



# City of Austin

301 W. Second Street  
Austin, TX

## Agenda

### Questions and Answers Report

*Mayor Steve Adler*

*Mayor Pro Tem Kathie Tovo, District 9*

*Council Member Ora Houston, District 1*

*Council Member Delia Garz, District 2*

*Council Member Sabino "Pio" Renteria, District 3*

*Council Member Gregorio Casar, District 4*

*Council Member Ann Kitchen, District 5*

*Council Member Jimmy Flannigan, District 6*

*Council Member Leslie Pool, District 7*

*Council Member Ellen Troxclair, District 8*

*Council Member Alison Alter, District 10*

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Thursday, November 29, 2018

Austin City Hall

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

### QUESTIONS FROM COUNCIL

**3. Agenda Item #3:** Approve adoption of Water Forward, Austin's Integrated Water Resource Plan.

QUESTION:

- 1) What do you have in the plan right now for implementation in terms of staffing and funding in the next few years?
- 2) What is the magnitude of the rate impact necessary to implement the Water Forward plan?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

- 1) Post plan approval, Austin Water will work to align internal resources to implement the plan recommendations. In the next budget year or two, we anticipate requesting additional staff to support the plan, however we are not currently forecasting any rate increases over the next few years.
- 2) The estimate water rate impact, which would be spread out over a 9-year period between 2025-2033, is a cumulative 8.5% rate increase to fund the proposed new strategies, including Aquifer Storage Recover (ASR) and Indirect Potable Reuse (IPR). The maximum annual rate increase during this period is approximately 2.2%. The estimated average residential customer bill impact related to the cumulative 8.5% rate increase is \$3.55 per month spread out over the same 9-year period between 2025-2033.

ASR and IPR costs are assumed to be incremental capital project spending above current capital project spending plan levels. ASR project costs are expected to be approximately \$362.9 million over a 17-year period between 2024-2040. IPR costs are expected to be approximately \$34.9 million over 16-year period between 2025-2040.

Other existing initiatives, including Advanced Metering Infrastructure; reclaimed system costs and water loss strategy costs, are imbedded in current capital project spending levels. Consequently, Austin Water does not expect any incremental rate impact associated with initiatives other than ASR and IPR.

This rate impact analysis does not include potential debt service reductions resulting from future defeasance transactions which could target future debt service peaks to reduce potential bill impacts.

5. **Agenda Item #5:** Authorize negotiation and execution of a design build agreement with SpawGlass Contractors, Inc., for design and construction services for the Austin Convention Center Warehouse and Marshalling Yard project in an amount not to exceed \$40,000,000. [Note: This contract will be awarded in compliance with City Code Chapter 2-9B (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 20.00% MBE and 17.80% WBE participation.]

QUESTION: How many phases are there for this spending plan?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

Given that this is a Design Build contract, the phases to include spending plan would be developed and finalized after the Design-Build Contractor is under contract. A staff preliminary approach to phasing the project is: first phase is the construction of the marshalling yard components and the second phase is the construction of the warehouse and other structure components. Having access to full authority of the \$40,000,000 provides staff the opportunity to leverage use of the Design-Build Contract methodology to design and begin construction services prior to design being completed.

7. **Agenda Item #7:** Authorize negotiation and execution of the first amendment to the Estancia Hill Country Annexation and Development Agreement, concerning annexation and development of approximately 600 acres in southern Travis County, west of IH 35 South, approximately eight-tenths of a mile south of the intersection of IH 35 South and Onion Creek Parkway. Related to Items #6 and #44.

QUESTION:

The Developer has requested amendments to provisions of the Agreement relating to (1) the extension of time the City is prohibited from completing full purpose annexation of the area; (2) the public parkland exhibit; and (3) the wastewater service commitment. Can staff please provide additional information regarding why they support these three changes and the rationale for approving these changes?

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

(1) Annexation date change: The Developer and the City have been working on a bond issuance for some time. Delays in this bond process lead to the request to extend the proposed annexation date. Staff recommends this change which adds 5 years to the potential annexation of the development.

(2) Change to the Public Parkland exhibit: No public parkland is being lost, it is just taking a slightly different shape. The changes in the map are the result of changes in the shape and size of water detention ponds made during the development process that impacted the dedicated parkland. Staff recommends this change because the revised shape of parkland is negligible and is necessary to ensure that the amount of required dedicated parkland does not change.

(3) Austin Water included language to make this agreement more consistent with the language in the City's utility criteria manual and the specific wastewater SER (Service Extension Request) which was previously approved by Austin Water. The language provides correlation to the referenced SER and number of LUE's proposed by the developer which was not included previously in the Development Agreement. Staff recommends this change as it acknowledges the intent to serve the property and further clarifies the Wastewater SER improvements to be constructed and paid for by the developer.

- 10. Agenda Item #10:** Authorize negotiation and execution of an interlocal agreement with the Austin Independent School District for a one-year pilot of the Library Cards for All Students Program, which will allow the Austin Public Library to offer a full purpose Student Library Card to all students enrolled in the Austin Independent School District.

QUESTION:

1. Please clarify what the following statement means, "...waive library card fees for those students living outside of the city limits, but have Austin addresses?" Is that the address of their parent or guardian? How many students are in this situation?
2. What are the current fees for a student to have a City of Austin library card who lives outside of the city limits, but has an Austin address?

COUNCIL MEMBER HOUSTON'S OFFICE

ANSWER:

1. The statement pertains to future school districts and not AISD. The address AISD uses is the student's parent or guardian address. Approximately 1,200 students are in this situation.
2. Current fees for a non-resident youth card is \$120/yr.

- 11. Agenda Item #11:** Authorize negotiation and execution of a lease with Urban Roots, for approximately 9.405 acres of land for the operation of urban agriculture and commercial farming at the Winnebago Property, located at 4711 Winnebago Lane, Austin, Texas 78744 for a term of 15 years, with one 15 year extension option, with a monthly rental rate of \$1,000.

QUESTION:

1. The resolution Council passed included the following stipulation: "If this long-term use agreement is deemed feasible for 4711 Winnebago Lane, an executed lease must contain the provision that the general public will be able to access the site and the use will contain features that are accessible to residents, adjacent neighbors, and the surrounding community."

Does the proposed agreement satisfy the Council stipulation that this site must contain features that are accessible to residents, adjacent neighbors, and the surrounding community? Will this site provide access to the neighborhood immediately to the rear?

2. Please provide additional information about the fencing.

MAYOR PRO TEM TOVO'S OFFICE

ANSWER:

1. The proposed agreement will fulfill the Council stipulation that the site will contain features that are accessible to residents, adjacent neighbors, and the surrounding community. Urban

Roots intends to provide access to the site for the general public by providing regularly scheduled tours of the farm, weekly volunteer opportunities, special events open to the public, and participation in internships.

The specific details of the site access to the neighborhood immediately to the rear of the subject site have not been finalized. However, the proposed lease agreement will address the requirements of the site access to residents, including the neighborhood directly to the rear.

2. The proposed lease agreement will provide the requirements and specifications for the fencing. Urban Roots will be required to install fencing to ensure the safety of their equipment, crops, staff, and youth and to limit liability.

QUESTION:

1. What is the cost per gallon for purple pipe water?
2. What is the process and cost to connect the site to the existing purple pipe on Burleson Road?

COUNCIL MEMBER GARZA'S OFFICE

ANSWER:

1. The cost of reclaimed water is \$2.82 per thousand gallons.
2. To extend a main to the lot and connect, a design engineer would need to be hired to prepare construction plans for approval through the City's development process. Then a contractor would need to be hired and construction would need to be performed in a manner that conforms to City codes and ordinances. Finally when all construction is complete and up to City standards, a meter would need to be obtained. Approximately 6,000 feet of main is needed with construction costs estimated at \$1.7m and soft costs (engineering, project management, inspection, testing, easements, traffic control, etc.) estimated at \$0.8m for a total cost of \$2.5m.

**12-13. Agenda Items #12 & #13:**

**Agenda Item #12:** Approve an ordinance vacating approximately 5,410 square feet of right-of-way, being that certain 20 foot wide alley located between East 5th Street and East 6th Street, traversing from Navasota Street to Onion Street, the north half of the alley to Hall Family Properties, LLC, and the south half of the alley to Fifth & Onion 2016, LP.

**Agenda Item #13:** Approve an ordinance vacating approximately 669 square feet of right-of-way, being the north half of a 20 foot wide alley located between East 4th Street and East 5th Street, extending west of Robert T. Martinez Jr. Street, to 4th & RTM, LP.

QUESTION: I would like to better understand the disparity in valuation between the alley vacations (Items 12 and 13) on the November 29, 2018 City of Austin Council agenda.

ANSWER:

Under property code, the City of Austin is obligated to receive fair market value for any property interest it conveys. Vacating an alleyway to the adjoining property owner(s) is conveying a property interest.

The Office of Real Estate Services engages a licensed third-party appraiser when an adjoining property owner requests the City vacate the City's interest in the right-of-way. During the determination of fair market value, the appraiser determines the value of the property interest the City is conveying, and reduces accordingly any property interest the City retains.

In the case of Item 12, the City is retaining both a drainage easement and a public utility

easement while vacating the right-of-way. The third party appraiser determined that the retention of the two easements was a high percentage of rights the City was retaining. The property owner will not be able to build structures on/in/under the vacated area. The City continues to retain the right to locate, use, and access utilities in that area. This retention impacts the value of the land and what the property owner pays for the vacation. Although the City is retaining the two easements allowing the City the right to use as a public utility and drainage, the applicants have paid a total of \$61,593 to vacate the right-of-way of approximately 5,410 square feet of right of way. ( $\$61,593/5,410 \text{ sq. ft.} = \$11.38/\text{sq. ft.}$ )

In the case of Item 13, the City is conveying its entire ownership interest in the right-of-way, and not retaining any rights to the real estate. The third party appraiser determined that the value of the property being vacated was \$44,856 for the 669 square feet of right of way to be vacated. ( $\$44,856/669 \text{ sq. ft.} = \$67/\text{sq. ft.}$ )

The disparity between the two right of way vacations above (Items 12 and 13) can be seen by what the City is retaining. In one instance the City is retaining the majority of the real estate rights which is reflected in the \$11.38/sq. ft. that the applicant is paying in Item 12, and the \$67/sq. ft. the applicant is paying in Item 13 for the City not retaining any rights of the real estate. In both cases, the 3rd party appraiser used comparable sales to justify the price per square foot while making adjustments to the rights given up and/or retained by the City.

**16. Agenda Item #16:** Authorize negotiation and execution of Amendment No. 6 to the agreement with Austin Independent School District for after school enrichment services as part of the Prime Time

Program to increase funding in an amount not to exceed \$150,000, for a total agreement amount not to exceed \$9,491,840.

QUESTION: The Parks and Recreation Department provides after school enrichment services to the same demographic. Could these funds be used to enhance and/or expand the services provided by the Department?

COUNCIL MEMBER HOUSTON'S OFFICE

ANSWER:

The Austin City Council approved \$150,000 in additional funding for the Prime Time After School Enrichment Program to bring the funding to the same level as Fiscal Year 2017-2018. Providing level funding will enable AISD to provide services at the same program levels to the same number of students. At current funding levels, including this allocation of \$150,000, AISD programming is operating at or close to capacity. The Parks and Recreation Department has physical space capacity to expand programs, but does not have fiscal capacity to expand after school programs.

Austin Public Health can discuss with the Parks and Recreation Department, Austin Independent School District, and other publicly funded out-of-school-time service providers to determine where partnerships can be strengthened, where there may be capacity for additional services, what the associated costs would be to expand availability of out-of-school-time programming. Further discussions and analysis would need to occur to determine the reduction in Prime Time services from FY 2017-2018 service levels if this \$150,000 was allocated to PARD rather than to the Prime Time agreement.

APH and PARD continue to discuss potential changes to how the City spends dollars in relation to out-of-school-time programming, and whether it is appropriate to apply a greater percentage of funds on City departmental programming. In the coming year there will likely be

recommendations from staff related to future funding allocations.

- 33. Agenda Item #33:** Authorize negotiation and execution of a multi-term contract with Colette Holt & Associates, to conduct an availability and disparity study of minority owned and women owned business enterprises and disadvantaged business enterprises, for up to two years in an amount not to exceed \$1,000,000.

QUESTION: Will the disparity study of minority owned, women owned business enterprises and disadvantaged business enterprises include, minority, women and/or disadvantaged businesses owned by veterans?

COUNCIL MEMBER HOUSTON'S OFFICE

ANSWER:

The disparity study will not directly include minority, women and/or disadvantaged businesses owned by veterans. The proposed disparity study will review the availability and City utilization of minority-owned and women-owned business (MBE/WBE) enterprises. Federal constitutional law requires a disparity study because Austin's MBE/WBE program considers race and gender classifications to certify firms and provide equal opportunity to firms to participate in the City's contracting process; using categories like race and gender are subject to the highest scrutiny by the courts. Because veterans are not a protected class under the law, any preferences for veteran owned businesses does not legally require a disparity study and in order to ensure the integrity of the MBE/WBE program, the consultant has recommended veteran owned businesses not be included in the disparity study.

The City does have an interim Service Disabled Veteran Business Enterprise (SDVBE) program which was launched in November 2017. The program provides preference points to SDVBES when submitting a response to Request for Proposals (RFP) solicitations. The interim program is a result of Resolution No. 20160303-016 that City Council passed on March 3, 2016. The Resolution directed the City Manager to enhance contracting opportunities for ready, willing and able Service Disabled Veteran Owned Businesses on City Contracts.

QUESTION:

Please provide a copy of the last disparity study (2015) referenced in the RCA.

COUNCIL MEMBER ALTER'S OFFICE

ANSWER:

The Study is online at

[http://www.austintexas.gov/sites/default/files/files/Small\\_Minority\\_Business/disparity/NER\\_A\\_COA\\_Disparity\\_FINAL\\_151217.pdf](http://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/disparity/NER_A_COA_Disparity_FINAL_151217.pdf).

All of the documents can also be found at : <http://www.austintexas.gov/page/disparity-study>.

- 34. Agenda Item #34:** Authorize negotiation and execution of an interlocal agreement with the Austin Independent School District (AISD) to contribute up to \$387,000.00 from fees collected by the City from Austin's cable providers for AISD's purchase of equipment necessary for the operation of the AISD educational access channel.

QUESTION: Are there current general fund expenditures that could be eligible to use PEG funds for?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

All expenditures that would qualify for use by the Public, Education and Government (PEG)

funds, that are restricted by statute for capital expenditures only, are budgeted to reduce the general fund expenditures. PEG funds are budgeted for capital equipment for the City's government access (ATXN) and public access tv channels.

- 39. Agenda Item #39:** Approve an ordinance extending the hours an outdoor music venue may operate sound equipment on December 31, 2018 and January 1, 2019; and directing the City Manager to prepare and present an amendment to the City Code to extend the hours an outdoor music venue may operate sound equipment on New Year's Eve.

QUESTION:

- 1) How will City Staff determine which neighborhoods are considered an "affected neighborhood?"
- 2) How will staff determine who are the representatives of the affected neighborhoods?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

- 1) As per Austin City Code Chapter 9-2-14, an "affected neighborhood" is any neighborhood where there is property zoned and used as residential that is within 600' of a venue that is permitted as an outdoor music venue.
- 2) Chapter 9-2-14 allows the accountable official to issue permits for the use of sound equipment with two additional hours of outdoor amplified sound based on factors including "agreements with representatives of affected neighborhood organizations." Staff will follow the current process and procedure to determine representatives for the implementation of 9-2-14, which is to work with authorized representatives of neighborhood organizations registered in the City's community registry and whose boundaries include properties zoned and used as residential that are within 600' of a permitted outdoor music venue.

- 62. Agenda Item #62:** Conduct a public hearing and consider an ordinance regarding Texas Gas Service's revised Conservation Adjustment Clause Tariff and its proposal to change customer gas rates and the complaint of an affected person under the Texas Utilities Code.

QUESTION:

- 1) Has TGS provided a reasoning for switching from a volumetric rate to a fixed rate for residential customers?
- 2) Has TGS provided a reasoning for switching from an annual approval to every three years?
- 3) Does the City require a third-party evaluation of the overall budget to ensure that it is cost-effective? If so, does the City assist in the selection of the third-party consultant?

COUNCIL MEMBER FLANNIGAN'S OFFICE

ANSWER:

- 1) TGS proposes to switch from a volumetric to a fixed rate for residential customers to eliminate the significant under and over collections that occur each year because of the annual weather-related swings in consumption each year. Pairing a fixed budget with a fixed rate will also level the conservation program charge for residential customers evenly across all 12 months, thereby avoiding the sharp increases in the higher winter months when gas consumption is highest. The variations in consumption amounts is much greater and less weather sensitive among the commercial and transport customers which is why they were left on a volumetric rate. Finally, the fixed rate will allow TGS to move to a three-year budget because they will be able to much more accurately predict revenues.
- 2) TGS proposes a three-year budget to allow more efficient program planning and budgeting in coordination with consumers, conservation program participants, and the local retailers, and

builders. Additionally, a three-year budget will eliminate a significant amount of administrative and education costs associated with annual budget evaluation, Conservation Adjustment Clause rate adjustment filings, and implementing annual program changes.

With a fixed residential rate and no annual changes to the budget, an annual rate adjustment and subsequent approval will not be required.

Additionally, TGS must now file the budget and related regulatory documents with 15 other cities in its Central Texas Service Area and the three-year budget would reduce the administrative requirements of working with those cities.

TGS will continue to be required to perform an annual evaluation of the cost-effectiveness of programs and submit a program annual report and present to the Resource Management Commission and TARA.

3) Yes, per the Conservation Adjustment Clause tariff, the overall portfolio of program offerings and not each individual rebate program will be designed to be impactful and cost-effective. However, it doesn't specify a third-party evaluation although that's the practice that's been in effect since 2015, when TARA requested Texas Gas to perform such evaluation.

The current practice is Texas Gas Service hires an outside expert to conduct a series of benefit/cost tests that are commonly used to evaluate the cost effectiveness of natural gas conservation and energy efficiency programs. There are a total of 5 tests: 1) Participant Test 2) Total Resource Cost 3) Societal Cost 4) Program Administrator Test and 5) Rate Impact Measure Test. TGS uses the combination of tests to help design their rebate portfolio but does not solely base their programming or rebate amounts on the cost-effectiveness test for each individual programs for selection criteria.

The proposed CAC tariff for Council's consideration on Thursday (11/29) specifies that the evaluation be conducted by third-party consultant and the overall portfolio of program offerings be cost effective.

The City doesn't assist in the selection of the consultant. TARA and the Resource Management Commission have reviewed the qualifications of and evaluations performed by the third party consultant and TARA has seen no reason to request the use of another expert. The consultant's clients include the regulated public utility industry (natural gas and electric companies) and various State Public Utility Regulatory Commissions.