



BOARD/COMMISSION RECOMMENDATION (DRAFT)

Water and Wastewater Commission

Recommendation Number: (YYYYMMDD-XXX) (XXX is the agenda item number): Water and Wastewater
Capital Recovery Fee Waivers Related to Affordable Housing

WHEREAS, Austin Water Utility (AWU) underrecovered its costs by at least \$100M over the period of 2010-2015, despite Council's support of AWU's requests for significant rate increases; and

WHEREAS, AWU's customers have made great sacrifices both in terms of water conservation and in terms of rising bills related to the drought and cost increases, with average residential bills almost tripling between 2006 and 2015; and

WHEREAS, AWU Staff cut their budget by approximately \$30M to avoid even higher bills for their customers, resulting in more work for AWU Staff with lesser resources; and

WHEREAS, examination of AWU fee structures revealed that approximately 80% of the costs of growth were being included in customer monthly user charges rather than in development fees to be paid by new growth; and

WHEREAS, despite all the efforts by AWU Staff and the sacrifices by AWU customers, rating agencies have expressed considerable concern about the soundness of AWU finances to the extent that there may be a downgrade if AWU again does not achieve its benchmarks; and

WHEREAS, rating agencies may view the City's apparent willingness to divert funds that would have gone to pay utility capital costs to other purposes as a lack of City commitment to sound financial practices for AWU; and

WHEREAS, the Water and Wastewater Commission has supported the various recommendations of the Joint Committee on AWU Financial Plan (2011-2014), including increasing all growth-related fees to recover the full costs of growth; and

WHEREAS, the Capital Recovery Fee Advisory Committee has previously also recommended full-cost capital recovery fees (also known as "impact fees"); and

WHEREAS, the City Council has previously adopted full-cost capital recovery fees in order to reduce the customer monthly cost burden, reduce utility indebtedness, and improve financial metrics; and

WHEREAS, the recently-adopted impact fee program, when phased in, is expected to recover \$30M more per year than the earlier program (\$10M/year), thus relieving AWU customers from much of the financial burden of growth and providing additional bonding capacity for critical water-supply and other needs for the future; and

WHEREAS, losses from the affordable housing waivers, at 1500 LUEs per year, will reduce that cost recovery by approximately \$11.4M/year (up from approximately \$2.25 million per year with earlier low fees); and

WHEREAS, fee waivers will result in the loss of the ability of AWU to defease \$11.4M in debt annually, which would have otherwise eliminated not only debt principal but also the associated interest on debt; and

WHEREAS, AWU is approaching the 1500 LUEs/year cap for fee waivers; and

WHEREAS, Staff has not developed a process for fee waivers once the 1500 LUE cap has been reached (see Staff answers to Tovo and Pool questions for March 3, 2016 Council meeting); and

WHEREAS, there is a history of increasing the cap on fee waivers whenever the cap is reached (the 500 LUE cap was increased to 1,000 LUEs in 2000, and then increased to 1,500 LUEs in 2007); and

WHEREAS, affordability applies to monthly utility bills, as well as to home purchases; and

WHEREAS, among the customers who will see bill increases as a result of diverting AWU funds to both affordable and market-rate housing will be renters who cannot themselves qualify for even affordable housing; and

WHEREAS, Chapter 395.016(g) of the Texas Local Government Code states that: "Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed"; and

WHEREAS, City Code § 25-9-347 - EXEMPTION FOR CERTAIN AFFORDABLE HOUSING, (C)(3) states that "To be eligible for an exemption under this section, affordable housing must ... be a newly constructed single family home or multifamily housing unit located within the corporate limits of the City [emphasis added]"; and

WHEREAS, City Code § 25-1-704 - FEE WAIVERS, (A) (contained in ARTICLE 15. - S.M.A.R.T. HOUSING) does not list capital recovery fees among those fees which may be waived for a SMART housing development; and

WHEREAS, current and proposed programs for affordable and SMART housing impact fee waivers and various development agreements are inconsistent; result in AWU customers subsidizing outside-City housing that will not, by the nature of its location, reduce in-City gentrification; and result in AWU

customers subsidizing market-rate housing amounting to as much as 90-95% of housing in a SMART Housing development; and

WHEREAS, most capital recovery fee waivers related to affordable housing are approved administratively (by the City's Neighborhood Housing and Community Development Director, § 25-1-704, or by the City's Community Development Officer, § 25-9-347(A)) with no public process;

NOW, THEREFORE, BE IT RESOLVED that the Water and Wastewater Commission respectfully encourages the Austin City Council to:

- Continue to support necessary improvements in AWU financial metrics to secure financial integrity within the Austin Water Utility, as set forth in recommendations to the City Council by this Commission, the Joint Committee on AWU Financial Plan, the Capital Recovery Fee Advisory Committee, and as embodied by adoption of a full cost recovery program for capital recovery [impact] fees and other AWU fees and rates;
- Direct the Law Department to ensure consistency regarding capital recovery fee waivers related to affordable and SMART housing within City ordinances and policies;
- Provide for fee waivers only for affordable housing units (and not for market-rate housing);
- Provide for fee waivers for affordable housing units only within the corporate limits;
- Keep the current cap of 1500 LUEs of fee waivers per year without increase in the cap;
- Provide for a public, rather than administrative process, for capital recovery fee waivers related to affordable and SMART housing; and
- Instruct the City Manager to provide a Fiscal Note on each Request for Council Action (RCA) which results in a waiver of water and wastewater capital recovery fees or other development fees.

Date of Approval: April 13, 2016

Record of the vote:

Attest:

Supporting Back up for Resolution:

- Ordinance 000420-77 Amend re Impact Fee Exemption
- Ordinance 20071129-100 Affordable Housing
- Pilot Knob Memo 2/8/16
- Austin Fee Waivers for Smart Housing
- Austin Fee Waivers for Affordable Housing
- AWU Dual Customer Sacrifice Draft
- Answers to Tovo & Pool Questions re Pilot Knob

ORDINANCE NO. 000420-77

AN ORDINANCE AMENDING SECTION 25-9-347 OF THE CITY CODE RELATING TO AN IMPACT FEE EXEMPTION FOR AFFORDABLE HOUSING; WAIVING CERTAIN FEES FOR CERTIFIED AFFORDABLE HOUSING; AND PARTIALLY REPEALING ORDINANCE NO. 970305-B.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-9-347 of the City Code is amended to amend Subsection (A) and to repeal and replace Subsections (E) and (H) as follows:

- (A) The community development officer may exempt not more than 1,000 ~~{500}~~ service units of affordable housing constructed each fiscal year from the requirement to pay impact fees under this article.
- (E) To retain an exemption under this section, for a period of five years following the signing of the documents prescribed by Subsection (D), a unit of affordable housing must be available for use by a person with a gross household income that does not exceed 80 percent of the median household income for the Austin Standard Metropolitan Statistical Area.
- (H) The community development officer may revoke a certification under Subsection (G) if the applicant does not finish construction of the approved affordable housing unit:
 - (1) within 15 months after certification; or
 - (2) for a multifamily housing unit, 24 months after certification.

PART 2. For the initial construction of an affordable housing unit certified under Section 25-9-347 of the City Code, the Council waives the fees described on Exhibit "A".

PART 3. Parts 3 and 6 of Ordinance No. 970305-B are repealed.

PART 4. The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.

PART 5. This ordinance takes effect on May 1, 2000.

PASSED AND APPROVED

April 20, 2000

§
§
§ Kirk Watson

Kirk Watson
Mayor

APPROVED:

Andrew Martin

Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk

ORDINANCE NO. 20071129-100

AN ORDINANCE ADDING NEW ARTICLE 15 TO CHAPTER 25-1 OF THE CODE RELATING TO AFFORDABLE HOUSING INCENTIVES; AND REPEALING AND REPLACING SECTION 25-9-347 OF THE CODE RELATING TO IMPACT FEE EXEMPTIONS FOR AFFORDABLE HOUSING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council finds that:

- (A) S.M.A.R.T. Housing is housing that is safe, mixed-income, accessible, reasonably priced, transit-oriented, and compliant with the City's Green Building Standards.
- (B) The City Council adopted the S.M.A.R.T. Housing program through Resolution Nos. 990909-61, 000420-76, 040115-44, and 20070607-013, encouraging the development of housing that meets S.M.A.R.T. housing standards by waiving certain development related fees and exempting the developments from impact fees.
- (C) The Austin Housing Incentives Task Force ("AHITF") submitted its report to the City Council on February 20, 2007 recommending that the City enhance incentives for developers of S.M.A.R.T. Housing.
- (D) The City desires to adopt an ordinance codifying the City's current S.M.A.R.T. Housing program and to improve the program by incorporating AHITF recommendations.

PART 2. Chapter 25-1 of the City Code is amended by adding Article 15 to read as follows:

ARTICLE 15. S.M.A.R.T. HOUSING.

§ 25-1-701 Definitions.

In this article:

- (1) DIRECTOR means the director of the City's Neighborhood Housing and Community Development Department.
- (2) HOUSING COSTS means:

- (a) for an owner-occupied dwelling unit, the average monthly cost for mortgage, utilities, and, if applicable, condominium dues; or
 - (b) for a dwelling unit for lease, the average monthly cost for rent and utilities.
- (3) **MEDIAN FAMILY INCOME** means the median family income for the Austin statistical metropolitan area as determined by the director of the City's Neighborhood Housing and Community Development Department.

§ 25-1-702 ADMINISTRATION.

The director of the City's Neighborhood Housing and Community Development Department shall administer the S.M.A.R.T. Housing program and may adopt and implement program guidelines and establish the requirements for an application under the program.

§ 25-1-703 PROGRAM REQUIREMENTS.

- (A) S.M.A.R.T. Housing is housing that is safe, mixed-income, accessible, reasonably priced, transit-oriented, and compliant with the City's Green Building Standards.
- (B) S.M.A.R.T. Housing must:
 - (1) be safe by providing housing that complies with Title 25 of the City Code (*Land Development*);
 - (2) provide mixed-income housing by including dwelling units that are reasonably-priced, as described in Subsections (C) and (D);
 - (3) provide for accessibility by:
 - (a) including dwelling units that comply with the accessibility requirements of the Building Code in:
 - (1) each building with four or more dwelling units; and
 - (2) at least 10 percent of the dwelling units in each development; or
 - (b) for a development with three or fewer dwelling units, complying with the design and construction requirements of Chapter 5-1, Article 3, Division 2 (*Design and Construction Requirements*); and

- (4) comply with the transit oriented guidelines adopted by the director; and
 - (5) achieve at least a one star rating under the Austin Green Building program.
- (C) Except as provided in Subsection (D), a reasonably-priced dwelling unit is one that is affordable for purchase or rental by a household that meets the housing costs and income qualifications of this subsection.
 - (1) This paragraph provides qualifications on the amount of household income spent on housing costs.
 - (a) Except as provided by Subparagraphs (b) and (c), housing costs of a household may not exceed 30 percent of its gross income.
 - (b) A household may spend up to 35 percent of its gross income on housing costs if a household member receives City-approved homebuyer counseling.
 - (c) A household that complies with other federal, state, or local income eligibility standards is not subject to the expenditure qualifications of Paragraphs (a) and (b).
 - (2) This paragraph provides qualifications on household income.
 - (a) Except as provided in Subparagraph (b), the household income may not exceed 80 percent of the median family income.
 - (b) In a Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district, household income may not exceed:
 - (i) 120 percent of the median family income for an owner-occupied dwelling unit; or
 - (ii) 80 percent of the median family income for a rental dwelling unit.
- (D) For a Vertical Mixed Use (VMU) building, a reasonably priced dwelling unit is one that meets the affordability requirements of Chapter 25-2, Subchapter E, Section 4.3.3.F (*Affordability Requirements*).

§ 25-1-704 FEE WAIVERS.

- (A) The director may, in accordance with Subsection (B), waive all or a portion of the following fees, as set by the City's annual fee ordinance, for a S.M.A.R.T. Housing development:

- (1) Public Works Construction Inspection Fee;
- (2) Watershed Protection and Development Review - Development Assessment Fee;
- (3) Watershed Protection and Development Review - Traffic Impact Analysis Fee;
- (4) Watershed Protection and Development Review - Traffic Impact Analysis Revision Fee;
- (5) Regular Zoning Fee;
- (6) Interim to Permanent Zoning Fee;
- (7) Miscellaneous Zoning Fee;
- (8) Zoning Verification Letter Fee;
- (9) Board of Adjustment Fee;
- (10) Managed Growth Agreement Fee;
- (11) Planned Development Area Fee;
- (12) Preliminary Subdivision Fee;
- (13) Final Subdivision Fee;
- (14) Final Without Preliminary Subdivision Fee;
- (15) Miscellaneous Subdivision Fee;
- (16) Consolidated Site Plan Fee;
- (17) Miscellaneous Site Plan Fee;
- (18) Site Plan Revision Fee;
- (19) Site Plan – Construction Element Fee;
- (20) Building Review Plan Fee;
- (21) Building Permit Fee;
- (22) Electric Permit Fee;
- (23) Mechanical Permit Fee;

- (24) Plumbing Permit Fee;
 - (25) Concrete Permit Fee;
 - (26) Demolition Permit Fee;
 - (27) Electric Service Inspection Fee;
 - (28) Move House Onto Lot Fee; and
 - (29) Move House Onto City Right-of-Way Fee.
- (B) A developer is eligible for a waiver of the fees described in Subsection (A) if the director determines that the S.M.A.R.T. housing development provides the percentage of reasonably-priced dwelling units prescribed by this section.
- (1) Except as provided in Paragraph (2):
 - (a) if at least ten percent of the dwelling units are reasonably-priced, the development is eligible for a waiver of 25 percent of the fees;
 - (b) if at least 20 percent of the dwelling units are reasonably-priced, the development is eligible for a waiver of 50 percent of the fees;
 - (c) if at least 30 percent of the dwelling units are reasonably-priced, the development is eligible for a waiver of 75 percent of the fees; and
 - (d) if at least 40 percent of the dwelling units are reasonably-priced, the development is eligible for a waiver of 100 percent of the fees.
 - (2) The development is eligible for a waiver of 100 percent of the fees if:
 - (a) except as provided in Subparagraphs (c) and (d), the development is located within the Urban Roadways boundary described by Chapter 25-2, Subchapter E (*Design Standards and Mixed Use*), and at least five percent of the dwelling units are reasonably priced and are transferred to a City approved affordable housing land trust or other similar entity approved by the director;
 - (b) except as provided in Subparagraph (c), the development is located outside the Urban Roadways boundary described by Chapter 25-2, Subchapter E (*Design Standards and Mixed Use*), and at least ten percent of the dwelling units are reasonably priced and are transferred to a City approved affordable housing land trust or other similar entity approved by the director;

- (c) the development is a Vertical Mixed Use (VMU) building that complies with the affordability requirements of Chapter 25-2, Subchapter E, Section 4.3.3.F (*Affordability Requirements*); or
- (d) the development is located in either a Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district, and at least ten percent of the dwelling units are reasonably-priced.

§ 25-1-704 REQUIRED AFFORDABILITY PERIOD.

- (A) To be eligible for the S.M.A.R.T. Housing program, unless a longer term is required by law, private agreement, or another provision of this Code, all reasonably-priced dwelling units in a S.M.A.R.T. Housing development must remain reasonably-priced for the following affordability periods commencing on the date of initial occupancy:
 - (1) except as provided in Paragraphs (3) and (4), for dwelling units within the University Neighborhood Overlay District, a period of at least fifteen years;
 - (2) except as provided in Paragraphs (3) and (4), for dwelling units outside the University Neighborhood Overlay District:
 - (a) if the unit is owner-occupied, a period of at least one year, or if the owner is receiving federal housing assistance, a period of at least five years; or
 - (b) if the unit is a rental unit, a period of at least five years.
 - (3) for dwelling units in a DMU or CBD base zoning district, a period of at least 99 years for owner-occupied units, and a period of at least 40 years for rental units; and
 - (4) for dwelling units in a VMU building that has or will benefit from an exemption from dimensional standards available under Chapter 25-2, Article 4, Section 4.3.3.E (*Dimensional and Parking Requirements*), the applicable affordability period set forth Chapter 25-2, Article 4, Section 4.3.3.F (*Affordability Requirements*).
- (B) If a reasonably-priced dwelling unit within a S.M.A.R.T. Housing development is converted from a rental unit to an owner-occupied dwelling unit during the applicable affordability period, the dwelling unit shall be subject to the affordability period applicable to an owner-occupied dwelling unit, and the new affordability period begins on the date that the converted dwelling unit is available for owner occupancy.

- (C) If the development does not comply with the requirement to maintain the applicable percentage of dwelling units as reasonably-priced for the duration of the applicable affordability period, the developer shall reimburse the City for all fees.
- (D) The director may require the developer to execute an agreement and restrictive covenant or other binding restriction on land use that preserves affordability in accordance with the S.M.A.R.T. Housing program. The agreement may include:
 - (1) terms that require a defaulting applicant to pay the otherwise applicable fees;
 - (2) liquidated damages in an amount up to twice the amount of fees waived, being such an amount that will fairly compensate the City for administrative costs incurred; and
 - (3) liquidated damages that will fairly compensate the City for any breach that results in the loss of reasonably-priced dwelling units during the affordability period.

PART 3. Section 25-9-347 (*Exemption for Certain Affordable Housing*) of the City Code is repealed and replaced to read as follows:

§ 25-9-347 EXEMPTION FOR CERTAIN AFFORDABLE HOUSING.

- (A) The community development officer may exempt not more than 1,500 service units of affordable housing constructed each fiscal year from the requirement to pay impact fees under this article. Service units of affordable housing within the development known as the Robert Mueller Municipal Airport development that are granted exemptions from paying impact fees do not count against the annual cap of 1,500.
- (B) The community development officer shall establish guidelines for the selection of the service units to receive an exemption under this section. The guidelines must include a requirement for a written application.
- (C) To be eligible for an exemption under this section, affordable housing must:
 - (1) meet design and construction guidelines established by the community development officer for habitability, affordability, accessibility, water conservation, and energy efficiency;
 - (2) be served by existing City infrastructure and services; and

- (3) be a newly constructed single family home or multifamily housing unit located within the corporate limits of the City that is:
 - (a) approved for assistance under an affordable housing program funded with Community Development Block Grant or federal HOME program assistance funds administered by the City;
 - (b) approved for assistance under a program for affordable housing construction funding or down payment assistance administered by the Austin Housing Finance Corporation; or
 - (c) approved under guidelines for non-assisted affordable housing units established by the community development officer that meet the requirements of this section.
- (D) To receive an exemption under this section, an applicant who is approved for an exemption must provide to the community development officer an agreement, a restrictive covenant, a deed of trust, a promissory note, or other documents determined to be necessary by the city attorney to establish an enforceable obligation by the applicant to:
 - (1) pay to the City an amount equal to the impact fee otherwise applicable to the housing unit if the applicant does not comply with this section and applicable guidelines;
 - (2) reserve by covenant the applicable affordable dwelling units for the duration of the affordability period prescribed by Subsection (E); and
 - (3) pay liquidated damages that will fairly compensate the City for any breach.
- (E) To retain an exemption under this section, a unit of affordable housing must comply with the requirements of this subsection.
 - (1) Except as provided in Paragraphs (2) and (3), a unit must be available for occupancy by a person whose gross household income does not exceed 80 percent of the median household income for the Austin Standard Metropolitan Statistical Area for the following affordability period:
 - (a) in the university neighborhood overlay district, a period of no less than 15 years; or

- (b) outside the university neighborhood overlay district:
 - (i) for rental housing, a period of no less than five years; or
 - (ii) for owner-occupied housing a period of no less than one year, unless the owner is receiving federal housing assistance, in which case, a period of no less than five years.
- (2) A unit within a Vertical Mixed Use building must comply with the affordability requirements for the affordability period under Chapter 25-2, Subchapter E, Section 4.3.3.F (*Affordability Requirements*).
- (3) In Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district:
 - (a) an owner-occupied unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income does not exceed 120 percent of the median family income for the Austin Standard Metropolitan Statistical Area; or
 - (b) a rental unit must be available for occupancy for a period of not less than 40 years by an occupant whose gross household income does not exceed 80 percent of the median family income for the Austin Standard Metropolitan Statistical Area.
- (4) An affordability period prescribed by this subsection begins on the date that an affordable unit is available for occupancy.
- (F) If an applicant who receives an exemption under this section does not comply with Subsection (E), defaults on its obligations under documents executed under Subsection (D), or does not perform in accordance with the conditions for receipt of the exemption, the City may initiate legal proceedings to recover the impact fees that would have applied to the housing unit and damages. Funds recovered for impact fees shall be deposited in the impact fee account of the Water Utility. Damages collected to compensate the City for loss of affordable housing units shall be deposited into the S.M.A.R.T. Housing CIP Fund account of the Neighborhood Housing and Community Development Department.

- (G) Before the director of the Water Utility may issue a tap permit authorizing connection to the City water or wastewater system for a property receiving an exemption under this section, the community development officer must provide a written certification to the director of the Water Utility identifying the service address of the affordable housing unit.
- (H) The community development officer may revoke a certification under Subsection (G) if the applicant does not finish construction of the approved affordable housing unit:
 - (1) within 15 months after certification; or
 - (2) for a multifamily housing unit, 24 months after certification.
- (I) This section does not require a refund by the Water Utility of impact fees previously paid.
- (J) An exemption under this section may not be assigned or transferred by the applicant to another property.

PART 4. Affordability impact statements shall be prepared in accordance with this part.

- (A) A City department may not propose a change to an ordinance, rule, or process that impacts housing affordability unless the City's Neighborhood Housing and Community Development Department (NHCD) has prepared an affordability impact statement for the proposed regulation before the initiation of external stakeholder discussion.
- (B) If an affordability impact statement shows a negative impact on housing affordability, the proposed change may only go forward upon approval by the city manager.
- (C) A City board, commission, or subcommittee may offer recommendations to the city council on issues affecting housing affordability only after NHCD has prepared an affordability impact statement.
- (D) An affordability impact statement is not required for council adoption of annexations, budgets, or budget amendments except for those that increase development fees that impact housing affordability that are not otherwise waived.

PART 5. The City's Neighborhood Housing and Community Development Department is charged as the lead department on housing policy and the single point of contact to facilitate S.M.A.R.T. Housing development.

PART 6. The City recognizes the role that the Austin Housing Finance Corporation (AHFC) has regarding S.M.A.R.T. Housing development and charges the AHFC with the responsibilities in this part. All applicable operating agreements between the City and AHFC shall include the following responsibilities of AHFC regarding S.M.A.R.T. Housing:

- (A) AHFC is charged as the lead agency to foster partnerships with neighborhoods and the home building industry in order to develop, finance, rehabilitate, relocate, and operate S.M.A.R.T. Housing in the City.
- (B) AHFC shall verify that all AHFC financed developments comply with all S.M.A.R.T. Housing standards.

- (C) Except for land with an adopted master plan, AHFC has a right of first refusal for receiving any City owned surplus real property for development as S.M.A.R.T. Housing. Subject to any limitations in the Texas Local Government Code, the City may transfer surplus real property to AHFC for development for S.M.A.R.T. Housing without regard to any restrictions on transfer of the real property prescribed by the City Code.

PART 7. This ordinance takes effect on December 10, 2007.

PASSED AND APPROVED

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§
November 29, 2007 § Will Wyn
Will Wyn
Mayor

APPROVED: David Allan Smith
David Allan Smith
City Attorney

ATTEST: Shirley A. Gentry
Shirley A. Gentry
City Clerk



To: Mayor and Council Members

From: Marc A. Ott, City Manager

Date: February 8, 2016

Subject: Pilot Knob Planned Unit Development (PUD)

As you know, there has recently been significant attention in both the media and throughout the City organization regarding the Pilot Knob Planned Unit Development (PUD). A number of you have submitted questions to me and my staff, and I am taking this opportunity to provide an initial response.

Attached to this memo you will find a chronology tracing the Pilot Knob PUD through its eventual approval by Council, as well as responses to the submitted questions.

In our initial assessment of this issue, we identified several potential process improvements and will continue to evaluate additional options. This item is slated for discussion during tomorrow's work session, and the appropriate staff will be available to answer additional questions that you may have.

Attachments

- Pilot Knob Chronology
- Responses to Council Questions
- Memo to City Manager Marc Ott from ACMs / CFO

Chronology for Pilot Knob MUDs and PUD Zoning Case

Feb. 17, 2011: Council establishes policy for considering municipal utility districts (MUDs), using following criteria: adherence to the comprehensive plan, extension of public infrastructure with MUD or developer financing, affordable housing, environmental improvement, public transportation facilities, open space, green building, development standards, amenities, school and public safety sites, City provision of water and wastewater services, and financial viability.

April 7, 2011: Council approves resolution consenting to special legislation that would create the Pilot Knob MUDs.

March 8, 2012: Council adopts Pilot Knob MUDs on 1st reading, sets public hearings regarding a strategic partnership planning process (SPA) and limited and full purpose annexation.

March 22, 2012: Council approved 2nd and 3rd readings of an ordinance consenting to the Pilot Knob MUDs, executing a Consent Agreement, and initiating the SPA.

May 24, 2012: Council authorized creation of Strategic Partnership Agreement (SPA) between City of Austin and Pilot Knob MUDs. Affordable Housing exhibit includes:

- *Provide 10% of ownership occupied units at 80% MFI at the initial offering for sale*
- *Provide 10% of rental units at 60% MFI, for a period of 40 years*
- *Make a financial contribution to the City's affordable housing program equal to 2% of the total "hard" construction cost reimbursements actually received by the Developer out of the proceeds of bonds issued by the District, up to maximum of \$8M*

Sept. 22, 2015: Planning Commission recommends approval of the PUD district zoning with conditions as recommended by staff and the Environmental Board.

October 8, 2015: CM Garza expressed concerns about the low percentage (10 % of owner-occupied units and 10% of rental units) of affordable housing being provided. CM Zimmerman made a motion to approve on 1st reading only which was seconded by CM Renteria. CM Kitchen amended the original motion, seconded by CM Garza, to approve on 1st reading only but with no commitment as to the affordable housing requirements. The Mayor clarified that for the affordable housing section, Council wished to insert a "blank" percentage in that section.

Council direction to the Law Department was to begin drafting the PUD ordinance as recommended by the Planning Commission, with the understanding that between 1st and 2nd reading, and again between 2nd and 3rd reading, the affordable housing section could be revised and include different options for the Council to vote on. The motion passed.

Council passes Pilot Knob PUD District Zoning on 1st reading with direction to reexamine affordable housing provisions and coordinate with Cap Metro. (PUD Housing Plan at first reading included MUD Exhibit language noted above.)

Oct. 12, 2015: CM Garza's office initiates meeting with NHCD staff to discuss Pilot Knob Affordable Housing Plan, specifically to address more superior benefits in the PUD housing plan: long-term affordability outcomes, increased percentage in number of units; deeper affordability to reach families at incomes less than 80 percent Median Family Income. Challenges developer to bring back a revised proposal.

Oct. 14, 2015: CM Garza's office initiates meeting with NHCD staff, Mayor's staff, Developer and Developer representatives

Oct. 16, 2015: Following approval of 1st reading, staff forwarded the Planning Commission recommendation to the Law Department for drafting. No changes were made to the affordable housing section of the PUD ordinance prior to 2nd reading on November 12.

Nov. 12, 2015: 2nd reading* for creation of PUD on Pilot Knob MUD. *[This is where attorney for applicant publicly mentions the desire of fee waivers for more affordable housing as requested by Council. \$8,000 per SF home in utility fees. Mentions 650-1,000 units currently to be created in affordable housing]*

**2nd reading was postponed to November 19 on Council Member Garza's motion.*

Nov. 16, 2015: CM Garza's office initiates meeting with NHCD staff, Mayor's office staff, Developer and Developer representatives. Fee waivers were discussed in broad terms as a potentially necessary tool to achieve long-term affordability.

Nov. 19, 2015: 2nd reading for creation of PUD on Pilot Knob MUD Districts. 2nd reading is approved. Council Member Garza states progress on negotiation with ongoing negotiations on SMART fee waivers and ongoing discussion with Capital Metro. NHCD staff confirms negotiations with developer are ongoing.

***Late back-up was provided from CM Garza's office, which included a spreadsheet noting potential fee waiver totaling \$51,265,500.*

Nov. 24, 2015: Austin Water Director invited to meeting with CM Garza's staff, Mayor's office staff to discuss the background and history of Capital Recovery Fees. Austin Water was not asked to review any fee waiver proposals.

Dec. 12-16, 2015: NHCD staff finalizes language reflective of ongoing discussions with developer and provided the draft language to Law. NHCD staff works with Law to finalize PUD Housing Plan component for Dec. 17 Council Action. Mayor and CM Garza's office staff contribute to housing plan language reflective of discussions council aides have had with Capital Metro and developers.

CM Garza's office initiates phone conference with housing staff to discuss questions it has regarding Pilot Knob negotiations. (Council staff contributes to housing plan language reflective of discussions council aides have had with Capital Metro and developers.)

Dec. 17, 2015: PUD Zoning for Pilot Knob MUD approved on 3rd reading as amended. See revised portion of Pilot Knob Affordable Housing Plan language below:

OWNERSHIP 1. At least 10 percent of the total number of units sold as owner-occupied residential housing units located within the Pilot Knob PUD will, through a mechanism agreed upon by the City and Landowner, be made permanently available at a price affordable to households with incomes at 80 percent of or below the median family income. By making at least 10 percent of the ownership units available for permanent affordability, participation in S.M.A.R.T. Housing allows for 100% of eligible fee waivers for all residential units within the PUD

Questions from Council Member Tovo (#1-#13)

1. What are the total anticipated fees that Council waived? Please break these down into development fees and AWU fees, and if there is a range, please provide both the low and high amounts on that range.

Austin Water Fee Estimates

Based upon the information provided to the City in 2010, the potential financial impact to Austin Water of waived water and wastewater capital recovery fees for all of the Pilot Knob MUDs are indicated below. Austin Water's tap fees were not waived in the ordinance. Capital recovery fee waivers for SMART Housing are not applied to office, industrial, commercial, or other non-residential uses.

Type	Developer's 2010 Estimate of Units Based Upon the Creation Petition	Approximate LUEs	Amount Waived (using \$7,600 for water and wastewater CRF)
Single-Family	5,662	5,662	\$43,031,200
Townhome	2,418	1,693 (assumes 0.7 LUE per townhome)	\$12,866,800
Multi-family	6,729	3,365 (assumes 0.5 LUE per apartment)	\$25,574,000
Total	14,809	10,720	\$81,472,000

In researching current projections of the planned build-out of the Pilot Knob MUDs, Austin Water staff contacted Planning and Zoning staff that were associated with the PUD process. Planning and Zoning staff provided the following information related to the Pilot Knob PUD with regard to the number of units approved. Below are the figures from the approved Land Use Plan for the Pilot PUD development:

- Maximum of 14,300 dwelling units
- Maximum 750,000 square feet of employment uses
- Maximum 4.6 million square feet of civic and commercial uses
- 400 acres of parks and open space
- 2 Del Valle school sites
- 1 City Fire/EMS station site

The cap on the number of dwelling units for the PUD is 14,300. The 14,300 limitation is not broken down into discrete categories so that Austin Water can compare it to the information provided by the developer in 2010. However, the total number of dwelling units approximates the total number of residential units provided by the developer to the City in 2010.

While the overall cap on dwelling units is 14,300, the Pilot Knob TIA only presumes approximately 9,900 dwelling units. The limitation provides the developer flexibility to work within the 5,910 single-family residences and 4,081 mid-rise apartment units approved in the TIA. The developer can later modify the TIA to account for a different mix of residential units or to increase the units, while staying within the overall 14,300 dwelling unit cap that is allowed for the PUD. Because the TIA can be modified at any time, the number of single-family units and apartment units approved in the TIA cannot be relied upon for comparative purposes.

Austin Water recently reviewed the spreadsheet that was included in City Council's late back-up materials for the consideration of the Pilot Knob PUD. This information indicates a fee waiver for 6,500 lots. The 6,500 lot number is not broken down into discrete categories so that Austin Water can compare it to the information provided by the developer in 2010. Moreover, the amount of the waiver per lot is \$7,887 and Austin Water's capital recovery fee for water and wastewater for a service unit (as defined by the American Water Works Association for a 5/8-inch meter for a single-family residence) totals \$7,600. Austin Water is not aware of the nature of the remaining \$287 of the waiver.

Based upon the information provided to date, Austin Water staff believes that the estimated total value of capital recovery fee waivers is **\$81 million**.

Benefits to Austin Water from MUD

It has been suggested that Austin Water has directly benefited from this project by an estimated \$30 million. Regarding this suggestion, it's important to distinguish timing of the negotiations for MUD infrastructure versus the current Pilot Knob PUD negotiations.

In 2012, to gain Council approval of the MUD Consent Agreement, the MUD waived \$23 million in eligible reimbursements for water/wastewater mains. The developer agreed to pay for oversizing water/wastewater infrastructure in the amount of \$3.5 million at its own cost. This \$26.5 million cost avoidance for Austin Water was integral to the approval of the MUD's creation, and subsequent Pilot Knob PUD zoning.

Pilot Knob customers will be paying retail rates based on the City's MUD policy adopted in previous years.

Development Services Fee Estimates:

Pilot Knob is a large, complex project with an estimated 20-30 year build-out. The number of residential and multi-family units and actual fee waivers may vary due to the long term nature of the project.

*The *estimated* cost of fee waivers reflected below are for the **Development Services Department** only. It should be noted that DSD has not previously provided fee estimates for this project.

Low Range (based on the Traffic Impact Analysis)

Subdivision Application**	Site & Subdivision Inspection	Site Plan Application	Commercial Building Permits (multi-family)	Commercial Plan Review (multi-family)	Residential Building Permits	Residential Plan Review	Estimated Total for Waivers (Low Range)

5,910 units	2,216 acres	4,081 units	4,081 units	4,081 units	5,910 units	5,910 units		
\$910K	\$2.6M	\$491K	\$2.7M	\$5.0M	\$4.2M	\$2.1M		\$18M

High Range (based on maximum buildout per PUD Zoning)

Subdivision Application	Site & Subdivision Inspection	Site Plan Application	Commercial Building Permits (multi-family)	Commercial Plan Review (multi-family)	Residential Building Permits	Residential Plan Review		Estimated Total for Waivers (High Range)
7,802 units	2,216 acres	6,498	6,498 units	6,498 units	7,802 units	7,802 units		
\$1.1M	\$2.6M	\$525K	\$4.3M	\$8.0M	\$5.5M	\$2.8M		\$24.8M

*The low and high ranges are estimates based on the following assumptions:

1. Plans will be approved upon initial submission, otherwise additional fees will be applied
2. The average size single-family unit is 2,500 square feet and the average size multi-family unit is 1,200 square feet
3. These estimates do not take into account future development fee increases during multi-year build-out

****Includes application fees and construction plan fees for single-family only.**

Over the estimated 20-30 year build-out, development fee waivers are estimated in a range of \$18 million to \$25 million. This will directly impact General Fund revenue during that timeframe.

2. Which departments were involved in negotiating or reviewing this agreement? Did this department or these departments provide a formal recommendation, and if so, what was it?

Neighborhood Housing and Community Development (NHCD) staff met with the developer and developer's representatives to negotiate the affordable housing program component of the Pilot Knob Planned United Development (PUD). Through the negotiation process, NHCD staff provided technical assistance re: SMART Housing, Community Land Trusts, and financial mechanisms to achieve long-term affordability. NHCD's recommendation is in Ordinance 20151217-080, Part 8.

Austin Water Utility staff or management were not involved in negotiating the proposed fee waivers nor were they provided copies of the proposed agreement. Austin Water Utility was not asked to provide a formal recommendation regarding the specifics of the fee waivers.

Development Services and Planning and Zoning were not involved in the negotiations.

The Law Department was not a part of the negotiations regarding the affordable housing provisions.

Staff was not involved in any negotiations with Capital Metro.

3. AWU has indicated that they did not review or provide a total estimate for waivers associated with water/wastewater tap fees. If that is accurate, please explain why that department was not consulted.

On Tuesday, November 24, 2015 the Austin Water Director attended a meeting with staff from both Council Member Garza's and the Mayor's office. During this meeting, the Director, in response to questions, shared information on the Austin Water's Capital Recovery Fees (CRFs). Information communicated included the State Law requirements governing the creation, calculation and implementation of CRFs; the current per unit fee amounts; the AW use of the fees for debt payments on growth related capital investments; and the City Council's 2013 policy revisions that increased the fees to the maximum level allowed by State Law as of January 1, 2014. During this meeting the Austin Water was not asked to provide a recommendation or analysis on any specific fee waiver proposal.

The Director did communicate the total build out of the Pilot Knob development was in excess of 10,000 units and, at current CRF levels, the Utility expected to recover over \$75M in fees over the life of the development. After the November 24th meeting, the Austin Water received no further information, material or meeting requests with regards to CRFs and Pilot Knob.

4. Will these waivers result in an increase in rates for AWU customers? If so, please provide specific numbers; if not, please explain how AWU will absorb this revenue loss.

Capital recovery fees are used by Austin Water to offset debt service requirements on growth related projects. Austin Water is also planning to use current and future capital recovery fees for defeasances, or paying off, existing debt. The collection of capital recovery fees provides rate relief to all of our customers.

Any capital recovery fees that are waived, in general, will result in higher water utility rates to cover the growth-related debt service that the capital recovery fees were planned to be used. All current and future customers of the utility system would have higher rates to pay for the growth related costs not covered by the waived capital recovery fees.

The waivers of capital recovery fees into the future will exempt this development from contributing to growth-related capital infrastructure needed to serve this specific development, but also will exempt them from contributing to all other future growth-related infrastructure within the system. The intent of capital recovery fees is for development to pay for growth-related infrastructure, and reduce the impact of development on current ratepayers.

Austin Water has calculated the estimated rate and average customer bill impact of waiving capital recovery fees in Pilot Knob. We have assumed a range of build out between 20 and 30 years. We have provided rate and bill impacts for both 20 and 30 years. Additionally, we have removed the estimated 910 affordable housing waivers associated with Pilot Knob from our rate and bill impacts assuming that these affordable units would have likely been waived anyway given the SMART housing ordinance. The rate and bill impacts are shown below:

30-Year Build Out

Austin Water estimates the rate impact of waiving 9,810 LUEs of regular lots (excluding affordable lots) over the next 30 years to be 0.5%. This assumes a total waiver of \$74.6 million over the 30 year build out. The impact of waivers annually is anticipated to average \$2.5 million per year over the 30 year build out. The

impact to the average residential customer is approximately \$0.92 per month. For comparison, the current water Revenue Stability Reserve Fund impacts the average customer by \$1.10 per month.

20-Year Build Out

Austin Water estimates the rate impact of waiving 9,810 LUEs of regular lots (excluding affordable lots) over the next 20 years to be 0.7%. This assumes a total waiver of \$74.6 million over the 20 year build out. The impact of waivers annually is anticipated to average \$3.7 million per year over the 20 year build out. The impact to the average residential customer is approximately \$1.39 per month. For comparison, the current water Revenue Stability Reserve Fund impacts the average customer by \$1.10 per month.

5. Please explain why this item was presented to Council without a fiscal note.

Because zoning cases generally are just a change in zoning and have no fiscal impact, a fiscal note is not provided for zoning cases. A review of the Pilot Knob Planned Unit Development (PUD) agenda posting language would not indicate that a fiscal note was required. No request was made for a fiscal review or fiscal note on the Pilot Knob PUD RCAs on any of the ordinance readings posted on Council agendas for October 8, 2015; November 12 and 19, 2015; and December 17, 2015. No fiscal note was provided for the Pilot Knob PUD agenda item.

Budget Office and Financial Services management review draft agenda language to identify RCAs that need a fiscal review for which no fiscal review was requested. Zoning cases do not require a fiscal note given that there is not a fiscal impact. The Pilot Knob item was a zoning case listed under the Planning and Zoning Dept. This item was unique relative to the majority of zoning cases given the financial impact.

Specific RCA topics that require a fiscal note include:

- Amendments to the Operating or Capital budgets
- New or expanded Capital Improvement Program projects
- Expenditure of non-budgeted funds
- Acceptance and appropriation of grant monies
- New taxes, rates, or fees or an increase / decrease to an existing tax, rate, or fee

Financial Services management also attends the City Manager's draft agenda review meetings to hear and participate in the discussion of upcoming agenda items.

In the past staff has not indicated a fiscal impact to SMART Housing-certified projects.

SMART housing criteria refer to units that are "Safe, Mixed-Income, Accessible, Reasonably Price, and Transit Oriented." SMART housing certification is an administrative process that allows for a full or partial development fee waivers based on on-site units provided. The units must meet the criteria in order to receive fee waivers.

SMART housing allows for fee waivers and expedited review for projects that lie within the full-purpose jurisdiction of the City of Austin. SMART housing policy, within the Land Development Code (25-9-347), requires that housing units be within the corporate limits of the City. Council was required to take action on the Pilot Knob agreement given that the project was outside the corporate limits.

6. Please identify who prepared the spreadsheet that was distributed via email on the day of second reading and explain: (1) why this document was not distributed on the dais (as late backup that comes in after Wednesday afternoon typically is) and (2) why it did not become part of the materials posted as back up for third reading.

Zoning backup for Council agendas are uploaded into the agenda management system by the Planning and Zoning Department (PAZ) 8 days prior to the Council meeting. Between this time and the respective Council meeting, additional "late" backup may be added at the request of staff and Council members, and uploaded by the Agenda Office in the City Manager's office.

During second reading, (Nov. 19) a service area map and memo from Capital Metro were added as late backup by PAZ staff, and a financial analysis was provided from a Council office to the Agenda office to be distributed. PAZ was unaware that this financial analysis had been added as late backup.

During third reading (Dec. 17), PAZ staff uploaded an updated staff report that included late backup from the previous meeting (service area map and memo from Capital Metro.) However, because PAZ staff was not aware that a financial analysis had been added at second reading, it was not included with the staff material which was uploaded for third reading.

7. Which legal staff worked on these agreements? Were they present in the negotiations?

The Law Department was not a part of the negotiations regarding the affordable housing provisions.

The Law Department drafted the PUD ordinance based on the staff request from NHCD.

8. Please describe how the affordable housing trust fund will work, and how the waived fees will be used.

The details of the fund have not been finalized; however, it will be a fund controlled by the City and AHFC. The funds will be used for the purchase of lots or units within the Pilot Knob PUD at a sales price agreed upon by both parties, down payment assistance for qualified buyers purchasing houses within the Pilot Knob PUD, construction of affordable units and costs associated with administering the affordable ownership program, and other expenditures agreed upon by the City and the developer.

9. Will the fund be used to construct the affordable units or just to purchase the land on which those units are sited?

The fund can be used for both.

10. The original agreement required 10% of rental units to be affordable for 40 years at 60% MFI and 10% of the for-sale units to be available at 80 MFI, and the agreement also included an \$8 million contribution to the Affordable Housing Trust Fund. Why was the cash contribution to the Affordable Housing Trust Fund reduced from 2%/up to \$8 million to up to \$6 million?

This was part of the negotiation in order to achieve long term affordability.

11. What electric utility will serve this development?

Pedernales Electric Cooperative.

12. What is the soonest date that the residents in Pilot Knob will begin paying property tax?

The Strategic Partnership Agreement between the City and Pilot Knob MUD No. 1 -5 states that the full purpose annexation shall occur no later than Dec. 31, 2047 or possibly earlier if the MUD debt is paid off and the City chooses to annex the Pilot Knob MUD areas.

13. NHCD staff were quoted in the newspaper as having said that this project is consistent with other SMART housing projects as it will cap fee waivers at a total of 1,500 living unit equivalents per year.

Have there been other SMART housing projects that included total fee waivers as high as these are projected to be?

No. Previous capital recovery fee was approximately \$1,500; the fee is now \$7,600.

NHCD staff were quoted as saying this was the largest project to ever fall under the SMART housing program; please identify what the next-largest project is and how many units it included.

The Mueller Development is the next largest S.M.A.R.T. Housing development. This development proposed a total of 4,781 units – 2,342 single-family and 2,439 multi-family. However, these two projects are not comparable in scope or structure. The Mueller project is the result of a Master Development Agreement (MDA) between the City and a developer for redevelopment of City-owned land (in full-purpose jurisdiction). The affordability component of Mueller was a product of the MDA negotiations.

Questions from Council Member Pool (#14-#19)

14. Given the reported \$50-\$80 million in fee waivers granted over 30 years as part of the Pilot Knob/Easton Park development, are there any calculations available on the potential monthly/annual rate increases for ratepayers? (We understand this question may have been asked by another Council office. Please simply copy us on that response.)

Capital recovery fees are used by Austin Water to offset debt service requirements on growth related projects. Austin Water is also planning to use current and future capital recovery fees for defeasances, or paying off, existing debt. The collection of capital recovery fees provides rate relief to all of our customers.

Any capital recovery fees that are waived, in general, will result in higher water utility rates to cover the growth-related debt service that the capital recovery fees were planned to be used. All current and future customers of the utility system would have higher rates to pay for the growth related costs not covered by the waived capital recovery fees.

The waivers of capital recovery fees into the future will exempt this development from contributing to growth-related capital infrastructure needed to serve this specific development, but also will exempt them from contributing to all other future growth-related infrastructure within the system. The intent of capital recovery fees is for development to pay for growth-related infrastructure, and reduce the impact of development on current ratepayers.

Austin Water has calculated the estimated rate and average customer bill impact of waiving capital recovery fees in Pilot Knob. We have assumed a range of build out between 20 and 30 years. We have provided rate and bill impacts for both 20 and 30 years. Additionally, we have removed the estimated 910 affordable housing waivers associated with Pilot Knob from our rate and bill impacts assuming that these affordable units would have likely been waived anyway given the SMART housing ordinance. The rate and bill impacts are shown below:

30-Year Build Out

Austin Water estimates the rate impact of waiving 9,810 LUEs of regular lots (excluding affordable lots) over the next 30 years to be 0.5%. This assumes a total waiver of \$74.6 million over the 30 year build out. The impact of waivers annually is anticipated to average \$2.5 million per year over the 30 year build out. The impact to the average residential customer is approximately \$0.92 per month. For comparison, the current water Revenue Stability Reserve Fund impacts the average customer by \$1.10 per month.

20-Year Build Out

Austin Water estimates the rate impact of waiving 9,810 LUEs of regular lots (excluding affordable lots) over the next 20 years to be 0.7%. This assumes a total waiver of \$74.6 million over the 20 year build out. The impact of waivers annually is anticipated to average \$3.7 million per year over the 20 year build out. The impact to the average residential customer is approximately \$1.39 per month. For comparison, the current water Revenue Stability Reserve Fund impacts the average customer by \$1.10 per month.

15. What steps are being taken by AWU to inform customers of potential rate increases?

Austin Water has not taken any specific steps to inform customers of the potential rate increases associated with the Council decision on Pilot Knob. Typically, for large capital projects or other large agreements that would impact revenue or costs significantly, Austin Water would calculate a water and wastewater rate increase and average customer bill impact that would be provided to Council and customers before the decision.

During the annual operating budget process, Austin Water will provide significant communication to customers to inform them of increases included in the Proposed Budget. Austin Water presents budget information to the Water and Wastewater Commission, Council, and the community.

16. Has AWU been informed about other developments in which fee waivers similar to the ones associated with the Pilot Knob/Easton Park development will be used to fund affordable housing on site?

In a meeting with CM Garza's staff on February 1, 2016, Austin Water staff understood that similar fee waivers are being explored for the Southeast Travis County MUDs (a.k.a. Sunchase PUD) and any other future PUD applications.

17. Has AWU been informed about any particular type of zoning category in which fee waivers may be utilized to fund affordable housing on site?

There are no zoning categories that inherently include fee waivers.

Austin Water staff has not been informed about potential zoning categories for any future fee waivers. However, City Code Chapter 25-9-347 indicates types of housing (single-family and multi-family) that are

currently eligible for waivers of water and wastewater capital recovery fees. Such housing types are associated with certain zoning categories.

18. The fee waivers are being extended to 100% of the residential units at Pilot Knob/Easton Park, but only 10% of those units are to be designated “affordable.” Why are the fee waivers being extended over the entire number of residential units?

The impact fee provisions of the Code provide that the community development officer may exempt not more than 1500 service units of affordable housing. However, for the purpose of SMART Housing incentives, impact fees have been treated the same as all other development fees since the inception of the SMART Housing program 16 years ago. Therefore, the provisions of City Code Section 25-1-704 (Fee Waivers) have been applied to impact fees.

Under City Code Section 25-1-704(B)(2)(b) relating to SMART Housing fee waivers, units within a SMART Housing development are eligible for a waiver of 100% of the fees if the development is located outside of the Urban Roadways boundary and at least 10% of the dwelling units are reasonably priced and are transferred to a City –approved affordable housing land trust. The waiver applies to both affordable and market rate units.

This is an area where the practice of the City and the Code provisions need to be clarified.

19. What portions of the AWU budget will experience shortages that cannot be recovered via increased utility rates?

All reductions in revenue or increases in costs within any current budget or proposed for future budgets can be recovered through increased utility rates. Austin Water recovers over 95% of its revenue through the sale of water and wastewater services. Therefore, increasing water and wastewater rates are the primary source to cover revenue losses and budget increases. Austin Water is not anticipating any change to its capital projects.

20. The eligible fee waivers from LDC Section 25-1-704(A), the Austin Water Utility Capital Recovery Fee is not listed as an eligible fee waiver; how does this ordinance authorize waivers from the Capital Recovery Fee if those impact fees are not listed as eligible in our city code?

The impact fee is not listed in Section 25-1-704 (fee Waivers). However, for the purpose of SMART Housing incentives, impact fees have been treated the same as all other development fees since the inception of the SMART Housing program.

21. LDC Section 25-9-347 states that the NHCD officer may exempt no more than 1,500 units of affordable housing from the AWU impact fees per fiscal year; how does this ordinance (Part 8(C)(1) authorize fee waivers from “all residential units within the PUD”?

The impact fee provisions of the Code provide that the community development officer may exempt not more than 1500 service units of affordable housing. However, for the purpose of SMART Housing incentives, impact fees have been treated the same as all other development fees since the inception of the SMART Housing program 16 years ago. Therefore, the provisions of City Code Section 25-1-704 (Fee Waivers) have been applied to impact fees.

Under City Code Section 25-1-704(B)(2)(b) relating to SMART Housing fee waivers, units within a SMART Housing development are eligible for a waiver of 100% of the fees if the development is located outside of the

Urban Roadways boundary and at least 10% of the dwelling units are reasonably priced and are transferred to a City –approved affordable housing land trust. The waiver applies to both affordable and market rate units.

This is an area where the practice of the City and the Code provisions need to be clarified.

Questions from Mayor's Office (#22-#23)

22. Current SMART housing policy allows staff to waive fees on up to 1500 LUEs annually. Assuming those waivers include 100% of eligible fees, what is the annual estimated impact of that amount of fee waivers on the water/wastewater utility and on the average utility bill?

At the current capital recovery fees of \$7,600 per LUE, the 1,500 annual SMART housing policy provides for \$11.4 million in annual waivers. In addition to the 1,500 SMART waivers previous Council policy has waived SMART housing fees in the Mueller Development and specified these units were not to be included in the 1,500 limit.

Austin Water's revenue from capital recovery fees is reduced by a maximum of \$11.4 million per year. This waived revenue from capital recovery fees would otherwise have been used for paying debt service requirements on growth-related water and wastewater infrastructure. Austin Water has previously increased water and wastewater rates in the amount of approximately 2.0% to provide sufficient revenue to pay the debt service that would have been paid by the capital recovery fees that were waived. The impact of the SMART housing annual waivers to the average residential customer is approximately \$4.24 per month or 5.4% of the average monthly bill of \$78.72.

23. Similarly, what would be the projected annual impact on the utility and average utility bill of waivers on 350 LUEs annually every year for the next 30 years? (Austin Water Response same as PTM Tovo Question #4 and CM Pool Question #1)

Capital recovery fees are used by Austin Water to offset debt service requirements on growth related projects. Austin Water is also planning to use current and future capital recovery fees for defeasances, or paying off, existing debt. The collection of capital recovery fees provides rate relief to all of our customers.

Any capital recovery fees that are waived, in general, will result in higher water utility rates to cover the growth-related debt service that the capital recovery fees were planned to be used. All current and future customers of the utility system would have higher rates to pay for the growth related costs not covered by the waived capital recovery fees.

The waivers of capital recovery fees into the future will exempt this development from contributing to growth-related capital infrastructure needed to serve this specific development, but also will exempt them from contributing to all other future growth-related infrastructure within the system. The intent of capital recovery fees is for development to pay for growth-related infrastructure, and reduce the impact of development on current ratepayers.

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20-Year Build Out

Austin Water estimates the rate impact of waiving 9,810 LUEs of regular lots (excluding affordable lots) over the next 20 years to be 0.7%. This assumes a total waiver of \$74.6 million over the 20 year build out. The impact of waivers annually is anticipated to average \$3.7 million per year over the 20 year build out. The impact to the average residential customer is approximately \$1.39 per month. For comparison, the current water Revenue Stability Reserve Fund impacts the average customer by \$1.10 per month.



To: Marc A. Ott, City Manager

From: Robert D. Goode, Assistant City Manager *[Signature]*
Bert Lumbreras, Assistant City Manager
Sue Edwards, Assistant City Manager
Elaine Hart, Chief Financial Officer *[Signature]*

Date: February 8, 2016

Subject: Pilot Knob Planned Unit Development (PUD)

The purpose of this memo is to provide background information on the Pilot Knob Planned Unit Development (PUD) ordinance approved by Council on December 17, 2015. As you know, this item has received considerable attention in recent weeks, with a number of Council Members submitting questions.

Staff from each of our service groups has provided input to develop the enclosed responses, along with a chronology of events leading up to the final Council approval. As you will see from the attached information, this was a complex process involving multiple Council offices, staff and external parties. This process was also unique given that staff played a more limited role in the negotiations than is typical in these types of agreements.

Moving forward, it's clear there is a need for more effective collaboration between departments, as well as amongst staff and Council offices. In that spirit, we've outlined a number of takeaways from this process as well as potential changes to our internal processes.

Based on our initial analysis, we believe there is value in establishing a coordinated staff team approach to this process. This approach would feature a specific lead individual responsible for oversight and ensuring all team members are adequately involved. It is our expectation that the team's work would involve a financial analysis resulting in a fiscal note prior to projects being placed on an agenda. We will ask this team to recommend other process improvements.

Attachments

- Pilot Knob Chronology
- Responses to Council Questions

ARTICLE 15. - S.M.A.R.T. HOUSING.

§ 25-1-704 - FEE WAIVERS.

- (A) The director may, in accordance with Subsection (B), waive all or a portion of the following fees, as set by the City's annual fee ordinance, for a S.M.A.R.T. Housing development:
- (1) Public Works Construction Inspection Fee;
 - (2) Watershed Protection and Development Review - Development Assessment Fee;
 - (3) Watershed Protection and Development Review - Traffic Impact Analysis Fee;
 - (4) Watershed Protection and Development Review - Traffic Impact Analysis Revision Fee;
 - (5) Regular Zoning Fee;
 - (6) Interim to Permanent Zoning Fee;
 - (7) Miscellaneous Zoning Fee;
 - (8) Zoning Verification Letter Fee;
 - (9) Board of Adjustment Fee;
 - (10) Managed Growth Agreement Fee;
 - (11) Planned Development Area Fee;
 - (12) Preliminary Subdivision Fee;
 - (13) Final Subdivision Fee;
 - (14) Final Without Preliminary Subdivision Fee;
 - (15) Miscellaneous Subdivision Fee;
 - (16) Consolidated Site Plan Fee;
 - (17) Miscellaneous Site Plan Fee;
 - (18) Site Plan Revision Fee;
 - (19) Site Plan - Construction Element Fee;
 - (20) Building Review Plan Fee;
 - (21) Building Permit Fee;
 - (22) Electric Permit Fee;
 - (23) Mechanical Permit Fee;
 - (24) Plumbing Permit Fee;
 - (25) Concrete Permit Fee;
 - (26) Demolition Permit Fee;
 - (27) Electric Service Inspection Fee;
 - (28) Move House Onto Lot Fee; and
 - (29) Move House Onto City Right-of-Way Fee.
- (B) A developer is eligible for a waiver of the fees described in Subsection (A) if the director determines that the S.M.A.R.T. housing development provides the percentage of reasonably-priced dwelling units prescribed by this section.

- (1) Except as provided in Paragraph (2):
 - (a) if at least ten percent of the dwelling units are reasonably- priced, the development is eligible for a waiver of 25 percent of the fees;
 - (b) if at least 20 percent of the dwelling units are reasonably- priced, the development is eligible for a waiver of 50 percent of the fees;
 - (c) if at least 30 percent of the dwelling units are reasonably- priced, the development is eligible for a waiver of 75 percent of the fees; and
 - (d) if at least 40 percent of the dwelling units are reasonably- priced, the development is eligible for a waiver of 100 percent of the fees.
- (2) The development is eligible for a waiver of 100 percent of the fees if:
 - (a) except as provided in Subparagraphs (c) and (d), the development is located within the Urban Roadways boundary described by [Chapter 25-2](#), Subchapter E (Design Standards and Mixed Use), and at least five percent of the dwelling units are reasonably priced and are transferred to a City approved affordable housing land trust or other similar entity approved by the director;
 - (b) except as provided in Subparagraph (c), the development is located outside the Urban Roadways boundary described by [Chapter 25-2](#), Subchapter E (Design Standards and Mixed Use), and at least ten percent of the dwelling units are reasonably priced and are transferred to a City approved affordable housing land trust or other similar entity approved by the director;
 - (c) the development is a Vertical Mixed Use (VMU) building that complies with the affordability requirements of [Chapter 25-2](#), Subchapter E, Section 4.3.3.F (Affordability Requirements); or
 - (d) the development is located in either a Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district, and at least ten percent of the dwelling units are reasonably-priced.

Source: Ord. 20071129-100.

CHAPTER 25-9. - WATER AND WASTEWATER.

ARTICLE 3. - WATER AND WASTEWATER CAPITAL RECOVERY FEES

Division 4. - Exemptions.

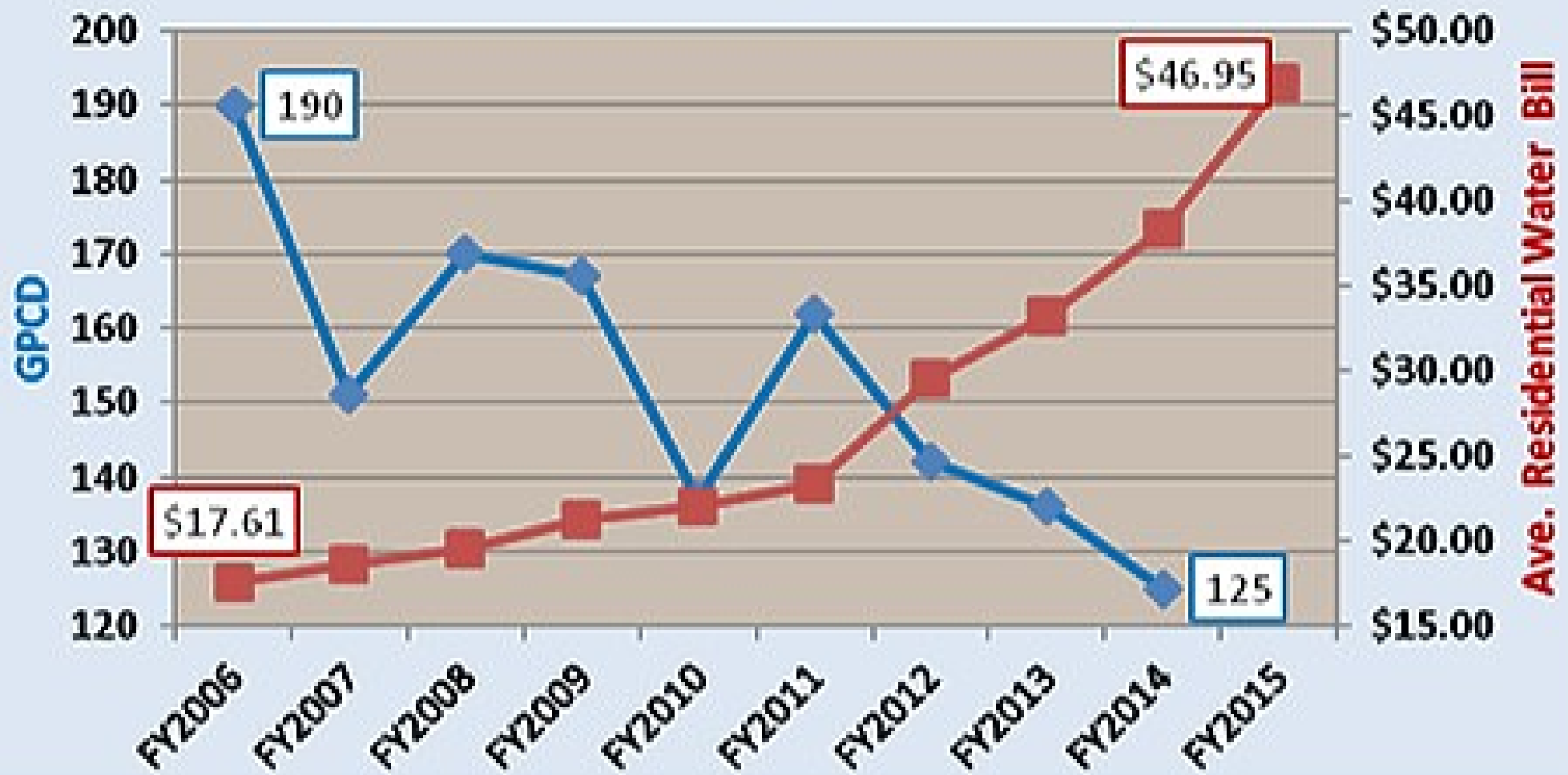
§ 25-9-347 - EXEMPTION FOR CERTAIN AFFORDABLE HOUSING.

- (A) **The community development officer may exempt not more than 1,500 service units of affordable housing constructed each fiscal year from the requirement to pay impact fees under this article.** Service units of affordable housing within the development known as the Robert Mueller Municipal Airport development that are granted exemptions from paying impact fees do not count against the annual cap of 1,500.
- (B) The community development officer shall establish guidelines for the selection of the service units to receive an exemption under this section. The guidelines must include a requirement for a written application.
- (C) To be eligible for an exemption under this section, affordable housing must:
- (1) meet design and construction guidelines established by the community development officer for habitability, affordability, accessibility, water conservation, and energy efficiency;
 - (2) be served by existing City infrastructure and services; and
 - (3) **be a newly constructed single family home or multifamily housing unit located within the corporate limits of the City** that is:
 - (a) approved for assistance under an affordable housing program funded with Community Development Block Grant or federal HOME program assistance funds administered by the City;
 - (b) approved for assistance under a program for affordable housing construction funding or down payment assistance administered by the Austin Housing Finance Corporation; or
 - (c) approved under guidelines for non-assisted affordable housing units established by the community development officer that meet the requirements of this section.
- (D) To receive an exemption under this section, an applicant who is approved for an exemption must provide to the community development officer an agreement, a restrictive covenant, a deed of trust, a promissory note, or other documents determined to be necessary by the city attorney to establish an enforceable obligation by the applicant to:
- (1) pay to the City an amount equal to the impact fee otherwise applicable to the housing unit if the applicant does not comply with this section and applicable guidelines;
 - (2) reserve by covenant the applicable affordable dwelling units for the duration of the affordability period prescribed by Subsection (E); and
 - (3) pay liquidated damages that will fairly compensate the City for any breach.
- (E) To retain an exemption under this section, a unit of affordable housing must comply with the requirements of this subsection.
- (1) Except as provided in Paragraphs (2) and (3), a unit must be available for occupancy by a person whose gross household income does not exceed 80 percent of the median household income for the Austin Standard Metropolitan Statistical Area for the following affordability period:
 - (a) in the university neighborhood overlay district, a period of no less than 15 years; or
 - (b) outside the university neighborhood overlay district:
 - (i) for rental housing, a period of no less than five years; or

- (ii) for owner-occupied housing a period of no less than one year, unless the owner is receiving federal housing assistance, in which case, a period of no less than five years.
- (2) A unit within a Vertical Mixed Use building must comply with the affordability requirements for the affordability period under Chapter 25-2, Subchapter E, Section 4.3.3.F (Affordability Requirements).
- (3) In Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district:
 - (a) an owner-occupied unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income does not exceed 120 percent of the median family income for the Austin Standard Metropolitan Statistical Area; or
 - (b) a rental unit must be available for occupancy for a period of not less than 40 years by an occupant whose gross household income does not exceed 80 percent of the median family income for the Austin Standard Metropolitan Statistical Area.
- (4) An affordability period prescribed by this subsection begins on the date that an affordable unit is available for occupancy.
- (F) If an applicant who receives an exemption under this section does not comply with Subsection (E), defaults on its obligations under documents executed under Subsection (D), or does not perform in accordance with the conditions for receipt of the exemption, the City may initiate legal proceedings to recover the impact fees that would have applied to the housing unit and damages. Funds recovered for impact fees shall be deposited in the impact fee account of the Water Utility. Damages collected to compensate the City for loss of affordable housing units shall be deposited into the S.M.A.R.T. Housing CIP Fund account of the Neighborhood Housing and Community Development Department.
- (G) Before the director of the Water Utility may issue a tap permit authorizing connection to the City water or wastewater system for a property receiving an exemption under this section, the community development officer must provide a written certification to the director of the Water Utility identifying the service address of the affordable housing unit.
- (H) The community development officer may revoke a certification under Subsection (G) if the applicant does not finish construction of the approved affordable housing unit:
 - (1) within 15 months after certification; or
 - (2) for a multifamily housing unit, 24 months after certification.
- (I) This section does not require a refund by the Water Utility of impact fees previously paid.
- (J) An exemption under this section may not be assigned or transferred by the applicant to another property.

Source: Section 13-3A-10(o); Ord. 990225-70; Ord. 000420-77; Ord. 031211-11; Ord. 20051103-032; Ord. 20071129-100.

AWU Dual Customer Sacrifice Less Use, Higher Bills





Council Question and Answer

Related To	Item #18	Meeting Date	March 3, 2016
Additional Answer Information			

QUESTION'S FROM: MAYOR PRO TEM TOVO'S OFFICE

ANSWER:

1) Please describe the items that will be contained within the Development Agreement and the estimated timetable for completion, and indicate whether that agreement will be approved by Council.

A team of staff members plans to meet with the developer to propose all the required components of the development agreement. The agreement will have several components to include identifying: how real property will be acquired and/or transferred; how income eligibility will be ensured; Capital Recovery Fee waiver caps; and how the funds will be managed. Staff is not opposed to bringing the item forward for City Council action.

2) Please describe what will be contained in a restrictive covenant and the estimated timetable for completion, and explain why that wasn't executed prior to a final decision on the zoning and whether the restrictive covenant will come to Council for approval.

The restrictive covenant cited in the Pilot Knob PUD ordinance falls in Part 8.B outlining the affordability requirements for rental. Not all of the multi-family sites will include affordable units. Until the sites are identified a restrictive covenant will not be recorded. Sites identified to include affordability will have a restrictive covenant outlining the rental housing requirements for the development. An example restrictive covenant was attached to the ordinance and will be tailored to the Pilot Knob affordable rental developments. The PUD ordinance places the affordability requirements on the entire site. There is no time table at this time as the site plan and subdivision process is in the early stages.

3) The original MUD agreement required the developer to sell 10%/650 units at a price affordable to individuals at 80% MFI. During the work session it was noted that the city has the option but not the obligation to purchase the land and/or units. If the city declined to purchase any lots or units in the development, would the developer revert back to the original commitment to build and sell 650 units at affordable prices at the first sale? If so, where in the documents is that mechanism described?

A response to this question was provided in a memo from the Law Department.

4) At what point during the development process will the Austin Water Utility and Development Services waived fees be deposited into the Affordable Housing Trust Fund? (Please provide this information for a phased project with a buildout of 20 to 30 years.)

This item would be formalized in the Development Agreement.

5) How will the price for the affordable lots purchased by the City be determined?

This item would be formalized in the Development Agreement.

6) If the fees are paid over time rather than at the outset of the development, how will the City purchase lots and/or units if the Affordable Housing Trust Fund doesn't yet have sufficient money to cover the lot/unit costs?

This is yet to be determined.

7) Mueller has been offered as a model for the affordable housing program at Pilot Knob. Please describe (a) the total amount of public money committed to the project and an estimate of the amount allocated toward housing versus parks and other amenities (b) the number, percentage, and level of affordable units and (c) the total amount and % of fees waived for SMART housing and any other relevant similarities/differences.

a) Mueller Affordable Housing Summary

Per the 2004 Master Development Agreement between the City of Austin and Catellus Development, 25% of all for-sale and for-rent units at Mueller are affordable. This translates to over 1,475 units of the 5,900 total units included in the current development program at completion. Affordable Units at Mueller are priced to serve 30% - 80% Area MFI.

- For sale units serve 80% MFI and are administered by the Mueller Foundation (see below).
- Market rate multifamily projects have at least 10% affordable units (some projects include 15%) and serve 60% MFI with requirements for 50 years of affordability.
- Three predominantly affordable, mixed-income tax credit projects reach deeper levels of affordability, with a majority of units at 60% MFI or below (described more below under "Deeper Affordability").

Below is a table summarizing the latest data from the Mueller Semi-Annual Report / Affordable Housing report (through November 2015):

Type	Mueller To-Date Total No. of Units Contracted ¹	Mueller To-Date No. of Affordable Units Contracted ¹	Current Percentage of Affordable Homes ²
For-sale	1,732	485	28.0%
For rent	1,981	569	28.7%
Total	3,713	1054	28.4%

1. Includes units completed, under construction, or under contract and not under construction yet
2. At any point in time during development, the actual percentage of affordable homes may be above or under the required 25%

b) MDA and Public Funds

Through the 2004 Master Development Agreement, the City established a TIF and has issued bonds to support the financing of the public infrastructure at Mueller. To date, the City has issued \$62M in bonds. Debt service on the bonds is paid by property and sales taxes generated by the project.

Eligible infrastructure consists of streets, bicycle and pedestrian infrastructure, utilities, parks, and drainage/water quality. These funds are not used for affordable housing.

c) S.M.A.R.T. Housing Program and Waivers

The Master Development Agreement requires Catellus to implement the City's S.M.A.R.T. Housing criteria. Catellus is also required to develop 25% of the total residential units at Mueller as affordable housing. Catellus is responsible for building the infrastructure and for the sale of lots to third party builders or developers. The third-party residential at Mueller qualifies for and has received partial fee waivers of 62.5% per the S.M.A.R.T. Housing ordinance.

- Austin Water Utility fee waivers for Mueller are \$1.1 million.
- Through Catellus' contract with the homebuilders, the portion of fees that is waived by the City is collected at lot closing and transferred to the Mueller Foundation, further allowing the Foundation to retain homes in the affordable homes program (described more below).

d) Achieving Deeper Levels of Affordability

Separate from the MDA, two projects at Mueller have received financing from AHFC. DMA applied for and received funds to help finance two tax credit mixed-income communities at Mueller, in order to achieve greater levels of affordability:

- **Wildflower Terrace by Diana McIver & Associates:** Senior Affordable Multi-Family Housing (completed 2011)
 - 201 units total
 - 171 units (85 %) at or below 60% MFI for 99 years and 30 units market rate
 - 85 units or 50% for households at or below 60% MFI
 - 60 units or 35% for households at or below 50% MFI
 - 26 units or 15% for households at or below 30% MFI
 - Received \$2M AHFC funds
- **Aldrich 51 by Diana McIver & Associates:** Affordable Multi-Family Workforce Housing (under construction)
 - 240 units total
 - 204 units (85 %) at or below 60% MFI for 99 years and 36 units market rate
 - 139 units or 68% for households at or below 60% MFI
 - 47 units or 23% for households at or below 50% MFI
 - 18 units or 9% for households at or below 30% MFI
 - Received \$4M AHFC funds
- **3rd Predominantly Affordable Multi-Family Project:** Planned for future development

8) It's my understanding that (generally speaking) the Mueller Foundation purchases affordable homes with

proceeds it receives from previous sales of homes in the affordable program. Was a similar mechanism contemplated for Pilot Knob, using the \$8 million (now \$6 million) as starter funds to repurchase the 650 houses that the developer had committed to offer at affordable prices?

The Mueller Foundation is a 501c3 non-profit organization, with Austin community board members, that provides oversight for the Mueller Affordable Homes Program to ensure its long-term sustainability. Its funds are held by the Austin Community Foundation. Homes in the Mueller Affordable Homes Program are sold for less than the homes' actual value. The Mueller Foundation holds a soft second lien and has a "purchase option" so that the homes can be re-sold to future income-qualified homebuyers to maintain the inventory and further support future affordability efforts. Currently the Mueller Foundation has soft second liens on 300 homes and has repurchased 41 homes.

The funding for the Mueller Foundation comes from three revenue sources:

1. A 0.25% fee on all commercial and residential property sales in perpetuity.
2. A fee of approximately \$1000 per unit collected from residential builders/developers. This fee was an approximation of the amount of S.M.A.R.T. Housing fee waivers granted by the City. The early estimate was based on water meter and tap fees at the time, but has since increased in line with Austin Water Utility's revised fee structure.
3. Shared-equity reimbursements to the Mueller Foundation received upon the resale of an affordable home.

Due to the nature of the timing of the bond issuances, these funds are not being contemplated as starter funds for the Housing Trust Fund.

9) As mentioned above, during the work session it was said that the city has the option but not the requirement to purchase land or units at Pilot Knob. If the city chooses not to exercise this option, would the waived fees be returned to the Water Utility? Does the ordinance describe a particular process (outside of the annual City budget adoption) and proposed timetable for that ongoing evaluation and decision-making?

A response to this question was provided in a memo from the Law Department.

10) What are the allowable uses for Capital Recovery Fees? Have they been used to support other affordable housing efforts in Austin?

As required by Local Government Code Chapter 395, Section 395.012, capital recovery fees can only be used to pay the direct costs or to pay the principal and interest on bonds issued for constructing capital improvements or facility expansions identified in the growth-related capital improvement plan.

Collected capital recovery fees have only been used as prescribed by the law mentioned above. S.M.A.R.T. Housing waives capital recovery fees and development review fees as an incentive to developers to produce a percentage of affordable units. Waived capital recovery fees are not collected and therefore would not be used for any purpose. In the Mueller Development, the developer requires the non-affordable builders to pay a separate fee in the amount of the repay the capital recovery or development review fee waiver to the Mueller Foundation to support the affordable housing program.

11) Do all departments budget for up to 1,500 SMART Living Unit Equivalent fee waivers per year? If so, please explain why AWU is projecting a rate increase in response to the fees waived in the Pilot Knob PUD

agreement. What would be the estimated property tax impact for the owner of a median-valued home for a \$100 million general obligation housing bond? Would that amount change over time?

Austin Water does not directly budget for up to 1,500 SMART fee waivers as an annual reduction in revenue from capital recovery fees. Austin Water budgets for the forecasted levels of actual collections of capital recovery fees each year based on historical trends of collections. The current level of SMART fee waivers impacts the amount of forecasted collections and therefore is indirectly budgeted. As SMART fee waivers trend upward and are closer to the 1,500 limit due to development agreements such as Pilot Knob, then Austin Water's forecasted levels of collections of capital recovery fees would not grow as quickly or be reduced..

About 1 cent of the property tax rate can be attributed to \$100 million general obligation housing bonds. The impact of 1 cent of property tax rate for the owner of a **median-valued home** of \$236,874 (non-senior residential homestead with 6% general homestead exemption) is \$23.69 on an annual basis.

The City's current property tax rate for FY 2015-2016 is \$0.4589 per \$100 assessed valuation. The debt portion is \$0.1062 of that total property tax rate.

Whether or not this amount would change over time is complicated. It would tend to decrease over time as more new construction is added to the roll. It would only increase over time if the rate of growth of the median-valued home were to outpace the growth of other property classes and new construction.

12) Would the estimated monthly utility bill impact for a 20- or 30-year buildout at Pilot Knob remain constant over the term of the buildout? If such a generalization can be made, do dollars received through general obligation bonds have a higher or lower return on investment compared to dollars received through fees?

Austin Water identified the monthly utility bill impact of Pilot Knob as \$0.64 per month for a 30-year buildout and \$0.96 per month for a 20-year buildout. This monthly bill impact would likely be realized over 5-7 years as Pilot Knob began building homes and the impact of the waivers increased. Once the full monthly rate impact was realized over several years, the monthly bill impact would remain constant for the remainder of the project.

All funds (including fees and bond proceeds) are invested in accordance with the City's Investment Pool objectives, which are the protection of principal, liquidity and yield in that order. Bond proceeds from a tax-exempt bond issuance are yield restricted per Internal Revenue Service (IRS) regulations. The City does **not** take into account these restrictions on bond proceeds when investing the funds. However, if the City's Investment Pool yield exceeds the bond borrowing rate, the City rebates the difference to the IRS. The City hires an Arbitrage firm to perform rebate calculations on all of the City's bond transactions in order to adhere to federal yield restrictions. Overall, there is not enough information to make general statement on return on investment based on different funding sources.

13) Of the 2,593 affordable units created with the \$55 million in 2006 bonds, how many were home ownership opportunities? Of those 6 projects that provided homeownership opportunities, what were the levels of affordability, and what was the per unit subsidy?

There were 242 home ownership opportunities funded with 2006 G.O. Bond Funds. The average Median Family Income has been 53% of Median Family Income. The average per unit subsidy is approximately \$57,000. (The Median Family Income skews low because the majority of the homes were built by Austin Habitat for Humanity whose program serves buyers at or below 50% MFI.

14) What is the estimated number of affordable units to be created with the 2013 \$65 million in bond funds?

NHCD anticipates the same number or slightly less than the 2006 bonds due to the increase in land costs and construction costs. The 2013 bonds have not funded any single-family as of this date.

QUESTION'S FROM: COUNCIL MEMBER POOL'S OFFICE

ANSWER:

1) In the Pilot Knob/Easton Park development, Brookfield Residential is to receive Austin Water Utility (AWU) Capital Recovery Fee waivers not just for the affordable housing units, but for 100% of the residential units across the project. How many other projects have received 100% waivers like this one? Are there upcoming residential projects that will also receive fee waivers for 100% of their residential units?

City Council has not approved any other projects in the City's limited purpose annexation area for S.M.A.R.T. Housing certification and fee waivers. However, additional projects within the City's full purpose jurisdiction have received 100% fee waivers. Additional time will be needed to provide an accurate response to the number of projects due to the longevity of the program.

Yes, any projects that have been certified and comply with the S.M.A.R.T. Housing ordinance requirement to include the inclusion of affordable units in a community land trust.

2) What is the consequence of reaching the annual 1,500 cap on SMART Housing fee waivers? Would the fees simply go to AWU and Development Services?

Currently, there is an annual 1,500 living unit equivalent cap on the capital recovery fee waivers (this cap does not apply to the Mueller development). At this time, a process has not been created to manage the situation when we reach the 1,500 cap during the year.

3) Is there any situation that would prevent waived fees from being deposited into the Housing Fund, such as if the SMART Housing cap is reached?

If fees are not waived then there is no fee equivalent to be deposited in the Housing Fund. The development agreement could address other alternatives.

4) If the 1,500 SMART Housing cap is ever reached, would NHCD then be unable to grant fee waivers, or would the department forgo an offer from a developer to provide SMART housing?

This situation has not been addressed at this time and a process would need to be created to properly manage it.

5) It has been suggested that any AWU Capital Recover Fee (impact fee) monies deposited into the Housing Fund can simply be transferred back out and returned to AWU if the utility has a greater financial need that must be addressed. Has NHCD had other instances in which Housing Fund monies were transferred out for reasons unrelated to affordable housing?

No, NHCD has not created a fund like this in the past..

6) The Capital Recovery Fee Advisory Committee received a report showing 450 fee waivers over a six-month period, indicating about 900 fee waivers per year. What was the trigger for those waivers? Is NHCD anticipating that the number of fee waivers will increase or remain steady (excluding the Pilot Knob/Easton Park project)?

The S.M.A.R.T. Housing certification letter is designed to be the trigger. NHCD would anticipate this number increasing as long as the residential construction industry remains strong.

7) City code says that fee waivers can only be given for affordable housing within the city limits. Why were waivers allowed for Pilot Knob/Easton Park, which will not be fully annexed until 2047? What was the source of NHCD's legal authority to do so?

NHCD does not certify projects for S.M.A.R.T. Housing in limited purpose annexed areas without Council approval. Council action on the Pilot Knob PUD approved S.M.A.R.T. Housing certification.

8) Does NCCD have other affordable housing projects outside the city limits? What portion?

There are affordable housing requirements in several MUDs but they are not S.M.A.R.T. Housing certified.

9) There is some contradiction in the city regulations regarding whether or not Capital Recovery Fees can be waived. How did NHCD determine which section of the code to follow in order to allow the fee waivers?

A response to this question was provided in a memo from the Law Department.

Updated Staff Estimates per March 1 Work Session Discussion:

Development Services Department

Pilot Knob – Revised (March 1, 2016)

Subdivision Application	Subdivision Inspection	Site Plan Application	Commercial Building Permits	Commercial Plan Review	Residential Building Permits	Residential Plan Review	Estimated Total
2,216 acres	2216 acres	4,500 units	4,500 units	4,500 units	5,000 units	5,000 units	
\$410 per acre	\$1173.28 per acre	\$120 per unit	\$654.58 per unit	\$1,235 per unit	\$705.12 per unit	\$355.68 per unit	
\$910,000	\$2.6 million	\$542,000	\$2.9 million	\$5.6 million	\$3.5 million	\$1.7 million	\$17.8 million*

*Based on the following assumptions:

1. There is only 1-review cycle for the residential and commercial applications.
2. The average size unit is 2500 square feet
3. Documents do not take into account future development fee increases.
4. Commercial is based on 1,500 Condo/Townhome Units, and 3,000 multi-family units
5. Residential is based on 5,000 single-family units