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to see everyone. >> Pool: Well, I'm just going to go ahead and get us started. I'll wait for the TV to come on there. Great. Thank you. Welcome, everybody. Let's see, what do we do our introductions all the way around? And Mr. Goode, let's start with you today. >> Robert goodee, assistant city manager. >> [Off mic] >> James scar broadcaster purchasing office. >> Richard Mchale, Austin resource recovery. >> Jessica king. >> Sarah kenning, balcones recycling. >> I'm with group holdings. >> Is it on? >> There we go. >> Steve Shannon, waste connections. >> Adam Gregory with Texas

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disposal systems. >> Jerry Acuna with waste cycling. >> I'm with Texas campaign for environment. >> Andy with central Texas refuse. >> [Indiscernible] >> Jerry gochy with republic services. >> Dale gosh, organics by gosh. >> Susan with wastewater commission. >> Rick Losa, waste management. >> Larry schooler in communications -- there we go, Larry schooler with communications. >> Delia Garza, councilmember for district 2, southeast Austin. >> Alison alter, district for district 10. >> Leslie pool, councilmember for district 7. I think we have a couple of additional folks. >> Darrell [indiscernible], Austin water. >> Pool: Great. Who did I miss in thanks, everybody, for coming. This is our third meeting and I just want to start by saying a couple of things. We've had some very productive dialogue, and I thank you all for that. And as we noted last week, we're not going to be able to answer all of the many points in question, but I think we are now at a place where we've been able to find some common ground on two major concerns. Kay, feel free to pull a chair up if you can find a place to wedge in. There's some room down there. And then go ahead and introduce yourself. I was just making some opening remarks. >> Kay with public citizen. >> Great. Thanks. >> [Indiscernible]. >> So I think where we are now is, we've been able to find some common ground on two major concerns. One is that we want to maintain

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a competitive process for waste management contracts, "We" being the city, and I think a general consensus around the table, and we see a need to update our antilobbying ordinance in a way that addresses the issues that are important to

all of the stakeholders and our staff and to the city council. So I think there's broad agreement on those two -- on those two topics. We heard some good suggestions last week from staff, and some really, really good feedback from all of you stakeholders around the table as well. So for anyone who would like to review the ground we've covered so far, if you haven't already, and thanks especially to the efforts out of councilmember alter's office, we have all of our working papers online, and I thank staff for the extra effort to get all these up. And you can go to Austin, texas.gov/workinggroup. You'll find our agendas, transcripts, and all of the backup information. I just want to thank staff again for setting up the site for the working group for all of the members here and for the public. Would you like to introduce yourself? We're just doing opening remarks. >> I'm Ann kitchen, city council, south Austin. >> Great. So, let's see, I think we are looking at the need to have a fourth meeting. We talked about this prospectively last time he we met, and I think to wrap things up, we'll schedule may 25th at 1 o'clock in this room, and that was the date that I had offered up last week as a potential. >> Same time? >> Yeah, 1 o'clock. 1:00 to 3:00 in this room, at the end of the month. And with that, I'd like to turn the meeting over to staff to address the two areas in which I think we have some agreement, and if we're able to get through those items, we can again gyn to tackle the landfill question. So I turn this over to staff. And, Larry, would you like to kind of moderate us through

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everything today? >> Sure, councilmember. Thank you. >> That's great. Thanks. >> I know that early in the staff presentation, which I think we have loaded and ready to go, there's a list on slide 2 of questions before the working group, and it might be helpful just to look at those here as we get going. As you see, the first two refer to competitive solicitation and antilobbying ordinance. And as the councilmember indicated, I think the group has certainly made some views known on those two topics, and there does seem to be coalescing around those two. The intent would be, once this presentation is complete and any further comments are made on those first two items, that we would move to the third question on the list, and perhaps get some -- make some progress on that particular question, so that'll be potentially the focus of our discussion once the staff presentation is complete and I think it would be appropriate to turn it back to James to continue the presentation. >> Good afternoon, councilmembers, James Scarborough, purchasing. Again, it's my pleasure to continue our discussion regarding the -- what -- well, the initial two large questions before this work group. Continuing from our discussion last week as it pertains to antilobbying, you requested some additional information in the form of a sort of analysis between the major

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that would have to%-@take?,, >> The approach itself, I would need to consult with the city manager's office. It would need an element of participation in the development of requirements that they would need to be comfortable with and make sure that it was representing the requirements in the business objectives of the -- of the department. Putting that aside, because the solicitation would not be officially released, it would be a draft document, then the typical regulations that would apply to it would not be in effect yet. So it would be some -- it would be a draft document that would be available, released by staff to the public, and then we would just collect comments that would be part of the public

record. >> If I. [Captioning tempo rarely suspended.] >> It seems to me I don't want to create a precedent where every contract in the city has to be reviewed by a commission before it goes out for solicitation, but it seems we have a pattern of challenges for solicitations of certain type that we're dealing with this working group -- if we had a broader discussion at the solicitation stage for how this fits into our zero waste goals, and so I'm just trying to make sure that we have a clear path, whether it's we have to have a resolution, or it clearly doesn't require an ordinance change to antilobbying ordinance, but if that was part of the path that we wanted to pursue, you know, how do we, as council, as a representative of council,

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and a working group when we go back, what do we need to do if that's a step we take? >> Robert Goode, I'll weigh in here. I think that's a conversation you all are should have with the city manager. That's the implementation of her side of this equation, and I think that's an important conversation to have. And I think you've touched on a very important point. Is this just for waste management, or you have broad -- we have a lot of work that goes through commissions, and they look at more policy issues, and then it's the staff's job to implement the rfp and the rfqs and everything else that goes through. The other thing I might mention, and you see that at this table, there are a lot of interests represented, and as we unveil an rfp or rfq, you're going to get vendors participating in how that should be written. We're a little uncomfortable with that. >> Alter: Thank you. >> Councilmember, are you okay with questions and comments from anybody? All right. So we're reacting, really, to just what's on the screen at the moment related to recommendations -- by the way, I am infuriated that Andrew is sitting next to Andy, who's sitting next to Andrew. [Laughter] >> Friends call me Dobbs, and almost all of y'all are my friends. So a few questions here. You know, first things first, on the topic that was just at hand, if council were to issue a resolution directing staff, you know, to bring, you know, all rfps -- all related rfps to the appropriate commission for the next two years or whatever, if they were to issue a resolution of that nature, then that would be sufficient to direct staff to do so. Correct? You wouldn't need an ordinance change or just some kind of informal thing; that would be a formal direction. >> There's no ordinance that

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would require that to happen. Again, I think it's a city manager and council discussion -- >> But if the council issued, if it passed a resolution like that, y'all would have to do it. >> There's a line between what council does as policy and what the city manager does, and council manager, form of government, about implementing that policy, that is a discussion between the council and city manager. >> Okay. Other questions I had that are more specific to the things that that y'all laid out, on page 3, at the top slide, I guess it's slide number 5, there are tiny little numbers there, it says, you know, that they can communicate with staff regarding existing contracts. It's good to know. But how is it determined whether the communication was appropriate or not? Like if I'm -- if I have acme trash and recycling, and I have the curb side collection contract, and I'm bidding on a curb side recycling contract, and I tell you that what we were talking about was my existing contract, how do you know, is it just honor system? That it wasn't appropriate. And how can that be determined? >> So if you look at one of the recommendations, clarify process for determining

violations. It's hard. >> Yeah. >> It is hard. And so we look for evidence. We look for e-mails, we look for -- for actual evidence that a representation was made. >> Okay. >> Like, you know, meeting transcripts or anything that shows that a communication occurred. What we try not to do is to look at -- I'm not an attorney, but look at circumstances where a representation could have happened, but we have no evidence of it. We actually look for the evidence of it. >> Okay. And that kind of goes to my second question, which is, when -- on the very next slide, when it says responds to violation, when they make a representation, who's to determine what is a

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representation, what isn't, is that the same answer, that it's ambiguous under the current code? >> No, the -- my office makes the -- makes the determination. >> And by what standard or what criteria? >> We would -- we would like to have a standard or a criteria. Form of the okay. Awesome. [Laughter] The very next slide, 7, talking about limiting non-response, I think if I'm understanding correctly, I think it was Andrew at the last meeting, this third Andrew -- third Andrew from the end, that said that notary cities, the way that it's handled is, rather than a limitation on the public or potential respondents, there's a limitation on council and staff that says this is the list of things you're not supposed to talk about with anybody, regardless. And that would be a limitation on their -- on y'all's speech and not on the public's. Is that something that y'all have considered, or is that something that's possible -- like what say you to that? >> Right now, the ordinance is written to apply to the respondent, whether the violation resulted from their doing or from -- that they initiated it or whether they were responding to a communication that was initiated by staff or a city official. So the way the ordinance is now, the responsible party is the respondent. >> Okay. >> Let me add, too, I think what James is also trying to say is, we're not looking to expand the Alo, it's only about respondents and communications to staff and council for that. So the question was, can we expand it. I don't believe council is looking at that, and staff certainly isn't recommending that. So that's the answer to that, is we're not recommending expanding it to say what you said. It would be up to the staff and council to not talk about it to anybody, even if they're not respondents. We're not recommending

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expanding the Alo. >> Josh. >> Is there -- I don't see it solicited in here, but is there any consideration to include some additional sort of checks and balances on the violations themselves and on the process of applying those violations, whether it's ethics review commission or the city council itself, as having some are the sort of appeal process? It's my understanding it's entirely just to staff at this point. Is that being considered? Is that something council or this working group would be willing to consider? >> Is that a question for me or -- >> I suppose so, yeah. >> Okay. We implement the ordinance, the way the ordinance is written currently. So the determination of the violation occurs with staff. If -- if there is a different method of making that determination and hearing protests associated with that or appeals associated with that then we apply the process that we have at hand. If the processes need to change, we're glad to implement those changes. But right now we implement the ordinance the way it's written. >> Just remind me, what is the appeal process currently as it's written? >> There is none. >> There is no appeal process. Okay. >> And,

James, when you reference clarifying the process for submitting facilitating compliance, does that in any way relate to what he's talking about there, which is to say what happens if I don't agree or -- >> Right. Right. The ordinance directs staff to develop a rule for handling protests. So the protest is the single administrative review. And through that process, there's an option to bring in an independent hearing officer. But there's no review beyond that process. It's just the protest. >> But an independent hearing officer is just that. In other words, it's not someone within purchasing, it's a third-party neutral that would evaluate it. Is that right? >> You're correct, but it's

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not handled like a two-step protest appeal process, where one decision is made at one level and another decision is made at a separate level. That is a two-course option at one level. >> Understood. >> And if I can add, too, I think since James has been here, he's struggled within the existing ordinance. So I think, hopefully, the task force would agree, it's time to look at this ordinance in a lot of different ways, because it is very subjective in a lot of areas. And James would want a lot more, just tell us what to do here, and it would -- I think it clears the playing field for the respondents, and as well as staff on trying to administer council's intent on a policy. >> I have a question on the two part, the options on the review. You can do one or the other, or are they sequential, you can do both? If one doesn't get you the result that you want? >> Yeah, it's similar to a regular protest process, where if there's plenty of evidence and it does not appear to be requiring a higher level legal review, then we would make the decision. If there's a -- if there's a question of law or interpretation, then we would typically request an independent hearing officer to provide a review and a recommendation. >> Pool: And do you make that decision, do you do that in concert with the person who's submitting the complaint? >> We look at -- the complaint? >> Well, the person who's appealing. >> Sure. >> Looking for the review. >> We look at their -- the protest and determine on the contents of the protest. Does it raise to a level of bringing an independent hearing officer? We have to look at our precedents in that regard

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and determine, of the types of protests that we've received in the past, which ones have generally we referred to an independent hearing officer, and we try to be consistent with that. Sometimes if we're just not sure, I try to refer it to an independent hearing officer. >> Pool: Okay. But there's no conversation with the person who's raising the question before you make that decision. >> We could ask for clarification, but what we try not to do is get in front of the hearing officer. >> Pool: Right. You don't want to then start talking about the merits of it. Okay. Thanks. >> I see a red line. I don't know if that means -- Andrew number three. >> I think from a vendor perspective, one of the things that we're struggling with a little bit in Austin, trying to understand, is the sequence of how you're making decisions on, you know, issuing a procurement, versus maybe negotiating contracts that have an added services provision. And the interplay of those things, you know, the confidential information, the antilobby ordinance, that, for example, played out on a recent contract where there was a dual path going on, right? One vendor is chasing the same scope of work to a change order, to an existing contract, and the rest of the contract is bidding on an Austin solicitation. The vendor who's negotiating is lobbying and has no restrictions. The vendors who are actively pursuing your solicitation at your

request are gagged. And it creates a lot of uncertainty in the contracting market about, hey, if I have an Austin contract, should I bid on anything, or just try to pursue a change order? What's the path forward? I think if you want to encourage participation in the market, and I know you do, that's part of the role; right? From our perspective, you need to give vendors clarity on

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that. Hey, we have this contract, what we could have done, are going to do, or are going to consider, still, a non-competitive single source change order. But I think you need to make that decision before the procurement starts, because, you know, vendors are putting a lot of time and money into -- putting all their chips on the table, so to speak, in terms of their approach and their prices and everything else, and then to have that come back around later as, well, we might do it a little differently, I think there needs to be some clarity there. That's where I did bring up what Dobbs suggested earlier about limiting contact, not from the vendors, you can't limit that speech, but that's where we would see a potential benefit to having staff say, look, in will these decisions are made, and we know we're doing a procurement or we know we're doing this, then limiting -- limiting what contact you're having with the market then. >> Uh-huh. I appreciate the feedback. I would hope that when -- when staff issue a solicitation, we have done that, make or buy analysis, and putting the solicitation on the street, our intention is to not utilize existing contracts, but rather to speak competition, to establish a new one, you know, to the extent that we're requested later or reminded later that this may be available through another contract, that's -- that's an analysis that staff needs to do, whether it be the department or whether it be the purchasing representatives on behalf of the department, that needs to be done before we issue the solicitation. If we're on the street, we mean to create a new contract. >> I think it would be appropriate to continue the second half of what you have, and if we have other discussion on this, we can return to it. Okay. So last week, we discussed confidentiality and there was some additional questions in that regard, so we have provided some additional information in

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response to those questions. So there was some desire to have more details regarding the policies and practices of other governments concerning their treatment of considerable information in proposals. So we have provided a handout with far more information than you probably want to see slides on. So it is available in your packet. But, basically, it consists of the solicitation instructions and other references that we have identified from the local governments, from the county and from the state. Just to make some points of comparison, each of them were fairly similar with regard to their handling or their compliance with Texas public information act, regarding proposal contents being confidential through the evaluation process, requiring offers to mark the contents, that they wished to be kept confidential, and protecting confidentiality, or staff protecting confidentiality but not being able to guarantee it, and also the confidential information would be made available, most common time for that to occur would be at the contract award. So if you wish to review the specific contents, we actually copied and pasted solicitation provisions. But you'll see consistent elements, consistent citations, and what we believe is consistent application of the Texas public information act. The boards and commissions view confidential contents was an item that we discussed

last week. In our discussions internally, we have not determined that council has granted this level of authority to a board or commission previously. And this would not be something that staff would recommend, just for some -- from my perspective, for

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some practical reasons. Boards and commission members would all need to sign confidentiality agreement from one solicitation to the next, and this would be in place for an extended period of time and would likely go beyond their respective tenures in that board or commission. Members may unintentionally become involved in evaluations. It's rare that you look at something and don't have questions, and then those questions facilitate the involvement in the evaluation process, perhaps even in the negotiation. And if you go that far into the exchanges, you may then become implicated in any protest that may result. These are common things for staff. It's just these would be additional responsibilities that could possibly occur if persons outside of staff were to have in their possession these materials. Members wouldn't be able to discuss their observations or explain their recommendations, so they would know why they were for or against something, they just wouldn't be able to publicly explain it, and that might not be meeting their -- their need. But based on our discussions last week, and something that we have been increasingly contemplating, it seems like we're moving in the direction of understanding and differentiating between proposal contents and contract contents, and maybe it's the contract contents that are more meaningful to the members of the boards and commissions, and to the council and to the public. So if we pour our efforts, our consideration, into how we can make those contents more publicly available, I think we might have a more successful or more productive outcome. Other questions that we addressed previously regards the -- a previous incidence where a tds contract was disclosed prior to a council action. We reviewed their current contracts and their items associated with them and passed expired contracts. We only observed one, so if

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there were others, we just -- we just didn't find them. But that was associated with a non-competitive activity that occurred some years ago, where council directed staff to negotiate with specific firms and bring back recommendations, and attached to those recommendations was the entire content of the contracts. So regarding confidential information, based on our conversations last time and our considerations since then, some recommendations from staff. One, we could certainly increase our reliance on the invitation for bids. Because invitation -- ifb -- bids in response to ifbs are opened at the time of the due date, then their contents are available at that time. Now, offers, bidders, can still request that certain trade secrets and confidential information be kept confidential, but because of the nature of ifbs being very prescriptive, the need to request work products or work techniques be kept confidential is less substantial. We could also consider use of other types of ifbs. Texas statute authorizes the use of what they call an invitation for bid best value. Essentially, it's a criteria-based ifb, a lot like an rfp, but places a lot of emphasis on price. There's another form of ifb used by the federal government, that we believe might be technically compliant with Texas statutes, referred to as the low price technically acceptable. It just allows us to evaluate unpriced bids for compliance with the specifications, and once we determine compliance,

then we would request the pricing from the compliant bids and not receive pricing from the non-compliant bids. Another approach would be to consider increasing the use of competitive negotiations and decreasing the use of

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consecutive negotiations. By that, we mean evaluating the proposals, determining the competitive range, entering into discussions, and allowing best and final offers, and then determining the award recommendation, and not having subsequent negotiations after that. This would allow us to have -- to possibly include a version of the contract with the item, if that's desirable. We could also explore approaches to maintain the confidentiality of the proposal contents, as requested by the offers, while making a more stringent effort to make the contract contents available prior to council authorization. So with that, that is our remainder of our presentation, and we'll go ahead and answer any questions regarding confidential information. >> Pool: Could you repeat competitive negotiations again? >> Sure. So in a competitive sealed proposal's process, a typical element, and one that's established under Texas state procurement statutes, is commonly referred to as competitive negotiations, and basically that's -- occurs after the evaluation committee has evaluated all of the proposals. They'll determine which ones are most competitive, this is also called a short list or competitive range or what have you, and then we would invite those offers in and provide them feedback on their proposals, tell them what -- what's -- what are the strengths and weaknesses of their proposals, and then allow them the opportunity to revise their proposals. And then we would evaluate those revisions, and then based on the revised evaluations, then make an award recommendation. >> Pool: And then that is different from the low pressed technically acceptable, because there's conversation with bidders? >> Correct. The low priced technically

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acceptable makes it so that you only receive pricing from the bids that are compliant with your spec. >> Pool: Or the short list? >> Right. Right. >> Pool: Okay. >> Right. So usually they provide you with unpriced bids up front, and this would allow you to look through and determine if there was any issues in terms of compliance or what have you, and then any that are determined to be responsive to your spec, you would then ask them for pricing. Now, to be clear, that's not something that the city has done. But we believe it may be possible under the statutes. If it's not, it's not. But if it is, it might be an additional tool in the tool belt to allow us more flexibility. >> Pool: So that process -- let's just assume that we've vetted and it's something we could do, the process would be more streamlined for the bidder, it wouldn't be as time consuming because they wouldn't have to attach any pricing elements to their bid, unless they were on the short list and asked to provide the pricing. But you don't have the ability that you do in competitive negotiations to actually describe or discuss or improve your bid through conversations. >> Yeah. There's the ability to have limited exchanges, not to -- not to optimize the proposals, but rather to make the bids compliant with the specs. So it is to make them technically acceptable, so they just -- you have a bar, you want to get them above that bar. Now, again, this is not a process that we currently use. >> Pool: Right. >> And we don't have any procedural knowledge of applying it. But it is in a technique, it's a longstanding technique, it's used by many governments and may be something we could explore to assist us with certain

types of procurements. >> Pool: Is that one the shortest time frame? We haven't done it so we don't know. >> We don't know. We believe it will be longer than a regular ifp.

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>> Pool: Okay. >> It will be shorter -- >> Pool: Than the contract negotiations. >> Than an rfp. >> Commissioner. >> Would the commission be privy to that process, that short list invited back and kind of explained what the strengths and weaknesses are? Would that be something the commission could participate in? >> Are you referring to the rfp? >> In this competitive negotiations process you're describing, this hypothetical process, right. >> At that point, because the award recommendation has not been made, all of the contents of the proposals would be -- would still be confidential because we would still be in evaluation. >> So it would just be staff who would be doing that. >> Yes, sir. >> To make sure I heard correctly, you're less evaluating strengths and weaknesses as much as completeness. >> You're talking about the although priced -- >> I was talking about competitive negotiation. He was saying can I be in those conversations. The conversations, you're really missing these things or -- >> Strengths and weaknesses. >> Okay. You call it strengths and weaknesses. I'm just trying to -- >> Yes. What we -- you have to be very careful, when you enter into discussions, capital D discussions, because you're not really negotiating because you're not telling them what to put in their proposal, because then you would end up evaluating -- >> But you could say you're weak on such and such section. >> You're giving them feedback regarding contents of the evaluation, what is strong and causing you to be rated highly, and what is weak and causing you to be rated less than high, and giving them the opportunity to improve or optimize their proposal. >> Mr. Dobbs. >> Thank you. Yeah, I'm looking at this and there's a lot of great ideas, actually, and I appreciate the work that y'all put into this. There's four bullet points, though, and the first three kind of specify specific processes, then the last one is very general, and seems to be like kind of a summary of what it is that we're talking about here, which is how do we get more -- how are we able to see things before they're authorized. Are there other mechanisms -- what other --

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what other mechanisms are we thinking of here? I'm asking just like what are you thinking here? >> It's -- and it's hard to answer the question because we don't know what we don't know, and -- and, you know, it sounds reasonable enough to look at the contents of a proposal and determine, I don't need your reference list to actually administer the contract. So that doesn't need to be in the contract. I don't need, you know, certain other information that's associated with your qualifications to operate the contract. So certain information just would intuitively fall out and not be in the resulting contract, but there could be other information that is associated with, you know, their technique or their material blend or other process that they've determined to be confidential. And I'm not sure right now if we would be able to get all of it out. But it's something that we could definitely move towards. We just have to -- we have to figure that part out, and I just don't have it figured out just yet. >> You're saying that there could be proprietary, or whatever the right term is, information in a contract that could not be released prior to authorization. >> We don't know yet. >> You don't know. >> But what we could do is to look at coming up with approaches to minimize it to the extent possible. If we can

eliminate it, that's great, but if we can't, we need to find a way to still protect that confidential information. >> Did you want to -- >> Oh, yeah. That was our last slide. >> Yeah. There's additional content in our packet related to landfills, but -- >> If we're ready, if the council is ready to move to the next topic, we're ready to tee that up for you. >> Council, it seems to me like the staff would like to

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have some definitive direction from the working group on the first two topics, certainly with the input of everybody else who's here, and as councilmember pool indicated at the beginning, there does seem to be general agreement that waste management contracts should still be competitively solicited and that there should be updates made to the antilobbying ordinance. But to the agree that the working group can be even more specific in their direction, I think staff would like to have that today. >> Pool: So what I think I might like to do at this point is just take some input from people, and we'll be taking that input and fashioning a draft response to those broader issues, and then that will be one of the things we bring back to you all on the 25th of may. >> And let me recommend from a process standpoint that we, if possible, leave time within this meeting to continue the conversation that's outlined in the other slides, that we not let this topic go to the entire end of the meeting, since we only have half of this meeting and one meeting left to get through the rest of your scope of work. But I think it would be appropriate to take comments now on these two items, commissioner Acuna. >> Quick question, more of a clarifying question here. Neither, or none of these methods would preclude a commission from forming a working group that would work with staff in putting together an rfp that's consistent with city policy, or would that be excluded from happening? >> Let me try to weigh in. We certainly understand -- all the boards and commissions wanting to participate, especially in the goal-setting, and we absolutely want to do that. And I tried to mention this earlier. Once we start getting into the details, especially with interested communities and interested vendors, then it gets tricky. It just does, because then

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you're starting to weigh entities of specific parties versus what we're trying to objectively put out is a fair solicitation. So from the policy standpoint and the goal standpoint and what we want to see in there, we absolutely want your input from the commissions. After that then once you start diving too deep, I'll just say it this way, we don't want to be jointly writing an rfp with a commission. It's just going to be really challenging for us to do. Not only this commission, but every commission across the city. >> And that's understandable. I guess, again, my concerns are the consistency of the city policy, making sure that we are all putting in -- well, we're putting an rfp out on the streets that's consistent with that policy, and more importantly, the scoring evaluation matrix needs to be consistent with that policy at the same time. Now, we've had issues in the past that I'm assuming are no longer going to be the case, where we've had contracts brought to us that turned out not to be consistent with policy that council has set. I'm looking for the easiest way for us, as a commission, and staff, to work together so that we can eliminate, if not minimize, that from occurring again. So ... >> I did want to get one piece of what you originally asked that I think may have gotten lost, which is -- I think what he's asking is, can commission members influence goals in other non-rfp

type formats. In other words, if there's an ifb, if there's a competitive negotiation. So, in other words, could he -- could commissioners talk about goals that you would set in those connectses, in addition to rfp. >> Certainly. Certainly. >> Yes. >> Okay. >> Thank you. >> Pool: I was just going to say, I think the answer, specific answer to that, would be, yes, you could set

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up a working group to work on the goals, more specifically, but I'm guessing [indiscernible] May do that kind of work already? Do you want to focus -- >> Yeah, our goal is to work with staff, and we have on previous contracts. We've worked together as a group to put together the main policy concerns and talk about a matrix scoring system that would, again, work towards or be included in that -- in that solicitation. I think that was done, if I'm not mistaken, with the landfill contract at one time, the original landfill contract. >> Other comments on these two items? Mr. Shiner. >> Good afternoon. Steve Shannon with waste connections. We want a level playing field. Responding to a bid or rfp, certainly of the magnitude or the size the city of Austin would have, takes a considerable amount of time, effort, money, focus. To James's point and the man from synagrow, once the city has decided to issue a bid or an rfp, we favor the motion that there won't be sidebar negotiations going on during that process. If that's what's going to happen, we're not going to bid. We're not going to spend the time, effort, and money to do that. So we want a level playing field, and we like what James had to say. Once the bid -- an indication, once it's on the street for a bid, then that is where the city will derive its services from.

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Thanks. >> Which sounds like a reiteration of the point made earlier, you don't want to see a contractor with an existing contract be negotiating a change order on their contract while there's an open call for bids. >> That is correct. >> Okay. >> I saw a light on. I don't know if councilmember Garza wanted to jump in. >> Sarah, with balcones recycling. I'd like to second Steve and third Andrew's comments that I appreciate the work put into the revision for the antilobbying, but I don't think it addresses the initial reason why we're here, which is that several rfp processes were derailed by third-party -- excuse me -- people who didn't respond, and the elephant in the room, so I think it doesn't address that issue. >> I wonder if the elephant feels the need to express itself in some form or fashion. [Laughter] >> I'd be happy to Adam Gregory with Texas disposal systems. We -- it's -- we've never just proposed that business should just be handed to us. However, if you're suggesting that we should be prohibited from reminding anyone that there are specific terms within contracts that were competitively bid and approved to procure these services, and that we should not be allowed to remind folks of that, and simply provide information on the process, then I don't know what to say to that. We'll continue to remind folks when the city has other options, and we'll continue to provide information, and if a contract can't withstand information being provided

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on -- on a variety of issues, then perhaps it shouldn't be approved. >> Can you drill down a little bit into what reminding people of various things and providing information means? I don't want to seem like I'm putting you on the stand, obviously, but I think that there are concerns being expressed around

what these conversations may or may not entail, and I think the more light you can shed on what you consider to be legitimate >> Sure. Absolutely. The -- the type of information we've conveyed is expert information as being very familiar with the types of services being provided when when rfps or solicitations are public. We can provide feedback on what portions of those have been or have not been in compliance with city policy, and when there are types of work being solicited that could be negotiated in a contract that specifically allows for that type of negotiation to take place, it's -- it's -- I don't see any reason why we should not allow the city to avail themselves of all options. Certainly the city doesn't choose to take -- chooses one option each time, but that's the kind of information we provide, information on the solicitation, information on what's consistent or not consistent with city policies. With the Alo there's often a lack of information provided to policy makers, so since -- since under the current Alo we've made the decision and are unable to respond, we've only proposed to provide the option of

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utilizing existing contracts when they explicitly allow for that type of negotiation, so that contract was something and those terms within that contract were something that we earned through a solicitation process. >> Right. The light is on and so is one of our commissioners. >> Of the recommendations that were given thus far, I'm still not seeing how those address the issue, which is the elephant in the room issue that everyone keeps talking about. I feel like these are addressing what appears to be -- I can't see your name -- third Andrew, said that there were kind of two paths where, you know, vendors bid and then -- you keep -- the elephant, says it's within a certain interpretation of their contract, and I feel like these are addressing -- these don't solve the problem. Changing these things are things that probably need to be changed, but they don't get to what we're trying to get at here. And so I'm wondering why we're not taking a more -- an interpretation of current contracts and when things are in a contract or outside of a contract, and maybe tightening that up. And I understand the need for -- you don't want it so tight that if some need comes -- you know, the emergencies happen and we need a vendor to provide a different kind of service, but have we looked at that approach, and I'm sorry if I missed it and I know I missed the last meeting, but have we looked at the approach of tightening that language so -- and I know that wouldn't stop someone from saying, I still think this contract says that, but it would -- and honestly that language would be helpful too that says -- for those of us who are interested, that shows what interpretation of that language is -- is someone

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thinking means this is within my contract, this is within my contract, this is within my contract. >> So let me try to answer that. I think we've tried to answer that in two or three different ways. The first question was are we going to competitively solicit this and as council member pool I think the recommendation from the task force to council was yes. So we're not going to look at existing contracts to thank you something in that direction. We would solicit. The other -- I know tds is concerned about the anti-lobbying. We're trying to remove those obstacles so they cannot worry about bidding these, so competitively soliciting and making sure all players are at the head. I think that's where we're at. Your question is valid, how are we solving that. I think we are with the way we're heading is because we're going to competitively

solicit and hopefully remove any obstacles for bidders here to feel uncomfortable about bidding. >> When you say competitively soliciting, I thought we were doing that already. Are you saying any new need? >> We were, but these have been brought up to say, by -- why tds has brought this up and said you can add it to our contracts. We wanted to hear from you. Should we be looking at that or should we be bidding these? Based on what we're hearing we're going to competitively solicit, so yes we could, but we're not going to. We're going to solicit these contracts from this point on. We're going to competitively bid those. So that -- I think that is questions removed now, we're going to bid these out. >> I'm not sure if that answers my question, because mine was more of tds's interpretation of a certain clause of their contract. And so I don't know if I'm missing something -- >> I think we could add it. I think one of the things in -- and Adam can correct me, I think it's the landfill contract they're talking about. It is very broad. Legal has said you could probably use the exception and just add it to their contract. So then the point came to you, should we be looking at

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doing that and not competitively solicit or should we just add it to the contract. That's the question number one that we asked, and I think we're hearing the answer, no, you should solicit it. >> Go ahead. >> I had my light on. >> Go ahead. >> Kitchen: Just quickly then. So I think what -- maybe council member Garza is asking for and I'd like to see to, and my question is, the language in existing contract that allows the scope to be broadened, I would like to see that language from the standpoint of is it standard for us to put those in contracts, is it standard language that just gives us flexibility? Is that why we include them? And that practice is the one that I think council member Garza is talking about, and you are too, and it has its pluses and minuses from the vendor community standpoint. We can all understand what those are, but it could potentially lead to some, you know -- some lack of clarity and some, you know, lack of clarity, both how the decision is made about whether that's going to be done, and also when it can be employed. So I think it would be useful from my perspective to understand, do we always do that or are these contracts the only ones we do it in, and what kind of language do we use. >> And we're talking again about a pretty old contract. 11 years, Adam, 10 years. It was quite a while ago, landfill contract. >> Absolutely. Signed in 2000 -- the contract was signed in 2000, but again, on a master recycling contract signed in 2010, also includes and is worded to add things to it, and that was the intention of all parties, and I don't believe -- and when these contracts, in particular with the landfill contract, when they come from a competitive solicitation and they're approved by council, I don't think we get into the realm of exemptions or anything, it's -- the negotiations are allowed. It's a provision under

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their -- called negotiations, and there's a number of things listed, and we provided you highlighted copies of the contracts a number of times. I'd be happy to do so again, but I guess the -- staff is apparently interpreting our decision to have a competitive process, and I think the answer always is yes, we should have -- there should be competition, but is that answering the question do we absolutely not have a policy against using provisions within existing contracts? >> Okay. >> I just follow up, because that's what I'm getting at, the provisions

in existing contracts. Is there a way to tighten those provisions up so there's not so much room for interpretation. That doesn't stop somebody from saying, I think my contract says this, but it allows us to look at it and say you know what? I don't think it does, and educate us as council members to make better decisions. >> I get your point. >> Kitchen: So provide some more certainty all the way around in the process. >> Let me just before I go to council member alter acknowledge both zero waste commissioners. Two of them wanted to speak and I think -- >> , You know, I had a question on a different topic so let's continue. >> Oh, okay, and I know chair acunia -- but commissioner alter, do you want to -- >> And actually I was going to put the elephant in the room on the spot. I mean, short of doing away with the anti-lobbying ordinance, which I don't think anybody is in favor of getting rid of, what would it take -- what would it take for all of us to begin working together, acknowledging these solicitations and actually participating in these? We've had some conversations on what it would take to do that, again, short of getting rid of the anti-lobby ordinance, let me ask you your thoughts. >> Thank you, I appreciate the opportunity. I don't think there's any question we can make

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revisions to the ordinance so everyone could be happy -- that everyone could be happy about and we would be comfortable responding under, again -- again, the devil is in the details. I'm very encouraged to hear staff's proposal this morning on -- this afternoon, on the ideas they have, the very general ideas for how to revise that. So I would say -- and they did address a lot of our concerns, the length of no contact periods, the level of how punitive it is, the subjectivity granted to the staff on determining these things. I think they would -- it's been made clear they would like to have less subjectivity in the process, and we agree with that. So I think it comes down to the devil is in the details, and I'm sure we'll get down to the level of red-lining the ordinance and we look forward to participating in that, but really, the idea is to provide a means for additional communication, to go to the council at certain times and to remove the -- the seriously punitive aspects, because we cannot just climb the gallows and put our head in the noose and just because they say they won't hang us, so there are a lot of specifics that need to be addressed. Like they said, it's a very long ordinance. But if we want to get into the red-lining the ordinance right now we can. It would take us a long time, but I am very encouraged and I'm more encouraged right now than I ever have been that we can revise it to a solution that's amenable to all parties. >> Council member alter, I know you wanted to speak a while ago. >> Alter: Okay. I'm going to try and pull my thoughts together here, go back to what I was thinking about. Am I understanding the

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implications of your current city manager, that if we were to make a decision to competitively solicit all waste management contracts, that that would mean then that we would be saying we're not going to, except in very emergency situations -- we're not going to exercise those clauses in the existing contracts that would allow us to negotiate without going competitively? >> Yes, and especially -- I think that -- >> Alter: So that's a policy decision across all of those areas at the same time that would be -- >> That's right. -- I want to make a distinction. There are an extension in some of these contracts of the same service that have been competitively solicited. I think what we're talking about

is adding -- it's not exactly a new service, but something to another contract that we didn't, I don't think, really contemplated. So that's the thing I think we would talk about competitively soliciting and we wouldn't -- staff wouldn't, based on council's direction, wouldn't say we're going to look at existing contracts or find a way to get this new service -- a service accomplished. We would competitively solicit that. >> Alter: So I think part of the debate that we're having an understanding of what leads to a competitive market, and some are saying that if we competitively solicit all of the bids, we get a competitive market. Others are saying there's this route that goes through our contracts and/or you can competitively bid, but then there's an ambiguity there about if you do allow you to continue with an existing contract, that you don't know when that's going to come into play, and then that affects your willingness and your ability to go out and play for the rfp. Is that kind of the way there? So if that's the case, what is our current policy, then, which seems to be the heart of the problem that we're

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having, about determining whether we would extend it -- whether we take an existing contract and push forward with that or go out and competitively bid. >> I'll ask James -- >> Alter: This must be something we have in other contracts, certainly in this era of policy for how you do that. >> I want to ask James and Richard to respond. For one, I don't think, and you all correct me if I'm wrong, that we've added things to existing contracts. So our policy has been to competitively solicit, but then we've had -- especially tds has said, wait a minute, you don't have to do that. That's why we called the question, do you want us to competitively solicit or not. So Richard, James, have we added things to existing contracts? >> Not to my knowledge we haven't. Richard mckaleen assistant director for Austin resource recovery. There are elements in contracts that are option for us, especially for emergencies and those type things, contingencies, and if those situations come up we would take advantage of them. But I guess it all comes down to the contract language and if the services that we're looking for, exactly what's listed in that contract, whether we can use it or not. >> Alter: So is this generous to waste management in particular contracts that we have with tds, it's not something that we would see in any other contracts across the city? , Other than for emergencies? >> I can't speak for the contracts in the city. That's better for purchasing. >> Sure. >> What we're kind of discussing here are kind of the art and the science of contract administration and change management. There are -- there are provisions that when you establish a contract, you can anticipate. You can anticipate that if it's a term contract and you're going to want it beyond the initial term, that you're going to want an option to extend, whether that's unilateral or bilateral. You can anticipate there will be other types of changes that you'll want to make, so you build them into the scope of the contract so that those changes can be

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acknowledged by the participants in the competition. So by staying within that scope you maintain the connection of that contract in the original solicitation. The more the contract changes over the life of the contract, the more you distance that relationship. That's why state law actually addresses change orders and applies a 25% capital on them, so that you don't go -- cap on them, so so you don't go too far away from what was originally solicited and what was

the base of the competition. So to the extent we occasionally need to amend the contract bilaterally to add products and services that are within the general scope of the contract, that occasionally happens, but it's -- it's usually after we've ruled out alternatives. Now, do we have a process or do we have a policy for determining should we amend the contract and then seek competition? It's usually the opposite. It's usually seek competition unless we're not able to or it's not practical to and then we would consider amending contracts that were -- changes that were not contemplated with the original competition runs the risk of increasing the separation doing the contract and the original competition. So it's something that you can do and we occasionally do do it. It's just not the first thing that comes to mind when you are anticipating meeting the needs of a department. >> Council member alter, anything further? >> Alter: So just hypothetically if we wanted to take this all off the table, we could just say we're not going to ever add these things unless it's an emergency and then it would just be a matter of tightening up the anti-lobbying ordinance for certain situations where we think it needs to be tightened up? I mean, is that a direction that -- I'm not advocating, I'm just trying to understand the nuances there, that that is a

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direction that we could go? >> Certainly. I think that's the path we were on. We just wanted confirmation from council to continue to competitively solicit this because the issue has come up. >> Alter: But I think that there's another piece of that, which is that there's also an argument that in doing the solicitations and setting forth the solicitation, new policy is being made that has not been sanctioned by council. And so there's another -- there's another piece to that, I think, that I've heard in arguments that are being made for the need to be able to interact with council, is a concern over when we're putting this together, that there's policy implications for the choices of how you structure those that are not being vetted through the policy process, and that -- there is a desire to retain an ability to speak to the broader policy questions that is lost by bidding. >> No, I don't think lost by bidding. I think lost if you don't take some of the policy issues to the commissions before you issue a solicitation. >> Alter: But I think that's what we've seen -- >> -- Please come to us and let's talk about the policies before you issue, and that's absolutely Georgetown. Legitimate -- legitimate. So I don't think the policy issues would be lost by the competition, it's lost if we don't communicate what we're trying to achieve and swak it say that's in line with the policy or not. >> But there are issues in process what we've seen over the solicitations that we've had to say no to that were -- that we said no to because they were policy that wasn't vetted by zwak, for instance. >> Perhaps. Y use this -- I'll use this, I think the simpler one is that zwak needed much more involvement. But as far as these other issues I am not sure. I'm not sure what the policy problem is for us going out

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and soliciting somebody to handle biosolids, and how we handled that? I think there are some policy discussions that we should have had at zwac. I don't think the policy issue is a competitive solicitation issue. I think those are different -- >> Alter: No, I was trying to figure out how we solve the problem to make sure we have the most -- we achieve our zero waste goals and we have a competitive (indiscernible) Process, and there are multiple dimensions to that.

>> More involvement with the commissions. I think that's absolutely required. >>
Pool: I agree, and I think that a number of contracts that we put a hold on, if we had had the -- and we did it because we didn't have input -- sufficient input or sufficient time from water/wastewater and zwac, so I think that's something we need to look at. It's like any process over time, things erode, and it adds things to it that weren't intended in the first place and you lose things that weren't intended in the first place. So I think it's healthy to go back over and review these procedures and remind ourselves what our missions are with them. And the city has set up a really strong citizen communication element with our boards and commissions, and I think the longer that all of us are on council, every day we more and more appreciate the work that folks in the community provide to us as well as a vetting -- a layer of vetting and expertise, and then also in working with the stakeholders, it just adds a more robust conversation with it so we can get to a more -- a better, a more effective result. Let me introduce the idea -- the concept of the issue of landfills. I think we need to -- that was a really -- [laughter] Wasn't that a great segue? [Laughter] >>
Remarkable, really, in its seamlessness. So we do have a couple of slides from staff on the question labeled as 5a on

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the agenda. >> Good afternoon, commissioners, Jessica king. I'm currently in the communications and public information office but previously with Austin resource recovery and still a part of my soul. [Laughter] So landfills. Should materials be directed to or away from certain landfills in future solicitations. The map in front of you shows -- thank you. You. You -- I was reading from my own. I didn't realize, I apologize. So the map in front of you indicates all landfills in our ten area region, the capital area council of government region, but in particular if you'll take note of the dots that are in the black font. Those are municipal solid waste or type 1 landfills. So those are the materials that just for clarification purposes are the materials we generate on a regular daily basis in our homes, regular acts of business, and if people want to have -- more truptial base, I didn't want to use that term but that is the term on a daily basis through regular course of business. You'll note and it's a glaring issue, but the vast majority of those landfills, well, all of them, are to the east side of 35 so I want to make that point clear simply because the issue of equity and the issue of how we balance that among the city is important. It is something that is at the forefront of our conversations regularly, and in particular there is a question as to why that's the case, but across all ten counties these are the landfills that are probably primarily used for the region, and I'm sure you have enough of the stakeholders here who can testify to that. So the question remains -- oops, sorry. This is not my day. Should materials be directed to or away from, and the current practice is that there is no policy direction from city council that

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directs materials to or away from any specific landfill. In the past we've had, as I've discussed before, there have been long -- ongoing discussions about certain landfills and whether or not -- whether or not to support or deny their expansion requests, but there has been no specific direction from council to direct material away from any specific landfill. So our city -- our city facility contracts don't have those specifications either and city collection trucks currently haul the material with Texas disposal systems for the city

contracts. For other contracts the city solicits the bid and it's only given to landfills with a valid operating permit. Those are the facilities that are open and available for use, as long as they have the valid operating permits. Using our contracts, the issue of flow control, you'll hear that term, so we wanted to take a moment to just pause and clarify what that means. The city can't control the flow of material that private sector manages as a result of their third-party contract relationships. The city can control the flow of material that it generates or is responsible for managing. So, for example, for our city facility contracts we can designate, we can clarify in our contracts what we would like to do with that material, and you oftentimes see that in terms of the different materials that we generate. But for the most part when we're deciding -- when we're trying to clarify that issue of flow control, we cannot regulate where private haulers take that material under their own third-party contracts. And then as generators of the waste, just to reiterate, we can choose where the materials are managed or processed. Yes, ma'am? >> Pool: I have a question about that, about designating the land to be a landfill. Are they primarily in counties so that cities don't have the zoning authority over them? >> There are far more people in this office who -- in this area who can answer that question, but as I understand it, just keeping

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in mind, and please correct me if I'm wrong, my understanding of the evolution of landfills in the nation, really, nationally, is that we started with small landfills scattered all over the place that were unregulated. And if you look at really the breadth of how landfills have evolved over time, we didn't really start regulating new landfills until the 1980s with rcra. So take a pause. Only 20 some odd years but landfills (audio gap), decades and decades, and we are still over the years finding landfills that are just out there right now and that have been there for hundreds of years, possibly. So the location of those -- of the ones that we have right now, I think again, there are people here who have a better understanding of this, but when you we want from small -- went from small landfills located throughout communities to start to coordinating with larger landfills that were more permanent regulated and had oversight by a large authority, and in this case what many people don't understand is that landfills are regulated by the state. They are not regulated by the city or the county for that matter, so when that has happened you start to see this -- this coalescing of where the landfills are located. And most of the landfills east of I-35, I think just in terms of development scientifically, there is this understanding that the environmental -- the land, limestone -- certain types of clay, things like that that actually contribute to a -- what some would argue as being a better environment for a landfill. >> Pool: Right. And different parts of the county get quarries, for instance. >> Right. >> Pool: Because of where those natural resources are, and so you need a certain type of soil, I suppose, and probably topography that would be suited, especially for the large landfills that

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will be of major size. >> Correct. So begs the final question -- I am just terrible at this today. So policy considerations, going back to that question, should -- should the city focus on directing materials to or away from future landfills and future solicitation specifically with regards to the material that the city is responsible for managing. That would give some clarification on

council environmental goals. There are some pros and cons to doing all of that, and it would give some solid or more direct information for us that we could identify and you could look at a variety of ways to articulate what those environmental goals are in the solicitation process. But there could be some benefits, because as you know, the owners of the landfills are in various locations, and they are the ones who -- whenever the city had its own landfill it was the city, and it was a little bit easier because it's a public facility, but now we're talking private facilities, and we can't direct or control or have any flow control issues with that, so we have to step back from that, and some -- some vendors might be concerned about the competition issues related to that and what that would do to impact their bids, because the further you go, you're dealing with costs and things like that, so -- >> Pool: Well, and I'd just add on to that, it's not just the firms, it's also individuals. You know, if you have to haul off from remodel you're doing on your house, you know, depends on how far you have to go, what time -- how much it costs too, so it does affect individual residents as well. >> Yes, and so this has been -- and I'll -- the reason this particular question is the top three -- the third question is because every time we've brought a solicitation up because it's waste management-related, the question of where is the material going comes up. But because we have not had any policy direction saying it must go to X, Y or Z,

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then it gets stalled. And so to have this direction now so that even vendors who are making proposals know, rather than spending a lot of time proposing and then going through the process, it's -- you know, it's just difficult for everybody, so to have that direction up front would be very helpful. >> Pool: I think so too, and I'd like to hear from everybody, and also let -- let us know here if you think this is something we should open up for a public hearing for the community, and I'll just caveat that by saying I remember the conversations, maybe they were ten -- within the last 20 years where we were looking at closing one of the closer-in landfills, and I thought that the community had said yes, we were going to close it, but I understand that tceq came in and added additional space for that landfill to take more refuse. >> There are two landfills in that proximity. I want to be clear what you're talking about. There is an Austin community landfill managed by waste management. There was another landfill located in close proximity, and I forgot the actual name of it but it was -- >> Sunset farms. >> Sunset farms, see -- >> Sunset farms? >> Sunset farms, and it was managed and owned by -- well, it's had many names, but republic, bfi? Is that right? Allied? >> Whatever you want to call it. >> There's probably a laundry list of names. But that has closed. That was -- that closed in 2015, if I -- >> Pool: So was it located close to where the community landfill -- >> Adjacent to it. >> Pool: Okay. So that explains my confusion. >> And they've been there for quite some time, Texas campaign for the environment may have a better understanding of how long, but I believe -- and waste management is here so maybe them speak to it more clearly but I believe waste management didn't take ownership of the landfill until the early 2000s, and since that point has put in

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to -- to address some of the concerns have placed additional improvements to the property to address the concerns. >> Yeah, so if you'd like to speak to that that would be great, but I don't want to put you on the spot and I would like to

hear around the room what you think about opening that question up. >> Sure, Rick lowsa with waste management, the company, not the topic of the committee. [Laughter] , You know, I guess to get to your specific question, but first I guess our opinion in general on this question would be from our perspective I think it would be considered a little unusual, some could argue even bad policy for a city to unnecessarily limit its options. Whether you're in an area that has two landfills or dozens of landfills and in some of the areas of the state there are that many landfills in an urban area, the future is the future, and any generator of waste, whether you contract it out or whether you handle it yourself as a government body, it's important where the material goes, financially, environmentally, logistics for transportation. So options generally are always held in high regard. A landfill that may be in good favor today may not be in existence tomorrow, or in good favor. So none of us can foresee the future, so unless there was a compelling reason to do it, in general I guess I would offer why limit your choices. Each individual procurement, depending on the circumstance, the city has the right and the ability to mayor only identify where it wishes for that procurement, the material to be handled decision that's at your disposal upon -- at any time, but to make a broad policy stating today that forevermore only one landfill will be used for disposal I believe unnecessarily limits the city's option, and at some point it could be at the city's disadvantage to only have one option, either the facility is no longer there,

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no longer in good standing or the economics no longer justify it. The facility that we own and operate, the Austin community landfill on Guiles road, we purchased, we acquired it in the '80s from the prior operator, and we've been operating it since the '80s. The site did go through a fairly public and controversial expansion in 2010, and so it garnered a lot of attention certainly during that time. As was mentioned our adjacent neighbor is republic and they operated for many years the sunset ridge landfill, and it did indeed close in 2015. It's now a closed site, and is managed under the closed site rules that the tceq has so, you know, again, I guess that's our general opinion on hand, is should the city set policy to designate or to limit one site over the other. You could argue, although landfilling may not be in vogue or for the foreseeable future, it's one of the disposal options that any community has. It's part of the infrastructure. It may not be the most desired. It may not be what the future holds, but it is an important part of the infrastructure of today. So today I would say there shouldn't be a policy that limits the city's options or choices. >> A general discussion on this. Mr. Dobbs? >> Thank you very much, Larry, and I wanted to note a couple of fun facts about this room. As I understand it, this site has actually been a landfill site for over a hundred years of various sorts and there's actually a third landfill there, which is the closed Travis county landfill. It's been closed for many, many years. One of the implications of that is that this site has a substantial amount of pre-epa hazardous waste on-site, and this is the kind of thing that at some point somebody is going to have to clean it up, and that should be weighed into

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the policy decision here as well. One thing I want to definitely note is that while these pressures are real, the sooner that we get to zero waste the less that they will matter. So that should be an incentive for us to accomplish the

basic goal here, and that is that. And I think the most important thing I'll say here is that the factor that has not been represented yet, as I understand it, in any of this, is that there are residents of the city of Austin that live next to these landfills and are impacted negatively on a regular basis. I don't see any residents there. We have met -- some of these residents are members, and so if I may presume to speak on their behalf, you know, there is -- there are significant quality of life impacts, and potential health impacts. And that is -- those are constituents of the city of Austin that we are being asked -- that I believe that the council has an obligation to protect. To those ends it seems to me that it would make sense to not send things to this facility. Finally -- yeah, it would make sense not to do it, because of the liability issues, because of the impact on the constituents, because it provides solid zero waste, because there are options, a north option and a south option. And finally there is -- I was just handed this. You're asking -- you said it was sometime in the last so 10 or 20 years. I have a rest pasted fine years, it's from play 2007 it says the city of Austin sought the closure of both facility in a formal resolution. It would be a major policy to say we want to send things to the facility that the council has said in some kind of spiritual sense, a different council, that the council has already said that they want to see shut down by two years ago.

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So, you know, that's a lot of information there, but I believe that there are solid reasons for the city council to make a policy saying we're not going to send materials to the Austin community landfill. >> Tell me the resolution number on that. >> It is 20070517-030. And you can have this copy if you'd like. >> Pool: Thanks. >> Alfonse? >> Alfonso, Sifuentes, green group holdings. I understand these landfills are controversial and it's a rough start. The permitting process, I mean, it's a long period, three to five years. We're in year 4 and to kind of familiarize yourselves, we're permitting a type 1 facility, which is also going to have a recycling component. And we're in year 4, and it's in northern Caldwell county just about four and a half miles north of Lockhart, which is about less than 30 miles from the city of Austin. And I just want to say that you're right, there's controversy, but the truth of the matter is they are needed right now. It would be great down the road, we have this zero waste and negates the necessity of it, but today we need them. And today -- coming from a capcog presentation about the growth in the central area, population I believe is supposed to double by 2020, and that's a lot of trash. So couple of these landfills, especially in this area, my understanding is there's a lifetime, and I think yours -- I'm not sure how much time you have left, but it's not infinite. We have the Gregory landfill which has a good life span but with the growth and generation of waste, we need these facilities. So I want to say that I think it's -- to keep the field competitive, I think it's all going to be depending on having more than one facility so these

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haulers can give a competitive bid, and it's all going to -- the market will correct itself as far as being competitive, so it depends on the rate that's going to be charged these disposal facilities. So I'm confident -- I'm confident in the market. We want to believe that competition is good and it's one of the reasons we came to this market, because of the growth and also too about the landscape that's here. So I just want to say that, you know, we definitely could use another facility here in this area. Thank you. >> Before I go to Mr.

Shannon, I know that there's a lot of talk about the growth in Austin. I hadn't heard before that we're going to double in four years. [Laughter] So I don't know if -- I don't know what the source of that information is. I've heard doubling by 2040. So -- at any rate, a lot of people are coming on a daily basis. Mr. Shannon, you had your light on. >> Yes, sir. Thank you. Just as a matter of having been dealing with these things for 42 years, the idea that these things are east of 35 is basically geological reasons. They need the clay. If you go west of town you're going to have to blast, and that's not suitable. It's interesting to note, and you may not know, that these landfills that we have here now in Travis and Williamson county are taking the waste from all or part of 28 counties. There were hundreds of landfills here in Texas that were closed by the state. There were a lot of them that were voluntarily closed by the local jurisdictions because they could not afford the liability insurance, the escrow money that they have to put in for post-closure, et cetera, which gave rise to these larger landfills. The facility out here that we're talking about on highway 290 is not only

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tceq-permitted and inspected regularly, that permit modification was given an approval by the capcog, any permit modifications have to go through the local council of governments for approval. And that was done. The facility out there is using currently a synthetic liner, as well as a clay liner. They have extensive leachate collection, gas management system. In fact, those two landfills out there are the only two landfills in Travis county that are deriving the methane gas and creating energy that's being sold out into the electrical grid, which I think is in concert with the city's alternative energy philosophy rather than just venting the gas to the atmosphere, they're creating electricity, I think for 5 or 6,000 homes, the equivalent of that. This notion that somehow the city of Austin is going to be held liable for something that might happen out there I think is very far-fetched. The liability for anything that happens is assumed by the owner of the company when it hits the gate, they have millions of dollars in liability insurance, as does any landfill that size. They have millions of dollars that they are required to put into post-closure accounts through an escrow account. Most of the haulers in this area are using that facility. To my knowledge there hasn't been any evidence of pollutants leaving that site. I have heard rumors, I think the site has been the victim of a very well-orchestrated vilification campaign for years. I've heard that kids are taking their kids out of

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schools over there. I went and visited the principal. She said nobody has taken their kids out of school there. I went and visited the fire department across the street, asked if they had had any problems. They said no -- >> Before you continue, sir, could you just -- could you -- well, what I'm curious about is do you have thoughts specifically on the question that's before the group in terms of whether -- >> Yes. Let me say this, that certainly -- >> Not so much should we keep the landfill open, sir, but should materials be directed to or away from certain landfills. >> Well, I would say that when you're looking at your carbon footprint, when you're looking at hauling waste from the north side of this county all the way to the south side of county through what is purportedly third or fourth or worst traffic in the nation, the city really needs to think about using that facility and reducing traffic, reducing the carbon footprint. But

I'll finish my comments by saying this. Our company certainly looks at risk and potential liabilities very thoroughly, and if we thought that utilizing that landfill posed any kind of unnecessarily or unreasonable risk to our company or to our customers, we would not be using it. Thank you. >> Council member Garza, I just want to note we've got a couple of other lights so we'll get to you in a minute. >> I guess I was -- with the breadth of topics that we need to cover, I'm not sure that this conversation right now is going in the direction that we want it to go. I would say that I appreciate the fact that it was brought up that these are -- east of 35, regardless if that's because of geography or not, the fact is much of our minority community resides east of 35, so regardless of why they're there, they're communities that already phase many challenges, so I think it's very important and I thank you for bringing that up. I am kind of on -- I agree with Mr. Dodds in that I'm not sure if that is a right

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conversation at this time because I think we should be concentrated on zero waste, and once we get there, then those conversations could be had, but I -- at this point I would prefer us prioritizing zero waste at this point, and that's just my thoughts. >> I know commissioner Blane wanted to get in -- >> Pool: So the question is, really, should materials be directed to or away from certain landfills, solicitations. >> Second Andy. >> Andy, a., central Texas refuse. I am the only Andy here. [Laughter] What I wanted to -- we are an independent hauler that does not own a landfill, and so as it relates to a policy consideration as to direction as to where materials can go, as it was mentioned in flow control, potentially with the city dictating where material goes from their contracts, we are not the only independent hauler. I would suspect we are one of the largest in the region, but it would have an impact on our ability to participate competitively in bids if we were direct to a landfill say that we don't have a business affiliation with. So.... >> Mr. Blane? >> Yeah, I wanted to make a few points. As the district 1 commissioner I feel a particular responsibility to be vocal on this because council member Houston sat me down when she appointed me to sit on this commission and explained the history of east Austin, and particularly how this landfill is an issue, this -- Austin community landfill is an environmental justice issue, and I do think that it's important that we are intentional about where our waste goes when we look at this history, and yes, it's geologic, but then it's sort of we're looking at it --

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that's why these communities got pushed out. Because that's where the landfills are. Nobody wants to live there. Right? Having said that I think it's appropriate for us to say we have these standards that go beyond tceq because we -- most of us here know that their standards are not very rigorous, that go beyond tceq that say Austin wants its landfill waste to go to facilities that meet these criteria, and then it's up to the landfills to meet those criteria. So I think the conversation could be fruitful if we actually -- and I'm not an expert in this but there are plenty of people who are, who could say this is what we expect our landfill criteria to meet. There's detailed reports out there that explain which landfills meet which criteria. We don't need to reinvent the wheel. On the same point, when we talk about where landfill waste goes, I absolutely agree and I asked the question in the first working group and I don't think I've gotten an answer to it yet, how much landfill do we need as a city,

if we get to 2040 zero waste, we're diverting 90%, our population projection is this, how much landfill space do we need? I think that's a useful answer to have. But until that point there are inherent zero waste policies to speak to council member Garza's point that this isn't about zero waste. Actually it is, because sometimes what happens is it comes to the commission, that a vendor wants to take our waste down to San Antonio landfill. That's written into the details, this is (indiscernible) San Antonio. That's a huge carbon footprint. Similarly methane capture ?os in our zero waste goals. That's not a zero waste goal to be producing methane and capturing it. These are things as a commission we're thinking about and that's why we need to be privy to this and having these discussions that do have impacts on our zero waste policy. So I would -- I would advocate that we intentionally say maybe not specific landfills but specific landfill criteria and qualifications. >> I just want to make sure I wasn't -- I didn't say this wasn't -- I said it was

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about zero waste, so I don't know if that was misinterpreted. >> Sure, but I think it was implied where we send our landfill waste isn't as important as thinking about zero waste but I think they're one and the same. >> Garza: I didn't say that either. >> Well, I misinterpreted your comment. >> Pool: Well, I think there's a sequence to it. So we have to work on our zero waste in order to reduce the amount that we are sending to landfills in the first place, about of -- if we're going to close landfills first we have to get to a place where we don't have much that needs to go to a landfill, and we can at the same time, and that's what this question is about, do we continue in the interim to send refuse to the close-in landfills or the far-out -- what do we do at that point? And it's -- it's a tough question because, as you say, you still have your carbon footprint if you're hauling something in those big trucks, you know, 20, 30 miles or 10 miles. That's why this is so complicated. We want to get down to where we actually achieve zero waste, which will help with that, and -- and get to a place where we can respect the fact that people who live in east Austin have a healthy environment to live in. That's definitely an achievable goal, I think. >> Just from a process standpoint it's ten minutes before the hour and I've got lights on from council member alter, Jessica king and staff, one of our zwac commissioners as well as -- is it you who wanted to speak. So council member alter, if you wanted to -- >> I'll be really quick. First of all, I was wondering if we could hear from the office of sustainability on this issue so that we could understand some of those issues that have been brought up with the carbon footprint and other things. Also, as mentioned by arr about the cost of closing, I

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thought that was an issue. If we had any information that would help us to understand what the additional cost might be, were we to choose to not close but to not use a particular landfill. Also, I'm gathering from Mr. Dobbs sharing of that resolution that there may be other resolutions that council has already passed in this regard or reports that have been done with respect to landfills that would be helpful for us to make a decision and for the public to know if those could be posted to our site for the working group, that would be very helpful. And then finally I just wanted to clarify, we don't have to -- we could also just say we don't want it to go to this one landfill if we wanted. Just clarifying that that could be an answer to the question, or we could do

something along the lines of what Mr. Blane said with the criteria. So I just wanted to -- I'm seeing a nodding of head over there so I'll just take that, and maybe, Mr. Blane, if you have any of those documents, we can find a way for you to share those with us so that we can see sort of some of those criteria over the landfills if that were a direction that we wanted to go. Thank you. >> Ms. King? >> Yes. So I was involved in the development of the zero waste strategic plan, which was the strategic plan and then also the master plan, the strategic plan serves as a policy foundation, and so that gave us a slew of options from a policy perspective as to what we could bring to Austin and implement here, and is that foundational model. The master plan is the department's implementation tool, and it is one that eventually will need to be updated, especially as the budget is involved. But one of the things that commissioner Blane mentioned that I want to clarify, is that the issue of methane capturing was one that was not decided upon. So methane capturing, there is a chicken and egg issue there, because in order for

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methane to occur, it occurs through the decomposition of the material in a landfill. So there is a belief that if you add more decomposable material -- organic material to the landfill, that feeds that methane and therefore you don't want to encourage that, and you don't want to encourage methane recovery systems. That is one school of thought. The other school of thought is that you have methane, which is 21 times more potent than carbon dioxide, and you want to capture that, you want to recover that as much as you possibly can, to reduce the impact on our carbon footprint in this community. There are certain landfills throughout this community who have a heavy amount of methane recovery and have a lower carbon footprint through their operations, versus others who may not. And so that is a balancing act. It depends on which school of thought you want to subscribe to and which systems you end up investing -- which systems you end up investing in in time. So it's a policy issue but it's a chicken and egg issue, because you're right, council member Garza, we want to -- I'm sorry, Garza, we want -- moving forward, we definitely want to focus on zero waste, but there is the matter of compliance with state law and disposal and the requirements for all businesses that they meet those disposal requirements and a location for that material. So it's -- it is a challenge, and I don't envy you as our policy makers in having to make that. >> Thank you. So I want to second a lot of what you just said there, although I don't think that you necessarily need to choose one strategy or the other. I think that we both need to be reducing the organics that go into the landfills to reduce that methane, and, you know, I personally am really focused on the 20-year impact for climate change because we're running up against tipping points

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and that number is 87 times the impact of CO₂. So it's a real problem, and I absolutely also would encourage every landfill to be capturing their methane. You know, I agree that we shouldn't be encouraging the production of methane in the landfill by actively sending more organics, but what's there is there and there's really nothing to do about that other than to capture it and absolutely I think that would be a great criteria to have, and I, you know, think that Josh's point about developing criteria is really solid. And you know, to the point about sending our trash, particularly our landfill trash, out of the area, I think that there are a couple issues there. Definitely the carbon impact is

important. I think there's also just an environmental justice issue right there too. Sending our trash as a city to another city, that's -- I think at best there's really bad optics there. So I would -- I would, you know, encourage that maybe another criteria should be that it at least stays in the Austin area so that we who are producing this trash are responsible for -- for dealing with it, and that I think also provides a good incentive for all of us, our community, to reduce what is going to those landfills, to, you know, take tt responsibility on ourselves. >> Mr. Gosh. >> I was going to talk about zero waste, so is that -- that's what I was going to address. >> Yeah, and I think we're going to be finishing up here pretty quick. A couple of us have another meeting at 3:00 that we have to get to. So why don't you you jump right in and anybody else that has final comments you want to make and then I'll close this up. >> Thank you. I just wanted to understand a question. It seems like in part why we're here is if I was to sum it up, would be really mistrust and lack of trust.

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And so my -- it's more of a question that we would want to understand, but if we are trusting each other and we are working and collaborating together, I think it could be pretty powerful towards the goal of zero waste. And so my question is, where are we -- where do we need to work through as a group of where there is mistrust and how can we build trust and then work together to reach the goal of zero waste? Where we're generous and self-sacrificing for the good, and together we support each other towards that end. Thank you. >> Pool: Thank you. >> Just a couple of really quick historical facts. What I'm -- one of them concerning methane gas. I think anybody who has been here for some years will remember the water dams departments, which was a victim of methane gas explosion, which is again -- it was an abandoned landfill of which an apartment complex was built over, no longer there. Number two, I invite anyone here to please get a copy of the Carter burgess report, and that Carter burgess report pretty much outlined the landfill capabilities in the region. I think that was done in 1998 or 97 -- >> '99. >> '99? I'm sorry -- >> Either -- late '98, early '99. >> I had more hair then too. The last comment I'm going to state here is literally these landfills are necessary today. Our current diversion rate as of today is approximately 38%, and that's including the residuals. So we have a ways to go, I think, as Mr. Gosh stated, this is an opportunity for us to literally start working towards trust and working together in accomplishing our zero waste

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goals. Thank you, well, thank you, everybody, for being here, at our third meeting. We will have one more. Jessica, did you have -- >> One thing, the sustainability office, we worked collaboratively. There was a dedicated group for landfill operations and the incorporation of those into the climate's plan would help lead that group, then we can also engage luhhe's shop to -- >> Pool: I think that would be great and meet what councilmember alter was looking for. We talked about the volunteer wastewater commission crafting rfps and I think we're going to work on process that would encourage the review of goals and missions in advance of contracts being issued, but this would be outside of the rfp process. So we'll be work on the guidance for their role and procurement. We talked about addressing the issue of confidentiality in the procurement process, how can we be assured purchasers of materials will adhere to our zero waste goals, just some additional questions. Then probably on the 25th, we will tackle

the question of special events, and I think that that's the one last piece that we may not have yet gotten to. If anybody can think of anything else in the interim between now and, say, two weeks, biosolids issues. >> I'll point out that the biosolids is time sensitive in a way some other things may not be. >> Pool: Let's look at that in the next couple days and see what our timeline looks like so we can accelerate that. >> In preparation for that, we can just recirculate the documents approved by the working group, as well as

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foundation of the biosolids policies, and that could be a starting point. >> Pool: That's great. Everybody, thank you so much. We'll see you on may 25.

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