal, and Lorraine has some more information on that. And they've improved customer service and morale when they've gotten into this new space.

>> In the city of San Diego, they actually used some of their land and did a trade, and were able to buy down the cost of their building. When we went -- the space was designed for both developers and for the customers, as well as the employees. And in interviewing the different staff and the customer, we found that at the overall process improved greatly.

>> So the results of our planning studies for a new permanent center are 185,000 square feet. That would include large rooms for large meetings, citizen meetings, that we currently -- everything has to happen over at city hall right now for that. More customer focus, and very -- and keyly to this entire discussion, is larger floor plates. The standalone tower like we have at 1 Texas center requires citizens and staff to navigate from floor to floor to go through the process. We would end up with more open, flexible spaces that can evolve over time. Another issue we've had, as our city services evolve, we want to meet those standards without remodeling.

[12:48:18 PM]

We need additional outreach with employees and stakeholders. And our process would be the following. We'd be engaging with the private sector through an rfp process. The developer would bring back the land and financing to the deal. It would be an open book evaluation and selection process. And we anticipate being able to wrap that up and come back to council at the end of the summer. The decisions about this would come to council, obviously. And we would try to bring -- our goal is to bring multiple options that would be viable for the city. So with that, I want to turn it over to the judge to talk about the conditions in the court.

>> Good afternoon, and thank you for the opportunity to talk with you about this. Municipal court's not a pretty building. It was originally built as a three-in-one. It was the city jail, the police headquarters, and a very small municipal court. It has been re-purposed and remodeled, and added to over the years. I joke that there's been so much lipstick put on the pig that it's more lipstick than pig at this point.

[ Laughing ]

>> If it were merely a matter of this being an old, shabby building, I would not be here. We would not waste your time. But, we are at a point where we are one technology glitch away from not having a functioning court, and not being able to fix it. The minor issues are -- and these are the minor ones --

failing climate control, failing elevators, windows, roof, and foundation. The first big issue that we have is asbestos. It was the wonder material of the 1950s. So it is encapsulated in the ceilings, the walls, and the flooring material. We cannot drill or change, or move the ceilings, walls, or any of the flooring material.

[12:50:21 PM]

So that inhibits any meaningful upgrades or repairs at this point. I'm going to ask Ms. Grub to tell you about the other operational, technological, and safety issues -- the other big items.

>> Our network communications de-employment, the computer and phone systems, are 30 years old. Ctm cannot upgrade because of the asbestos, so we're dealing with really old issues. When our computers or phones go down, there is no fix. We do not have a contingency plan for this, because they cannot be fixed. We take in about an average of 2,000 phone calls a day, \$23,000 in money a day over the phones. When the phones go out, again, we do not have a backup plan for these. Safety is a critical issue. Our customer service area does not have glass barriers on the front counters. There's many of the staffing and public areas that there are no barriers. Parking is an issue. We have to utilize alternative lots. So our staff and citizens -- we get daily complaints that coming to and from court, they are approached by individuals and put in dangerous situations involving aggressive panhandling, people exposing themselves to them, people standing in lots -- in their parking spaces selling drugs, using the bathroom in public. Just really unsafe situation for our staff and citizens. Customers -- I mean, most of our areas in the court are cramped, where people are sitting right next to each other. The workspaces are not functional.

[12:52:23 PM]

They're not Ada compliant. And they're not -- this is resulting in staff injuries and workman's comp claims.

>> That doesn't even really cover the space needs. We've outgrown the building. I believe there's been discussion of planning for a new building since around 2000. And it hasn't happened. And every time any major maintenance was needed, my predecessor and the prior court clerk were told, "Oh, well, you're getting a new building." So we're now at least a decade into it being neglected. What we think that we need at this point is first, an emergency plan. As Ms. Grubs said, once our phone system goes down, the contractor will not work on it. They can't get parts for it. It's done. We cannot -- the same thing with our server. I server, I believe, is 25 years old, which is embarrassing for Austin, the technological capital of the world, to have a city department with a server that's so old you can't get parts for it. So, once those

things go down, we're done. So we need an immediate plan. Basically, where can we go and have a pop-up port. Where can we have -- or multiple locations where we can have at least some court functions. We need an intermediate plan to stabilize operations, and then we do need a long-term plan. And that's what we're here to tell you about today.

>> Thanks, judge. Just -- we've been working very closely with the municipal court in the last several months, and really ramped up recently as these issues about the condition of the building really have amplified. What we've done with the -- our other exercises on development services, we have done initial space planning on a court.

[12:54:24 PM]

We're looking at about approximately 100,000 square feet. There needs to be a lot more work done on that. That would get at some of the issues that judge statman talked about -- additional courtrooms, much more improved customer service windows. I think some of the pictures on the previous slide speak volumes to what it looks like walking into our court. And then really key to all that is advanced security for employees and citizens. So what we are proposing to do is to continue in an aggressive manner detailed programming and space specifications to meet the court's needs for now and for the long-term solution. We also want to look at evaluation of best practices like we've done with our permit centers. And then one of the things that we think is valuable at this point, Lorraine and I have been talking to the county -- certainly, there are some areas of -- within -- between the city and the county, not only with courts, but other areas, of looking at city/county siting analysis, where are there opportunities for areas that could be, kind of, jointly addressed. So we've talked to the county. They're interested in doing this as well, as they rekick-start their process. So that is something that we are going to try to work towards as well.

>> Some other facility efforts we're working on is, we're working on the sobriety center. And we're hoping to get that moving forward. We're also looking at Austin energy, as the majority of the building adjacent to their headquarters is leased, and we're looking at their administrative needs. We're also looking at fire, ems, warehouse. When 183 is widened, we will not have access to our warehouse any longer. So that's important that we move quickly to get them a new warehouse. We're looking for police, fire, ems, administrative space.

[12:56:25 PM]

And the APD headquarters was designated on the waller creek plan for redevelopment, so that -- so the area where they're at now along I-35, all that area would be redeveloped once we move into a new site.

We need to look at our maintenance and service yards. They're overcrowded. And we're in way too many locations, and we need to consolidate. We also want to begin planning on the Daugherty arts center, and services on tacone, and look at the potential uses for that site, as well.

>> Again, what would be common about most of these items, these are issues that have been hanging around for a long time. So, next steps. Just looking ahead, we will be back on March 31st for additional planning work. As withwe laid out, this approach was, instead of coming forward with one big chunk, we wanted to come in steps. We will be looking at the next steps, especially when it comes to municipal court. It is different than an administrative office building. It has different requirements. We need to go through the detail of what that would look like. Part of it will look at the city/county siting options. And I think a new expert will be looking at the building services relocation, getting that Teed up and start to think about the 411 redevelopment. Following on from that, we will be moving forward with issuing an rfp for the permit center, to get a standalone facility. As we mentioned on the municipal court, working closely to continue the aggressive plan to move forward in the space, programming at the same time, looking for emergency pop-up abilities to be ready for, unfortunately, if that time comes, to have to deal with, kind of, critical issues.

[12:58:26 PM]

So, mayor, that's our hopefully -- not too quick, but quick enough.

>> Mayor Adler: Great, thank you. Any comments or thoughts? Mr. Renteria.

>> Renteria: I just have a comment. You know, I'm very alarmed hearing about the asbestos. And these reports on the courthouse, and the jail, and the court. I think that -- like at my school, across the street, the middle school had the same problem. And I'm not saying that we did have two cancers die from cancer. I'm not saying the asbestos caused it, but, I always believe that wherever that asbestos is found, that that's a very dangerous condition to expose people to.

>> Mayor Adler: Mr. Casar.

>> Casar: I'd like to thank our staff for working on this innovative way of getting our facilities up and going quickly, and, you know, I think that once we do issue an rfp, we'll see if you're right -- which I suspect you are, that we'll be able to uphold values. So, thanks for keeping us abreast.

>> Mayor.

>> Mayor Adler: Okay. Yes. Ms. Pool.

>> Pool: I took the opportunity to go tour the municipal court building. If you haven't gone down there, you should. It is really very appalling, the conditions that our staff are working under there. And when you consider the emotional level of a lot of people who come for -- to meet in a courtroom, they're also

in danger. So, there is asbestos, and that's a problem. I think the court has just been overlooked for maybe 20 years, as far as taking care of it. Asbestos.

[1:00:27 PM]

>> As far as taking care of it. I would encourage everybody to go down there and walk you through it. The judge can take you and our new clerk court can take you through and show the you the basement. And see how they've done the best they can with the resources that they've been given.

>> Thank you. Two aspects of this, the first one is taking care of the facilities that we are behind on that we need to do. The second is the approach that we're looking at here. Which puts us more into a capital way that's looking at a more appropriate for the long-term facilities.

>> Yes, I would at least own model. And in addition to some substandard buildings that we have -- facilities that we have. We don't have some buildings that we need like fire stations. A lot of the city is being serviced by mutual aid agreements, as opposed to being serviced by Austin, by our firefighters. I'm curious if you see this as a good option for fire stations?

>> Certainly, I think the model can work. In fact, we know -- cbre had worked with the city of Indianapolis to do a similar relocating a fire station, rebuilding that and redeveloping that old site. So, I think we know the model can be applied to that. Again, at its core, as the mayor said, we want to treat all of our long-term as ets as capital as sets not operating. We know the issues with balancing the operating budget, it should be treated like our own, as long an term assets. When it comes to constructing a facility, putting on a risk on to the private secretarier to deliver us what we need, we think that -- we believe, and we can look into it in more detail, that the model can be looked at for fire stations, especially since their space program, the fire didn't has done a great job looking at their space programs and they built some stations before, so they might be ahead of the curve in some of the other didn'ts.

[1:02:46 PM]

Certainly that's an area that we could explore.

>> Okay. Anything else on this, Mr. Zimmerman?

>> Zimmerman: I'm glad councilman Garza brought that up. There's another advantage you mentioned about the speed of getting the thing up. And we have, I think, some wild fire risks in the city and under-served area. The public safety issue, getting our fire response down, I'm very interested in that. To me,

the huge disadvantage of this model, I think is reflected in -- back in the fall, we have big controversy about the Travis county down town civil courthouse at an exorbitant cost with the land. It was over \$300 million. It was just a staggering cost. And the voters had a chance to have their opinions heard on it. So, what deeply concerns me about this is this appears to be a model where these huge projects, that could be hundreds of millions of dollars, could actually bypass the voters and they won't have a chance to have their opinion heard on the suitability, the cost, the location of the projects. So, I'm concerned about this, and I don't support this for these very large projects, mainly for that reason. I think the voters need to be consulted on something that's a 30, 50-year project that has a huge expenditure, so -- I just mention that up front.

>> Anything else in briefing?

>> Mayor?

>> Mayor Adler: Yes. Shoes me.

>> I want to thank you for partnering how to partner with other jurisdictions so we can get the biggest bang for all of our bucks not only do capital projects like this impact the cities of Austin but they could impact the citizens of Travis county.

[1:04:48 PM]

So I'm thankful you're working with them in partnership to see how we can site buildings together.

>> One other quick thing for you, I heard some mention about the old Home Depot sight, kind of anecdotally being mentioned as potential future sight for city municipal courthouse. That's starting to bubble up from some other sources. I think one of the -- individuals have forwarded me something. Apparently there's been quite a bit of discussion about that site. It was the first -- I hadn't heard from city staff, I heard from people in the community that it's already been bandied about. Can you comment on that? Is that true or not true?

>> It is my understanding that there was a bond election, and -- for our court, and that site was purchased, I believe, from that money. This predates me. There was a plan to remodel that building into a municipal court, and "A" "P" "D" substation. As they did more of the modeling P and architectural studies, they realized they would essentially be recreating what they have now, which is a building that is not durable, not made for that purpose and doesn't have enough parking. So, more plans were made and they were drawn up to have an actual building, and parking garage built, not on the home Depot footprint, and that's the last, I think any documents I have on that are from around 2011, 2012. It was just not done.

>> Can you add anything to that?

>> I think you're correct. In the 2011 bond there were funds for the public safety and municipal court. The bond process did allocate funds for acquiring land, and we went out and acquired both -- they acquired half of the Home Depot site.

[1:06:58 PM]

Going through this process, that will continue to be -- that's not new news. I think it's been out there for a while that that was a viable alternative for a site, what is no longer viable is the repurposing of a big box for this purpose. So, we will certainly, as we move forward, probably that would continue to be a very viable option for a location. What we want to have is a, again, from a pricing perspective, is have a competitive -- have a competitive process, and get to a price that we think serves the tax payers in the best way.

>> Do you remember what the amount was, roughly, that was paid for those properties, the dealership plus the Home Depot? Do you remember what we paid for those, in rough terms?

>> I think the dealership we paid about 2.5 million for. I don't remember the Home Depot site.

>> It's a little bit more than that?

>> Yeah. Yeah.

>> Okay. Tax? We done? Thank you very much.

>> Thank you, mayor. Let's see how quickly we can go through these items before we break. Just a few questions, Mr. Renteria, item number 7 the drilling occupancy limit?

>> Renteria: Yes. The reason I was inquiring about it, what is the limit of that now, that -- on a single family housing?

--

>> On a single family home limit right now would be four unrelated adults.

>> Renteria: So, if this was to expire, how many would be allowed?

>> It would revert back to the previous limit which was six unrelated adults.

>> Renteria: The only reason I brought it up, was that we're -- we're facing affordability problem, and that's the only reason I wanted to see, you know, what kind of impact that would have.

[1:09:07 PM]

There's a -- you know, in your community, there is -- I even have people that worked my campaign, and I still have connections with them. That they are saying that they are finding it very hard to find affordable housing. And a lot of these young people are being forced to happen to move in, into -- into doubling up or tripling up. There's some places where there's three or four bedrooms, you're actually having, you know, up to six students sometimes, living together. And I would just -- I don't -- I mean, it's one of those kind of things that, you know, I'm really looking out for the younger people that are -- that want to stay here in Austin, or going to here, and I just want to see if there was any other -- if there was a way we could work it out so that, you know, these people are not breaking the rules, and the law here, by them having five people, and allowing these young kids, they are not related, so -- but I can understand that, you know, like we did in the strcs, where, if you have six people in your house, and they are causing problems, and making noise, and which basically, what, you know, that complaints are, we have a complaint system already in place, that could take care of that. You know, when we stopped -- when we started the mansion, it was basically designed to keep people from tearing down these smaller houses and building these big old homes, because basically, it was done because we wanted to slow down gentrification in our neighborhood, and that's what is Juan of the main reasons why, you know, I supported the mcmansion ordinance become then, when Morrison was the one that bought that up, because of the situation in east Austin and some of the inner strcs were facing with the growth that was coming in, and we just trying to see if we could slow it down, but now we're in a whole total situation, where, you know, we're facing where families are having to move in, or friends having to move in, so they could survive and live in Austin.

[1:11:45 PM]

So, I'll -- was hoping that maybe we could, when we bring up this resolution, that we can find some kind of common ground where we can amend it, so that we can, you know, fix it where there is having to be where there's more than four people, that there was a way that we could write it up where, you know, it will be legal, but at the same time, you know, we could -- can put resolutions in -- enforcements into resolutions of that, so that we won't make it into a big party house type situation, or dorms, where, you know, maybe reduce the parking some to allow these people -- they don't need four cars. Maybe we can look at it that way but that's why I quote this one.

>> Mayor Adler: Mr. Casar?

>> Casar: Right now. That's before this occupancy limit was produced?

>> Correct. This is only for structures built after 2014.

>> Casar: My understanding, this is only for newer buildings. What I'm hearing is this ordinance is somehow to regulate the design of newer buildings? So, one thing we could potentially do, here in

codes next, buildings built up to today or up to Thursday. That folks living in it and can't afford to link in it. They are clear and not in violation, and just in new buildings between now and code next, we have this hold-over bridge legislation which seems kind of like a blunt instrument?

[1:13:47 PM]

>> This applies only to structures built after 2014. After mcmansions we had supertwos and superduplexes. The issue is people were building near the campus area. Six bedroom houses that had six bathrooms with the intention of reaching the occupancy limit of six. However, the parking limit was still two. And a lot of times the boyfriend or girlfriend or whatever would move in, so we had houses that had, you know, six or more people living in them with only two parking spaces and that was proven to be an issue, so, we put out a memo in late October that tossed about the ordinance and how is this going. We spoke to code enforcement. They said they did not have an issue with enforcement of this ordinance, that up to this point had not been a problem. We also spoke to residential review and they told us that, you know, they don't generally do occupancy, because of course they were reviewing the building before it was built. They said they saw dramatic decrease if not total elimination of the six bedroom, six bath houses that were coming in near campus that were proving to be a problem. I think with the grandfathering that takes it back, so the previous structures stay with the previous deal we do that with single family, thus far this has not proven to be a major issue, which is why we're recommending the elimination expiration date but agree it's something that does need to be considered as part of the code next process, because this is something that does attract a lot of attention and should be part of a bigger discussion.

>> Casar: Right. What I was trying to bring up as a potential idea for P council member Renteria's question, how are we making it so that people that are deciding to live together. Instead, address the design issues that a lot of neighbors had, and that you brought up of six bedroom houses with six individual bathrooms and it sounds like one way of doing that bite be to make it so that we are, in fact, saying that people living in buildings built up through today, are fine, but keep the occupancy limits in place, such that we aren't getting -- so that residential review continues see the -- that change in what is being submitted.

[1:16:07 PM]

So, right now, we have it up through 2014, potentially. I'm not saying necessarily inclined to be amendment but since brain storming since we have the time. Up through today. If you're living in a building up through today, you're okay. But we have occupancy limits in place for builders when

submitting building plans aren't smilding six bedroom, six bathroom houses, just regular houses and people live in those houses as they please.

>> Miss tovo?

>> Tovo: I think as council member Casar did. People that are young students and residing in those houses and have six people are probably living in older structures. The intent in passing the ordinance is initially not impact people already in those kind of shared living situations to make sure they are allowed to continue to stay in those older structures but really to find of affect some changes in the new construction that was coming on board, and I'm -- I was really pleased to see that it appears to be working. I think one of the things that you talked about the new structures coming into replace. There were other structures before they were demolished to make way for these six bedroom six bath and the mcmansion, we were see the housing stock and replacement of much more expensive rental units and some of the folks in north field were able to track that to show Numbers what it used to cost to rent some of those places and one bedroom, one bath rentals and it was pretty compelling. I also want to say it was a health and safety issue, because they occupying spaces that were not designed to be bedrooms and didn't have sufficient ingress and ezbres.

[1:18:17 PM]

My concern, I know we're brain storming, I would be concerned about an amendment that, you know, we made this change for structures from 2014 on, so you've got developers who built under those requirements, and then to go back and say, everything from 2015 to now is suddenly a higher occupancy limit, I think we should kind of be -- I would prefer we be consistent and take up the issue during code next and extend the expiration date.

>> Casar: I don't think there's ultimately that many structures, to address councilman Renteria. I don't think it's that much of a big of a change. I hope in code next we take very seriously, that you brought up, mayor pro tem. You bring up the safety and health issues that we decide to promulgate and really think seriously what the appropriate occupancy limit should be, to achieve our goals and I think code neck is probably -- I know code next is thinking about that and we're paying people to think about that for us, so that's why I think that on this one, we should probably just get it done on all three readings, since it is expiring soon and whether or not how we address accessory dwellings and how we address the date that people are grandfathered into, I think are accessory issues, and we'll see how things wind up on Thursday, you about I think we need to move Ford with it.

>> Mayor Adler: Next item --

>> Mayor, thank you for your presentation. As one of those neighborhoods close to the university and has a lot of stealth dorms the other thing that has to be addressed is the whole issue of parking.

[1:20:19 PM]

That's something that we need to talk about. That means some very narrow streets in older sections of town are clogged with people parking on both sides. Because if it's a two-parking requirement and six people there and two friends live in there. Then you can see where it gets pretty congested. So, something else to just send to code next other than the health and safety is the parking issue.

>> Mayor Adler: Okay. Next item we have, Mr. Renteria is also yours, transportation corridor development areas?

>> Renteria: Yes, I want to see and learn exactly what this \$250,000 is really going to do.

>> Council member, this study would be looking at economic impact analysis of the corridor studies, the Austin transportation transportation didn't already initiated or completed seven transportation corridor studies. Council back in February passed a resolution for us to move forward on planning for mobility investments and we see those as one of those aspects of that planning process. We have done these studies in the past. For example, we've done them on homestead preservation to look at the market impact on what is happening in the region in this case, corridors. For this case it is trying -- not trying but to analyze the impact of the unfrom structure improvements, how they would impact real estate values, both multi family, office, and retail. The value of doing that, there's a few perspectives of why there's a value in doing this work. One, it will allow us to -- it will be a factor in helping to prioritize where investments can occur during the corridors. The corridors themselves are there's -- a lot of identified, potential identified projects in there, so, it will help Austin transportation didn't as they craft a recommendation on these improvements, but we're not looking tat just from a mobility side but from an economic impact side.

[1:22:34 PM]

We will look at it from -- obviously, look along the corridors there's already existing plans, neighborhood hood plans to see what is there already. There's a basic assumption and ultimately these studies could lead to but not their intended purpose, look at the idea of using value capture. If we see improvements along the corridors in themselves will create, as we talked to the housing committee the but for, these improvements create and accelerate values in end have, it becomes an opportunity to look at that value as a way to assist in some of the funding of the corridor improvements, in addition to other financing, such as bond financing. So, really, it is part of that -- it's our response to the council's direction on planning for mobility. We want to make sure we're looking at this from multiple perspectives.

>> Renteria: Mayor, that's all I really wanted to find out, because I was trying to figure out what was going to happen either either side.

>> Mayor Adler: Sounds good. Miss kitchen?

>> Kitchen: I'll use this opportunity to mention what you mentioned, as far as this information being helpful. As counsel moves forward this spring, on planning for mobility projects that we kicked off. By the way, this is just an opportunity to remind everybody of the mobility committee meeting tomorrow which you're all invited to, and the time slot is from 4:00 to 5:30. We have a hard stop at 5:30, so it's just an hour and a half of your time. We'll be getting information in the next step. I believe you'll be presenting to us, information relating to financing options and then we'll also have a presentation from the transportation didn't on options for universal transportation projects to consider as we go through the spring, look at identifying projects and funding.

[1:24:34 PM]

>> Mayor Adler: Correct. Thank you very much. Miss pool, the next item is yours.

>> Excuse me, mayor, I have a question. Are we partnering with txdot? Are we coordinating. Txdot?

>> Yes, we've been in txdot, because we looked as they are doing their improve manies, that's a great question, we'll make sure that gets entranced, those conversations.

>> Mayor Adler: Anyone else? Miss pool?

>> Pool: If I can Justen confirm, did you say from 4:00 to 5:30?

>> Kitchen: 4:00 to 5:30. Hard stop at 5:30.

>> Pool: P item 21, this is the Austin energy rate case. It extends the schedule about two months. At least two months in the process. We approved hiring of consumer advocate last week. It I makes sense to allow additional time for Mr. Kauffman to review the filings and have the opportunity to submit issues, and I'll note that the -- impartial hearings examiner, Mr. Herrera was asked about extending the time line. He expressed concerns about the typed time line and I wanted to provide a little bit more breathing room for the parties. So, after the resolution -- that's the reason why I did this. After the resolution was posted Friday, we got feedback on point number two of the resolution and I'm passing out a coach the amendment -- let me get one back -- of an amendment that I may make. Several folks thought it would be helpful for the parties to have additional time to prepare presentations and testimony, and I worked with the law didn't on this amendment.

[1:26:34 PM]

That's ha this is here. The worry thing I wanted to mention, since we have received feedback on point number three of the resolution, which would have council voting on the rate case in late September, October. There is some question about the timing on that, including possibly that the consumer advocate may not need that much time, that possibly two weeks would be sufficient, so I wanted to highlight that for everyone here to give some thought to it. Maybe two months is too long. Maybe two weeks is too short. Maybe one month is the, you know, the best of all possible worlds. So, this is a potential motion sheet that I will have on Thursday. If you all would think about it, and maybe on the message board, for those of you who are already co-sponsors, I have four co-sponsors on this, we may want to amend the time line so it keeps us out of the September, October time line. Maybe the end of August would be a better time frame. My goal is give a little bit of additional time for the new consumer advocate. I aer pro cait the extra work Austin energy went to to identify and hire that person. From all reports on getting the consumer advocate, looks like a really good asset for the city. So, that's all I had.

>> Mayor Adler: With respect to the scheduling and thanks for picking this up counselor pool, I want to understand a little better what the impact is on our budgeting process. My recollection, we wanted to have this done in June so it would be taken into account in the budget process in preparation for the budget that we got back in July, and then in August, then, we started feeding on that budget. So I'm trying to figure out, because imi haven't been through this with that overlay, where that is going to have

[1:28:38 PM]

us -->> Pool: And I've given some thought to that as well. I know in the presentation we had earlier today, the water utility had two different dates when we adopted the water utility rates. One was September and the other was January in '07, versus 2014. We -- I think -- let see. It was council member former mayor pro tem spoke to us last week sand said if there's a question about the rates we can use as proies our current rates and adjust end this. I think for a decision as important and moment us as this is, and for intricacies involved, it would be a good idea to give us a little more time, which is maybe not as much as I had originally anticipated which is why now I'm thinking the August time frame, so we could work from existing rates in that time frame, gave our external partners and Austin energy time to work with the consumer advocate and other experts, and then come back at the end of August and given us a briefing on what it looks like the rates should be, to potentially adopt them by the middle of September which would, I think, be a good calendar.

>> Mayor Adler: And one of the questions, as we lay all of this out, we have the legislative session coming up and they are going to be asking us where we are with respect to rates probably in the beginning of November, getting ready for the session. If we go through the schedule, just to have the timing, if we go through the schedule as it's set right now, if there was an appeal of the rate to the "P" PUC, when would the Pu xr be ruling on that?

>> Thank you, this there is a specific calendar laid out, for how an appeal of a municipal rate setting would play out, and if you were to set rates at the end of June, then there's a 14-day period for our announcement 45 days to file the appeal, 90 days for us to make our filing at the public utility commission and then 185-day proceeding, and that would put us at the end of may for the public utility commission to render a decision on an appeal of a rate setting that you completed at the end of June.

[1:31:09 PM]

>>> Okay.

>> Pool: That would be in 2017?

>> Yes.

>> Pool: So, I think the additional time that I'm look to provide for the process doesn't do any real violence to that time frame. It maybe pushes it back another month into 2017, if they were to be appealed, which, we're hoping that they won't be.

>> Mayor Adler: And how does this impact the budgeting process? For the city? That we would otherwise go through?

>> Mark Dombrowski, intrim general manager and chief financial officer of Austin energy. We propose a budget -- I work with the city's cfo office and propose the best budget we can with the information we have. In a timely fashion to get that to the city manager for his budget on July 31st, with the knowledge that we have to come back at some point to impact whatever rates adopted by the city. And I'm not sure how long that counsel would require a deliberation, or hearings on that budget, but I imagine it would take at least 30 days.

>> So, what is the practical impact from where you sit of having this take place in June, or having it moved to -- so I guess we're not here in July, so putting it back to two weeks would have it, as counsel council member pool said, in August?

>> You would have it for your deliberations on the rest of the city budget, because we're one of the didn'ts, would be inaccurate, because we know we're going to change those rates. So it would just be -- there's several in our budget. I'm not sure where the impact would be. You have a second set of budget deliberations in order to adopt a final budget for Austin energy for that next fiscal year.

[1:33:22 PM]

>> Mayor Adler: Miss kitchen?

>> Kitchen: I thank you. I think we also have to understand the impact on the ability of the consumer advocate to do their job I think that's another component that you have to think about in the time line. I think what council member pool is suggesting is answer a appropriate. I think how much is appropriate. But we what we have scheduled seems unreasonable in terms of really getting the feedback of the consumer advocate. That's the point here, right?

>> Pool: And as I mentioned, I am looking at, instead of the september-october time frame. Moving it to August.

>> Kitchen: Yeah. Which would allow the consumer advocate a month instead

of -->> Pool: Right.

>> Kitchen: Instead of two -- ML two weeks in the short term, and then two months plus was my original proposal. I've shortened it and gone to a mid point between the two.

>> Mayor, this is Elaine hart, cfo. I want to remind council, once we kick off the budget, we have six budget work sessions, they are 9:00 to 4:30 and those will be in addition to your standard work sessions and council meetings during the month of August, so there will very likely be a scheduling issue with rate discussions during the month of August. I just wanted to remind you of what your calendar in August will look like with the budget deliberations going on as well.

>> Mayor Adler: We want to make sure the consumer advocate has sufficient time, and I had also heard conversation about staying within the time frame but extending the deadlines for the consumer advocates so the consumer advocate was not having to report in two weeks but trying to stay within -- does anything like that work?

[1:35:25 PM]

>> Yes. So, the first part of the resolution is allow additional time for the consumer advocate to weigh in on the list of issues to be addressed in the proceeding which was due to be completed this week by the hearings examiner. I think that one is straightforward that we can work with the hearings examiner, whatever the schedule is. If it's today's schedule or some different schedule, to allow additional time for the consumer advocate to weigh in on that issue. I would also just note that we have spoke P with the consumer advocate's office and -- or, team, and what they told me is that, they were aware of the end of June schedule, when they -- they bid on the solicitation. They are willing and capable to meet that schedule but additional time would be valuable.

>> Mayor Adler: So, when we consider this on Thursday, is it appropriate for the consumer advocate to discuss the benefit, or the pros and cons of staying within the time frame but being more flexible with

deadlines within the time frame, versus the benefits of having the additional month, which, at the back end, schedule, which pushes us into August?

>> We could try to make arrangements to have one of the members of the team be here for your discussion.

>> Mayor Adler: I think that would be helpful. Thank you.

>> I would just note one other thing about the resolution, that is, as the resolution is currently written, it says september-october or some other date. And I would just like to suggest we think about setting a firm date to whatever that day is, Toso that we all have a target date. We eliminate the uncertainty force, the staff, for our customers as to when, so they know what the rates are for our budget planning, et cetera, then we can work backwards to tie in and identify time for your deliberations.

[1:37:29 PM]

>>>Ened aim' looking forward to the bulletin board to get more familiar with the issues.

>> Sure. I just say two of the three, be it resolves speak to the consumer advocate giving Mr. Kaufman two additional weeks to imagine 3rd which was the deadline for the filing. We're all in agreement on that. The consumer advocate may or may not weigh in on that. I suspect he will. The third one has nothing to do with the consumer advocate this allows deliberation to happen after our July recess and I would be happy to amend this to say, for example, August -- August 31st in number 3, and then that lines up with 2, which is the proposed motion sheet, established a deadline to file. Party presentations, no earlier than two months from imagine 3, which is may 3rd. That's the part that the consumer advocate may want to weigh in on, not the August.

>> Mayor Adler: Okay. Just for some clarity on that.

>> Mayor Adler: I would like to hear that input and if it's possible, if you would lay out for us what August and September look like, if we do this, that would be helpful, too.

>> Okay, we'll work with miss hart to work up a schedule.

>> Mayor Adler: Thank you. Okay? Thank you. The next item, pulled was the campo matter. I pulled this. The issue arose when we had a campo meeting, and much of our -- many of our city appointees weren't able to go. They wanted to give their proxy to someone who was going, but I could only take one proxy, based on the rules of campo.

[1:39:40 PM]

We had people who couldn't give the proxy to someone else. We only have one person because of a rule that says you have to give it to another city representative as opposed to giving it to someone who is not a city representative. Another possible resolution is going to campo, and saying what do you think about changing the rule so one of us can carry more than one proxy. And someone could go in and say this is how my colleagues want to vote and the chairman of campo, will Connelly, has said that he would support that and propose that and to put that on the next agenda for discussion, he would speak in favor of it and then it would be acted on the next time. Of those two resolutions, if campo were willing to act, I like the governance issue of keeping our votes within the city, rather than opening that up, so you can give it to someone who is not responsive, necessarily, to the same city constituency, and city voters. So, if I can get those assurances from -- for both the executive director and from the share, which I think I have at this point, I'll be represent together counsel that we wait for that to run its course. Yes?

>> I support that. I signed on to this originally because we didn't have the option from campo but if we get a commitment to change those by laws, that solves the issue.

>>> Okay that's all I wanted to mention on that.

>> Mayor?

>> Just a question on that since this is council member Gallo's resolution. Does she know all of that information that you --

>> Mayor Adler: She does. She asked me to report back to her those conversations, I just got those conversations so I'll report back to her today.

[1:41:44 PM]

>> I want to hear from her before I make a decision.

>> Mayor Adler: Next item is number 37.

>> Discuss me, I was kind of concerned, when this project here has no, zero, affordable housing. Is it because we're not -- is it a state law that we cannot ask for affordable housing or just the way he's asking for the rezoning does not allow -- doesn't require him to -- the developer to add affordable housing to this?

>> That is correct council member, this is a straight-up zoning case, not an incentive program. However, the intended problem is a retirement living facility, and the plan for that is already in. However the prom could be apartments if they change their mind, but we cannot require affordable housing. We have a code amendment. The process is now, I was texting someone about it that would amend the deal to

make it an incentive program that would require affordable housing. It will be before you shortly. We're about to go to planning commission in the near future.

>> Renteria: Thank you for that information. I was a little concerned. I know in the past we waived a lot for that little thing angle and invested a lot of money, I know for me, I'm always looking for affordable housing opportunities. I was just asking, how come we have not taken advantage of this one here, so now that I hear you, have an amendment, I want to thank you for that.

>> Mayor Adler: Thank you. Mayor Poe tem?

>> So, I have two questions, what is the time frame on the MM 6.

[1:43:48 PM]

>> We just got draft ordinance, I don't have an exact time frame for you. I think we sent out a memo that anticipated the end of imagine.

>> That would hit council the end of March?

>> Yeah.

>> We are eager to see that move quickly so we don't miss opportunities, pushing that forward.

>> Council member Renteria mentioned an interesting thing about the triangle. There's a resolution that talks about fee waivers for the triangle. I'm not sure how those attach to this portion of the project.

>> No, ma'am. He just got your question a few minutes ago. We'll look into it and have an answer by tomorrow. Second part of that, are we obliged to waive the fees or do we have an option?

>> I'll look at that also.

>> Thank you.

>> Does that mean it's being postponed until the end of March or have a different action?

>> No, it means there's a code amendment coming at the end of imagine. We'll address six cases not this specific case.

>> So this is still live on Thursday?

>> Yes.

>> Mayor Adler: Ek. Last item up?

>> I pulled this item, because I wanted to highlight it for my colleagues to see if anybody had any questions or concerns. This is an awaria -- well, I'm concerned and not in support of the staff's recommendation, because -- I'm not in support of the staff's recommendation, because this is -- this neighborhood is ground zero more infrastructure that cannot take the development that's occurring there. And the -- you know, we already passed the mitigation plan which recognized the fact that looking at each one of the developments in these areas separately was not taking into account cumulative impact.

[1:46:01 PM]

This is on Thornton road, Thornton road is a very small road between Lamar and the railroad tracks. The south Lamar railroad association provide the the D detail back-up and I encourage everyone to take a look at it. The concerns are that the recommendation is for changing this from commercial to csu with a restriction of 157 units. And my concern is that Thornton road cannot handle 156 units, either from a traffic impact standpoint, or from a flooding standpoint. And those two are major concerns, and then of course on this particular property, some of you may know. This is the location for the Thornton road studios, which is an existing affordable studio space for small businesses and artists, and losing that, losing that for south Austin, would be a huge blow. So, I wanted to bring that up to see if anyone could share with me their thoughts at this point or questions that they might have and also just to let -- I mean, we've talked some with the staff, to let you know my concern is 156 units which is the same concern the neighbors have, that that -- their neighborhood will not -- the infrastructure on that road and the watershed infrastructure cannot handle 156 units. So, I guess I just opened that up, and -- and asked the staff, why it is that -- I mean, why it is there's a recommendation for 156 units. Was there both a traffic impact analysis and a flooding impact analysis? And the other concern I have, there's already another development on that same authority P road that's coming through, so the cumulative impacts are a huge concern.

[1:48:02 PM]

>> Miss council member, the request is actually to csu which allows to 212 units. The staff felt it could not support that recommendation or that rework because frankly authority P is not a corridor, it's a 30-foot wide residential street. Staff did consider a recommendation more along the lines of mf 2 type density which would be 85 to 90 units and considered cfu which is 150 or 160 you mentioned. We were looking at traffic impact when discusses this space. There was a detailed traffic analysis done at those three levels. 90, 156 and 212. We did look at options for getting -- there were options on the table for making improve manies to Thornton road from the developer, including widening the road all of the

way to the driveway as well as the current proposal which is widen it for a distance of, I believe, 200 feet. The rough proportionality would allow us at 156 units for the developer to pay for that unit. Basically that price three lanes for the intersection so there's a left and right out, and the developer is also willing to pay for the sidewalks on the other side of Thornton, and previous developer, psw is paying for the sidewalks on the opposite side of the street. So we complete the sidewalk network on both sides as well as get the improvements made to have rather than one lane in and one lane out, to have two plus one in.

>> Does that traffic analysis take into account the other developments along Thornton road?

>> Yes, it did. It was something we specifically slowed in things down. We prove the psw project because it's under construction.

[1:50:06 PM]

>> And other projects on that road?

>> It was not taking in the other projects. It was this proposed project.

>> You're saying the traffic impact analysis says that road can handle 156 units?

>> Yes. With the improvements that's proposed at the intersection. Yes.

>> Kitchen: We can talk about that later. My understanding, from talking to the transportation didn't that road was not a good candidate for widening.

>> The transportation didn't did come out and was opposed to the widening of the road awful the way to the project driveway but were okay with the widening of the road for 200 feet.

>> Kitchen: We can talk about that further when we have transportation didn't here. My understanding they are very concerned about those improvements. So, I don't feel like those improvements address the concern of the neighbors for the 156 units. So, I'll -- I've had plenty of time to ask questions. Do other people have questions, or --

>> Mayor Adler: Anything else?

>> I would like to get a sense from the group. I mean, if you all are aware of this project. I'm trying to get some feedback since this is our opportunity to talk about it. So, anybody have any comments?

>> Mayor? I'm aware of the project. I don't have the information that that they are talking about. That seems to be relatively new. Is that information you're talking about in back-up?

>> Yes, it is.

>> Kitchen: The other problem is potential flooding impacts, so -- okay.

>> We'll have be from transportation here Thursday.

>> Kitchen: I would like to ask for a time certain of 6:00 so the neighbors can come. Is that going to work for everybody?

>> It works for me.

>> Kitchen: Is that all right?

[1:52:08 PM]

>> Okay.

>> Mayor, I had a request for number 13, but I'll wait until Thursday.

>> Mayor Adler: Okay. Mi yore pro tem.

>> I wanted to remind all of you, I apologize I won't be present for a lot of the peting on Thursday. My expectation I can be here by late afternoon, aye and I want to assure you I'll be in a place I can listen to the meeting, so if there's issues I'm voting on later I'll have heard the discussion for most of the day until then. Apologies if that throws anything off.

>> Let me know if there's anything on the agenda that you want held back.

>> Tovo: Thank you, that's very considerate.

>> I think council member Houston represented number 13. But I want to alert people's attention to it. It is a contract for the money that we set aside during the budget for community policing consult and and P I think I have lots of question and others as well on cursory glance myself. It seems that the person that scored the highest in staff's matrix is sort of traditional management group and my cursory look at them -- of course, I haven't gone in and worked at their work plan and approach, but didn't seem like they were advertising much about innovative policing solutions and sort of community-driven relations and stuff. I'll have questions that I hope to get answered between now and Thursday.

>> Houston: And I think I pulled that.

>> Casar: Also, item D 1 was discussion on fair chance. I promised folks three work sessions to discuss it. I know we're running out of time. If anybody has any questions. And wants to post them on the message board, we're happy to discuss them there. I did mistakenly say, we'd be posted for after March 10th.

[1:54:13 PM]

That's an old council meeting date. So it will be March 24th. I know some folks in the media had questions about pushing the questions to the traditional offer stage, that means other candidates would be eliminated before the background check is run. That's simply not the way it works as far as I can tell with anyone in the city. People aren't eliminated before the initial offer stage. You grand somebody a conditional offer of employment and then you can run a background check and if you don't like the results of the background check and it's connected to the job then there's obviously lots of other candidates that one could then offer the job to. So I'm happy to discuss that sort of at the next work session or some more today. And the human resources didn't did send us their slide Dec, so we've got that. I'm going to shut up.

>> Tovo: The message board is the great place to have this conversation.

>> Casar: We are posted for at-work session. We are, as d-1. It's on the work session agenda.

>> Mayor Adler: Yes, it's posted. If you have another deck, post that.

>> Casar: Slide deck was posted by the human resources didn't. I want to commend them for their hard work on what the committee recommended. And one offer. That outstanding practice in the law we know of, which is Ada, American with disabilities acts, folks, eeoc guides that questionability we asked at conditional offer stage, as a conditional variable that you look at somebody's full job qualifications before asking about their disability for their history.

[1:56:25 PM]

>> Mayor Adler: Anything else? That, then, city council will go into closed session pursuant to code, city council may discussion items E 2, Brian Rogers versus city of Austin. E 3, related to recall pe tegs. Issued related to adoption of the housing requirements. And item number 18, pilot knob, legal issues related to affordable housing and fee waiver portion of the pilot knob pub.

[3:35:45 PM]

>> Mayor Adler: We are out of closed session. In closed session we took up and discussed legal matters related to items:

E2, E3 and Item # 18. I now adjourn the City Council Work Session.

[END]