

## City Council Work Session Transcripts - 06/25/2013

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>> Ghoorndings, I am austin mayor lee leffingwell and i will call this session to order on tuesday, june 25, 2013, and time is 9:08 a.M. And we have a quorum and we are meeting in austin city hall, 301 west second street, austin, texas. First of all, before we dig into item a, we have the consultant for the colony park project  
-- online  
-- consultantonline. If you have any questions for him, since he is race motion ready to talk to us now, we can get him on the phone.  
[08:04:41]

>> It is actually the consultant for the downtown density bonus program.  
>> Mayor leffingwell: Yes, so assuming that there are no questions, we will go to our preselected items. Which are item 11 pulled by council member spelman, first.  
>> Kimberly, distributed austin services and austin energy, debbie.  
>> Spelman: Hi, debbie we have been talking with council members about the economics of the energy efficiency program when it is applied to apartment buildings and I want to ask a couple of numbers with you to be sure I was thinking about this the right way.  
>> Okay.  
>> Spelman: In this apartment building which has 102 units in it.  
>> Correct.  
>> And you are making \$1,000 a unit, they would be bearing 11% of the total cost or about 120 bucks a unit for producing energy efficiency stuff in their apartments. Do you know offhand what kind of stuff they are going to be doing to improve efficiency?  
>> So this is a comprehensive retrofit of the units in this apartment undertaken with our better buildings grant, it is duct ceiling, air ceiling, the residents receive csls, water heater, pipe insulation, and then water conservation devices. The better buildings grant, they use a package to it. The owner and them spent roughly \$125 a unit. The tenants will save roughly \$373 a year, or if you look at it based on just the  
-- and that's assuming an average 10% residential rate for the tenants in the complex, roughly \$31 a month.  
[08:06:57]

>> Spelman: Thirty-one dollars a month. How did you get the \$31 a month? Both energy and water?  
>> You look at the energy savings, in terms of kwh per apartment, so the total savings are 380,000kwh a year divided by the total number of apartments, divided by 12 to end up at a

monthly kwh savings multiplied by a retail rate of roughly 10-cents kwh so the tenants will roughly save \$31 a month by efficiency measures.

>> Spelman: I multiply by 5.6 a month assuming there are 5,000-kilowatt hours for the month?

>> Certainly, at a lower consumption rate, yes.

>> One point in the rate case last year we were discussing how much people in apartments used and 1,000-kilowatt hours or less seemed to be about the right number but it depends on the size of the apartment and how many bedrooms.

>> It depends completely on the size of the apartment in terms of era grant funding and the subsequent research, it was roughly 1,000 kwh a month.

>> Spelman: And you also have 373, water conservation stuff, which you can cost out. And you estimated total cost was about 30 something dollars a month?

>> About \$30 a month.

>> Spelman: Thirty dollars a month. If I am a landlord and I am paying \$125 a unit to provide this benefit, then

-- and I want to get my money back, then I would probably raise the rent. I would probably raise the rent for

-- if I wanted to raise the rent and I just want to get my money back and I had no needle intentions here, I can get my money back in one year which is a payback quicker than I might need and raise the rent by 10 bucks a month for each apartment. After a year, I could go back down again, but even if I didn't, and continued with the rent, \$10 higher a month, the tenants, on average, would still be expected to. Clear a benefit of \$20 a unit. Is that correct?

[08:09:06]

>> That's correct.

>> Spelman: Do you have a sense of what landlords are actually doing when they do this?

>> We haven't

-- that is a good question. We haven't seen evidence of landlords undertaking to raise rents as a function of receiving a rebate. However, in response to the resolution that council approved approximately a month ago, my staff has developed a plan for collecting data on a monthly basis from not just landlords who have taken advantage of our program, but from all multifamily properties in austin. So council member cole, i know, you

-- vice mayor cole, you expressed concern about a control group, and so it's important to, i believe, have one source of information. We've put together a plan that we will be sharing with shared housing and community development as well as with the cdc to secure their input and we will look to begin reporting no later than this september and reporting on a twice yearly basis to see if there is any nexus between landlords receiving a rebate and rent increases. What we have seen is that, over the past three years, average rents in austin have increased by about 4.6% a year. We believe that that is in part a function of very high occupancy rates. Ninety-six-98%, and due to the fact that a significant number of residents in austin live in rental housing.

>> Spelman: So we are talking about \$800 for the average two bedroom unit, then 5% increase is going to be 40 bucks, which is going to be much greater than whatever amount would be necessary in order to get a payback for the energy improvements?

>> Uh-huh.

>> Spelman: Would you do me a favor, debbie.

>> Certainly.

>> Spelman: And run your plan past the austin department association, i think that would be -- austin apartment association, I think that would be good politics and probably improve your ability to collect data on a reliable basis. They probably have strong feelings on what their members can and cannot easily produce for you. But I wanted to be sure that we -- the other reason i asked you about this because I wanted to be sure i understood the economics of this. It does sound we are getting a large benefit for a small outlay on the part of the landlords and even if the landlords increased their rent to get their money back for the outlay, the tenants in this case will be much, much better off. Agree?

[08:11:41]

>> It is and that's one of the reasons that ac trippal a american consortium energy efficient economy pointed out opportunities for relatively low cost savings for multifamily properties, especially in communities such as austin, boston, philadelphia, san francisco, where there is a large concentration of renters and multifamily properties and so I believe that this is a way to really put the customers contributions to the community benefits charge to good use and securing cost effective savings.

>> Spelman: Thank you, ma'am.

>> Thank you.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Thanks for raising the question about the data collection. Just for our information, i did do an internet search on bell archway apartments and river lodge apartments which is noted in 1, 11, archway apartments is 370 square feet. They look all efficiency apartments and they rent for \$700, so we've got that data because I think they will fallout side the data. Will they fallout side the window of the data collection, or are they included?

>> I actually asked my staff to go back and look at

-- even though it wasn't stipulated in the resolution, to go back and look at all multifamily properties that have received rebates so that we can cast them net wide and be as responsive as possible to the council's resolution.

>> Tovo: Thank you, i appreciate that and river lodge apartments which is noted in number 12 is -- their rental information is readily available on the website as well. In fact, I think in both cases, they tie them to units that are available. So, again, I think -- i think we will have no difficulty securing that kind of information.

>> The data source that we plan to use, council member tovo, is austin investor interest which is also used by other commissions within if city of austin

-- the city of austin and we believe it is a very reliable source of information. It's important to use to the maximum extent possible a single source of information to secure the data and we believe that will give us good information.

[08:13:54]

>> Tovo: I think that's fine. Again, we had contemplated having property owners provide that information. I know we heard concerns about privacy and competitive advantage and i just -- my point at this meeting and our last meeting is just to say that this is the information that we were seeking is readily available in the internet in both cases. I had no difficulty getting online and seeing exactly which units are available and what they rent for, so that gives us some sense of where we are starting. Before the energy efficiency rebate. Thanks for your work on that.

>> Happy to.

>> Mayor leffingwell: Council member riley.

>> Riley: Items 11 and 12 caught my eye as well because of the level of the rebates involved, the 11

-- item 11 involves a rebate that will cover 89% of the cost of the installation and item 12, with item 12, the rebate will cover 90% of the cost of the installation. I am trying to figure out what is driving that number, the percentage of the rebate? And I realize we can expect it to be higher for multifamily properties, but, still, I am trying to reconcile it with the consultant's report that we got last year from kema, it was in

-- it was a report dated june 25, 2012, and it concluded that potential at the 75% incentive level significantly exceeded austin's forecast by 24%. We estimate incentives between 75 and 60% of incremental cost will be sufficient to meet austin energy's current deals. So can you tell me why it is we are seeing rebates in the ballpark of 90% of the cost? And is that

-- should we expect that to continue or would there be some point of the percentages might come down?

>> One of the things that i am undertaking is a top to bottom review of all of austin energy's efficient efficiency programs

-- energy efficiency programs and I am getting my bearings on that and multifamily present challenges because of the split of the home. The owner pays for the portion of the cost but the beneficiary is the tenant and that often constitutes a very difficult market barrier to overcome, meaning you have to pay a larger share of the incremental cost in the case of mulz facilities master plan properties. In some industries, it is not unusual to see them pay 100% of the cost. In my state, the investor utility pays 100% of the cost of multifamily properties. We are looking at what that threshold should be prospectively and after undertaking a thorough review, we think we may be able to adjust it but we don't know right now. Only recently have we seen u multifamily program because the percentages are fairly high and so we can look at what the absolute sweet spot might be. One of the challenges you have in a place like austin are the very, very robust nature of this market. So if a property owner at a 98% occupancy rate can rent that unit out pretty quickly irrespective of undertaking energy efficiency improvements, they may not have an incentive to pursue our programs. That is a challenge, compared to locations with higher vacancy rates and the property owner might be more inclined to undertake an incentive from a lower percentage from the utility if that makes sense.

[08:17:39]

>> Did the ordinance provide any additional pressure for multifamily complexes to

--

>> no multifamily property can receive a rebate unless they go through an ecat audit and so it is a requirement for our program that they go through an e-cat audit.

>> Riley: I look forward to hearing the results you are going through now and i appreciate this.  
>> I am happy to report back.  
>> Riley: Great. Thanks.  
>> Mayor leffingwell: Move to the next item, which is 42, pulled by council member tovo.  
>> Tovo: Thanks, I think this question  
-- probably this question is directed at financial staff. I happy to see there is money identified and i think that's really critical to meet this immediate need to continue our meals  
-- our senior meals in our parks facilities. I want to talk a little bit about the money that has been identified, though. Last week, when it was presented by mr. Vanino, it sounded like it was a surplus. In the discussion we had this week, it sounds likes the money that otherwise would have been transferred to neighborhood housing and community development. I would like to get a better sense of what  
-- what that money was earmarked for within housing.  
>> Elaine cfo. I apologize. I am not totally up to speed on this and we tried to reach him to come down and i may be  
-- I believe that was some of the money that was designated for the housing project that has not been used to date. But we can certainly get an answer back to you today.  
>> Tovo: That would be great. Thanks. And I don't know if ms. Spencer has a sense of  
-- I see her in the back. I don't know if she knows what that money would have been used for. I want to make sure we are not taking money from one critical program for needy individuals and putting it toward another. Perhaps there are some other funding opportunities that we could explore.  
[08:20:05]

>> Spencer, director of neighborhood housing. I am not sure where the money is coming from. I am not positive. I assume if it was designated for housing, then it would have been funding for one of our other projects but I am not familiar now.  
>> Tovo: Maybe we can get an answer to that and the second part of my question  
-- I did submit these yesterday through the q and a process is what other funding opportunities were explored and whether those might yield any possibilities, again, other than taking  
-- you know, just as a bit of context, i remember that last year, the transfer from sustainability fund to housing was substantially reduce and now we are looking at taking what is left and taking a little bit more of it, so, that just gives me concern without knowing that is our one and only option.  
>> Kimberly mcneil, parks director of the health and human services department. The health and human services division, with carlos as the director, sitting in a meeting along with betsy and stephanie haden, assistant director and myself and sarah hensley stood around the table and looked at general fund to block grants and grants that health and human services had been provided through federal or state entities, and tried to determine if there was an opportunity to  
-- if this grant paid for this and then it would free up this sort of general fund. It was a very comprehensive analysis. In the end, what we found is we wouldn't be able to transfer any of those moneys to pay for these meals without it being in violation of our grant terms or consider support plantation or some other reason that would  
-- would put us in jeopardy for us to continue that grant. It was analysis of multiple

opportunities. If you want the exact ones, I need a little more time to get them for you.

>> Tovo: Okay. Thanks. I think that probably gives me a good sense. It sounds like you were looking within health and human services budget primarily?

>> Yes.

[08:22:05]

>> Tovo: That's helpful. I guess I would be interesting to knowing from the financial staff whether they looked at any other budgets to see if they were projected to have surpluses. One that I wanted to just ask about

-- I am not sure where we are in terms of our payments toward the wastewater line for the jw marriott and that's a question I also submitted through the q and a process. So perhaps we can get some information back about that because if they

-- depending on what happens with regard to the jw marriott issue on thursday, there may be a surplus there that can be used for congregate meets and the remaining and we can keep the money where it needs to be in neighborhood housing community development, and so I will absolutely support moving forward with our senior meals. I mean, this was a critical issue for me and i, you know, sponsored this along with my colleagues. But in terms of where the funding comes from, if we have got some opportunities to tap into some other surplus funds, then that -- then that would be my suggestion. So hopefully we will get some answers back about the fee waiver and where we are and whether that money can be transferred into the general fund for use -- oh, there is mr. Snide. Perhaps he has the answer to that. Ing.

>> No.

>> Tovo: He doesn't. Okay. [Laughter] I will await those answers. Thank you very much.

>> We will be glad to work with him and get a response back.

>> Tovo: I appreciate it. Thanks.

>> Mayor leffingwell: Okay, item 72, pulled by council member morrison.

>> Morrison: Thanks, mayor. This is a resolution talking about the recently adjusted homestead preservation district legislation that's going to allow us to move forward and have options to move forward in a different way and I am really glad to see this on the agenda. Basically it asks for the staff to let us know what the impacts of it are in terms of code amendments and what we can do to move forward. I am very interested in that. I think this is a

-- it is terrific that we have this tool now. I was also interested in some other information and so I have two questions here. One is, as I talk about the information, if the sponsors would be interested in adding a request for that information to this resolution, and, secondly, for legal staff, if that would be acceptable under the posting. And maybe it is already covered in the general language, but one of the things that this legislation does is it identified parameters for where we can actually specify these districts. And the parameters are based on the population has to be less than or equal to 75,000, which is a much larger area than

-- than has previously been in the legislation. The poverty rate has to be two time it is generate for the city, and and median family income has to be less than 80% of the mfi in each of the census tracts of the area so I am interested in knowing at least approximately what areas in the city actually qualify under those parameters and would love to get a report back from staff on that. I don't know if the sponsor has contemplated that information as part of this resolution. And

if not, would you be interested in adding it?  
[08:25:45]

>> Mayor leffingwell: Council member martinez.

>> Martinez: Thanks, mayor. Yes, we did talk about this in meeting with representative rodriguez, one of the things that he felt, I guess, was a priority, was to get -- establish the work that we have already done. He realizes the legislation allows us to look at other areas. He certainly wants to do that. What he didn't want was to create this sticker shock of what the tif might look like if you take into account other areas. But, yes, I am happy to add that as direction so we can get a full picture of other areas of the city where we may use this legislation for a homestead preservation district, but just after meeting with him and discussing it, he felt like since the council had already adopted previous resolutions establishing the homestead preservation district with the original geographic boundaries we at least move forward on that because we have missed out on five years of opportunities to prevent folks from being pushed out. We discussed expanding the boundaries farther to 183, because as we see that gentrification occurring, we realize it's even gone beyond the original boundaries now and so I am happy to add that as direction. We left it out simply because we just wanted to get started at least with the initial footprint. And that's still probably going to create some sticker shock when we find out how much it's going to cost. So we have the tif policy coming up, the briefing in a minute. I think it is very appropriate for today because that is what we are going to create in this homestead preservation district is a tif that creates more affordability to the folks with relating to their tax bill but I am happy to add that.

>> Morrison: Should we give direction to the staff or add language?

>> Martinez: I am open to direction from the staff. If direction is what they need, that's fine for me. If an amendment to this is more appropriate, we can do that as well.

[08:27:48]

>> Assistant director of neighborhood housing and community development office. We have had internal discussion but this is something we would want to look at, that it would be product to do so from a program perspective so we are prepared to do that.

>> Morrison: Great. If we can get information on that because I think, you know, hearing from -- i guess it was mark rogers that was talking with great frustration about how back in 2002-2004, when the projection, at least in what the grounds on the ground were feeling about what was going to happen here, I am hoping that we can think about this as one of our basic tools in the tool box and I am very interested, you know, I asked

-- I have asked a lot of people what do we do so that 30 years from now, the folks that are going to feel pressure because of the expanding city and all of that, what do we do to protect those communities now, and I think this is a start for us to be able to look at a tool, so i am excited about that opportunity. I think, also, an interesting thing to do in terms of looking that far out and really trying to be broad thinking, is to overlay it with the imagine austin growth scenario. Where are we really going to be pushing for growth? And because I think those are potentially areas where

-- where we will see a greater pressure on prices and things like that. So I think that will be interesting. And then another thing that arose, and that was a mention in some conversation email back and forth that

-- that tax abatement was allowed in these tif areas under certain regulations, and I wonder

-- I don't know if anyone could answer that off the top of their heads or just give us an answer to that. I can show you the references that were given to me. That is one of the things that come up that I know we looked at occasionally and that is for the people who are feeling the pressure of rising property taxes, we are not allowed to use public funding to abate property taxes, but it seems like there might be some special consideration and so I will get that information to you.

Do you know rebecca?

[08:30:07]

>> Offhand, I think it's something we want to take a look at as part of our analysis related to the -- to the item from council, so I would appreciate any information you can forward me on, what you would like to see as a report back would be helpful.

>> Morrison: Great. I appreciate you guys being so fast bringing this forward and I am excited about having another tool in the tool box.

>> Martinez: Mayor.

>> Mayor leffingwell: Council member martinez.

>> Martinez: Just want to add to the discussion that this legislation also was expanded to include multifamily housing and even more specifically was contemplated around the riverside area because of the tremendous amount of multifamily housing that is going on, new multifamily housing and competing with the older infrastructure and so definitely want to add that riverside area and any other areas of the city that qualify, but that was directly what was contemplated, as we see what is happening along east riverside, we see the new development coming in and see the older units being pushed out, this legislation would allow to create a homestead preservation district for multiham housing and that

-- multifamily housing and that will be a key component in preserving affordability as we move forward.

>> I appreciate that council member and our discussions around east riverside. This has been a reoccurring discussion and so we, too, definitely want to see what the impact in that particular area would look like. I agree.

>> Morrison: Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: If I can add one more comment. I think what would be interesting is if we can lay out some of these areas where we know they qualify and

-- and perhaps get into place some triggers for when we start to see that the pressures are going to be hitting that particular area, because, for instance, a lot of property value increase in the east riverside area has already happened. So what could we have known

-- what could we have seen to know that it would make sense to put something in place before

-- before a lot of the increase that already happened? So I hope you guys can put your thoughts to that, too.

[08:32:16]



>> Cole: Mayor, I have a quick question.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Do we know from the legislation what are the geographic boundaries right now, or are they totally based on income and mfi?

>> Mayor leffingwell: Council member martinez.

>> Martinez: The previously adopted geographic boundaries are roughly the river, airport boulevard, i-35, kind of in a triangle fashion. It is not really a perfect scenario but that's the previously adopted geographic

--

>> Cole: Those are the original ones we voted on back in 2006.

>> Martinez:7, yes.

>> Cole:07, thanks.

>> Mayor leffingwell: I wonder if we add

-- we addressed this issue in 2006, 2007, or '08, which ever is the case, and it didn't

-- it didn't work out because all of the requirements weren't met. Would you care to highlight the difference in this legislation from the previous?

>> Martinez: Thank you, mayor. The major difference is that the original legislation required that the county participate in the tif. We were not able to achieve consensus with the county over the last five years, and so this legislation allows us, as a city council, to move forward on our own, should we choose to. Basically what it means is we won't generate as much money as the original legislation without the county's participation but at least we can do our part if this council chooses to do so. It also adds multifamily and also adds allowing other geographic areas of the city where this could have the effected outcome of preserving affordability for some folks. Those are the three major changes, mayor. We going to have

-- we are going to have to do a significant education component because there are still concerns out there as to what this does with a person's private property and we need to dispel those notions which is what i believe led to the county not being able to agree. We simply could not convince them, this is not a land grab and the city trying to take your property. It is trying to preserve your property so you can stay it in longer but those are the differences, mayor.

[08:34:30]

>> Mayor leffingwell: My recollection is a lot of the residents of the area were opposed for reasons you just cited, and I assume that the financial impact will be a major part of this when it comes back?

>> Yes, actually, the resolution specifies to be working with partnering departments and we anticipate working with the finance department.

>> Morrison: Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I have one more question. Last week we got a very interesting briefing from you all about a sustainable plan for funding affordable housing, a proposal. I don't suppose any of this was taken into account or integrated into that?

>> The overall conversation around tif obviously in working with the finance department the last

several months in bringing forward the presentation has been something we discussed and we felt that it was ideal that the tif presentation was the following week from the presentation that you heard last week, so, although we signaled this when we saw it coming, the finance department is aware of it. The specific homestead preservation district wasn't discussed but overall tif policy was.

>> Morrison: Okay, so the numbers that we saw, for instance, didn't

-- didn't assume any tif

-- tifying for homestead preservation districts?

>> Not that I am way out of.

>> Morrison: You are shaking your head no.

>> No, not to my knowledge, no.

>> Morrison: Great. Thanks.

>> Mayor leffingwell: One more question. When you come back with this analysis, we are going to get, as has been pointed out, a briefing on our tif policy, but I know that we have both state limitations on the amount that we can tif and the city has a policy, a set policy which is lower than what the state allows. And so will this analysis include projections of other projects that might be tified in the future and how they figure into those limitations?

[08:36:34]

>> I think the short answer is yes.

>> It sure can.

>> Mayor leffingwell: Okay.

-- [multiple voices]

>> it would be incomplete without it.

>> Mayor leffingwell: I think that's essential that we factor in other plan tif agreements or other potential tif agreements.

>> Martinez: Mayor.

>> Mayor leffingwell: I apologize. I know we keep adding to this but I think you made tremendously an important point because certain areas of the homestead preservation district, we have rail stations. We are talking about expanding rail and possibly using tifs or ters or other financial mechanisms and we will be have to be very mindful of that because one tif takes away from the other tif and we are talking about two very important priorities, in my opinion, for the city, and that's transportation and affordability, so I think the point is well made. We need to be mindful of that specifically in east austin, where we have two existing rail stops within the geographic boundaries of the homestead preservation district.

>> Mayor leffingwell: Yes, and transportation or availability of transportation is a major factor in affordability, and I think we have to keep that in mind. It is not just the cost of the housing. It is how

-- the rest of the expenses that someone has to bear.

>> Cole: Mayor.

>> Mayor leffingwell: Mayor pro tem cole.

>> Cole: I also would like to ask

-- I requested this briefing

-- I mean the tif briefing because I wanted to be clear on the policy in force to have a policy in

connection with lone star rail, so I am just echoing what you have said and what council member martinez has said, that we have a lot of potential people wanting to have tifs for transportation and affordable housing.

>> Mayor leffingwell: Right. So we will go to item 83, pulled by council member morrison.

>> Morrison: Are we skipping over 75?

>> Mayor leffingwell: I don't have it on my list.

>> Morrison: I have an updated one pulled by council member riley.

[08:38:39]

>> Mayor leffingwell: Okay, go to 75, which was pulled by council member riley.

>> Riley: Right. Seventy-five is an item relating to

-- it is an item from council that would direct the city manager to develop recommendations for preserving environmental protection currently codified in the lake austin residential district which i fully expect to support and I appreciate that item is coming forward. But one part of that resolution did catch my eye, and that was the paragraph that

-- that reads: Until such recommendations are codified, the city manager is directed to either suspend rezoning properties to la to a less stringent zoning property or to ensure the environmental protection within the la seening are retained in any new zoning category and I wanted to talk about that because we have two zoning cases on our agenda for this week that would appear to be implicated by that paragraph. They are item 98 and 100. Ninety-eight does come with a recommendation

-- well, it comes with a

-- with

-- with a suggested conditional overlay that would provide some environmental protection. It would provide a minimum setback from the lake of 25 feet. I am not sure that would be considered adequate to replace la and 100 does not currently have any recommended environmental protection. So I am trying to figure out how it will play out tomorrow. If we approve item 75 in the morning, does it take effect immediately? Does it mean those two zoning cases that greg guernsey slab directed not to present those zoning cases in the afternoon, then how

-- how

-- I just want to ask the sponsors how they would expect us to deal with items 98 and 100 in the wake of item 75.

[08:40:47]

>> Mayor leffingwell: Well, let me just say you raise a good point. In effect institute a moratorium on zoning changes while this thing works its way

-- I think

-- I don't have lots of

-- it will have lots of unintended consequences and cause considerable hardships. I am very concerned about the item itself and I would also add another part that i am concerned about is essentially transferring all of the authority to variances

-- to variances to the board of adjustment, which is going to make it hugely more difficult to get a variance, because of the requirements for the majority in granting all adjustments  
-- all of the variances by the board of adjustment which would not be the case where those decisions are currently made. So this entire item is very problematic to me.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Yes, thanks for that question. You know, these are not new issues and one of the reasons lake austin task force was assembled a year ago is to make sure that these issues get addressed and so I would like to ask chuck to talk about the discussion regarding the environmental protection and the ways in which, when la zoning disappears and it goes to another zoning, all of those fall away and i don't believe that was even anybody's intent. Yes, I would say from my perspective and I will let the other sponsors chime in, I think that we do, absolutely need to move forward with this resolution tomorrow and I would say it should influence how we regard those zoning cases. I think it's no coincidence that we are seeing zoning cases come forward and one of the reasons why it's really critical that we move forward with this resolution tomorrow is that, you know, when we set up the lake austin task force, we in effect made changes to the code so that in the interim, in recognition there are some serious problems in the ways in which variances are being granted right now and while the lake austin task force continued its work, we don't want to see those problems continue. So there were some code changes made. Now that the task force has ended, those provisions go away, and so some of the protection we put in place to ensure that those variances went to the zoning and platting commission, they will revert back to the original process, so that's

-- which was an administrative waiver process, so we have put some protection in place that are going to away and that's one reason why, in advance of getting the final recommendations we need to

-- in my opinion, we need to move on. Mayor, you raised another question. What was it? Oh, yes, I want to call your attention to the bullet. It actually requests that development variances go to the board of adjustment and that request for environmental variances go to the environmental board for recommendation to the zoning and platting commission. The ones that are

-- that we have proposed go to board of adjust. Housing to the navigation committee of the parks and recreation board. They were not land use commission. They were set up to oversee recreational uses on the lake and they have made several, several times have said, you know, we are not really in a position to make solid decisions on variance, out that are really land use variances so I think it is entirely appropriate to go to the board of adjustment, they are a body that looks at variances and has a very good standard of looking for

-- there has to be a hardship intrinsic to the lot, which I think is exactly how we need

-- exactly the kind of decision making apparatus that a body needs to bring to variances on the lake as well. So I think it's much more appropriate, as did the task force, as have many park board members in the past believe it's appropriate for those to go to a body that's set up to really handle land use decisions than the navigation board which was set up toover see recreational uses

-- to oversee recreational uses. Can you shed light on the committee's discussion, particularly on the first point when zoning happens on la, all of the environmental protection that would have accrued in la's zoning?

[08:45:12]

>> I think that's correct and Wendy Rhoades from plank development and review may speak more knowledgeable about it but there are a number of protection that are included in the zoning district that when the zoning is changed because it is not an overlay district and doesn't apply to all zoning districts, those do disappear. The concern on the part of the task force was that

-- that often property owners are rezoning specifically for that purpose. Setback requirements from

-- there are setback requirements from the lake, vegetation buffers that are required as part of that district and other things that

-- that protect Lake Austin that do fall away when those properties

-- when properties are rezoned. There was extensive discussion several times in the task force about doing an overlay district. There was

-- so that all subdistricts or all zoning districts would have those requirements, regardless of the zoning category. Consensus was not able to be reached on that, but there was a large portion of the task force that

-- that supported that but they weren't able to reach consensus on it so what ultimately the recommendation was in the report which should be out soon is the city to look at that issue specifically and try and

-- and make recommendations as a way

-- is what was the most appropriate way to continue as protection

-- those protection.

>> Tovo: I would like you to talk for a minute about consensus. Most of our task forces go by majority

-- when they make their final recommendations, they take a vote and the majority rules. I am not familiar with any other task forces that have agreed that consensus needs to be the way of operating and that recommendation also come forward as consensus recommendations or listed as nonconsensus recommendations. Can you give us some background on how that decision was reached? Who proposed it and whether we have any other task forces that have operated that way in recent memory?

[08:47:30]

>> I am not aware of any other task forces that have done that. It was discussed early on in the task force

-- the task force processes. They were organizing themselves and talking about how they were going to manage their meetings. It was recommended by the facilitator and the

-- on their recommendations

-- they made a decision early on in their process to reach consensus on their recommendations.

The meeting process, setting agendas and things like that, was done by the typical majority vote. But they made a decision early on to make recommendations by consensus and it was a difficult process. I think at times but I think overall it was

-- it was successful, and, you know, they may

-- 60 or 70 or more consensus recommendations, so I think they were successful with that but what it does do is there were a number of items, including the zoning overlay concept

-- lake austin overlay concept, where there was generally strong support amongst the task force by they weren't able to reach consensus, and  
-- but all  
-- all of the recommendations that were considered by the task force are  
-- will be included in the final report from the task force.  
>> Tovo: And will our final report indicate what the vote count was on those nonconsensus items?  
>> No. It will just  
-- it will just simply indicate that these were items that were considered but the consensus was not able to be reached.  
>> Tovo: Do you recall whether that was an item that had a majority vote?  
>> It was not. Generally in the consensus process, they didn't take a vote. It was  
-- the facilitator would simply ask the question, is there general consensus on an item, and the members would indicate yes or no. And if someone was willing to block consensus, then they would speak up but there was not a numeric vote.  
[08:49:43]

>> Tovo: A vote taken. So  
-- but would you say there was a fair amount of discussion about the need to do something different with regard to la zoning?  
>> Yes.  
>> Tovo: And with regard to the specific issue about the environmental protection we crafted be part of la zoning and the way in which those fall away with rezoning?  
>> Yes, that's correct.  
>> Tovo: So they may have been in disagreement for the mechanism of doing that but there was a solid sense that there was a problem there. As you said, that people were in effect rezoning their properties to get around those?  
>> That was  
-- yes, that's correct.  
>> Tovo: So let's see. Can you also remind us all about the provisions that were put in place with the original resolution, setting up the task force and the way in which the variances got routed differently? I know the mayor mentioned the word moratorium and that is a  
-- I would like to just explore what it is that we did when we set up the resolution, because that's  
-- that's really what we aim to continue, a different variance process for the future.  
>> The variance process that was set up was for administrative variances were prohibited for lake austin properties for environmental variances and those variances that normally  
-- those environmental variances and even land use condition variances changed from going the to the zoning and platting commission as land use commission to planning commission as the land use commission for those variances and that  
-- that process is still in place. That didn't expire with the expiration of the task force and so until council takes action to change that, that process remains in place. I confirmed that with the law department.  
>> Tovo: Okay. So that is somewhat late breaking news because we felt when the task force disbanded, those went back to being administrative variances?

>> No, that process is currently in place. In fact, we have a couple of variances that would have been administrative that are coming forward in July to the environmental board, I believe, and will ultimately go to the planning commission.

[08:51:54]

>> Tovo: Okay. Good.

>> Mayor Leffingwell: So consensus is kind of a vague term. I always heard it was 83%. Do you have a different figure?

>> It was 100%. The consensus was defined from the Lake Austin Task Force is all of the members present at a meeting defendant's exhibit

--

-- obviously they had to have a quorum to have a meeting and take action but all members present at the meeting and we didn't generally have as large task force with 17 members. We rarely had all 17, but it was

-- there is always certainly a quorum and there was consensus reached by all present.

>> Mayor Leffingwell: All of the recommendations from the task force are all consensus recommendations?

>> Yes.

>> Spelman: Mayor.

>> Mayor Leffingwell: Council member Spelman. Northeast I understand you can't get 17 people to agree to everything all the time. I am less interested in the vote count of the things that there wasn't 100% agreement on than I am the arguments pro and con. Is that something you can include in your report, here is something people don't all agree on. Some people said this, some people said that, this is where the break, the logical point of view came up?

>> It is not currently in the report. We didn't necessarily track arguments pro and con. Most of -- many

-- not most, but many of the items, particularly the zoning item, the variance process, and similar things are fairly complex and detailed that

-- that city staff has a lot of experience with. We talked with city staff

-- city staff talked a lot with the task force about those items. The task force recommended on most of those items, they made recommendations that included a recommendation for the city to develop a process to invest

-- to investigate and develop a process based on certain principles. They had these concerns. They think the process has broken. These are the concerns and the recommendation wisdom the city should evaluate this and make a recommendation

-- make a staff recommendation to address it.

[08:54:07]

>> Spelman: Okay. And there was a consensus around that and they decided not to take on the sales themselves but to offload that to you who had more experience with that?

>> Yes.

>> Spelman: So were there

-- were there other lines in the report that said, we talked about these things and we didn't reach consensus on them that are outside of the boundaries of what you just said?

>> Yes. There is

-- there is a number of items, a large list of recommendations that they considered that they didn't reach consensus on and all of those are included in the report.

>> Spelman: Okay. Without comment, just here is a list of things we considered and we didn't get?

>> Yes.

>> Spelman: And we don't know

-- it's not signaled in the report whether most people were in favor. Whether it was a 16-1 vote or it was an even split or the argument themselves. We have to dig it ourselves if we want to follow up on any of those?

>> That's right. And the task force

-- the task force actually

-- as they went through the consensus process, one of the things that we discussed was that there were some items where there was generally strong support in the task force for but they couldn't reach consensus on. One or more people were blocking consensus and they really worked hard to do that, all

-- everybody did, and so

--

>> Spelman: Block or unblock?

>> To block, to block consensus and there was strong effort to unblock consensus, too. It works both ways. And so at one point

-- they started

-- the asked the facilitator to keep a second list, calling them tier two items, where there was generally strong support for

-- and they define strong support as more than 3/4 of the task force.

>> Mayor leffingwell:83%?

>> Right.

>> But, what they did was

-- or they

-- they had not made

-- taken a formal vote to change their consensus process and that was raised by several members so they reconsidered their consensus process and took a vote to change that process to have that second tier, because if the issue that y'all are raising, the strength and support for an item was being lost in their discussion. And they couldn't reach a majority vote on that to

-- to do that at the meeting, and given time constraints, they really had to move on at that point and so at that point that tier two list was set aside and so there is only

-- it's either consensus items or nonconsensus items.

[08:56:46]

>> Spelman: It sounds to me sometimes we will have to address our general instructions to our consensus building stakeholder dealing with staff, and ensure that sort of problem doesn't come up. I think what must be most helpful for this council is if we got information on both counts,



although it would be interesting to know that votes were something like 15-2 or 14-3 on some item. It tells us a lot about the item itself, but also if we were directing the people, directing these processes to also identify for us what the arguments were for, pro and conley, so we didn't -- pro and con so we didn't have to make them up for ourselves but it is something we need to deal with in another venue. I appreciate the information. I think we can get an answer to the original question that council member riley posed. I believe I know the answer and if I am wrong about this, please feel free to correct me. As I understand it in the resolution, which precludes the council from being able to take up the items that are on the agenda later on in the evening. Is that accurate?

>> [Indiscernible]

>> Spelman: So this is not

-- this is not blocking any other items which are on our agenda. Weapon can consider those exactly the way they are written on the agenda right now, because they have been posted but it would ask the pdr manager some way of insure the environmental protection engaged, included in la are not lost if someone is seeking a zoning change. There are lots of way it can be done presumably and there is advance zoning itself that we are asking pdr to come up with.

>> Council member riley?

>> Well, the short answer is no.

>> Spelman: The language says directed to suspend or voans properties to la to a less stringent zoning category or ensure the environmental protection within the la zoning are aremaintained within any

--

[08:58:51]

>> we don't want to lose.

>> Riley: Let's say we take up item 100, where staff is currently recognizing that the new less stringent zoning category would not offer the same environmental protection. Help me understand what would be the implications of this direction to the manager for that resolution? It does seem like there is some inconsistency there for staff to be

-- after we direct staff not to proceed with rezoning like that, that present this is one

-- are we expecting staff to come forward with a recommendation about how to ensure that the environmental protection with the new zoning category

-- the new zoning category maintains the same environmental protection because currently they are saying it doesn't.

>> Spelman: The case in question you are talking about, there would be some reduction in environmental protection because we are properly posted the consider that item, we can consider that item, regardless of how we vote, whatever happens in this resolution. This resolution would not take effect at 11:00 o'clock. Therefore, precluding our ability to take up something at 4:00 o'clock. On the other hand, what it would do, I think, is ensure that staff find a way of enabling us to maintain those environmental protection, which, of course, as a sovereign council we can waive in any given case if we want to.

>> Riley: The idea is when staff presents the zoning case, there are suggestions from staff as to how we can maintain the recommendations. Maybe this is a question for chuck. Chuck

-- or it could be a question for wendy, I am not sure. Would staff be prepared to offer suggestions

about how we could maintain the environmental protection in la as we rezone the property to a different zoning category?

>> We can take a look. I can ask environmental staff to take a look at these particular rezoning cases and

-- and we can try to come up with what we would recommend from an environmental standpoint.

It might be issues of concern and appropriate actions to

-- to address any of those issues.

[09:01:00]

>> Riley: Okay. Great.

>> Mayor leffingwell: So just one more quick question. Frequently when we have task force, they will come back, the staff and the task force, make presentations and a briefing so that

-- especially in a case like this, which is very complicated. Was there any consideration given to that format, which is kind of routine for the way we operate around here, come back with a briefing to include a presentation from the task force representative and then have actions scheduled on a

-- at a subsequent time?

>> That's currently not planned but if the council requests that, we can certainly arrange for that.

>> Mayor leffingwell: Well, I guess it would have to be requested by the ifc itself for that to happen, but that

-- it seems to me like that would be much better when we are talking about what were the pros and cons of a certain recommendation and what were the thoughts and so forth, to hear that first hand instead of second or third hand.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I think that's a great idea. The original ifc I sponsored along with council member morrison and did anyone else? I can't remember if we had a third sponsor on that. Any case, we all passed it. The original ifc did ask for a report back from staff but I don't know if we specifically asked for a presentation. I think it would be great to have a presentation at some point. There are a slew of critical recommendations included, as I understand it, that are coming forward in our final report. We do have a draft report that has some of them, but it seemed to be very important to move forward with a few of them right now for some very key reasons, and that is that we have lost a tremendous amount of ground on lake austin and with every passing council meeting we may lose more, and so for one thing, our initial answer had been that

-- that these provisions would go away and those would revert back to administrative variances.

It sounds like that's not happening but I still think it is important to provide clarity to the development community as to how the variances will proceed, at least until we make a different decision and with regard to the lake austin zoning issue, I think we see, you know, with two cases on our agenda that are

-- are related, I think we see the need to move forward and not wait for a presentation, and, you know, further action after that point. That puts us in august and frankly, I think we have heard considerable concern about those over the last couple of years, including from the task force and it is time to move forward on that point. But I plan to move forward on some of the other recommendations. I think there were terrific

-- the task force did great work, as did the staff in supporting that group. I think we have got really solid recommendations moving forward and I hope we will take action on most, if not all of them.

[09:03:58]

>> Morrison: Mayor.

>> Mayor leffingwell: Are we going to revive the wait boarding controversy with this item?

>> I don't

--

>> mayor leffingwell: Do you want the wake boarding?

>> I don't think so, they could not come with a consensus specifically about wake boarding.

>> Mayor leffingwell: It is one of the more exciting items we dealt with. Council member morrison.

>> Morrison: A couple of things, just to beat this consensus thing to death, one question, and that is you said in the middle of it they took a vote to see if they wanted to change their definition of consensus but they couldn't get consensus ie somebody objected to that. Did they take a vote in the first place to say they did want to go with 100%? And did that have to be 100%? You know, there is a little bit of circular issue here?

>> No, the

-- how they made decisions about process, they did by majority vote. And so the original decision to use a consensus process was by majority vote. The decision to not include those tier 2, what they call tier 2 recommendations was by a majority vote.

>> Morrison: So there was a majority that voted to have consensus be required at 100%?

>> Yes.

>> Morrison: Okay. And then secondly, I have had a chance to look at the draft report and there are a lot of really very creative ideas about how to improve, you know, services and funding and revenue streams and all sorts of things to support lake austin, and many others things and i think it would be great for us to move forward. I am interested in helping to make that happen, but I

-- I do think it will be terrific if the council as a whole could have a presentation so that, you know, rather than having things come from out of the blue, we can have a conversation together about all of them in the first place, and so I don't know if that requires 100% of the council

-- we can't do that, because we haven't posted, but is there a way we can get that to happen?

[09:06:10]

>> It is not necessary to

-- we always exercise judgment when we need to bring the issue up because you need time to digest and talk about and so on before you take action. This sounds like one of them.

>> Morrison: Great. I look forward to that hope flip in the near future. I don't know if any of them effect the budget right out of the

-- right off the bat.

>> I don't believe so and council, if I may, the

-- i hope to have the final r y'all this week. I had hoped to actually have it a couple of weeks ago

to you, which you would be a little more informed and i apologize to that but you should have the final report this week.

>> I appreciate the timing of all of this has made it a challenge but I appreciate the sponsors for bringing this forward because there are immediate issues on the table and not everybody has the opportunity to look at the draft report but I think it's important that we address these issues right off and hopefully we can get a conversation in the near future, presentation in the near future to the

-- in the near future to the full council.

>> Mayor leffingwell: Okay. Now item 83. Council member morris.

-- Council member morrison.

>> Morrison: Thank you. This is an item that adjusts the annual fee

-- well, it says

-- and I see there is a revised version of it here. It says that the

-- if the holder of an approved license agreement for a drop off zone also provides on street parking, annual fee for drop off zone reduced for the amount of the fee due under valet operating license and I wonder if we can just

-- if I could get a little bit of an explanation of the motivation behind this, who it effects and i am curious to hear from staff more fundamental answers as to what are the license fee agreements really supposed to be addressing and things like that.

[09:08:11]

>> Mayor leffingwell: Council member riley.

>> Riley: This is an item that transportation staff could probably shed some light on with respect to specific questions you are raising. There actually is only one property that I know of that is implicated by this and that is the property right across the street, the w, and this item is prompted by the appearance that the w is paying

-- is being charged twice for

-- for the same physical area. There is one fee. It's relatively large fee, for

-- that's a license agreement covering that drop-off zone and then there is a second fee

-- even though the drop-off zone doesn't actually include paid parking spaces, there is a separate fee being charged for use of the same area, part of the same area, for valet, and so the

-- the appearance is that they are essentially double charging for the same use of this area. The idea behind this ordinance is you pay one fee. You can subtract out the amount that you are being charged for the valet, so that that valet fee would go to the valet operations and then the remainder of the license fee will still go to the same place. The point of it simply is to avoid any appearance of double charging for the same physical area, and that transportation staff would be able to provide more detail about the purposes behind charging for the license.

>> Morrison: Thanks for being here. Yes, if you can help me understand why we got here, what the

-- what the real purpose of a license fee is in the first place and your thoughts on whether this is double charging.

>> Gordon, assistant director of the transportation department. I will leave the latter to our friends from the city attorney's office. So we have valet operations, which are regulated by one set of city code. We have license agreements which are under another set of city code. So

typically license agreements are put in place because a private development wants to put improvements in the public right-of-way. This is the annual agreement where they take liability for maintenance and up of those facilities and also to reflect the fact that the public right-of-way is being used to the benefit of the private property owners. So that's the license agreement. The valet operations, extensive discussions over the last couple of years about valet operations, both normally, like our 3 forks friends across the street, or on private property, or in the case -- in one case we have an area which is licensed as a drop-off, where we also have a valet operation operating in the same space, that would be as was mentioned at the w hotel. We have a total of 6 license agreements that include drop-off zones. Only one of which has a valet operation currently operating within that drop-off zone in the public right-of-way. The plans for the JW Marriott include both of those so that would probably be the second under the same condition.

[09:11:43]

>> Morrison: So let me understand

-- so for our friends across the street, the valet just uses right at the curb, there is no pull-in or anything like that. So would that

-- were it not for the drop-off zone at the w belt, that would be happening, presumably at the w, also. So they would be using a different part of our right-of-way, actually. Is that correct?

>> Well, for example, for 3 forks, the austonian, we use spaces as metered spaces during the day and in the evening, they are used for valet. So there is part-time use of that for a couple of different operations. In the case of the w, those are 24 hours a day, for their drop-off and valet operations.

>> If there were no drop-off zone or no license agreement, there would be a sidewalk there presumably for the public to use?

>> Correct.

>> Morrison: How would they do valet? Would there be meters there sometimes?

>> In that case, immediate adjacent lane is a travel lane so that would be a difficult decision. We are looking at guadalupe and lavaca as areas where we want to not have valet operations because of the imminent beginning of bus rapid transit there and we would be looking in discussion with y'all ability transit only lanes, so we would have attempted to work with them, as we do. We use the second street frontage as a part-time valet zone for special events, particularly in the theater and it changes operation by day of the week, hour of the day, based on the needs but we could have theoretically set that up for austonian, they use the curb where they normally would have valet operations.

>> Morrison: Can you give me ballpark figure of what the license amount is and what the valet fee might be this year and as we move forward because the valet fees are actually transitioning to actual cost of service?

[09:13:50]

>> Sure. So the dror area

-- there is

-- the drop-off area  
-- there is two licenses for the w, drop-off area itself is about 40,000 each year. I think there is another 25,000 for other  
-- balconies and other things around the three sides of the building. So under the plan the council adopted this year, the valet rates are 20-cents and they are going up to 60-cents over five years, so this year their valet is about 14,000 five years from now to be about 40,000 a year. As we get to the 60-cents per hour.  
>> Morrison: Does a license agreement for the drop-off stay fixed?  
>> It is reviewed, i believe, every two years. We look at all of the license agreement and make sure they reflect current value.  
>> Morrison: Because it sounds like within a few years it would essentially negate completely the drop-off and if it goes greater thanks are we going to actually pay them?  
>> I don't know that we have a mechanism to do that.  
>> Morrison: Okay. And another question i submitted and maybe you have the answer now, do license agreements and valet fees go into the same funds?  
>> They do not. They currently  
-- license agreements go into the transportation user fee. The valet fees go into the right-of-way management  
-- parking management fund. We have transitioned the valet and a lot of those operations into parking so the revenue goes into those two different locations. And I believe we have written this all up and it should be getting to you pretty quickly.  
>> Morrison: Thank you. And then the whole legal question, I guess, it's sort of a  
-- not necessarily just a legal question, conceptually the way I see it is the drop-off  
-- the private use of that area does take away a substantial public use. You don't walk up that side of the street, so I wonder if  
-- if you could opine at about the issue of double payment or not.  
[09:16:19]

>> Assistant city attorney, and there are two separate issues, one is a regulatory program and one is for use of city property. So one is  
-- kind of like a real estate agreement and the other one is purely the regulatory program which would be the valet piece.  
>> Morrison: Why is that purely regulatory? I thought we were trying to replace the cost that we are losing?  
>> To operate a valet in the city of austin you have to pay that fee, and that fee is part of that program, so it's looked at as a regulatory program as opposed to the license agreement, which is for purities of the city's property.  
>> Morrison: So when I think about  
-- the way we are  
-- we were looking at the fee for a valet was that it was  
-- the valet was basically supplanting other revenue that we would get otherwise, and so I guess i don't understand why  
-- help me understand why that's, instead, thought of as purely regulatory. I thought basically we are trying to make sure that the taxpayers are whole for the use of the right-of-way.

>> It is a mechanism to charge the operator. You could do a flat fee. You could do a sliding scale, based on the hours. It all kind of depends on how the council decided to set the fee  
-- the regulatory operation valet and my understanding because it is based on the anticipated meter spaces as a sliding scale and if you have a smaller operation you pay a smaller amount than someone who has a larger operation.

>> Morrison: Maybe you can talk a little bit about what it means to be a regulatory program? I am a little confused. Basically we are allowing private businesses to make money  
-- make money in place of the city being able to bring in revenue and so what do you  
-- whether you call that regulatory or not, it doesn't  
-- I don't really get that.

[09:18:24]

>> Beyond a reasonable doubt to operate a valet in the city, you have to have a license. When you have licensing, you are essentially creating regulatory program because you are regulating the business as being a valet. So in this situation, they require the valet operators to have a license and part of getting that license is paying that fee. So it's  
-- another context where we have business permits or billboard registration fees, things like that. It is part of the regulatory program. Those funds are used to pay for enforcement to make sure that

-- and the cost associated with operating that program.

>> Morrison: Okay. And then the other

-- the license agreement, it is more of real estate because we are charging them for the use of public property?

>> Correct. The city code bases the fee for a license agreement on the

-- a percentage of the appraised value of the adjacent property, so for, say, the w, you look at what their appraised value is. You take a percentage of that and then based on the square footage, they calculate what the fee will be, so it's based on the current

-- it is based on the current appraised value which in the code also allows us the flexibility, over time, within two years, there is a change in the property value, we can adjust the license agreement to reflect that because the license agreement fees are based on the actual value of the adjacent property.

>> Morrison: Okay. So I guess this is just more of a policy issue than getting into the weeds of whether you call it regulatory or not. What I am concerned about is, that's a

-- that's a

-- the use of that property and I imagine when it happens otherwise, is a tremendous benefit to the property owner and in the end, there are going to be, you know, put everything else aside, in the end, the benefit will come to them with no remuneration to the city because the fees will be about equal to each other and for some reason, that

-- they will be credited with approximately the same amount that they owe. So I am just really struggling with

-- with that and whether that's appropriate.

[09:20:49]

>> Spelman: My understanding  
-- mayor.  
>> Mayor leffingwell: Council member spelman.  
>> Spelman: My understanding of  
-- of how to read this change is a little different than that.  
>> Morrison: Okay.  
>> Spelman: Let me read what I think this is supposed to do. Currently  
-- we will take the w as company example since it is the what we have been discussing.  
>> Only one.  
>> Spelman: And hopefully, 44,000 in licensing fees and \$14,000 in valet fees which will increase over time to around \$40,000 at some point. The effect of this change, as I understand it, would be for them to continue paying \$40,000, but that \$40,000 to be split between \$14,000 to our valet program and the remainder of \$26,000 to our licensing program. It would not be to reduce the total amount that would be paid by the w from 40 to 26. It would stay at 40 but it would be split differently.  
>> That's right.  
>> Spelman: And eventually when the valet program goes up to \$40,000, they are still going to have to pay \$40,000 or which ever the license drop off fee is but at that point if it stays at 40 for licensing fee and 40 for the valet fee, entire 40,000 would go into a valet program but not the licensing program but it won't be at 0?  
>> Morrison: So if i misunderstood  
--  
>> Spelman: I understood it in exactly the a first time I read it and I got back with council member riley saying exactly what are we trying to do here. That is accurate, is it right, council member riley?  
>> Riley: If I may, yes, that is exactly correct.  
>> Morrison: Can I check if that's the staff's understanding of what this is, also?  
>> Yes. Effectively they are paying the same amount. What is hang the license agreement fee that will be in the agreement itself will be reduced by the amount that they pay for valet.  
>> Morrison: They will still pay for valet?  
[09:22:51]

>> Correct. If you pay \$14,000 for valet and \$40,000 for the license agreement, for the drop-off zone, minus 14,000 from the 40, you have balance of 26,000.  
>> Morrison: So that goes to the  
-- what you said first, council member riley, of not double paying but still  
-- but still paying?  
>> That's right.  
>> Morrison: So could you speak to the issue of does staff think that this is really double accounting, double payment for use of the city's property?  
>> Well, it is a little awkward for staff to try to interpret and this is an ift and so as to intent, I guess we will look to the council members to describe its intent.  
>> Morrison: I understand the intent but  
--



>> that's not going to stop the question but, again, it may require some analysis on their part to do that and i saw elaine leave the room but I think that's  
-- i don't know the answer, I am uncomfortable with the answer to giving off the cuff answer to that. I am assuming. Unless you know the answer, go right ahead. [Laughter]  
>> no pressure.  
>> It is two separate issues. It's a regulatory program and then the license agreement which is for use of the property. Their license agreement using the w example, actually covers more than just their drop-off zone. They have licensed a significant portion of the area. So it's actually larger than that and the license agreement apply to use  
-- any use of our  
-- of our property. And then the valet is exclusive to someone who wants to operate a valet, so I see them as two different things in two different parts of the code.  
[09:24:53]

>> Morrison: So from my understanding from a legal perspective, you don't believe, then, that it is asking them to pay twice by the same thing?  
>> No.  
>> Morrison: Correct?  
>> You are correct. I don't see it as double charging.  
>> Morrison: Okay.  
>> Spelman: Mayor.  
>> Mayor leffingwell: Council member spelman.  
>> Spelman: Let me ask the same question in a slightly different way. The 40 now dollars for the licensing agreement, includes areas around the sidewalk because of the balconies so they are charging for the airspace over our sidewalks. Is that right?  
>> There is overhang, i believe they are being charged for, and some other  
-- maybe some stairs, I think, in the city's right-of-way.  
>> Spelman: Okay. But they are also being charged for the drop-off zone?  
>> Correct.  
>> In the licensing agreement?  
>> Correct.  
>> Spelman: Also being charged for the drop-off zone in the valet agreement. Is that right?  
>> No  
-- well, I think they are separate things and so i don't see.  
>> Spelman: You think separate things but are they the same real estate?  
>> No, in the sense that the drop-off zone is our sidewalk.  
>> Spelman: Okay.  
>> And the valet covers what would be metered spaces. It's only  
-- I guess from a real estate perspective, with the real estate  
-- because that's how council has chosen to set the fee to determine how much a valet operator needs to pay to operate as a valet.  
>> Spelman: Okay. But we are really talking about different sections  
-- if I were to take this two separate sections and lay this out, are we talking about two zones or one zone?

>> By time of day, the operation changes.

>> Okay.

>> So, you know, it's going

-- it is entirely dependent. Hotels operate 24 hours a day, so sometimes there are drop-offs and sometimes it is the courtesy vehicles. Sometimes it is taxis. Sometimes it is valet operations. All of those are occurring within basically the same space.

[09:27:09]

[One moment, please, for change in captioners] .>>... There's the fairness issue involved here.

It's my understanding that there's a

-- a difference in the

-- I think this goes way back to approving the design of the w which I remember a little bit about, and i think there was some reference made to there's no sidewalk, there is a sidewalk there. The sidewalk goes into the property and around, but the public is allowed to use that sidewalk. So if we want to get technical about it, should we be paying them for the use of their property? For a public sidewalk? You don't need to answer that, but basically it's a fairness issue, I think. Ask.

>> Morrison: I look at it a little bit differently, councilmember spelman, that is if we didn't have the licensing agreement, if we didn't allow them to use the public property, really, they would be having to do a valet on the street. It would be different pieces of real estate, so they are enjoying the benefit of both of those pieces of real estate by having the license agreement. So to me the fairness is to the public that relies on

-- on those revenues. And I understand that the sidewalk is open to the public, but the fact of the matter is the

-- that the public really rarely uses that sidewalk because of the dropoffs, the geometry of that, is such that it makes it very unwalkable, which is why I believe our downtown design guidelines prohibit that kind of use. Is that correct? I know there was a big question about allowing the marriott to actually do a configuration like this. I believe it's discouraged at least on some streets.

[09:30:00]

>> Mayor Leffingwell: It was a big question with the w, too, and the council approved that particular design.

>> Morrison: Correct. But the fact remains that it does impair walkability in this area. So

-- so I guess it's

-- you know

--

>> excuse me?

>> Mayor Leffingwell: I said it's too late. The sidewalk is already in place. [Laughter]

>> Morrison: I certainly

--

>> Mayor Leffingwell: Councilmember riley.

>> Morrison: Excuse me. I understand that the sidewalk is in place. But the point being that there is an impact to the public because of it.

>> Mayor Leffingwell: Yeah. We realize that. And that's an argument that we had some years ago. That was the settlement of that controversy. That's why I said it's too late because that decision has already been made.

>> Morrison: We are looking at impacts of that decision today with this resolution, with this

ordinance proposal.

>> Mayor Leffingwell: Councilmember riley?

>> Riley: Question for staff. If the w were not operating a

-- a valet service, are there spaces that would then be available for on street parking? Are we losing on street parking by allowing the valet service, in this instance?

>> The

-- the design of the dropoff precluded the on street spaces on the lavaca frontage. So as I said, we do temporary valet permits for them to use the second street frontage any time they have a special event they come in and get a temporary permit from us to utilize it that way.

>> Riley: But currently the lavaca frontage is a regular travel lane, correct.

>> Right.

>> Riley: By providing the dropoff and valet service within the block, we keep those things out of that travel lane; isn't that right?

>> For the most part, but we regularly see taxis and other folks

--

[09:32:01]

>> Riley: I understand there have been issues with that. There's some history there where they were routinely obstructing that right-of-way. I have even some improvement over the past year or so, that we're doing a much better job of ensuring that that right-of-way remains clear. But the point is that by using the same physical area for these two things, both the

-- both the

-- with the license agreement for the irregular landscaping and maintenance and so on, as well as that the valet service being provided there, there is some public gain insofar as we are avoiding the need to take up regular lanes of traffic with

-- with those functions. And so I think

-- I think that's all the more robe why we ought to

-- reason why we ought to recognize that there is no need for us to charge twice for the use of that real estate that

-- that is a matter of fairness and practicality, it makes more sense to charge that one license fee and then deduct the

-- within that fee, have the amount that's for the valet program directed to that program.

>> Mayor?

>> Mayor Leffingwell: Councilmember tovo?

>> Tovo: I have just a quick question for staff. I thought that I heard because of the design there were off street spaces corrected, is that correct? Had been [indiscernible] if the drop off hadn't been on that side, there was just

-- that was just the design choice that was made.

>> Tovo: On their design choice precluded what the city could do in this case, in terms of having offstreet parking and pote meters. Are there any other businesses in the downtown area that you think might be in a similar situation where they all come and ask for a rebate on their fees to the city as well? As I said, the only design that I have seen recently is for the jw marriott where they have provided the pedestrian walkway on second street because of the widths of that sidewalk. But a part of the area or dropoff zone is going to be in the public right-of-way and some would be on their private property. So that's the only one that comes to mind. We have other dropoff areas. As I said, on the astonian on the congress avenue side just runs their valet in the evening

for their restaurants. So potentially that could be, if they ever went to a 24 hour valet there, they run 24 hour valet on the second street for the people that live in the tower. So there's maybe two or three other situations would be comparable.

[09:34:56]

>> Tovo: So there are a few other, there are at least a couple of others who might come and ask for a reduction in the fees they pay to the city as well?

>> Well, there's no other current operations that are  
-- the same. There are some that potentially could be the same.

>> Tovo: If they change the way their

-- so have you

-- how would this i guess this will impact your revenue because that's a \$14,000 reduction in the revenue that you are currently receiving. Where do you make up the difference?

>> Again, the transportation user fee is the fun that the license agreement goes into. That funds a variety and accesses, I would defer to ron or howard to speak about the impact of that over the transportation user fee fund.

>> Yes. Robert spiller, transportation department. In

-- based on the fact that it affects the transportation user fee, obviously, every year we come to council to adjust that fee when necessary. To make up any shortfalls. I couldn't give you information on a \$14,000 potential impact from this, what it would actually do to the fund. But we do calculate the capability of that fund based on all of the revenue resources and so if one falls short, I would assume that would mean it would put pressure on other parts of that revenue stream to maintain that fund.

>> Tovo: Thank you.

>> Mayor Leffingwell: Okay. So we'll go to item b 1. Discussion and possible action regarding the date and agenda for the first meeting of the council committee on austin energy. I would suggest, just to get things started, august 13th, WHICH IS A TUESDAY. We don't have a council meeting in that week, so that would be the time, the time that we would normally have a work session. Any other

-- is there any objection to having it at that date and time? 10:00 to 12:00 on august 13th?

[09:37:40]

>> Tuesday.

>> Mayor Leffingwell: Yes. As I said, there's no work session scheduled for that date. Okay. All right. Councilmember martinez.

>> We do have our regularly scheduled m.B.E./W.B.E. Meeting council subcommittee meeting at 3:00 p.M. That day. If we can get it done by 3:00.

>> Mayor Leffingwell: I think the scheduled time would be 10:00 to 12:00.

>> Martinez: Good luck.

>> Mayor Leffingwell: Well, I really would not anticipate any more than that. Any other comments on this?

>> Spelman: Talking about the agenda, mayor?

>> Mayor Leffingwell: Councilmember spelman, go ahead.

>> Spelman: Thank you for the list of items I think we need to cover. Explain to me, if you could, why you think that the fuel charge and the line extension policy are two really important things that we need to talk about first.

>> Well, fundamentally because we're getting into the budget cycle. So those directly impact the budget. The quarterly report, which is a routine report which can be with probably go through that pretty quick because we actually have done that by a handout I think last time. So to answer your question, it has to do with the budget, particularly the fuel adjustment.

>> Spelman: I understand exactly by there the quarterly report. At the end of the quarter we need to hear the report. Sounds like a reasonable thing to do. You think our understanding the fuel charge better will help inform our discussion of the budget.

>> Right. Transitioning from a fuel charge to now a partial [indiscernible] adjustment charge, that happened through the rates process. The other item is the line extension policy. We're not going to present to you a new policy. What we're going to try to do at that meeting is to let you know how we got to the current policy we have. Which is a piece of history that you need to understand on how we got to where we are.

[09:39:40]

>> Spelman: What are the budgetary implications of that?

>> That the euc has over a number of years asked that we revisit the line extension policy in that we look at the fees that we charge for the development [indiscernible] so that's a potential -- a potential revenue impact issue. And we do have a minimum charge issue that's relative to the budget and that is that when somebody comes in, wants to do a hookup, we have a fee, a set fee that we charge to do that. Regardless of the load and what happens. So

--

>> Spelman: So this is something which comes up periodically as something

-- [multiple voices]

>> right.

>> Spelman: I also notice that you have got a discussion of [indiscernible] policy and more general and risk management. But the hedging policy ends september, presumably not a budget item. But I know it's something that the euc wanted to talk about a long time.

>> Right. It involves probably a closed session, I would expect.

>> Spelman: I understand. Sounds like a very reasonable proposal to me, I look forward to talking about that.

>> Mayor Leffingwell: Okay. That kind of sounds like, you know, when we're formulating the agenda, it should be respectful of the time, be something that we can cover in two hours, too, so

--

>> we'll do our best.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thank you, about the line extension policy, it's not just the euc that's been interested in updated fees. I don't know if there's been formal action on the part of council, but we've certainly talked about in our budget hearings, but rate work session, I know that we've talked about it, I think the very first time I sat down to talk with you all about the rate stuff way back in september of whatever that year was, I can't even remember when it was finally getting through, we talked about it and it was going to be put off until later. So I'm surprised to hear that we're only at the place where we can talk about

-- about why we are where we are as opposed to actually being  
-- getting set to take some action.

>> Well, I think that we could get to a place to take some action pretty quick, but with everything else that's gone on

-- you're correct. At the end of the race we said that's one of the issues that we want to bring back and talk about because it is a potential revenue impact. But through all of the work that we've done at austin energy, to talk about the history of it, we've

-- we've uncovered a lot of information that's very interesting. So in order to develop a policy going forward, we need to let you know how we got to where we are and probably take some direction on where we go from there. That's what I would expect.

[09:42:15]

>> Morrison: Okay. If I could just ask you just in recognition of the fact that we have been trying to move forward on this, that as part of it that you might come up with some suggestions and recommendations about how to get somewhere quickly, including, if it's not going to be in the budget fee setting this year, I presume if it were to change, would it be within the budget and the fee schedule?

>> Yes. It could be. One of the fee items that we're talking about is a standard one-time charge fee that would be in the fee schedule.

>> Morrison: Right.

>> So we have rates, we have charges, fees, so it would be in that schedule so a new customer that came in would have to pay a set fee to do it. To take a couple of minutes on it, is that a years ago used to have a different policy. Used to charge customers. But the competitive area of the state started to change. And we barter with competitive utilities and customers were making choices about which utility to be served by based on the what, to be hooked up. There was a big policy shift that happened back in the '80s on this. That's what we're going to tell you about how we got to where we are. We can make some suggestions on where to go from there. There's a -- there's a variety of them.

>> Morrison: Great. I think that that would be important. The '80s were 30 years ago, amazingly. And so

-- so due time to obviously look at that. Frankly this is one of the elements of a conversation that we have all the time, which is that we want growth to pay for itself instead of having it come back and the folks that are trying to live here now have to experience the [indiscernible] of it. I think it's a priority that certainly several of us have talked about. So I would like to encourage us able

-- if you can help us get into a position to take action, obviously with a full understanding of the history, but to have enough foundation to be able to figure out how to move forward quickly.

[09:44:27]

>> Mayor?

>> Mayor Leffingwell: Councilmember tovo.

>> Councilmember morrison may have just asked this but I'm not sure that I heard the answer. It's my understanding that you were doing a study looking at the costs of serving some areas that are receiving reduced line extension fees and others. When we talked about it at audit and finance, I thought a study was underway of some sort. Am I misremembering that?

>> Well, all that I can tell us is what we have completed. We have completed a study that tells us how we got to where we are. And that was a study that actually when I came in here almost three years ago, actually I commissioned because I was

-- because i wouldn't say that I was surprised but I found it very interesting that we did not have a robust line extension policy in terms of fees and charges. Then I have learned to find out that

because of the competitive nature of the texas market, most utilities got away from that. In order to be

-- to level the playing field for competition with new customers. But then, we got into a discussion about how we would maybe change that and what kind of revenue we might receive as a utility from the growth that we would have in a line extension policy. So that leads to the question of how much do you want to have and some utilities charge between 30 to 40% of the cost of serving new load to 100%, there's a variety of different policies that utilities take on. So that's

-- [multiple voices]

>> Mayor Leffingwell: Excuse me. That would be part of the agenda item when we discuss it in august. And I'm just kind of reluctant to get into a discussion of potential agenda items because I'm not sure we're posted for that.

>> Tovo: Yeah, okay, thanks. What I guess I'm trying to figure out whether the study that you have done, I hear you discussing it as mostly the context and history of how we've gotten there. Is the study that you have completed, does it analyze different revenue scenarios as in, you know, if we collected 100% of the costs what would the revenues look like?

[09:46:28]

>> No.

>> Tovo: Because in our discussions at audit and finance, I guess that's what I thought that we were getting is a study of, you know, financial costs of our line extension policy and what the different scenarios would yield in terms of revenue to the utility. That was my understanding of it. I do have another agenda item to suggest. Looks like we have more comments on the service extension policy.

>> Spelman: Let me ask to follow up, we're not going to get information on revenues, we're going to get information on our costs of extending lines, though, are we not?

>> Yes. We could roll that up. The difficulty that you are addressing is that we have not discretely captured those costs over time because we do not have a system that allocates it that way. So we would to probably with outside help, consulting help, probably come in and tear apart our system and take a look at those in order to do that. But that's a discussion that we can have.

>> Spelman: Sounds like it's going to be a lot of stuff for us to talk about, if you are talking about having an accounting system, put it back together again to answer this question. And given that I think several of us are looking for an answer to that question, we may as well get started on that as soon as we can, thanks.

>> Mayor Leffingwell: Go ahead and make your suggestion, but I think what we have now is pretty much a full two-hour discussion.

>> Tovo: So we have had some discussions I think heard, we've had questions from the public, both consumers, consumer advocates and others, discussing connection, disconnection fees and policies. I think that is budgeted related and very timely and unfortunately will probably be an issue that we all hear about this summer with the summer rates going into effect, I would suggest that be added to our agenda, even if it's a preliminary discussion that we follow up on in a subsequent month.

[09:48:31]

>> It is on a december calendar.

>> I would say that that's a

-- I see it on there, but I would suggest that it be a discussion that we have sooner rather than later. I know that certainly I've been hearing about it since the rate case. I mean there were people who brought it up during the rate case that they wanted our discussion in our work sessions to talk about disconnection and connection fee policies because there are some things that austin energy has been doing a very long time and when customers call and say, gee, can we change this or that about the way we're

-- our account is structured, they say no that's a council policy action and you would need to contact your councilmembers. So I've been contacted, you know, for the last year about some of these issues and I would suggest that we

-- we talk about it in august. Again, if it's a preliminary discussion that we need to follow up on later, I would suggest connection and disconnection policies and fees be part of our august discussion.

>> Mayor Leffingwell: So what I would suggest is that the agenda items be a discussion of the line extension fee, the fuel charge and transition, hedging, which would be a closed session, and connect and disconnect fees and then if we have time we could do a quarterly briefing. If not, we could postpone it to the regular council meeting. Is that satisfactory with everybody?

>> Cole: Mayor

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>> Spelman: No.

>> Cole: Also, I think that we need to quickly discuss some role and process for dealing with the euc recommendations. So if you could bring that forward, I don't think that that would necessarily take a long time. But just how we're going to manage those.

>> Mayor Leffingwell: Which

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>> Cole: They have a lot of

-- I'm not saying that we talk about any one of the recommendations. I just think we need a process of how we're going to address them. If we're going to have a process for that or just simply set them for

-- we could talk about that them.

>> Mayor Leffingwell: How about if I do this, I'll get-together with the staff and we can try to get some rough estimate of what the timeline is going to look like or how much time is going to be required for discussion. And if we can put that item on, we'll do that.

[09:50:40]

>> Cole: Absolutely, mayor.

>> Mayor, mayor?

>>

>> Morrison: At our last meeting when we were talking about this next time, I had asked that you all pay attention to the recommendations that euc had brought forward and I see

-- I believe that I see several of them on the agenda already. Can you list those off the top of your head. Certainly the hedging policy.

>> They are all on this memorandum, all on here. What you asked us to do was go back to the euc and ask us to prioritize them. So at the july 15th meeting of the euc I intend to be there and talk to the euc about it and get their sense of it. But we have a lot of issues here, we can't do all



them in one meeting, it's a matter of prioritization.

>> Morrison: The flurry of recommendations that we got last month from the euc, each one of those topics is already on somewhere.

>> In some shape or form, in my opinion, it is on this list. Which goes all the way into 2014 as well.

>> Morrison: Right. Okay. I just wanted to make that clear. I don't know if you're talking about a more general issue of how we interact with the euc.

>> Looks like larry has addressed that, mayor, so

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>> Spelman: Mayor?

>> Mayor Leffingwell: Councilmember spelman and then riley.

>> Spelman: You asked a moment ago whether we were okay with the list of items for the next meeting. And I have to say no. The reason is because we only have two hours. We're only -- if we're only going to take two hours and we have a choice between going into a couple of things deeply enough I think to provide larry and his staff with some guidance and with some understanding for how it is we feel about things or having a lot of items which we talk about, but don't understand well enough to be able to provide him with guidance or us with sufficient understanding to have a good discussion and i am comfortable with

-- i mean, I want to talk about the hedging policy a lot, but I don't need to have it talked about in the first meeting. I also don't want us to have to do a quick once over lightly on what I know is going to be a very complicated issue, given maybe 20 minutes or half an hour to discuss. I don't think we're going to understand it after 20 minutes or half an hour of discussion even in executive session. I'm happy to have that put off until september or october so that we can actually have the kind of discussion necessary to understand what we're talking about. In the same way, i understand councilmember tovo's concern about our disconnection policy. And I think that we ought to bring that up in priority. And I would be, mayor, very comfortable talking about that in september if that would be okay. If august is a preferred position for talking about things which have a budgetary impact and both our line extension policy, which I think many of us agree we really need to finally take a look at and fuel charges obviously something we need to understand in order to help prepare the budget for the next year in a way that the risk management issue or the connection policy are just not that time sensitive. It's time sensitive to deal with it, but not something that we have to deal with for the budget. So I'm actually much more comfortable with not putting more things on the august agenda, perhaps with reprioritizing the connection and disconnection policy, I think is important enough for us to consider that in september rather than in december. Bayonet to put too many

-- i don't want to put too many items on the agenda so we don't have an opportunity to actually understand what we're talking about.

[09:54:09]

>> Mayor Leffingwell: I certainly agree we don't want to overburden our agenda so we can't have a full discussion on the individual items. I'm fine with that. I would say kind of a low priority item for me would be the fuel charge and transition, we already have approved policy in place for that. I just don't see how that's going to have budget impact necessarily. It is what it is. In other words. We're not going to have much control over that.

>> If you recall in the rate approval, it is a requirement now that we come to the council to preview the fuel adjustment that we will put into the budget. So that's what we would do here.

>> Mayor Leffingwell: Yeah. Obviously, that's something that you could cover in the budget itself, but

-- I want to be flexible here and address the items that the council thinks are a priority. If councilmember tovo if you are okay with delaying the connect/disconnect fee until september

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>> Tovo: If that is the will of the group, I'm happy to do that. I'll say if there are issues that need to move forward more quickly, I will bring it forward as an ifc we will have a discussion in work session if there are pending actions that we need to take prior to the budget adoption, if that's

-- if everybody is comfortable with that approach. I think there are

--

>> Mayor Leffingwell: There are lots of options, but, you know, to the extent possible I think we ought to, since we have this committee now, address austin energy items in that. So what I'm getting now is a discussion of the line extension fee and you

-- the hedging, you feel like could be delayed further or [indiscernible] [multiple voices] I'm coming up with only three items now.

>> Spelman: I'm not uncomfortable with three items, mayor. I'm okay with three.

[09:56:12]

>> Mayor Leffingwell: That's including hedging.

>> [Multiple voices]

>> Spelman: We need to talk about a fuel charge, it's an ordinance requirement that we discuss.

>> Mayor Leffingwell: All right of the line extension fee, fuel charge and possibly ledging for the quarterly briefing.

>> Spelman: Generally the budget, too. This is our opportunity to talk about the ae budget which is approximately half of the entire city government.

>> Cole: That's a good idea.

>> Mayor Leffingwell: If i could, I would like to suggest that hedging be a single meeting item. It is a long time.

>> Mayor Leffingwell: Okay.

>> I'm going to apologize ahead of time for it. [Laughter]

>> Mayor Leffingwell: So the line extension fee, fuel charge, and budget. Those will be the three

--

>> Spelman: Very comfortable with that, mayor, for august. Then if we

-- if councilmember tovo wants

-- wishes to follow-up on her threat, promise or suggestion [laughter] to put in an ifc that would be fine. But I do think if there's a way, since we're going to be done with the summer and disconnection is not likely to become urgent immediately, if we could put that off until september i think we could have a very good conversation about it then.

>> Tovo: I agree. That might be the appropriate time. I just wanted to mention if there is something critical that I feel like we need to move forward

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>> Spelman: I agree completely.

>> Tovo: I agree this is a fabulous opportunity to really get in and

-- some quality discussions and explorations of austin energy issues. But there might be times where we also just need to move forward with the action. Outside of this venue. But I agree that if it's possible to work it through the committee, that would be preferable.

>> Mayor Leffingwell: Okay. Councilmember Riley.

>> Riley: I just want to raise a few things that could be potential items for further discussion. And first is

-- relates to the rate case. I believe the last time we talked about the rate case we were in executive session and we had

-- we had the settlement had not actually been approved at that point. So I wonder if we might entertain the idea of a brief executive session to provide a post mortem on the rate case as well as any issues related to matters involved in the rate case. Such as differential rates for out of city ratepayers. That it might be valuable to have a brief discussion in executive session about where we stand in the wake of the rate cases since circumstances have changed since the last time we discussed that in executive session.

[09:58:41]

>> Councilmember, I think there are two items on this proposed schedule that offer that opportunity. First, you'll see that in November we would propose a financial update that looks at the first year of collections of the

-- of revenue under the new rates. I think that would be one opportunity under this schedule. And then, also, in the 2014 schedule, we proposed in March, a discussion that would

-- that would be the initial discussion of setting up the follow-up rate proceeding that we've discussed having in the 2015 time frame. So I think that would give you two opportunities within the schedule if you wanted to go in that direction.

>> Riley: If there were time before November, then I think it would be helpful. But if not then we could wait. A second matter relates to some issues related to oversight. And conduct of the electric utility commission. We do know that some issues were brought to our attention by some commissioners, for instance, the inability to have

-- to have executive sessions at the EUC and other matters related to process for oversight of the EUC. It does seem like we're at an interesting time for the EUC. There are

-- we do have some slots to fill on that commission. As we think about the future of the EUC it might be helpful to have council give some thought to potential changes. On the other hand I can understand the council not wanting to dwell on that further at this point. If it's the council's wish that we keep the exact procedures that we have currently in place for the foreseeable future, then I will respect that and as I

-- as I talk to people about filling that void, then I will just have them get them used to the idea of sticking with the existing procedures. I just want to put that out there to see if there is any interest on the part of the council to revisiting those issues that have been brought to our attention by the EUC.

>> Mayor Leffingwell: I think we need to have that discussion at some point. I'm kind of keeping a list here of potential future items for subsequent meetings.

[10:00:46]

>> Cole: Mayor, I support that. That's exactly what I was getting at earlier.

>> Riley: Okay. Then the last thing that I want to ask about I guess this is a question for Larry.

Recently had a discussion at the emerging technology and telecommunications committee of the council about the ongoing consideration of the recommendation of the

-- the recommendations of the local solar advisory committee and how those recommendations would be integrated into our generation plan. We got a timeline at that point and it did involve?

Meetings and discussions over the

-- some meetings and discussions over the summertime and then coming back and then I believe there was council consideration of the issue anticipated in the fall. As look at the schedule, I'm guessing maybe we're expecting that would be in october as we talk about resource planning priorities? Is that

-- is that the idea that

-- is that when we would have that conversation about the [indiscernible] recommendations?

>> It is. You know, what we've been trying to do is operate under the current approved policies, which is now we do a quarterly report, then that quarterly report is supposed to bring back financials, supposed to update on the generation plan. The generation plan is up for review in november of 2014. That's your

-- that's the for will that you have in place. So while there is 1 ambitious discussions around more solar, targets right now, in our generation plan we have a 200 mega ton target. If the policy changes we'll work on something different. What we would really like to do is not to not delay it, but to have a resource planning priority discussion in october, because it solves other resources as well, base load resources and other decisions and coal and other issues that are out there. So

-- so we would then have a very robust discussion about redwing of our generation

-- redefinition of our generation plan i would hope to approve by 2014 of the fall.

>> Riley: You would hope to approve that, not just start the discussion.

[10:02:50]

>> Update it. It would be a new generation plan that we would be operating under until the next time that we do it, i believe it's every two years it has to be reviewed. That way it was approved with the climate protection plan and a generation plan, that's the way we're operating right now.

>> Riley: That could

-- could include, for instance, a consideration of a

-- of a

-- of our goal for renewables. We talked about the 35% goal by 2020 when in fact we're actually hitting that several years early, do we just

-- we may want to take another look at that goal and see if we want to adjust it. So you are saying that that conversation could actually take place at the october meeting in connection with the item on our resource planning priorities?

>> I would view it as an ongoing dialogue with inside our quarterly report then we had this resource planning priority item on here to kind of help us to

-- because we have a lot of pressure on us for folks who believe that we can get completely off of coal, there's some misunderstandings about our contract and how it works. Our arrangements with lcra. What we're hoping to do in the october meeting is to get some inputs to our resource planning and update and be able to clearly understand where we should go so when we do bring back a new generation plan proposal in 2014 we would h input. Does that make sense?

>> Riley: It does. The one item still out there hanging not suggested in the items here is the item related to the electric utility commission and any potential adjustments to the way it operates. So we don't currently have a plan as to when we'll get back to that issues. I just wanted to note that. I understand it's on your list for further consideration. I just wanted to make sure that everybody understands that is still out there hanging.

[10:04:51]

>> Mayor Leffingwell: It will be a high priority for the meeting after the august meeting, I think. Councilmember morrison.

>> Morrison: I'm going to throw out one suggestion that may be entirely unpopular and that is think I that I heard a suggestion that we start at 10:00 and go from 10:00 to 12:00. We're used to starting at 9:00. I think that I am getting unpopular looks. We are used to starting at 9:00 on tuesdays and i wondered about the possibility that we start at 9:00 and if we can end at 11, great, but at least have the flexibility to go until 12:00.

>> Mayor Leffingwell: Well, I would favor 10:00 and a lot of our meetings do start at 10:00. In fact I think the only ones that I am familiar with are work sessions that start at 9:00, but, you know, I'm able to make the adjustment if the consensus here, 83%, is in favor of moving to 9:00.

>> Morrison: I'm

-- I'm open, too, I just want to make sure that we do, you know, the idea was to be able to have some real in-depth discussions and i just want to make sure that we have the time to do that.

>> Mayor Leffingwell: I think councilmember morrison

-- martinez has proposed an excellent compromise of 9:30.

>> Martinez: There was actually a method to that madness, mayor.

>> Mayor Leffingwell: I have observed that we never get started at 9:00. Maybe we should post it at 9

--

>> Martinez: One of the difficulties for me with a 9:00 absolute start time is getting the kids off to will could, getting here, getting in touch with staff before i walk in this room and get up to speed on everything. I think even that little 30 minute window at 9:30 would help tremendously with helping my staff get to work, get up to speed on last minute items and provide me the update before I walk in here.

>> Morrison: That sounds terrific. Thanks for explaining that.

>> Mayor Leffingwell: All right. We will plan 9:30 to 11:30. With that we will move on to item d 1. Briefing on the t.I.F. Policy.

[10:07:41]

>> Good morning, mayor, mayor pro tem, councilmembers, I'll elaine hart the city's cfo and greg canale deputy cfo who will be helping me with the presentation, this morning's presentation will cover tax increment financing and is our response to a resolution that council passed in january. It's been several years since the we have been before the council to discuss the t.I.F., We have a lot of materials to cover, but we're going to cover the ground pretty quickly. Agenda will cover basics t.I.F.101, talk a little bit about austin's t.I.F. Experience, the impact of t.I.F.'S on the tax rate and the council asked us to look at some best practices to ensure transparency and look at evaluation criteria and then we will make some recommendations on our policy. In texas, cities have many tools for economic development. And austin certainly uses many of these tools. They include chapter 380 agreements, texas increment financing, public improvement districts, this presentation again will cover one of the many tools that we do have available to us. Tax increment financing is a popular financing tool, used to encourage economic development, especially within a defined geographic area called a zone. There are various texas laws or statutes in the texas code that allow for what's called a reinvestment zone. They have a lot of spaghetti soup acronyms, they all kind of mean the same things, a tirz is under the texas tax code, that's how generally your t.I.F.'S are tied to a tirz. Defined in that legislation. A tiz is defined in the texas transportation code, a different legislative tool. That is provided for, for rail districts

and the like. And we haven't listed it here, but there's the homestead preservation reinvestment zone which is a different acronym. So we have lots of spaghetti soup. Unfortunately a lot of these are used interchangeably. The t.I.F. Is the financing tool, all of the other acronyms are the zones, the area. So that kind of makes it easier. The purpose of t.I.F.'S has really been to set aside a property tax revenue associated with the growth, assessed valuation growth in the zone and use that tax revenue for specific purposes in the zone, generally those may be public investments that stimulates the economic development in the zone. In texas, cities and counties may designate or create a zone. It is property tax that's set aside is often called value capture or increment. We want to throw those terminologies out just so you understood them. The value capture is the incremental revenue or the revenue generated from the zone that's in excess of the base assessed valuation which is frozen and calculated at the creation of the zone. The entity creating the zone using the t.I.F. Mechanism can use

-- excuse me, use some or all of the increments to promote that private development. Again, that's typically used to invest in public infrastructure. When the zone's term ends, all of the real property revenue, the base frozen at creation of the zone, plus the increment comes back to the local government so it can again use it for general purposes. That's a calculation at the bottom of the page that shows you how you calculate the increment that is then transferred and deposited into the tif zone, this is a real brief diagram. It makes it a little bit easier to understand some of the concepts. Down at the bottom is the base assessed valuation over the term of the tif zone and that is the amount that's frozen. That is available to all of the taxing entities that are in the tif zone. The incremental av is demonstrated by the yellow area, that is the area that is the additional revenue from the new av growth that is actually earmarked for use in the zone and is no longer available for the general government to use outside of the zone. So in this example, a 20-year tif which is typical period of time for a

-- for a tif, at the end of that

-- of that period of time, all of the tax revenue goes back to all of the taxing entities. And that is represented by the green area. Just another note, for you. There are two types of tifs and we primary use the first one, which is pay as you use. And generally, those are tif's where the revenue is set aside to pay a debt service on projects that were built in the zone or to pay for up front project costs to kick off a capital project or for development costs. There are two ways this can work. The tif authority or the board can actually finance the bonds public infrastructure, or you can have the developer finance the project and then the city can reimburse the developer. In this particular instance the risk associated with the debt is shifted to the developer. The second type is a pay as you go. And it's a much slower process. In the first, example, pay as you use, you are using the tax incremental to leverage the debt to get more money faster, the pay as you go is a slower process, you actually just wait until you get enough tax incremental revenue to do your project. It gives you a longer timeline to actually get your results. The tif financing tool was actually first used in california in 1952. So it's really a very common tool used by cities, during the 1970, there were a number of federal spending cuts and that's actually when the tif use expanded and by the late 1980, all of the states, except for arizona, had enacted and allowed tif's in

-- enacted tif legislation. At first, it was used really for urban renewal. It was targeted at central city blighted areas, but it's certainly expand and shifted to more general public investment now and infrastructure financing. California and illinois are the two states where they are used the most, in california that's partially because some of the tax laws that they have. Again, tif's have been primary focused on infrastructure investments. I mentioned the a law in texas, the tif

enabling legislation is actually the tax code, I have got a section up there listed for you. It's chapter 311. It was originally adopted here in Texas in

-- in 1981. The

-- they had tried pass it in 1977, there was some constitutional issues and it didn't actually get passed until '81. And then it was amended 2005 and codified into chapter 311 at that time.

Again, the tool, the financing tool is the tif. And we've already covered that. It allows for financing public improvements and blighted or underdeveloped areas and they are defined as reinvestment zones. The tizr tizr is the actual zone. The legislation actually sets a maximum that can be included in the tax base, can be included in the zone in no more than 15% of the tax base. There are two ways that the zone can be created. A city or county is authorized to designate or create the zone or it can be a request or petition by landowners representing at least 50% of the assessed valuation in the zone. So those are the two methods by which you can create the zone. The legislation provides a process for zone creation and there's a multiple step process with public participation, public hearings, it requires that

-- that a project plan and a financing plan be

[10:17:49]

developed and approved: Not only by the council, but by the board of the zone. It gives authority to cities to pledge the tax increment or authorities for security for bonds and then it outlines the powers and duties of the zone board of directors. Some of the oth provisions of the legislation, I won't read it, but of the zone can't be created if

-- if more than 10% of the zone is residential. It does outline authority for tax increment bonds, cities can issue the tax increment bonds. Counties do not have that authority. They cannot issue the bonds per an ag opinion from June or July of 2012. Counties may not. Cities may. But they can participate in the tifs. The tax increment bonds are payable solely from the zone's tax increment revenue. And these bonds normally have a debt service coverage requirement, which we have included in our financial policies, they typically sell at a higher interest rate than a city's go because they are a little higher risk and the legislation provides for annual reporting by cities to the other government agencies to each taxing entity that participates or that levies taxes in the zone, whether they participate or not. And also annual reports to the state comptroller. I just mention again the tiz, transportation infrastructure zone, this applies only to local governments. It excludes with district membership and these are for

-- for intermunicipal commuter rail districts. It does exclude school districts, and the

-- and the local government has to be a district member with authority to impose ad valorem taxes. The district then, once the zone is created, can enter into an interlocal agreement with the local government members and that is then used, the money is then used to

-- to finance the transportation infrastructure these agreements can be created for one or more zones and this statute does not include a public process for creating the zones. The tiz funding can be used for a local match for right-of-way acquisition. In the

-- in the participating member's area or to design, construct and operate and maintain transportation facilities in the member's area. And the legislation does provide that the capture value cannot exceed 30%, however, the lone star rail district does have an exception, so they do not have to meet that 30%. Because of the enter of the council, there

-- because of the interest of the council, there was another resolution adopted the same day that this one was. But because the council is interested in tif's and transit, we looked at that issue, so this is an additional slide that will cover that. We found that the use of tif's for transit is growing,

but it's not common. We did identify four states that

-- that currently have used tif's for local funding of transit. They include illinois, pennsylvania, oregon and georgia. And these states generally used the tif vehicle because they had legislation that limited their use of impact fees for

-- for transit. One particular project that was a very

-- very interesting that we looked at was in atlanta, georgia called the belt line project, that was really redevelopment of an existing historic railroad corridor that is connecting the downtown with 45 different neighborhoods in atlanta, so if you ever get an opportunity to go, it looks like a very interesting project. We were not able to identify any tif's that was used for transit, operating and maintenance expenses, although we continue to look. And we did consider last spring, in our urban rail financing analysis, we did consider tif's and as that issue comes up again, we will include that in our analysis again. With respect to the city's policy, the original policy was adopted in 1996, so we've had it in place a number of years. But it was put in place many years after the

-- after the legislation was enacted. The tif zones, the policy calls for tif zones to be established where the revenues will recover the public cost of the debt with adequate safety margins. We have

-- we have legislation that sets a 15% limit on our tax base, we took a much more conservative approach, much like some of the other large cities in texas, we've limited our tax base in the zones to no more than 5%. We did that to preserve the city's tax base and preserve the general fund revenue sources. Currently with respect to compliance with this we are at one percent of our assessed valuation in the existing tif zones and greg will cover those in more detail, the zones. Remainder of the policy really is setting debt service coverage requirements, additional bonds test and many of those provisions are used when we

-- when we issued tif bonds or pid bonds like we did last week. So at this point I have covered some basics, we're going to cover our austin experience, I will turn the presentation over to greg.  
[10:24:06]

>> Thanks, elaine. We thought it would be valuable to walk through kind of the current state of the tif's that we have established as kind of an instructive way of looking at where we've been, helps us talk about where we need to go in the future as we get to the last part of the presentation in terms of recommendations. What you have here on this slide is a chart laying out the city of austin's existing tif's, mueller development, waller creek and seaholm. These are all tif's related for infrastructure investment. So what you have here along kind of the column there, left-hand column is just different aspects of each of the tif's that we've created, the base year, how long the tif will be in place for, looking at the av, assessed valuation and capture rate, some of the elements of the tif policy that elaine walked you through kind of the theory side of it. I want to kind of focus on a few elements here. Most important is looking at what was what goes behind all of these. While there is the state law, chapter 311 does dictate how to establish the tif's, a very thorough process, the legislation about 40 pages long, very instructive about how to walk through step-by-step in terms of setting up a project and financing plan. But prior to setting up a tif there's a lot of analysis that needs to go into the creation both from a planning perspective as well as from a financial planning and financial analysis. Each of these tifs that we've put in place really had very long and extensive processes. Mueller we will walk through in more detail, really



started in the late '90s, that tif was not established until 2004. Waller creek was a project that started in the late '90s, reenergized in the mid 2,000s, but also took a several year process and seaholm as well. A planning process that started in 2002. We didn't establish the tif until 2008. A lot of work that goes into it before you set up the tif to make sure that what you are setting up can play you the on in the long term to make sure that you have a plan that can be implemented and monitored. I think that you see the elements here a captured assessed valuation. Mueller there was no value out there we had to get that project going to get it back on the tax role. I will walk you through that on the next slide. Entity participation on waller creek, an important part of setting up a tif policy where possible to get other entities to participate. Where they are gaining from the investment, where their tax base is gaining, also to get them in that up front allocation. I think another key party is that there's an element to each of these, there was other participation in terms of developer participation. Especially on mueller and seaholm, obviously. They were tied to when we set up, before we even set up the tif there was master development agreements put in place. Obviously when you set up a tif, you want to ensure there's going to be project growth. Av is going to grow above a certain normal amount. While there are no assurances, working with a developer and then putting their

-- their equity and their cash into the mix as well as putting in

-- putting in elements of the agreement, that they have to come to the table and get the thing done in terms of pulling the land down, it gives you more assurance that the value will be put on the ground as opposed to just letting it up to traditional market forces. So it's worked out well for austin, I can kind of show you how it did for where we

[10:27:48]

>> but I think it is instructive

-- it is probably the most extensive one, but I think there are elements of it that need to apply to any other tif we want to put in place. The decision was made in the MID 90s TO RELOCATE THE Airport and then started with an extensive six-year planning effort. And at the same time, going through the selection of a developer to put the development on the ground. So overall, you're looking at almost an eight-year process. And what went on during that eight-year process is extensive stakeholder engagement, master planning process that involves the community. A whole commission set up. Also very critical to this, which is one of the most instructive elements we could play through is the idea of getting the zoning on the ground. To make sure there were zoning commitments about the land planning. That was part of the participation effort to land us there. From there, the tif was created in 2004. We began the financing of the project. Ultimately, we did not finalize the financial project and project plan until july 2009, when we started actually issues tif support. We did issue sales tax tif debt earlier in the project to kick start the section of retail there at i-35 and 51st street. Again, I think the goal of having us work with developers is you could assure the development would occur, which gives assurance in terms of issuing bonds, we know the cash flow would be there to pay the bonds off. So a big area of the tif side is just moving on to the next slide. Is looking at the concept of the "but for" test. The but for test is looking at but for the tif subsidy, would the economic development have occurred solely from the private investment? So is the investment that you are making by establishing a tif actually creating growth or would the growth have occurred anyway? It is not necessarily a mathematical effort, process, but math does play into it with real estate market trends and looking into the

analysis of what can or can't occur. There is ultimately a lot of different effort and processes you want to look at to come up with the but for. The reason it is in place, and the reason I want to touch on it is the emphasis of the tax rate. It is put in place to make sure we are looking at local revenue sources as much as you can when you establish TIFs AND THE ZONES THEY'RE In place for. When you look at the but for, the property values, it derives more than the typical market value growth would have normally occurred. The investment into tif is driving economic development. As you look at it considerations you need, looking at the climbing of private development. Again, where austin has been successful, we tie the private development up in a contractual arrangement. In an.  
[10:31:58]

-- Mda to gives the city a lot of leverage in the timing and type of development. Integrating certainly council policies into the development we have been able to execute. You have to look at part of the analysis that goes into any of these, looking at the private developer's financial capacity to bring forward a project and making sure they don't weaken or cause any ill-harm to the tax-supported or the pledge of the tif debt or any other  
-- even if it is not debt that is being occurred. And be careful as you model out the impact of the use of the tif is what will be the impact on assessed valuation? You don't want to look at an element where there is no increment. Moving forward, taking the butt  
-- but for, looking at the incremental av, and the space av, there is a gray area in how much of the tif would have naturally occurred  
-- the increment would have naturally occurred but for  
-- tying it back to the but for conversation. There is an ability to tie in the capture rate. You look at a most likely scenario of what would grow. You try to factor in a capture rate. As elaine said, once you set the capture rate and the base, that is calculated year in, year out. Let's talk about moving from the but for into the tax rate, we will wrap it all up here together. The city in calculating the tax rate is really, we follow the state law. It is a very truth and taxation law is a multiline, several page, detailed calculation. And what it does, it does require us, when we are calculating the effective tax rate that we are in essence backing out any assessed valuation, especially new construction and the prior-year tax levy from the calculation of the new calculation of the new effective tax rate. The intent of doing that is really to hold the general fund harmless, to make sure there is sufficient revenue in place to make sure that the cost drivers, the ongoing business of the city can be met, at least from a tax rate calculation perspective. So the result of holding that harmless is that the effective tax rate is higher than it otherwise would have been without the tif being in place. There are varying degrees of that, we'll go through that next on the slide. The effective tax rate is impacted again as prescribed by the calculation of the tax rate. The magnitude does depend on the size of two efforts, the value of capture, what you set the rate at and the general idea of the but for. So looking at trying to bring it all together, summarize this, the tif, the tax rate and the but for. The first line looks at where you set up a tif and the captured value is really value that would not have occurred but for investing in an area in any way the investments might be defined. Still, there is impact on the tax rate, but it is slightly minimal. Moving down, what you have is where you are capturing  
-- you're setting up a tif zone or a tur, using the tif tool where some of the fall you are capturing may have occurred, but for the investment made, there is a larger effect on the tax rate. And

then where the but-for process would have occurred with or without the tif. Looking at the tax rate, it is over multiple years where the tax rate impact does flow in. It strives back to where the tax rate calculation is driving us to drive out the effective tax rate calculation. So where are we? Just to kind of summarize the tif and the impact in the issues. Again, the tax rate is being impacted. It just departments on the but-for test and your capture rate. Property tax dedicated to the tif is not free dollars. Again, what we do is we have to offset

-- it may have been available to pay for general fund requirements. As I think you heard now for several years, when we have been in front of council, talking about the long-term financial position of the city, we have been looking that we're at the roll-back tax rate for several years. That is really just to maintain our core cost drivers. So at some point, that is a factor. I think we heard that discussion prior as you're SETTING UP TIFs, KIND OF THE Global impact of how they interact with each other. You can however

-- some of THE TIFs ACTUALLY INCREASE Other revenue sources. Not just property tax. Other sales tax invested and there is a sales tax boost. There is a hotel occupancy tax boost. Utilities are getting additional funds at mueller and seaholm. Waller creek, additional utility revenue. That does come back to the general fund as part of the policy. These can be offset, the investments. You look at the financial and planning, it is a holistic view of making a decision on a tif or not to tif. Another factor that you look at is to make sure that the projects, would they not have been funded by the private sector and or other city funds, which gets us back to the element of the tif financial policy in place that elaine mentioned, which is really, it is a look at all other funding options before you first launch into looking at the use of a tif. Again, we try to look at them, again, holistically. Ultimately, you might need a menu of choices. This is looking through the austin experience and the tax rate impact.

[10:37:59]

>> And now we'll move into best practices and close with our recommendations. We did look at the government finance officers' association best practices. They do have a booklet that is called tax increment financing, an elected official's guide. That is a nice, handy guide for you. SINCE WE TALK ABOUT TIFs, I Thought that would be information for you. I'm not going through all of it, I promise. But that is the material that we relied on for best practices, although we did look at a number of other texas cities' policies and practices. One thing they advice is you adopt a tif policy, which we in austin have already done. And they suggested that your policy should address certain elements or include certain things, including the feasibility studies, the financing plans, things like the but-for test that greg has just talked about. Did you look at the economic benefit versus the cost of the incentive when you are adopting tif, that you understand the financial impacts to the city and the overlapping tax entities and that you evaluate the total impact of the tif to the tax base. Other best practices. They suggested that tif development be in line with your economic development strategy. That you allow for public input or public process for your development and financing plan. That you include the other taxing entities that participation of other taxing entities was important. And that certainly, you would have an ongoing monitoring process to look at the development progress, the increment revenue to make sure it is coming in as planned, and monitor your tax increment bonds to make sure they're meeting their legal compliance requirements. Some other key elements in best practices ... Suggested that you should target areas in special need of the economic development. That they

be projects that would fundamentally transform a community. Certainly, if you had large amounts of unused public land or in the event that became available, like mueller, that would be a prime example of where you would use a tif. Use the tif when the project was unlikely to occur water the public assistance that you should define a time limit for when the property tax revenue is going to come back to the local government for its own general use. And that you can do that either in the creation documents or it could be tied to the term of the tif bonds that you might issue. Certaiy they suggested that tif agreement should include the measurable target for success. We here at the city have built those into the mda agreements with the developer. And then again, progress reports are important. With respect to transparency, we believe we should continue using the guidance that's already provided in chapter 3.11 of the texas tax code. It provides a lot of opportunity for the public and stakeholder input. It calls for developing the project plan and the financing plan with a but-for test. There is written notices of intent to create the zones. There are presentations by the city to the other taxing entities to tell them about the zone. And request that they participate in it. Multiple public hearings on zone creation and approval of the ordinances that create the zone. Creation of the board of directors. In some cases, a local corporation is developed. There is developments in that. The meetings are open meetings as the council's are. There are multiple opportunities for public participation, both at the city level and the other taxing entities. We actually go to their meetings and make presentations. And then, again, notification to the appraisal district that will keep the records for the zone. We believe that the current law provides an adequate level of transparency. Criteria that should be used TO EVALUATE THE TIFs. Certainly, you have to look at whether there is a public benefit or policy benefit or certainly improvement in blighted areas or distressed areas where there is urban disturb or historic preservation. Where there is a need for affordable housing, transit or transportation improvements. Parks. Looking at the number of new jobs that could be created in the zone. And then again, also look at financial benefits. What is the new property tax revenue that will be generated from the project? And the zone? Certainly participation of other entities was a key factor and the strength of the overall tif plan, as greg mentioned, both the operating and capital plan. And then we saw in some entities they actually require a minimum level of investment, like a number of acres or a certain dollar-size project, especially if they were noncity initiated projects. You would have that kind of criteria. So our recommendations. We really are recommending that our current financial policy remain in place as is. We do not want to change our 5% at this point because we feel like that's adequately preserving our tax base and general fund revenue sources. We looked at the capital and debt management criteria that is built into the policy currently that provides us financial protection when we issue tif and tif bonds. And we believe those criteria are adequate. We would like those to remain in place. We will continue -- we would like to continue using our process that's provided in the tax code. Because we think that it provides sufficient transparency. I won't go through the list again. But we believe that process is a good one to follow. Even if we were creating a transportation zone, we might continue to follow our public processes. And I mentioned that -- greg mentioned that most -- all OF THE TIFs THAT WE CREATED Here to date have been CITY-INITIATED TIFs. But in looking at the other texas cities and outside of the state, we noticed that there were many noncity-initiated tifs. This is a recommendation where we need to do more work. We need to develop an application process. That we need to -- in particular, incorporate best practices that we noticed in other texas cities, because they have a common law. Tax code. That we would create a uniform application code where we gather

information about the project being proposed, and the projected growth from the project, and that we would establish an application fee. And the fee would be to cover the administrative cost of city staff that would be looking at the application fee and studying the tif. Again, this is just for NONCITY INITIATED TIFs. We would also need to work with our egrso department to develop the criteria matrix that we would use to evaluate the tif proposals. And we would want to make sure that that would ensure that these proposals were consistent with our economic development strategy and with our comprehensive plan, imagine austin, that they support that, to ensure economic goals are met from an economic development standpoint and make sure tif is the right tool to use for this proposal. And then, we would like to look at especially looking at what kind of limits you would put on these kinds of projects. Some of the things you look at in terms of criteria, fort worth actually requires a market feasibility study as one of their criteria. They also require a detailed cost-benefit analysis from NONCITY-INITIATED TIFs. San antonio has a scoring matrix also. They score projects that are in a cdbg eligible census tract. They score those higher. They score projects higher that have demonstrated additional affordable housing units in the project. So their scoring is a little bit different. All the cities are a little bit different. In the city of dallas, they give extra points for other taxing unit participation. For dallas county, they might get five points. For a community college, they might get another five points. Dallas also scores points if the project provides affordable housing. And they set a minimum of one hundred million of new investment as if you have a minimum of 100 million, you get points for that. So they have some sizing in theirs as well. We would like to really take some time to study those more. Work with our economic development staff here in austin, to tailor an evaluation criteria matrix for austin. And then one other recommendation we have is that any zones created

-- tif zones created for transit would need to be consistent with our current tide ordinance. That may require new tide ordinances. And with that, we've got a last slide, that is kind of like a recommendation tree. It is like, if it passed this test, keep going. Is the project consistent with economic development strategy and imagine austin? And is tif the right tool to consider? If the answer is yes, go to the next question. Is city funding required to develop the proposed project? If yes, go to the next question. Is another taxing entity willing to participate? Well, if yes, you may want to proceed. If no, you may want to still proceed. And then the last question  
[10:49:47]

is: Do the benefits outweigh the cost? And if they don't, it is probably not going to proceed. But it was kind of a way to step through and walk through a fairly complicated decision process. So we thought that might be a little bit helpful. In summary

-- and I know this has been a lengthy conversation with you. But in summary, very shortly: We have had a good experience here in austin WITH OUR EXISTING TIFs. Each one, as greg said, has been carefully evaluated and we've worked with our stakeholders. And each one has provided good results for us. Mueller is an example that's talked about across the country. It's a stellar example. We have adhered to our policies, and many of those policies have been included in the gfo 8 best practices. I want to mention and recognize greg who actually worked on the committee that developed best practices. He and I had a great time working on this. We want to continue using OUR TIFs TO SUPPORT DEBT FOR Significant public investment, when that is the appropriate tool to use. But we also want to be selective because we know that there is a significant impact on our tax rate

-- or can be. And we also know that our percent of reliance on the general fund is increasing. It

has gone from 30% to 40%. What has been our track record? We use tif. It has been the right tool for the right project. We're not saying don't ever use a tif. We're just saying: Follow the guidelines, follow the best practices, do the analysis, do the evaluation. That is our conclusion. We'll take questions.

[10:51:48]

>> I have three very quick questions. I'm sure there will be more. This is a very long and thorough presentation.

>> Mayor leffingwell: First of all, you made reference TO TIFs NOT BEING USED FOR O And m. On slide number 13. You pointed this out. But it says, specifically, design construction, operation or maintenance of transportation facilities in the local government's territory. These are where you can establish a transportation infrastructure zone. You also said you had no examples of that being done in texas, but you're looking.

>> We are looking, yes.

>> Mayor leffingwell: But it is clear that legally you could do it?

>> Yes, sir, the law allows it.

>> Mayor leffingwell: And that is good to know. Project connect financing is based on being able to use tif funds for o and m. 40% of the entire project is identified especially outside of the city of austin, it is difficult on particularly sales tax tif or tiz. The next section, I found slide 17 interesting. I want to be clear. Is it the base a.V., Does it remain constant when the tif is established? Because it looks kind of like you factored in normal growth without the tif. You have the same color there, in other words.

>> I think that might be a print color. What you have there is basically the base box down there, mayor. I will use walker creek as an example. The base was set, it is frozen base.

[10:53:50]

>> Mayor leffingwell: You it is frozen, but this could be the normal slope.

>> That gets to the but-for analysis.

>> Mayor leffingwell: I find that interesting, too, because I know in the PROJECT CONNECT TIFs IS THE Slope line, not the baseline. City manager?

>> I'm sorry for interrupting. It is without the tif. It is in the absent of the development associated with the tif that you get the second color above the baseline.

>> Mayor leffingwell: I understand that. I said it in a different way. The blue area here is what would happen here without the tif, the normal course of events. With the tif, you get the additional in the yellow area in that time frame?

>> Mayor, it is

-- I think what we are looking at here. There was a chart

-- a graph in the beginning. It is a hard line. You set that base, you capture all the increment. In looking at this slide here, we're trying to illustrate in terms of setting up the capture rate, there is an art to it. And you have a potential of actually taking stuff into the increment that would have normally happened anyway and would have gone to the general fund.

>> Mayor leffingwell: I understand that. But I want to be clear because it is the same color. It is confusing what the base a.V. Is. I actually know other folks THAT ARE TALKING ABOUT TIFs, In particular project connect are interested in taking the entire blue area. You understand what I'm saying?

>> We do.

>> Mayor leffingwell: And because jurisdictions that are parts of project connect that are outside of the city of austin, that's the way they want it. That's the way they see it. So we have to be in a good position to make a good calculation of what the area looks like.

[10:55:58]

>> Great.

>> Mayor leffingwell: And let's see. I had one more last question. Sorry. Very short. Ok. Just to be clear, you referred a couple of times TO NONCITY-INITIATED TIFs. Are you talking about PETITION-INITIATED TIFs?

>> That could be an example

--

>> you said the private development group could initiate a tif with 50% of the a.V. In a particular zone.

>> Yes.

>> Mayor leffingwell: You're not talking about if the county initiated it or the school district?

>> Primarily talking about a developer bringing a project in.

>> Mayor leffingwell: That's what I thought.

>> Some guideline on how to evaluate developer a brings in a project and developer b brings in a project, how do I score the project?

>> Mayor leffingwell: We have never done that.

>> We haven't.

>> Mayor leffingwell: I was unaware a developer could do that.

>> Many other texas cities are doing that. We just have not done it.

>> Mayor leffingwell: Something to be aware of.

>> Mayor?

>> Council member spelman.

>> Spelman: It is a couple minutes after 12:00. I know all of us over stage right have lots of questions to ask. I wonder if it is permissible to submit written questions so it could be submitted to all members of council. I'm not sure what questions council member morrison will ask. Would that be legally permissible.

>> Yes, you can. Staff can push out information to the entire body. And without a discussion among you. So if you

-- you if do have questions you will submit to them now.

[10:58:07]

>> Spelman: I will try to restrict my use of coded language, which is sending secret messages to the rest of the council to a minimum.

>> Interesting things to talk to you about related to maybe how it can be done easier with new legislation. But for right now, yes. Staff can continue to push out information to the entire body.

>> Spelman: Who should we send them to? Directly to elaine?

>> Yeah.

>> Mayor leffingwell: That is a good suggestion. I know some of us, including me, have to leave right about now. So to the extent that we can do this in accordance with the rules, we're going on that procedure. Without objection, we stand adjourned at 12:02.