

## City Council Work Session Transcript – 03/29/2016

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[9:13:12 AM]

>> Mayor Adler: I think we have a quorum in the room so we can go ahead and start the meeting. Today is Tuesday, March 29th, 2016. We're in the boards and commissions room. Here at city hall, 301 west second street. The time is 9:12. We're going to start with the briefings. This morning's briefing we're going to start with the one on utility rate design, rate structures and then we'll come back to do the campaign finance report. Are they here?

>> Yes, sorry.

>> Mayor Adler: The attorney associated with the capital finance reporting is stuck in traffic behind an accident so we'll start with number 2 first. And the mayor pro tem is going to fix traffic. So we don't run into this again.

[Laughter].

[9:15:26 AM]

>> Gallo: Mayor, can I just mention -- unfortunately I was not here yesterday for Austin energy because I was not feeling well, but I appreciate the conversation about the timing of the meeting and I appreciate what I thought I heard, which was your commitment when a special called meeting or a scheduled called meeting of the city council is scheduled for the same Thursday as Austin energy that we'll protect that 9:00 to 12:00 time for Austin energy and the city council meetings would be scheduled to start at 1:00. I just want to confirm that I heard that correctly as I was listening to that meeting? Because as you know, we had a lot of meetings that were scheduled to overlap Austin energy, and I think it -- we protect the time for the other council meeting, the council committee meetings, and I think we really need to do a better job of doing that for Austin energy. So I think that's what I heard. I just wanted to verify since I wasn't here that we do have that commitment.

>> Mayor Adler: I think that's what you heard. I know that's what you heard, not only from me, but from several other of your colleagues.

>> Gallo: Okay. Thank you. And I appreciate that. I think it will be a much --

>> Mayor Adler: Hope you're feeling better today.

>> Gallo: -- A much more predictable time for both meetings if we could do that.

>> Mayor Adler: Before we start that if you could take it back to the room for just a second, I think the community to be aware that today we're having our annual career expo at the city, at the palmer events center. We have 110 employers at the palmer events center. Last year there were over 4,000 jobs that

were available. So I want to make sure that everybody in the community is aware of that and takes advantage of that. It's going to be today from noon to 5:00.

[9:17:26 AM]

So from noon to 5:00. We would urge folks in the community that are looking for jobs or would be interested in hearing about them to go to the palmer center. All right, sir, thank you for being with us this morning. Give us a presentation on rate structure now as you continue to teach us.

>> Thank you. I really appreciate the opportunity to be here again. Yesterday we covered quite a lot about [inaudible]. One more time. There we go. Sorry about that. Today I want to -- it's a little bit of a review from yesterday, but it's a lot shorter presentation, but it's on rate structures that I want to talk about. I'm going to discuss the fixed cost recovery that's within the rates and that's a little bit of a review from yesterday. I got a few slides on that. Then I'll talk about residential rate structures and I'll talk specifically about the tiered rate structures. And when it -- this is on residential. And there's three different residential rate structures that are used by utilities. One is most common is what's called a flat rate structure where all kilowatt hours are charged at the same rate. Those tend to be more cost of service based. Then there's like a number of utilities, primarily cooperative type utilities that serve rural areas. Because they want to recover their fixed costs as quickly as possible from residential. They use often times what's called a declining block rate structure which those have been changing.

[9:19:28 AM]

There isn't that many declining block rate structures out there because they don't promote energy conservation. Then there's inclining block rate structures, which is similar to what you have. And those -- of course the rates increase with increased usage. And again, they're not necessarily cost of service base and I want to talk about those. It's -- I want to talk about the positives and the negatives. And everything with rate structures, as I mentioned yesterday, has positives and negatives. And the key thing is to understand what those are. So you make a decision, an informed decision that you feel is in the best interest of the community. So I'm going to talk about the positives and the negatives of the different rate structures. Then I'm going to talk about the treatment of pass-through charges. And when I say pass-through charges there's a number of different ones. Most commonly it's referred to as a power cost adjustment or an energy cost adjustment. So we really don't have a lot of control over that. So we pass any changes on to customers. Again, I'll talk about the positives and the negatives. I'm going to talk about discounts to some degree that many utilities use for different customer classes to promote certain social classes. And I have rate objectives. In an ideal world all of your fixed costs are going to be recovered through a customer charge and/or a demand charge from customers. And of course, demand charges are not always practical for all of your customer classes. Now, you have demand charges from almost all of your commercial accounts greater than 10 kw, which is actually better than most communities, but the trend in the industry is to move all customers toward demand charges, including residential.

[9:21:34 AM]

In an ideal world we recover all of our fixed costs in operating the system through those two components of a customer charge and/or demand charge. Then have the variable costs and those variable costs again are fuel and purchase power, but it's the costs that change as a result of using additional kilowatt hour electricity. Now, as I go through this again, it's totally up to you if you want to hold questions until the end or ask as I go through the presentation. So demand charges. And again, this

is somewhat of a review from yesterday, but as I said, most utilities are moving toward charging demand for all customer classes and again, demand charges are determined by looking at the peak consumption that the customer uses in any given time period, typically a month. And the reason utilities want to do that is to send a better price signal to customers. And let me give you an extreme example of that. Take rooftop solar. Rooftop solar doesn't necessarily reduce demands that residential customers create in a system by itself. But by having a demand charge what it does give the incentive is for rooftop solar to install batteries. Which will smooth out their loads and therefore reduce their costs. So demand charges send better price signals and in the long run will lower the cost of operating the distribution system as far as infrastructure costs. It also reduces subsidies between customers. To give you an example of that you have some residential customers that when you look at demand, the average demand could be 8 kw of demand that they create.

[9:23:38 AM]

But a smaller customer might only use three kw or a larger customer, like large homes, might be 15 kw. So by having a demand charge it sends a better price signal to customers to hold down that peak. And it reduces this cross subtan tiesization that can occur between small customers to larger customers. Does that make sense?

>> Tovo: Is that the cross-subsidy that usually occurs, the small customers subsidizing the large ones, if you haven't set the demand charges?

>> Many times that's what it is. What it really boils down to is something called load factor that we talked about yesterday. And usually a smaller customer is going to have maybe a little bit higher load factor. And load factor again for review is the ratio between the average demand created by a customer in a month, which is basically kilowatt hours divided by the number of hours and their peak demand and that ratio is load fact. And that measures how efficiently they use the infrastructure. So like a small customer often times will have a little bit higher load factor than a larger customer because, you know, the air conditioning loads, the different things that they can use that will create that peak demand. But it's -- that's not 100% certain, though, with what I said. I'm just saying traditionally.

>> Garza: I have a question. Can you explain about the demand charges? I know you did, but I'm not understanding, how they send better price signals to customers. Are the demand charges where if you use less you pay a lower fee and if you're using more you pay more?

>> In a sense. It's a little bit different than that, I think.

[9:25:40 AM]

It's not kilowatt hours. It's not the customers' monthly consumption that's being measured, it's their peak consumption. And let me give you an example of that. I like to use a commercial as an example. Let's say you have two commercial accounts both identical in size. One customer comes in at the beginning of the month, turns on all their equipment and creates 100 kw peak demand and then they set it off after an hour. So basically that customer only consumed 100-kilowatt hours and their peak demand was 100 kw. The next customer comes in at the beginning of the month, turns on all their equipment, creates 100 kw of demand, but they operate it for the entire month or 174 hours. So they use up towards of 70,000-kilowatt hours. So the demand is a measurement of that peak. And how much of the infrastructure that they're using. I hope that answers the question.

>> Tovo: In that example do we both have the same demand because their peak is both 100?

>> If you use 10-dollar kw demand they would both use 100.

>> Tovo: That's very helpful.

>> Mayor Adler: And that's a certain amount of infrastructure that's necessary in order to send them 100-kilowatts.

>> That's correct.

>> Mayor Adler: And whether they use it for one hour or they use it for hundreds of hours, it's the same amount of equipment that's necessary to be able to service their needs.

>> That's correct. In looking at your current rate structure, there's a current rate structure. If you charge for anybody with demand above 10 kw, which is actually better than most utilities.

[9:27:42 AM]

Some utilities cause everybody demand, but most they have a threshold that could be 25 kw or 50 before they get into demand. You guys are ahead of the curve on that with respect to demands. Demand charges.

>> Tovo: I will say this and then I'll stop talking. But that is actually an ongoing conversation we've been having. We have heard from small businesses that when we ratcheted it back to 10 kw and started the demand charges there, that they've been really impacted and that's a conversation that we've had a couple of times since. So it's useful to have a comparison with some other utilities.

>> What happens a lot of times, you have smaller customers that -- not necessarily smaller customers, but it goes back to that load factor. And I'm going to use an example, and maybe shouldn't, but you take like churches. They use energy on Sundays. That's not always the case anymore, but a lot of them they use their energy on Sundays while the rest of the week they don't use a lot. So they have a very low load factor. So they can really get stung by demand charges. And then the question becomes like in that example, you have infrastructure that it's creating and in distribution we have to recover from them, but supply. And power supply maybe they're off peak. So these are all considerations. So they may not be creating -- even though they have a demand, they may not be creating it on the power generating resources. I'm getting really deep and if you want me to stop I'll stop. But --

>> Garza: No, I don't want you --

>> Casar: No, I don't want you to stop. I want to explore further on that point. So with the example of a church that has a very high peak on a day of worship, but then pays very little on -- let's say they didn't go into the demand charges because our demand charge threshold were higher, for example.

[9:29:43 AM]

So let's say that their overall bill was actually pretty low because they generally used very little power. They didn't trigger a demand charge because even though he had a peak a threshold or higher of 10 kw. What I'm getting from you is that it would be possible in this scenario that that smaller customers are subsidizing that user because they are -- because a lot of infrastructure has to be handled to cover the peaks and a lot of people running the air conditioning all the time have to pay for the fixed cost of the infrastructure to handle those peaks and that sort of the idea is we're trying to level some of that out with demand charges?

>> Yes, that's correct. I think -- I don't know if I totally understood your question. I'm going to try to rephrase it.

>> I don't know if I have either. That's why I asked it.

>> Overrule they're going to pay less than a church that exceeds the 10 kw. Now, the issue with that is the demand charge and the one that is probably closer to being accurate, more accurate, by having that command charge, so the subsidy in that example would be flowing to the customer that is below the 10 kw and doesn't have a demand.

>> Casar: Exactly. Let's say, for example, that we had the same customer and two different cities that were twins separated at birth and one had a demand charge at 10 kw and one had the demand charge at 15, kick in at 10 or 15 and you had the church using 12 in both examples, what you're saying is it's potentially likely that in the one where the threshold is at 15, that those smaller customers or ultimately subsidizing the church that uses very little energy, potentially overall, but on Saturday or on Sunday hops up to that peak at 12.

[9:31:53 AM]

>> Correct. And rate structures are becoming more and more complex. And because of these issues that we're talking about to send better price signals for one, but also rate structure are more indicative of cost. And so things that are changing, for example, and you will see more and more of this in my opinion. You're going to see customers, be it residential, small, commercial, everybody, in a sense being with the demand charge and on a time of use rate. And because you take like the churches example. Even though the one below that's not being charged demand is probably not paying what they should, because they do peak on Sundays and themed the threshold they might be -- and they exceed the threshold they might be overcharge because they might not be exceeding the power use demands. So a time use demand will typically peak that up because of Sunday being an off peak time period. That's why you see more and more complex rate structures that are occurring. And the dilemma is one -- I apologize. One is the education of the governing body of the utilities as far as to help them understand the need to go to these more advanced rate structures. And two, even more importantly, is the education of the public to understand how they're built. That's a key component for them to understand. When you go back into the theories of rate design that was established in the 60's by a guy by the name of bond bright, and one of the things he stated is customers should be able to understand how they're billed and charged so that they can respond to those price signals. And so it's amazing, though, because there's been so much over the past five years in the media about time of use. Customers understand time of use.

[9:33:54 AM]

Even residential. Demand, on the other hand, unless you're a larger industrial, it's hard to understand demand. It's a little harder. So it's definitely an education process that utilities have to go through, but time of use, believe it or not, is pretty much understandable by many residential customers. Demand, on the other hand, isn't. And this is a repeat from yesterday on this slide, but remember that the most inaccurate way to recover distribution infrastructure costs is on a per kilowatt hour charge. That's why we traditionally charge demand. I'm going to skip over the next item and jump to the inclining block because the other one is kind of a repeat. Now, inclining block, what I'm referring to here is residential. Inclining block rate structures, which is what you have. And this is where rates increase with increased usage. And however from a cost of service standpoint the cost of service study says all the kilowatt hour charges should be identical for residential. I mean, because let me give you two examples. You have one customer that basically uses 200 cat watt hours during the winter season because they're not there. And during the summer -- or vice versa, they use a thousand kilowatt hours. Then you have a second customer that, say, uses a thousand kilowatt hours all year long. Every month of the year. The inclining block rate structures will artificially penalize that customer that's a consistent user throughout the year.

[9:35:57 AM]

And subsidize the customer that basically uses a thousand for four months a year and only 200 for the rest of the year because the demands on the system that they create are still the same. So the cost of service study says that all of those energy charges should be priced the same. Now, when you look at -- if you go back and look at over the last 10 years, many utilities wanted to promote energy conservation, so they used -- they did that by putting in inverted block rate structures and it definitely worked. The argument and the rationale at the time was that -- and I apologize for saying this word, but the marginal cost of power, in other words, the cost to construct the next generating unit or buy the next kilowatt hour of -- kilowatt hour of electricity was higher than the average cost supply. Let's say the average cost. You took all your resources and it's seven cents a kilowatt hour, but the cost to bring in the next unit of energy, be it from the market or wherever, was say 10 cents. So their argument was that it's more expensive to bring in the next unit so that justifies the inverted block rate structures. So that was a loosely defined argument, not necessarily true really. Not for residential. But the argument fell apart in 2009 when the natural gas prices dropped so much and the market price power declined so much that the marginal cost was less than the utilities average cost. So actually if you went by that same theory you would then have declining block, which we don't want either. So -- but the problem with inclining block rate structures is when you look at this example, let's say all the kilowatt hours should be priced at 10 cents, but we want an inverted block rate structure.

[9:38:01 AM]

So to do that we have to shift fixed cost recovery. We have to shift the fixed cost recovery in this example from the first block, which is the 500-kilowatt hours, to drop it to eight cents. And to put it into the outer block, to increase it to make it 12 cents. It's a shifting of the fixed cost recovery. Now, when customers respond to that price signal, they're reducing from the outer blocks, which is where your fixed cost recovery is located. And now, by doing that you're achieving the objective of environmental conservation. But from a utilities standpoint and this is something to be aware of, it means we'll have to increase rates. Because we have to maintain our revenue requirements. We have to get our revenue in to pay the bills. So it means more frequent rate adjustment. So just remember those positives and negatives about the rate structures, and especially with inverted block rate. If the community wants to promote energy conservation, but the consequence of that -- but the consequence of that is more frequent rate adjustments.

>> Pool: I have a question. We talk about wanting development to pay for itself, new development coming into the city should pay for the costs for the city to put the infrastructure in and expand its service areas. And then we grant variances and fee waivers so they end up either not paying it or we do other things with those funds. How does that action approach affect this because what I was thinking when you were saying this last piece is that we actually were able to recoup 100% of the expansion of service in all of its categories across the board for all the new development and then we wouldn't have the existing customers subsidize it and maybe it would have some kind of effect on what the fixed costs need to be.

[9:40:16 AM]

>> You bring up a good point. I'll try to give you a short inversion answer to that. It actually requires about an hour long explanation. All right. The -- I'll do the best I can. Again, it's the theory or the community objectives. Most communities want to promote economic expansion of the communities. Some areas, for example, Colorado, they don't want to work in growth. So their policies actually penalize growth. Now, when you look at your recovery and you remember I talked a lot about fixed cost recovery, when you have a new customer come in and by adding that new customer they're going to

contribute toward the existing fixed cost infrastructure of the community, there by lowering rates. Let me give you an example. Let's say that by adding a customer they'll generate a million dollars of revenue. And that cost of that million dollars is let's say \$750,000. In other words, that's a marginal cost. A cost of adding -- extending the line, the cost of the power supply is 750. That means there's \$250,000 of margin, which is going to fall right to your bottom line to help keep rates lower for everybody else. But if you charge them all of the infrastructure and some communities will even charge like a backbone fee charge, actually add to it, and if that policy results in slowing down economic expansion from a ratepayer standpoint that may not necessarily be good. It just depends on every community's situation. And it boils down to the fixed cost recovery in the infrastructure.

[9:42:17 AM]

And I hope that helped explain that and I hope -- does that kind of answer the question? It sounds like kind of loosely.

>> Pool: I'll think about it and I might need to go back and look at the archives and listen to the answer a little bit more. Let me think about it.

>> Zimmerman: Let me put that question I think a different way. I think what she's trying to ask and I have the same question, as your utility base grows, you periodically need step increases in your infrastructure. So when you put wires in the neighborhood and you put stuff in, you build it with a certain capacity anticipating some amount of growth. That's what you're referring to.

>> Correct.

>> Zimmerman: Is that I don't have to make expensive additional infrastructure investments. I can just add a new customer in. The scenario you mentioned you are exactly right. She's talking about the very, very large increases, if we add 20,000 new rooftops in a new suburban community attached to the city F we add tens of thousands of new homes or new mixed use development we'll have to spend, make a step increase upfront in our infrastructure to service tens of thousands of new people. That's what she's talking about. And that does require an additional upfront infrastructure to get those customers connected and get them to start paying into the system.

>> Pool: And more to the point, why are we allowing the fee waivers and the variances on the cost of putting those additional 20,000 rooftops to the developer. Why are we -- why would we have a policy or support of rate structure that doesn't collect the cost of the expansion. When we say we want development to pay for itself? >>

>> Mark Dobrosky, general manager. In 2012 we changed our policy so that we have 100% recovery of line extension.

[9:44:22 AM]

So when a new customer or new group of customers come in we collect that upfront. It's called a contribution in aid of construction. So for Austin energy those customers do pay to extend their line. If we needed to expand, say, an existing substation that would be a systemwide improvement and our cost would be spread amongst all existing customers. So when we add new customers we don't charge existing customers for the cost of that extension. That customer bears the full cost.

>> Pool: We do still grant fee waivers and variances on the costs and we don't always collect all of the costs for the infrastructure expansion on new development.

>> I believe that's true on water.

>> Pool: But not on electricity?

>> In 2012 you adopted a new fee so that we collect 100% of the line extension for our new customers.

>> Pool: Thank you.

>> So this slide, I put it together to kind of give you a general understanding of the positives and the negatives of an inclining block rate structure, and obviously the positives are it promotes energy conservation. It should overtime reduce the need for future generating resources. It would lower the cost for low use customers because that first block is priced less, and it unfortunately -- this is more of a negative than a positive, it lowers the cost for seasonal customers. I put it as a positive, but it's really a negative. The negatives is it's not cost of service based. Creates revenue instability for the utility. Causes your year-round ratepayers to subsidize seasonal customers. So as a result can create cross class subsidization between customers in a class.

[9:46:30 AM]

And like I said there's no perforate structure. Everything is positives and negatives. So the objective for the council to make an informed decision so that with rate designs that you feel you're promoting rate designs that meet what you feel is in the best interest of the community. I put this slide together so you understand the declining rate block. The problem of course the negatives that limits the price signal to promote conservation, positives, it's cost of service based and reduces subsidization. The declining block structure, which is what I mentioned earlier, is where rates decrease with increased usage. Obviously that definitely does not promote energy conservation and is not cost of service base either. The positive is it definitely promotes stability for the utility because you're recovering those costs upfront. That's why a lot of cooperative rural type utilities historically have used declining block, but that's been changing.

>> Casar: Let me ask one quick question right here. With respect to the inclining rate structure which we have here, we often times discuss how energy conservation could lead to less need for infrastructure or power plants. And therefore have some lowering of cost on the utility, but at the same time I think something that I was hearing from you today is that there still is some pressure to raise rates because our price signals work and the people who are helping pay for things that we want to pay for things because they pay more don't like that and start using less and so -- so could you talk to us a little bit about that tension where at once maybe you all are saving some money by preserving the environment and building less power plants, bootboys we may be needing to -- but twice we may be needing to raise rates because people don't want to spend so much?

[9:48:40 AM]

And who wins?

>> What happens is you have existing infrastructure and capacity. So if you set a price signal to promote energy conservation and it works, you're not using all the infrastructure that you've built, that you were planning. So in the short-term there tends to be rate increases because we still have to recover those costs. Now, in the long-term because that infrastructure, the capacity in the infrastructure will last longer, in the long run it could actually stabilize rates. Or it could actually lower rates. Because you don't have to expand the resources. There's short-term consequences, long-term benefits, if that makes sense.

>> Mayor Adler: And what did you say the trend was? Did you say the trend had been to inclining, but is now moving away from that?

>> Yeah.

>> Mayor Adler: Why?

>> Because they'd worked too well, in a nutshell, plus rooftop solar. Take a look at California. California had -- all their investor owned utilities had a five tier block rate structure. With the outer block being at about 35 cents. And because rooftop solar is getting to the point where it's -- close to five percent of the customers have rooftop solar, it's causing a big cost shift to other customers that don't have rooftop

solar. And there's only -- from my understanding, and it depends on where you are in the country. 20 to 30% of homes can put rooftop solar. The other 70, 80 percent can't. So it's creating cost shifts. So what the California public service commission did is they said two things, the directives to the investor-owned utilities. One, to take the five tier inverted block rate structure, bring it down to three tiers. With the outer block priced at 18 cents.

[9:50:43 AM]

And that's the objectives to get all the rates in line with that by 2018. They'll still have an inclining rate structure, but not as big of a price signal, the other directive was to explore residential demand charges. And then start considering putting those in place for residential.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Mr. Mayor, this is starting to sound a lot like the water situation where we promoted so much conservation and so much watering restrictions and higher prices for the higher tiers we forced lower water consumption. Guess what, we still have to pay for this expensive infrastructure so everybody's rates go up so they're paying more for less water. So that sounds like the same thing can happen in electricity, right? We've got a certain infrastructure in place, it's got to be paid for. Too much promotion of conservation means everybody will end up paying more for using less.

>> Correct. The only other side to think about with that is if the rate goes up, but they use less, their bill may stay the same. Their overall bill. Even though their rates are higher. And that's the other way a lot of utilities will look at it.

>> Pool: I will I would also point out that we also have another policy initiative here in the city of Austin that the community supports and that is conservation of scarce resource, which is water, because we can't make it rain. And you may not know this, but up until last year our Lakes, which is where we get our drinking water from, were at less than 30% capacity with no rainfall in sight. And there's not anything we can do about that. So conservation was very real and it was, frankly, kind of scary. As far as the energy that we save with rooftop solar, it's another policy initiative, which is to try to keep our air clean. And if we can remove ourselves from polluting types of energy generation, then that is something that this community is fully behind, except for -- let me say the majority behind -- there are some who are not -- and that goes to the whole issue of years from now what are we leaving for our kids?

[9:52:58 AM]

And if we don't change our approaches to things, it's not always about how much does it cost us in dollars, it's got to be what does it cost us in our health and ensuring a healthy climate?

>> Yeah.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: Could you speak to, you mentioned a moment ago about how -- I want to talk some more about the impacts of conservation and the environment that we just discussed. And you mentioned that there could be long-term benefits in terms of cost. Have there been any studies or analysis along those lines?

>> None I can specifically point to. I mean, it's just a rationalization just knowing the process.

>> Kitchen: The reason I ask is that this is -- this is an issue that everybody around the country is addressing. And so I'm just curious as we go forward, I mean, conservation is important and will continue, and is critical for us as we think about our environment going forward. So how are you utilities going to adjust in terms of their business model? So that's what I'm curious about if there's anything in particular you can point to us or if there's any particular utilities around the country that you think are on the forefront of considering how they adjust to that.

>> I think the electric utilities' business models are changing. Because of rooftop solar, because of just general distributed generation, you have industries installing their own turbines. And you have a situation called -- I'm going to get a little bit deep here, but called microgrids where areas will have their own resources, but they all have to stay tied to the grid. And the electric utility does provide that backup. Even if a customer has 100% of their resources, say, through solar with batteries and everything, you may run into an extended period of time where the sun's not shining and they still have to take energy from the grid.

[9:55:04 AM]

And so the business model for utilities is changing in that direction, and how their responding, and hopefully we can do it slowly over time, is it goes back to the fixed cost recovery. We have to recover the cost of that line. And so they're doing it with -- through -- I have a slide later on that discusses it, but they're doing it with customer charges, they're doing it through demand charges, they're doing it through transformer capacity. In other words if a customer has transformer capacity of a thousand kw, they're going to pay for that, even if they don't use it. Developing standby charges for customers that put in their own generating resources. So that we can still recover our costs and maintain that system so we can provide reliable electric service when it's needed.

>> Kitchen: It sounds like you're -- it sounds like these are ways to tie the costs more directly to the people that are using that infrastructure.

>> Correct, that is absolutely right.

>> Kitchen: So that if you were in a situation where you're conserving and you're not using that kind of -- not that those are -- I didn't mean to say that those are mutually exclusive. It's just that not everybody pays for the infrastructure if they're not using it. Is that what you're saying? Or when you tie -- is that also the case when you tie the cost of a particular infrastructure more closely to the users?

>> It's -- basically in a nutshell the -- if a customer has a certain capacity need, we have to charge them for that, whether they use it or not. And that's basically what it boils down to. And that's where the industry is headed to. I mean, it's like your telephone bill. Back in the '80's your customer charges two dollars. What is it now, 25, \$30?

[9:57:08 AM]

And it's because they're trying to recover the cost of that pipe, in a sense, that line, upfront, rather than being subsidized by, like, long distance.

>> Casar: But the challenges you're describing with rooftop solar is that we built -- or especially in California they built infrastructure to serve those customers, but then they got the rooftop solar and now they don't need it and everybody that either lives under a tree or lives in an apartment or can't afford the infrastructure now is left carrying the bag to finish paying off the infrastructure.

>> That's correct. And to make it even worse there's system integration costs that are attached to solar that -- so that's a whole other charge, cost. Because we still have to -- we have to run the -- power supply can't be stored necessarily other than by battery, and we still center to run the system. So if a cloud comes over and the solar unit reduces production, we have to ramp up our generating units. But we can't always ramp them up that quickly. So we as an industry have to go out and install the batteries. In certain areas so that when the cloud comes over the batteries can discharge. So there's a lot of additional costs that are created also.

>> Casar: But essentially if we're -- I'm supportive of us at least with the information I have now staying inclined and continuing to support rapid solar pangs and this sort of thing, it seems like what we need to

be prepared for then is to not overestimate how much infrastructure we need because if all of a sudden way less people need it, then they could see some serious shocks.

>> Yeah.

>> Mayor Adler: Ms. Gallo.

>> Casar: I'm just scrow callizing what's going on through our -- vocalizing what's going on in my head.

[9:59:09 AM]

>> Gallo: I have a question on slide 7 and it's where you talked about the inclining block rate structures. What I think I heard is that the fixed cost recovery is in the excess column. It's embedded in the excess column, is that correct?

>> Yes. A greater amount.

>> If you moved it to the first column, would that then convert us to a declining rate structure?

>> That's correct.

>> Gallo: Okay. But it does allow us to adequately recover the fixed cost in a better way than the inclining block structure?

>> I wouldn't say a declining block is a better way. I think a flat rate structure is, personally.

>> Gallo: But from the fixed cost recovery component.

>> Oh, yes, just from that, yes.

>> Gallo: It would. So if I go to the slide that's number 9 which talks about the declining rate structures, when it says not cost of service-based, I'm trying to understand why that would be cost of service-based. Because it sounds like it really is. It's taking the fixed rate and getting it where it should be at the beginning where it's more recovered. But then there's a disconnect.

>> A little bit confusing. Let me explain it. A declining block rate structure is going to shift the burden of the cost recovery of lower users. And remember I talked about demand, and the interrelationship of demand in cost. Well, when you have a smaller user, a lot of times their demand may be less. It could be three kw, but yet, we're charging them a higher rate. A larger user, the demand could 15 kw. So, what happens is, it almost unfairly burdens small users of electricity.

[10:01:13 AM]

Because they're not always -- it depends on their demand and their relationship with demand and energy. But, like . . . A 3 kw transformer, even though it's not going to change the cost in the short term, in the long term it will. They're not using as much transformer capacity as a 15 kw customer. So, a declining block has the potential of arbitrarily overcharging that 3 kw customer. Do you follow?

>> Gallo: But if the rate for the smaller customer goes up in a declining, just to do and take care of the fixed cost recovery, is that still penalizing them unfairly?

>> It is. When it comes to fixed cost, you've got to remember that on your distribution system, when you do a cost of service -- I'm going to talk theoretically. I'm your distribution line. Do you remember we talked about the customer charges and what makes up that customer charge. And a portion of the distribution system is included in that. That portion is determined based on how much of a cost to build the distribution infrastructure, if every customer used 1 kw of energy. They use more, causing the demands on the system to be larger and more investment made in infrastructure. So, when you have a customer that's a 3 kw customer, they're only using 3 kw of that component in a sense, or compared to a customer that's 15 kw. Does that kind of help clarify it? It's not -- I don't know if it's 100% -- you know, sometimes the 3 kw customer could be a low load factor, too, and you'd be totally correct.

[10:03:22 AM]

But in general, you know, it would be not cost-based to go to declining block. It's --

>> Gallo: Did anyone else catch that, because I'm still confused.

>> Mayor Adler: There are two elements that are contributing to what somebody pays -- how much they use, and how much of the system is necessary to give them what they use at any point in time.

>> Any point in time, that's corrects. Correct.

>> Mayor Adler: What he's saying --

>> Gallo: That's the demand component of our bill -- of our charge.

>> Yeah, residential don't have demand. I think that's probably -- they don't have that demand charge. Commercial does. But, yeah. If they had demand charges, you know, it's -- we would recover a fixed cost in the demand component.

>> Gallo: So would it be better to have a demand charge for residential and leave it inclining, declining, or flat? I mean, is that a better process to equitably pay for the cost of the service?

>> It would be with the demand charge in residential, in a flat rate, in my opinion, it would be more cost of service-based, but in conjunction with use rates. Time of use rates have the potential of promoting conservation, because customers will try to shift or lower their usage during peak times of the day. That's why I was talking about earlier, with the rate structures becoming more and more complex in our industry, it's to send better price signals and to properly recover cost through having a demand charge, having time of use rates for customers, to send those price signals. Because time of use rates will do one of two things. It'll either promote shifting of usage, or it will promote reducing usage during the time period totally.

[10:05:27 AM]

They may not need it in the off peak because they set back thermostats or whatever they choose to do. So, time of use has the potential of doing the same thing, but in a cost-based manner. Do you follow that?

>> Mayor Adler: Why don't many people, utilities, use the charges in residential?

>> I see a lot of utilities moving in the direction of time of use for residential. Demand charges -- it's becoming more and more, popular. My dilemma, from my standpoint, when it comes to putting in place time of use or residential demands, a utility is inclined to make them optional. And if -- you know in other words a residential customer can choose to be on the inclining block rate, or they can choose to be on the time of use rate with a demand charge. Well, which one are they going to choose? You're going to choose the one that produces the lowest cost. Well, if you don't change your usage and your bill goes down, then what happens is the utility suffers. There's a win-lose. The utility loses. Now, if a customer responds to the price signal and changes their usage, then it's a win-win. So what utilities often will do for, in a sense, political reasons, they will make it optional. But making it optional creates a win-lose scenario. Where the utility loses. So, like in the case of some of the smaller utilities we've done work for, we made it mandatory. All residential customers are in demand for some utilities in Nebraska. And surprisingly enough, maybe because we -- implemented it, we didn't get a lot of complaints. I thought we would, but, we didn't.

[10:07:28 AM]

So, we're heading in that direction. But the big dilemma, concern, is do you make it mandatory for time of use, for residential, or do you make it optional? If you make it optional, the utility's going to lose.

>> Mayor Adler: Okay. Ms. Kitchen.

>> Kitchen: I may not be following entirely, but can you not make it optional with a requirement for reduced use if you choose optional, a threshold for choosing optional requires some reduced use?

>> I don't know if we could measure that, at least not easily.

>> Kitchen: Is that the problem, is measuring it?

>> That would be the problem, measuring it.

>> Kitchen: Because you don't -- technically, or administratively?

>> You know, it's never been explored. I'm not sure if that would be done. We'd have to almost do a whole separate analysis.

>> Kitchen: I'm curious whether that's been done anywhere.

>> No, it hasn't, not that I'm aware of.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Mark, were you here for the department of energy grant presentation, talking about a control system to try to integrate solar? That's why I was kind of reacting to councilmember Casar. We have infrastructure in place that's probably based on, maybe, hundred-year-old technology, dispatchable power, transformers, all that infrastructure. When we talk solar, we're talking brand new, additional, expensive, complicated infrastructure. And the batteries that were mentioned are in their infancy stage. We're just starting to test them on a commercial level. This new equipment, new complexity, new control systems brings in reliability. Every time I add a component like another inverter or device that senses a drop in power when a cloud comes over the sun, and the solar power produces left, I have to switch to pulling power out of the grid.

[10:09:35 AM]

These things are complicated and expensive. We have to pay for the existing infrastructure cost as we use it less, plus additional infrastructure for the complexity of managing solar surges. Is that a fair assessment?

>> That's fair, yes.

>> Zimmerman: That's why our costs are really going to be going up.

>> That's -- actually, solar is the primary driver behind wanting to go to demand charges for residential, you know. And plus, residential customers used to be relatively the same 20 years ago. They're not anymore. Because of solar, because of energy conservation, the programs we put in place are working. But there's consequences to our programs working, too. From a utility standpoint. And now it becomes recovery of cost.

>> Mayor Adler: Ms. Gallo.

>> Gallo: Before you get off solar, if a community is moving in a direction of promoting rooftop solar, am I hearing the demand model is the more appropriate model to move towards?

>> That is correct. And, yes. It would be more appropriate from a cost standpoint. If somebody from a solar manufacturer was here sitting next to me, they would tell you something different. And I'm not going to -- you know, because they have their opinions. They know that demand charges are going to hurt their business model. So, they have different opinions about it. I have mine, and they have theirs. I'm not going to say which one is right, so.

[ Off mic ]

>> Mayor Adler: Okay.

>> And that's demand with flat?

>> Or time of use rates would be better.

>> And you know, the information that you give on negatives and positives on all this, does not promote energy conservation. I would say that it's probably not the tiered rate that promotes it. It's probably the end bill that promotes it.

[10:11:36 AM]

So, regardless of what the tiered structure looks like, or if it's flat, I think what promotes energy conservation is the staggering bill. The conservation triggers or re-triggers more.

>> That's correct.

>> Gallo: I hate for us to hone in and focus on tiers when I think it's the end bill that triggers conservation.

>> You are absolutely correct.

>> Gallo: More than anything else.

>> You are correct. Now, we've talked just in this discussion, a lot of the other slides I have. So I'm going to kind of jump through some of the ones that we've already discussed. You know, this next slide, movement toward cost of service, we talked about that yesterday. That if there's a rate increase, and the cost of service study says a certain class needs a substantial increase, then the -- typically most utilities will set up a plan to move in the direction, but minimize substantial rate impacts on any specific customer class. Some other ways of stabilizing distribution cost recovery that we talked about, decoupling mechanisms. And I have a slide later on, but I'm going to talk about it now, and skip over that slide. But, decoupling is basically like an energy cost adjustment for your distribution system. So, let's say that energy conservation is working. And as a result, the utility under-recovers on its distribution cost. Power supply is going to be a factor, so why don't we cover that. Now it's distribution. So, decoupling is like a cost adjustment for the distribution system. So, it guarantees recovery. The problem with decoupling is in the solar example, it actually makes the cross- subsidization between classes worse, because when we underrecover, we're going to pass that on in a subsequent period, usually through a kilowatt hour rate.

[10:13:48 AM]

Those without solar pay for the under-recovery because solar uses less. It makes the cross subsidization worse. Very few municipal systems use decoupling mechanisms. It's relatively common to invest in their own utilities, they want to protect their share shareholders. It's not common for public. It's a way of increasing customer charges, \$10, I think you're looking at a staggered approach, probably going forward to adjust that closer to cost of service. And then putting in place demand charges. Some utilities will charge based on installed kva of distribution system transformers. In other words, if there's a transformer, like, in a rural area, where a farm house needs a 25 kva transformer, their distribution charges are based upon the sizing of that transformer. The problem is, it wouldn't work for Austin, because you have residential customers that share transformers. You have one transformer that three, four, or five homes are served off of. It's not really a good mechanism for Austin. Some utilities, especially areas where they have a lot of seasonal customers, they put in places minimum bills in conjunction with the customer charge. And the reason for that is to get the cost recovery more in line from those seasonal customers. So the year-round ratepayers don't have to create the subsidy. Power cost adjustment mechanisms, you have one in your current rate structure. And I always tell utilities that don't have power cost adjustments that it is the number 1 thing that a utility can do to help to maintain its financial stability. Because most utilities, 75% of the cost is related.

[10:15:53 AM]

So it becomes a pass-through mechanism. And as a result of that, bond rating agencies consider that a very significant factor in giving a bond rating. So you have power cost adjustment, you have a better

probability of getting a better bond rating. And, of course, that leads to lower interest rates and lower rates to your customers. The biggest problem with a power cost adjustment mechanism is they don't always get trued up when they should. And so, you have -- all your power supply costs, which includes both demand and energy. But they're all billed to customers on a kilowatt per hour bases. There's demand to energy buried in that component oftentimes. So what happens, yesterday we talked about high-low factor customers. That was that load profile with the flatter line. They end up unfairly burdened, oftentimes. If that power cost adjustment is not trued up, and placed back into the rates. So. That's something to think about with your power cost adjustment mechanism. I think it's at 3 cents. I don't know the components, but that's something you want to look into. I talked about decoupling. It's used by investor-owned utilities. There's two municipals in the country I'm aware of that use a decoupling mechanism to ensure recovery of distribution. Now, the next few slides I did talk about yesterday. And it's something -- you know, it's the last couple slides. It'll just take me a few more minutes. But when it comes to objectives in rate design, you know, I tried to list -- I'm sure somebody could come up with more than what I have here. But, usually, there's certain community objectives. One is revenue stability for the utility.

[10:17:54 AM]

Two, fairness to customers. You want your rates to properly recover cost so you don't have cross subsidization. Then you have environmental objectives. You want to promote energy efficiency programs. Promote renewables. You know. You just want to promote the conservation of electricity, and those are the environmental objectives. And then you have economic development. That's always a key thing for many areas. They want to promote economic growth. And they can do that with certain price signals, in their electric rates. So these are like what -- you want to think about as far as, what are your objectives, what are your primary objectives, you know. And is it environmental? If it's environmental to promote that, if that's your primary objective, then you want the inverted structures. There's consequences. And you say, okay, those consequences we are willing to deal with, in a sense, which is more frequent rate adjustments. Then you have your social considerations. Oftentimes, governing bodies look at the impact on low-use customers, the impact on low income. Just remember, low income and low use don't always correlate. Most of the utilities, low-income customers are not low-use customers. And the big thing to remember is, low-income customers, some of them will be higher than average users and some lower. If you do certain things with your rate structures where you think you're benefiting low-income customers, you may be harming some. But you have programs in place, I think you currently do, so help low income already. So you're kind of ahead of the curve on that. That's usually what I recommend, is to put other programs in place, rather than basically messing up your rate structure.

[10:19:54 AM]

And then also when you do change rate structures, be it like increases to the customer charges for residential, that's going to impact customers differently at different usage levels. So you want to always be aware that if you have, say, a \$2 increase in your customer charge and keep the energy rate the same, that's a \$2 increase on all your customers. Percentage-wise, that's going to impact a customer at 500-kilowatt hour consumption at a greater percentage than a thousand. It's knowing that. And, again, being aware so that if you get a phone call and somebody says my bill went up 20%, you don't want that to happen, basically. You don't want somebody to call you and say, my bill went up 20%, you had a 2% rate increase, what's going on. You want to know that and you want that model so you can understand and see it. And, you know, you currently have pass-through rates. I mean, Austin energy is definitely

ahead of the curve, in my opinion, with respect to other municipals around the country. I mean, you have a value of solar rate. And, you know, it's caused a lot of other utilities to want to do the same thing. Similar concepts to what Austin energy is using, which is that value of solar. So you tend to be ahead of the curve in most of your rate designs. It doesn't mean they can't be improved, but you're ahead of the curve with respect to most utilities around the country. So I do believe that's my last slide. And I really appreciate you guys taking the time and the questions, and the interaction. It makes it a lot easier for me to do presentations when I get the questions and the interaction. I really appreciate it. So, is there any other questions before I leave?

>> Mayor Adler: Any other questions?

[10:21:55 AM]

This is really helpful, these presentations.

>> Renteria: I just have one quick question on that. How are the other cities handling the rooftop solar? I'm sure that they have -- once you hit that percentage, it will start costing the utility money, and they have to increase the rates to the ratepayers. Are they doing any kind of extra fee for rooftop, or . . .?

>> What -- it really boils down to a very similar concept to what you're using here in Austin. Let me give you some examples. Probably the most common is to take the value of solar calculation and then you look at the average residential rate. And you can identify the subsidy that goes to a rooftop solar customer each month. And you convert that into an additional charge on a per kw installed rooftop solar. So, for example, let's say the under-recovery is \$2 a month per kw of installed solar. They install a five kw unit, they have a \$10 additional monthly customer charge. It's similar to what you're doing here, except it's converted into a more simplistic method. What you're doing here is probably the most common that utilities are trying to get to. Some states are still on what's called net metering, where a customer is only charged for the net. In other words, if they use a thousand kilowatt hours but give you back 700, they're only billed for 300. On a service, that sounds correct. But it causes under-recovery. And I think there's 43 states that have adopted net metering laws. Two states last year reversed it. And have said, you no longer have to net meter.

[10:23:57 AM]

California says after you hit your 5% threshold, you no longer have to net meter. So there's different things happening in different parts of the country, so I hope that answered it.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I'm just curious about the extent you're seeing community solar and how that helps with some of the issues that you raised earlier about rooftop solar in terms of not being accessible to all parts of a community.

>> Yeah. I think utilities are still one of the largest, percentage-wise, installers of solar through community solar objectives. And it's to give customers that -- the option of being, basically, more green. And, you know, the community solar system will allow that. They can, in a sense, purchase a panel, or purchase a certain amount of capacity for the community solar. So they don't have to install a rooftop solar. 80% can't. It could be because, you know, for various reasons. And this gives them the opportunity to participate. From a utility standpoint, it gives us the option to structure it in a manner that we recover our cost without having to modify our rate structures. So. And it's definitely -- you know, we've been doing a lot of working with community solar lately. It's a very big thing. It's gone hot and cold over the last five years, but it's definitely hot again, so.

>> Some communities are doing the community solar that would be the most similar to Austin?

>> I'm not familiar with your community solar systems specifically, but, let's see, Orlando, Jacksonville, they have community solar. There's so many. I could probably get you a list. But there's Seattle, Washington, has. I think Seattle does. Anyway. I'm pretty sure Seattle does.

[10:25:58 AM]

Certain ones out in Washington state. Part of the reason is because in Washington state, the state has a 50% subsidy -- or basically, grant. So it really promotes, you know, community solar. But there's a lot of different ones, and a lot of different programs. And they structure it in different ways. And I can certainly get you more information on that, so.

>> Okay, thank you.

>> Zimmerman: One more question.

>> Mayor Adler: Yes, Mr. Zimmerman.

>> Zimmerman: At the risk of getting frustrated and repetitious, I thought you did a decent job of trying to explain how and why rooftop solar has to be subsidized. It does not pay for itself. It feels like instead of understanding this basic fact, you know, our council comes back and starts talking about, you know, community solar. So is the answer that we're losing money and we're subsidizing rooftop solar, is the answer to that to subsidize community solar? I'm frustrated we're not getting anywhere. Our rates are going up because of subsidies to solar.

>> I don't think he said you have to subsidize solar. He talked about with solar, you need to also have a backup. You know, when there's clouds. That's not the same as subsidizing solar.

>> Zimmerman: That means additional infrastructure and more cost that you would not have if you didn't put solar.

>> Kitchen: I don't think it's additional necessarily.

>> Zimmerman: Of course it's additional. It's equipment I have to put in because of solar. If I didn't have solar, I wouldn't need the additional investment and infrastructure.

>> Kitchen: If you didn't have solar, perhaps you wouldn't need as much infrastructure.

>> Mayor Adler: How would you address these issues?

>> This is how I would address them. Unfortunately, in statements, both are right. There is certainly a subsidy in the short run when somebody installs rooftop solar, but, at the same token, there could be benefits in the long run as far as savings. So, one of the things that -- sometimes I get a little animated.

[10:28:06 AM]

I have been doing so many roof solar presentations to change. And I got tired of getting beat up, because I had thousands of rate cases. And I've gone through. There's nothing more that Riles up a community more than when you start changing solar. And that kind of a subsidy, in a sense. And the problem is, all these statements that they make in these rate hearings isn't wrong. It may not be in the right context from an electric utility standpoint, but it's not wrong as far as what they're going for the environment. So one of the things that I've been trying to do to minimize the blood I have to -- every time in these meetings is, I know I can quantify the subsidy that I'm currently giving to solar. I can quantify it. If I can quantify it, I can manage it. And so let's say, hypothetically, that I'm currently giving a million-dollar subsidy to solar. And at the direction of the governing body, they say, okay, we're happy with a million dollars. Now, as solar continues to grow, we're going to keep the million-dollar subsidy. And -- but, what that means is, I'm going to start -- the devisesor, as solar grows, the subsidy is going to decline. So what that allows is a more slow, gradual phaseout. Like I said, if you know the subsidy, you can then manage it. It's when you don't know the subsidy and you don't know how much it's going to grow, and you just keep getting behind the 8 ball, in a sense. That allows the utility to manage it.

Unfortunately, I haven't actually gotten one of those approved yet. I think we'll get a similar process approved next month, and another one the month after that.

[10:30:11 AM]

But that's kind of the method I've been, kind of, thinking to try to make it a little bit easier when we start removing these subsidies. So -- but like I said, both of you are correct in your statements. So.

>> Mayor Adler: You're saying the overall systemwide subsidy, keep it the same. But because you have the increased usage, it's going down per user.

>> Per user, correct.

>> Mayor Adler: Which, mark, I think is not too dissimilar when what we have in place. Is that true?

>> I thought that was my original idea.

>> You guys do it here. Okay.

>> Mayor Adler: Okay. Anything else? Yes, Ms. Gallo.

>> Gallo: I think some of the questions that we had, councilmember Zimmerman, were if we as a community are moving towards more rooftop solar is how do we keep that from having a negative impact on the moments that don't have the rooftop their bills. I think you helped send us in a direction of a rate structure that would not have unintended negative consequences to those properties that did not. And I think that's important for the conversation.

>> Zimmerman: You're right. That'll help, provided we can get through the basic idea that it costs money to put solar on rooftops. I hear a lot from the public a public perception, no. We need to put more solar on rooftops because it saves us money. I say, no. It costs us money to put. So, those can't both be true. It can't save us money to put more rooftop installations on, or community solar. That can't save us money and cost us money at the same time. And that's my frustration.

>> Mayor.

>> Mayor Adler: Yes.

>> I'd like to just say, I think this is a very interesting and productive policy discussion. I'm just not sure that today is the day to have it. We have kind of a limited amount of time here to hear from our speaker. And I would just suggest if we want to finish up our work session at a reasonable time, we kind of move forward.

[10:32:17 AM]

>> Mayor Adler: Ready to move forward? Thank you very much. We'll now go to the campaign finance reporting.

>> Thank you.

>> Mayor Adler: Yes.

>> Thank you so much.

>> Mayor Adler: I think we have gotten to the end.

>> Tovo: I didn't necessarily want to end.

>> Mayor Adler: I think we had gotten to the end.

>> Tovo: I want to say thank you. I think that was really, yesterday and today, extremely helpful. Thank you very much.

>> Thank you.

>> Mayor Adler: Thank you.

>> Tovo: These are really complicated.

>> Mayor Adler: We have this additional briefing on the campaign finance report. We have, I think, five or six matters that have been pulled. And we have an executive session which has several items, including the manager's personnel review. Thank you.

>> Mayor, can I ask a question just from a procedural policy? Are we -- as we do our work sessions, I'm seeing that we're doing more and more briefings at the beginning of the work sessions. Is that going to be our standard policy, that briefings will be in the mornings first before we start on the actual work session? Just trying to get an idea of . . .

>> Mayor Adler: We had these two presentations. We have just a few items. My hope was we would hit the executive session at lunchtime. And I could've taken it in either order.

>> Gallo: Okay.

>> Mayor Adler: I think we're still trying to shoot for that same goal.

>> Gallo: From the standpoint of public and people that come down to participate in the work session, I just think it would be helpful for us to be very clear, kind of, the order that we're going to take things in in the future.

>> Mayor Adler: I think that's a good point.

>> Gallo: Thank you.

>> Mayor Adler: Appreciate it. Thank you.

>> Good morning, mayor and council. I'm Jannette Goodall, city clerk. I have with me bob, my project manager on the electronic filing for the campaign finance requirements that we've been working on. And so this is kind of a briefing on our attempt to move into phase two of this project to address the city forms, as well as some of the other state forms that were not included in phase one.

[10:34:28 AM]

So this is not a comprehensive review of chapter 2-2. What we did is we started with the city forms, which we will go through. And from a perspective of trying to figure out how we apply the electronic data reporting requirements to those city forms. As we did that, we found we probably needed to come back to you with some recommendations and possible updates to chapter 2-2. And so our proposed recommendations only apply to what we thought needed to be addressed to modify those forms to make the electronic filing easier and more transparent. And so it doesn't address any of the other issues that may exist in 2-2. It doesn't address dark money or any of those other issues at this point. This is a very confined project. So, we hope we'll be able to go through this fairly quickly. We did meet with four council offices to kind of outline the presentation as well, and the recommendations. And we got some really good positive feedback. So we hope we have outlined this presentation to answer most of your questions. But we'll definitely try to answer as many of your questions as possible. And so I am going to turn it over to bob, who has been the lead on this project, to kind of walk you through what our recommendations are.

>> Mayor Adler: That would be good. Before you start, Ms. Troxclair.

>> Troxclair: So, just so that I'm clear, is this presentation directly related to the agenda item 16? You're going over what changes you're proposing on that agenda item?

>> Yes.

>> Troxclair: Okay, thanks.

>> Thank you, Jannette. Good morning. As Jannette mentioned, I'm bob with the city clerk's office, and I've been working on the campaign finance database project, that will allow us to gather information from the campaign finance reports and get them out on the public website in a format that citizens can see them.

[10:36:42 AM]

We've worked through the issues office-holder filings. We're now scrutinizing the city forms. And as we've been doing that, we think that there's some changes that could be done to those forms. They've sort of grown organically over the years. There's some inconsistencies and some duplication within those forms, and so we've conducted a review of those forms. So I'd like to present our observations and findings from that review. We also have a set of recommendations on how we would revise those forms, some of which will require some code changes. And that's what's on the agenda, councilmember troxclair, for Thursday. And to give you an update on where we are in this process. Again, we've been conducting a review of the atx forms. So these are, in addition to the state filing requirements, these are the city of Austin's own forms that have been developed and approved by the ethics review commission for disclosure of certain financial information. And our goal in reviewing these documents was to avoid duplicated data, to clarify the reporting timelines, and also to redesign some of the forms so that we can better capture that information electronically. When you're dealing with a document-based reporting system, it's not unusual, or it's probably even helpful to have duplicated information. That is, you have one report that presents the data in this structure. And then a different report that presents the same information in a different way. But when we move into the electronic realm, it really becomes less critical. In fact, you want to avoid instances of duplicated data. This is what we are trying to identify. We did a field by field analysis of all of the information that's captured on all of the atx forms and compared that against the code, compared that against the Texas election code, as well as the financial reporting documents required by the Texas ethics commission.

[10:38:48 AM]

Our findings -- basically, just as a reminder, these are the forms we're talking about, the atx forms. And I'll talk in a little bit more detail about each one of these forms and what they do, and what our proposed changes are to them. Our general observations were that -- fall into three categories. One, the filing deadlines are generally inconsistent among the atx forms, as well as with the tec filing requirements. So, for example, we have an atx form that has a 60-day reporting requirement, some have a ten of day reporting requirement, or eight or nine. So, they were kind of across the board. Some are not triggered by a specific date, but are triggered by hitting a monetary threshold. So, a bit confusing for users who have to file these documents. We discovered there are instances of duplicate and redundant data. That is, instances where we're collecting data on those atx forms that is already gathered on another form, and is either reported already on a previous filing, or is going to be reported on a future filing. And then lastly, the forms -- some of the forms are fairly complicated. Example. It's to be used by candidates, officeholders, and committees, but candidates and officeholders only fill out one part. Committees fill out another part. It gets confusing to them on what exactly they're supposed to do in terms of complying with the requirement to file that document. So, our basic objectives and overall recommendations fall into three categories. One to streamline the filing deadlines. And our basic recommendation is, wherever possible, simply align the atx reporting requirements with what the state requires. And do away with all of the exceptions. The state has a very well-known and well-established schedule of January 15, July 15, 30day before, 8th day before, a runoff, etc., etc.

[10:40:50 AM]

So, we would eliminate -- propose eliminating all of the various atx requirements and just align those with the state's requirement. Where possible, we'd like to eliminate redundant reporting requirements while still maintaining transparency, but, cases where we're collecting and asking for the same information already, let's eliminate the requirement to provide it twice. And lastly, we'd like to try to

reduce complexity, clarify who has to file each report, as well as redesigning the forms so that first of all, they look more like the tec forms, and they look like they go together. But secondly, we've been working very hard on redesigning these forms as fillable PDFs so that instead of -- printing, you can fill it out electronically, submit it to us, bring it to us electronically, and we can pull the data out of the form and push it into our online database, without you having to provide us a separate data file as we have to work around with the state forms. Since we don't have any control over the state forms, we're kind of limited. But on these forms, we have total control. We want to make them electronic forms where we can pull the data out in a more automated fashion and save you some time. I mentioned the reporting periods. Again, one of our big recommendations is to do away with the various reporting deadlines that the city currently has and align them with these reporting requirements that the state currently has, including a preelection reporting period. So, this is actually something relatively new. We do it in a way, on the atx 7, but we're applying it more generally where from the 9th day before an election through 5:00 P.M. The day before an election, we're establishing a preelection reporting period such that when certain financial thresholds are met, there's a requirement to disclose the very next business day, by 5:00 P.M.

[10:42:52 AM]

The next business day. And again, this is in alignment with the state requirement. The state does the very same thing with state filers. Our actual recommendation to the ethics review commission was that we go to a single preelection reporting date. That would certainly make our lives easier. But their sense was that it was more appropriate for disclosure purposes and transparency to make it actually a daily reporting requirement.

>> Should I ask questions now or wait?

>> Mayor Adler: That would be fine, yes.

>> Just a quick question on aligning the reporting requirements. I don't have it in my head. I'm just trying to think about what this changes. I mean, what are we changing that we require at the city right now to make it align with tec?

>> I'll give you an example. The atx 1, which is the report that is used -- so it's independent expenditures not by a candidate. It currently has a 60-day or earlier -- 60 days from the election date or earlier requirement. A 60 until the tenth day, and a tenth day until the election day requirement. Basically, what we're saying is we want to eliminate that and say you've got to disclose those on July 15th, January 15th, 30 days before the election, eight days before the election, etc.

>> Kitchen: I just want to understand, if we're -- you know, if we have more reporting or less reporting. I'm not concerned about aligning. I think that's a good idea.

>> Mmhmm.

>> Kitchen: I can't see the impact of it.

>> Actually, that would result in less reporting. That is, less frequent delivery of reports to the clerk's office. Because right now --

>> Kitchen: I'm not -- I'm concerned about the transparency to the public.

>> Mmhmm. So, currently, when a dollar threshold is met, for example, for independent expenditures, if it's 60 days before the election or more, you have five days to disclose that.

[10:44:56 AM]

We're basically recommending to aggregate all of that and just disclose it on January 15th, July 15th, and 30 days before the election.

>> Kitchen: Okay. All right. I'll think through that. It might be helpful to see a side-by-side, if you have -- if it even lends itself to that.

>> Okay. This next part of the presentation is just basically walking through each one of the atx forms and just summarizing the recommended changes we would like to make. First, in fact, I just mentioned the atx 1, the disclosure of independent expenditures. This is the form that's used for noncandidates to disclose expenditures that support or oppose a candidate, or a ballot measure, without the knowledge, acknowledgment, or consent of the candidate. As I mentioned, it currently has a rolling deadline, 60-day reporting, 60 to the 9th day. This also has a requirement in it for political committees to disclose these expenditures as well. However, those expenditures are already captured on the gpac and space forms, to our proposal is to eliminate this filing requirement for committees and really focus this on individuals and companies who do not otherwise have to disclose this information.

>> Mayor Adler: Yes.

>> Pool: These forms, too, I know the independent expenditures form in the past just had a line for a signature. It didn't have any kind of printed name or an address, or a notary designation. So you wouldn't really know who had signed that form, or -- especially if it's a squiggle. So, these changes, is it also changing the signature form to ensure that it tracks with what candidates, for example, have to do when we submit our forms?

[10:46:58 AM]

We sign them, we print, we have an address, we have a campaign treasurer and everything in there, and then we have the forms notarized.

>> I believe we have added a retirement for that form to be notarized, yes.

>> Yes, this form does have a notary block attached to it. And I don't remember. We have an example that we could pull up later, but, we'll make sure it also includes an address for the person that's filing it as well.

>> Pool: And I think that element is key as well. The address is. Mostly what I'd like to see is that all the forms require the same level of signature and identification that candidates are required to put in.

>> It absolutely does require, actually, the full name, as well as the address.

>> Pool: Oh, great.

>> Of the person who's filing.

>> But this form, I believe, is the only one that currently requires a notary, that is the city form.

>> Pool: And I think that additional layer of proof is key as well. On all the forms. Again, I would like all of the forms relating to campaign finance to track with the requirements that candidates have to follow.

>> Mmhmm.

>> Mayor Adler: I also think that the side-by-side would be helpful, if it's possible to approach it that way. But, going back to Ms. Kitchen's question, with respect to reporting the independent expenditures, right now, when that happens, the public finds out within five days of that happening, that right?

>> Correct.

>> Mayor Adler: And under the change of the system, could it be several months before the public would find out?

>> It could be.

>> Mayor Adler: When it was made? And the reason that you recommended that is -- what was the basis for recommending that change?

>> Just trying to align everything so that everybody is clear when they have to file it -- each form, and align them with the state requirements.

[10:49:00 AM]

>> Mayor Adler: Okay.

>> I would just say that my concern is that there's reasons why the local requirements may be different. And that may be for transparency purposes. And I wouldn't want to sacrifice transparency for the sake of alignment, until we really understand that we're changing it and it really doesn't have an impact on transparency. But where it does, I think we need to think carefully before we do anything like that. So, I also have a question related to the filing requirement for committees. So, eliminating that requirement, please explain again the reason for eliminating that requirement?

>> Specific purpose committees are required to disclose what the state refers to as direct campaign expenditures, what we call independent expenditures. They're required to disclose those as part of their routine filing. They report on the space, the gpac, the mac, etc. And then the city is also requiring to put the same information on its form.

>> Kitchen: Okay. So in effect, at the same time? So do these committees file at the same time with the state on the state form?

>> The state filing would be according to the state filing deadlines.

>> Kitchen: Okay. So we could be facing a lack of -- or a difference in transparency there with regard to committees.

>> It's possible that there could be a larger gap in time.

>> Kitchen: Okay.

>> Than we currently have.

>> Kitchen: And the other question would just be that -- you know, if the city is used to looking -- and this could be answered with a link or whatever. But one thing about having the transparency of it reported to the city, it's available on the city website. So, for people to see. If they don't know to go to the state website, that can be a transparency issue.

>> Well, all of the forms -- once they get filed with the clerk's office, which would include the space and the gpac are posted on our website, typically within 24 hours of receipt.

[10:51:11 AM]

>> Kitchen: Okay. Whether it's a state form or --

>> Yes.

>> Kitchen: Okay.

>> Mayor Adler: Ms. Gallo.

>> Gallo: So just to understand, kind of, the whole scope of this as we go through it -- so are we attempted to eliminate the city forms when there are tec forms that already are doing the same thing, and duplicating?

>> That's correct.

>> Gallo: Okay. So as we go through all of these, that's what's happening. In this particular case, tec does not have one for individuals and non-companies.

>> They do not.

>> Gallo: But then it would be the timing that would mirror the committee timing. So it would be less complicated and confusing for someone to do if it's based on what tec does time-wise. Okay. Thank you.

>> It creates an administrative issue for us as well. So that, for example, if a committee files these transactions electronically, and then files them again at the next filing deadline, now we've got duplicated data in our database. So that could potentially be confusing to somebody who's downloading that information to see the same transaction reported, or the same transactions reported multiple times. So, where possible, we're trying to eliminate that.

>> Mayor Adler: Okay. Ms. Kitchen.

>> Kitchen: I just have another. When you do your side by side, if you could highlight for us the changes that actually make a change in the availability of information from a time perspective, I think those are different considerations from a policy standpoint. So if you could highlight the difference between simply eliminating a duplication -- duplication meaning the same time period and the exact same information --

>> Right.

>> Kitchen: Versus a difference in time period and a difference in information.

>> Okay. Just to wrap up on the atx 1, again, our changes that we're making to the code basically are fine-tuning who's required to disclose independent expenditures.

[10:53:18 AM]

That would be individuals, businesses, and other entities who do not otherwise have to file using the tec's forms. They're not covered by the Texas election code. If they already have to file using the state forms, they don't have to file the atx one, as well as changing the reporting deadlines to match the tec. This is our recommendation on the atx 1. On the atx 2, this is the form that is used to disclose loans from a candidate or office holder's personal funds, as well as political expenditures from a candidate or officeholder's perm funds. This has a reporting period from declared candidacy to the 10th day, and then 10th day through election day. Our recommendation here is to move this reporting requirement to the preelection reporting period. The loans from personal funds, as well as political expenditures made from personal funds, are currently disclosed on the tec schedule E and G now. Those schedules didn't exist at the time the atx 2 was created. So now we have a situation where there's duplicated information. So the idea here is to eliminate the reporting requirement that's already in place on the schedule E and the schedule G, but retain the reporting requirement for the period the week prior to the election. And that would be rolled into the preelection report. Thetx 3, which is the campaign debt reconciliation, this is the form that's used to disclose loans and debt, names of the creditor, principle, etc. In campaign debt, that's the first and last day of every calendar year. Our recommendation to the ethics review commission was to eliminate this reporting requirement, since this information is already captured on tec schedule E, on the schedule f1, as well as the candidate officeholder cover sheet.

[10:55:28 AM]

There's a line item to disclose the balance of outstanding loan totals. Again, the sense was this is already being disclosed on another form. Do we need to have it in a different format, the same information. So our recommendation to erc was to eliminate this particular form. The atx .4 is the bank reconciliation. This is the form that's used for candidates and committees to disclose checks that have been issued but haven't yet cleared, interest and dividends earned, checked received but not deposited, checks dishonored, bounced checks, basically, as well as bank account balances. Our recommendation to the ethics review commission, again, was to eliminate this reporting requirement since this information is now currently captured on several forms that the tec requires, the f1, unpaid incurred obligations are reported on the f2. The new format of the coh, that is the candidate officeholder cover sheet requires disclosure of the contribution balance. And there's a new form, schedule K, to report interest credits, gains, etc., on political funds. So, since this information is captured elsewhere, we felt it was redundant to capture it simply on another piece of paper. Atx.5 is the bundling report, for reporting fundraising and bundling activity by intermediaries. At this point, our recommendation is not to change this form, aside from updating the form's design. That is, we are going to reformulate this document as a fillable PDF. But our plan is, in this project phase, we will not be extracting that data and uploading it to the campaign finance database. We will simply post the reports as submitted to the clerk's office.

[10:57:28 AM]

We feel that there are some decisions that need to be made with respect to bundling. Some questions that the erc needs to resolve in terms of what is a bundler, and what is considered bundling activity, given the availability of resource on the internet. There's also a linkage between bundling and lobbyist activity. So I know there's some activity going on in terms of enhancing reporting requirements for lobbyists. So, since this is a moving target, our recommendation is, let's not change this form. Let's simply update it to turn it into a electronic form and post it on the city's website as we currently do, and revisit capturing that data and posting it as data to our database at some future date.

>> Mayor Adler: What's the issue with respect to bundling, to finding bundling?

>> Part of it was, with the use of internet to collect funds, if a candidate has a website where they're taking donations, and somebody solicits -- not solicits, but somebody notifies a group of people, either their -- they they work with, that, hey, candidate X has this wonderful campaign website where they're collecting contributions, and sends out a link to it, does that constitute bundling? They're not actually collecting the money themselves. And I know that was a question that came up this past year on different questions that the erc were reviewing. The change, and the erc membership, come to a final decision on, does it need to be updated or not. But, that was one of the questions that came up during the last campaign was instances where that occurred.

[10:59:34 AM]

Because I think the bundling was created before anyone envisioned that the internet would be used to solicit campaign funds, et cetera.

>> Zimmerman: Mr. Mayor, could we get -- I think we have some campaign law expertise here on staff. Could we just explore this briefly about the idea of bundling? There's federal bundling, state bundling and what the concept of city bundling might mean. Could we spend a couple of minutes on that? I think it's an important topic and since it was mentioned -- I had heard that before, but it sounds to me like if you send out an email and you say hey, I like this candidate, send them money, that's called free speech, but some people would call it bundling. So I think we need to spend a few minutes and get some campaign finance law clarity on that question.

>> Pool: I think the clarity of course would be you lovely. We might get that in an email, but I would point out that bundling was the actual activity of someone going around and collecting checks and then delivering them in a bundle. And that has been obviated in large part by the easy access of contributions online. There's very little of the bundle going on where someone goes out and actually collects the checks, but if we want some kind of explanation of it --

>> This may be one of the forms --

>> Mayor Adler: Let's say with this. That policy question isn't really before us on this. It's still reporting the same data. We have a long time --

>> Zimmerman: We can do it another time.

>> This form will probably come back in the future.

>> Mayor Adler: Yes, Ms. Troxclair.

>> Troxclair: When you say pending clarification, are you pending clarification from the ethics review commission or who are you pending clarification?

>> The ethics review commission is who we're hoping to get guidance from. We have been meeting with them. And --

>> Troxclair: I guess I was just wondering if that was the appropriate body to give you that clarification.

[11:01:39 AM]

>> Well, maybe clarification isn't the correct term, but similar to what we do here because we're kind of -- the clerk's office is kind of in between council and the erc. Council sets the policy. Erc owns the forms. And so with this project we went to the erc first to see if they were going to object to anything that we were recommending. So we would probably do something very similar is work with them as a group of people that might have some experience, at least a couple of the existing members have experience with the last election and the question before them. So we get their feedback on what would be a recommendation back to council. They wouldn't necessarily be setting the policy, but together the clerk's office and erc would come back with a recommendation on any changes that may have to occur. If that answers your question.

>> Troxclair: Okay. I guess we can just wait and see what happens. It seems like that would be a more appropriate question for like an elections attorney or -- I mean --

>> Trust me, we are in constant contact with the attorneys on the fourth floor that support our elections.

>> Mayor Adler: Yes, Ms. Gallo and then the mayor pro tem.

>> Gallo: So does tec require this form to be pulled out?

-- Filled out?

>> They do not have a comparable form.

>> Gallo: So there is no bundling disclosure requirement with tec? This is Austin. Okay. Thank you.

>> Casar: Mayor, just one last comment. I recall hearing somebody having mentioned that this bundling section had not been updated sort of recently because of the internet, but then I recall at a separate hearing somebody I think from the city mentioning that it indeed had been quite recently reviewed.

[11:03:43 AM]

I don't know which is true, but I wanted to mention that it might be something worth looking into because I've heard that it actually was recently reviewed considering the electronic stuff. I'm not sure -- I wasn't sure about that.

>> Mayor Adler: Mayor pro tem.

>> Tovo: Thanks very much for all this work. I think this is really a great analysis of all the forms and the various processes. It occurs to me as we're talking about this, there are just a couple of attorneys that I'm aware of out in the community who are available to consult with candidates or office holders filling out the forms and have questions. I'm not sure if you've had an opportunity to consult with any of them. I appreciate you've been working very closely with the fourth floor attorneys and of course they have tremendous knowledge. When I as a candidate or office holder, though, am filling out the forms and have questions about them we can't consult our city attorneys, we have to consult private attorneys. I know in the course of doing that multiple times that there are -- the attorney I work with is really aware of some of the slighted onnesses of the forms that we might want to address. So it seems to me it might be profitable just to -- I imagine it would be something that would I am occur a cost here at the city. I think it might be have valuable to get their feedback if we're undertaking this comprehensive review of our forms and changes what do you see as areas that you might look at? Let me give you one example. You've eliminated the form of the bank reconciliation, but one oddness of it is if somebody during a campaign doesn't cash one of your checks, each year you have to report it on the bank reconciliation form. They will never cash their checks -- if you're no longer a candidate it's sort of sketchy to reissue a check for an election that ended two years ago. Anyway, that's the kind of thing -- again, you've eliminated the problem by eliminating the form, but it's those kind of issues that an attorney who deals

with candidates all the time would say well, you know, this has been a problem and I know this because people have been calling me and asking me.

[11:05:59 AM]

And I have probably in my records a dozen or two of those kinds of small things that -- anyway, I guess that's my question and just food for thought maybe for the -- as you continue to go through. But thank you. I think you've identified a good number of really important changes.

>> Thank you. Moving -- moving on to the atx 6. This is the document filed with the clerk's office in lieu of submitting the data, a data file with each one of the campaign finance reports. And we feel that the way the current code is written it's a little ambiguous in terms of who actually needs to turn in the exemption statement, who is eligible to turn in the exemption statement and what happens if you no longer meet the qualifications to file an exemption. So essentially our charges are to fine tune those requirements, to make it more clear. There was some confusion I think, for example, at the January 15th filing deadline about who needed to file an exemption, who needed to submit a data file, and when we actually look at the code we can -- I can see how you can look at it this way and you could also look at it this way. Our goal here was to eliminate that ambiguity and confusion and basically make it very clear that in order to file an exemption it had to apply to a candidate or an office holder who is running for reelection. A committee cannot file for an exemption, they have to supply the data electronically. The conditions under which an exemption is permitted, the report's due date has to fall within the campaign period as defined in the city charter. The candidate has to not have signed the campaign contract and the candidate has to be in a place where they have not raised and do not intend to raise more than \$10,000 during the entirety of the campaign period.

[11:08:02 AM]

And once they or if they reach that 10,000-dollar threshold, they then at that point can no longer have the exemption. They have to from that point forward provide us with a data file, the actual Numbers that they're reporting for all future reports, as well as a back file filing of all of the data that would have been filed for the campaign period before they signed the exemption. And then lastly --

>> Gallo: Mayor, can I ask a question? Are we still not moving towards a procedure that would allow us to submit the tec form electronically? I mean, it just seems like that's such a simple process. I'm trying to understand why we have all of this because it sounds like that that's the majority of the forms that we need to submit. When the do we get to that point is my question.

>> Well, I'll maybe ask council. That type of project would require some resources that were not included in this original project. And so everything we have done we have done with zero budget and only internal staff. So in order to create something that would allow us to build a system that you could authenticate yourself and submit your data electronically, I would need some resources in order to do that because my existing staff can't do that.

>> Gallo: So are there other cities that allow filing through the tec form on their website and somehow or another capture that information to post on the city's website. And how do other cities do it? It's an electronic system that works that issues statewide and I just kind of -- I'm trying nod why we're not doing that yet.

[11:10:02 AM]

>> We've spoken to our counterparts in San Antonio and Dallas. They developed systems to do that. The folks in San Antonio tell us that they spent in the neighborhood of -- in terms of people, resources,

contractors about \$750,000 to develop their system. The tec changed their forms last year and they weren't able to -- the system they built was not agile enough to be able to accommodate the forms so they retired the systems and post the documents much like we have in the past.

>> Gallo: I'm just trying to understand the process from an efficiency standpoint. Why can't we file with tec on their website and the city just capture and post those filings? I mean, it seems like it's a capture and post --

>> I completely agree and we have put that question to the tec in every way I can think of asking it and they decline our request to be able to have access to that data.

>> Gallo: So they're not willing to share that data?

>> Their position is that their primary purview is support of state filers, not local filers.

>> So while you may use their system to fill out the forms, they don't actually I believe retain your data for any length of time. So we even offered, we would be willing to pay to get the data, but at least at this point the impression I got was they didn't feel like they had the resources to offer that to all cities within Texas. And so my understanding is they're having some discussions. We've raised the question so -- and we've asked that it be part of like the legislative agenda to lobby the legislature to possibly build that in as a future requirement for tec, but yes, that would be a very simple solution that we just don't have access to yet.

[11:12:03 AM]

>> We could spend a lot of time and money rebuilding a system that essentially does what the tec system already does. And already meets all of the requirements of their forms. The ideal solution would be that we simply have a means to access that data that's already being submitted by you all when you put that information into the tec system to generate your reports. Unfortunately we're being told that's not possible at this time.

>> Gallo: Mayor, I hope when we talk about our legislative agenda that's top. That's so much more efficient. It's cost savings to the taxpayers. It just seems like it --

>> That's why you will see on the excel spreadsheet that you have to give us, we've really designed that to allow you to use that to import into tec's database. Had we been designing it internally we probably would have structured it slightly different than how tec had the spreadsheet you structured. We wanted to be able to use the PDF to upload that data from the interpret she'd into the system rather than having to fill it out in two different places.

>> Gallo: Thank you.

>> Zimmerman: Mr. Mayor, I want to second councilmember Gallo's request just now. As a software engineer with probably the most experience in this area, it is absolutely absurd that the tec is not providing such a tiny bit of disk space on their system. This is text and numerical data. It consumes nothing in terms of resources. They have turned into a more political organization. They used to be very cooperative 10 years ago. There has been a change at the tec. We need legislation that says look, for the same effort you could make the same tec forms available all around the state and we could have one form of system, one set of dates, one piece of software to take care of the entire state and it's ridiculous that they're not doing that for us.

[11:14:16 AM]

I hope we will push that legislation in the next session.

>> Mayor Adler: Please continue.

>> The atx 7, this is the report that is the transactions that occur in the week prior to an election. Candidates are required to file this if they accept contributions exceeding \$10,000 during that period.

Committees also have to file this report. We currently have a single document that kind of conflates committee information and candidate information, contributions and expenditures. Our recommendation on this form is basically to combine the reporting requirement for committees that was on the atx one and to move it into this form as well as combining the atx 2, which is the personal expenditures and personal loans, roll this into this report, as well as the information that's currently captured on the atx 7. So basically consolidate this reporting requirement into a single report and then clarify what information has to be provided by committees and which has to be provided by candidates by actually providing a separate PDF form that each would fill out. So what we would end up approximate with is a preelection report for candidates and office holders. This is very much like the state form, the state model where there's a cover sheet for disclosing common information and then you simply attach whatever schedules you need. So if you need to report contributions, if you need to report loans, if you need to report expenditures, you simply append those schedules to your cover sheet. Same thing for the committees if they have contributions to disclose and expenditures to report, they fill out the same information they would provide on their state form on the cover sheet and then attach whatever schedules they need. And these are all bundled up together as a single fillable PDF form from which we can pull the data to put into our database. So that in a nutshell is our proposal for the changes. In terms of status, we have briefed the ethics review commission on our proposed changes.

[11:16:19 AM]

We did that on February 10th. The ERC recommended adoption of those changes. We currently in the process of updating the forms based on our interaction with the ERC. We've met on a couple of occasions. The ERC has a working group that's focusing on the forms, so we're working with them to show them our work as we proceed. We're testing extraction of data from the forms and pushing that into our database. We're briefing you today and the item will be on this Thursday's agenda for the code changes in support of the recommendations we're making. If approved we will move forward with completion of the form design. We are scheduled to meet again with the ethics review commission on the 13th of April to present our final design of the forms. We're working under a very tight turnaround because we need to get -- if we're going to change the forms and if we're going to change the reporting requirements, we need to have these done by the first week of May because these forms as well as all of the instructions, need to go into the candidates packet that goes out on May 6th. So if we -- if we don't, then we'll push off these changes until the next election cycle. Then our plan is to incorporate these into, if all goes to plan, that we would begin importing this data and disclosing it out on the data portal at the next reporting deadline, which is July 15th. Are there any additional questions?

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Is the -- do you know about how many pages the candidate packet is? I'm trying to recall.

>> How many pages? I don't, but I can tell you estimate it's about like that.

>> Troxclair: I remember being really confused by that packet. So I know that you have a lot of other things that you're working on now.

>> I would be happy to hear any suggestions that you have for the candidates packet because we are compiling everything that goes into it.

[11:18:27 AM]

So if you have suggestions, now is the time to provide those to me.

>> Okay.

>> Troxclair: Okay. Yeah. I just remember it being confusing and redundant. I guess I can -- I'm happy to go back and look at it. It seems like it could be streamlined and like half the size that it is now.

>> We will look at that.

>> Mayor Adler: Ms. Gallo?

>> Gallo: I'm going to go back to 5, which is the bundling report. Your comment was pending clarification of the definition of bundling activities. So I guess my sense would be unless we have a clear definition of bundling activity and the associated reporting requirements, we probably shouldn't require this form. So will we have that definition prior to the form being required?

>> Well, it's already a required form.

>> Gallo: I'm honing in on the definition.

>> So we will circle back with the ethics review commission because maybe we have as councilmember Casar mentioned, maybe we have missed that they actually did decide on clarification in that hearing case. And then depending on -- I mean, we would still probably not recommend major changes to it because the bundling report also addresses contributions from lobbyists. And so there are going to be an ordinance coming forth at some point in the future redesigning the lobbyist requirements. So at least from my perspective I didn't want to do a lot of major changes to that form. If in turn it was going to have to be revised again after the lobbyist ordinance is finalized.

>> Gallo: So I guess my concern just hearing some of the conversation in the room is that there seems to be not a clear definition of bundling activity as it is addressed now with internet donations.

[11:20:28 AM]

And I would hate for us to require a form that we don't have a clear definition of what that activity is to be able to know what's to be put on the form. I mean, it just seems like it is an opportunity to fail. So that's my concern with I'm comfortable with that form continuing to stay here if we have a very clear definition of the bundling activity and associated reporting requirements.

>> We will circle back around with the council. We're on their agenda to talk about all of these in a couple of weeks and then we can send out kind of an update memo.

>> Gallo: Perfect, thank you.

>> Tovo: Mayor? I would say the definition we're using now is what you described, somebody who collects checks for a campaign physically and hands them over. It sounds like there is some interest among some in the community to look at expanding that definition, but I would say at a minimum we want to stick with the definition we have and collect information on that form for the activity that councilmember pool described. It sounds like, again, what's being discussed is whether to expand that to include a virtual form of bundling that the form doesn't -- there's at least ambiguity about whether the form currently requires that.

>> Correct.

>> Tovo: That would be my preference.

>> Gallo: Thank you for that clarification. Does this form have that definition on the form so it's very clear to somebody that's filling out this form that's the definition?

>> Yes.

>> Gallo: At this point?

>> Yes. It's based on the current code, which the mayor pro tem, as she indicated, is you collect the checks and turn them in as a bundle.

>> Gallo: And that's reflected on the form that you're filling out to turn in.

>> Yes.

>> Gallo: It seems really confusing with the internet issue and that. So thank you for bringing that up and thank you for putting that on the form.

[11:22:44 AM]

>> From a data perspective there is some complexity and I wanted to work with the erc to make sure we're doing this correctly. If a transaction, a contribution is being reported on a bundling report, it's also going to be reported on the candidate's contribution and expenditure report and how do we provide a linkage so that somebody who is looking at that data knows that that transaction is this transaction and that all of these contributions are actually a bundling of this line item that's being reported on a contribution? So there's a data management component that is getting a little bit complex. So again, I'd like to get some clarification on exactly what data are we going to be collecting before we make significant changes to the database infrastructure that we build.

>> Mayor Adler: Right now it will maintain the same database structure that we have on bundling?

>> Yes, that's correct.

>> Mayor Adler: Anything else?

>> Pool: I wanted to thank staff again for this next step in additional transparency and accountability and efficiencies in our campaign finance reporting. To the point that councilmember troxclair made about the packet, we had talked a year ago, I think it was when we first started talking about the electronic submission of our forms and so forth, that we would have an easy to understand explanation of our process. One that in my mind was a program so that staff could actually talk about it rather than saying this is legal advice and we can't describe this program to you or explain the program to you because it's legal advice and in my mind it's like trying to describe smart housing to someone or what we do with our reserves policy, our financial policies. It's a program. And this is a program of the city. And we haven't gotten to this point yet, but I would very much like to have the discussion where there will be bits about our financial -- our campaign finance program that staff is able to talk about without having to say, talk to your attorney.

[11:24:53 AM]

>> And that is something that we have had quite a bit of conversation with our law department and so I think one of the things you will see in one of the memos in the candidates' packet for me this year is the offer that if you have questions we will be happy to schedule a meeting with you that would include a representative of the city clerk's office as well as city legal so that we can try to help answer those questions for you and then law is there to help reel us in if we're crossing any boundaries that we shouldn't be. But we're hoping that some folks will take us up on those meetings so we can get a good feel for what type of questions they have and what difficulties they're having and then we can always use that as information to expand our online faq on what to do, but we will make an offer to any of the candidates if they would like a one on one meeting throughout the campaign to ask questions about the different forms, we will make that available to them.

>> Gallo: And that would make sure that the information that's offered up is standardized because the authorities of it will be the ones giving the same information so that there won't be any -- ambiguity will be reduced. And then that will also feed into the handbook idea that we were talking about, which I think is the faqs that you've mentioned, but also something that would take the paper packet and reduce -- maybe reduce the amounts, especially with links to something, because I think in the packet you provide copies -- paper copies of all the forms, for example.

>> Yes.

>> Pool: And we don't have to decide that now, but there's a whole lot more yet to do. There's always more work to do. I'll just go back to saying I so appreciate all of the concerted and focused effort that y'all have been putting towards this.

>> The candidates' packet last time was probably a little larger than it had been in the past in part because we included hard copies of the city code that related to these because we were in transition between two different code publishers and we didn't want to just provide the link to the first publisher that may or may not have the link valuable throughout the campaign.

[11:27:17 AM]

So those are some things we can eliminate definitely to help reduce the physical size of that document.

>> Pool: Thanks.

>> Mayor Adler: Mr. Casar?

>> Casar: One question you had mentioned on the preelection reporting that there were some changes or clarifications to how often they had to be reported, that y'all recommended that there was just one date in that last week before the election that you think those things should be supported, but the erc recommended something else?

>> Daily.

>> Casar: What does daily mean?

>> So it's triggered by -- bob will correct me if I'm wrong. It's triggered by a dollar amount when you reach a certain threshold during that period you have to file the following day, after meeting that threshold. So if you meet that threshold everyday during that period then you would have to file a report everyday. If you only meet it once, then you would just file one report the following day.

>> Casar: And that's for contributions and expenditures or just contributions? Because I can see somebody spending down on a large sum of money in those final days.

>> For candidates it's simply contributions. For committees it's contributions as well as expenditures.

>> Casar: So for -- so on contribution side, what's the limit, 10,000?

>> 10,000, correct.

>> Casar: If one were to receive \$10,000' worth of contributions for three different days, the three reports would have to be filed within 24 hours under the ercs and your recommendation was just setting one time or --

>> Our initial recommendation was just one report, one time. Erc thought one, the daily reporting requirement aligns it with what the state requires for state filers, but also that it would also -- during that very limited time period right before the election when there's no state form that you're filing it with the clerk's office, it would increase transparency by requiring folks -- giving the public the Tracy to the information before election day.

[11:29:29 AM]

>> Casar: No, I understand sort of the pros and cons. What I'm asking is what was your recommendation with just one report at any time during --

>> One report like the day before the election.

>> Casar: Okay.

>> So that, for example, if you received three different contributions of \$10,000, rather than filing them the next day after that was received, you would file a single report the day before election day that aggregated all of the contributions received during that period. And again, I can tell you our recommendation was based purely on our own resources because it takes us time to process those reports when they're received and get them uploaded. So getting a single report from each candidate as opposed to multiple reports from each candidate --

>> But it's not what we're recommending.

>> The erc did not agree with our suggestion on this.

>> Casar: I understand. And the existing practice, can you remind us what the existing rules are that we have related to those nine days?

>> It's -- the existing practice is it is a daily reporting requirement, correct? So that's not changing.

>> Mayor Adler: Councilmember kitchen?

>> Tovo: I think that some of those changes happened maybe for the first time in the last election. It seems like there was some additional reporting requirements that were added through council resolution that took effect just in that last one. So just by way of context it was a fairly new addition to have those additional reporting requirements at the end so that campaigns could be aware of how -- of the money flowing in in those last days. So it's just another data point, but that was important to some in the community that we have those additional provisions in there that they made for a lot more work for candidates, but it's a balance.

>> Pool: And I'm hoping we're not removing those.

>> No.

>> Pool: They're being captured on a standardized form and we're simply eliminating the requirement that we do it a second time on a different form.

[11:31:31 AM]

>> Mayor Adler: Councilmember kitchen, did you have something else?

>> Kitchen: I just have a process question. First off, I echo councilmember pool's thank you to you all. I mean, this is very important to streamline the process and that's very much appreciated. There are, it sounds like, just a few instances where there's actually maybe a change in substance to some extent that relate to the timing things that you all are going to do side by side. So I'm just curious about process because this is on consent at the moment, but what kind of public -- has there been any opportunity for public input? And I don't know if we'll have people testifying on Thursday or not, but I just want to understand what we're thinking in terms of the opportunity for folks to comment. I guess the question to you guys is what kind of public comment has there been?

>> We have not done any public comment because to be honest, we hadn't really thought about needing to make any code changes when we took on the campaign finance data strong initiative, whatever we're calling it. And it wasn't until after we finish the phase one, which was the July -- the January 15th filing deadline that we turned our focus to these forms. And as we were trying to figure out how to just make structural changes to the forms to direct the data that we realize that there are different reporting requirements that can make it a little tricky to collect the data. And so that didn't occur. So we didn't actually start taking a look at these forms until late January. And then we want to get their feedback in early February and we're here now. And we're just trying to figure out if it's something you all want to go forth with so that if we can do it we can get it done in time for the may candidates' packet, otherwise then there's no time constriction and we can wait until the next election cycle almost to adopt some changes.

[11:33:48 AM]

>> Mayor Adler:, Ms. Troxclair.

>> Troxclair: But was there -- I assume the ethics review commission was an open public meeting where there was opportunity for public input?

>> There was an opportunity there. There was not anyone that came and had any comments on the proposals.

>> Troxclair: I just wanted to say thanks -- to me this streamlining is going to be I think really helpful. It is really overwhelming and confusing to keep up with all of the forms and to understand what the purpose

of each one of them is. And I don't necessarily think that more frequent reporting of duplicate information is necessarily more transparent because the public is confused when there's so many deadlines as well. Not just the candidates, but the public as well. So I think this is just an effort to not necessarily change any of the information that's disclosed, but to make sure that all of the deadlines are streamlined. So everybody knows what information is available when.

>> And it has been a very difficult project to try to balance what we've heard from the public in the past, what we've heard from candidates and try to apply that to how do we collect the data electronically so we can put it out on the web where they can download it without causing confusion on did you get five contributions in different periods from the same person or what's going on with the data? It's been an interesting learning curve for us that I'm glad we went through.

>> Troxclair: Well, no, I really appreciate it.

>> That's what I will state publicly.

[Laughter].

>> Troxclair: And thank you to councilmember pool too who has done a lot of work on this as well. My last question was about -- I don't remember what it's called. It's like a personal financial -- it's not the state's personal financial statement.

>> That's the statement of financial information.

[11:35:49 AM]

>> Troxclair: Okay. Is that in here?

>> That's not in here because we don't -- yeah. It's -- we separate it and don't ask me why, from campaign finance. Probably in part because staff also have to file the statement of financial information. The difference between council and staff is you also have to file a July update that staff is not required. And I know there has been some discussion in the past about whether the July update is necessary. So once we get this in place or resolved we're happy to take a look and come back with recommendations on that form as well.

>> Troxclair: Okay. I would be curious. I don't know, when we were going through this I was wondering if that deadline was going to be uniform as well.

>> It's not, but it's not uniform with any -- yeah. It has its own deadlines that I'm not sure how they came about. One of the things that we are going to try to do is -- and we've started it and almost have it finished is just put together a complete reporting schedule each year that would start in January and go through December with all of the forms, state and city forms that are required for you to file. When you have to file it, what the different reporting periods would be for each of those reports. And so we almost have it finished, just depending on where we plug in the city forms, the atx forms. And then we will post that to the web and email it out to everyone, but to try to streamline and make it easy for you to kind have a checklist that in January I have to do this and this. December and I have to do this and this, and this is the reporting areas.

>> Troxclair: Okay.

[11:37:49 AM]

And I understand that this form is not included here, but there is also a state personal financial information --

>> There is a state personal --

>> Troxclair: Is that deadline -- are there three -- there's these deadlines and then there's state personal financial and then there's city personal financial.

>> Yes. We did not include those three forms in this analysis because they're not part of the electronic filing requirement. And so again, this project was just narrowed to the --

>> I understand.

>> We can do an analysis afterwards of the state personal financial statement, which is the pfs, and compare it against the city statement of financial information, the sfi, and the July update of the sfi.

>> Troxclair: Okay. And those two forms also have different deadlines as well?

>> Yes.

>> Troxclair: Okay. Yeah, I would be really -- I would be really interested in that.

>> Mayor Adler: Okay. Are we ready to move to the agenda?

>> Zimmerman: Final quick note on this if I could. This is all really important stuff. Owing to the calendar blackout period that Austin has. This was one of the subjects of our federal lawsuit on whether it was legal for the city of Austin to have calendar blackouts for candidate contributions and expenditures versus office holder contributions and expenditures. I wanted to point out that my colleague, councilmember Casar, had some hefty legal bills and so the way his campaign handled it is I think they actually filed two reports. One is like office holder report and the legal was legal defense or that subchapter that has exceptions for contributions based on your legal fund. So there are actually two reports filed. I'd like at some point to see some direction from the city for how they want to handle that. The fact that you've separated out office holder expenses and an office holder form versus legal defense contributions you can take during a reporting period, there's a lot of confusion in that.

[11:39:58 AM]

>> I'm happy to add that to the list of all of the projects that we would like to undertake when we have time and the ability to do it.

>> Zimmerman: Because it's messy. When you start looking at the details of it, it's very messy.

>> Mayor Adler: Thank you very much. Council, we have six items that have been pulled. Ms. Troxclair, you pulled the construction contract?

>> Troxclair: Thank you for sitting here all morning. I'm really sorry that it took us so long. I know I'm always torn on whether we should do briefings first or not because sometimes I feel like there's staff here that sits around that could probably leave after a couple of minutes. Item number 4, the wastewater line improvements. I don't think it said this in the item, but is this related to the remanufacturing hub?

>> Bart Jennings, Austin utility. You are correct about the Austin manufacturing hub as being one of those, but another one is related to a development in the lindavista subdivision where the developer is proposing some industrial warehousing. Let me show you on this particular map. So this is the property owned by Austin resource recovery and this phase 1 is of the Austin manufacturing hub. This area in blue is the proposed area by the developer and it just so happens that the infrastructure that needs to be built to serve this property also is the same infrastructure that needs to be built to serve this property. There is about 16,000 feet of wastewater line and about three thousand feet of 15-inch wastewater line that is needed to be able to provide service to this area.

[11:42:08 AM]

>> Troxclair: So if we were only serving the development, the blue part, it would be the same cost?

>> Same infrastructure, yes, ma'am.

>> Troxclair: Okay. But -- how is the financing -- how is the financing of this working?

>> For the construction cost?

>> Troxclair: Yes.

>> The Austin water utility is considering this a cip. The developer for the blue area has contributed and paid for all of the design for the entire line. And when we started taking a look at the proportionate share of cost, the cost for the design would meet the roughly proportionate share for the infrastructure. So we had an agreement to where they went ahead and designed the entire line and then we'll go ahead, the city of Austin, and build the infrastructure for that line. The arr is planning to reimburse the utility over a period of time for whatever infrastructure is their proportionate share to meet their development needs.

>> Troxclair: So do you have an idea of what their proportionate share -- what would be a portion of the 1.8 million?

>> Yes. And no, I don't have those figures right off the bat, but what we had indicated in a letter of agreement with the -- between the two departments is that Austin water would provide up to \$5 million for infrastructure related to the development for that area.

>> Troxclair: What does that mean, 5 million? I thought we were talking about a portion of 1.8 million?

>> That's for the entire development.

>> Bob is here also, but the proportionate share on this is much smaller than five million. I think, bob, do you have the number?

[11:44:09 AM]

>> Yes, bob gedert, director of Austin resource recovery. The arr portion through a volume assessment is about \$1.3 million of this project.

>> Troxclair: So what is the 5 million?

>> It was a conceptual number several years ago. When it was starting we weren't sure how much infrastructure was involved and that was a conceptual number we had. Now that we have hard bids in place they would only pay their proportionate share of this.

>> Troxclair: So the development in blue is covering 500,000 and arr is going to pay back the water utility for 3.1 million for about the next --

>> About 20 years.

>> Troxclair: Is that typical, that kind of financing structure where you have a department paying back the water utility over that amount of time?

>> It's unusual. Typically we don't have city departments that are going to redevelop a site, but this was something that bob and I had talked about, and it made sense for us in the sense that this area is developing, there's other development there. As a matter of fact, the line would serve other developments beyond just these two in the future D it have more gravity to go downstream?

>> Yes.

>> This was an opportunity for us to complement several goals, development in the service system as well as bob's plans for his site.

>> Troxclair: Have we issued an rfp for the remanufacturing hub site?

>> We are in development of that rfp. We are seeking a developer of the site. As we evaluate the specs for the rfp for the developer, it was considered a necessity to have this continuation of this wastewater line. It would be needed no matter who manages the site and who develops the site.

>> Troxclair: I guess it would be -- okay. I guess it would be needed, but a lot of times -- just like the developer of the blue property, a lot of times the developer pays for the cost of the infrastructure improvement.

[11:46:14 AM]

So it seems to me that if we did have an rfp, we did have another developer who was interested in developing that site, for that purpose, that they would possibly be willing to cover all of -- a portion, if not all of the cost of this.

>> Under that scenario the wastewater line would not be developed to the capacity to service the city property. So this line was sized to a larger degree to service both properties.

>> Essentially it's very common for the utility and required that we size infrastructure for the development of the entire basin. And that's what we did in this case. That's why I think it's an 18-inch gravity line. And then we either do it through our cip or if a developer does it then we pay a portion of the infrastructure for the oversizing cost. So this isn't that unusual in that regard that this infrastructure sized for not only the property that bob owns and the property that's developing now, but other property that would develop in this basin in the future.

>> Troxclair: Okay. I guess it seems like we're making this decision out of the context. I mean, we've had lengthy council discussions at this point about the future of that site and the remanufacturing hub. And it seems like making this decision is a little bit out of context of -- or premature because we really don't know exactly what the future of that site is right now or how it might be developed.

>> In terms of the infrastructure itself, let's just say that the manufacturing hub never came about at all. We would still have sized the infrastructure to be able to serve the basin. The develop still would have cost participated in the infrastructure to be able to bring wastewater service to the property that he's proposing to put warehouse, industrial warehousing on.

[11:48:16 AM]

So the project itself would have happened regardless of whether the manufacturing hub was going to be built or not.

>> Troxclair: Would the portion that they would be required to cover change?

>> Not for this particular developer in the blue box that you're talking about. That would have not changed for him. The city of Austin would have carried over the -- Austin water utility would have paid for the oversizing to be able to serve the rest of the basin.

>> And we would take that oversizing and roll it into our capital recovery fees. In this particular case instead of capital recovery fees making that up, a portion would come from bob's development or his funding.

>> Troxclair: Yeah. So if in your hypothetical situation where the remanufacturing hub didn't come about just for purposes of understanding the financing, we wouldn't have the agreement in our agenda item that arr is paying for, the \$1.3 million?

>> Can you say that again?

>> Troxclair: Well, we're approving an agreement where Austin resource recovery is paying Austin water for -- for the water infrastructure but we don't know the future of that property. And if the remanufacturing hub does not come to fruition, we would not have this agreement where arr is reimbursing the water utility. I don't know. It just seems like a decision that should be made after we understand the ultimate outcome of that piece of water.

>> Regardless of what happens to the arr property, you have a developer who has requested wastewater service and given the basin, that's the infrastructure that's needed. In a typical cost reimbursement, cost participation process, we would have had the developer pay its proportionate share of the hard cost and the soft cost and the city of Austin would have cost participated and pay its share.

[11:50:19 AM]

So the Numbers for the developer would have been exactly the same.

>> Troxclair: So I understand that, but what would change -- but we wouldn't have the agreement with arr and Austin water utility that is included in our agenda item.

>> If I may jump in here and clarify finance reporting, Robert Goode, assistant city manager. If it doesn't occur they will get reimbursed through capital recovery fees. So this isn't -- I know where you're heading. This isn't an if we decide now it's a Fait accompli that the remanufacturing hub, it doesn't do that. So if that unravels and falls apart, they will still build the same infrastructure. We'll be reimbursed with a different method, either from arr if it's a remanufacturing hub, if it isn't through a different method, through the capital recovery fees. So this doesn't dictate that we have to do the remanufacturing hub if you approve this. This is just an oversizing agreement.

>> Troxclair: It doesn't dictate that we have to, but it also would make more sense from a process standpoint to make a reimbursement agreement after we understand the outcome of that property. So many times we are presented with items and it's like well, we've already invested this or we already have these three agreements in place so we are -- I'm not talking about this item, but I'm talking about future items. Next time we come back to the remanufacturing hub, well, all these things are already in place and oh, you can't go back now because of this and this and this. And it seems like this is how we get into this situations where we're kind of putting the cart before the horse. I understand the need that the developer's portion wouldn't change. I understand that the infrastructure need wouldn't change, but I don't understand why Austin resource recovery is included in this item right now when we could make the agreement with Austin resource recovery, the same agreement after we know the ultimate outcome of the remanufacturing hub.

>> I think in the current processes for the remanufacturing hub, our current pathway is developing an rfp for a private developer to develop the site.

[11:52:30 AM]

It is Normal assumption by these developers that might bid on the property that wastewater and water is sourced to the property line. And that's what this project does. So this -- in order for the remanufacturing hub under its current pathway of bidding out for a private developer, this is a necessary activity.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Mayor pro tem, then don.

>> Tovo: So I just wanted to understand some of the dialogue that just transpired. With or without the remanufacturing hub, we would still have a request from a developer to oversize -- to reimburse, to enter into this agreement because we're oversizing the lines to handle the capacity in that area.

>> Yes, ma'am, that's correct.

>> Tovo: Is there any additional capacity that's being added to serve the remanufacturing hub?

>> We consider the basin as a whole and make assumptions based upon that. It is not specifically sized to meet the exact needs because those aren't exactly known for what's going to happen on that particular site. So that's our standard process of doing that. We take some estimates for the growth in the basin and then size the infrastructure accordingly.

>> Tovo: So you would have to estimate -- you would have to estimate based on something happening on that tract because we don't want to go back in -- if the city decided we're not going to build a remanufacturing hub, we're going to sell the tract, something would happen on that tract that would require that water and wastewater line. So one way or the other, regardless of what happens on that, what is now a city-owned piece of land, you would be -- you would be making that decision about capacity based on an assumption about something happening on that tract.

>> That's correct. That tract would be in our calculations, yes.

[11:54:30 AM]

>> Tovo: Okay. Thank you. I think that's helpful. I understand the point that you're making, but it sounds like one way or the other we would be sizing those lines for development on that tract.

>> Zimmerman: Mr. Mayor? So the way I understood councilmember troxclair's question, and I'm sorry she had to ask it about four times, but the common sense rationale for what I see that's going on here is that the Austin water utility is in some financial distress. We have a staggering debt, right, already with Austin water, with the Austin water utility. And we had this big debate about pilot knob and there were a bunch of fees that were expected to be coming in from pilot knob, now it appears that money will not be coming into Austin water so now we're looking for other places to get money. So I think what makes perfect sense for what you're doing here, nobody's arguing it makes sense to oversize the line. That's technical common sense, right? That's the economy of scale. Let's do that. The objection -- I have the same objection. I will be vote is against this. We should not be speculating that Austin resource recovery might be buying the land and therefore that justifies the money coming from there and going to the water utility to pay for the oversizing. Water utility should pay for the oversizing, Austin water utility. Let's keep the money in the same buckets and not be shifting money around and cost-shifting again. We already got in trouble with this over the pilot knob deal. People get confused. We say we're going to get capital recovery fees and we're going to pay for this development. That was our understanding. We have Austin water have these millions of dollars that we pay for infrastructure, then development pays us back as they start to use it. That was the model. And it made sense. So now we've shifted some money away from the water utility that was supposed to pay for this and it's going to the housing corporation. Now today we're confronted with Austin resource recovery and they're paying some money for oversizing when it's not even clear they're going to be using the property.

[11:56:39 AM]

So I wish we could just be more transparent and straightforward in the way we do these deals. We have to stop shuffling money around.

>> Mayor Adler: My sense in looking at this is, we're going to oversize the line, we're going to do the expenditure, the question is, where does that money come from. We're saying if Austin resource recovery, in fact, has a buyer that takes this in, then it will be part of the development cost that buyer pays. If there is no buyer on that, then there is no money to generate that. And ultimately, it could come from a capital recovery fee.

>> That's correct.

>> Mayor Adler: So we're really not deciding anything at this point. The project is moving forward. Where it gets paid from will eventually be decided based on what ultimately happens. Is that right?

>> Yes.

>> Mayor Adler: Okay. From a work session standpoint, is there more that we need to go over on this item now? Did you have something else?

>> Troxclair: I mean, I think you said earlier when I was asking, if a developer did enter into an rfp, or something, if a developer ended up developing that property, you said that they had an expectation that the water infrastructure would be there. And that a developer would not cover the costs of the infrastructure. And I'm confused by that. That's the purpose of our capital recovery fees, and having development pay for itself is having developers cover the cost of our infrastructure.

>> The first half's correct, but the second half, no. The -- it is an expectation in the development of this rfp and the developers that might bid on this to have basic wastewater and water services up to the

juncture point of the property. The reimbursement of cost is negotiable depending upon the bids that we receive.

[11:58:42 AM]

It would be our ambition to recover that cost, but we're uncertain what type of bids we would receive. But that would be part of that conversation. There's no assumption that we would not be reimbursed.

>> Troxclair: Okay, okay. Yeah, thanks. I mean, I still have an objection to -- it's a process question. It's not whether or not we should oversize the infrastructure. It's a process question about how it's paid for and what processes do we follow, and why are we making decisions about one thing before we understand what our decisions are about another thing. So, I still have that objection, but I understand.

>> Mayor Adler: Okay. Mayor pro tem.

>> Tovo: Just one last question. Is this actually -- is the rca before us authorizing the transfer of funds from Austin resource recovery? It looks to me like we're just --

>> We just provided additional context in the description.

>> Tovo: Okay. So we're not authorizing that shift.

>> Mayor Adler: Okay. Any more discussion? Then we'll go to the next one. Ms. -- Troxclair, you pulled the next two, social service contracts, item 19 and 20. Thank you.

>> We already --

>> Troxclair: Right. Okay. So my question on these were similar. So I just pulled them both. I remember when we had the conversation as a council to -- when we passed resolutions to increase money to health and human services, as well as start a community-based prevention and education program. And at the time, we were talking about specific amounts of money. I mean, I remember in our health and human services committee, we talked about that \$1 million, \$1 million, \$1 million.

[12:00:43 PM]

But I don't understand. So my questions are twofold. Well, first the process question. How does that go from -- I didn't remember in the conversation of either of those resolutions that we had a conversation of how long this -- that it would extend for. I was under the impression that what we were talking about was just in this fiscal year, this budget cycle, or maybe for the next year. And both of these things when they came back, now item number 19 is -- let's see. I think it's three one-year extensions. \$13.5 million each, total funding of \$41.8 million. And then five one-year extensions of 1.05 million each, total contract amount of \$6.3 million. And I don't remember ever having a conversation about what the length of those contracts should be. So can you help me clarify?

>> Stephanie Hayden, deputy director of health and human services. The contracts that you have questions about were a 37-month contract with three 12-month renewal options. And so basically, this is just going back in during the budget process, council added some additional funding. And so this is just going back in, adding the 6% to the contracts were we don't have the authorization to add that funding. So this is what this action is doing. Remember having a conversation that this was going to be not just this year, but also committing us for the next, like, five years?

>> Houston: I asked the same question, because one of them has a five-year extension. I said, don't we just do a base three-year? I think -- I was corrected, and said you do a base of three years, and then a contract for three years, so a total of six years.

[12:02:51 PM]

If I'm not getting this right, Ms. Hayden, please stop me. And so, for the -- is it 19? Yeah, for 19 we were trying to increase their ability to serve more clients. And you couldn't increase that without increasing some staffing. And so rather than doing it on the annual basis, I think they said they had to do it on a three-year bases, but I'm going to let them answer that because I'm not sure. About, under 19, the ones that got extended longer instead of just for this next fiscal year.

>> Okay. So, let me just maybe take a step back. With the ones from number 19, they are the result of a solicitation. And within that solicitation, we went for 37-month contracts with three 12-month renewal options based on that solicitation.

>> Troxclair: And how was that 37 months decided upon? Was that specifically in the resolution that the council passed? That it would be for a 37-month period?

>> It was not a resolution, but it was based upon working with the former council, because they added a million dollars. So that's kind of where you're probably thinking about the million dollars. They added a million dollars to that particular budget year. Our advice from the law department and purchasing -- those contracts had to start that fiscal year before -- within that fiscal year. So that's why you have the 37-month contract, which is your three-year base, plus the month. And then they were the additional three-year, 12-month renewal options.

[12:04:57 PM]

>> Troxclair: So -- but when you said they made the decision to increase funding by a million dollars in that year . . .

>> The former council, during their budget process, they awarded a million dollars. Because when we went through the solicitation process, there were over \$29 million worth of requests that came in. And so they added an additional million dollars during that budget process to bring it up to an additional \$16 million, is what the end result was.

>> Troxclair: Okay. I guess -- I mean, we've had a couple of health and human services-related resolutions recently, and I just -- I mean, maybe I need to do a better job of asking that question in the future. I didn't understand that when we were talking about increasing something by a million dollars this fiscal year, we were actually talking about the next three years, and three extensions after that. I mean, it's a ton of money that we're dedicating here. And it's not just affecting this fiscal year. It's affecting future years. So I guess I need -- I guess it's a learning opportunity for me, and I'll be better about asking that question in the future. But then it does lead me to believe -- or lead me to ask -- I mean, on item number 19, we're talking about over \$40 million that we're allocating, or that we're dedicating to this purpose right now. And so I would have wanted -- or I guess I still do want -- more clarification of what we're expecting -- what our metrics are, what we're expecting to get for that \$40 million over the next several years. You know. I want to know that for that -- you know. We're going to help this many people, you know, get back up on their feet. We're going to help this many people. And a lot of that -- I mean, I understand that programs, the administration of programs takes staff.

[12:07:02 PM]

But I am concerned that a lot of the money gets spent on staff and we don't have a whole lot of outcome. It seems like in health and human services in general, we don't have a lot of outcome-based metrics. We only have input-based, we only have well, we'll just put more money in it, but we don't look at the results. And sometimes the results are tied to increasing enrollment in something. When I think that our goal should be helping people get back on their feet and not be dependent on whatever the program is. So do we have metrics that are tied to what we're getting for that \$40 million?

>> We have metrics. We have outcomes for each contract. And therefore, they are specific outcomes. So, for example, 75% of people will maintain their housing due to the case management supports that they're receiving, for example. And then when we're looking at children, we are following children as they are progressing to the next grade. So quarterly performance measures are received from the agencies. And if the measures are above or below, there is a justification that is required. As we move forward, we are -- as Mr. Jones had mentioned to the health and human services commission, we are going to provide a report. He did an update a couple of months ago. And we're going to provide an ongoing report to the health and human services committee.

>> Troxclair: Are you able, by Thursday, to provide us a list of what the metrics are?

>> If you look at your backup, ma'am, for each one of these we provided -- so for example, with Austin independent school district, what we did is, we provided a program work statement so you could see exactly the work that they're going to do. And then the performance measures are there as backup to these particular metrics.

[12:09:06 PM]

>> Troxclair: Do you know when that backup was added?

>> It was added when the rca was launched about five weeks ago.

>> Troxclair: I do have the backup, but I don't see that list.

>> We can provide that. So the list that you're looking at is the individual list. But in addition to that individual list, we provided a work statement for each one of those agencies, so from aisd to lifeworks to safe place so that we did provide that information.

>> Troxclair: Thank you.

>> Yes, ma'am.

>> Councilmember troxclair, if I could just add, assistant city manager. I know the staff and previous council did a lot of work in terms of transitioning over to specific outcomes. There's a lot of work that was done in that respect. And we'll be more than happy to share a lot of that work, and certainly welcome your feedback in there's any areas that we need to improve. A lot of the work was focused on transitioning folks. In the past, I think it's safe to say that a lot of the services were, you know -- didn't have the outcomes that we would have loved to have seen. But now because we're dealing with a variety of different populations, it was trying to transition them from one level to another so they can be successful. And we have specific outcomes that address that. This funding, I think, came out as a result of the need for trying to keep up with cost, because it's similar to what the city experiences in cost of -- increases in cost. I think the previous council had a discussion about how can we get some more money to these agencies that are trying to keep up with increased cost. Some of them weren't able to even give minimal increases to some of their staff that have been working for years. So some of that discussion came out of that. And so what staff has done is try to come up with a formula as to how we could effect those contracts. If you do one year, you do the consumer price index or cost of living increase for one year, how're you going to adjust it if the funding doesn't come in subsequent years?

[12:11:16 PM]

It was tied to the 37 months because that was the time period that we all determined would be an adequate time for staff to be able to, kind of, see the results of the work, and the outcomes that each of these agencies are responsible for in their respective contracts. That's why the 37 months was the period that we landed on, and that was with the previous council. But we have committed to councilmember Houston and her work with the health and human services subcommittee that we will revisit all of those issues, including the 37 months, all of the issues related to performance outcomes. If

this council wants to make any changes for those contracts as they come up in the future, we certainly welcome that opportunity.

>> Renteria: Mayor.

>> Mayor Adler: Yes, Mr. Renteria.

>> Renteria: I just want to let the rest of the members know that there is backup right now. But I do have a question on number 20. I'm just -- I could put all these -- most of these projects. But I'm kind of curious about on the last page in the back of our backup here, the -- they have the Austin revitalization authority. What -- I thought they were more into real estate and stuff. What's -- how did -- what are they going to be doing, Austin outreach and community service on African American health?

>> You are correct. They are actually going to be the fiscal agent for the nonprofit, the Austin outreach and community services. And that particular agency provides HIV education and prevention services to minorities. And so basically, they're going to be the fiscal agent for that nonprofit.

>> Renteria: Okay. So they're going to be doing all the paperwork. So how much money is actually going to go out for the AIDS programs?

[12:13:22 PM]

Are they going to use all that money up just for administrative?

>> No, sir. We always ensure that no more than 10% can be charged for an administrative fee. That's the max. So some of them will list 6%. But the majority of the funding does go out for services.

>> Renteria: Okay. Thank you.

>> Houston: And mayor.

>> Mayor Adler: Yes.

>> Houston: Part of this was about capacity-building. Some of the young nonprofits that work in specific communities don't have the expertise to be able to do the books and have the people on the board. And so by having the Austin revitalization authority as a person that kind of helps them and supports them as they get on the ground, then maybe the next time they can get in the big league and get some of the big dollars.

>> Mayor Adler: Any further questions on these? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. About ten pages into the backup material, I see something that presumes to be performance measures. It's any baby can of Austin, inc., is that one of the 13 organizations getting the money, taxpayer money here? But I want to back up to the first page of the 40 million, item 19, \$40,319,844. That's fairly specific. To the dollar, okay. I want to point out the specificity of the amount of money taxpayers are committed to. \$40,319,844. On the back side of that page, it says performance measures for this amendment, as well as contract exhibits. That was the thing I just referenced, that's already meaningless. But it says will be negotiated for the 13 social service agencies. The bottom line of this is staff is asking us to hand over \$40 million of our city taxpayers' money.

[12:15:26 PM]

This is a city in an affordability crisis. We're going to hand over \$40 million. And the short answer is, we have no idea how that money's going to be used. There's no commitment to any kind of metrics. What's listed in here as an example, let me read you one of the examples. Percent of individuals who demonstrate improved life skills. That's not a metric. That's a subjective opinion. Not a metric. So no matter how miserably the program failed, somebody could subjectively say, well, we had 80% of the individuals who demonstrated improved life skills. It's meaningless. And I think for this reason, this is an obscene waste of money. It's a lack of discipline, a lack of fiscal accountability, and it's what's destroying the affordability in our city.

>> Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: Councilmember, mayor, I'm sorry. I certainly understand the frustration. I can feel it from being so close here. But when you're dealing with young children with developmental delays, you cannot be but so precise, because the improvement in skills, life skills, takes time. And it sometimes takes years to get people who are babies and have been placed in any baby can to receive the kinds of skills they need. Their parents have to be trained. There's so much to go into, you can't be as specific as if you were doing an engineering project with specific metrics. These are children who are very vulnerable, who have a lot of challenges, both intellectually and physically. And so there's some things that we can't be as precise as we could be. We'll try to look at that over this next year and see if we can come up with some. But on that particular one, that's the best that we can do at this time.

[12:17:27 PM]

>> Mayor Adler: Okay. Anything else on these items? Thank you very much. Ms. Kitchen, I think you pulled the next one.

>> Kitchen: I'll be very quick. I know we're all tight on time. But I pulled item number 21, which relates to large use of the fee in lieu option under the plaza Todd regulations. I pulled it. I support this project. I pulled it because it is on consent. But I pulled it because our -- you know, our council usually has a lot of questions related to fee in lieu. And so I thought that it would be best, if there are questions, and people haven't had the chance to think through this, that we do it in the work session instead of on Thursday. And that's the reason I pulled it. I support the project. I think it's very interesting in the sense that the end result of this fee in lieu request actually spurs more development on the on-site, as you all have seen from the backup. I think there's a nice summary in the backup about how this fee in lieu actually ends up with more on-site affordable housing. And as well as one desirable -- you know, one family-friendly, affordable unit. So anyway, I just pulled it for that reason. I think we have staff here that can explain the deal. I think it's worth our time, if people have concerns or questions about it, that we just take a few minutes. I mean, everyone may be fully familiar and don't have any questions, but I lay it out there.

>> Renteria: I do have a couple questions.

>> Kitchen: Okay, so let's . . .

>> Renteria: On that family-based unit that's going to be built at the 310, is that going to be for ownership?

>> Kitchen: Yes.

[12:19:27 PM]

>> Renteria: And that also is going to be a three-bedroom family?

>> It's a two or three, yes, sir.

>> Renteria: Okay. And are we going to make an effort to locate someone that has grown up in that neighborhood?

>> It is my understanding that the developer or the entity that they work with, which in this case would probably be habitat, will make an effort, absolutely, to make sure that someone who has resided or resides in the area is the beneficiary of the unit.

>> Renteria: Is the fee in lieu be used to help build it?

>> Theoretically, yes. They have to apply back, but it's my expectation it could be used to help offset the cost for that unit.

>> Renteria: Do you know how much that amount is?

>> As of right now, roughly \$94,000.

>> Renteria: 94,000. Okay.

>> Houston: And, mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I have some concerns about fee in lieu of in general. And so, I'm going to see if you all can help me understand that. It seems like rather than -- we're always talking about mixed income and the diversity that we want to encourage. But when we do a "Fee in lieu of," and then we're going to develop another property on 4th street, I believe, I can't remember. We're going to have one three-bedroom, two-bedroom, maybe, family unit in the property. That defeats the purpose of having mixed-use development, with mixed income and diversity there. It sounds like we're segregating again, saying we're going to have one unit for these kinds of folks, and then we're going to build another unit -- a bunch of multifamily over here. And we're going to have a cursory three-bedroom or two-bedroom rented for families at an affordable rate.

[12:21:31 PM]

I thought that when we talked about imagine Austin, we were talking about, regardless of what people made, we were going to ensure that people had the same opportunity to live where everybody else is living. And so, we're subsidizing this sum, I guess because housing is here. So why is it that we cannot keep the people who are at that lower income range on the property rather than moving that money someplace else so that they don't have the benefit of living where everybody else has to live?

>> Would you like me to try to address that?

>> Mayor Adler: Please.

>> Sure. So one of the challenges with this density bonus program is, there really is not any sort of scale or difference as far as calculating the requirement for affordable housing when they exercise the density bonus. This particular developer has requested a very small amount of the density bonus. So if they were to ask for a large increase on the floor to area ratio versus the small amount that they have requested, the requirement for the affordability on-site would require a very large amount. 11 of the 18 units. In the tod regulating plan, it is a requirement that they have commercial and residential. One of the challenges with this density bonus program is that the affordability is calculated on the entire square footage, which includes the commercial. And so in that, the requirement for this particular project, whether they ask for one additional square foot or a thousand square feet, or a hundred thousand square feet, is that they have to mandate that 11 of the 18 units would be affordable. That is -- this is not an affordable housing developer. And so that is a very difficult requirement for this project.

[12:23:33 PM]

And so the challenge is, all of our density bonus programs are slightly different. And so the fact that in this particular one the calculation is based on the entire square footage, it's very difficult for this develop tore do that. So they have worked closely with a nonprofit developer. The property is basically catty corner from this one to where not that they're going to -- not that they will not meet their requirement. We will be able to do both, actually do all. We'll get a fee in lieu. There will be one on-site at this particular project. And then right across, catty corner, there will be additional affordability. So in our opinion, my professional opinion is that we're able to get all of them. We'll have on-site at the property across. We'll have a family-friendly on-site here. And then the fee in lieu will also be generated.

>> Houston: Thank you, Ms. Spencer. Was this not the property where we were supposed to also have a grocery store? I remember going to several --

>> I don't believe --

>> Houston: Hearings about two years ago. Is that in the plaza? Because I thought they indicated they were going to --  
>> That's a different project.  
>> Houston: Thank you. I'm still concerned.  
>> Understood.  
>> Houston: About the fee in lieu of, but I was about to really be concerned about the grocery store, but it's a different project.  
>> Yes, ma'am.  
>> Mayor Adler: Mayor pro tem, and then Greg, and then Renteria.  
>> Tovo: So I just want to say, I did have an opportunity to meet with the developer yesterday, and got some information, and got some additional information this morning. I likely will have questions on Thursday. I want to give my colleagues a heads-up. We have public comment, and that will likely generate more questions. But I am -- at this point, I'm really struggling to understand what the compelling reason is. As I understand the city code on this, we are -- the developer can -- in using this density bonus program, can do a fee in lieu or on-site affordability.

[12:25:36 PM]

But to do on-site affordability, they need to come to the council and demonstrate a compelling reason why they can't meet the on-site requirement. And every circumstance is certainly different. And I look forward to seeing what you see as a compelling reason. We are limited in so many ways about requiring affordable housing. One of the few options we have is our density bonus program. When we have a requirement that someone create on-site affordability, if we continue to give people a pass on that, we will never have affordable units in all parts of town. And so I just think this really bears having a very thorough discussion about what the tradeoffs are here. And I understand there are many factors at play, and several different lots that are being brought into the discussion. And so I help you can help me understand. They have a requirement under the existing density bonus program, which may need reevaluation. But it is what we have now. They're required to build 11 units of affordable housing. They're building one. A little larger, so let's say one plus. Even if it's two, we're still not getting what looks like to me nine units. As I understand the discussion, they're paying the fee in lieu, which is 93,000. But that 93,000 won't create nine units of housing. And so that's not really an equivalency in my mind. I understand that Habitat for Humanity is creating housing on an adjacent tract, but that's their business. They're a nonprofit that creates affordable housing. And so what they're doing on their tract -- and I understand there's a relationship, they have purchased the tract and exchanged other tracts. But that's where I am in my decision-making process. If you could help us understand what is the compelling reason we should not require on-site affordability in this circumstance. And I've heard the information that they are creating affordability on this other tract.

[12:27:42 PM]

But that, again, is the intent of Habitat for Humanity. So that's not really a rationale for what this developer is doing. If you could talk me through some of what you're thinking.  
>> Sure. The most compelling reason is they're limited on height. They're eligible for a small percentage of increase on the density bonus on the floor area ratio. If they were allowed to go much higher in their property because of the compatibility requirements, they can't go any higher than where they're going. They're not able to generate additional income to help offset the cost for the affordable -- to be able to provide that many affordable units. And that was compelling enough to us that if -- not this density bonus, they won't do this. I'm not easily influenced by someone who threatens to walk away. We've

spent a lot of time on this. It's such a small bonus for them, we felt compelled by the argument that there would be an on-site family friendly, which we often struggle with. Oftentimes the units are very small when we get them. We can't require much more. It's a family friendly unit. They will also pay a fee in lieu. And while we cannot demand what occurs on the habitat site -- I agree with you, that is their business all day long. It is our intent that there will be a voluntary restrictive covenant on the habitat property that will mandate affordability. Today, right now, they could walk away and sell that property. There's not a restriction on it. It is definitely their business to do it. But they could sell if they needed to. The restriction that would be voluntarily put on that will require that there will be affordability on that site. Again, we'll have the family-friendly unit. But the density bonus that they're eligible for based on compatibility doesn't allow them to generate more income to offset the cost for the 11 affordable units.

[12:29:43 PM]

>> Tovo: What is triggering compatibility? Is it just the tod standards, or are there additional restrictions on the site?

>> We're not aware of that. The developer is here today and can speak to that specific issue, or the developer's representative. And so that was an issue when we met with the developer.

>> They can't exceed 40 feet is my understanding.

>> Tovo: Okay, under the tod.

>> Yes. Thanks. My followup question about the family-friendly unit, one suggestion that came out of the families and children report was that there be some strategies for when you do have three bedroom units, identifying people who need them, either families with children, or people who need a personal attendant, a live-in personal attendant, or situations like that. Is that contemplated within this, not only that they try to provide housing for someone in the neighborhood, but also that they try to identify --

>> Absolutely.

>> Tovo: Individuals who would really require that additional --

>> Yes, ma'am.

>> Tovo: Okay. What is the plan? Is there a specific plan, or that's the intent?

>> That is the intent. We will talk to them about a more specific plan. But I'm not aware of any indication that they would sell to anything less than a family with children.

>> Tovo: And I say that just because I'm looking at some of the data of how "For sale" properties and residential properties. It's been a year since I looked at the report. But some of the units that have been created were not necessarily -- even though they were two and three bedrooms, were not necessarily going to children. And so there just needs to be a very intentional and concerted effort, and that was the recommendation that came out of that task force.

>> Mayor Adler: Mr. Casar.

>> Casar: If the fee in lieu for whatever reason doesn't get reinvested in this particular property, is the zoning before us because through the density bonus program requiring that one unit? That didn't sound very clear.

[12:31:44 PM]

Is that one unit being required as part of or density bonus program right now? Like if we approve the item as it's presented, I understand if it was approved we'd get the \$93,000 in fee in lieu. Would it also be requiring that family unit?

>> Yes.

>> Casar: Okay. I just wanted to be clear. In the case where that -- you said you expected that 93,000 to be potentially reinvested back in that project to support the development of that unit. But if it wasn't, we would still be requiring the unit?

>> Yes.

>> Casar: Is that right? Okay. So it seems to me that in thinking about your question, mayor pro tem, if the -- when we have a density bonus program where just a small number of additional square feet trigger the same amount of affordability requirements as a larger number of square feet, my concern would not just be that we could lose those nine units by granting a fee in lieu, but also the potential that we could lose the family-friendly unit if they were just to choose to build 7,000 fewer square feet on a hundred thousand square foot development. And so, I think that we're struggling with that. I don't think it's just a choice of getting the nine extra units. It's also potentially not getting them either way, and that's a challenge we have to face with this project in particular. I'd be interested on the compatibility, if y'all get us more information on whether that's in the tod or triggered by a nearby single-family zoned piece of property. Because another way to untangle it could be, you know, if we want the 11 affordable units, to let them utilize the density bonus program to the extent where we would expect they could make the Numbers work that we would get all of those on-site units and hopefully the habitat project as well. This is work session brainstorming.

[12:33:45 PM]

I don't know enough about the project to know whether or not that would work. But it seems to me that we don't have the choice before us about whether we want one unit or 11, but that very potentially we have the choice between one unit and -- potentially --

>> Tovo: Yeah. I just don't think --

>> Casar: Potentially none. Right? And that in this particular case, it seems -- the notes that I have on it, again I haven't met with the developers or anybody involved in the project yet myself. I think my staff has. Is that there is, you know, several hundred thousand-dollar contribution to habitat for humanity as well some money that comes to our funds that may or may not get reinvested in the project. Whether it does or doesn't, we're still getting that one unit for a very small density bonus. The far increase, what's -

-

>> .2.

>> Casar: From two to 2.2.

>> Correct.

>> Casar: Again, I think the challenge is how much are we giving. How much more additional density is being granted, and how much affordable housing do we expect that we could get for that. So, I just would say it's -- I concede and agree it's not so clear about whether it's going to be one or 11, but it's not so clear whether it would be one or zero. I don't think we just have a decision about whether we're giving up nine affordable units or not. It's not nearly so simple on this one.

>> Renteria: Mayor, I just want to clarify and ask one question. It is the old site of the restore that was there. They're going to keep the building. They're just going to use the foundation and raise it up. And there's also a lot right across the street there, a little small street, onion, parallel to it. And -- that's where habitat's going to build their units. And I have -- I believe it's going to be like 34 units for low-income people there. And they're also going to be burying the electric lines for that habitat project so that it's also a savings there.

[12:35:52 PM]

But I just wondered if you could give us a definition. Because it does apply to the district, but you have a subdistrict called live and work flex. Can you explain to the council what --

>> I'll have Jesse do that.

>> Jessie with neighborhood housing. I can speak to it a little bit, but the question really can be better-answered by the planning and zoning staff who manage the development districts. So, there's a specific zoning map tied to the regulating plan for each tod. And this site is on a parcel that was designated for live/work, which requires a residential use component as part of the development.

>> Mayor.

>> Mayor Adler: Yes.

>> Pool: I have a question. There's some new federal legislation that's going to expand accessibility in structures for people with disabilities. And as a baby boomer who is fast-approaching a time where I may not be as mobile as I am now, I may have to be in a wheelchair or something like that. And there's a whole lot of us who are in that category. What steps has -- is our housing staff taking to look at expanding requirements when we provide bonuses and fee reductions and so forth to ensure that accessibility standards that may be coming down the pike will be also a part of our portfolio of things that we look for from developers? I'm thinking this may be a perfect opportunity to start thinking about that. It's things like, width of hallways, and doorways, and where your light switches are, and counter heights, and that sort of thing.

[12:37:52 PM]

>> My initial response is that the code requires a certain amount of baseline visitability. And so we're fortunate in that standard codes already account for the plugs and the switches to be at a certain level. Doors have a minimum requirement. There's a lot of visitability and standards already in our code. And so, full accessibility, adaptability, is a different model. Whenever we utilize federal funds, we are required to enforce adaptability or accessibility. City of Austin actually, you would be pleasantly surprised. When we use federal funds, we require 10% of the units, whereas the federal government only requires 5%. So we already have a higher standard than the federal government when it comes to true Ada accessibility. We will certainly take a look at our density bonus programs to see if there's something that we can do in concert with the density bonus when they're not used together with federal funds or other local funds.

>> Pool: That would be great. And if you could let me know what you see.

>> Mmhmm.

>> Pool: And maybe we could have a conversation here at council, and maybe move forward an initiative along those lines.

>> We'll definitely take a look at that.

>> Pool: Great, thank you.

>> You're welcome.

>> Mayor Adler: Very much. The last item we have is the disability integration act. Ms. Kitchen, you pulled this.

>> Kitchen: This will be short. This is a resolution to put a city council -- first off, I bring it to everyone's attention again, just in case there's any questions, because it is an item on consent. And I'd appreciate understanding if anybody wanted to pull it from consent. But what this is is a statement that the city council supports enactment at a federal level of the disability integration act of 2015. And the reason this is important is because it speaks to our goals as a city, to support our goals to strengthen the ability for seniors and people with disabilities to live in the community, which is a huge issue right now for our community and communities all over the country, and one that's only going to become even more important, as councilmember pool said, as we baby boomers age.

[12:40:21 PM]

So, there have been efforts in the past at a federal level that have not been all that successful. The community first choice, for example, was a voluntary program. But it's only been picked up by eight states. So what this act does is it requires a comprehensive state planning requirement with more teeth in it that's enforceable, that's measurable, and objectives for actually making resources more available for people to stay in the community. So that's what this is about. I just raise it because I think it's in line with our city's goals. And I think it's an important statement for our city to make.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I don't know if there's any prayer of getting an answer to the question, but has there been a cost/benefit analysis done on this, how much this is going to increase our cost, and what the presumed benefits would be?

>> Kitchen: I would just say that this is federal legislation, so there's not a requirement for local or state dollars included in this. In terms of the analysis of the cost at a federal level, I don't have that information.

>> Zimmerman: And maybe, what was the objections as to why, I guess, it did not pass the U.S. Senate? Is that what I understand here? It says it was introduced, but it was not passed, or . . . ?

>> Kitchen: I think it's still in play.

>> Zimmerman: Would there be objection to waiting to see how they deliberate before we act?

>> Kitchen: It's to add our voices to the other voices around the country that are in support of it. So, that is the point, to add our voices right now while it's still under consideration.

>> Zimmerman: I can add my voice to not support it, but I'll probably lose. Thank you for bringing it up.

>> Mayor Adler: You're asking something?

>> I'll ask chief of staff to look into it, and see what the status of the legislation is.

[12:42:23 PM]

We'll look into that, find out what the status is.

>> Absolutely. So far, this bill was introduced back in December of 2015. It has been referred to what we call the senate health, education labor, and pensions committee. They have not had a hearing yet. It has, in addition to the author, senator Schumer out of New York, it has four senate sponsors, nobody from Texas just yet.

>> Thank you.

>> Mayor Adler: Okay. I point out on this item, as with all other items, on Thursday I won't be at the council meeting. Mayor pro tem will be. It's the first of the three meetings I need to be with the secretary of transportation on mobility challenge related matters. Ms. Gallo. And then Ms. Pool.

>> Gallo: City manager, could you help us with this? Because I think councilmember Zimmerman started the question, but I don't see any economic or affordability calculations on this. And so I don't know if our development services would be impacted, you know. It's federal, but quite often, federal legislation impacts us on a local area because of new rules and regulations. So I really would like to understand, before we vote on this on Thursday, what the potential impact could be, both from a development services standpoint. If there is health and human services department impact, I'd like to know that. I mean, I'm just reading through the resolution. It seems like a wonderful thing to do. But I just want to make sure as we vote on it, we understand the impact to the citizens from a financial standpoint. It talks about long-term services and support, long-term care, right to services, being able to stay in one's own home and community. So if there are regulations that are the result of this, that are in addition to what we have now, I really would like to understand the impact to the city.

[12:44:25 PM]

>> We'll certainly do our best to provide what we can by Thursday, but since this is pending legislation, I suspect that implementing regulations are things that would occur subsequently, once the law has passed. But to the extent that we can infer some conclusions across the range of issues that you just described, we will do so.

>> Gallo: It sounds like as this moves forward at a federal level, it would be important to know the impact as we move into the budget cycle.

>> Kitchen: I can supply that, also. Generally speaking, this type of requirement is at a state level, not a local level in terms of any kind of impact at all. So, it's -- I don't believe it's the kind of legislation that puts requirements on us at a local level of the nature that you're talking about, but I have backup information and will be happy to share that.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: And I'd also say the federal legislation that's being implemented has a very long vetting process through the federal register. And that's the forum that concerns from, for example, home builders would come and register their opposition to any kind of changes that would affect them with regard to new standards for building. So there would be a fairly protracted amount of time for comments to come in, and then for the implementation to be adjusted based on any changes that come from the comments in the federal register. That's a public process. And that's after all the hearings that you have in congress. And then I would just say, one reason why I am fully supportive of this, and was fully supportive of the Americans with disabilities act, which was about 25 years ago. I think we just celebrated a 25th anniversary for Ada. It's an equal access to quality of life issue for me.

[12:46:27 PM]

And just because I don't happen to have a disability today doesn't mean I won't have one that will impair a major life function tomorrow. And that holds true for everyone in this room, and everyone anywhere. And I think that it shows the soul of this community of Austin, that we recognize that and we take care, and we plan ahead, and we embrace people of all differing abilities so that they can have equal access to all the things that we so easily enjoy. I don't happen to have any mobility concerns today, but I might tomorrow. And so, that's why these programs are so important. It would be nice if, at a grassroots level, these kinds of changes were made automatically. But they're not. And so the sweeping changes like this require federal legislation. And so that there is standardization nationally. I appreciate councilmember kitchen bringing this forward, and I support this fully.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, thank you. I need to make a comment along those same lines to say I take the exact opposite viewpoint. What's happening to this city is we are becoming less virtuous, we're replacing volition for charity and private acts of charity with mandates. And that is a terrible direction for the city. We just witnessed last week, goodwill pointing out that goodwill as an organization had taken a voluntary lead towards banning the box and doing everything they could to reintegrate people that have past criminal incarceration records, of their own volition, goodwill was doing that. They were leading the way as a good citizen in our community of their own will and their own volition to do something good to try to reintegrate people with past criminal histories.

[12:48:28 PM]

Then the city passes a mandate. So now, goodwill is no longer doing something good. Now they're complying with a mandate. So I think the exact opposite is true. What's happening to this city is we're becoming a city of authoritarianism and force, and we're taking away virtue and replacing it with force and fines. So I think this is a terrible direction for our city.

>> Mayor Adler: Okay. Anything else on this? Ms. Kitchen.

>> Kitchen: Just very quickly, in this particular instance -- I won't speak to other instances -- but it is much more complex than that. Because we as a community pay for people that are institutionalized. We pay for it out of our healthcare system. We pay for it out of medicare. This is a much -- and we pay for it out of social security. So this is a much more cost-effective way, not to mention a more helpful way for individuals to be able to stay in the community.

>> Mayor Adler: Thank you. I think we're done. Mayor pro tem?

>> Tovo: I just had a quick question or comment. You know, as we had talked about last week, kind of, getting a sense of what topics might generate a lot of conversation -- and I understand we all do this in phases, and, you know, what is a question today might not be a question Thursday, or we might develop questions about other items. But I just thought we could spend a couple minutes right now talking about what we think might generate -- of the issues that were pulled today, what we might need to come back to. It sounded like councilmember Gallo had followup questions about this item. It sounds like that's going to be pulled from consent, or at least questions and answers in the q&a. I assume that we'll be discussing 57 and 58, which are the home and Littlefield house. Let's see. The item we just discussed, I said I may have additional questions, I may not. We might have speakers, we might not. But, if councilmember Zimmerman or others, if you have a sense of what you might pull, again, this isn't a definitive list, we'll get that on Wednesday and Thursday morning.

[12:50:31 PM]

But it might help us plan things a little.

>> Houston: 13, the test kitchen at the convention center.

>> Mayor Adler: My sense is you might have some conversation on the concrete pour issue.

>> Which one?

>> Mayor Adler: Item number 23, concrete pour issue.

>> Kitchen: I expect on 16, you know, I raised some questions which I expect to resolve by Thursday. But if not, I might have just a minor amendment.

>> Tovo: I think that's a good start. Councilmember Zimmerman.

>> Zimmerman: Joe and I are still working. We're going to have three things. I don't think they're going to be long issues.

>> Kitchen: Are you at a point where you can tell us what they are?

>> Zimmerman: Let me ask him to text them to me real quick.

>> Tovo: Use our council, that would be helpful, too.

>> Kitchen: I think it's helpful to ask that question here. So I really appreciate you asking that question, because that helps us plan better our day on Thursday.

>> Mayor Adler: Sounds good. I'll miss you all.

[ Laughing ]

>> Mayor Adler: The city council now is going to go into closed session to take up three items pursuant to the 551.074 government code, council will discuss the following personnel item, e3, evaluate the performance of the city manager. Pursuant to section 551.071, government code, we're going to discuss legal issues related to e2, John Murphy versus city of Austin, and e4, inclusion of affordable housing, collusion inclusionary zoning matter. E1 has been withdrawn. With no objection, we will recess or adjourn into -- we'll now go into executive session.

[5:34:15 PM]

Mayor Pro Tem Tovo> Good evening I'm Mayor Pro Tem Kathie Tovo. The council was previously in Executive Session. We have now concluded the discussion of legal matters related to items E2 and E4. We are now out of closed session and in closed session we took up and discussed personal matters related to item E3 and E4. So this meeting of the Council Work Session stands adjourned at 5:35 p.m.