

City Council Work Session Transcript – 09/15/2015

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[9:16:28 AM]

>> Mayor Adler: All right. I'm going to go ahead and convene our city council work session. Today is Tuesday, September 15th, 2015. We are in the boards and commission room, Austin city council. It is 9:15. We have today two briefings, one on annexation, one on the historic cemeteries master plan. We also have some items that have been pulled by councilmembers. I see that the pulled items are items 22, 35, 39, 69, 79 and 81. In addition to that, we have three late-pulled items. Item 41, item 8 and item 20.

>> Mr. Mayor?

>> Yes. I pulled 41, but I actually don't need to pull that one, so that can go away.

>> Mayor Adler: Okay. That gets us then just to Numbers eight and 20 pulled by Mrs. Houston. Let's go ahead and do the briefings first. If staff's here, we'll call up the briefing on the municipal annexation issue and the annual annexation program.

>> Mayor,.

>> Mrs. Gallo?

>> Gallo: I wonder if we should wait for the annexation briefing.

>> Mayor Adler: We could do that.

[9:18:29 AM]

>> Gallo: Just a thought. I know he's always concerned about.

>> Mayor Adler: That's probably a good idea, Mrs. Garza. Cemeteries was his, and he is most of the items that have been pulled.

>> Does anyone have a phone near them?

>> I can do it.

>> Mayor, in the meantime, also, we had pulled 79, but it's our understanding that that's been postponed.

>> Mayor Adler: Okay.

>> So that can be unpulled.

[9:20:31 AM]

>> Mayor Adler: While we're here while we're waiting for don, one of the items that were pulled was the whisper valley, which is item no. 8. Mrs. Houston pulled that. Do we have staff here able to speak to item 8? There's also, by the way, council an attorney/client privileged memo which has been put at each of our places.

>> Mayor, this came through the public utilities committee, so do you want me to give a brief background.

>> Mayor Adler: Yes, that would be good.

>> So it came through public utilities and we had a lot of questions. It seemed it was more of a contract issue, so I don't know if I was allowed or supposed to do this, but then I referred it to the audit and budget committee, and they also had additional questions. Neither committee has made recommendations on this. I honestly don't know what recommendation could be made, because it's -- it's -- y'all will learn, it's kind of a very convoluted thing. There's consider concerns about if the developer can make some payments that they need to make, and I guess my biggest concern is that they won't be able to and we'll have a half-built development in district 1, so I have -- I mean, were you going to make a presentation or were you just hear for questions, Elaine?

[Inaudible speaker]

>> Mayor Adler: You want to outline what the issue is and what the action is on Thursday.

>> I certainly can. Elaine heart, chief financial officer. Whisper valley and Indian hills were both pids that were created in 2010 by the city council. The land was bought by the developer in 2006, and they got their pud zoning in 2008, so this is a long-term project.

[9:22:31 AM]

In November of 2011, the city issued pid bonds, about \$40 million, for the combined of whisper valley and Indian hills, and those bonds were to be used to pay for infrastructure for the pid that would benefit the pied.

-- Pid. There are no homes out there, this is raw land. This was infrastructure to get basic water and sewer service out to the property, so there were bond funds were to be used to reimburse the developer's cost for some Braker lane improvements, some decker lake road improvements and a 24 and a 42-inch waterline, a wastewater interceptor and a small sewer package plant. This is a little bit -- there were two sets of bonds issued. There was a senior series and a subordinate series. All of the bonds are supported, the credit support on them is the special assessment that is invoiced by the city to the developer, and that supports the debt service payments. In addition, the land is also a credit support for the -- for the bonds. For the subordinate bonds, in addition to those two other credit supports, we had a cost reimbursement agreement from the water department for water reimbursement, as well as a sewer system reimbursement. The debt service on the subordinate bonds because they were to be repaid through the reimbursement of the infrastructure.

[9:24:31 AM]

They were only five-year bonds. Three years capitalized interest in two payments. One due on December 1 of 2015, the second due on December 1 of 2016. The December 1, 2015, payment is \$7,400,005. Each year the city council adopts the special assessment plan that provides for how we're going to invoice the special assessments, when their due dates are and the services that will be provided. The developer had a special assessment that was due on July 1st of this year, he did not make that payment. He went into default on July 6th, and we've been working with him since then to try and find an amiable solution to both the city as well as the developer. These are special assessment bonds, they are not backed by the credit of the city of Austin. The city of Austin has no obligation to pay these bonds; however, I do have a few -- fiduciary responsibility to see if I can work towards a reasonable approach to getting the bond holders their payments. And so what we've worked on is a recommendation with the water department and the developer that we move -- that we revise their cost-reimbursement agreement so that the reimbursement is based not on final acceptance, but

conditional acceptance. That means it's in good working order, we would require the developer to put up a bond for the vegetation and the tree mitigation that would need to be done to consider the project complete, but the city would recommend at this point the conditional acceptance.

[9:26:42 AM]

The water department will assume operation of those assets and they would become city assets. The second thing that we are recommending, when the original transaction was done in 2010 and '11, it was structured so that the payments from the water department -- the reimbursements would be made 50% this year and 50% next year. They are in a different fiscal position now, both of those payments are in their five-year cip and they're recommending that we move the payment from a multiyear payment to a single year payment. So those are the two key asks in the amendment. I have several scenarios that we can talk about in terms of how options aside from just this -- we would still need this contract amendment, the contract reimbursement amendment. They have made some special assessment payments, and they are -- when they're made, they're paid directly to the trustee for -- on behalf of the bond holders, so of the 7,000,004 that is due on December 1, we have a million nine or roughly \$2 million already held by the trustee. The amount currently due by the developer is 5.5 million, plus 600,000 in penalty and interest that has accrued through September. Options, if -- well, as we were negotiating with the developer through the summer, our first ask was what would it take for a capital call from his investors, and he said it would take 60 days. And we asked that he have it done within 90 days. He has not made a capital call with his investors and has continued to rely on the city to accelerate these payments for reimbursement and use the reimbursement money.

[9:28:51 AM]

The original transaction assumed that the construction would be finished, and that the reimbursements would be sufficient to make these debt payments. That is not the case now. The construction has been delayed. Waterline 2 is -- mid August was accepted for -- received its conditional acceptance by the development services department and the water staff, the engineers. And waterline 1 is substantially finished

[lapse in audio] Some testing and some tee tieout, I don't know exactly what that is, but the water staff are working with the developer to get that finished so they can get to conditional acceptance. Subsequent to the public committee meeting and the audit and finance committee meeting on September 2nd, we discovered that on waterline 1, the developer's contractor had filed a lawsuit, and so we are concerned about whether the city can accept those and get the proper -- be lien free and get the proper warranties that we would need to accept that waterline. So the reimbursement for waterline 1 is somewhat tied up now by -- by that lawsuit, which may take longer than the December 1 debt payment that is due. The debt payment is due on December 1, but in all reality, we have to make the payment, transfer the funds to the trustee, so that they can make the arrangements with the paying agent. We have to make that payment the week before, so we've got about six days before.

[9:30:51 AM]

So by the third week of Thanksgiving we have to have the funds with the trustee for the payment. I think the options that we see now, we do recommend that the council move forward with adoption of the recommended amendment from final to conditional acceptance, and from multiyear payments to single-year payments. The assets are substantially finished. Without those reimbursements, this transaction will unwind. We will not be able to forward funds to the trustee for the bond holders. In that

event, we would be in a default situation, and we would need to proceed to foreclosure on the land to provide funds to protect the bond holders and their interest. In addition to approving amendments to the cost reimbursement agreement, there are other options in addition to that to make up the December 1 payment of 7.4 million. The waterline 2, once the amendment is approved by council, waterline 2 reimbursement of 3.4 million would be free and clear, and we would make that payment, and that money could be combined with the 2 million with -- that's already held by the trustee towards making that 7.4 million payment. We would still be 2.1 million short. We could again ask the developer to make a capital call and come up with the 2.1 million, or there's remaining 6.6 million in bond proceeds in the construction fund that can be used to make that payment. In the event that the construction funds are used for that purpose, there would be less construction funds available towards construction of the sewer treatment plant that is not -- is not -- is still in the design phase and is needed before lots can be sold.

[9:33:07 AM]

Where that puts us, if we rectify the December 1, 2015, payment and find the sufficient funds to make that payment, we're looking at a \$16.2 million payment next December. If we used all of the construction funds, the waterline 1 -- excuse me, waterline 2 reimbursement, the monies held in the trustee, we would have remaining waterline 1 reimbursements to the extent that those could be freed up, they would provide \$7.4 million towards a \$16.2 million debt payment next December. We would need funding of 8.8 million. We would still have 4.5 million left in the construction fund if they were not used for construction of the wastewater treatment plant, we would remain with a 4.4 million shortfall on the December 1, 2016, payment, and that would have to come from the developer. In addition, he would have to find funds on his own to finance his wastewater treatment plant construction. I won't be able to issue a second set of bonds for the same project. So I think that's a fairly long summary of a very complex transaction, and I apologize if I confused anyone, but I'll be glad to answer your questions. I know it's a lot to throw at you.

[Lapse in audio]

>> That and developer's building. And as part of the construction process, it's been financed with bonds and the developer has to pay back those bonds.

>> Uh-huh.

>> Mayor Adler: And not only does he have an obligation to pay something, he has the ability to connect reimbursements as he completes work.

[9:35:08 AM]

And it was his intention to pay the financing charges with the reimbursement he got as he completed the lines. Generally speaking, that's right?

>> The pid bonds were the bank construction loan. View it that way. The pid bonds were the banking entity.

>> Mayor Adler: So was I right?

>> I believe so.

>> Mayor Adler: Okay. So looking at each one of those waterlines, there's waterline 2, which sounds like it's further along than waterline 1.

>> Uh-huh.

>> Mayor Adler: And I guess there are three big capital costs here. Waterline 2, waterline 1, and then the treatment plant.

>> Uh-huh.

>> Mayor Adler: So let's take each of those in turn so I can see if I can understand those. With respect to waterline no. 2, that's something that at this point has been completed all but the -- did you say landscaping.

>> Yes, the vegetation and the tree mitigation is my understanding, yes, sir.

>> Mayor Adler: Which he's supposed to do.

>> Uh-huh.

>> Mayor Adler: But in order to get the reimbursements, the city could conditionally accept those as they are so long as the developer got a bond issuing performance of putting up the landscaping and the trees. And if the developer didn't do that, then we have a bond that would enable us to draw down that money and hire someone else to complete the same work?

>> That's correct.

>> Mayor Adler: Okay. So it sounds like we're fairly secure on waterline 2.

>> Uh-huh.

>> Mayor Adler: Waterline 1 is not as far along as waterline 2.

>> That's correct. It's -- it's --

>> Mayor Adler: It's been fully constructed at this point, but it hasn't been tested.

>> They have been working on the testing the last week. I don't know if it's -- I don't believe it's final.

>> Mayor Adler: Do you know how close we are to -- to having that tested?

[9:37:08 AM]

>> Two weeks ago, they said they had a month left to complete. Last week they were testing the tee ties where they run water through the pipe, check the valves. If they find no leaks, they run chlorinated water through the valves, and I don't know the results of those tests. They were doing those last week. And I apologize, my partner from the water department couldn't be here this early.

>> Mayor Adler: That's okay. So with respect to that pipe, you're suggesting, or recommending, that we agree that if the line tests out well, that we conditionally accept that one also, so long as there's also bonding to ensure the landscaping and the trees?

>> And in addition to that, I think we would like to incorporate some language that the law department recommended in their memo that just came out late last night.

>> Mayor Adler: If we put the requirement in that it has to test out, there has to be a bond in order to cover the cost of the trees and the landscaping, and if it's also conditional on clear title, then it sounds like in that event we would be pretty secure there as well?

>> I believe so.

>> Mayor Adler: Does that sound right?

>> Uh-huh.

>> Mayor Adler: And those are the two things that you're asking for here today, as well as being able to - to -- explain to me again the two-year payment -- I mean the one-year payment as opposed to the two-year?

>> The original agreement called for final acceptance. You would get 90 days affine L acceptance, you would get 50% reimbursement. And then the following year, you would get the following -- the remaining 50%. At the time back in 2010, 2011, the water department didn't have sufficient funds in its capital program to make those payments.

[9:39:13 AM]

They now have -- time has passed and they have sufficient funds to make the full payment in their five-year capital plan, and that would not impact their current rates.

>> Mayor Adler: Okay. But at the point in time in year 1, the developer eastern titled to those money, it's a question of whether he gets half now or half later, but the entitlement has already been established?

>> Correct.

>> Mayor Adler: Okay. So what's the downside here? If this unravels, we're potentially in the position -- [lapse in audio]

-- And then the -- we're left with a project where the -- we have to foreclose on the property in order to be able to pay the bond holders back their money, and we have a project over in east Austin that is kind of at that point stopped unless and until a different developer comes in or the city comes in and fixes the line and does the work? Is that right?

>> That's correct.

>> Mayor Adler: If we were to do the conditional acceptance on the terms that you say and the developer has to perform leading up to those, either the developer doesn't perform at all, in which case we're still in the same position, or the developer, in fact, completes -- it tests waterline 1 and it works, and then clears title, and bonds around the trees and the landscaping, in which case at least there's money present to be able to do the trees and the landscaping? It sounds like that's a better place for us to be than this unwinding.

[9:41:14 AM]

What's the downside? Is there -- is there additional downside to doing what you recommend with respect to the waterline?

>> Not with respect to the waterline. This is the first step. I know that the water department plans to come back and ask later this fall for a revision to the wastewater reimbursement agreement. That project is still in design. It's been downsized due to the bids were double what we originally thought, the 6.6 million. And so it's been rebid two or three times. Now it's being downsized. And so we're trying to negotiate with the developer to come up with something acceptable to the city to get that treatment plant in, so that he can -- plant in so that he can begin selling lots. In this -- in this process, there will be some pump and haul for a period of time required in order for him to continue to sell the lots, or to begin selling the lots and developing houses on them. My understanding is that the sewer treatment plant may take 18 months to complete. We're looking at shorter timelines than what we -- and what we can do to shorten that. But that -- this is the first step of multisteps to get this project to the point that the developer can actually sell the lots and start having home builders build on the lots.

>> Mayor Adler: So I'm trying to figure out how does the decision we're taking today impact that? I mean, it sounds like there's a -- there's a -- the wastewater plant isn't going to be online on the same timing that he could sell lots if we let him sell lots, there's going to have to be some pump and haul, which would start him having income, but we don't have the wastewater treatment plant.

[9:43:25 AM]

It seems like that situation exists whether we -- I guess if it unwinds again, we're trying to find somebody else to kind of step in to a project half completed. If we do this part, we're still facing -- there's no -- what happens subsequently isn't changed by what we have here?

>> That's true. That -- this action today gets us through the next hurdle, the next payment. If -- if we do not -- if the council does not approve this amendment, I would propose to use the 6.6 million, whatever I need of that, in construction funds held by the trustee, combined with the 2 million held by the trustee, to make the full 7.4 million payment December 1 and then we would proceed to foreclosure.

>> Mayor Adler: And then try to find someone else to step in and finish the project. If we do this and he

doesn't perform, then we're in exactly the same place you just described.

>> Exactly.

>> Mayor Adler: If we do this and he does perform, then the bond holders are paid off and we have a completed waterline and we have the bonding to be able to finish the trees and landscaping?

>> Right. These are the first two payments. And the only two payments on the subordinate bonds. The senior bonds live for another 10 years.

>> Mayor Adler: Okay. But with respect to what is -- okay. I understand the recommendation. Sorry to have asked so many questions.

[Lapse in audio]

>> Take staff recommendation and approve what staff's recommending, how does the lawsuit layer into this process?

>> The lawsuit is between the contractor and the developer on waterline 1.

[9:45:27 AM]

It is a disagreement over change orders. The disagreement has already gone to mediation, and recently has moved to a lawsuit. They are in the deposition stage, and I'm not clear how long the lawsuit could take, but it would tie up, unless he can give us some guarantees or -- financial guarantees on warranty, it may tie up the waterline 1. Maybe law could speak more to the details of it, but it is somewhat of a problem for getting -- moving past this conditional acceptance on waterline 1.

>> So I guess -- and my question would also be that if, as the mayor was asking, we do this, but then it falls apart, if there are lien -- if there are then contractor liens on the property, does that affect our ability to move forward with having somebody else come in to finish the project?

>> I believe -- and you can correct me, but the property tax lien on the property has -- has the highest priority. And behind that is the special assessment lien on the property, so I would think a mechanic's lien would come after that, but I'm not clear what the answer is on that.

>> This is Gregory Mueller with the law department. Elaine stated it correctly. And also most of the waterline is in city of Austin right of way already, so to the extent that it impacts the pid-assessed property, it's not that significant. It would just be part of a separate waterline construction contract. That would not stop a developer from taking over or acquiring over the other pid property.

[9:47:31 AM]

>> Mr. Mueller, are there any recommendations or language that you would recommend since we approve this on Thursday that we add and amend to our agreement to ensure that our interests are protected sufficiently?

>> Miller: Yes, we would recommend language to the effect of clarifying what we mean by conditional acceptance, and that language would include additional acceptance entails that it's free and clear of all liens and contractually-required warranties are intact, and that would address our concerns with regards to that.

>> Pool: Thanks.

>> Mayor Adler: Mrs. Garza?

>> Garza: It's quite the conundrum, I feel like. I feel like we have to go forward with this for the city to be able to pay its bond holders, but we do that knowing that the developer has already defaulted, needs this -- my understanding there's no precedent for this kind of rescheduling of the payments, so they need this money to be able to continue, and the next payment's an even bigger payment, so then -- and it's being advertised as affordable housing, I was told, in the 150,000 range, which seems amazing, and I'm just -- I'm going -- I have a hard time voting for something that could possibly, if they start selling lots

to families at 150,000 price point, families invest in that, and then half the development's done and, you know, we have -- and then the pump and haul, my understanding is, against, city policy. We're not supposed to allow pump and haul, so I -- it's just -- it's a confusing issue to me, that's why I sent it to Kathy.

>> It was confusing to us, too.

[9:49:34 AM]

>> Garza: So I'm leaning towards a no, but I know how that affects the city, so this is a very difficult situation.

>> Mayor Adler: Mr. Zimmerman

>> Zimmerman: Thank you, Mr. Mayor. The thing that got me off on this project is I never did get a rational answer as to how the terms of the payback were changed. Because the way I understand it, years ago there was a December payment date that was put in this complex agreement. We all agreed, it's a complex agreement. And I keep asking the question why was that payment accelerated from December back to [lapse in audio] July, but that precipitated yet another crisis. You say we suspect that this person's not going to be able to pay back their loan so we're going to ask same rate the loan. Was there legal authorization for that to happen in the first place?

>> There was. The council adopts the service and assessment plan each year, and the December 1 payment is the debt payment that was tied to when the bonds were issued. The special assessment date, the due dates, are set in the annual plan, which is adopted annually by council. And so --

>> Zimmerman: Before you go on. Thank you for that. So you say you have the legal authority, but it wasn't the council that decided to change this date, it was staff. Staff brings a new date and says, here, vote for this.

>> Staff recommended --

>> Zimmerman: Simply, that's the way it works, right?

>> Staff did the work and recommended the new date based upon discussions with the developer and the status of the construction at the time. At the time, the waterlines were supposed to be fully completed last fall.

>> Zimmerman: Does the city assume no responsibility whatsoever for some of those delays? In other words, making change orders to the developer or being late in doing their inspections or not completing their inspections on time?

[9:51:41 AM]

Is the city assume absolutely no responsibility for some of the delays?

>> I don't know that there were those delays on our side. On the water side, I can't speak to that. I'm on the finance department. There were rebids on the sewer project, and that is not finished, and it's still in design phase, but I don't believe that those were the same -- I don't believe that I've heard that the same situation occurred on the waterlines.

>> Zimmerman: Okay. So we're missing a point of view here, certainly, from the viewpoint of the person who went into the agreement years ago to get all this work done. We're missing that point of view here. And I have a -- I have a problem with that, only getting one side of the story, and I -- I guess I still take exception to the council being given a, here, change this date. We, staff, think it's a good idea, to accelerate this payment from December to July, here, vote for this. I think that's part of the problem that we've got right now, is the city is in control of a lot of the things that affect these deliverables.

>> Councilmember --

>> Wait, wait, wait, councilmember Zimmerman, I think that -- well, we need to continue the

conversation, but the staff is doing their job, which is to bring forward their recommendations, which we rely on. We don't have to follow their recommendations, that's why they're bringing it forward to us. But that is their job.

>> Zimmerman: Where is the point of view today that they're recommending.

>> That's not their fault. If we want another point of view, then we need to bring it in.

>> Zimmerman: Thank you.

>> And mayor, if you know, the other point of view has made their rounds to every councilmember, so don't act like you don't have the other point of view, because all of us have had the other point of view. I just want us to be real, because we all have the other point of view.

>> Zimmerman: I'd like it to be here on the record so that we -- it makes sense to have both of them on the record in the same quorum.

[9:53:44 AM]

>> Mayor Adler: We have the powers to change our rules. We can bring the staff in to brief. We had a conversation earlier about whether we would invite other people to come in, we decided we would not. Certainly as a group we could change that if that's something we wanted to do. Mrs. Tovo? Troofs I appreciate --

>> Tovo: I appreciate my colleague's point just now about how and where the other point of view has been heard. But I also want to make the point as Mrs. Hart was explaining, the council has the right to adjust the schedule, it was a council action last fall, and as far as as I remember, no representatives from the project came to protest that change. I don't recall having speakers. Did anybody come? So that -- they had an opportunity to express their point of view if that wasn't a schedule that worked for them, and they elected not to, and the elected body of this city made change that was within their right to do, and it doesn't sound to me based on the conversations that we've had that they would have been able to make the November payment even if it were in November, so July, November, they simply can't make the payment regardless of when it's scheduled, which actually brings me to my question. When do you anticipate we might be receiving the late payment?

>> Hart: I don't believe they plan to pay it, and in addition they have expressed -- they have asked staff to waive the penalty and interest and I have told them we do not have the authority, that only the council has the authority to waive the penalty and interest. We've had one other pid
[lapse in audio]

>> Tovo: Every time you've explained it, because it is really complicated -- or I'll just speak for myself, I've had lots of questions and you've been explaining the same points and I appreciate it.

[9:55:51 AM]

>> Mayor Adler: Mrs. Houston and then Mr. Casar.

>> Houston: Thank you for explaining it. Other than purchasing the land, how much has the developer put into this project?

>> Hart: I don't have any idea.

>> Houston: But the land is it. And you've asked them to do one of two capital calls, and they've not.

>> Hart: One.

>> Houston: One capital call giving them extra time and they've not done that as far as you know?

>> Hart: That's correct.

>> Houston: And then they did ask about the waiving, because I did ask whether or not they would be willing in good faith to pay the fees and penalties, and they said no they wanted us to waive that. So I feel like we're put in a very difficult position because I don't see any action on their part to try to help

remedy this situation. They see us, the city, as being the responsible party, so we could do everything they ask and then as Mrs. Hart has said, a year from now, we'll be in the same position. So I think we need to think very carefully about what we do, the precedents we set when we do it, if we do future public improvement districts, so that we -- people don't come back and say, well, you did it for them, we want you to do it for us. The one in councilmember Garza's district is doing really well, and I wish they would all operate. For some reason, something happened in -- and I suspect on the developer's side, that we had some problems with the lane and the waterline going through that and weather was a part of that, but then they've had some internal issues that they weren't able to satisfactorily get it -- satisfy to get it moving quickly again. So it is a very convoluted and difficult situation for the city to be in.

[9:57:54 AM]

>> Mayor Adler: What I'm trying to figure out without regard to the equities, I'm just trying to figure out what's the best place to be in. I have the same concerns.

>> Casar: And I would like there to be a project there. I'm not -- if we did this so that the waterlines got done, are we necessarily giving permission to sell lots and to do pump and haul?

>> Mayor Adler: I mean, does the developer have to come back to ask those kinds of questions? Is it better for us to do this in order to be able to get two waterlines that are completed, if another developer was going to step into this project? Is it easier to get a twopper to step in if the waterlines are done and paid for and inspected? I'm -- developer to step in if the waterlines are done and paid for and inspected? My only hesitation is because I -- hesitancy is I've got a developer that is not doing what I need them to do, I don't want to end up with a partially finished project that it's harder to get a developer to come in.

>> Houston: And I guess it's what part of the project needs to be completed in order to sell lots. We've got to have treatment -- we don't have a treatment facility, and so they're going to have to do pump and haul before they sell the lots. I mean, -- lots. I mean, there's so many iterations of -- maybe we need somebody else to come -- what can we say to get them to the point that they can begin to sell lots, but the treatment plant is one of those things. If not, we have to pump and haul, and --

>> Mayor Adler: But are we making a decision today about the treatment plant, or are we trying to get the waterlines --

[9:59:56 AM]

>> Houston: We're trying to get them to the point where they can begin to sell lots. So they need to complete the waterlines, and then they need to do these other -- to do these other things. And I'm not an engineer, and so I don't know what that order is, but we're trying to get them to complete the waterlines.

>> Mayor Adler: So -- so they're in default, so we could take them out of the deal now. We could foreclose on it and say your time's up, you're no longer involved in this project. So I could take over the project now if I wanted to, where it sits right now. Or if we followed your recommendation, the waterlines are done [lapse in audio] Almost sounds to me like we're trying to decide at which point in the process, if they're not going to perform, we take them out of the project. And I'm trying to figure out for the community if they're not going to perform, when is the best time for us to take them out of the project, I guess is the question I'm asking.

>> I agree with you I'm very concerned because I think the more we delay this project, if we go that object of default and we get them out of the picture, that we're going to delay the growth in that area for about two to three years, you know, if we try to settle all this. And, you know, our big vision of, you know, the spirit of east Austin, it's going to be delayed for another two years.

>> Renteria: So that's how my feeling is about it. I think we have nothing to lose to go ahead and continue, you know, and -- in supporting this resolution as it is so that we can continue lending for this development, the waterline at least be finished.

>> Mayor Adler: Mrs. Troxclair?

[10:01:57 AM]

>> Troxclair: So what the developer has set up, the committee meetings -- has said at the committee meetings, from their perspective it's not a question of their ability to pay, but a question of the fact that they were never -- under the setup or the contract, they were never expected to have to come out-of-pocket because they thought the construction would be complete, the money would be there, et cetera. So if -- if that's the case, if there is -- because I mean we're sitting up here worried that if we get to a point next year, we don't want to be in the position of having to foreclose on families out there. But they're saying that's not -- they're saying that if it comes down to it, they absolutely have the ability to pay. So is there anything that we can do that would make you feel more confident in that statement? I mean, can we -- I'm trying to -- I mean, the decision that's in front of us now -- if we -- I think we're all worried that we don't want to be in the same position next year, right? So is there anything that we can do to give us more confidence and you more confidence that if we get to this same place next year, that the developer and the money, the construction isn't complete and the money isn't there, that the developer will step up and make the payments?

>> Mayor Adler: And Mrs. Garza, did you want to add to that question?

>> Garza: Yeah. And is there something we can do in the contract that says if we're changing the contract now, can we further change the contract to say you have to do a, B, C and D, have it ready to go, everyone's been paid, nobody owes any money, before you can even try to start selling any kind of lots or homes. Is there a way to do that?

>> Sorry, our staff is sort of [indiscernible] So this item will be at a later time so they are not available.

[10:04:05 AM]

So just try to answer some of the technical-related questions. From engineering point of view, right now we have a phase 1, phase 2 water mains, both are almost ready to be accepted, and since the contractor already laid those lines there, I think we can easily taking over that piece of work in the case of something is not going right, the pipe is out there. We, as Austin water, we can maintain and repair and make it right, and to serve our customers. On the wastewater side, and right now as I know the contractor haven't installed portion of the sewer line to a lift station. That lift station will feed the wastewater to the proposed wastewater treatment plant. The only missing part is that wastewater treatment plant right now is not yet 100% completed on the design part. So if we could have ready available design package, then we can take over from any time from that moment, if the contractor is not able to perform, we can use that approved design package and find another contractor to finish that piece of work. So I think that we, utility, has worked with other department and pose some thoughts about how we are moving forward and create a win/win case so that we don't hold up things, we still get what we want, and minimize the city's risk. But I'm not [indiscernible] On the whole part of case, I'm only supplying the engineering piece [lapse in audio]

>> Tovo: Has a condone drum because I think it really meets that definition. I mean, none of the options seem like great ones and for me, it does get back to the mayor's question of are we better off having the waterlines built.

[10:06:18 AM]

I'll just say it sounds like I have grave concerns about the liability of the development. They have not met the expectations, they don't seem to have built in the kinds of contingencies you would expect in a big development of this sort. I would think you would have to build in contingencies for delays and development, weather-related delays, none of that seems to be -- have been contemplated in this if they can't make their payment, so... To get back to councilmember Garza's question about what we could do to safeguard and really to councilmember Ren Tar -- Renteria's point, are we able to put in some kind of interim measures so we're not here next year. Can we have an interim step in six months? Can we require a partial payment and then a fuller payment in December, which would mean changing the schedule again?

>> Hart: I think we can certainly do that, but as you've seen, we can't force them to make their payment. We might could ask for a letter of credit that could provide some liquidity support if they would be willing to pay for one. But they are getting a benefit of tax-exempt rates versus a much higher rate that a commercial bank would charge them to finance the facilities. So they are getting a benefit to their investors and their rate of return being higher because we used the PID bonds.

>> Mayor Adler: Sue San --

>> Tovo: I'm sorry, one more question. So just to be clear, their next hurdle, were they to get beyond this one, would be to come up with a water plan, and if they wanted -- a wastewater plan, and if they wanted to do pump and haul, they would have to return to council for a waiver.

[10:08:23 AM]

>> Hart: They would.

>> Tovo: And is it also a correct understanding that they are asking you to issue the bond money, and I think you covered this in your summary here today, to help pay for that wastewater solution?

>> Hart: They have asked that we release part of the 6.6 million that was originally sold to finance the wastewater treatment plant. My position has been I will not release those funds, ask the trustee to release the funds until I know that we have the debt payments covered. And so given that the cost currently -- the cost estimate, although the design's not finished, for the treatment plant is higher than the 6.6 million we have in the funds, he's going to have to find a bank loan of some kind to finance a portion of it anyway. I would encourage him to finance the entire portion and have the city not -- have us keep the 6.6 million in bond proceeds to cover debt service. If all that worked out and we got the reimbursements for waterline 1, he's still 4.4 million short this time next year.

>> Tovo: Right. And still a matter of the lawsuit.

>> Hart: And -- and he appears to be intending to seek waivers --

>> Tovo: Seek waivers and new agreements to get the rest of it paid for as well, so that's -- you know, again I just have grave concerns about the viability of it. For me, it really gets back to what is -- you know, if things are not going to add up here, at what point is it better to know that. And you started by saying something, Mrs. Hart, about your fiduciary responsibility to try to make options available to get the bond payment secured. Would you talk about that for just a couple minutes, because that may be --

>> Hart: I do. I think --

[10:10:25 AM]

>> Tovo: -- Important to our thinking through this question.

>> Hart: While the city's full faith in credit does not back these bonds, the city is not responsible to make any of these debt problems, I want to make that clear. This is not a city of Austin obligation. The obligation is the part on the property owners who owe a special assessment that is the credit support

for the bonds. But we issued the bonds, the city issued the bonds for the purpose to for public [lapse in audio] Within our reasonable ability to work them out. I feel like we have done that. We tried not to go immediately to foreclosure. We have asked for a capital call that has not been made. We have seen someone who continues to want to work with the city to use our money to reimburse, and so in my opinion it's been somewhat one-sided, but we've had to try and work out what best we could to get us to the place we are today. And it doesn't resolve all the issues. And I recognize that. I don't like to bring the council problems, but we're only one side of this equation.

>> Tovo: Thank you.

>> If I could just add something. There's a few other sides to the equation as well. This is kind of multifaceted so the fiduciary obligations that Mrs. Hart's talking about are laid out in the indenture agreement that we have with the bond holders, so we do have the obligation -- as Elaine said, we have an obligation to pursue all methods for making sure that payment is made on time, and that is up to and including foreclosure if necessary.

[10:12:31 AM]

And the reason I mention that is, if we do this, I'd add some conditions such as a letter of credit or something like that. When it comes back to y'all, it's going to be more than just a cost reimbursement agreement. This touches upon a host of agreements I can think of, like maybe three or four that are going to have to be amended, and just as an aside, we're probably going to have to reach out to the bond holders to let them know that we're adjusting some of the terms of payment. So there are a few parties involved in this. Mr. Zimmerma N?

>> Zimmerman: Thank you, Mr. Mayor. So I'm probably the only councilmember around this table that has been on both sides in the professional capacity of these kind of multimillion dollar contracts. I've been in the position of specifying complex projects, putting out the request for proposal, and I've been on the other side of it, of bidding on projects, managing and trying to complete complex projects. You know, I think that the council is missing on this is that the city of Austin, with the power that it holds, and its ability to change payment dates, you know, by four or five dates without any -- without any consent from the other party, it is trivially easy for this city, with the power that it has, to set up terms that will deliberately bankrupt any developer they wanted and confiscate their assets. I want the council to understand the power that's being wielded by the city to change terms of a complex development and effectively bankrupt the developer. Trivial. I think it's dishonest, I think it's malfeasance, I'm pretty angry about the way this whole thing has been presented to the city council. I don't like it a bit. I want you guys to understand the power we have here. The sewage treatment plant has been -- the treatment plant's been mentioned, you know, at a figure of around \$6 million. That \$6 million is based on some engineering requirements.

[10:14:32 AM]

All you have to do to double that to 12 million is put in change order after change order after change order. Put in all those change orders, well, now it costs 12 million to build it and the city can say, well, you promised to build it for \$6 million. I don't like what's going on here. I'm going to be voting in favor of this -- what I'd like to do is get the terms changed back to what they with were last year. That's all I want to have. I don't want to go through all these manipulations of the agreement, let's just go back to what we had last year and have the payment made in December. Let's simplify things.

>> Mayor Adler: Does anybody need any further information on this as part of our work session? Mrs. Tbal -- Gallo?

>> Gallo: It looks like our law department is recommending an amendment to specify conditional

acceptance, and that would mean that the subject waterlines are free and clear of all liens and encumbrances and are fully covered under all contractual warranties, if we're aware of the fact that there is a lawsuit and there is a potential to have a lien, even if it's a subordinate lien, how can we move forward on adding that clause to a situation that we know that there is a potential to be in violation of that clause? I'm just a little confused how this process would work.

>> Gallo,.

>> Yes, I think what the requirement does is it requires the developer to propose to the city how it can provide us adequate assurances that the water line is free and clear and has the warranties intact. There are probably a variety of ways to bond around the issue. But we would leave it to the developer to figure out how to package those assurances for the city. And we wouldn't be able to accept it as essentially complete until we know for sure that those requirements are met. I'm not sure how they would propose to do that, but they are looking at it right now.

[10:16:36 AM]

>> Gallo: So having that language in the amendment and knowing that there is a potential out there, then the city would be on heightened alert to make sure that whatever bonding or process that we would require would be put in place before the next step would occur.

>> Yeah, exactly. I think what would happen is if they can't give us those assurances, unfortunately we can't ever say the water line is substantially complete. We have that marker there.

>> Gallo: But are we funding ahead of time, are we funding before that process is complete?

>> No. The funding will occur on substantial completion, substantial completion would not be considered to have occurred until we have those assurances.

>> Mayor Adler: Anything further before we move on.

>> Casar: One question. Is delayed the -- the construction of these lines and the completion of the lines has been delayed beyond what it was that the city laid out and desired, is there reason to penalize that sort of delay and if we passed this as recommended by staff, does -- is that sort of behavior penalized? If so, how? Does my question make sense?

>> It does.

>> I think in one sense there's not really so much of a penalty element in the sense that we are recommending payment whereas we typically do it on final acceptance. Which is how we've done it in every case that I'm aware of. We're moving a little bit earlier to substantial completion. Rather than being draconian, it's being a little bit more accommodating.

>> Mayor Adler: I think his question was if we provide the accommodation, shouldn't there be some measure of sanction?

[10:18:37 AM]

>> Oh. There are penalties and interest. Which are occurring since July I'm not sure what we could add on.

>> They accrue every month through September they're \$600,000.

>> Okay. I misunderstood your question.

>> Casar: I'm thinking about this in a simple sort of way. Thinking, you know, if -- if I was having my parents move to town and I had a contractor to build the house and then they found -- told me they're delayed but could get it done in time for when my parents moved to town but can't have grass or trees on it, you know, I would be -- it's better for my parents to show up and have a house but I'm obviously not particularly pleased that they're not going to have the grass or trees on it in time and there was going to be this buffer. Clearly with other pids, or other agreements that we make, seems to me that we

would want to accommodate that, but also have some expression of, you know, it would be nice to have the grass and trees for things to be done in the timeline that we all agreed to, whether or not, you know, or at least the timeline that was set whether it was agreed to or not, the timeline that was set. So that's -- that's the context that I'm looking for here seems to me there is something reason for us to want to get the water line issue all wrapped up, but at the same time want to make sure that we are -- we are being accommodating but making sure that we are getting everything that we can for -- for our constituents and for the city financially that -- that we should.

>> Mayor Adler: Okay. Thank you, thank you, staff. Let's go through the items that we have pulled, then we will go back and do the cemetery briefing. First item that we have pulled, we will go through as we did before, make sure there's a second person that wants to hear the items that have been pulled as we go through the agenda.

[10:20:39 AM]

First is item no. 22, which are the contracts associated with the lobbying services, it's pulled by Mr. Zimmerman. Is there a second person that wants to have that discussed? Ms. Troxclair. If staff could come on up for that. Mr. Zimmerman, you want to -- lead us off with questions.

>> Zimmerman: Was there a memo sent out on this? I haven't had a chance to review. Maybe we could start with that. Did you receive a memo recently on this item? You did? Okay. Let's go over that, if you could start with that. Mayor and council, ray Berra, chief of staff. It was a memo sent out by me to the mayor and council about these items coming up on Thursday for state and federal legislative lobby consulting contracts. Everyone should have received it, I believe it came out in the afternoon.

>> Zimmerman: I haven't seen it. Can you touch the highlights of it, what's the purpose and what its highlights are.

>> The purpose of the memo was to notify council we had these two items coming up. We have our state and federal lobby contracts that expire at the end of September, at the end of this month. We want to continue to engage with our lobby team, both on the state and federal side. Wanted to seek council's approval. One of the things to mention in this memo, the purpose of it was to let you know about how important it is to have state and federal lobbyists on the federal side we do have congress that meets year round and so we've had two firms, Holland and knight and capital Lege who have been with the city for many, many years. Lobbyists who know us quite well and have done very, very successful in Washington D.C. State lobby contracts, wanted to reiterate, even though the session is over we still have a lot of activity take takes place during the interim and we wanted to continue with these consultant contracts.

[10:22:51 AM]

Because as you know, the culmination of the work that occurs during the interim, during the regular legislative session, a lot of work does continue during the interim. I have kind of outlined the reasons that typically we want to make sure that we have lobbyists during the interim because even though the session ended back in June, a lot of work is going to continue, a lot of unresolved issues. That have taken place. We're going to try to work on during the interim. We do have interim charges that will be released very soon. By the house and the senate. So we want to start working on those. And so it takes a lot of work to make sure that we're monitoring exactly what those issues might be and what their impact might be for the city of Austin.

>> Zimmerman: Okay. Fair enough. Did you put out in that memo, I'm sorry I haven't seen it, did you put out in the memo what agenda items that you're asking to be worked on for 860,000? In other words is one of them I presume would be opposition to annexation bills. In the last session, as you remember, we

had annex bill that required a vote before the city could annex, I believe that passed the senate. I believe the city was in opposition to that. Do you have a letter that goes to these lobby organizations that says here's what we want you to work on?

>> Typically, I might defer to Karen who was our interim governmental relations officer during this session, you know, our lobbyists work on everything from annexation to zoning and so our lobbyists literally have to pivot on so many different issues. If you think about the city having -- issues, if you think about the city having 40 different departments, all of the issues municipally related. One of the things -- municipally related. Every session you will see about 6,000 bills or resolutions that are filed. About a third of those, in my experience, I've been doing this quite a while, about a third are municipally related. About 1500 to 2,000 bills we follow each and every session, track those bills to see whether or not they're going to have a favorable or detrimental impact on the city of Austin.

[10:24:57 AM]

So our lobbyists work on different issues as we strategically work on those that come up during the session. I don't know if that answers your question. >>

>> Zimmerman: Final question if I could. So you've got a lot of constituents in district 6 that are going to be diametrically opposed to what they're being forced to pay for here in terms of the lobby objectives. I'm having a lot of trouble trying to explain to them that they're being forced through their taxes to lobby for legislation that they are absolutely opposed to. It's a big conflict I have. I think that's unavoidable. But I'm going to be voting against this, but I would like to see it referred to the audit and finance committee so we can get more details to where the money is going.

>> Mayor Adler: Okay. That would be a separate issue from this one today. The conversation about the people -- Ms. Kitchen?

>> I think that it might be helpful for us, and I apologize if you put this in the memo, but I know that council adopts the legislative priorities and so I would assume or I guess my question is, while we're in the interim, I would think that we would also adopt what we want to focus on during the interim. So that's an item that would need to come back to council is what those issues are. I do think it's important for the council to provide, you know, the policy direction on what we would like our lobbyist to work on. And I know that we -- that previous councils have done that. We haven't done that yet for this council because of when we started. So I do think that in approving -- in approving the contract going forward for the important work that's done during the interim, I do think that we need to review the issues that are -- our lobbyist would be working on.

[10:27:00 AM]

So what is the timeline?

>> Mayor Adler: What does that come up.

>> Kitchen: What is the timeline for bringing that back to us, the list of issues for us to adopt for the lobbyist to work on during the interim?

>> I think previously, according to the previous director of governmental relations, he generally started meeting with the council I think sometime in early next year.

>> Kitchen: I'm talking about during the interim. If we continue with our lobbyist that's now. So I would think that we would need to do that sooner than next year. Unless what we're talking about is not hiring these lobbyists until next year.

>> You know, I just don't have any experience with the interim. And so -- I think that I would have to leave that to Reyes and I would be gone.

>> Typically as you know councilmember, interim charges are released in January, both in the house and

senate. We have also done some intelligence that the lieutenant governor is thinking about releasing them even possibly in October and started releasing them after that time. So I could probably, as they are released, I can let you know what -- what issues they might be working on. We have been told that revenue caps will be part of the interim charges, the vested rights, tree regulations, municipal utility relocations all of those are probably going to be ripe for study by interim committees.

>> Kitchen: I --

>> I was just reminded you can bring forward the issues that you want to work on
[multiple voices]

>> Kitchen: May I make my suggestion.

>> Mayor Adler: Yes.

>> Kitchen: Here's my suggestion. I think that this fall the proposal or whatever you want to call it should come back to the council for approval and so that this council can weigh in on anything that our lobbyist or anything and everything that our lobbyists are working on. So -- and, you know, this is traditionally a down time, this fall, after the -- after the session. But I think it's important that we -- because our council, because of the timing of when we started, we weren't part of the discussions for the previous.

[10:29:02 AM]

So I think it's important that we weigh in this fall and that we weigh in before our lobbyist continue working on issues.

>> Absolutely.

>> Mayor Adler: Just want to make sure that we set that and bring that back to council sooner rather than later for the [multiple voices] Same reason that Mr. Zimmerman was asking. So that we can as a new council adopt our legislative agenda.

>> Absolutely.

>> Okay, Ms. Pool.

>> Pool: Mr. Berra thanks for coming and talking to us about this and Ms. Cannard, I would be interested in proposing that the contract going forward align with the legislative session so that they would be a two-year contract. Sooner rather than later to look at the issues that may bubble up at the legislature, keeping a close eye on what's going on there. There's new leadership at the capitol and we're just not settling into our work here just as they're settling into their work there. And I think it's really important for us to have our hand in and monitor very closely what's going on. I would like to bring back up for council consideration the ad hoc committee on legislative governmental affairs that we had talked about early on in our discussions on committees and at the time we were looking at a committee that the mayor would chair, if he would be willing to do that and would include generally the people who have some experience working at the legislature. And I think there are four or five of us here on council who have that background. So there's a lot of institutional knowledge and experience right here in this body that may help advance the city's interests in a more -- in a more robust way in the next session. I think there's a lot of interest in different members of council appearing to do testimony. I will urge that if we do testify as in our official capacity, that we reflect the agreed upon position of the city on any legislation that we happen to be testifying on.

[10:31:11 AM]

What we testify on as private citizens is a different matter. But if we are going there in -- in the position as an elected official for the city council of Austin, then we should all agree that our testimony will be in support and furtherance of the interests of the city that have been collectively agreed upon here with the council. So to your contract would be -- would be a -- a thought to look at. There may be some

reasons why you can't do that but I would like to look at that. I would like to kick start the ad hoc committee of the council with preferably the mayor chairing it. I would really like an opportunity to meet with our lobby team at some point and I know we are looking at a lobby team locally at the state level and then we also have interests the federal level. So it may be an opportunity for us to get to meet and greet the folks who are working for us in these really tricky, sometimes delicate but highly important matters.

>> Absolutely. We can go ahead and make those meetings available. I know that our Washington D.C. Lobbyists are looking to meet sometime this fall and looking to meet with you about your policy priorities as we try to come up with our program for the next session of congress.

>> Mayor Adler: We're going to have a hard stop at this meeting today, but I have taken note and will bring back to the council the question of the legislative stuff with respect to the ad hoc committee with respect to our legislative agenda and with respect to the protocol for testifying as well as anything else that you all would get to me I'll make sure that it comes up. Ms. Tovo.

>> Tovo: Thanks, I know that we've talked about this before. I also want to just say again that the development of the legislative program is iterative. If we are bringing forward issues that might be before the legislature during the next session or during the interim, it would be appropriate to have a clause in there saying please add this if you are bringing forward a resolution that's related to one of those issues, to also suggest to staff or direct staff to include that within the legislative agenda. That's part of how they build it based on the resolutions and the council positions that have been adopted.

[10:33:29 AM]

We should all be thinking through that as we before forward resolutions to the council to consider whether it's appropriate to add that clause so we can start building that body of policy statements.

>> Mayor Adler: Anything else on this, Ms. Troxclair?

>> Troxclair: Can you tell me, in addition to having an in-house government relations staff and hiring the contract lobbyists, we also I guess are members of Texas municipal league and other organizations like that, that advocate on the city's behalf?

>> That is correct. They advocate on behalf of Texas cities, correct.

>> Troxclair: So do you know how much the city spends, membership fees for tml or how much other money we're spending besides the people on this page that do work on the city's behalf at the state level?

>> I'm not aware of what our membership fee is, but we can get that information to you.

>> Mayor Adler: Okay. Thank you very much. I'm a little concerned about our time getting through this. So I'm going to call up the briefing now on the annexation. To make sure that we have that handled.

>> Zimmerman: Thank you, Mr. Mayor, quickly as an FYI, we have gotten a little more information on item 83, which is a district 6 zoning case. That's a Mr. Robinson, I think that owns that property. If I -- I had a conversation with him yesterday. He said that he flew in from Salt Lake City last week thinking that item would be heard because of course you know we had the budget sessions come up and so he had asked me if he should fly back in from Salt Lake City for item 83. The council that we would be hearing item 83? Is that our expectation? For Thursday?

>> Mayor Adler: I think that is our expectation.

>> Zimmerman: Thank you.

>> Mayor Adler: Greg, there's no reason that you know that 83 isn't going to be heard, do you?

>> We're ready if you are.

[10:35:29 AM]

>> Mayor Adler: Okay. Why don't you go ahead and give us the briefing on the annexation. Thank you.

>> Good morning, mayor and council, my name is Virginia Collier from the planning and zoning department. I appreciate the opportunity this morning to talk to you guys about municipal annexation. The purpose of today's briefing is to provide you with background about Austin's current practice and overview of municipal annexation in Texas and also to preview the areas proposed for consideration as part of the 2015 annual annexation program and other scheduled annexations. I urge you not to lose sight of the big picture. However as you know the city is in the business of providing municipal services and so continued annexation along with the management of growth and development in our etj is essential to the future well-being of the city. The comprehensive plan states that the city should continue to maintain its annexation program in order to expand land use and development regulations to the etj, to protect and expand the tax base by maximizing the -- broadly distributing the cost of services that benefit both city residents as well as the region, to more efficiently deliver public safety and utility services or make improvements in areas with aging or substandard septic system and then also to provide municipal services to developing and urbanizing areas. Discretionary actions including the consent to the creation of special districts, which would defer annexation such as municipal utility districts and public improvement districts as well as requests for concept to incorporate or release portions of the city's etj should be carefully considered and the stated goals and objectives of the comprehensive plan and the adopted policy to protect the integrity of the city's etj. Fully [indiscernible] Development in the etj in future annexation. Back when cities began annexing with little state oversight. As Texas became more urbanized, municipal annexation practices were extensive and inconsistent and so the municipal annexation act of 1963 created procedures and limitations for municipal annexation and defined the area surrounding the city limits as the extra territorial jurisdiction.

[10:37:41 AM]

This is the area where the city is authorized to annex land. Over time requirements have involved and restricted the city's authority, today the etj includes the blue area, all of the unincorporated land within five miles of the city limits extending into five different counties. As you all know Austin is -- Austin has been able to provide vital services and essential infrastructure to developing areas by using annexation tools that the state has provided in a responsible way. Depends on the cities ability to continue to expand its tax base and increase efficiencies in the city's service delivery. As a home rule city, Austin is able to annex without the consent of property owners, however the process becomes more complicated with an area proposed for annexation contains more than 100 homes. The areas that are being recommended this year as part of our annual program are considered exempt from that three year process, however, municipal service requirements are the same as I've described here on this slide. In compliance with statutory requirements, a service plan is adopted with each full purpose annexation ordinance and includes three main components, first is the early action program which includes services that will be provided in an area commencing on the effective date of annexation, such as police and fire protection, emergency medical service, solid waste collection and the operation and maintenance of infrastructure. The additional services section of the service plan includes those services not required by state law, but which are available city-wide, such as watershed protection and development review, health and human services benefits, the city's clean community and anti-litter services and then finally there's a section which lists capital improvements that would be required to provide any municipal services to the area. So on this little map here, the outlined areas in pink are recommended as part of the 2015 annual program. As is part of our standard practice, city staff and multiple city departments reviewed these areas and provided feedback that allows us to recommend these as suitable for annexation at this time.

[10:39:45 AM]

An upcoming public hearings I will describe each of these areas in more tail and we can talk -- detail and we can talk about these areas individually at the end of this presentation, however in general these areas are mostly undeveloped with approved plans for future development. These areas can be economically served with existing and proposed infrastructure and services or they will be provided with services and utilities through coordinated utility and capital improvement plans. These areas do not require immediate one-time additional costs from city departments. And where possible, the proposed areas are intended to fill in gaps or doughnut holes in the city's existing jurisdictional boundaries, it is not our intent to create further gaps in boundaries, however when we annex the patterns of new development, sometimes these gaps emerge. In some cases it might be an inefficient use of city resources to extend the city limits at the time newly developed areas are being constructed. So after additional infill occur, it might make sense to consider a larger area for annexation. When considering annexation of large developed areas, or if there's a substantial expense associated with providing a municipal services to the area, we look carefully at expenses and the economics. Estimated revenue and requirements associated with annexation of a particular developed area can be used to develop projected cash flows and compare areas to one another. The financial model that has been use understand the past is an analytiscal tool for assessing the ... However, it is important to keep in mind that this analysis is not intended to predict exact costs or revenue. And in fact that model has been proven ineffective if applied universally to all proposed annexation cases when areas are undeveloped or sim police tick and lack -- simplistic or ... However overall the model shows that the city, as long as we do not incur significant capital expenses, the annexation of a particular area is revenue neutral. When the city does incur major capital expenses such as the extension of wastewater service or the construction of a fire station or a library, the model generates a negative result.

[10:41:50 AM]

However, the model does not benefit the -- does not reflect the benefit of that capital improvement to areas that are already in the cities and would also benefit from that improvement. Given economies of scale in the long term, staff expects annexations to pay for themselves without adverse affects to the rest of the city's taxpayers. After council set public hearings for this year's areas in August, staff mailed the notice similar to this to all of the property owners and service providers have received calls back from several of those regarding the two public hearings that are schedule understand October. Ordinance readings would follow in November. State annexation laws are very specific in regard to the procedures that must be followed in order to annex territories and the city does not have a lot of flexible between the ... Also I wanted to mention that later this year, as part of previously approved strategy partnership agreements between the city and certain municipal utility districts, staff will bring forward for council approval an ordinance that would bring one out parcel within the pilot knob project area into the city limited purpose jurisdiction within the balance of that mud and then also in November, in accordance with the terms of the strategic partnership agreement between the city and the lost creek mud an ordinance fulfilling the remaining requirements that would result in the conversion of that mud to a limited district and bring the remaining portions of that mud into the city's full purpose annexation. If you would like, I can go over in the next several slides the areas that will be presented at upcoming hearings or I will be happy to answer any questions that you might have at this time.

>> Mayor Adler: Thank you. Ms. Gallo?

>> Gallo: You did that very quickly, thank you, but it was good. Could you tell me on page 10, which is your timeline, are the set public hearings and public hearings, when actually in that process would the

notice go out to the property owners?

>> So after council set public hearings August 20th, on I believe it was the 25th, just a couple of days later, we mailed out notice to 97 property owners.

[10:43:52 AM]

The public hearings would be two separate council dates and those are just open to public hearing, listen to staff comments, listen to the residents and close the public hearing. There's no act taken at either of the public hearings. And then we would have a separate council date scheduled for ordinance reading.

>> Gallo: Once again the notice date.

>> August 25th.

>> Gallo: August 25th. So -- so what is your process now that -- that city staff has moved into a -- into a thought process of making sure that the council members from the particular districts are involved in this process, what is your process for making sure that you have -- you have notified in advance and have brought the councilmembers for the districts that you are doing these potential annexations in, how are we

>> I think we were going to talk about that today. We had that date on our schedule so if you would like to we can talk about the individual areas today.

>> Gallo: I guess what I'm ask about is more of a process -- obviously we want to have the discussion today because the process hasn't happened and we haven't pulled into the notice that's been out on the 25th. I think what I'm asking is I want to make sure that moving forward there's actually a process that pulls the councilmember in that particular district into the process early before any notification or any publicity goes out to the community because what happens or what has the potential of happening is we get calls and are not aware that it's going on.

>> Councilmember, Greg Guernsey, planning and zoning. I think given this is the first year for you to bring this through, what we can do in the future is actually come to the different offices and mange sure that you're aware of where we're intending to go. I think this was brought up when we had set the public hearings, that this was a shock to some of you that you're kind of finding out some of the areas that we're coming in, but I don't think staff can make that information availability before we get to the point of setting.

[10:46:01 AM]

The hearings have been set, notice has gone out, as Virginia said, her and her staff has already spoken to some of the people who live in these areas or own businesses in these areas. The two public hearings coming up are the ones that we have all the input. We have the slides, additional slides that Virginia did not show you that follow in your backup that go in more detail of where these areas of. And between now and perhaps the first hearing if there are some questions that your office has you can submit them or we can meet with you and discuss them in detail.

>> Gallo: On your map on page 7 you have green and red. And the green stands for which one and the red stands for which one?

>> The red is are the ones in this area. The green are those municipal utility districts that we currently have strategic plan agreements with.

>> Gallo: So if there is a red area in one of our districts, then that means that they are part of the 97 notices that have already gone out.

>> Mayor Adler: Yes, Ms. Troxclair?

>> Troxclair: If I understood you correctly you said that this year's plan I guess is a cost neutral. Is that

what you said?

>> I was saying generally when we run the model for annexation areas when you take into account the expenses that the city incurs providing services to areas, the offset revenues with taxes is normally -- is normally neutral.

>> Troxclair: So I guess my question is when -- because I guess lost creek and shady Hollywood and river place -- shady hollow and river place were part of previous plans.

[10:48:03 AM]

>> I was highlighting that these are other areas that we have scheduled for future years. Lost creek is 2015. River place is 2017 and shady holly is 2020.

>> Troxclair: The annexation of lost creek is something that we're approving with this plan?

>> The lost creek mud is being annexed as part of a strategic partnership agreement so the commercial portions of that mud were brought into the city limits early on in the agreement and the residential portions are what's coming in under that agreement this year. There is a tract that the mud is in two separate pieces so the golf course connects the pieces in the middle. You will see on the list the lost creek connector piece, that's the area that's part of the annual program because it's not technically within the mud's taxing boundaries, so it's not subject to that agreement. The lost creek residential areas being annexed as previous decision that council has made in the past.

>> Troxclair: So when that decision was made -- this is what I was getting at. When that decision was made, was the representation made that that was a cost neutral decision or was the representation made that we would be investing additional resources for police, fire and E.M.S.?

>> There were a lot of trade-offs in that negotiation. The lost creek mud initially started as one of the three year annexation plans and through conversations and discussions with the mud board the effective date of the annexation was extended out and the commercial was moved up. So I think when you juggle all the negotiated terms it turned out to be of benefit to both the city and the mud with the resulting strategic partnership agreement.

>> Troxclair: I guess I'm asking specifically about these two areas in my district, but it's also a more global question because these two areas, shady hollow and lost creek, are also two of the areas that have been identified as two of the slowest response times for our fire services.

[10:50:05 AM]

So I'm trying to understand the tipping point where we as a city when we make the move to annex -- these two communities are large communities with a lot of houses in them and a lot of people there. So at what point do we say -- do we look at our public safety coverage maps and say we need to -- before we make this annexation decision we need to do it with the knowledge or with the commitment that we're going to spend \$15 million to build a fire station out there?

>> Councilmember, we do take in public safety. In the case of shady hollow I know our fire department actually worked with the esd down there and the fire services down there so we jointly designed that station with the anticipation at some point that we would actually take that over. It is a very high priority. One of the annexations that I think we have on today that's by 183-a towards cedar park, a decision we were actually requested because of the concern over public safety. Who would be responsible in this stretch of 183-a, would be responsible for taking over an emergency service. So that it being brought in. So there's clear designation which department or which city we would call in case of an emergency service. Public safety is very relevant to what we do. We have reciprocal agreements certainly with those communities that surround us that we will provide aid to them if they -- if they need it. And we may be the first responder in some case. We have a little bit more equipment perhaps than

some of those smaller departments that surround us, but we do have that responsibility. Police certainly then would come in when we have full purpose annexation into the areas, it would no longer be the sheriff's department, so the response times may be different depending on areas. But -- I believe that discussion probably is between us and county.

>> Troxclair: It doesn't sound like there's a specific benchmark that says we're annexing an area with 5,000 people and response times are already 10 minutes, we need to -- it doesn't sound like there's specific, yeah, benchmarks or criteria that trigger additional public safety resources.

[10:52:20 AM]

You just evaluate each on a case-by-case basis.

>> I think I can add to that, that in exchange for giving the city council the ability to decide when and where to extend their boundaries, the the state law requires certain things are required. Public safety is included this that list of services as they're provided elsewhere in the city. So we consult with the different service departments, the police department, the fire department, when we propose these areas and say is this an area that you can serve? And they say yes or no or whatever. And so that's the reason why we feel like bringing these areas forward is good practice for the city.

>> Troxclair: Thanks.

>> Pool: I don't know if this is a question for all or with our -- or with our C.I.P. Staff. I don't know if anybody is here from there. In 2012 there were a number of fire stations requested through the bonds process, but one was selected based on need and the constraints that the bond committee had with regard to how much money -- how many projects in the dollar figure for that bond. Do y'all remember that list?

>> I know that they always have a long list of areas, especially as you annex around the edges of this city there's not the overlap in service, particularly for fire stations that they realize, you know, in more central areas of town, but I do know that there are several stations that they had requested.

>> I believe the station that is most recent was down by onion creek and that certainly provides more aid in that area and would actually assist the city to annex additional land as it becomes developed in that surrounding area, so we would expand to encompass those areas. That's planned for by our fire department and we look closely with them as far as getting response times down. So yeah, those are critical things and they are programmed in the capital budget.

[10:54:27 AM]

>> Certainly the fire department would be the experts in terms of responding to specific questions. I can say generally that fire department does keep track of its response times not only in the city boundaries, but also in partnership with the emergency service districts. They do keep track of response time. So they have a plan that takes a look at where the response time isn't as good as it should be. And the challenge is that typically what happens is you have to go out for a bond program, as you've just mentioned. I think in the last one that went up there were six stations identified, of which only one, I think onion creek, was the one that was successful in getting funded. So fire department does keep an eye on that. They do have recommendations and in fact through the process we do intend to come forward with some recommendations midyear on how we might improve service on some of these areas, including shady hollow and so forth. Just generally we understand the requirement. It's very difficult to get these funded as we do -- I guess I would characterize smaller annexations because there isn't necessarily the large demand, yet after time, after a period of time you get these smaller ones that start to add up. So we need to be able to address those in terms of service delivery.

>> Pool: And generally how much does it cost to put a new fire station? I suppose it depends on the

topography and the size you're building, but it's hundreds of millions of dollars, is that right?

>> I wouldn't say hundreds of millions. I can get back some information in that regard.

>> Pool: I think that it was the sticker cost that kept the last bond committee to picking the one that seemed the most strategic, given the other pressing needs of the city and the community input that was received during all of the town halls and stakeholder meetings and there was a concerted effort to gather in all that information to make those decisions. But I'm sure going forward for our next bond election we will be looking at that list again and reassessing it and making some new decisions on where to put our fire stations.

[10:56:38 AM]

I think east of town councilmember Houston has talked about needing a fire station on the eastside as well.

>> Mayor Adler: Okay. Anything else on annexation? Thank you very much.

>> Zimmerman: Thank you. So to -- I think I can answer councilmember Gallo's question about process. There is a process. The process is constituent staff decides to annex and the city council votes yes. It's a two-step process. Can I ask when was the last time the city council voted against an annexation that was brought forward by staff? And I don't know the attendance that, Mr. Mayor. When did city council ever vote against an annexation?

>> Councilmember, I'd probably have to get back to you. It's not something that we bring to you lightly. There are usually actions taken by the property owner that would spur us, staff, to move forward and suggest the annexation. If there's a large preliminary plan that gets approved where we see there's lots of houses that are going to go up or commercial development going to occur, then we would look at that area as being identified as one that we would annex. Sometimes annexations that we bring forward are requested of staff, that we have citizens that live in a place called Ewbank acres on the near northside of Austin off 35 and they had failing septic systems, on they come to us and asked that. But no, I can't think of one off the top of my head. I know council has directed us to go certainly do and look at annexations, perhaps like f1, for instance, of bringing those properties into our jurisdiction. I can't think of one --

>> Zimmerman: Mayor, I'm other -- [overlapping speakers]. I have a follow-up question. If 100% of the property owners who were opposed to the annexation, 100%, 51%, but if 100% said no, would that stop the annexation?

[10:58:43 AM]

>> No, not under state law.

>> Zimmerman: Thank you.

>> Kitchen: Councilmember Zimmerman, I appreciate you bringing up these issues, they are important, but could we please stick with what is within staff's responsibility? I just don't think it's appropriate to ask them questions like when was the last council go against something they recommended? That's not in their purview or their responsibility. We should know that.

>> Mayor Adler: Ms. Tovo?

>> Tovo: I thought I remembered one. I thought there was one in 2015 or 2014 where the initial plan was to annex them and then it was a limited purpose annexation. Was it maybe estancia. I think there may be an example where through the course of the discussions the city decided not to purpose annex them.

>> I could give you a couple of examples. The cascades mud the staff had recommended full purpose annexation and in Hugh of that the council will a mud. And the same with estancia, you're correct.

>> Tovo: Thanks.

>> Mayor Adler: Anything else on annexation. Thank you very much. Let's have the briefing on cemeteries.

>> We have planning and zoning coming in at 1:00 so they want us in here at 1:30, 1:45.

-- 12:30. Do we have until 12:30 in this room? It's 1:00 in here.

>> Planning is in here? The planning and neighborhoods is in here?

>> The str. I would suggest that it be in the council chambers.

>> Not the planning council meeting.

>> [Inaudible].

[11:00:47 AM]

>> Mayor Adler: It's not in here. We have the planning committee meeting that's happening, that people will have to leave for. Talk to us about cemeteries.

>> Hello, how are you. Thank you for having me, mayor. Mayor pro tem and councilmembers. My name is Kim Mcknight. I'm a planner with the city of Austin parks and recreation department. It's my great pleasure to be here today to present this briefing to you. It was requested by our city manager. He thinks it's a important plan and wanted it to come to you before Thursday. Consequently councilmember Zimmerman has also requested this be pulled from the agenda so I hope I can clear up any questions you may have and we're happy to be here. If you could allow me to say a little bit of the framework and I will be mindful of your time in going through the history of our cemeteries, but if you could allow me to kind of set up a little bit of framework for this plan, our city manages five historic cemeteries that comprise more than 60,000 burials. We are entrusted by the families of the descendents to care for these sacred places and the cemeteries are indell I believe parts of the neighborhoods in which they reside. You should know that cities throughout the country are struggling with issues related to historic urban cemeteries. Particularly historic cemeteries. The American population as you know is increasingly mobile. And few families are likely to remain rooted in the same community for generations. Fewer family members may remain near the cemeteries where their parents, grandparents and ancestors are buried and at the same time cremation is quickly becoming a preferred method for the disposition of human remains. As a result many of the nation's oldest cemeteries, both public and privately owned, have been largely abandoned by the communities that they once served and local governments faced with limited budgets understandably find it difficult to prioritize cemetery upkeep when the needs of living residents are pressing and immediate. Faced with such challenges those who manage and advocate for these historic spaces are reimagining cemeteries roles in the community and finding ways to creatively engage citizens.

[11:02:58 AM]

So this is our cemetery master plan which provides a long-term framework for the management of our five cemeteries, which are managed by our parks and recreation department. They're oakwood cemetery, oakwood cemetery annex, plumblers cemetery, evergreen cemetery, all within district 1, as well as Austin memorial park cemetery in district 7. The process has been very lengthy. This is just -- on a personal note I want to let you know that it's been probably one of the greatest projects of my life as somebody who is invested in public service. We've been working with the cemetery advocates for several years to get to this very important week, which is now. This -- we had already planned on doing a cemetery master plan when a committee of our parks board convened a special working group to look at issues related to cemeteries. At the time the cemeteries were managed by a contractor for about 20 years. As a result of some of those working group meetings we had clear direction on the master plan

and the city of Austin parks and recreation department took over active management of our cemeteries starting on April 1st of 2013. We immediately got to work on developing a scope of work, unlike some master plans where you develop a scope of work and then you engage the community, we had six meetings with the community just to form a scope of work. We recognized that there were few plans in the country that served as precedents for what we wanted to do. I hope you will see in your packet that even before the plan has been passed the process and plan are garnering for national attention. We have an article in the September issue of landscape architecture magazine and the national online journal next city. Once we had a very qualified consulting team on board we had five meetings with the community. We had meetings all over the community, you will see in different parts of the city, different days, different times. We posted the draft for review.

[11:05:00 AM]

We had eight weeks for the community to review. We posted it again with hundreds of revisions. Requested by the community. We went through a boards and commissions process which was that nearly I think about 10 meetings, including all of the boards commissions, as well as all of the open space committee, which supported the plan. In addition to the public meetings, we employed a variety of public engagement tools. We're so fortunate to have some great technology like speak up Austin and great websites, but for a plan like this we really resorted to some very traditional and I would say old school tools, such as stakeholder interviews with 25 individuals, reaching out specifically to the Austin neighborhoods council, save Austin cemeteries, the African-American cultural heritage district. So I just want to point out that when you're working with cemeteries you're dealing with people who may not have access to websites or email. And so put Persian Gulf News letters and -- so putting news letters and senior centers and libraries became a critical part of our engagement strategy. The structure of the plan is simply -- it's actually more than 500 pages so it's not quite so simple, but it's structured such that you have overall context for how cemeteries came to be in our area and how the city of Austin thought that was an important function of government. You have individual recommendations for each cemetery as well as general recommendations and then you have a section that deals with things like emergency preparedness, programming, funding, regulations and laws. I won't go over all of the minutiae in terms of the recommendations, but suffice to say the plan makes some really great recommendations that relate to rehabilitation, tree care and maintenance, visitor amenities, site furnishings, all of the things you could imagine we deal with in a parks department. In addition, we're very proud to have partnered with the urban forest premr. Renteria issue. Fund of planning and zoning and you are urban forestry department to fund an additional part of this plan, an extensive tree survey.

[11:07:05 AM]

We surveyed more than 4,000 trees in our cemeteries for location and condition and this became a great part of the plan and it's something we haven't done enough in our parks and recreation department and hope to do again. Very quickly, the recommendations for all of our cemeteries speak mostly to tree care, maintenance, preservation. Oakwood cemetery and oak wood cemetery annex date to some of the -- are very, very old cemeteries. Oakwood cemetery is the oldest municipal cemetery in our county and dates on the very platting of our city. Some of our most important residents, leaders in our city are buried there. I can't emphasize how important all of these cemeteries are. Plumme Ares is behind the rec center and was the last that we wired as a city in 1955 with the purchase of Givens rec center. This is a traditionally African-American cemetery and if you've not been there I recommend you take a trip. It's very special and contains some of the most amazing works of art in times of the funary monuments. It dates to a time where the cities purchased separate land so that our African-American

citizens would be segregated in a final resting place. So it was not enough to be segregated in life, it was thought that there should be segregation in death. Around as a result I would say the only silver lining is we have some of our most prominent leaders in our community are buried in this cemetery, their final resting place. Some of the most important civil rights leaders in our community and we were very proud to work with members of the Austin community to identify how significant the cemetery really is and we're going to be working very hard to tell that story to the rest of the Austin community. Austin memorial park cemetery along with evergreen are the only two of our five cemeteries that have additional space for burial. Three of the cemeteries are essentially full. Austin memorial park cemetery is the one that you will see as you are driving north on mopac and about to pass 2222. You look over to the right and there's a large cemetery.

[11:09:08 AM]

Many people are surprised that this is a public cemetery. It dates to 1927, but the city purchased it in 1941. Probably the most exciting thing about this aspect of the plan is the development of what we call a columbarium, which is essentially a wall with a niche for cremated remains. We feel that this remains will provide some needed and requested options for the citizens of Austin as well as provide a new revenue generating source of income for our cemeteries. We also would like to repurpose some old buildings that are historic that are currently used for maintenance to create enhanced visitor facilities. Again, finally, the final part of this plan kind of deals with everything else. The only thing I would like to touch on is our recommendation to encourage active programming and educational and historic programming in our cemeteries that are no longer receiving burials on a regular basis. The citizens of Austin are funding all five of our cemeteries through cemetery bond and through general revenue that subsidizes some cemetery operations. And a trend throughout the country and something we think is important is providing all the citizens of Austin an opportunity to learn about our cemeteries through educational programming that is obviously appropriate and respectful. And so we have -- it's probably that aspect of our plan that's garnering the most publicity and attention in addition to the articles that I passed. We will be featured in an upcoming book within about a year about programming and cemeteries and some of our recommendations related to that aspect of the plan. We've been through a pretty extensive boards and commissions process. The plan has been recommended by every board and commission that we've been to. There have been a great deal of public input and boards and commissions have listened to the public, made some additional recommendations and I'm proud to say that every single recommendation from the boards and commissions has been incorporated into our final plan.

[11:11:09 AM]

And in terms of our next steps when we finish a plan, any kind of a master plan, the city usually creates an implementation team to ensure that these plans are acted upon. So we are in the process of doing that. We're going to be looking at some of the governance recommendations that are included in the plan in terms of opportunities for additional citizen oversight. We're going to move forward with historic designation for the cemeteries, evergreen in particular is clearly historic and should be recognized through the national register process. We'll continue to explore opportunities for partnerships with some of our groups that are already doing that, specifically educational historical programming. And we'll continue to look through -- to work with our entire staff to develop strategies for funding some of these recommendations. We're still working on implementation of the 2012 bond. We'll be lining up our next bond. We think there's a tremendous opportunity to garner grant funding and creative partnerships. And so that would be our next steps. With that I welcome your questions. And before I -- I

neglected to introduce some really important people. Let's see here. I've got Ricardo Solis, the division manager of planning and development at parks and rec and Curt Scanland is the manager for parks and recreation. Thanks for being here.

>> Mayor Adler: That's quite a complete presentation. Thank you. Ms. Houston.

>> Houston: I just want to thank Ms. McKnight and the folks at parks and recreation. They did an outstanding job engaging the community and making sure that people were aware of when the meetings were and they listened and they took notes and they did not change what people were saying about how much they care for their cemeteries. So you did an amazing job. Thank you so much.

>> That means a lot to us. Thank you.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Some of these things are obviously mutually exclusive choices you have to make in a plan.

[11:13:14 AM]

One that's had some contention is the north entrance at the Austin Memorial Park. You understand that one. So I guess you can't have a north entrance and not have a north entrance. These are mutually exclusive choices. So could you tell us how that conflict went in the direction of a north entrance as opposed to not having a north entrance?

>> So your question, just so I can make sure I understand, are you asking why we're requesting or why there's a recommendation for a secondary entrance at Austin Memorial Park?

>> Zimmerman: Well, yes, but part of the process is somebody says hey, it would be a great idea to have a north entrance for a variety of reasons. Other people come along and say I think it would be a terrible idea to have a north entrance for all these reasons. But obviously you've got to go one way or the other. So it looks like you are proposing adding, right, a new north entrance?

>> So I'd be happy to answer your question. As a -- Austin Memorial Park Cemetery is the hub of our cemetery operations for all five of our cemeteries. To that end it has all of the maintenance, equipment, trailers, Curt Scanland could probably speak more expansively about the amount of heavy machinery and trucks that come in and out of our cemetery. In addition we have vendors that bring concrete vaults to our cemetery, head stones to be set, large machinery for burials, et cetera. We currently have one visitor entrance. At our other cemeteries such as Evergreen and Oak Wood we have more than one entrance. So in looking for an additional entrance, we have an issue which is that we have a lot of graves at Austin Memorial Park and not a lot of opportunity to create that additional entrance exit. As this is concept plan for five cemeteries, the recommendation is to, I -- I don't have the exact language, if you are going to need a second access, which we do believe we will, because we are relocating a maintenance yard to the northern end of the facility, look for opportunities to create a north access. We own, as a parks and recreation department, as a city, we have land to the north at Northwest Recreation Center.

[11:15:20 AM]

I want to be clear any kind of a design process would go through design development which would include a large amount, community engagement, we would be subject to land development codes. At this point it's a concept. We did feel strongly thatting come sent needed to be in the plan because of the business needs of the cemetery. I also want to add when I was at the cemetery a couple of weeks ago, there was a funeral taking place, there was EMS and fire came, it's not unusual, older people, it's hot, it's not uncommon for there to be distress at a cemetery. They came into the cemetery. Had there been an accident or some kind of an issue, we do believe there are public safety implications in having only one

entrance and exit. We do feel like this is a good recommendation, it would need a lot of work to happen, it is something that our staff and the master plan team felt it was in the best interests of the visitors. Moving this big maintenance yard to the north end of the cemetery frees up the area. That's how that recommendation, there really aren't a lot of options to put an entrance-exit somewhere else.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: Thank you for the work, the concerted effort that everybody put in for this back in January I came to the first presentation where this was rolled out. And I didn't even know how comprehensive of your work and your willingness to take all of the comments from the stakeholders, which is why we do this process, thank you for this effort. I have a quick question for you. The heritage status for evergreen, is there anything that the council can do to help support that? Or I as chair of the open space committee can do to forward that work with staff on seeing that happen.

>> It's a great question. We certainly have limited staff resources to pursue these things.

[11:17:23 AM]

We do feel like it's a very important part of our plan. What I will be recommending to our implementation team is that we work with some of our volunteers, with staff support, to first complete what we call national register nominations. We feel that -- that -- that that's a terrific first way to do research on the property. From there we can look at other opportunities, the national register is a great research tool that provides -- it's exactly what we need to do for those cemeteries. So I feel that we have the volunteer interest and the staff capacity to support the implementation of those recommendations.

>> Pool: Is Austin in a unique position to have two active cemeteries that are urban around the country? Is there something that's unique about that?

>> Well, you know, there are -- there are urban cemeteries all over the country. I think that we're among Texas cities that have -- we have more than 160 acres of green space that are essentially the final resting place for 60,000 citizens. That's a lot of green or open space cemetery space that we're dealing with. So I will tell you that we are getting calls from all over the country from parks and recreation directors, other folks that are interested in looking at our scope of work, talking to us about the planning process, we've been engaged specifically I'll be speaking at the Texas American planning association specifically about our engagement tools for the African-American community along with two other panelists. So we are getting a lot of interest in how we are bringing all of this -- awful the cemeteries to a level playing field an recognizing their rightful place in our city's history.

>> Mayor Adler: Thank you very much, thank you for the presentation.

>> Thank you, we appreciate it.

>> Mayor Adler: Those are our briefings. We'll be go back to the items. Mr. Zimmerman pulled number 35, which was a 60-month lease renewal.

[11:19:24 AM]

Is there a second person that wants this to be discussed? This would be item no. 35. Okay, Ms. Troxclair, is staff here to speak to item no. 35. Mr. Zimmerman, you want to start us off.

>> Zimmerman: Thank you. Yeah, this could be quick. Just some clarification on

-- I was told that we were using city hall as an overflow for the downtown community court and that that was the reason why we had melts detectors out -- metal detectors out here by the door. Are we having any downtown community court here at city hall?

>> We do conduct, good morning, I'm peter Valdez, the director the community court. We do have bench trials once a month here at the city hall currently.

>> Zimmerman: Okay. This proposal here, item 35, if this were passed, then would you consolidate all of

the court overflow at this new location on sixth street?

>> It's the same location we're currently at.

>> Zimmerman: Okay. Well, then would that provide the space that you need so you can remove the criminal court from city hall?

>> Space limitations are just one reason that we are conducting trials here. When this new building was opened, the city manager's office asked us to work with them, it was decided that we hold some hearings here at that point. It was considered for us to do arraignment dockets here and eventually evolve to just doing bench trials once a month here.

>> Zimmerman: Okay. I'm trying to understand why is that being done? We have a municipal court, we have another building. We're being asked for quite a bit of money for this. So why couldn't it just be consolidated, take it out of city hall? City hall is not a courtroom. It's not a court building, right?

[11:21:25 AM]

>> Again, it was a decision that the city manager's office made at that time when this building was opened.

>> Zimmerman: So council didn't pass that policy that the city hall was going to be used as an overflow courtroom?

>> Mayor.

>> Zimmerman: Trying to understand this --

>> Again, Mr. Zimmerman is questioning staff at a level that really should be handled at the dais. I would like to say that I appreciate the fact that we have certain types of cases being held and dockets held in this building, it is as much a public building and serves as a good location for the folks who are coming to those dockets to be -- to see this building, for us to know that this is true here and represents a good uses of these civic buildings, a more expansive use, I have a much more expansive idea about how city hall can be used. It can also function at a courthouse. I will say that -- that my understanding is when we expanded the number of committees and the number of meetings, that we're having, that did tend to -- to make it harder for these dockets to be held in city hall and I would like to -- I would like to make a statement and if we need to have a resolution of some sort, I will be has epilogue to draft it up and -- I would be happy to draft it up and sponsor it to make it really clear that city hall can function and is uniquely qualified to function as a courthouse. If we need to make room for the docket, I would like to take whatever steps are necessary to make that happen. And to continue what we have traditionally done with city hall.

>> Mayor Adler: Okay. We're going to talk about this at least -- now would not be the time to tee up the conversation about whether or not this is used as a courtroom or not. We can certainly bring that issue back. Anything else about this lease? All right. Thank you very much, next item is item no. 39. We just had the question about the historic master plan, I think we can move past that, Mr. Zimmerman man. That gets us to item 69, which was the pay increase compensation to our appointees.

[11:23:32 AM]

We were approached on Friday by mark Washington with respect to this. I think this question of pay raises for employees is something that's traditionally I understand is covered in the budget conversations that we had earlier in the week. We missed just bringing that up. The question was whether or not we would circle back and put it on the agenda. I [indiscernible] Conversation on Friday, I thought it was going to be listed as an rca, I also said that I could find -- I'm sure that I could find three that would put it on the agenda so it could be requested at the request. We now have four sponsors for that. But the question is I had thought that the appointees were covered by the same 3% pay raise.

Apparently that's not the case. And that's why it's on the agenda, Mr. Zimmerman?

>> Zimmerman: I appreciate that. Also, I think this is a good time to ask about evaluations and how the council wants to handle evaluation of the city manager and I would like to see this item connected to the results of performance evaluation for the city manager.

>> Mayor Adler: With respect to the first issue, we talked about that earlier and I said that right after the budget that I would come back to council and I will, my hope is next week, so that that could be discussed by the council. What I will be bringing is -- is a copy of the ordinance that was handed out with the questions that were covered last time. Together with Mr. Spelman's letter that he made last time as well as the auditor's report. I will post all of those so everybody can see those. Our goal was to decide as a council on the basis that we would be -- what the basis would be for evaluating these folks and that we would set up those evaluations in February. But to touch base now with respect to the rules. The question that you are asking, which is do we wait for that time in order to address the 3% issue here, I think is -- is what is -- what is going to be before the council with respect to this item.

[11:25:45 AM]

>> Zimmerman: I would agree with that. I would like to see that evaluation basis done and let's go ahead and go through it before we approve this 3% pay increase. That would be my suggestion.

>> Mayor Adler: Any further conversation on this issue? Ms. Garza and then Ms. Pool.

>> Garza: Yeah. I looked up previous how this has happened in the past and from what I could tell, it wasn't done during the budget. It was done right prior to the budget and it was a resolution. So I just didn't want us to be -- I guess -- that's -- let's not normally done in the budget is my understanding, is that right?

>> Mayor Adler: Mr. Washington, do you want to come up and talk to us about this issue?

>> Thank you, mayor. In the past, there was a multi-step process that council would evaluate their appointees and just have the evaluation discussion prior to the budget delivery. In most instances, sometimes current with budget delivery much then they would have another point at which they would discuss the compensation, prior to the budget approval or in some instances, I do recall instances on the day other resolutions were read between like the last three days that we've had, sometimes a resolution specifically authorizing the increases for the appointees.

>> There were three consecutive years when the final resolution was done in August, which would have been before any kind of formal budget readings. I was just trying to understand how it was done in the past.

>> Mayor Adler: Ms. Pool.

>> Pool: What I would like to suggest, if we're going to do this, we need to do the evaluation on all of the appointments that we have, not just the one. I think that would be the fair and equitable way to manage and I think given or rookie year and rookie budget that did sort of push some things that we needed to do but didn't have time to get to them.

[11:27:55 AM]

What do you think about that.

>> Mayor Adler: I think it's fine. The way we're set up right now on [indiscernible] I think absent the council will being differently is that our formal evaluation of those four offices are going to take place in February. That we're going to have a conversation now about what the standardly be used so that everybody has several months to -- before we get to February on that and then we would then do that review every February. So that's the default that we're on. We're going to have that conversation about what the standards are within the next week or two. At -- it will be posted on to the -- to the bulletin

board so everybody can see all of the pieces, it will be set and an opportunity to discuss either publicly or in executive session to the degree that we're talking about individuals as opposed to practice, so probably be set both ways. That still begs the question of with respect to -- to this 3% as to whether we wait until February to do that or whether it's something that happens now or if we want to change the timing that we were otherwise going to follow. Ms. Houston?

>> Houston: Mr. Mayor, if I'm not mistaken, the five -- is it five or four direct reports are city employees, right?

>> Mayor Adler: Yes.

>> Houston: I don't know why we would not go ahead and extend that 3% to them and then if there's another step we need to do, then let's go ahead and do that on your time frame that you said that you would send us information. But they're city employees, so why would we deny them that 3%.

>> Mayor Adler: Ms. Tovo?

>> Tovo: We may have gotten information back in June, is that when we did this in executive session? I can't remember. But I think that you provided us with a history of those pay raises and it's not always 3%. Sometimes it's been five, sometimes it's been less.

[11:29:57 AM]

So that really has been pretty variable for those four appointees. But I take your point that maybe it shouldn't be, councilmember Houston. But at sometimes looking at the market it's actually needed to be more than 3% to be competitive.

>> We did brief the council in open session back in June on the evaluation process. But as we've discussed pay for appointees, either in hiring or looking at the history, there have been some years have point appointees have been given increases other than what has been approved for the workforce at large. But -- I think for the most part, most recent years, more consistent with what employees have been receiving on average.

>> Mayor Adler: From where I sit, in case anybody is counting, I guess my thought on this would be that the 3 percent to all employees in the city right now is not tied to merit. It's a pay raise that we're giving, so I would probably vote for the 3% for these employees, recognizing that in February I would want to have a real hard look at what each of those folks were making relative to the market and performance as part of that process. Ms. Gallo?

>> Gallo: You know, I think what complicates this even a little bit more, we seem to have a lot of complicated things today is that two of the positions were just recently hired and I remember as part of the discussion there was substantial increase from the previous pay and we will ask the question because I need to help remind myself what the offered pay was compared to the previous person holding that position. So I do think the fact that two have been in those positions for certainly less than a year may alter the conversation a little bit for doing something right now when we probably addressed or could have addressed the cost of living and salary disparity when we offered the hired positions their salary with their new contracts.

[11:32:05 AM]

>> Mayor Adler: What would have been, Mr. Washington, if there was a city hire that took place, not one of our appointees, a city hire that took place four months ago, would they be getting the same 3% pay raise all employees are getting?

>> The answer is no. Our implementation rules will be that anyone that's hired after April of 2015 will not be eligible for the across the board in October. So you have to be working here at least six months to be eligible. Beyond your probationary period.

>> Mayor Adler: Okay. Of our four employees, how many of them were working prior to April? And if they were treated like all of the city employees, which ones could get --

>> All of your incumbents have been employed with the city prior to April. I think even the acting incumbent was appointed the acting prior -- appointed acting prior to April.

>> Mayor Adler: So if these were regular employees, they would --

>> I'm sorry.

>> Mayor Adler: If these were regular employees, they would get the 3% enter.

>> Yes, sir.

>> We do have a new hire coming on.

>> Right, they would not be eligible upon starting, so you would just determine what their salary would be as you on board them.

>> Pool: Just for full information, the public safety committee looked at the hiring and will make a recommendation for the new full-time municipal court clerk. So that person will begin in October and it sounds like from Dr. Washington that that person would not get the 3% raise.

>> That's correct.

>> Pool: Okay.

>> Mayor Adler: Further conversation on this item? Ms. Gallo?

>> Gallo: I do just have one point of clarification. Help me with that. Because in the -- in your process of being here more than six months to qualify, how do you handle when somebody moves from one position to a higher paid position, do they have to have -- do they have to be in that higher pay position for six months or just the fact that they are already a city employee would qualify them?

[11:34:12 AM]

>> Their seniority with the city is what we look at, not necessarily how long they've been in a certain position.

>> Gallo: Okay, thank you.

>> Mayor Adler: Final question, Mr. Zimmerman.

>> Zimmerman: Thank you. Mr. Washington, if you could, item 69, 70 and 71, if you could just put the fiscal impact right in the note and show what the compensation is now and then break it down but group there's base pay, then there's social security payment, there's an employee pension payment. So there are some line items, right, so just kind of people understand what the compensation package looks like, could you put columns to show before and after the 3% raise?

>> We will work with the budget office on the fiscal note and see what we can do to accommodate you.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Mayor on the process that you outlined a few minutes ago, are you envisioning going forward if with he do adopt this, this week, then we would also have performance evaluations in February and -- and payment evaluations in what month are we in, September?

>> Mayor Adler: It would be performance and pay in February and I guess the -- and then in September we could decide whether they should -- we could also decide that question in February when we were setting pay. I have us getting together in February. The decision that we make in February in terms of when they would get paid or how they would get paid I think is something that we should discuss in February.

>> Troxclair: Okay. I guess that I will just assume when we had this conversation in June about how we were going to do our performance evaluations for these employees, I assumed that that conversation would happen before we made decisions about -- about pay raises. It just seems logical to me that we would have that discussion first. So I guess that I was caught off guard that this is on the agenda before we've had that discussion.

>> Mayor Adler: Where I kind of fall in between the two is that it's the concept of the 3% pay raise that we're giving to all employees now is not related to merit pay or performance pay.

[11:36:18 AM]

We didn't design our 3% pay raise that way. It just goes to all employees. So in my mind there was a difference in the conversation, in February, with respect to performance and merit and -- and market or whatever. And the 3% now. But that's obviously not -- not clear and it wasn't something that I think we discussed explicitly. We certainly did not discuss it during the budget process. And that's why it was important to put it on the agenda for -- for conversation.

>> Troxclair: So you are saying that the conversation in February about performance is not connected to how much -- is not or should not in your mind be connected to the pay raise --

>> Mayor Adler: No, no, I see that the conversation in February will very definitely be associated with both pay and merit pay and performance pay. What's happening, what we did last week with the 3%, was not something that was tied to merit or performance. The 3% pay raise we gave last week to city employees was just across the board. That doesn't stop any employee or supervisor from -- from looking at any one of their employees, I would think at any point in time, and making a recommendation that they get a merit pay raise associated with their personnel reviews, which I'm sure happened. In my mind, I could be wrong, Dr. Washington, in my mind those are like two separate tracks. There's the pay raise that is coming across the board and then there's a cycle that revolves around performance reviews and merit and the like.

>> That's right, mayor. Much like we're doing for the regular employees, across the board essentially is to address some of the cost of living issues, health insurance, and other issues. We have a separate study that we're going to implement later on in a year from market pay for the regular employees to determine how competitive they are for the market and if you consider your appointees in that same process, this is just a general wage increase now.

[11:38:21 AM]

Then you can come back and when you do your evaluation, to determine how competitive they are in line with the market like the rest of the workforce in terms of market pay. I will also say that -- that there are other appointees that the council has that the way their ordinance is written across the board automatically applies, those are the judges. They will -- their pay will automatically increase 3% as well with council salaries. The way the ordinance is written, salaries of councils also receive -- will increase by the same amount as other employees. Out of all of the employees in the workforce, we have four that there's not an automatic increase based on the budget decision and we could have brought this item up earlier and I do apologize for not making sure that it was more visible during the budget process. But as soon as we realized that it was not going to be adopted with the budget or approved, the changes in pay would not occur with the budget, we did try to remedy that.

>> Mayor Adler: Okay. Any further conversation, Ms. Troxclair?

>> Troxclair: I'm trying to understand if we are doing something different this year, why the changes? I think I'm understanding from councilmember Garza or people who have talked about the previous process was that these four city employees were not considered -- I mean, either they are city employees and we're going to give them the same raises as everybody else or they are city employees but they're in a different cost and we're going to consider them separately. I guess I'm not understanding why this year we're -- the argument is seeming to be made that -- it seems in past careers that that conversation has been -- in past years the conversation has been different, the pay raise has been 5% or 2% or whatever the council decided is appropriate, but this year we're saying it needs to be

the same as what we adopted in the budget plus possibly more, and I don't understand.

[11:40:23 AM]

I just don't understand the process change.

>> So when I briefed the council back in June, that briefing was in an effort to replicate what the previous processes were. And to encourage the council to either have a discussion about performance prior to the budget and then determine what the increases would be upon the adoption of the budget, whether it be the same or different than other employees or have some other off cycle process. We had those options. I think what happened was the council then are -- the auditor's office was asked to look into the process. And we never got back to a decision on the appointees and council got into the budget process and so we were never able to revisit appointee salary or evaluation.

>> I think the best practice is not to have the personnel evaluation happen at the same time the budget is being decided. That it needs to be off cycle. That meant either we did it in the spring as we were a new council with new employees or put it off until an equidistant past the budget. I think if the last council there probably would have picked it up in the first month or two that we were councilmembers. But it was the consensus of our group is that we weren't ready to do that, the majority of us were not ready to do that yet. So to keep it off cycle, then we had to wait until we got past the budget. Then we probably missed an opportunity that would have been taken up by the old council had the old council continued together as a group.

>> Mayor.

>> Renteria: This is just for employees we're talking about, those are the ones that directly report to us?

>> Those four.

>> Renteria: That's the city manager, city clerk, court -- judge --

[11:42:26 AM]

>> The municipal court clerk and the auditor. The judge does report to the council, but as I said earlier, it has an automatic increase built within the ordinance.

>> Mayor Adler: Okay. Ms. Garza.

>> Garza: I noticed in the previous resolution or ordinance, whatever, resolution, ordinance, it is very specific in like the benefits package. If this item is -- is this item purely just the percentage increase and if that's the case, I'm just curious, does the benefits package go away, extend? The other was very detailed.

>> The resolutions would sometimes have a restatement of pay and so excuse me a statement of some of the benefits or modifications of benefits. This was specifically intended just to address the pay issue. I think we're still working on the language for it and we could have -- we could -- there's nothing wrong with having a restatement of what they're already getting as part of the pay package. That is typically what has happened even if only the pay has changed.

>> So it would say a 3% increase and the same package.

>> Correct.

>> Troxclair: Okay.

>> Mayor Adler: Okay. Thank you. Next item is item no. 81. Eminent domain matter pulled by Mr. Zimmerman. Is there a second person that wants to talk about this? Yes, Ms. Gallo?

>> Spelman: I initially pulled 79 and unpulled it, I wanted to confirm it was our understanding that mayor pro tem tovo was going to postpone that. I just wanted verification that was going to happen.

>> Tovo: Thank you, councilmember Gallo. I am of two minds on this, I think given our agenda on Thursday and some of our housing advocates and our stakeholders have asked for some more time, I'm

happy to delay a little bit on that item. Really, I think out of large part because we have a pretty full agenda, but I hope we can take it up soon.

[11:44:32 AM]

Yes, I will make that recommendation and see if it's supported.

>> Mayor Adler: So the public should know the sense of the dais is that 79 will be postponed on Thursday. We obviously can't take that action today. That gets you us then to item no. 81, Mr. Zimmerman man.

>> Zimmerman: This will be quick here. Just a question about, we've had quite a few conversations about this, so why is eminent domain coming up here, what I had heard before is we have a voluntary buyout plan and then if people didn't want to participate then they could go ahead and keep their properties knowing that they're in a flood prone area. Could you tell me what's different about this

>> Yes, councilmember. Lorraine Rizer, office of real estate. Councilmember Zimmerman, this is part of the corps of engineers project and the houses that are in that area, when we accepted the grant part of the terms of the grant was that we would use eminent domain. The corps is going to come in and build a park on some of these properties, so -- and it's part of the acceptance of the grant.

>> Zimmerman: So the answer is the grant is making us do it?

>> Yes, sir.

>> Zimmerman: The grant is making us do it. Okay. Was there a -- other than the grant made us do it, is there any other rationale? Why is the grant making us do it?

>> The corps of engineers, when they were going to grant us the money, they wanted to build a park. In order to build a park out there they needed to have continuous -- contiguous land, and that's the reason for it. If you want more information about the park, we can give you more details.

>> Zimmerman: I don't have any other questions right now. Thanks.

>> Mayor Adler: Ms. Gallo?

>> Gallo: Since you're here, thank you for being here. How are we coming on the flood buyout plan that your department is working on?

[11:46:37 AM]

>> It's actually moving very quickly. I can send you a report that gives you details of each.

>> Gallo: It's very complicated, yes.

>> I can send you a detailed list of where we're at, how many offers have been accepted and on each phase.

>> Gallo: But I think that what we had talked about was your department actually coming up with the -- a policy plan on buyouts that we could carry forward in the future.

>> Yes, councilmember. I think what happened is when the council decided to appoint a committee to -- a task force to look at that we wanted to get the input from the task force before we finalized the policy.

>> Gallo: Okay. So --

>> Mayor Adler: Can you do both those? Can you give us a report of those two things, one, that gives us the status of where we are with the buyout so we can track that? And then tell us what your timeline is, you think, for being able to come back to the council for us to consider what our buyout policy -- global buyout policy is with respect to floodplain properties?

>> Yes, sir.

>> Mayor Adler: Ms. Pool?

>> Pool: Have all the appointments been made for the task force on floodplain review?

>> Morning, councilmember,

[indiscernible], acting director of watershed.

>> I'll try that again. Good morning, mayor and council, Joe pantalion, acting director of watershed. We have about 11 of the 22 appointments made, so I would encourage any councilmember that is not appointed their task force member to appoint. We were hoping to start this month with the meetings. We are now considering postponing the start of that process for one month to give all of the councilmembers' offices an opportunity to have a representative on that flood mitigation task force. Thank you for asking.

>> Mayor Adler: Will you let us know the offices that have yet to appoint.

>> We can forward that to council.

>> Pool: I think we each get two appointments and you cannot begin the task force meetings until a quorum of the total number is appointed, is that correct?

[11:48:40 AM]

>> That is correct.

>> Pool: And they can't take any actions without a quorum attending the meetings to take those actions. It's not the number of people in the room, it's the total on the task force, is that correct?

>> That is correct.

>> Pool: Thank you.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I would ask that you not postpone starting this task force. It's already been pushed back some and it's really critical that we not postpone it. I think there's time for councilmembers to make their appointments or at least to make some additional appointments before -- I think you were scheduling September 22nd.

>> That's correct.

>> Kitchen: Please don't delay. I would just urge my councilmembers to at least make one of your appointments if you have questions or need some help identifying some folks, we're happy to do that, but we really cannot afford to push it back any longer. It's on a very tight time frame. Because the goal was to bring back recommendations prior to the next budget. And so we need to at least begin.

>> Elect me correct that. We have 12 of the 22 appointments made which just the number of appointments barely meets the quorum, but we need to have all of those points at the meeting to have that quorum although I don't think that that limits us from actually making staff preparations and starting the process -- staff presentations and starting the process. We've collected a number of document and resources that this task force will need to start their work and certainly we can share that in the first meeting and that should buy us a month so council offices can appoint more task force members and we can start in earnest the next month.

>> Pool: I might also ask if the mayor would let us waive the requirement that we get our appointments in by a time certain so if we have some appointments we make this week we could bring them in with the changes and corrections on Thursday. And do please send us a list which of offices still need to make the appointments.

>> We'll do that today.

>> Pool: Thanks so much.

[11:50:40 AM]

>> Mayor Adler: I'll forebear for that this week on this issue.

>> All for progress, right?

>> Mayor Adler: Right. I'm not convinced my earlier policy was not ill advised anyhow.

>> Gallo: This is a very complicated issue and I know it's been complicated to the council, who's been dealing with it for nine months now. But I would hope that the staff continues on a fairly fast pace to come up with a staff recommendation at least to start the conversation with the task force on the policy. I mean, I think that would be appropriate because you may have a lot of people that have not been involved in the discussion as we've been. But I think as we all struggle with making these decisions each time one of these buyouts come forward to us, we keep looking for that guidance and so I would just encourage since this is a little late starting, staff to continue to work at a good fast pace to be able to bring something to the task force pretty quickly.

>> And councilmember, I think you would be happy to hear that the buyout process have already developed a draft flow chart that replicates that policy that will be ready when the task force meets.

>> Gallo: Wonderful. Thank you for working on that. Thank you.

>> Kitchen: I also wanted to thank you. I know that you provided my office and we can provide other offices with a list of folks with background in this area that can help add to our efforts to identify people to appoint.

>> Mayor Adler: Councilmember Garza.

>> Garza: I just want to voice my concerns about asking staff to bring us a policy because I don't know if it's-- I don't know my attorney background in knowing that some of the stuff is so fact specific and it will be really hard to put this overlaying policy over -- as councilmember Gallo said, some very complicated, convoluted things sometimes on these issues.

[11:52:45 AM]

I'm concerned about how we're going to create maybe a flow chart if this happens, go this way. If this happens, go this way. Because every single one of these is so different. I'd be interested to see how the process works, but I have concerns about a blanket policy.

>> Mayor Adler: Okay. Anything else on this? Thank you very much. The next item that we have is item number 8. Ms. Houston, you pulled this. Whisper valley we've talked about. And that gets us to item number 20. Which is our last item here. You pulled this with respect to cultural arts services contracts.

>> Houston: Good morning. Thank you for being here. I just have a couple of questions about the \$60,000 for the Zachary Scott theater maintenance, which is different from the money they get from the cultural contract. So can you tell me how long that contract is for?

>> Good morning, councilmember, assistant director for economic development. The original agreement was signed November 17th, 1987.

>> Houston: And it runs for how long?

>> It runs for 99 years.

>> Houston: So every year we give Zachary Scott \$60,000 for maintenance.

>> That's correct.

>> Houston: And it goes until 2086?

>> That's correct.

>> Houston: How much does Zachary Scott pay the city to lease the land they're on?

>> One dollar per year.

>> Houston: And do you have any idea how much do they get for cultural contracts?

[11:54:50 AM]

>> 200,000 for the current year and 200,000 for the proposed fy16.

>> Houston: Thank you. I just needed that explained to me.

>> Mayor Adler: Okay. Ms. Troxclair?

>> Troxclair: So this money that we're allocating is hot taxes, correct?

>> That's correct.

>> Troxclair: Can hot taxes be used for maintenance?

>> I will ask my attorney to come up.

>> Good morning, mayor and council. Cindy crossby, assistant attorney. The Texas tax code allows for the use of hot tax revenue for arts and cultural events and it also allows it for day-to-day operations, administrative costs that are directly related to the allocated costs. So it is something that is allowed. And the answer to your Q and a will be posted this afternoon.

>> Troxclair: Okay, thanks. And one more question. I understood from the guidelines for our cultural arts program that we could only award one -- one award per applicant per year. So how does -- but on the list of the backup that we have there are organizations that are receiving many more than one award. Granted I'm guessing their going to different projects. But how does that --

>> That is correct, councilmember troxclair. Certain organizations are allowed to be fiscal sponsors. So you may see them receiving several grants for smaller organizations that carry out the requirements of culture and contracting.

>> Troxclair: Okay. Thanks.

>> Mayor Adler: Ms. Pool?

>> Pool: And the reason for that is because some of those smaller groups don't have the bandwidth or the knowledge base yet in order to knowledge the financial side, the business side of the work?

>> That is correct.

[11:56:50 AM]

And because of your fy16 budget contribution we will be providing in-depth training to those organizations starting in fy16 to help them expand their bandwidth.

>> Pool: On the hot taxes my understanding is there are three different buckets in the hotel occupancy tax, one is the cultural contracts bucket, one is the operations and maintenance of the different -- of the convention center and then the other one is bond repayment or --

>> The city of Austin receives nine cents. Two cents goes to the venue fund, 1.05 cents goes to the cultural arts fund. 1.45 cents goes to the Austin convention and visitors bureau and the balance goes to the convention center.

>> Pool: Thank you.

>> Mayor Adler: Okay. Ms. Tovo?

>> Tovo: On this week's agenda we are also approving the budget for the Austin convention and visitors bureau.

>> Yes, I believe you are.

>> Tovo: And I didn't pull this item, but I am looking at it because it is our only opportunity to approve that budget and it will increase quite a bit because of the increased hotel-motel tax revenue that the city has been securing. So it's a good time to look at that carefully.

>> And that contract is managed by the convention center.

>> Tovo: Thank you.

>> Mayor Adler: Ms. Houston?

>> Houston: Mayor, I think this is another example of legacy events. We have a 99-year contract and we get only one dollar a year where some of the contracts that we brought forward the city would get additional revenue. And so there's some -- I can't even think of the right word to say -- to call it. It seems illogical to me where we would -- this would be okay for us to pay \$60,000 for 99 years and get a dollar back from the operation, when we can have other kinds of public-private partnerships where the city would get more revenue if they entered into that.

[11:59:03 AM]

So these are the kinds of things I think the office of equity needs to look at. Whenever we get that started. But this is -- this is a glaring -- glaring example of the things that I'm concerned about is how we fund the things that we fund that I call legacy funding.

>> Renteria: Mayor, I also have concerns because I went down to the Mexican-American cultural center two months ago and said my god, no one has cut the grass, no one has even done the weeds down there. And we're I'm begging the -- trying to figure out how can we clean up this -- and fix this, the landscaping there. So here I'm trying desperately trying to find any kind of money. I was out there begging the parking meter money since they make all kinds of money on the parking meters there. And they told me that no, we can't use that money for maintenance on there because it's designated for, you know, sidewalks and stuff like that. So I'm going, you know, this isn't fair for our cultural centers to go unkept, you know. And we're having to go out there and desperately look for money or find volunteers to cut. And now I'm hearing that we've got a cultural place over here that's getting \$60,000 a year to maintain their yard. So there's definitely something wrong here.

>> Mayor Adler: I understand. Anything else on this item? Thank you very much. The last item we have pulled is item number 83? Did you pull that, preliminary? It was a rezoning case?

>> Zimmerman: I did. I think we're going to take that offline. Unless there's other questions we're taking that offline.

>> Mayor Adler: Anybody else have anything they want discussed at today's work session? Seeing none, we'll stand adjourned.