

## **Closed Caption Log, Council Work Session, 06/05/12**

Note: Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes. For official records, please contact the City Clerk at 974-2210.

>> Mayor Leffingwell: Mortgage, I'm austin mayor lee leffingwell.

A quorum is present, so I'll call this work session of the austin city council to order on tuesday, june fifth, 2012, at 9:07 a.m.

We're meeting in the board and commission room, austin city hall, 301 west second street, austin, texas.

Our agenda today, I think if there's no objection, first we'll go into executive session to discuss a couple of items.

071 of the government code, the city council will consult with legal counsel regarding item number a-1 on the work session agenda which relates to item number 40 on the council agenda, which relates to economic incentives.

And item b-1, to discuss legal issues related to the -- it also relates to item 55, discuss legal issues related to establishing revised electric rates and changes for austin energy customers -- charges for austin energy customers.

Is there any objection to going into executive session?

Hearing none, the council will now go into executive @@

>> Mayor Leffingwell: We took up and discussed legal items related to a1 and b1 from the city council work session and item 5040 and 5 from the regular city council meeting agendas.

It takes us to the discussion on item a1 which was put on the work session agenda by councilmember martinez.

>> Martinez: I think we had a good discussion about legal issues in executive session but I wanted to talk in open session, you know, just about how we got to this point.

And just to reassure those who want to be a part of this process as stakeholders, this is not about that.

This is not about us trying to eliminate or corral certain stakeholders, if you will.

That was one of the concerns raised.

This is about the council makeup and who on the council would like to serve on this committee.

So I think we'll have further discussions as it relates to the councilmembers on the committee.

>> Mayor Leffingwell: Ok.

Any other comments?

>> Morrison: Yes, mayor.

Councilmem councilmem ber morrison.

>> Morrison: This item has an item that says be it further resolved to include the following policy direction and i wanted to throw two more things out there that I'm offering language on thursday that I'm interested in considering adding and one is I don't think that we have explicitly -- we addressed several values and it's open to express more in the discussion.

And I thought it would be a great idea to add heritage trees as one of the values and based on experience last week with the green process, green development process, I'd like to look at a way that we can have a more public engagement along the way.

As the mba, something like aye an mba developed.

I know that's complicated because there's contractual and proprietary issues but based on our experience last week, it would have been nice in hindsight to check in with the public and make adjustments in one direction or the other earlier on so we could have gotten a better feel.

So I'll bring that on thursday.

>> Mayor Leffingwell: Great.

Let me say I agree with that, but I would point out this mba was downtown before there was an heritage tree ordinance and that's the reason why it was not that much of a consideration in the original 2008 agreement.

>> Morrison: Yeah --

>> Mayor Leffingwell: But I have another item I would like to bring up as part of policy discussion.

As we go through analyzing the matrix criteria and find out what the peer city criteria are and we know who the players are and what the opposition is doing.

And I would also say that in the makeup of the committee, as mayor, I would -- I've focused a lot on these kind of issues and I would volunteer myself to be on the committee.

>> Martinez: I look forward to working with you on this committee.

As a closing point --

>> Mayor Leffingwell: That i really want to be on it, but -- I'm volunteering.

>> Martinez: Comes with the job.

The county is discussing their proposal today for a new policy.

And just in the brief conversation I had with the judge, sounds like they've had a good process in coming up with the new policy and I look forward to seeing the final outcome if that happens today and that could actually be a decent starting point for our conversation.

So as to not reinvent the wheel.

I appreciate the policy direction as to a peer city study.

But along with that, if we're going to do that, I think it would only be fair to also study in peer-to-peer cities, cost of living and what we pay our employees on the projects because that's certainly going to be a part of the conversation and one city may be doing a certain thing in terms of creating incentives to attract businesses and/or development and companies but their cost of living may be significantly different and not have things like a floor on wages or a prevailing wage scale.

So I want to keep it in full context, I look forward to the conversation, I think it's something that we'll improve what we're doing.

My intention is not to not seek -- not recruit companies and seek developments that are good for our city, but it is to create a better process, to get to that final outcome in the end.

And I think we've all learned a lot over the last two weeks.

>> Mayor Leffingwell: And i agree with all of that.

I would say my objective is going to be to maintain a process that has useful guidelines but ultimately each case has to be considered separately.

And in the full city council has it make the decision.

I would not support a process that basically prevents -- because it doesn't meet a set of rigid criteria, these cases are not available for council consideration.

>> Martinez: Mayor.

>> Mayor Leffingwell: I mean we have a few --

>> Martinez: Don't we have that now?

>> Mayor Leffingwell: We have a few gateway provisions, few, but I would hate for us to lock ourselves up entirely.

I think there has to be flexibility.

You mentioned one example of the living wage criteria.

If that had been an entry provision, we would never have even considered as a council the economic agreement, that was something widely lobbied by by members of the community.

Hard to employ, a job market we're really trying to address.

That's the kind of thing I want to try to make sure we avoid.

>> Martinez: Yeah, I certainly appreciate that perspective and I understand where you're coming from.

But I do think we need to have a public conversation about whether or not we increase those rigid requirements or not.

So as an example in the waterfront overlay, are we going to remain flexible to increase density and remove the caps of the overlay to save heritage trees.

We have to have these conversations.

I certainly appreciate where you want it to be flexible and council ultimately retains authority.

I do as well.

But one of the points of having this conversation is so we don't and at the 11th hour try to figure out a deal.

The public needs to know certain outcomes are going to happen if a deal is brought to council.

That's what I'm trying to do.

>> Mayor Leffingwell: To the spent we can prevent from being , I'm certainly in favor of that.

I think there are things we can do.

But the specific example you mention is exactly why we have to have to maintain flexibility.

Do we want to have affordable housing in a master development agreement or disallow the waterfront overlay restrictions?

Those are the trade-offs I think have to be made in an open discussion and made by the council.

And not even have an opportunity -- otherwise, not even have an opportunity to discuss it.

>> Cole: Mayor pro tem mayor.

>> Cole: I appreciate the resolution and the establishment of the community councilmember morrison and councilmember tovo and councilmember martinez.

One, I hope that the committee, there's a thorough discussion about the difference in what we do with city-owned property.

Versus a private development.

I think there's been a tremendous amount of confusion in the community when we're talking about mueller or green or seaholm versus a hotel development and that all of these are seen as some type of council give-aways and there are very different mechanisms between the development of city-owned land and versus a 380 agreement and one of the reasons this committee needs to exist is to clarify that and because that's such a major issue for the city and the prosperity of the city, I think it's great that the mayor is willing to serve on that committee and participate fully and I fully support that and --

>> Mayor Leffingwell: Thank you for volunteering also.

>> Cole: Well, I will volunteer to come to some committee meeting but I'm not going to participate in every meeting, especially clarifying about city-owned property and property we don't own and what we do in terms of infrastructure and I'm also very interested in the difficulty to employ issue and I'll be talking to legal about trying to establish a definition for that.

I think we need a clear cut definition to consider and I recognize all of these are trade-offs that we have to consider.

Thank you, mayor.

>> Mayor Leffingwell: Anything else?

Councilmember morrison.

>> Morrison: I want to follow up.

In terms of if we want to engage the difficult to employ, one of our elements of the agreements or whatever.

And one of the conversations we had at public health and human services was that -- and I think partly on the dais, in the realm of social service.

But if we're going to do something like that, one thing we don't have on the table is a performance measure and a monitoring for difficult to employ elements of an economic incentive deal and so I think -- and that's one of the things we talked about at committee.

We need to really try and get more sophisticated about that.

>> Cole: Right, I understand one is a legal way to go down it is to determine like if someone is on food stamps or medicaid.

And so I think we can work with legal and try to craft that where it's just a short definition, it would be unique but we can do it.

>> Morrison: I'm saying on top of that, we need hiring targets and performance measures if that's part of the deal, as opposed to saying well, we want you to have a goal of hiring.

>> Cole: I agree.

Like it was.

>> Morrison: I don't think it was.

>> Cole: I mean, that the company was -- tighter controls to measure that, I agree.

>> Morrison: Right, good.

>> Spelman: Mayor.

Councilmem councilmem ber spelman.

>> Spelman: I was hoping to avoid going to committee meetings but I would violently disagree with some of the things I'm hearing, which is fine, it's part of what it's all about.

>> What is our process at this point.

>> Spelman: I'm happy you're going to be posting the meetings and I'll be able to show up.

I have no interest in being a regular member or voting on it.

>> Mayor Leffingwell: I guess that's -- that's one decision we have to make here today.

Is what -- what members of this body want to be members of that body.

And as I said, I volunteered myself and I think there are three others that have already

[10:54:00]

volumed.

I'm not hearing about any other --

>> Riley: I'll make recommendations when I can but i don't need to be an regular member.

>> Mayor Leffingwell: All right, I think the process going forward is that the sponsors of the resolution based on input that we've gotten here at this work session would complete their resolution and see it on our agenda on thursday.

Anything else on it?

All right.

So we move on to item b1.

Which is a discussion of the proposed austin energy ordinance and electric rate schedules and do we want -- it doesn't indicate to me who posted this for discussion, which councilmember.

Councilmember tovo.

>> Tovo: We've covered some of the trickier issues in executive session, that related to legal issues.

I had a few questions, most of which I think you've answered in the q & a.

But I haven't had an opportunity to look through them yet so I'll -- I guess I'll open it up to my colleagues if they want to ask quick questions while I'm pulling together my questions regarding streetlighting.

>> Mayor Leffingwell: I've got one.

I think we've got a handout, if I can find it.

I had asked austin energy to -- at our last work session, we discussed various rate schedules with regard to the tiers.

And I had -- we did pass a motion with direction for a moderate tier as you drew it up

[10:56:02]

and I had asked for an analysis on a different -- thank you.

A different kind of tier, one that would be relatively flatter, still include the five tiers, would be really flatter and -- relatively flatter and said that I would like the first tier to remain unchanged -  
- I'm talking about the rates now.

The rates differential between two and rates -- tiers two and five would be no more than 15% so we don't have a situation with people at certain times of the year in a very high tier and thus having a very high electric bill for that month.

And we came up with what's highlighted here and as i weis, it's not exactly what I asked for because it also shows an increase in tier one, which is not what I asked for.

So -- I think maybe we can have a further adjustment in that and the other parameter, the restrictive parameter, is that the cumulative effect of this would produce the same revenue.

All of these tiers together would produce the same revenue and my only objective is to preserve the low tier as it's been for many years, we've had two for so many years, but the other tier, be graduated more moderately and I wanted to revisit that issue.

Any comments on that, the practicality of doing that?

>> Thank you, mayor, larry weis, general mark of austin energy.

We did an analysis in the handout in the request for information and we would have to go back and do the calculation

[10:58:00]

but we can do that in the salmon-colored column is what is represented in the memo.

But what we did not do is put 5 centss in that first tier.

So we'd have to do that calculation and we'll turn that around as fast as we can.

>> Mayor Leffingwell: That would only affect 15% of the bills?

And I'm assuming I'm not asking you to pull out your ibm watson or anything like this to do it but it would be a relatively simple -- watson is the name of supercomputer, if you didn't get the joke.

>> I did.

>> Mayor Leffingwell: You can laugh.

>> You mean like hal on 2001 space odyssey.

>> Mayor Leffingwell: No, the project --

>> oh, I see.



It isn't that sophisticated but it's a model that our consultant has and we have to do that, and you're exactly right, it fits to solve the revenue answer so it the model has to calculate that but it's not that hard to do, we'll turn it around as fast as we can and get it out to everybody.

>> Mayor Leffingwell: My objective is to avoid the situation where some number of customers and maybe in your -- in the scenario you propose, maybe few, but some number seeing all of a sudden overnight an astronomical increase in electric bills.

Ok.

Any other comments?

>> Tovo: I want to talk first about the customer assistance program and thank you for the the what the volumetric charge would look like.

One of the discussions we had and one of the tentative agreements we came to talked about jillability and automatic enrollment and the ordinance we have before us doesn't address those issues.

It's my understanding that several members of our public have sat down with you and showed you an amendment and i wanted to get your feedback on that.

I've got a copy in front of me and basically codify those decisions we agreed to tenttively as a council which is to expand eligibility of those in our service area who would become eligible for the customer assistance program and also specify they would be -- that we would use all enrollment through austin energy or through a third party.

I wanted to get your comments on that.

>> Yes, we met yesterday morning with some representatives on this issue.

And I believe we've satisfactory, last I've heard, the last half hour, that we've satisfactory resolved a lot of the issues that we have.

I think we -- the -- the self-enrollment is -- the language on that gets a little tricky because the -- some envision an automatic -- once they've identified by a third party, for example, a vendor, they automatically and seamlessly going into our system.

There's actually a manual step.

We've clarified that language and we've got agreement and the funding and everything.

So I'm hopeful we'll have all of that language straightened around soon and be able to turn that around so that legal counsel for austin energy is working on that and the city.

>> Tovo: Great, if I understand the intention, for staff to bring that forward as a proposed amendment or consideration on thursday.

>> Correct.

>> Tovo: It's not something that requires an action from us?

>> Not until thursday.

>> Tovo: Super.

I appreciate your work on that.

We had talked at our last session of verifying that there's identical numbers in terms of the allocation method.

Are those answers in our q & a we got this morning.

>> That wasn't an answer from the q & a.

But we believe as it's utilized is mathematically equivalent to what we're loosely call 4cd.

>> Tovo: Ok.

We had a discussion as a council in a work session -- I think I'll wait for the mayor to come back, because it was a question for my creeks.

Could we review some of the streetlighting issues that have been raised.

>> Sure.

>> Tovo: And if you can walk us through some of the q & a here.

>> Sure.

>> Tovo: In the past -- if you could tell us how it's been handled in the past and how it's being handled in the proposed rate proposal.

And whether -- let's start there.

>> Ok.

Well, in the past, today, the city of austin streetlights are paid for by austin energy.

So it's in their budget.

The remainder are paid by the respective municipalities.

Lakeway, we bill them for the streetlights in lakeway or the other 13 towns that are in our service area.

And in the future, the way that this works is that there would be -- the street life-threatening charge and that would be funding the entire cost of all of the streetlights throughout the entire austin energy service area.

And so the general fund then would be paying its portion and the cost would be recovered through the customers.

>> Tovo: So we've heard concerns -- and I hope I express them accurately -- that we're then asking all customers to be responsible for funding streetlighting.

>> In the service area.

>> Tovo: Ok.

Beyond just -- so lakeway, i mean, all of the service area customers are contributing to that.

>> That's correct.

>> Tovo: Rather than for the portion that actually -- we're charging the costs to the municipality, I think the concern is that it's actually shifting the cost -- is it shifting costs to the residential class that they don't currently bear?

>> It would be -- it's a separate line item.

If we included it in the energy charge, it would still be the same amount.

So it's -- all of the classes are paying for the streetlighting, so all classes, all are incurring a line item charge for the streetlighting.

Is that your question.

>> Tovo: I guess.

The substance of the question, number five, the proposal to charge the existing streetlighting customers which could have the impact of you reusing -- reducing the revenue requirements.

Would it?

>> No, it would [inaudible] the revenue requirements.

>> Tovo: It would be --

>> it would be shifted to the lighting class.

>> Tovo: But away from residential?

>> Well, all customers today are paying for it, but the revenue is collected in a different way.

That's principally what's happening.

The revenue is collected differently but the costs remain the same, therefore, the revenue requirement by austin energy on the whole remains the same.

It's just the way we're collecting the revenue from the customer base.

>> Tovo: Ok.

Sounds like I need to read your answer a little bit more carefully.

I do want a better understanding whether it could -- whether a different option might mitigate the impact on some customers.

>> I think there's a perception if this want here at all, there would be a savings, but it's not.

It still has to be recovered.

I think that's fundamental.

>> Tovo: And then I think my last question is one for my colleagues.

We had several lengthy discussions about sales and i wanted to offer -- just wanted to really just point out i continue to have kentucky we have not made any adjustments in our revenue -- concerns in about revenue adjustments.

Number 11, we have what the sales are for 2008, 2010, 2011, I think I made this point in one of the work session, there's never been a year where it's zero.

I understand we're talking about settlements and I wanted to make the minimal adjustment of 5 million, I wonder if there's any of you who didn't support it initially may have given it more thought and changed your position.

>> Mayor Leffingwell: I haven't changed my position, but I'll give it more thought.

>> Tovo: Great, I appreciate that.

>> Nor me, I'll always give it re tught.

>> Morrison: Is there a particular thing you want us to think about.

>> Tovo: I'll ask my other colleagues a headache that adjustment, to weigh in, in my mind, we had a very lengthy discussion and I don't think we want to recap here, but showing again that in every year on record there has been the sales and with the nodal market, it looks different but I think we can expect it won't be zero which is what it's currently factored at.

>> Morrison: Mayor.

Councilmember councilmember councilmember Morrison.

>> Morrison: I think that it shows that it hasn't been zero and if you recall, we were talking about taking -- it had gotten down I think 10% of the sales in the test here, as a conservative way to go about it which amounted to accounting for 5 million in revenue from that.

Which would have what might appear to be a minimal effect of reducing, if I'm correct, 5 million from \$71 million, which is of revenue we're talking about going after.

But my point back then was that even that is non-trivial, each \$5 million accounts for another half percent overall.

It's \$71 million, we're talking generally about a 7% increase.

Systemwide.

So every \$5 million you take off, you're able to get a substantial, I think non-trivial decrease.

So --

>> Tovo: Let me ask, I don't want to rehash this, but as I recall, the concern that I had with this reduction was based on your comments about the volatility and difficulty of measure.

>> What happened in the test year is that the wholesale sale was neutralized.

In other words, to not be in effect.

>> The issue is year-to-year, there's speculation how much wholesale market there may be and you're right.

It could be negative.

But it all flows through, now to our fuel charge, so any wholesale sales that would be dramatic, for example, would be a net against our fuel charge which then would be passed along through the fuel charge which has nothing associated with the electric rates.

That's a separate issue.

So while we recollect there -- the issue is -- while we recognize that the issue is about the future and what's the speculation of the future may be and I don't know the answer to that.

What the wholesale market will be in the future, so that's how it's framed for us.

So what we did in our bisques, we took the wholesale sales out of the equation so it was not a factor in determining rates, however, there are those who want that debate that and i understand that.

Understand that there's that issue.

I don't know if any of my staff wants to add to that or --

>> ann little, cfo for austin energy, I would like to add to make sure you understand that whenever the rates are adopted, the risk oversight committee at austin energy will reconvene and develop a new fuel factor and so if you change the base rate to reflect some I don't have-system sales then the fuel factor will not reflect that.

You're shifting it from base to fuel or some other way, it's not an increase or decrease to the customer.

But -- but.

>> Morrison: I think i understand if it's in the fuel factor, that means a special contractor are able to benefit from them also.

>> Therein lies the issue.

It's an equity of direction between the contracts and other customers and my perception has been since coming on board with the rate issue we're dealing with is that those contracts are not scheduled to be around in a couple of years and so while we could get into the merits of how that's spread equitably we did not feel it was enough money to start figuring out another way to do another mechanism in the interim to handle that.

If you follow what I'm thinking.

That's why the issue lies --

>> Morrison: Off-system sales are equivalent to settlements right now and we have 2008 is \$41 million, 2010, \$16 million and 2011 is \$472 million?

>> That's the net settlement.

Once we started the nodal market, you can't pool out the comparable amounts to the 41 and 16.

>> Morrison: I was confused.

I thought net settlements were the comparable --

>> the way it worked -- let me see if I can explain it.

In 2008, before the nodal market, the way it worked is -- and eastbound further back, the bilateral deals and sales in and sales out of the market and those were done in the zones ercot and it was easy to distinguish those sales and make substantial note that ok.

We sold x million dollars here and then we had a cost associated with make making the sale as well.

As we went to the nodal market, there's so many nodes where the transactions are happening, the data is -- currently we can't even get the data from the ercot system to be able to tell how the transaction fell through and how it affected our bottom line.

So that's the change.

>> Morrison: Doesn't the net settlement tell us that we sold a certain amount more than we bought?

>> I think the way it would go in the future is that we forecasted a net settlement of \$408, for example, for the next fiscal year.

>> Morrison: \$480 Million.

>> \$480 Million.

Thank you.

For the next year and our next settlements came back at \$430 million.

That we really did well in the market in our forecast, and that, like ann says will be reflected in all customers' charges of fuel, but back to the original issue wouldn't necessarily be uniformly affected because it depends on how much energy you use.

Right?

Ok.

>> Morrison: Mayor.

Councilmem councilmem ber morrison.

>> Morrison: I have one more question for staff.

I want to make sure we have the opportunity to understand the way the ordinance sets out what we talked about different phases or how much is the revenue that we're going to actually be did collecting from the ordinance we're putting in place and since it's a little -- maybe not straightforward, I wanted to make sure we get it explained in public what we're doing and i wonder if we can have staff do that.

What does the ordinance say about that?

>> I'll try with help.

>> Morrison: Ok.

>> But -- but what the oregon says is that we're doing -- what the ordinance says, there's three piece to the rate increase and we're asking for one of them now.

And that's there's the \$71 million.

There's the \$25 million for revenue from the contracts.

And there's the \$10 million piece that was out of the \$106 million that would be associated with the second phase of a retail rate increase.

What we're asking for now is for the \$71 million, specifically, and also identifying for the fact for our work forward that was based on \$106 million revenue requirement.

So I believe from my perspective, that's what the language says.

And I'll ask marc to add anything to that.

>> To be more specific.

The ordinance says it's based on the decisions that you've made in the preliminary meetings, our total revenue requirement is \$1.123 billion.

And that you have chosen to implement an increase of \$71 million now to approach that total number and are setting in place rates that long-term contract customers will roll on to when their contracts expire coming up to 2015, so your action authorizes the \$71 million and the new rates for the long-term contract customers, a little under \$25 million.

And then there's a remaining piece that would be allowed under the full revenue requirement, and ordinance says we will come back to you prior to asking for that piece by OCTOBER 1st, 2014 AND THAT There are a number of things we'll bring to you at that time.

Further examination of prudent cost reduction measures and reserve policies prior to coming back to you.



So your action, if you were to approve the language of this ordinance, would approve a \$71 million increase plus the rates that the contract customers will ultimately pay and direct us to come back for any further increase under the approved revenue requirements.

>> Morrison: And so we would be potentially forcing a 2014 rate case, if we decide to go after that --

>> the plan going forward and this jumps us back almost a couple of years now, or a year and a half to our foiblability -- affordable, going forward, we would not raise rates any more than 2% and that we would meet the other metrics such as our benchmarking and so forth and we had planned on all along to do that part of the budget process.

So that's what we plan to do with the next piece, too, we would come along, not redesigning rates.

There might be modifications to one of our charges, for example, that would be done in the budget process, that's how we envision that doing.

I get scared when I hear rate case, but the reality we would make that a part of the business plan going forward and do it through the consideration of submitting the budget for austin energy and the regular process.

>> Morrison: Would you foresee doing an analysis on a later test here.

We've got --

>> yes, every five years, a cost of service study.

And that's part of our new mission going forward.

To do a cost of service study every five years, I would imagine if cost of service is far out of line, we'll have to address that and come forward and say cost of service is out of line and we need to make additional adjustments.

>> Morrison: Ok.

And so that means we're foreseeing this additional analysis.

There's going to be new data brought to the table but we know our revenue requirements right now is \$106 million in order to mitigate the impact on customers, we're choosing to increase rates to collect \$71 million.

>> Correct.

>> Morrison: Ok.

Let's see, one other question that came up.

In terms of the commitment under our affordability guidelines not increases more than 2% a year, it's my understanding we were talking about that after the rate case, does that mean after 2014 or 2012?

>> That's a good question.

In order to meet the climate protection plan and the goals we have, frankly I can't let 2014 get in the way because we have to get to work.

After this rate increase, do that and I would be conferring with mark and our plans and come forward and begin our quarterly reports again, overing, so we can show you the pact -- austin energy and show you the path forward.

I would consider that additional \$10 million in part of our forecast, going forward and how that turns out remains to be seen until we get to the budget process.

We have to operate this year, '12 and '13, and it's going to be -- those are two big operating years in my opinion with the current market we have.

We'll see where we end up.

>> Morrison: Thank you.

>> I want to remind everyone that the 2% s restriction is part of the climate protection plan.

Councilmem councilmem ber riley.

>> Riley: Can we talk about the solar program?

>> Sure.

>> Riley: I have questions about where we landed with respect to the value solar [inaudible] I understand that the ordinance before us actually eliminates net meters and shifts strictly to value of solar and that net would be retained for only non-residential on-site, is that correct.

>> That's correct.

Let me explain that it gets caught up in a little bit of words, the net metering versus value solar is really kind of the same thing.

What happens when you're paying a consumer or producer who has a solar system for the value of solar, you're paying for the production and it's not netted out against the meter at a wholesale price and that's the difference between net metering and the value of solar.

The consumer is getting price for the amount generated by the solar system but one is net metered and one is the actual payout for the value of the solar.

They're one in the same but within the industry there's a sharp distinction.

>> Riley: In either case, the customer receives a credit and actually compensated for the energy provided.

>> Correct.

The process is the same.

>> Riley: That's significant with respect to the federal tax benefits.

>> Correct.

>> Riley: We've had some customers who are concerned about the federal tax issues and asked couldn't we just retain an option to use the net metering for residential customers or even for -- for off-site commercial in the event we get to the point of doing community solar.

>> Well, that's a new one for me.

You know what?

It's -- I need to ask the customers to confer with their tax consultants.

The reality is that the value of solar has been fairly well tested and I'm not aware of any difference in tax implications to consumers but I think we need to check that out further.

Do you have a comment?

>> The credit cannot exceed the amount you pay you're in.

We'll be evaluating that to make sure and there could be few customers that would exceed that.

As long as it doesn't exceed, there's not a gross revenue for the year.

>> Riley: The local solar advisory committee is hard at work looking at issues related to our support for solar.

Including for instance community solar and the best way to get there.

To what extent will we have flexibility to make changes based on any recommendations from local solar advisory committee on things like value solar versus net metering?

>> Those are not part of the rates themselves, but part of the program offerings and we're able to make those changes at any time.

>> Riley: For instance, if down the road, the local solar advisory committee restraining order were to say you need to retain net metering as an option for residential customers or for -- or just for a community solar program for offsite commercial solar that we would have the ability to go ahead and put that in place regardless of the ordinance?

>> Well, I think -- you know, I'll let marc or andy jump in in a minute, but generally speaking, that's again, part of the budget process every year.

In other words, if we're going to do a major change to any of our budget impacts to it or program changes, the appropriate time is as part of the budget cycle.

And --

>> councilmember, the pothole policy we're calling gross metering which pays value of solar for energy output, that's described in the tier.

Were it to be the council's decision to also have an option for net metering, and we had to have an tariff adoption to do that or other significant change to the way we're doing that, but it would be like any other tariff changes through the budget cycle.

>> Let's say for example, and this would be no different than if we had a new line item we wanted to add for some other energy contributed to our system, I'm trying to think of one but I can't off the top of my head, we would come back and it ask for a amendment to allow that in our rates and include that in that process so we would come back, wait 18 -- come back and make that as past budget cycle.

That's the business model we envision on all of these issues, we come back in the budget cycle and make these changes.

>> Riley: So we would have the flexibility to make the adjustments on a regular basis?

>> Right.

>> Riley: Thanks.

>> Mayor Leffingwell: Ok.

Ready to go on to the next item.

And I don't know what kind of quorum we'll have in 30 minutes but I personally have to leave in 30 minutes.

>> Cole: Can I ask a procedural question.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: Are you conpolicemen plaited one vote on the entire -- are you contemplating one vote -- I mean, or thursday.

>> Andy with the water department, it's our intent to make the changes that have been discussed so far.

And have an amended ordinance on thursday ready to go.

And, of course, thursday there will be opportunity for further discussion and action.

>> Cole: Ok.

So one individual vote or amendment amendment?

>> Correct.

>> Mayor Leffingwell: It's a single item.

>> Cole: Ok.

>> Mayor Leffingwell: Next on the list, in new hampshire mayorical order.

7 -- In numerical order.

7-10.

There's a number 9 called for, which is seaholm project.

I believe that was councilmember tovo.

>> Tovo: I think councilmember morrison requested nine and i requested seven through 10.

>> Mayor Leffingwell: We can discuss them all at the same time.

>> Tovo: Great.

I'd like to talk first about parking and you may have addressed this in your memo, mr. johns.

Can you compare for us the cost as originally contemplated versus the cost we're asked to approve on thursday?

>> Thank you.

Kevin johns, director of economic growth.

Our project manager, Fred Evans, handles the negotiations.

>> Tovo: Thanks.

>> Of the original concept was to build a free-standing above-ground garage that was estimated to be 8 million supported both debt service and operating costs through the revenues generated by the garage.

The current proposal is to invest in the unified garage underground which is a much more expensive proposition.

315 Parking spaces and the estimate is \$9.9 million.

And we have run performance that indicate that the garage revenues will support both the debt service and the operating cost for the garage.

>> Tovo: So the original -- so -- is any of that material in our backup?

I didn't see any of those numbers in return of the -- in regard to the return on investment so show we'll recoup our costs.

>> There was reference, it didn't have the full pro forma attached.

>> Tovo: And so can you -- I haven't seen the -- some of the backup it referred to the seed feasibility parking study.

Is that available anywhere online?

That was the document that determined it was not feasible to have parking on the crescent site.

I'm trying to get at why it's not feasible to have parking on that site and the study answers that?

>> It should, it's not provided online but we can provide it to your office.

>> Tovo: Great.

How do the ongoing costs maintaining parking compare in the if you versions contemplated.

Both the original free-standing structure and now the shared garage?

>> I believe the operating assumptions have been relatively the same.

Although I believe we've been able to recoup.

Assumptions on the unified garage because we're looking at new technology for unmanned ticket machines rather than having a lot of staff costs.

>> Tovo: That would have been the same with the free-standing garage as well?

>> The initial assumptions may have been a manned booth but that's changed.

>> Tovo: In terms of the ongoing maintenance and operations, it's a wash in either?

>> Correct, correct.

>> Tovo: When was the parking -- the parking feasibility study undertaken?

>> I believe we completed it in 2010.

>> Tovo: And can you tell me how much the crescent site cost and when it was purchased?

And if you want to follow up in writing, that's fine.

>> I didn't realize that I -- i would have invited real estate services here for the parking garage.

>> Tovo: No worries, we can cover that through the q and a process, the formal one, the written one or we can talk about it on thursday.

One of the things that interested me is the line in the backup that says that austin energy, if this goes through on thursday, would be purchasing the site.

I didn't have a clear sense of what their intended purpose was or the timeline for using the property was.

>> Austin energy would be better equipped to respond.

We understand they have an interest in procuring the site as part of their distributed production water system.

>> Tovo: Ok.

I'll follow up with them, then, because I would like to see a little bit different sense of -- a little bit more specific -- more details.

Do you have any general comments why the site is not feasible for parking?

[Inaudible]

>> sue edwards, assistant city manager.

I'll let fred chime in.

Originally, we anticipated this could be a joint garage between the development that's to the west and seaholm and this particular garage is specifically for the seaholm building, not the office building or the condo, hotel or apartments.

So it was specifically to service the seaholm building.

There was research done, and as we begin to look at the way to separate entrances and exit, to separate, the developer's garage from the city's garage, it became parent that might not be possible because there just wasn't enough room.

As we began also to look at the feasibilities of ingress and egress, just for a city garage, it looked like there was not going to be enough room.

This garage is also confined by the capital view quarters and there was a limited amount of space we could go up.

Eventually it became clear in looking at the different factors it would not be appropriate for the type of garage, the amount of parking that we needed.

So it was -- after looking at awful that, we determined it would not be feasible.

>> Tovo: When the site was purchased, was it for the express -- was it with the intent of creating this garage or for some other -- I guess I'm wondering what --

>> purchased with the intent of [inaudible]

>> Referee: I saw, but it wasn't -- there --

>> Tovo: I see, but there wasn't the in-depth analysis.

>> If you recall, there was a master plan developed in the LATE 1990s, EARLY 2000, THAT Was a general overall master plan that did not have a great detail in it and that triangle, as we call it, was anticipated to -- parking.

The only thing I would add, is that when we did the feasibility study, since we were not able to capitalize with the gables parking lot and property, the garage we could fit on this constrained piece of land, 117 parking spaces and we had confirmed through the parking feasibility study that the project needed the full 315 spaces to make it viable.

So we were looking at that point at building a small stand-alone structure on the crescent and investing in parking under seaholm as one of the options.

That was one of the options considered.

Everything considered, the -- what percolated to the top was investing in the 315 and unified garage that better served that project and got us to the 315 and better served the district.



>> Tovo: It's been asked of me whether there are any options for using some of this parking to I don't have set -- offset the needs for parking at the green treatment, the site of the green development, so that some of the trees might be able to -- might be able to redesign the project in a way to preserve the trees.

Getting back it a controversial subject.

Are there opportunities to make what's before us this week work toward our goals, work toward a goal of preserving the heritage trees on the green site?

>> As you may recall, there's not enough parking in the library to accommodate a 300-person facility for events at the library and we have committed 100 of these spaces to the library.

So where we had anticipated using 315 spaces for the general public, we've now agreed to share that parking both with the library -- it could be that there are 50 spaces at green and 50 spaces at seaholm, but the preferable one right now is at seaholm.

But either way, it's 50 spaces.

Not very much.

So total 100, 50 at each or 100 at one.

>> Tovo: And 315 is as many as --

>> we can get.

I believe we're now at four levels of parking which gets extremely expensive and the water table prevents us from going deeper than that.

>> Tovo: I know there are other issues here, but do we have some others about parking facilities?

I had an opportunity to visit and I appreciate you being here, about the amendment that would change the seaholm building.

The requirements for the seaholm building and would like to address that and I'm sure my colleagues have comments about it.

But my big one gets to something we talked about earlier.

We had a full public discussion or lots -- I should say lots of public comment about the mga or -- mda for green over the past couple weeks and I do believe there's interest what happened at seaholm and what that development looks like and I'm concerned there's not a level of public awareness about the changes we're contemplating on thursday.

I wanted to ask, have any of the citizen boards, volunteer citizen boards reviewed these amendments?

Has there been a stakeholder process to talk about the contemplated changes?

>> With respect to the change between hotel and condominium, that was contemplated in the agreement and we said that if you decide to change from the condominium hotel to apartments that would then trigger affordability at 10% for 25 years and that was a public process that had been contemplated previously and we had also contemplated other types of retail or office in the project, so when -- so it was contemplated there.

We did not have a -- let me go back a minute.

The mda did not go through boards or commissions.

Typically we don't take it through the boards and commissions but it had thorough availability for several weeks online and it did have a public process where there was comment.

>> Tovo: I appreciate that clarification.

I guess I was talking about the amendments before us today and you've clarified one piece, that the affordable housing provision was -- came out of that initial public process.

It was part of the plan b, i guess, if it doesn't work out this way.

If it's not used this way, it will be used in this manner.

And that was 10% at 25?

All of those details.

>> Actually 5%.

>> Sorry, I apologize.

>> Tovo: I haven't had a chance to verify.

5% At 25 years was in the original agreement.

>> Uh-huh.

>> Tovo: But I'm talking about the shift now from -- or the proposed change that we're being asked to make a decision on for thursday, which is to allow office in the seaholm building.

Has that amendment received any review by the waterfront overlay board or any of our commissions who might be able to engage in a public dialogue?

I'll say that I think there may be members of the public who want to weigh in but not aware that it's coming forward on thursday.

It's a public site and one that general reign rated public substitution and it's good to make sure that the public is aware of it.

>> Let me clarify -- ask a question if I may, please.

[Inaudible]

>> the original agreement did not require retail in the building but allowed office uses except on the ground floor.

And the proposed amendment would allow other than traditional retail uses on the ground floor.

>> Tovo: I went back to the original transcript and saw -- i think a lot of the discussion talked about public use.

And I'm talking and explored lots of options and, you know, i just have some concerns about -- about the office -- office use.

I wonder if this might be an appropriate time to ask you just to talk about -- a little bit about the extent to which there would still be a public component, if not retail or a specific use like a museum.

I know you mentioned in our meeting the green store.

I saw in some original discussions references to turbine hall as being a great event venue.

I wonder if there's still a possibility of capture that go and allowing it to be a event venue seen if there's a primarily a office use in that facility.

>> There's a possible -- let me start out by saying I could talk for daze about it.

We've been working on this for eight years.

And -- let me make a statement.

I mean, because of where we are today, based on signed contracts with the city, you know, we've in good faith spent \$7 million in eight years designing and market the project.

The two amendments of the mda are driven by the market, not us and the amendments don't fundamentally change any of the economics of the mda.

We're not asking for that.

At this point in time, you know, we have a site plan that's close to being released and we've hired a construction company.

Documents are being completed and we signed a lease with a major retailer, trader joe's and these actions that we're asking for are essential to moving the project forward.

And to not losing the momentum and losing the tenants that we have.

The potential for doing more things with the inside of seaholm is only enhanced by completing station of it and by bringing the -- the restoration of it.

And bringing it back to life and it's been sitting empty and we've been working on it seriously since signing a contract with the city and we're at a juncture where we can move it forward.

Nothing we do today with the power plant will preclude anything from happening in the future in terms of if there's another great civic use that comes in the building or a retailer that comes in to occupy the building.

We're not going to be compromising any historic characteristics in the grandness of the building, only enhancing it and creating a excitement and destination which will sell itself if the future.

The challenge that we have is that the markets obviously have changed.

What retailers are looking for has achanged.

The potential for really wonderful uses are the -- we worked for years with them and you'll get letters from the boards of the organizations that will verify that.

And so where we are today is we continue and have continued to market to retail uses, the market has brought us a number of high tech creative companies that really understand the building and can make use of the \$80,000 square feet that are in the basement and the use of the 30,000 square feet on the ground floor that everybody sees.

What we intend to do and what we're negotiating currently, is that we intend to have the ability for the public to come in and interact with the building and with the -- what the public is most interested in seeing the -- hearing the history, through a combination use of the city of austin green store so people can come in and learn about the establish design and the -- the sustainable design and what seaholm has been and the history of it.

It's near and dear to everybody's heart.

That's would be on the main turbine hall and the public would be able to see the main grand hall and couple that with a cafe shop to where people can come in and really enjoy it.

And the current tenant, and it is under negotiations and we're in a competition with other buildings.

>> The current tenant is open to that.

And really willing to do that and wants to do that.

And so we feel we have a perfect opportunity to move this forward, to deal with what timing and the market has brought to us.

And to complete -- bring this building back -- back to life.

I'm concerned, seriously concerned, that delays at this point will cause, you know, this current tenant to -- cause us to lose this current tenant and lose tenants we already have in place and seriously compromise the future of the building.

>> Tovo: I appreciate hearing some of that context again.

Thank you.

And I'm glad you're working on way with the prospective tenant to really have some kind of ability for the public to go into the building.

Because I think it's really important.

As you said, it's an iconic build and terrific that it's going to be preserved.

But I and others share a vision of having the public be able to go in and use it at some point fully, at least at this point, some ways.

Back to the subject of time, from your perspective, I know it's a strong concern to keep moving forward with your tenants and we all -- probably have an interest in seeing that.

Would it be feasible to have a briefing and public hearing on it this week but schedule it for action next week, again, to allow the community some time to come in and weigh in?

I'm just concerned it's not -- not something many of our community members know about.

>> Um, in my estimate, that would seriously jeopardize the future of this project.

We're at a point where we really are in final negotiations and if we lose this tenant, a lot of things will occur.

We have been doing a tremendous amount of outreach in the last three to four weeks.

We have letters coming from from civic organizations and leaderships in the community that will -- and leaders in the community that will support these amendments and it's been very much out there in the public venue for the last three, four weeks.

I think people understand that the purpose of this is to save this building.

Very strongly that needs to happen.

The way you do it is you get the first step done, which is saving the building.

This building has been here for 60 years, it's been -- it will be here for probably 60, 100 years, the way it's built and the future of it is bright if we get it going, if we get it going now.

>> Tovo: Ok.

Thanks.

We've received at least one letter from the heritage society.

>> You'll get more.

>> Tovo: I'm talking about the general public who may not recognize the leaders and organizations and it's important that they all be involved in the project as well.

Thank you for being here today.

>> Thank you, councilmember tovo, because we're on that issue and -- I'm concerned about the public use portion of this building and I know there have been some discussions in the past with the arts center and we have major challenges and the city actually owns that, it's not like we're saying, john go out and negotiate with nonprofits that you have in the past.

We've sent out notices to the parents about poisoning and on and on.

About the potential poisoning and even the bond committee has considered funding for it during this last term.

So can you tell me something about the history with doherty and feasibility of it going in this facility?

>> I can't comment on that.

From what I understand, it's about 20, 25,000 square feet or so they would need.

What the council would be asking us to do is to tell a serious 115,000 square feet use, we're not going to negotiate anymore because potentially we might have a 25,000 or 35,000 square feet tenant.

I just don't think that's a smart business idea.

And I'm not -- you know, I love the idea of these types of uses, I just don't know if that's real feasible.

>> Cole: I understand in the 26,000 square feet, the footprint now, but use it on the portion of the facility, is that correct?

>> Wherever that would wind up.

That's a question.

Into.

>> Cole: [Inaudible]

>> if they could go in the building, they would have to go in the lowest level because i imagine they have need for a stage box to be put on the turbine hall floor.

For a limitations -- I mean, we've aesthetically hate to do that anyway, but certainly, the state historic office would have problems with it.

Yes, they would have to go into the basement.

>> Cole: Can you comment, assistant city manager?

I'm trying to understand why this didn't pan out before.

As we have these two changes before us.

>> During the negotiations, doherty arts center did not come up, as we've spoken to before.

The children's museum did come up.

There were a number of other entities that did come up during that bun u but none -- but none of them wanted to take part.

Because the space is so difficult to occupy and maneuver around in and make it really something light and wonderful that you would want children or arts -- art to be in.

So it did not come up at the time of negotiations nor has it come up since then.

I think that the -- he's correct in having -- the difference between this agreement and what we brought you last week was that the green was still really fresh in the negotiations and was much more flexible.

With seaholm, seaholm has been done for five years.

And it's been complete, and based on that, progress has been made based on what those agreements were at that time and the developer has moved forward with the negotiations on a grocery store, as a understand it, and I'm not going to speak for him, but that the grocery store is going to be there for certain reasons.

If certain things don't pan out, that lease may not be there.

So there are a number of things that are much farther along with the progress than you were when you had green with more flexibility.

I wish that were not so.

But the case is that it is so.

I think working with the developer to make every accommodation that we can, to make this something where the public can accommodate.

We've had those discussions whether the public can come in but there's a possibility, knowing what we know about the austin children's museum and some of the other negotiations that when someone comes in and really takes a hard look at that space, they're going to find it probably not as accommodating as they thought it was going to be and have having had that experience and asking the developer at this point to stop and have that experience again --

>> Cole: Let me stop you, we're running out of time.

I would like to see, because doherty has been as old as seaholm and my understanding there's been discussion in the past, I couldn't think there wouldn't be a way to get our hands around how peaceful -- and even by thursday.

I for one, would like to see that at least contemplated in terms of with staff, and if we need additional time we can make a motion to do that, but I would like to put it out there, to think about.

And mainly, I was around in 2006 and know how difficult this property has been and would like to see it developed.

I'm concerned about the public use and that we don't abandon the public use and we have a problem with and doherty has said they want to be in this location.

Councilmember morrison.

>> Morrison: I'll be quick.

I know people love the building and my concern with re-purposing it, which is a wonderful, amazingly challenging thing to take on, that it would be -- and this is the crux of it for me in terms of the change, that it be something that people don't just come to look at but something that



they live in and it's activated with people and our public, not just employees of the company that you're talking about.

And so when I think about a display about the history and think about a green store, both I don't think are going to draw -- the people will come and leave and maybe not come back.

Very and you.

And so one of the things that we had thrown out there that I would like to throw to my colleagues and see if there's a way to get as much teeth in it as possible, that's the same model that we used - used serious where the ground floor needed to be retail but the company wanted the whole building to be office.

They turned that into a restaurant that's potentially serving at employees' cafeteria and if we could in some way merge the employee cafeteria with a cafe that's open to the public, I know there's a restaurant planned that is open to the plaza, but to me, that just says are people -- it wasn't clear to me if that restaurant was really inside or just sort of accessed from the plaza so if you can answer that and talk about what commitment we can work out to get something like that going here.

[One moment, please, for change in captioners]

>> Morrison: That's what I was trying to get into.

When you tell me the restaurant that's planned is open to the plaza, does that mean it's inside seaholm?

>> It is.

It is difficult to explain because the building is difficult to explain, but there is a boiler number nine that is the biggest one on the end that will be where the restaurant will be will be under that boiler.

And its main rate now, it opens out to the plaza, which is really great and what we're trying to do is work with a part of it that would also open up into the turbine hall floor on one level or another to have this public that would be under boiler 9, which is kind after cool place to be, and also similar to -- to the idea of a coffee shop or juice bar or something that may incorporate with the green store that would bring people back.

And I appreciate your comment about when people have a reason to come back and that's what we would like also.

All of this is predicated on this one amendment which allows us to have office use on the turbine hall floor.

That's the critical nature here.

How we are able to and we have highly motivated to get public into the building.

It is all details that we're working on and we're working on constantly.

>> Morrison: I guess the question for staff, is there some way that we can get as much of a commitment as possible into the language of the amendment that says that we are going to get some of that open liveability and activation inside?

>> Councilmember, I think we can do that.

>> Morrison: Great.

I think we're meeting tomorrow.

Maybe we can talk about that.

>> Cole: Any other comments, colleagues?

If there is no objection, this special called work session is adjourned.