City Council Work Session Transcript – 3/5/2024

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[9:00:20 AM]

good morning everybody. It's 9:00 in the morning on Tuesday, March 5th, 2024. And I will call to order this work session of the Austin city council. It is. We're meeting in the city council chambers, which are located in city hall at 301 west second street in Austin, Texas. This is also zo. For the record, the day that the world pauses, at some point, every everyone will for a moment to recognize the anniversary of the birth of the mayor pro tem of Austin, Texas. Leslie pool. So we will do that, as part of our regular scheduled business. It's also the same day that we celebrate the birthday of one of the great , great Austin city employees, Kay gadea, who takes care of us so well, so happy birthday to her as well. With that, I will look to staff, we have a briefing. The council knows this because of the message board

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because of the message board post. But what we're going to do, what we're going to do today is, have a briefing of the overview of the roles and responsibilities of the Austin housing public facility corporation and the Austin housing finance corporation, and at at times, certain of it's not set as a time certain, but our goal is to, at 1030, go into an executive session. For personnel issues related to the appointment, the search for and appointment of a new Austin city manager. So with that, I will turn it over to staff to give us that briefing. >> Yeah, Mandy, you need to hold that real close to you so that it projects. Oh oh. You can turn you up up here too. >> We've got little. >> All right. It sounds like you can.

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can. >> Well, sit, sit, sit up and see if you just talk a minute and see. Just test it. >> Good morning. No okay. >> Let's let's pivot. Yeah that works better. >> Yes. >> Okay. Good morning. Mayor. Mayor pro tem, city council. Happy birthday. Mayor pro tem. Thank you for being here this morning. As you. I'm Mandy Demayo, interim director of the housing department. I there has been a whole lot of interest in Austin housing, public facility corporation and public facility corporations in general over the last nine months or so. So, just

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last nine months or so. So, just as a reminder, so far, we have only used our public facility corporation or PFC for issuing bonds. We know that there are additional opportunities for utilizing our PFC for the development of housing and the inclusion of affordable housing, which we have not yet done. Our conversation today is exploring those opportunities. What it could look like for Austin housing PFC to further incentivize affordable housing development and to complement what we already do as Austin housing finance corporation, or ahc. I want to note that there is no specific action today required from city council. We're really here to provide a briefing and update on our recommended path forward. I am going to turn it over now to our real estate division manager, Nicole Jocelyn, who has been working with her team, on this on this briefing. Thank you. >> All right, everybody, hear me. Okay. Here. Okay. Good

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me. Okay. Here. Okay. Good morning. As Mandy mentioned, I'm Nicole. Jocelyn I'm the real estate division manager with the housing department. And I'm here to provide some background on public facility corporations. So we'll provide some context on exactly what a PFC is. We will look at what our housing public facility corporation has done so far. We'll review what we do with the Austin housing finance corporation that is similar to what the PFC can do. And. Then we'll look at staff recommendations for how we see these two tools complementing each other. So public facility corporations, fcs are organized under chapter 303 of the Texas local government code. And you'll sometimes hear these transactions referred to as 303 transactions. So that's kind of shorthand that you might hear in the industry. And public facilities corporation does have broad powers to finance public facilities or participate in placing public facilities and

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placing public facilities and service. And this includes multifamily, affordable housing development. So PFC can provide financing for projects through the issuance of bonds, which Mandy mentioned we already do with our PFC, but it can also own a public facility and lease it to another entity to operate it, while providing 100% tax exemption so that tax exemption is what we're really focusing on today with our PFC, the Texas legislature created this tool in 2015, and this section of the local government code was substantially revised in 2023. In response to advocates calling for changes to the legislation in response to the issues where the tool wasn't being used exactly as the legislature intended. In places around Texas. So this revision included clarifications on jurisdiction and approval required moments, it added tenant protections and deeper affordability requirements, and added audit and monitor requirements. This is what a typical PFC housing

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is what a typical PFC housing development looks like. We're looking specifically today again at how a PFC enters into a real estate transaction to provide a 100% property tax exemption to a multifamily affordable housing development. And this is what it looks like for a new construction PFC project. The regulation gets more nuance when you're talking about the acquisition of existing properties and the requirements. The minimum requirements will vary depending on what the affordability level is and how much funding is put into the rehab of that existing facility. But we're looking specifically here at new construction. So a new construction project will have a minimum affordability requirement of 10% of the unit's income restricted at 60. Mfi and 40% at 80% mfi. The minimum, there's a minimum of 50% of the units must be income restricted per the statute, and rent is limited to 30% of the median family income for that income

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family income for that income restricted unit. The bedroom mix must also match between the affordable and market rate units and of course, if this is layered with other funding sources that have deeper affordability restrictions, the more restrictive, regular burns would apply. So this is just the minimum standard for 303. The affordability terms required by the statute is a minimum of ten years, and it may go up to 60 years for new construction and 30 years for the acquisition of an existing property. You are probably aware that we are not the only public facility corporation in town. Providing that could provide a property tax exemption to a multi family property. This slide lays out the record amounts for the PFC that might need our approval. The city council's approval to provide a property tax exemption . And it really boils down to whether or not the board of that PFC is composed of a majority of

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PFC is composed of a majority of elected officials. So, if the board is not majority publicly elected officials, they must seek approval from the governing body of the municipality to grant a tax exemption to a multifamily property. In our case, that would be you all. And here's a table showing some of the pfcs that you may be familiar with. We have our Austin housing public facility corporation on there. I know that the city of Austin has a number of other fcs. We're talking specifically about the one that we use to enter into, multi family property transactions. There is also a PFC for the Austin, the city, the housing authority of the city of Austin, the housing authority of Travis county may also be aware that Texas essential housing public facility corporation owns property in our area. All of these entities do not have a board that's composed of majority elected officials. So they do require your approval to provide a tax exemption to a multifamily property. The only one that we're we're aware of

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one that we're we're aware of that would not need our approval is the Austin independent school district PFC that has don't believe they've entered into a transaction yet, but they have created one and intend to use it. Their board is currently publicly elected. Officials so the Austin housing public facility corporation Ann in 2022, the Austin city council authorized the creation of the Austin housing public facility corporation for the purpose of assisting the city of Austin and finance Singh refinancing and providing for the cost of affordable housing development at the time of its creation, as Mandy mentioned earlier, the focus was explicit on increasing competitiveness for projects for the state bond lottery. Since 2022, the housing PFC has induced $163 million for projects that have already closed or are in the process of closing. Now, the Austin housing PFC has not yet been used to construct an own affordable

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construct an own affordable housing developments that utilize its tax exemption. And in order to do this, the PFC must own both the land and the improvements on the property and then leases it to the development partner. Some of this activity may sound familiar to what we are already doing with our Austin housing finance corporation, and here's just a side by side, view of how we see the Austin housing finance corporation Ann transactions and how we would view the Austin housing PFC contributions and public benefit of that deal. So with hfc, we're typically when we when we're utilizing hfc to provide a tax exemption to a multifamily property, we are typically in addition to that tax exemption, we are providing bond financing gap financing. And we're making public land available for that development. So we're bringing a lot to that transaction. And we're able to extract a lot of public benefit from that. So we're driving down to deeper affordability levels. We have long terme affordability

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We have long terme affordability requirements and we have ultimate control over that asset. Under that type of transaction with the PFC, our primary tool that we're bringing to the table is a property tax exemption. And we are able to get the public benefits of workforce level affordability so that 60 and 80% median family income and that affordability term would be a bit shorter than what we would typically look at for hfc. So the Austin housing finance corporation, before I go, into the criteria that we would like to consider for fcs, I just want to remind everybody what we already do with the Austin housing finance corporation. So hfcs are organized under chapter 394 of the Texas local government code. As in, when you hear a 303, you think fcs, when you hear 394, it's hfc. So there are similar tools, but they have different regulations in the local government code. We can use the hfc for the same purposes as the

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hfc for the same purposes as the PFC to issue bonds and to provide a tax exemption to affordable multifamily developments. But the primary difference is the equitable ownership requirement under chapter 394, under the structure of the hfc owns the land and ground leases it to a development entity, and then the hfc must also have a controlling position in that development entity and ongoing purchase options to acquire the property. Again, this is one where our are entering into a transaction to provide a property tax exemption to a multifamily affordable housing development. And here's just that. Hfc side of that graphic I showed earlier. So in hfc is providing a property tax exemption. It's also typically providing bond financing gap financing and contributing land to the deal. And exchange were able to achieve deeper affordability than would otherwise be possible. And we're able to provide longer tum affordability and maintain long terme control of that asset. So we've done a lot of really great

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we've done a lot of really great projects with the hfc model, and we've been able to reach a lot of folks in our community. But we do see some limitations for the hfc model that the PFC could complement. So for the geographic criteria that we look at, typically for the hfc model, we are often limited by the criteria of other funding sources that we're leveraging for that property. So we would usually be looking at other funding sources that have a specific, type of area or type of population that they want to serve. And we kind of have to go with where the funding sources want to go. We. For the PFC, did I skip a slide? Hold on. Sorry. My notes are a little bit ahead. On the hfc model, we also often see a large gap financing request through the rda program, the housing development

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the housing development assistance program, where we're providing geo bonds for, additional funds to the to the property. We also see a substantial amount of staff and consultant time required to structure those deals. And to participate in long terme asset management, again, because we are a general partner in that development and we see greater responsibility and risk exposure in that general partner position for hfc. So how can we use the PFC to complement the hfc activities that were already doing. And the following slides? I'll review our recommended Asians for criteria for evaluating PFC projects. Looking for a property tax exemption that complement hfc. I'll note that most of the criteria that we're we have here are not required by statute. Many of these are business and policy decisions that we're making to ensure that the tool is being utilized appropriately to meet our housing goals and isn't

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our housing goals and isn't duplicative of what we're doing with the hfc. So the priorities that we will look at for PFC development, seeking a tax exemption include a geographic criteria that serves parts of the city that aren't currently being reached by hfc. We suggest setting that geographic criteria based on two mapping tools already used by other programs. This includes the historically exclusive census tracts identified in the project, connect displacement risk maps, and the high opportunity areas defined in our housing assistance. Housing development assistance program. I have a map in a couple slides where I can show how those geographies overlap, and where exactly we're looking at, we also see this as an opportunity to incentivize development without the need for additional public subsidy from our hga programs, because the affordability levels of PFC projects are generally higher than what we see with hfc projects, we suggest that they

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projects, we suggest that they are not eligible for funding through our gap financing program. We also expect a light touch involvement from our city staff due to not being in a control position in the development partnership, and we would look for development partners with a proven track record of multifamily development in Austin so that we feel comfortable taking that, more limited role in the project . So here's a table of the criteria that we would look at. Alongside what we already are doing with the hfc model. So when we're looking at income restrictions on the hfc projects, we have a minimum requirement of 90% of the units being income restricted. And we try to maximize the number of units at 50. Median family income or below as much as possible with the PFC model, we look at the minimum, requirement of 50% of the units being income restricted and the 40% of those at 80. Mfi, 10% at 60, mfi on the geographic focus of these

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the geographic focus of these two tools, with hfc, as I mentioned, we're typically following other funding source priorities because we're leveraging multiple sources in those projects. And with the PFC, we would be looking at the historically exclusive and high opportunity census tracts that are have not been served as much as the with the hfc model, with city provided gap financing on the hfc transactions, we're typically looking at requests that are 100,000 or more per 50% mfi or below unit. That adds up quickly when you have large projects, and we are getting as many 50% mfi units as we can with the PFC model, we would suggest that they are not eligible for city gap financing because they are not reaching down into those deeper affordability levels on the city entity role with hfc, we have equitable title as a ground laser and the general partner of the development. So we have a major role in that transaction with the PFC. We're just the

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with the PFC. We're just the property lessor and we would take a lesser role in that development with the development partner criteria. With hfc, we have the ability to issue, solicit, solicit options, looking for development partners . Often where we are establishing that criteria based on that development, what we're trying to do with that property, and really looking for development partners specific to that type of project with the ahc, PFC, since we're taking a more limited role, we would be looking for developer that has successfully received a certificate of occupancy for at least one multifamily rental property in Austin in the last five years for the affordability period with ahc, we typically look at a 55 to 99 year affordability period with PFC, we would want to set that in alignment with our other density bonus and developer incentive programs, which is 40 years for rental housing. And then at the expiration of that affordability period and that lease on hfc transactions, the ownership

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transactions, the ownership reverts to us. So it is our asset long terme forever and ever. We are responsible for it. No matter what. With apfc, what we see in the market, typically is that the ownership reverts to the developer for because we're taking a more limited role, we're only providing the tax exemption. We it doesn't make sense for the property to become ours at the end of that lease. So the ownership would revert to the developer, but we would want a right of first refusal if that property were to go up for sale. And here is the map showing that geography. So the pink is, what not in the displacement risk maps is, viewed as historically exclusive. The green, you can kind of see it poking out of some of the areas. That's where you see high opportunity areas in our hga program. And the yellow is where those two overlap. So we would propose this yellow area be where we would look to do PFC transactions. And for reference, those black dots on the map.

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those black dots on the map. That's where we have done hfc projects where the tax exemption is being applied to that multifamily property. My understanding is that these maps are being updated with more current data. So the yellow area will change as our data gets updated over time with these two tools. And that's kind of why we want to reference tools that are already being used and already being updated, rather than creating our own map series as. And then in summary, here is the that graphic again showing the hfc deal structure that we're typically seeing where we have the property tax exemption, bond financing, gap financing, and public land all coming from us in the deal. We get deeper affordability, longer turm affordability and control of that asset with the hfc or with the PFC. We're bringing the property tax exemption and expecting workforce affordability and more of a medium firm affordability. Length. So and we are here to answer questions. Burns this, we

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answer questions. Burns this, we had many people from the housing department working on this and from the law department and we have our consultants, here from the law department to answer any questions about anything that you want to talk about. >> Thank you. Thanks for the presentation. Councilmember Harper Madison. >> Thank you, Mr. Mayor. I appreciate it. I'll start by saying happy birthday to my colleague. She's going to hear it all day long. But also, I just had a quick question, and I think this will be just, the start of a longer conversation. Thank you for this presentation. It's very helpful. I don't even know if you know how helpful that map is like that. This part is, is super helpful for us. But you said something that I think touched on. I'd written down a series of questions, but I think you touched on it, which just this one question. You said something about as data is being updated. That was what most of my questions would have been prefaced with, how are we? Is this thing fluid? Is it moving? You know, is it a living document that we can continue to update? And, you know, in large part, as you can see, you know,

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part, as you can see, you know, district one is rapidly evolving and changing and it just never stops. And so I want to make certain that one, I'm putting myself in the right position. You said something earlier about policy decisions. I want to make sure I'm making the right ones currently, but I also want to make certain that we're setting our successors up for success. Yeah. In which case there are some levers. You know how the city moves. It's slow. And so some levers we need to be putting into place, recognizing that we won't even be here when it gets pulled. In which case the update is what I'm curious about. Like, what the system for that what does it look like from the perspective of like, how can we help to contribute to that process of keeping it fresh and current? >> Are you referring to just the geographic criteria or all of the geographic criteria, kind of all of it. >> So like to your point, you said the thing about 50% required mfi and you said we're accomplishing that as often as we can. But recognizing that income restricted housing at 50% mfi, that's I mean, that's the

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mfi, that's I mean, that's the 50% of the units. That's a tough call. I recognize that, but I think just like keeping us in the know. So, helping us to make the appropriate policy decisions to help us accomplish that goal. Yeah. So it's kind of all of it, but primary key, it's the geographic thing that you're making reference to that I'm really curious about how do we keep that fresh? >> Yeah. Well my understanding is that staff is working on updating the data behind those two mapping tools. The housing development assistance program, is going under some, data update right on that. Those map series, like within the next year or so is what I've heard. Generally, the displacement risk maps are being updated, updated very soon. >> Correct. The displacement risk maps are updated on an annual basis, and they're published on our website. The housing development assistance, maps. We've used a variety of different tools to identify high opportunity areas. The current tool we use is frankly stale. As you note. Council member, you

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you note. Council member, you know, our districts, our demographics are constantly changing. Singh. We currently have a grant application with hud and one of the components of the grant application is to update, our opportunity indices, as our goal would be to undertake that. >> And that was a requirement that they made for us. They said, hey, we need to make certain that you have a mechanism for updating. Did they say that or did we take the initiative? >> We took the initiative. This was something we've wanted to do for a while. And when there was funding of federal funding available, we took advantage of it. We haven't received the award. Let me just say we're waiting at this point and to address the question about the evergreen Ness of our criteria for generally with the affordability terms and the affordability period. >> So with ahrq, we have guide rails that we are looking at when we're evaluating deals. And these are the guide rails that we would propose for when we're evaluating PFC deals that are looking for a tax exemption. You

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looking for a tax exemption. You know, every deal is different. And we are, you know, know by heart our affordability and housing goals for the city. So we would really be looking at a transaction that comes to us and trying to determine whether a PFC is appropriate for that project, and whether an hfc is appropriate for that project. And we would really be looking at whether that development is going to require additional contributions from the city. In addition to that tax exemption, if it is becoming a more complex project that needs more subsidy, that needs more of us in it, we would also want to be in more of a controlling position in that development. So we would put that in the ahrq bucket and pull it out of the PFC bucket. But we recognize that the PFC is a tool that could be utilized to provide more workforce affordability level housing in our community, and we don't necessarily want to shut that down. We want to put some guardrails around where we think it makes the most sense for that

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it makes the most sense for that tool to be utilized, and I really appreciate that. >> I think it's a longer conversation because, you know, to my point, it's ever evolving. But I really appreciate that, y'all are like preemptively addressing some of those issues. Thank you. Yeah >> Thank you. Councilmember. Councilmember Ryan alter, followed by mayor pro tem. >> Thank you very much. Mayor. When you use the word priority, does that how do you interpret that? If someone comes to you outside of this priority area, are we saying no, no, it's not a priority. And so no, it's a no or that our proactive search is going to be kind of limited to this priority area, but a good deal might come to us outside of it. >> I can say something and then maybe you can say something. If a, if a deal came to us that was outside of this priority area and didn't meet the other criteria that we proposed, we would look at it first as an hfc transaction and see how we can make sure we're achieving the

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make sure we're achieving the level of affordability we feel like we could in that area. So, to piggyback on what Nicole said , over the last, I'm going to say six months, we and staff every week get inquiries from developers every week, sometimes a handful a week. >> Where they are pitching different deals for PFC type transact options. I have yet to see a deal that meets the criteria that's laid out here for, we want to be. >> Is that from a priority geographic standpoint or a different element geographic standpoint? >> Were were not seeing the deals that as, as Nicole said, it may be an rfp deal, which would look very different. Right. And maybe they would need subsidy and they would need to increase their 50% and below median family income units. There are things that could be tweaked with those deals, but

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tweaked with those deals, but just handing over a tax exemption in exchange for 60% and 80% units, which primarily primarily in those areas outside of the yellow that you saw, oftentimes right now, that's marked out right. And so we are very judicious when we think about handing over a property tax exemption, which is effectively a subsidy we are subsidizing. We're committing to subsidize these projects. And in exchange, what are we getting? And if what we're getting is effectively market rate, I would say that's not a good deal for the city, and we would not be bringing that to you for consideration. >> Well, you went exactly where I wanted to go next. And that is the notion that we do see a lot of areas of the city where 80% is market rate. And we do see, multifamily housing being built in those areas. And so if a private developer is able to make that, work, work, you know, financeable and have a return,

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financeable and have a return, then then it would seem to be a reasonable assumption that there are those areas where, if we were to then take the tax subsidy, pour that into the development operation, that you would be able to drive the rents down below 80 and 60. And so where I'm going with this is I, I don't want us to artificially limit ourselves to portions of the city where we have a tool that doesn't require via a limited subsidy. Wright you came before us, recently and told us about how oversupply Ed we are to Rhoda and our other programs. And so while hfc produces a very great product, that product is very limited in a way that this product is not. And so if we can maybe create a separate, you know, in the outside of the priority area, here's the type of affordability you need to achieve with the recognition

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achieve with the recognition that kind of you're starting at 80. And so we expect kind of some 60, some 50 or you know, really rethink that. I think that would be very beneficial tool not only for the product. We get, but that to send the signal to the development community that this is what we expect outside of this area. So they could bring us those types of deals because right now I can understand why they'd bring just the 40% at 80, 10% at 60. That's what statute tells them to do. We haven't told them anything different. And so I just don't want us to see us artificially limit ourselves, because we're already so limited in the tool that we do have already. And, and just to tie a bow on that, you know, we are so many of our hfc deals are tax credit deals. Tax credits limits you. There's a two mile rule every year. And so you can only have a development that's not within two miles of another development . And so you don't have that limitation on here. And you could have a deal that both falls outside the priority area.

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falls outside the priority area. One Ann was a great tax credit deal. Another, if we were able to use this tool that don't knock each other out and are complimentary of each other and give us that more housing that we're seeking. So kind of I think that would be a beneficial knell element to this, that that I feel is missing at the moment. That would help us round it out for the whole city. So I just, thank you for that. >> And we're certainly open to looking at that, developing a separate criteria. What we don't want to do is turn each of these transactions into a mini pud full of negotiations, which we were put in that position last June and July, where it was like, well, I'll give you a few more units if you'll do this. And what if we do this and Wright, we don't have the staff time, resources, his capacity, knowledge to be undertaking that with every single PFC transaction. So I think in the interest of transparency and

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interest of transparency and simplicity, it would make sense for us to take a step back and look at those other geographic areas and lay out what our expectations would be. I will also say one of the troubling things we have seen as of late at and we also saw last June and July, is where developers, while they weren't proposing to access to direct subsidy funds, they were accessing other programs. Developer incentive programs. We've seen this with a couple of our older puds coming back saying, hey, what if we did a PFC deal for this? You'll get some 60% units. And the responses we were already getting 60% units, and now you're asking us to give up a property tax exemption. So we just want to be very clear that, we're looking at all the different forms of subsidy and incentive that the city is providing. Not just the direct Rhoda subsidy, as would be the case. And, and we'd like to lay out some clear criteria. Happy to look at and council member, one of the things that we were

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one of the things that we were worried about this summer was for what we considered a substantial subsidy. >> The yield was almost negligible. And so we don't want to get into a position where we give up a tax exemption for what , to me, at my age, seems like an awful long time. And then the yield is almost nothing. Yep. And we don't want and so part of this is we want the staff to be rigorous in terms of what they do, because we are giving up public dollars and we need to get a major public benefit for those dollars. >> I completely agree, and I just think that, you know, we see geographic and we could even utilize the hud small. Was it small area median income that they're they're more local not not looking at the cities and entirety but what fair market rent is for various areas to help us peg. So that we don't have to reinvent the wheel in terms of, what is the right rent for that area? But but utilize, that recognition that we can drive rents down by pouring money in. That is not just our,

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money in. That is not just our, tax abatement, but but other entities who are not always so willing to give us public dollars to help us with the housing that that we so desperately need. So I really appreciate that. I look forward to continuing the discussion and seeing where this goes. But I just want to thank you for your work. >> Thank you. Councilmember. Mayor pro tem, thanks, mayor. >> Can you describe for us, miss Jocelyn, why the and maybe miss Demayo, why those particular parts of town on that map were chosen? >> We focused on, yeah, that geography because we were looking at how the PFC could incentivize development in areas that the hfc hasn't been able to participate in yet. >> So those are areas of town that we typically don't see income restricted housing. A variety of factors contributed to that at the cost of land and the zoning in those areas. So if we do see multifamily development in those areas, we

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development in those areas, we would like to see some affordability. There that otherwise wouldn't be achievable . And providing that tax exemption, we feel, would be enough to pull down those, rent. To that 80 and 60% mfi that tracks pretty specific quickly with policy direction that this dais has for at least as long as I've been on the dais. >> Roig we tried to make happen, and that's those parts of town where it is typically too expensive to build as you pointed out, the multifamily housing. So if we have some programs that can help drive down and support that development, that's where we wanted to put our effort and our muscle behind. Does that. Am I describing that correctly? Yes which would tend to point to us trying to dig in on those parts of town that are already identified based on the policy direction that the that the council has crafted over the

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council has crafted over the years? I would like to see us make additional progress in those geographic areas that we've identified. So I would I would be reluctant tonight to either expand or shift those boundaries. I want to talk a little bit about the tax exemption that the programs bring. It's for all governmental entities involved. Is that correct? >> Burt. Yeah, I believe it's a 100% tax exemption in the city of Austin, taxes and all other taxes. >> And if Travis county, for example, were coming, we're we're looking at doing a development like this in, in the city of Austin. And they are supposed, what is the process? Do they request our support or our approvals? >> The so the Travis county housing authority, the housing authority of Travis county, does have a PFC. Their board is not composed of elected publicly elected officials. So they would before they approve their project. I believe the statute

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project. I believe the statute is 30 days before their approval . They're supposed to get the approval of the governing board of the municipality. So that is, I don't know the mechanics of exactly how all of that happens. I would presume they would come to us, say, we would love to do a PFC deal in your jurisdiction. Please let us do that. >> And has that happened? Historic >> That has happened in the past few years. There was a flurry of this as the legislature was being changed in 2023, where we were asked to evaluate multiple deals, to allow that PFC tax exemption to apply to projects was that the initial, stance or did that happen? >> Later? Well the initial stance, I don't know, maybe miss Demayo can answer this. >> Yeah. Councilmembers, I remember they they were they were off and running and then, oh, by the way, and they came to us. Yeah, it was, frankly, an afterthought. >> We had there was a lot of energy at the state legislature

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energy at the state legislature to, to make some changes to this particular piece of legislation. The development community was aware of that. We had begun just fortuitous conversations with both the housing authority of the city of Austin, hakka, and the housing authority of Travis county. Hatzi. So we began conversations where we sat down and said, what deals are you contemplating? We learned that some of the deals were already moving forward without our prior authorization, and that's when we put pause on all of these transactions so we could dig in a little bit better. Subsequently, we did bring to you a recommendation for three PFC projects, that were being sponsored by hatzi Travis county. But only because they were part of the Travis county collaborative that Travis county was investing significantly in providing permanent supportive housing, and hakka was providing a significant number of federal vouchers.

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vouchers. >> And during those conversations, did you discover that there were some other programs or some other developments that had C had approved without letting the city of Austin know to exact any approvals and were underway? Shay and we did much to our surprise. Yes. And how many of those were there? 9 or 10. >> There were nine. I believe. Less than ten projects in total that were in some form of that their board had approved without our prior approval. Keep in mind, this happened prior to the institution of the new legislation. To my knowledge, those are all paused. But we did have an example of one project. That was developed up and running without our knowledge or without Hawkins knowledge, and there was interest in moving some of these projects forward before that change to the law was effected. >> Is that right? So we were also so several of the developments came forward requesting city council authorization.

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authorization. >> And we did not recommend that authorization. >> So the law itself was amended last session. And I think some of our friends here in Austin were very involved in that work. And I really appreciate the work that was done. Can either of you explain why that was done and what changes did the legislature make to the law? So why why was this particular piece of state legislation even up for amendment? >> There were significant. There were found to be significant abuses in the use of public facility corporations, where jurisdictions were somewhat blindsided when developers from outside of their community were coming in. And taking property. Significant amount of property off the tax rolls without a commensurate public benefit. So Nicole went over. I forget the slide number, but the significant changes that did occur and those include embedding some tenant protections, deeper affordability and by deeper affordability, I mean, prior to

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affordability, I mean, prior to June 2023, it was 50% of the units at 80. Median family income. And subsequent to the legislation, it was 10% at 60, 40% at 80. >> But isn't that tax exemption applied to the entire city of the property, not just piece that is a housing that development. So you could have development is taken off the tax rolls, right. For how many years ? >> A minimum of ten years is the current legislation. >> And so you could have say a half acre site with, with maybe a small housing development of say, 20 units or something taking up 20% of the site and the rest of it is either market or commercial or something else. And it would also enjoy that tax exemption. Is that correct? >> I cannot speak to the commercial component. What we've seen as traditional multifamily developments with that 50%

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developments with that 50% income restricted and yes, 50% market rate. >> So the tax exemption would apply to the entire thing, everything, whether it was affordable housing and offering public benefits. Okay, that really is significant to me. And I really wanted to drill down on that because that was a pivot point and an inflection point for this discussion. Here at the city, when we were surprised by the number of already approved hatzi projects that were underway, and then we were presented with at least three, and then we did go through a lot of staff in particular, when staff was advised and included in this conversation. Did really diligent work and city manager, I thank you and staff for digging in so, so completely at that time. It was it was really necessary to kind of get to the to the real facts of what was going on. So, so we know why the law was amended last session and

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law was amended last session and we know what changes were made. And we know the two different time frames. There's a ten year and then there's a 40 year and a 99 year. Can you the ten year is the minimum requirement for the affordability period. >> By chapter 303, the PFC, legislation. Then they it allows for up to 60 years of affordability for transactions. So really it's about what the parties in the deal want to negotiate. So somewhere between ten and 60 is what a PFC would require for us. What we would propose is to align that affordability period with our other developer incentive programs, so that administration of that is a bit easier. It's what we expect in other places. So we would look at that affordability period for our transactions to be 40 years with hfc. We are in it for life. So that affordability period is much longer and we get the property back and it's ours after. Yeah. >> And in the end. So I think colleagues that this exemption

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colleagues that this exemption is a really important tool to have available to the city. It's also quite lucrative to the developers and I'd like to make sure that we have some certainty on, on what the public benefit is and how long it lasts and how we can assure, ensure that the program is properly administered in perpetuity. Can you explain or describe what the, guardrails we have around this program that will last many decades in some instances around the ce specifically? >> Yeah. So it would be monitored in the same way that our ahc and the projects that have bond financing in them. So we would be monitored Singh that affordability period. I believe the legislation requires an annual audit as well. So that when the legislation was changed in 2023, the legislature did add monitoring and audit requirements to the property,

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requirements to the property, and we would be monitoring that as well, just through our, natural housing program. >> So that's good to know. And, mayor, I'll just close by, emphasizing the importance of the reviews and the diligence that's necessary. I'm happy to hear that there is an audit. I think that's really great. Do we have plans? City manager, to have those reports come like to the audit and finance and the housing and planning committees make a presentation to staff? I mean, to the council in a work session. How are we going to manage getting that information session out to the public so that we're all up to speed on, on how it's operating? Singh >> That is correct. So the, the, the npc that would be created by the PFC has board meetings. >> An npc is, I'm sorry,

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>> An npc is, I'm sorry, nonprofit corporation. >> Okay. So hfc Austin housing finance corporation has a variety 20 plus npcc cs that are single asset single liability corporations overseeing each of our developments. Those for hfc, those audits go to the npc board board. We don't typically I mean we're happy to provide them. We've been working with the controller's office so they can get incorporated into our single audit. We're happy to provide them. However, wherever is appropriate. Two things. One, to be clear, we don't have any fcs yet, so there is no there is no audit. And also TD, hca, Texas department of housing and community affairs. That's overseeing the audit. But requirements hasn't yet released what the audit requirements will be. But again, we don't have any fcs or any audits to produce. Happy to share wherever whenever

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Happy to share wherever whenever I was going to add to that, mayor and council, Veronica Briseno, assistant city manager, let us regroup and talk about the best way to present here the message. >> Happy to figure out the best way to present the information to mayor and council, and have it available publicly. >> That's that's great. And you know, memos are great. Once the information is accumulated, obviously, if there isn't any just yet, I'd like to see that if another entity has an operating PFC in our jurisdiction, but is a different governmental entity, I'd like that information as well. I just want to keep really close tabs because as I said before, it's a really lucrative exemption that we're offering here. And I want to make sure that the public is fully aware of what that benefit looks like. Thank you all so much, mayor. I appreciate appreciate your time. >> Thanks, Walter. Did you want to speak again? Yes, please. Councilmember alter then followed by councilmember. >> I just want to follow up on a couple of things that the mayor pro tem asked about. First off, as it relates to the legislative change, the abuses that we saw, as you just mentioned, we don't

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as you just mentioned, we don't even have any fcs as a city. So that was not here locally that we saw those abuses. That was elsewhere in the state. Correct? Okay I just want to make it clear that that we were not the bad actors in in this world as it relates to looking at subsidizing you units, bringing their rent down. I'm not looking for an exact number here, but how expensive is that? I mean, it's not a cheap proposition, right? To lower rents, let's say from 80 to 50. That's that requires significant subsidy. >> Yeah. Yeah. I mean, go ahead. >> This is why I always walk around with my handy dandy rent chart. Because I think it is illustrative of the difference between market and 80% and 30. So if we're just going to look at a one bedroom, the 30% rent limit, and this includes utilities is $701. The 80% rent limit. And so this speaks to where 80% or 60% becomes market

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where 80% or 60% becomes market is $1,870. So that's the maximum rent for an 80% unit. And you can imagine that there are plenty of areas across the city of Austin where an 80% rent actually may exceed the market rent. >> That's $1,100 difference. >> That is an 11 to a 30, 50% is one. Let's use 50, because that's typically what ahrq sees. 1095. So quick math. The difference is about $800 dollars per month. Driving down from 80% to 50. And so when we add that up across a number of units, that becomes very expensive very quickly. >> And so what I when we say that it's very lucrative for developers, tirz when a developer takes that tax subsidy, they are using that subsidy, whether it comes from a market rate unit or an affordable unit, to drive the cost down. In order to achieve that affordability level for the

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that affordability level for the development. Right? I mean, when we saw those, the PFC deals for the supportive housing, the structure of that deal was to take the tax abated rent from the market rate units, not take those dollars and put them in the pocket of the developer, but take those dollars and support the operating costs of the supportive housing, because it's so difficult to finance. And so I think it's really important that we distinguish where those dollars are going to say whether it comes from an affordable unit or a market rate unit. It's what are those dollars being used to accomplish? What public benefit is it going to the developer, or is it going to achieve more affordability? I think that should be the focus of our analysis and make sure that the, the benefit is going where we want it to go. But recognize that it's okay that it came from a market rate unit. If it's subsidizing an affordable unit. That's what, we see the

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That's what, we see the strategic housing finance corporation doing right. That that's how we cross-subsidize with our, density bonus programs. This is a it's a math equation. At the end of the day, for a developer. And it has to add up. And so where those dollars come from, we have the levers to pull. But ultimately it's we just need to figure out what the benefit that we want to see. And see if they can make that equation add up. But I, I, I just I wanted to, to have that discussion. So since this is our opportunity I appreciate it. >> We understand councilmember Bella then followed by councilmember Allison alter. >> Just I remember reading a little bit about some of the problems with, the, the FCC's prior to the with the 2021 or 2023, 2023. Okay. And my understanding was that public bodies were granting the fcs, but they were not necessarily they were kind of weird, small, you know, governmental entities

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you know, governmental entities that were granting, you know, someone in I don't know, you know, some county out, you know, in west or something like that would grant a PFC status in like Houston for some you know, essentially market rate. Again, 80% at at what was it, 10, 80, 50% at 80% was the previous requirement, which in many cases could be market depending on where you're building. I mean, so we were giving a huge property tax benefit that was providing basically zero public benefit, and it was happening way too much across the state. And so I got to say, rarely will I say this, but props to the Texas legislature for closing that loophole. What did you say? The tenant protections. Can you talk a little bit about that? What what are the state mandated tenant protections for? Fcs now? >> Yeah. So I don't know the specifics about what, exactly. That section, but I do know that it added a income discrimination

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it added a income discrimination , prohibition. So they have to accept vouchers. I believe that there are some, requirements about, eviction procedures that the tenant has more rights in that process than would otherwise be required. But that's kind of a right to organize as well. Yeah, I think those are kind of the three major changes that we're added in 2023. >> Great. That's that was thank you very much. Appreciate it. >> Thank you. Council member, councilmember Allison alter. >> Good morning. I really appreciate the rigor and the goal here. And I agree with earlier comments that we should be judicious with our tax exemptions and they're not only our tax exemptions. So I appreciate, you know, the calculations have to factor what other entities are also, foregoing as well. So I wanted to just clarify and make sure that I followed the conversation before. And then I had another question. So the exemption applies to whole property, whether or not they're market

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whether or not they're market rate units. Yep. And then how long does the exemption last for, for the fcs that we would be looking at. >> We would expect that to be 40 years the same as the affordability period. The government code requires a minimum of ten and a maximum of 60. >> Okay. So, rep presenting one of these areas, that's a large part of this. You know, one of the things that we've seen in my district is that that the Austin housing conservancy has been able to purchase, sort of existing housing stock that is affordable and at lower market rate units and that that has really been the single most effective thing in my district in terms of allowing for affordable housing. There is some naturally occurring affordable housing, but it's at risk of redevelopment. And so that's Ann housing conservancy has come in. Now. Their target residents. Are between 60 and 100. So one could see a scenario

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100. So one could see a scenario where where, they meet the requirements of this. Does this apply if you're not creating new housing or is there a scenario where we could look at this to help them further retain Ann and preserve existing affordable housing stock? >> The tool can be used for acquisition of existing properties. The regulations are very nuanced and it depends on if that existing property had existing income restrictions. There's one path if that existing property is going to be renovated at the time of acquisition, there's a requirement of a certain amount of funds per unit need to be put into that renovation in order to achieve the tax exempt status. If you aren't renovating, you can go deeper. Affordability there's kind of my finding is that the changes in 2023 were very focused on acquisitions of properties and made a lot of

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properties and made a lot of that much more difficult in the market for acquisitions with fcs has has is changed a lot. There aren't a lot of those transactions moving forward, but it is possible to use that tool for that purpose. We just aren't seeing a lot of those right now. >> Okay, I would ask that if you haven't already, that you sit down with Austin housing conservancy and explore, what's possible there because Luz again, I must wait for the rest of the yellow from from my district. And I think that's really going to be one of the key mechanisms. There's not a whole lot of people who are going in and building 50% units affordable. Even with all the subsidies, you could give them. So I think that might be a direction where you could really , use and leverage this tool in an interesting way. And we happen to be fortunate enough here in Austin to have a partnership. You know, they have been securing some significant additional, investments. And so

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additional, investments. And so I'd like to encourage you to have those conversations further . I suspect you've already had some. Yeah we've partnered with them on many transactions through the hfc. >> So we've already participated in preservation projects with them, with the housing finance corporation. We would certainly be open to looking at the PFC as well with them, but we're familiar and happy partners with them. >> Great. Thank you. >> That concludes everyone has asked to be recognized, to ask questions. Do you want to say anything in closing or. I think yeah, I think we're good. All right. Get while the getting's good, huh? Well, it was a very good report. And as you can tell by the level of questions that you got. So thank you all very, very much for that. Members the next item on the agenda is for us to go into a closed session. So the city council will now go into a closed session to take up one item, pursue to section 551074 of the Texas government

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551074 of the Texas government code. The city council will discuss personnel matters related to item E one. The search for an appointment of a new city manager. Without objection, the city council will now go into executive session at 9:59 A.M. For members of the public that are watching what will happen is we will go into executive session, to deal with this matter. As it's been announced at the conclusion of the executive session. There is no further business to come before the Austin city council at this scheduled work session. So I will come in and, unless there's objection, I will come in and without objection, we will adjourn the city council meeting. But that will be at a later point after we conducted the executive session again, it's 959 Tuesday, March 5th. We are now going into executive session .

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good afternoon everybody. We are out of the closed session in closed session, we discuss personnel issues related to item e1, the search for and appointment of a new city manager. It is 148 on Tuesday, March fifth, and without objection. There being no further business to come before the Austin city council at this scheduled work session, we are adjourned. Thanks, everybody. We are a-t-x-n