

City Council Work Session Transcript – 10/22/2013

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>> First we'll have the preselected the agenda items. First on the list is item number 51 pulled by councilmember morrison. >> Morrison: Thank you. That is the long-awaited much discussed monster ordinance on special events. And I know it's been through lots and lots of boards and commissions. I have several questions. I thought it would be good to just -- this is a big change, sort of a conceptual change in the way we're doing things and I thought it could be good if we could number one just step back and make sure we have an overall understanding of what we're talking about. Then start getting the issues out on the table that we're going to have to address or we'll be likely asked to address on thursday. I want to note that I also pulled item 65 is a temporary use permit for a public assembly ordinance change. As I looked at them, some of the confusions that came up to me was how exactly do these two things relate. Because I know special events have to have temporary use permits. So I pulled that one just to talk about how it fits in. I wonder if we could ask first that we start by asking staff to give us an overall picture of what we're looking at here. >> Good morning. Gordon, assistant director of the transportation department and kind of the wrangler -- the cat wrangler of special events. So the council asked staff to look at the special events ordinance. We asked that section 148 in 2009 this year in taking more comprehensive look and dealing with all of the activities that

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currently belong to special events. It was felt by staff that we needed to go beyond 148 which is the special events in the public right of way to take a wholistic view of the special events. So with the recommendations from the city attorney's office, there's a new section of code which has been drafted which is 415. Which would basically set up the framework for how the city deals with special events -- almost all special events in the city. So a couple of years ago, we had a lot of activities related to the special events to one texas center. We have there the special events folks from transportation, the

police department, the fire department, and austin travis county ems. We have hotels there for co-compliance, from health and human services, and basically all of the departments then we come together at that point typically on tuesdays to work with the developers to get them through the permitting process. That group which has somehow got named the austin center for events or the ace, this ordinance gives the power -- gives the city manager the authority to give them the power to really oversee and do the permitting for special events in the city of austin. We felt this was a better approach than having a number of different activities and different ordinances. That's kind of the basis. The drafting ordinance we've done several things that the resolution or I think all of the things that the resolution included, including carrying of events so the requirements would be based on the the size of the

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event and the activities the event as opposed to the one size fits all we currently have. It gives the authority. It pulls together a comprehensive consolidated permit process which will start off with the hard copy. But part of the proposal would be that we bring that on-line and into the permitting software that we use. It lays out specific requirements related to health and safety that we would like to see the events address. And we would -- it's moving toward consolidating several different processes and includes some that have been held in the planning and development review department. But we're primarily fire based. The temporary use permits and the temporary change permitting. It brings those down and consolidates those activities within one permitting process. We've been -- big picture. So that's basically what we're trying to do with this entire effort. It's been done with all of the departments related to transportation involved and providing feedback of the process. So I think we have a pretty good product. >> Great, I appreciate that. And absolutely. To do it in a collective and comprehensive way is going to make the outcomes more -- more effective. And be a lot less painful for the people who are trying to put on the special events. Also noticed, for instance, there's some requirements about special events in terms of I guess recycling and styrofoam and things like that. Could you give us an example of an event for each of the four tiers? >> So tier one would be

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typically a block party. Which would be an activity I think as mentioned in the -- in the -- so, it would be a simple process with three-to-five-day deadline. It's basically blocked off the ends of the the street, make sure there's no bus routes or anything going through there, no disruptions and everybody is in alignment on the process. A tier two would be an event to have up to 2500 people on public or private property. That's the state for a mass governing permit. So it's seen as a couple of blocks and as far as the specific event I'm trying to -- get to the easy one, tier four events. South by southwest, marathons, acl, fan fest, these are the events that need your national draws that we want certainty in those as early in the process as possible. And we want to look at how they interact with other ancillary activities even with the major activities going on, there's a lot of pop-up activities, people see it as an opportunity to get their image out there and all. Tier 3 would be like pecan festival where we block five or six streets. There are street closures. So that would be there. One of the things we've done to clarify is and maybe

this is a simple way to talk about tier 2. We're looking at short time frames with tier 1, but we don't feel we can deal with an event that has alcohol within three to five days so any event that has

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alcohol consumption would be considered a tier 2, which would be a 30-day process and we feel that would be sufficient time to work with the tabc and other folks involved. So I think there's several festivals that include that following that tier 2. And again, go to scale the things like sustainability plan to each of the tiers so that in tier 4 it should be expected to do a lot more in sustainability than say a block party. Although it would be great over time if they evolved -- we developed best practices to them. >> I'm sorry. >> I was just going to say what we had before was an ordinance. Under that is a set of rules and the third level would be an on-line guide book for anybody who wants to develop an event could go online, look at examples of that kind of an event, what requirements are, you know, like a safety plan. So what's the safety plan look like for a tier 2? What are some resources to meet that plan? So the idea that all of that would be on-line to make it easy for people to get the information we need to fill out the applications and to prepare the documents that we need. As we talked about 80% of our events go from -- which happens each year. Although the plans are a requirement, we haven't had on some mid level -- we think we can do those once and then basically update as we go forward with those. >> I know that you mentioned that we're -- we're 14-8 was the temporary use of right of way. And so it used to be that everybody sort of came through that and whatever other permits that outdoor amplified sounds and things like that. Now we have a special event and obviously if you're going to get a right of way, temporary use of

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a right of way, that kicks you into it. How do I know if we're having an event that requires a special event permit? If I'm going for a temporary use of right of way, that's going to kick me into it. If I'm going for a temporary use permit, that's going to kick me into it. You said sometimes on private property, I guess, noofter of those things are happening, you have a special event. I know some requirement if you have more than 50 people at your house, you need to have a permit. Does that kick you into it? >> I think we set the limit at 100 because there's some provisions in the fire, code we should have more than 100 people, you have to have a sprinkler or some other accommodations. So that's what we used as our criteria for defining what a special event was. So in the ordinance, we defined what a special event is and we provide some exemptions to that in some cases exemptions are related to the fact that someone who deems the city hall properly they enter into contracts and they would be other agreements that would -- can be set up to replicate the special event ordinance. >> Morrison: Great, you're referring to the definition, I guess it's on page three of the ordinance -- a special event means. It's the special situation at a city facility. Other than the convention center and things like that. Or it's anything that what you need a temporary street close euro. -- Closure, or you need a temporary use permit I presume is inconsistent with the permanent use. And you either have alcohol or food, so even just serving food kicks you into it. >> So in this case, it would be like the special parking lot

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downtown where the gathering wouldn't be normally a part of the parking lot and that this section of the definition let me bring those in under a special event permit. >> Morrison: Okay. And so just to go tangentially to the temporary use permit, one of the reasons we started working on the temporary use permit, we might need to have a development review person here is because, for instance, there were some rather large gatherings, say a promise land out in west -- southwest austin. So will those -- if they've fallen -- so it's a religious facility, there's limits on how many temporary use permits. Those -- I know the easter egg hunt was one of the big questions that they were concerned would bring thousands of people -- I take it that will require them a special event permit also? >> Read upon it. Item 65 now. The proposed ordinance would deal with the religious assembly of use where they would have a special event out in the open that would limit it to four per year. It's really the sound ordinances that we have. Did they also need a sound permit if they're using amplified sound. And they can certainly take wound. The provisions are already in the sound ordinance that we amended with the development permit and the police department not too long ago for a bad actor policy if they, for instance, had violations of the sound ordinance, I would be able to deny a multi-day permit or an outdoor venue permit, that could be appealed to the council for your consideration if I were to deny that application.

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>> Morrison: I'm still not sure if that would require a special event permit. >> Councilmember, patricia lange, city assistant attorney. If it's a temporary event that has 100 folks and they have the temporary structures, sound equipment or consumption of food or alcohol, they would be considered special events. The way staff is envisioning this, they would have the consolidated application. And the one application would be submitted to ace and under this ordinance, ace would act as the accountable official for the temporary use permit. So they would not have to go to a separate department to get the temporary use permit. It would be all part of that one process. >> Morrison: Okay. All right. Thank you. One of the things I did was we were repealing the current 14.8 and replacing it with the new 14.8, I went through and noticed a few things that were in the old 14.8 that doesn't necessarily carry over or carry over exactly or at least I didn't see it carry over. So I wonder if you could help me with a couple of these. One the current 14-8-3, if there's a fee paid event that is going to be on use of temporary use of right of way, it requires council approval. Is that still -- is that still a requirement or is that wrong? >> I don't believe we incorporated that into the new ordinance. But we would -- from the 14.8 to 4.15. >> So -- >> Morrison: Okay, we don't have to -- to me, that's an issue that we might want to carry over. So maybe you can help me to put together a motion to make that modification. Let's see. And then in 14-8-17b, currently

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appeals can be made to council. Is there any council involvement in appeals in the new concept. >> No, it's drafted that ace has a certain set of parameters to make a decision about the permit and then it can be appealed up to the appeal team, which will be the directors over the employees in the ace

department. Also bound by the same criteria to determine whether or not they could have the special permit. >> Morrison: Okay, that's something that might be something we want to discuss as a council whether that makes sense to continue an appeal process to the council. Have we had any appeals to council at this point? >> Oh, perhaps about that -- >> cole: That's a good topic of conversation. Do you want to do that now? >> Morrison: I do have other points but I would like to hear others' thoughts on it if you want to chime in. >>. >> Cole: I have a question about it now. Does that go to the board commission s? >> So in section 14.8 in the moment, if there are more than 20% disapprovals on the street, then the director may not issue the permit. He has to go to a hearing at the urban transportation commission. They make a recommendation to council and the council has to direct the permit be approved. And what we've been doing for the last couple of years is basically telling the event promoter they need to go and get a council office to support perez lugs on related to that event. Primarily because if the council says they can't do an event like this, we don't feel staff should

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be comfortable recommending that be done. So there are -- there have been since 2009 a few of the activities that made it up to that level. On the other hand, there are activities like the marathon waiving the ordinance for the notification process. They've been doingt for several years. That does not precluded by the ordinance rules but potentially would be written. >> Cole: I want to make sure when we talk about a proposed rule change or a waiver of a rule we're using the same language to refer to an appeal. We would have the appeal of a waiver of a rule? And that an appeal is a waiver of a rule. I want to make sure there's not two tracks that we're talking about. There are two tracks? >> Mayor pro tem cole, yes, there are two different -- there would be the waiver of the ordinance potentially, which is what council would address. And if there's an ordinance requirement that an event, organizer and I think mr. Dirish is describing is the notification requirements in the current ordinance that come to the council to get waiver of those requirements. So that would be separate. Rules process would address the specifics of the notification going forward. >> Cole: So councilmember morrison, we're talking about three different things. Are you contemplating needing an appeals process different than what is propose in the ordinance? >> Morrison: I do think that might be appropriate. >> Cole: I guess I was thinking it would be appropriate to have the proposele rules go through

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probably to utc and the music commission. And then up to council? Or some types of boards and commissions look at them before they came to council. >> Morrison: You're talking actually the development of the rules or a modification? >> Cole: A modification. >> Morrison: For a particular event. >> Cole: Yeah. >> Morrison: Then come to council. >> Tovo: Mayor pro tem? >> Cole: Councilmember tovo? >> Tovo: I appreciate this conversation. I aired a few of these things in the summer when we knew this was coming soon sooner. There's special changes from our existing ordinance to this one. They seem a little bit outside of the scope of what we had asked staff to do when we passed the resolution. I think it's great work and I really applaud you for that great work. But I just want to harken back to some other very painful but good work that happened in 2009, that was the street closure task force that

yielded the current ordinance. But it's pretty specific on some points. And I won't share with you all of the trials of that task force. But it was a very difficult process. There were a lot of very loud disagreeing voices on the commission and in the public and that we were able to come forward with the consensus. I think I just mentioned it. I'm sorry mayor leffingwell was not here to hear that I talked about this, that we were able to get through the consensus was remarkable. We burned through two mediators. It was a challenging process. >> I think 30 plus meetings. >> Tovo: Unbelievable. Several of the really important compromises has been lost here. The notification was one of them. The notification was not a rules process, that was in the ordinance. It was a very difficult discussion because it had changed from a process where promoter had to get an

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affirmative number of supporters to be able to move forward with the event to one that completely shifted it to now there needed to be a substantial number of objectors and the process I thought we outlined to go to utc as an appeal and it goes to council. I think you told me there's only been one of those that triggered that process. It's not like we've had a flood here of events that had so many concerned business owners and citizens that it came up to council. It happened very seldom. But I think we have a process in place now where a promoter has to talk to the businesses, in that area where a street close eurois going to take place, we have to make sure that they're listening to their concerns and responding to them has resulted much in where they're going. I don't know that we have the kind of -- I certainly don't hear the kind of concerns anymore that people are airing all the time before 2009. Where you had churches whose members on sunday -- ape ten dance on sunday was dropping dramatically because people couldn't get to church. Businesses that were complaining because you have a street closure that's impacting their businesses. Neighbors that can't get around their neighborhood and are locked in. A lot of the changes were good ones. And I do not want to see us move forward with the system that has the notification for procedures in the rules. I think those were very important compromises and we need to retain them in going forward. And as well the appeal process of councilmember morrison. They need to go -- we need to have a public process for those important points. We need people to feel like they have a public process to rely on, not an objection to a rule that happens administratively, not an administrative concern. A lot of events in my opinion, a lot of why our events have moved smoothly -- a lot of the reasons the events have moved smoothly is because the process now puts

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the promoters in touch with and requires them to work with the communities that are going to be impacted by those events in a very demonstrable way. Not in an administrative process. Those are three things I would want to see the appeals process continue to go through the commission and the council. The notification re-established in here in the way that it is currently in the code. Well, I thought I had a third thing. >> Cole: The appeal, you were talking about the appeals process. >> Tovo: That was number two -- >> Cole: You are calling the notification as part of the appeals process? >> Tovo: Those are separate things. They are tied. We need a notification process in the ordinance, not the rules, the

appeals process laid out so that includes the utc and the council, publicly accountable bodies. And I think that's it. That's what I've got for now. >> Cole: Before I want to respond to you, I want to say councilmember leffingwell is out on city business but he is on his way and he will be here. >> Tovo: Mayor, actually. >> Cole: What did I say? >> Tovo: Councilmember. >> Cole: Mayor leffingwell will be here shortly. He's oh it on city business. These are great items for discussion. The only one that I had strong feelings about was changes in the proposed rules and they go through commissions. Councilmember moreson in >> Morrison: Thank you. In regard to the notice on appeal, you want to chime in why you're recomed the beginning of the structure we have here? >> I guess part of it is to really interpret the resolution.

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We want to be a more efficient and streamlined process. So part of the if we add the city council, we're adding to you are weeks to six months in the process to get on the schedule of the boards and commissions and to get on a council agenda. So a tier one, not three days, it was, you know, 63 days. So, that kind of the way is do we want to do a process which can go through -- can go through pretty quickly versus what's the right of appeal by both the producer to actions of the staff or a resident appealing an event? So at this point, we tried to set up a structure that could be a pretty streamlined structure and could get to have place for people to come and talk about why they felt whatever action was done was - - should be different from the action that was taken. So that's part of the basis -- that's what we're trying to balance in the process. >> Morrison: Two points for me there. One, as councilmember tovo brought up, working with the businesses and things like that is something that's been very productive. That's been a lot of what we heard before and the trouble that we heard before besides the impacts on neighborhoods, nobody could get to their businesses and it was having significant impact. I sort of heard from you the concept that this is a straightforward this is a yes or no kind of a thing. But to me, once you start talking about impacts on a particular business and all, it's less of a cut and dried decision. It's one point. The second question is -- the second one is a question and that is did anyone discuss, you

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know, or maybe you wanted to put this off until later, really treating tier one differently if you're only having 100 people and you ear having a block party, there's much less of a potential for impact than 2500 people. >> Certainly. The notification process is scaleable for a block party. You need to get each of the people on the block to sign off on it and that will be a sufficient for a tier one, for a tier four, of course, it's going to be a significantly greater process now. Part of this is based on the fact that again 80% of our events are repeating from year-to-year. So if event "x" this year has a problem with this business, to me part of the staff requirements is, okay, you need to -- if you haven't dealt with it this year by next year you need to have a solution and ask for the application to talk about what they've done to mitigate the issues from the previous year. So you know we've been involved in our process. I think last year during the fan fest, a month out that people say there's no way. And they put in a concerted effort in working with those folks and by the end of it, they want you back next year. So to me what we need to be doing is helping them to come to -- I want you back next year. And not what can we

do to make things work to mitigate the issues with neighborhoods? Somebody is going to manage just about everything that we do. So how do we work with them hand get that done? So -- >> councilmember, if I may. Two things -- on the appeals, the way the ordinance is drafted right now because this is a free

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speech ordinance, is drop it in what we feel is the mostf defensible way. That said, on the issue -- on your concern about appeals, is that directly related to street closures only? Or is it the broader special event permit? >> Tovo: I believe our current ordinance, the appeals process that I was discussing is just related to street close euros. Is that correct? >> Correct. >> Tovo: And so -- yeah. So I would say I haven't thought it through for events, because right now, I was really just looking at what we have now and where we're going. And with regard to the street close euros as you put it earlier. Because that's what I'm most familiar with. And again, you know, I want to be really clear, I know that the neighborhoods wasn't just neighbors, it was largely the base community, lots of businesses who all felt like they needed a voice and a public process if their negotiation with a promoter weren't sufficiently accommodating there -- their needs. Can you just talk us through the rule? At one point, I thought you had laid out some notification processes for each of those tiers, and if you want to -- if you have a question on this point, you can get back to it. But I thought there were different notifications contemplated. The smallest events it seemed to me had the most responsibility for notifying and the larger events, I believe, as we talked about it. I wanted to get around to that. That may not be the right -- >> Morrison: What I was going to suggest is clearly the notification and appeals process needs a lot more work in. It would be great to think about what are they, the appropriate levels of notification and whether it's, you know, whether

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people have the opportunity to object or whether they actually have to approve. I think that's going to -- maybe somebody needs to draft a proposal to bring it because I have a lot more other things. If you don't mind, just make sure we're moving along. I see there are other comments. >> Spelman: Just a comment. Another way of looking about it. I can understand the promoter and staff would have fixed rules to be followed. They're looking for a set of rules if I get these marks, would I be able to get my permit. On the other hand, you have people around the events that want to be sure they're going to be fairly treated. I'm not sure what happens to the rules once you get up to them. The boards and commissions take a look at them. There's an administrative process for the development of those rules? >> Tovo: It's the administrative process and we would be following chapter 1 of the city code where ace would draft the rules, would post notice, there would be a comment period of 30 days. Staff would take in all of the comments. Would review the respond to the comments and saying we think that's great or we have a problem with this because of x, y, and z, giving to an explanation for why they incorporate or don't incorporate comments to the rules, and they would be going into effect. And there's an appeals process to the manager about an adopted rule. And the manager within review and making his decisions based on his role as the head of the staff. >> So right now in section 14-8. >> Spelman: Mm-hmm. >>

Revised in the old section, any rules related to street closures have to have a hearing

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before the urban transportation commission and they make recommendations to the director of the transportation department. The other kind of variant on this is going through zero -- any rules related to -- >> Spelman: Trash. >> Arr, I think, have to be adopted by counsel. >> Spelman: So we have one section of these rules that have to be adopted by counsel. The other section of the rules that need to have a hearing at urban transportation. I presume there would be other sections of the rules that would have no formal public review other than posting the public notice. >> Traditionally, 90% of the rules are adopted in the third manner you described. The utc by doing a public hearing is giving the body an opportunity to act as a stake holder in the process. So it would be giving feedback to the director that the director would need to respond to. >> Spelman: What I'm doing here is proposing a broadening of that. At least would be forced to talk about. On the one hand, you have an ordinance to do. The appeals are administrative. On the other hand, there's these and the political process and the whole thing could be handled by city council of boards and commissions and consulting the administrative staff out of the final decision making. Le tern tify, you guys could adopt rules that we would have to agree with or at least consider formally. If we agreed with the rules, it would -- we might be more comfortable to enforce the rules that we all agreed to. That might be another way to handle the switches of a middle approach between the two extremes. >> If I may point out that the rules that would be adopted pursuant to this ordinance would be fire, ems, discussing how many police officers will be required at the event. Not just the rate close europiece, but the other

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administrati department, fire, others that would be included in the ordinance. I wanted to make sure that you're aware. >> Spelman: If if council were not considered in the rules, we could make decisions, some future council, none of us, but some future council could make decisions on an arbitrary or capricious nature. The administrative staff, if you came up with your own rules and nothing beyond the usual public notice requirements might find -- may administer the rules in a way in which is conceivably inequitable. It seems to me just having some public review of the rules including stuff that you were talking about provides sufficient -- might be a way of providing sufficient public input to how the rules are going to look like for the same time and make sure they'll be informally enforced. Just a possibility. >> Mayor Leffingwell: Councilmember martinez? >> Martinez: Yeah, I wanted to chime in here. It's a healthy conversation. I'm not opposed to adding to the process with more public input and ultimately council action. I'm not going to drive that issue. Uh be I'm not opposed to it. Here's what I wanted to add. If we're going to start talking about an appeals process, I want to make sure it's a balanced appeals process. If I'm an event promoter and someone is giving this unilateral authority to nix my project, do I get to appeal it now as well and say that, you know, I've gone through all of this process and done everything that I wanted to do. And staff is not recommending this, can I appeal to council as well? So I wanted to make sure we put it out there and say that the appeals process is both ways. It's the people seeking the event and the people affected by the event. And I realize that 90% of our rules are adopted

administratively. But 90% of the rules affect

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issues don't rise to this level. And I think what we're talking about is a whole different ball game. What I specifically wanted to ask about, Gordon, is it sounds like at least on this -- in this conversation, some councilmembers are wanting to create a process that is very similar or not unlike our own process. So what if a venue currently possesses an OMV -- South by Southwest or Fan Fest wants to use the venue, do they have to go through the special events process as well as already obtaining the OMV with the appeals process, the notification process? Explain to me how those venues of bricks and mortar who currently went through this public process will they have to go through the special events permit process again? >> My understanding is, for example, Brazos Hall. They have now the authority to have events of a certain size. So as long as those events are happening within those parameters, I they would not be brought into the special events ordinance. >> Councilmen, I agree with that. If you have a bar that's operating within their OMV, that should be fine. The type of music that might come in for a special occasion might change throughout the year but the OMV would be in rule. If they violate their OMV, there's a process now under the ordinance that we just adopted. Last month I can actually go to the process to give notice of suspension and proceed through a suspension if they become a bad actor instead of a good neighbor. Can you give me an example of something that would be outside of their OMV. >> For instance, operating beyond the hours they should have hour exceeded their decibel limits. Those are two that would come up

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the most. The same goes for their equipment that they have. They're set up to buffer the sound. They go down to all of the materials that the development staff and the music office had said you need to keep the bumpers in place. They removed it all. Those might be things that might rise to that. >> Martinez: So we're contemplating you possess an OMV and you operate within that, you're not affected by the special events ordinance. >> For example, South by Southwest some venues will take out all of the tables to add to capacity. That would kick in to a special event permit, fire would be involved to look at the new mode limit. And that they would be in the process. But as long as they've been operating like they do the rest of the year, it wouldn't be. >> Morrison: Mayor? >> Mayor Leffingwell: Councilmember Morrison? >> Morrison: I was going through a few points. Because the notice process in the draft 4 ordinance right now is just in the rule, I'm supportive to figure out what the notice should be and put it in the ordinance, or at least have the notice section of the rules require approval by council. Because I think that that's very important as well as -- and I do want to say that absolutely, I would conceive of an appeals process to council being a two-way street, because that gives the promoters also a venue for -- for having further conversation. I do want to -- I have a few other things I wanted to bring up. One, I wanted to mention section 14-8-32 which talks about law enforcement, is now being moved to 14-15-33. And 6 I just wanted to comment that I appreciate the -- let's see, where's that dash 33. I appreciate the addition there. Because one of the issues that

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we've been discussing -- did I get that number right? -- I got the number wrong. It's not 33. >> Do you mean 50? >> Morrison: 51? Is that right? 51? Yes. 50. Okay. Right. I see it in 51. It actually -- what I mean is the personal security and property security. What you've done is translated over this section. And I'm not -- unless a police officer has been authorized by the police chief or is otherwise on duty and acting in official capacity of their agencies, only police officers commissioned by the city shall be used for traffic control, etc. And then the addition that uh you made which I think is good which is in making this determination for authorization, it lays out the things that the police chief can -- should consider. And I do want to weight that as an issue just to make sure that our staff understands, especially in our police department, that the police -- that there is an opportunity for people to request other than apd to provide that security. And I know that that's something -- some education that's been needed in our police department. Because I know we've had some people when the request was made, the response they got back was the language from this section only in less -- only it dropped off the -- unless the police officer has been authorized by the police chief. It just said, it can't be done. And so I just want to -- that can make a huge difference in the fee that somebody is interested in in working with, for instance, the constables or something like that. And when I talked to the police chief, he said, hey, he had never known of any example where that request had been turned down. So I'm glad to hear that. But it might be because nobody has ever made the request. Lastly in the comparison between

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the old 14-8 and what's been transferred over in the old 14-8 under, I believe, if I got my notes right, section 44, 14-8-44, there is a section requiring review and reporting. And I noticed much of that got dropped out. And I thought that was interesting because I know it's not carried over but it asks for a report on december 31 of each year with council and the utc with expenditures related to the events -- right of way events to the city. And I don't believe number one, I me think we've never seen that report. That would be councilmember tovo. And as I understand it, that was an important part of the task force recommendation in 2009. And there was a resolution asking for it and I believe now the public safety commission has been asking for it. So I think in general there's a big interest in seeing those reports? But now I see it's been dropped completely. So I wonder if you could comment one way or the other on that. >> The part that carried over was the responsibility of the utc as it relates to the right of way event. It's council's desire to have reporting, we could at it to 4-8 -- 4-15 which would capture all of the information as opposed to just being in 14-8 limited to the right of way events. So we can add that language to 4-15 which would encome pass all of the special events in the city.

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>> Morrison: If you wouldn't mind helping me draft a motion to do that, I think there's a cost in all of the special events, not just the right of way, so I appreciate that. The music commission provided some comments to us. And some of them are sort of minor wording issues. I didn't want to go through those necessarily right now. But if I can find my list of them. So a couple I wanted to bring up. One is -- I think

this is something we need to have a discussion about. They sent us a letter on october 14. In section two, they were suggesting we add a section allowing the city to enter into multiyear agreements with the event producer. And as I tried to understand what the driver of that request was and you know I'm sure the promoters can explain this a lot more and in a lot more detail, there were a few different interests they had. One is that there's this concept of district boundaries and they were interested in maybe solidifying district boundaries for multiple years. There is -- they were concerned about interested in changes and fees that might be done. They were looking at hours and also they thought it might help enforcement. But do y'all -- I like to hear comments on that. That's a big issue and I think it would be interesting to get stuff from the matter also. >> There's nothing in the current ordinance that would limit the council to coming to an agreement with the event organizer. Included in the ordinance itself, the way it's drafted, it's the most defensible

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position. The agreements would be effectively treating event organizers differently. And so they would need to be some thought about what would be in the agreement. Additionally waivers of fees, for example, going forward for another council there may be a concern. But from the way the ordinance is drafted right now, council would not be prohibited from doing that. And it's -- it's -- in being drafted that way, it's the most offenseable. >> Morrison: Okay. And I guess really if you're talking about the agreement to fix fees, you're really starting to talk about the lines of an economic development agreement? I imagine we would be looking at while it makes sense to do that if, in fact, the event is bringing in certain tax revenue and things like that. >> Like a chapter 380 agreement. >> Morrison: Would it be a chapter three agreement. >> I have to go and read through the statute and go through it. But I think that's the closest comparison we have is the 380 unit. >> I have a question right now. >> Mayor Leffingwell: Could be more like the web loci agreement, chapter 380 agreement. Major pro tem. >> Cole: I wonder if those could be potentially annualized from the standpoint of distinguishing between a city co-sponsor type tier 4 agreement as opposed to the other agreements that may have more issues that aren't ironed out earlier? >> Not sure I understand the

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question. The co-sponsors are set out in resolution that the council mentioned from time to time, and we don't have a separate ordinance for it. And so I'm not sure if you're talking about those events or the new event with the different agreement. >> Cole: I guess calling it an agreement would be a bit of a stretch, but we could look at it under web loci analysis. After we did that for certain events, maybe that could be city sponsored pursuant to resolution for the an amount of time if we were trying to extend it as opposed to -- I don't think it fits under each analysis perfectly. >> Martinez: Mayor? >> Mayor Leffingwell: Councilmember martinez? >> Martinez: We had license agreements, concession agreements. There's multiple ways of doing it, it doesn't have to take on the form of the economic development agreement, it could be a license screening. We directed staff to enter into a five-year agreement with the little league to operate ball fields. This is not an anomaly. It's not something we can't address through the current existing statutes and ordinances that we have. >> Mayor Leffingwell:

It makes sense but it also makes sense to do some kind of analysis to see if it's positive for the city or not positive. Stopping a little short of an actual economic agreement. >> Tovo: Mayor? >> Mayor Leffingwell: Councilmember tovo? >> Tovo: I agree. In the resolution we passed asking staff to go forward and looking at the different costs as councilmember morrison said this is the requirement in the ordinance that I don't think we received. We did a resolution recently. That also referred to that asked for the costs -- the costs and the revenue that we received from events to see how -- how

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many of our events are paying their full costs. And then for ebts that where that is not as an apparent, it does make sense to look at it in a broader way. Web loci is the way. I think that's where that discussion came from. That's not the only mechanism to enter into these relationships just with larger events where the economic benefits are more than just the fees paying off. It doesn't make sense to say they paid \$5,000 worth of fees and our costs were in the tens and tens of thousands to make sense to look at the full range of economic benefits that that might be a better way of conceptualizing both events, not as a straight expenses. But the web loci might offer us a little broader. But I take your point. There are other ways of entering into those but I think that's why we got into those discussions with web loci with events because it's just another way of seeing, you know, the extent to which our events are either cost neutral or of a financial benefit to the city. >> Mayor Leffingwell: I think there's a strong possibility that what might happen with this kind of approach too is that you find out that you're -- you're not going to be -- it's not going to support a lot of small events. It's going to support the big events. It's going to support the south by southwest and acl and formula one, etc. But it might not support the kite festival, for example. And there might be a lot of city sponsored events that we do now that are not going to show that economic benefit. It's something to consider. >> Tovo: It is and -- >> Morrison: Mayor? >> Mayor Leffingwell: Councilmember morrison. >> Morrison: I was going to add that we look at the revenue it will bring in and go moneywise, that's one value that we have and that's bringing in money. We have several other values that are traditions in the city in supporting the -- you know, we support the veteran's parade, it's a co-sponsored event. That's because that's the value

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that we hold. It doesn't necessarily have the monetary number to put up. >> Mayor Leffingwell: I agree with that 100%. It seemed to me the focus was going in the other direction like these events have to have a positive economic impact. That's absolutely the point. There are other events that have other value to the city. >> Martinez: Mayor? >> Mayor Leffingwell: Councilmember martinez? >> Martinez: I wanted to stop talking about the topic of economic. I don't want to get in discussions about \$11 and osha-10 training for special events. Trying to get away from that conversation. >> These are the values that relate to our comprehensive plan or our city charter, varied other kind of big highfalutin documents. This is why we're making a financial, a public investment in these event for these reasons. So -- >> seems to me like that kind of gets us full circle back to where we are right now. Where the council makes an individual judgment on the merits of particular events. >> But I think we need --

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>> various ropes. >> I think we -- reasons. >> I think we need a more comprehensive approach so -- aren't covering their costs as we discussed during the budget, it just has a total, I think that you made the point, you know, we do them individually and then the -- the end number can be kind of high. So we just have to have a better of sense of what's our budget going to be for those big events or small -- cumulative effective small events. >> Morrison: I have about three or mention that I want to discuss. The other thing on the music commission recommendations that I wanted to bring up. They are mentioning in 3015 - -- is it four or 15. Special event, section 34, it mentions that tier 2 event may only get one day notice from a -- as to whether or not that's permitted and as I understand it, the way we have it now, tier 3 and tier 4, ace is required to respond within 10 business days of having a full application. And so tier 2 may have up to 2500 people, right? So the music commission suggests that one day notice might not be adequate. I wonder if you could talk about that. I think if we delve into it there's a few different things going on here. >> Well, to us it reflects the fact that for a smaller event it may be that they don't have all of their setup in place until the day before. You know, if you are having tenets or maybe you have food to help -- the health department needs to do an inspection, they're not going to set that up a week ahead of time. So it may be that the last day -- the day before when all of the inspections are completed and then the permit can be issued. >> Morrison: But when can

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they get confirmation that the plan for what they're going to set up is acceptable? Because that's different than okay what you have on the ground, satisfies your plan, and can -- then you can have the final permit, but it seems to me that an acceptance of their plan, that they are submitting, is important, well before, one day before. If you are asking 2500 people to come, you need more than one-day notice. >> So the -- what we're envisioning is that there would be an application, there would be the determination that the application is complete. The ace would do -- look at the application and determine whether we can -- the city can I guess that you would say have the event or not. If the date's open, if the location is open, if we have the resources we need for public safety, that determination would be made pretty quickly. And when they would go on the calendar and -- to me, that means on the city website it would say this event is on this date at this time. And at that point there would be a level of assurance and the ace would then issue to that event the list of conditions to get their final permit. So if it's health inspections, if it's -- if it's 27 port-a-potties, whatever each the departments determines is needed the traffic control plan needs to be approved, but they would have their checklist. As soon as the checklist is completed, they can get their permit. It's their choice whether they do that all in the next two weeks or the two weeks right before the event. To give them some certainty if they do these things they get to have their event. >> Are they guaranteed to get that response back from ace with the conditions, which I don't understand why it's different than tier 3 and 4. Within 10 days? Can they be guaranteed to get that set of information back within 10 days? >> Well, the -- that's going to be dependent on what

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resources are made available. The intent is part of this process and to say we can meet this time frame, if we have another level of resources we can meet this time frame. In ace. In ace. >> In ace. >> In the ordinance, somewhere, I'm not sure where, it makes a guarantee of responding to tier 3 and tier 4 applications, within 10 business days. So -- >> if they need a -- if they meet a list of conditions. That you whichs if you don't close any streets or impede any sidewalks -- >> what section is that? >> It's section 32 on page 13. It's a. Which is the tier 3 and tier 4, the preliminary recommendation. It is the council's desire we can -- we can look at adding tier 2 to that preliminary recommendation. Which is kind of their holding on the calendar, saying that we don't have the conflicts, we have the resources and those kinds of things. >> Morrison: So it does so for any tier 3 or tier 4 event, take final action to approve or deny the permit, no later than 30 days before the first day of the special event. It seems to me that we need to give some certainty to tier 2 event, too. >> We can do that. That section a under 1532 is if it's a simple event, we're not having the -- we're not having to do a lot of things like figuring out how we're going to divert traffic, then we're going to tell you within 10 days, if you have any of these things that are going on, it's going to take longer than 10 days for -- for probably -- we're going to move as quickly as we can based on resources to -- >> Morrison: Is there anything in here about timeliness in terms of responding to a request for

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a tier 1 event? >> There is. It's -- it's a one-day turn around or I'm sorry, it's the -- close of business before the day before the event. The tier 1 window is very small. And that -- that should only generally be triggered if we have somebody who literally walks in three days before their event. So that staff has the time to do it what they need to do. But if you had an event that came in six months before, it's just a tier 1, there's no reason staff shouldn't be able to do that, it puts a cutoff on them, particularly when you apply that three day window, if we do have someone who comes in three days beforehand. >> Morrison: I guess what's missing, seems to me that it needs to work both ways. People need to get their applications in early enough that we need to be able to make some kind of commitment about how fast the standard is going to be. If somebody comes in six months ahead for a tier 1 event, you are saying of course you're going to get to it, but why don't we put something in here about that so that people will have some kind of understanding what they can expect. It might be that somebody wants to put their invitations out for a block six months ahead and they complaint do that until they get the okay from you. To me it makes sense to get some kind of lineup, requirements of when we need to get the application material, drop dead dates and some kind of commitment on our part of how quickly we can respond. >> Again, until, you know, we're going to be asking for additional resources to help us meet the requirements of this. The council will have an opportunity to discuss that. My request is let us put this in place, run it for a while, then come back to you with some recommendations related to that based on resources. But to make a commitment without knowing what resources -- I have a lot of

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activities that have -- have made promises and then, you know, it's difficult. >> Morrison: I appreciate

that. I appreciate that. Here's a question: Could you make a commitment based on current resources and then we could based on any additional resources we could actually tighten those commitments? >> I can certainly work with the departments and see what we can get you as a part of the process we're going through here. >> I think that would be helpful. Just that way at least we get the construct into the ordinance and they might be quite loose right now, you know, much more than people might expect. But that would be good. Okay. And then an issue has been raised and I suspect some other folks on the council have heard this request. When you're talking about districts, the event district. There was in section 1415-25, where they talk about that. It's talking, in section c, it says ace will determine based on rules adopted the maximum number of special events, permit -- special event permits that may be issued in the special event district. There's been a suggestion, recommendation, that -- that -- that there will be an additional line in here and that is that priority in the permitting process will be given to -- to events that are sponsored by tier 4 event organizers who are affiliated with tier 4 event organizers. Something like that. The -- the concern being that within a district, once the district is -- is set up, there might be like the major events that are in the road closures that are set, but that it takes a while to -- to -- it takes a while to actually solidify the details of where the smaller events within that district

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might take place and if there's a maximum number that the -- that the staff is going to have to set, which is understandable, how you trade off if there's -- if the allowance for that timeline to unfold. Has anybody else heard this suggestion? >> [Indiscernible] >> Morrison: I wonder if, especially our legal department, might comment on that. >> I think this is the first time that I've heard the suggestion phrased in that way. Just so I make sure that I understand, if it's part of the tier 4 event, then it would get priority in the permitting process, not necessarily the tier 4 event itself. It's an event associated with the tier 4 event? >> Morrison: Right. >> Where prior is not defined -- where priority is not defined. Or prioritizing it is not defined. So some discretion would be allowed. >> Okay. Um -- I think the way the ordinance is drafted right now, where it doesn't specify any particular type of event over another is -- is the most defensible. >> Morrison: Maybe you want to think about that, we'll talk about it more on thursday or in between. >> Cole: I had a question along the lines of what you were asking. >> Martinez: Mayor p tem. Mayor pro tem? >> Mayor Leffingwell: Mayor pro tem, mayor pro tem? Are you finished councilmember morrison. >> Cole: I'm just asking because it's on this topic. Would it make any difference on your analysis if priority was giving to returning tier 4 events versus new? Because I can see a difference in the analysis.

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>> The ordinance itself right now addresses all returning events and treats them equally. If you are a returning event, you will get to apply for your permit 30 days prior to a new event in the city. That is to acknowledge that we do have a lot of returning annual events and so they will still be able to -- to ask for the same days that they traditionally ask for because they will add that 30 day jump on a new event. >> Mayor Leffingwell: I'm -- the city manager wants to make a comment, basically general comment -- >> just a general. Thank you, mayor, just a general comment. I mean it goes without saying that the

special events ordinances are very complicated policy. For the city and for this council. And I'm just a little bit concerned, you know, the staff is being asked some very complicated questions and they are responding on the fly. And I know they are being -- they are keeping track of the things, the issues that are being raised, I know trish is doing her best to respond on the spot. I also know that they are going to take some time between now and thursday to think more thoroughly about these. So the cautionary note here is that their answers may be a little different, maybe different after they've had more time to think about it. I just want to say that so that they're in a position on thursday to -- to respond after having given more substantive thought to the issues that have been raised today. Is that correct for you? Trish? >> Yes, sir. >> Okay, good. >> Morrison: Bottom line, we all have reserved the right to change our minds. [Laughter] I'm with you on that. >> Mayor Leffingwell: I think the real bottom line is that when we get into something this complicated it's hardly ever a good outcome when we try to make these changes on the fly without giving them some time to settle and vet the potential effects of them.

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>> Morrison: I agree, mayor, that's why I wanted to get all of these ideas out there to start thinking about them and maybe make at least a first stab on thursday. I just have one more question, hopefully a simple one. In section 4-15-21 where you are describing the difference between tiers 1, 2, 3, 4, I have a specific question on the tier 4 event in section [indiscernible], it's a 1 or a 2. I'm wondering about the details of the specifics that went into a tier 4 event, number 1. It's an assembly at two or more city facilities that includes the use of city streets, sidewalks or right-of-ways of the it's -- I was just curious about why does it say two or more city facilities? What were we thinking about there? >> Well, for example, fan [indiscernible] around city hall. So geographically if we, most of our city facilities are somewhat spread out, so that's kind of geographic. Encompassing two city facilities it's going to be geographically a pretty big area. >> Morrison: So we didn't want to be capturing just one city facility. Like just at the long center that would be fine -- >> if it's just at the convention center and they are using trinity for buses, we didn't want to kick that into a special event. >> Morrison: Got it. Great. Okay. Those are all of the questions that I have. Thank you all very much for being part of this conversation. I'll work with you on some of the other more detailed things. >> Mayor Leffingwell: Councilmember riley? >> Riley: [Indiscernible] joining my colleagues in thanking you for all of your work on this. I have just a few questions. First about resources. You touched on that in your answering questions from councilmember morrison.

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We all appreciate the concept of moving to a one-stop shop for events. Do you expect that some additional resources will be needed in order to make the austin center for events work more effectively as a one-stop shop? >> Yes. In particular, we're going to need maybe a couple of temporary employees to help us get around the consolidated application on to amanda. We need some coordination people, we have a number of folks that are some departments that have very limited support capability. So they are identifying that for us what -- what the fire department has one support person and when she's out sick, there's nobody that he -- that really handles that function. So want to get resources, cross train to

make sure they get the coverage. We are working with all of the departments to bring a consolidated request. >> That is still in progress. We don't have a number right now as to how much we think it will take. We will look forward to hearing more about that. Secondly going back to a question that councilmember martinez raised about -- well, I was glad to hear you say that if -- if a -- if a particular site is designated as an outdoor music venue, then they don't need an additional event permit as long as they are operating within the confines of that permit. I assume by the same token that if a particular workplace or building had -- has the authority to host certain -- host events of 100 or more people, they don't need any additional permits. For instance, if you have a large workplace downtown, you want to have an -- have a happy hour that may involve more than 100 employees, you don't need to go get an event permit just for that, as long as that is allowed in the [indiscernible] zoning, isn't that generally accurate? >> That's the intent of what we put together for the

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ordinance. >> >> Riley: Okay. So we are not requiring permits for every large event? Only those that go beyond the parameters of existing zone. >> Yeah, I would agree with that. The outdoor music venue permit or [indiscernible] permits really deal with outdoor events. If somebody is holding an event within their own building it's a little different than having outside that would trigger sound amplification permits. >> >> Riley: There are some circumstances where you would have to have a permit entirely on private property if it goes outside the bounds of what is allowed by your zoning. >> That's correct. That might be just under a regular temporary use permit. >> Riley: Okay. Then I want to ask about the trigger for going from tier tier 1 to 2. I noticed tier 1 does not consider any consumption of alcohol. As soon as you get to any consumption that automatically bumps you into tier 2. Did we good give any thoughts as to whether it should be sale as opposed to consumption? For instance if you have a birthday party on a neighborhood street or an event at a facility where someone just sits out an ice chest with beers along with soft drinks, does that automatically need to be -- need to trigger, push it into the tier 2 category because the tabc has to get involved even if there is no sale of alcohol? >> My understanding from the fire department is that once consumption of alcohol is known, it triggers different fire requirements. Which increases fires inspections powers. And to be honest I'm going off of my understanding from the fire department. So we can clarify that with them. But my understanding is once consumption of alcohol occurs, or is going to occur, it triggers different requirements and that was -- that was part of the reason for taking alcohol out of the tier 1 because we needed

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to keep that time frame very small and the fire department had concerns about being able to get out and inspect if there was alcohol. >> Riley: So to make sure, a -- a neighborhood block party on a residential street just including one beer in the ice chest changes all of the fire requirements. Is that -- is that -- that's right? >> My understanding is consumption. So I don't -- I can clarify, we can clarify with the fire department and have them be able to speak to that issue. >> Riley: Okay. Thanks. >> Cole: Okay. Any further questions on this item? Okay. The next item that we have is item 55, also pulled by -- or pulled by councilmember martinez. Feasibility of a guaranteed loan program for small businesses and minority

women businesses that contract directly with the city. >> This is in relation to item 56. That's why we pulled it. For those that weren't on the committee that may not recall along with the rewrite of our current economic incentives matrix, we committed to some stakeholders that we would look into a guaranteed loan program or collateral pool. Based on the concern that small contractors had that felt like they would be impacted by an \$11 an hour living wage requirement. The thought was small subcontractors that come in and bid on work have to conduct the work, pay their staff, but then wait for payment from the prime contractor and small contractor not having -- the

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necessary resources to wait during that payment period could put them in a very difficult position, if not out of business. So we heard those concerns. We -- the committee voted to direct staff to -- to hold a stakeholder process, that was conducted. Staff's recommendation in the report is to not move forward with a collateral pool or guaranteed loan program. Not because of the merits of why we should do it, but because their concerns were around the liability to the city, having to set aside dedicated revenues, to guarantee those loans and then, of course, staff time and processing and we understand those concerns. What this item does, it simply takes into consideration the -- the same issues that were laid out. But does direct staff to -- to seek assistance from a third party lender that could be able to run this program with -- with small contractors. And here's the other issue that came out of this. We believe that this is -- that this is a program that could benefit small contractors all around. Not just on [indiscernible] agreements. So this item asks that we look for that third party entity that could assist us with a program such as this, for all small contractors for all of their business. So that it could give them maybe a more competitive edge to compete, not just in 380 agreements, but on any contract that the city might issue. So again I wanted to lay this out there, in staff's recommendation, one of the reasons that I believe that it was not recommended is because there was a specific question asked in creating this program and we are legally prohibited from using those funds that were being sought for a

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collateral pool and Kevin, it was the [indiscernible] program that was suggested? That we use funds and we are precluded by law because those are tied to bond covenants that can only be spent on the items that are adopted by citizens of the bond process. So staff's recommendation back was it's not available. Those funds are not available. That's absolutely 100% true. But we -- we want to explore this further and hopefully come back, you know, by January kind of mid year budget adjustment time, if we can find that third party vendor that can help us with the program like this. It doesn't -- do anything today. It doesn't establish a program today. It just asks the city manager to continue working and expand who we're reaching out to to see if we can find assistance in a guaranteed lateral pool. >> Cole: I have questions, Kevin do you want to come up and Rodney? >> We talked a little bit about this idea in our subcommittee, our m/wbe subcommittee. I know that we have type of business enhancement program that we use for Sixth Street. Can you explain the loan program. >> The BRE program. >> Yes, the BRE program. Can you explain if that could be used as any type of model for this program? >> Council, Rodney Gonzalez, deputy director for the city's economic development department. As you know, the

bre program I think currently has a balance of maybe \$250,000 in it. That is a loan program that is for businesses interested in coming to the sixth street or congress avenue area. To establish a business in that area.

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Or as well it's for those that are at risk of being displaced because of development within those areas. So I think that your question is can the bre program be used for a loan collateral program. >> Cole: No. I was interested in that model because I knew that there were particular businesses that paid into the program and then they got the opportunity to take money from the program. So I'm wondering if we could use that as a model. I don't believe that program can be austined to fund this initiative. I'm just interesting if it could be used as a model as we search for options. >> It is a different model in that the revenue that goes into the program comes from development fees as well as from alley vacation sales. That's where the city gets the revenue from that program. We looked at revenue sources from that program. Those were the only identifiable revenue supports that were attached to supporting operations, if you will. Focus group those fees didn't go to support public works or something like that. Those revenues were looked at to support the program. With regard to the program itself, it is a loan program. We haven't, as we mentioned during the budget process, received very many applications on that program. And the two that we did receive, we employed the help of neighborhood housing, commercial development or a community development to actually help us with the loan application to do the scoring and assessment for that. >> Cole: Okay. So I guess all that I'm saying is as we go through the process of looking at options to try to find small contractors that may be involved in the economic incentives and not be able to pay the workers an 1 one dollar an hour, that -- \$11 an hour, ways to get that program funded other than just a third party lender. Because I'm concerned that a third party lender might actually want us to use some type of collateral if on that. >> Mayor. >> Go ahead.

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>> Mayor Leffingwell: Councilmember martinez? >> Martinez: I appreciate the conversation. I agree with you that we should as we're moving forward look for other dedicated revenue as collateral for these guaranteed loans. The bre program, though, is a specific finite structure, if you will. There are certain fees that are paid if a building is built. It would be very difficult to generate the kind of revenue that we need for an ongoing guaranteed loan program. So as a suggestion, one of the models that I was looking at that I think may fit for something like this is our arts in public places model. So in arts in public places we take a percentage of the project itself and dedicate funds to art in public places. Whether it's on that site or on a different site. Similarly, I would like to look at economic development agreements where new construction occurs, that's the big difference, where new construction occurs that we take a percentage of that project, if you will, of -- of the tax incentives, not the cost of the project, percentage of the tax incentives to dedicate to a guaranteed loan program that would create the collateral necessary. Again, I'm like you I'm putting all options on the table. I don't want us to -- to negate this idea simply because it may be a little bit difficult. I think it's worthy of our consideration. Not just as it relates to 380 agreements but as it relates to creating a competitive edge for those small contractors

throughout. >> Okay. >> I would just say that is the issue at hand is the funding source for this type of program. We looked at [indiscernible] as suggested it is not a viable funding source for legal matters. I had checked personally with the finance department to find out if we had available funding and we don't. I asked for 500,000, we don't have that. We went through the budget process. The issue at hand is finding the funding source. >> Council persons Kevin Johns, director of economic development. You all had also in the

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resolution the draft resolution referenced a better building program, we have done an analysis of that, that does not seem to be a good fit. It's loans made to the residential community rather than to contractors. They are maxed out at \$11,000 each. The two diminishing factors, the two concerns raised by the participants are that the work once it's completed, it still takes six weeks then to get paid. Plus prequalifying they expire. So the expiration means that it's a constant burden between the third party lender and the contractor. So that one is not a good fit. So we haven't been able to find a good model is what I'm essentially saying. >> Mayor, if I can -- >> councilmember Martinez. >> Martinez: So we received some comments from those stakeholders asking us for a postponement of this item. Again, I don't believe a postponement is necessary, we're just moving the process forward. What we did, though, is we add another whereas and another directive to this item so that the stakeholders who are seeking this input be formally a part of the process moving forward. So the be it resolved section in the resolution, including the m.B.E. And w.B.E. Advisory committee as part of the process before the city manager brings back the options to council. So we wanted to just point that out to ensure that we are bringing the stakeholders into the process, we're not excluding them but we think that it's -- it warrants us moving forward with continuing to do the research. Just so you know, when we did research into this, the access to capital is an issue for all small businesses, nationwide. It's not -- it's not an anomaly to Austin, not necessarily tied to \$11 an hour, it's just day-to-day operation access to capital is a major, major hurdle for small businesses. That's why I believe

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regardless of what we did with our 380 agreements, this I think deserves our time and attention so that we can help our small businesses and small contractors in Austin. >> Mayor? >> Mayor pro tem? >> Cole: So the stakeholders that are interested in this item have asked for a postponement but are you still planning to move forward with item 56 in light of this resolution? 55. >> Cole: I mean 55. >> Martinez: And 56, correct. >> Cole: Okay. >> Mayor Leffingwell: Any other comments? I'll just say that I won't be supporting this item. Won't be. Under any circumstances. >> Mayor, are we -- >> Spelman: Would you care to elaborate on why? >> Mayor Leffingwell: Well, first of all I think that it's just an enormous -- puts the city of Austin in a position of forming a local SBA is what it sounds like to me [multiple voices] excuse me just a second there. I was asked a question. And it creates a whole new range of bureaucracy. We're essentially going to become a lending agency for small businesses, I just don't think that's a business that the city ought to be in. >> Martinez: I think we're already in that business. Mayor pro tem pointed it out. We have business retention enhancement program that is a small loan program that two

businesses have successfully participated in and created retail establishments that are non-cocktail uses in downtown on congress avenue and east sixth street. So I think we already do it. And I don't think it's anything that we shouldn't not be involved in. If we want to truly help small businesses we need to do everything we can to help them. >> Mayor Leffingwell: My comments stand. >> Tovo: Mayor? I just want to underscore I agree with my colleague, that was one of the reasons why I was happy to be a co-sponsor on this item.

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But also just to emphasize this is asking the city manager to go forward, look at different options and come back to us for any approval. So we are not actually creating anything. We're just continuing to explore an idea that could be really beneficial for the city of austin, could offer us a lot of options that would be -- that would allow us to enhance our existing support businesses. >> Mayor Leffingwell: Any other comments? 56. >> Martinez: So passing out, if you guys would like, a copy of the actual resolution, then I have a copy of the matrix. In the matrix you will see that all of the changes that are being contemplated are in red. Everything that is in black is what exists in the current matrix. This is the matrix for our economic incentive agreements. As you all know, we had economic incentives council subcommittee work through this process with -- with much public input. We've been working on this for over a year. Everything that's in here has been discussed probably, nothing is new, nothing -- in fact many of the things that we are incorporating formally into the process are things that this council has repeatedly added to previous economic incentives agreements or that companies have voluntarily agreed to comply with. So I'm happy to very quickly walk you through the changes. If that's what you guys would like. The long and short of it is in section 1, the core values are -- they are almost identical to the council's special committee recommendations that were passed last november. So firms seeking incentives would be required to fulfill each one of these to be eligible for incentives or they could apply for an

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session to any of the last three requirements in section 1. So paying a living wage at \$11 an hour, they would be able to apply for an exception. The -- the extension of benefits to domestic partners of employees and their dependents, again that's new. We've added that to many of our agreements, but it's never been codified in the matrix. So now we're putting it in, but again they would be able to apply for an exception if that's something that they choose or can -- demonstrate to us that they can't comply with. Then health insurance benefits for all full-time employees. Those are the three areas where exceptions could apply in section 1. We have included in section 1 the workers' compensation insurance and osha 10 training, that should be a minimum basic requirement. That is one of the changes in section 1. Compliance with our m.B.E./W.B.E. Ordinance was required by a 12 council resolution, but it wasn't in the matrix. We still have some concerns over that that we're working through it. And I'll just say, I don't know how it's going to end up. But I have some meetings today to -- to further discuss this. What we're finding in our m.B.E./W.B.E. Ordinance, my intention in 2012 is that it apply to construction, minority and women owned contractors could be a part of new construction as these firms come into town, build

their companies, our ordinance as you all know doesn't just apply to construction projects at the city. It applies to everything from commodity purchases to any contracted work that we do. We're running into some issues with some current firms under agreements

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that -- that are having difficulty complying with the ordinance as it relates to commodity purchases. Not construction. They don't have an issue with that. They've done it. They do it, they have hub programs as a private company. What they don't have is the procurement side of reaching out and doing the commodity purchases according to our ordinance. So again, we hear those concerns. My intention was for it not to negate a company from doing its day-to-day business. When Samsung goes out and buys, you know, six million dollars in hardware for computer systems it wasn't my intention it would have to go through the M.B.E./W.B.E. Process. It was my intention that those -- we're going to try to work on that. Moving through Thursday. Hopefully we can come up with something that works for everyone. But I wanted to point that out. So the other add-ons in subsection 1 are the prevailing wage which classifications are above the living wage. So we worked with our staff and I want to thank so many staff that have helped us from economic development office to -- to SMBR to the purchasing office, Rosy Truelove, Cindy [indiscernible] and Jacquelyn have worked with my staff every step of the way and we're still working on it. For the next 48 hours until we get to Thursday. The living wage for all employees again it's nothing new, it's what you all know as \$11 an hour, of course domestic partner benefits and health insurance. So that's -- those are the changes in section 1. If you have any questions. >> Spelman: Mayor pro tem. >> Cole: Councilmember Spelman. >> Spelman: You might tell us about the exception process. What's that's going to

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involve. >> Exception. >> Martinez: The exceptions process. I will pass this out. This is the actual exceptions application that we're proposing. When we went through the proceedings, Councilmember Spelman, we -- one of the things that we repeatedly heard was, you know, add your values, changes the rules, change the matrix, but please keep some flexibility in the program because one size fits all policy doesn't really work. I agreed. I felt like that had a lot of merit. So what we said was -- was that in certain circumstances, that the new hard to deal with issues that -- that folks were raising as a concern, specifically the \$11 an hour and prevailing wage, we said let's have an exceptions process. So if you are a U.S. Pharmathane, you seek an exception, the city manager scores you, you qualify for incentives, but you don't want to or cannot pay \$11 an hour because you are hiring under employed or unemployed or formerly convicted individuals, we realize that there are some exceptions as we did with U.S. Pharmathane. We do provide for an exception as I mentioned to domestic partner benefits and to health care, but that's only because that's what's new, coming into this new matrix. And they will be able to apply for an exception and demonstrate to council why that exception is needed. >> Spelman: I notice the prevailing wage is also new, but that's not exceptionable. How come? >> Martinez: Just the way it was adopted by the committee. We're going by the way the committee made motions. The committee felt like

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because, this is me opining about it, I felt like because the smbr advisory committee and because other groups and stakeholders said we are fine with prevailing wage because when we apply for government contracting, that applies to us. So -- so most groups had no issues with prevailing wages being a part of the deal because in government work, they already have to com play with davis bacon. So when we made the motion to apply prevailing wage, we didn't include it in the exceptions process. Because what we heard from most people was it's something that they are familiar with, they don't necessarily like it but they have to live with it. >> Spelman: As you are aware, some other people who probably weren't talking to you during this process for whatever reason have sent in a note saying they have a concern about this and would like this to be exceptionable. Is this something you can talk about or off the table? >> Martinez: Absolutely. Again let me be real clear councilmember to everyone. If there are amendments to be made, I may not vote for them, I may vote for them, but what this body decides as a complete outcome, that's the process. I'll be supportive of it. I think what we've done in the year that we've been working on this is we truly have come up with a better economic incentive policy. There are some areas that are still concerning to folks. But you literally have a process today that says you qualify for 30% based on your score, 50% based on your score, and then some other things can trigger you up to 100% but that goes to council. What we have done in this process in my mind is still keep that original form, 30, 50, up to 100, but now the companies get to pick. They have a menu of nine options that says if you do this, you get up to 10% more. So a company that came in previous to this -- to adopting the new rules, that only qualified for 30% incentives, that's it. That's all they got. 30%, based on the matrix, based on their score.

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Now a company that comes in that only qualifies for 30% based on their score can actually get to 100% if they add in all of the community values that we've added as options. So if you want to add that as an amendment, certainly open to that. And we'll let the body decide. I'm just telling you about why it wasn't -- why the exceptions wasn't -- >> Spelman: I understand. Thank you, sir. >> Cole: Councilmember martinez, let me ask you a couple of questions. Do you intend for this to apply prospectively and not retroactively. >> Martinez: We've had a question about that. Obviously it's proper spectively, nothing can retroactively. There are conversations going on between the city. We have asked law to -- if we adopt it on thursday, if somebody already submitted a letter or application are they already in queue -- either way I'm fine with it. I promise you when it gets to the council we're going to have the same conversation. I think it's a legal question that needs to be answered. If someone has applied for an economic incentive agreement today and we adopt this on thursday, does this apply to them? Probably not. I don't know. I'm not a lawyer. But the reason it really doesn't matter in any opinion is because when it comes to the council, ultimately for final decision, we're going to look at what this company is offering as it relates to prevailing wage, living wage, health care benefit, safety training. >> Cole: That's true even under the old ordinance, it's just that people that may be negotiating now, I would like them to have the benefit of the rules they have been negotiating being applicable now. I want to make sure

that you are amenable to that. >> I completely respect that. I would dare say if someone is applying for an incentive in austin, texas today and submitted an application, I sure would hope somebody had talked to them what we've been talking about for over

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a year now. >> Cole: I'm sure they undoubtedly have or know because it's been going on for a while. Just if they are currently negotiating under one set of rules and then we are actually contemplating changing those in mid stream, I would like them to be able to use those. >> Martinez: Would you like to -- [indiscernible] >> we'll have an answer to that on thursday unless you watch to chime in right this second. >> Mayor pro tem and council, cindy crosby, assistant city attorney. I think what councilmember martinez was saying is correct. Thankfully this isn't a chapter 245 situation where we are stuck by the rules under state law as presented or when an application comes in. Ultimately it will be the council's decision when the final application comes in and the agreements before the council. >> Okay. But would it be appropriate to -- do we need -- I understand that when the agreement actually comes before council, that we can make any decisions we want. Regarding it. But would it be appropriate to say that from the 10 days effective date of this ordinance that -- that previous economic development process that was in place controlled -- >> that may be a consideration for council to maybe add to the resolution on an effective date for this matrix to apply to certain applications. Again, the council has the ultimate decision, but that's something that could be explored if the full body wished to vote on it. >> Okay. Let me ask a couple of other questions. We talked a little bit, councilmember martinez, about -- about our whole m.B.E./W.B.E. Ordinance and we've talked about that in subcommittee. The confusion that has applied to commodity

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purchases and some people in the past that have received economic development agreements and had some difficulties in compliance. I'm wondering if we don't need to clarify here some of the smbr procurement process. >> I agree. I think we do need. I'm just not sure how. So we're having a meeting this afternoon with the chamber, we're having with a meeting with smbr staff. Legal is going to be there. Assistant city manager adiamo is going to be there. We're going to look at the issues we're struggling with and see if there is some language that we can come up with that addresses those concerns by thursday. By. >> Cole: Okay, good, councilmember morrison. >> Morrison: I want to add this really fits into another topic that we've discussed recently. Some months ago, recently came up again where I asked staff to help in putting together a matrix, all of these values in m.B.E./W.B.E. Compliance is one of them, under what situations when we're purchasing services in any way disbursing funds do various of these sort of value constraints apply and so it looks like we've run into a little bit of a -- an area where we need to sort that out. But I think that it's going to be real interesting to sort that out for all of the values, you know, that we have. >> I had another follow-up question on -- on -- with respect to -- well, actually, councilmember spelman's line of questioning, prevailing wage, construction worker wages. I understand the construction worker wages and the \$11 an hour, but tell me, help me understand construction wages, prevailing wages and living wages as you contemplate it in the ordinance. >> Living

wage is \$11 an hour, that would be the floor. For construction and for permanent jobs that the company hires.

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So \$11 an hour is the floor. Prevailing wage is tied to federal statute, Davis Bacon, which means, which is basically a local market study that said if you are an electrician in the Austin area, prevailing wage for your classification of jobs should be in this amount. 25 an hour. 24 an hour. Whatever that is. Again, so that would apply to the construction side of new construction in these agreements moving forward. So if a company is moving here, like Samsung or Apple and building new construction prevailing wages would apply to construction only. Prevailing wages don't apply to permanent jobs. It's just for construction. But \$11 an hour would apply to construction and permit jobs. Moving forward. >> Cole: So prevailing wage only applies to new construction? >> Martinez: Correct. That's a great point that you are making because we do have an issue where some companies seek incentive agreements and don't build new construction. They come in and rent space. This would not apply to a landlord that is finishing out space for a potential tenant. In fact, law has helped us draft this ordinance with specific language that says construction that is conducted by the firm or that's paid for by the firm. So if -- if the Sheryl Cole company wants to come to Austin and you go to the Frost Bank and say I'm bringing in 200 employees, I need this kind of office space with this kind of meeting room and conference room, will you finish this out for me if I sign a 10 year lease, Frost Building says yes. Frost Building moves forward with their project. You just bring Sheryl Cole company to Austin, Texas and none of this applies to that construction because it's the actual property owner, doesn't have a tie to the city that's conducting that construction. >> Cole: So they would pay \$11 an hour. >> Don't have to.

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>> Cole: They don't even have to do that. >> Martinez: They wouldn't be [indiscernible] because that is an issue, it is a concern but we wanted to be very clear about where our authority lies and where it does not lie. >> Cole: Okay. Can you show me where that is in the -- can law direct me to that language? >> Martinez: It's going to be in the actual ordinance language. I don't have the draft in front of me. All that I have is talking points. But the actual language is work funded by the firm. >> Cole: I think it's Apple that actually came here and did some construction but they were using third party contractors. Are you saying \$11 an hour would not apply to them? Well, let me not use Apple because I don't remember. Who was it that actually came -- >> Facebook. >> Cole: Facebook. >> Martinez: Facebook came into the Coamerica building snacks so the \$11 would actually not apply to them. >> Not if they didn't contract the work. If the building owner contracted the work it would not apply. >> Cole: Okay. Then somebody else came, I think it was HDI, they actually did some construction, so would the prevailing wage number apply to them? >> It may be worthwhile for me to go over companies that did attempt finishout versus new construction, on page 35 of our report that we released in August, you will find a list of the companies that have been incentivized. So if you have that report in front of you, it's page 35. This is a new table that was requested by the subcommittee, which we should have posted on our website. If it's not, we certainly will get it up as soon as possible. So on page 35, you can look

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at hanger orthopedics the first company to the far left. If you scroll down that list under capital investment information, you will find a line item that says leasehold improvements. So where that line item is filled out, that's where companies came in and were incentivised and did tenant finishout improvements that councilmember martinez is referencing. As I've heard it's these types of situation that neither a prevailing wage nor \$11 an hour would apply. For those companies, beginning on page 36 that did their own construction, that would be apple, hid global and national instruments. If you look at the matrix, mayor pro tem, if you look the a the matrix under section 1, under c, d, e and f, the language exists where it says the ordinance will only apply for costs funded by the firm. So that's where it captures who it affects and how. >> Cole: Okay. >> Cole: Now, help me understand -- I'm trying to make -- to make a rationale for the difference in the way we're treating someone like facebook who came and hired somebody and they didn't have to deal with prevailing wage versus someone who actually came and did I think rodney called it a leasehold improvement. >> Leasehold improvements, yes. >> Cole: Is there a reason for that? Are they getting a larger percentage or -- >> Martinez: No. The rationale flows with the tax incentive. If you are facebook and you are receiving subsidies from taxpayers, you're going to be required to comply with the new ordinance, which speaks to all of the issues that are in it.

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If you are receiving a tax incentive and you just sign a lease for a -- for a space and the property owner finishes out that space before you move in, that's an individual property owner that we have no authority over that individual. >> Cole: So it's just simply a matter of our authority. >> Martinez: Yeah. >> Cole: Thank you, any further questions? [One moment please for change in captioners]

[05:01:28]

>> Martinez: ... Participation in education, so on, that will qualify for you up to 10% additional incentive. >> Cole: I believe this is similar, council member martinez, to the amendment I pushed for with hid that I believe you seconded. Is that correct? >> Martinez: Yes, I believe it was a u.S. Fair thing. >> Cole: U.S. Fair thing. >> Martinez: Could have been. >> Cole: Council member morrison. >> Morrison: Yes, I especially liked this part because it was a question I had when the issue came up before because there was no measure and no definition, and this way, we would be able to get commitments one way or the other about what exactly the contribution is going to be. I wanted to go back to one point you made in introducing this section, council member martinez, I thought before you open the gates to consider for bonuses, you have to satisfy two of these -- >> Martinez: You have to have a 60 point score and need at least one, sorry. >> Morrison: Meet one, because if you meet two, actually -- if you meet two of the extraordinary thresholds, that's one more way to earn up to 10% more. Thank you. I want to get that clarified. >> Martinez: Very good point. In the past, just section 8 would qualify you for 10% abatement by achieving one. By now we are saying achievement one, you go through additional bonus considerations but if you have 2 of subsection 8, then you qualify for two as well. >> That's on number

9? >> Martinez: Yes, that's number one of the additional bonuses. So the disadvantaged workers is one. I will briefly go through the rest. The firm will develop and implement a program for recruiting ex-offenders and employee them with continuing education services. The third bonus criteria, the firm will fill at least

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75% of their new full-time jobs with city of Austin residents. We took some of this language from the county's economic incentive policy. Theirs is 50%. But theirs is county wide. So we felt like in the range we saw in our current agreements was -- I have that, somewhere between 46% and 95% of the workforces from Austin and so we felt like 75% was kind of a fair mid range. If they work a little bit harder to hire Austin residents and they achieve 75%, they qualify for 10% more in incentives. We -- then we took some language from Imagine Austin as it relates to location. We used to have desired development zone as the criteria. Now we have added language that if they locate in a regional center, town center or neighborhood center, identify in the growth concept map in the Imagine Austin plan or locate within half mile within a rail stop or transit center, not a bus stop, then they would qualify an additional 10%. If the firm intends on creating lead certification or above, that's an additional 10%. If the official has loci of investment of 5 million or more, that is an additional 10%. The firm will ensure employees and or construction workers are provided workforce development services through nonprofit that is contract through the city of Austin or apprentice training programs registered with the department of labor or they make a monetary donation to a workforce training program approved by the city and then they qualify for additional 10%. Eighth criteria is official will provide on site day-care facility for its employees that may be open to the public or provide subsidized day-care for employees. And then the last and ninth one is the one council member Morrison talked about, if two or more of the thresholds in subsection a are met, then they would qualify for an additional 10% as well.

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Those are the changes. >> Spelman: Mayor. >> Mayor Leffingwell: Council member Spelman. >> Spelman: You said can qualify for an additional 10%. Does that mean they will qualify for an additional 10%. >> Martinez: Staff will make that recommendation, so we left it discretionary that says up to 10% because in some cases, we just want the staff to have the flexibility to say, you are doing okay with your workforce development program but here is an example of someone who is doing really, really exceptional. That is a 10% example. We will recommend 5%. Council can still come back ultimately at the end and say we are going to do with 10%. We understand the commitments they are making -- the commitments they are making. >> Spelman: My apology for not having read the ordinance.. Could council go beyond this or outside the boundaries of this or do we have to play by these rules or is that the deal we are making with ourselves here? >> Martinez: I would assume council retains all of the authority to add anything into the conversation just like we have in previous cases where we had existing matrix but we kept adding to the conversation. One thing we can't do -- and law wants to be very clear on this is we can't go above 100%. >> Spelman: I understand that. [Laughter]. It may be just a notice issue, but if we -- we can write this, I can imagine, in such a way that if we stayed inside the rules

and want to go outside the rules and I have to post a change in the ordinance on 72 hours notice change, the ordinance before we granted any additional benefits. Is it written in that way, or is it written in a way that is more open ended? >> I think it's -- the draft is drafted similarly to what currently exists in that this is the matrix. It's still ultimately has to be agreed upon by a majority of the council to move forward. So on the dais, if there is something else that is new that's come forward as something of value that we should consider, I don't -- I don't believe that it precludes council from adding that to the conversation and maybe adding that as a requirement.

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>> Mayor. >> Spelman: I believe ms. Crosby has a comment on this. >> Mayor and council, that's correct. Matrix is adopted by resolution. So it's not by ordinance. It would require to be posted at a meeting if there were further changes to the matrix itself. However in the past, the council has deviated from it and, hence, the creation of the special committee to make sure that companies were on notice. If maybe disclaimer language would want to be added putting companies on notice. I think staff has been taking unilateral effort to advise companies that council is the final authority and the companies know that but it is something that could be written as a footnote or additional information. >> Spelman: I don't know how I feel about this yet. I need to think about it a little bit. But I am a little surprised that we are retaining the kind of flexibility that we have used in the past, given my understanding of what we were talking about doing here was, to some extent, tying our own hands, limiting our own flexibility so when we are putting companies on notice what our expectations are, we really mean it. We aren't trying to come up with new expectations on the fly and I wanted to know how to think about this. We are pulling stuff out of the air and holding them to it without in advance them knowing what to do and I prefer to the extent possible, we not do that. We agree ourselves we don't do that. Obviously if it is adopted by resolution, we can do whatever darn please but I prefer that we not. I have another question, mayor, and this is just a general question. On section 2, are these criteria -- if same criteria we have been using in the past, or have these been changed substantially? >> Which section? >> Section 2 criteria, I don't see any red -- I don't see any red in here and -- >> this is the exact same language.

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>> Leffingwell: Council member morrison. >> Morrison: I want to highlight what ms. Crosby said because I heard it go back and forth, references to resolutions versus ordinance. There are no ordinances involved in this action. Is that correct? >> The matrix does refer to the mwb ordinance. So it's incorporated by reference. However, this is adopted by resolution. >> Morrison: Great. Thank you. So that also speaks to, for instance, effective -- effective date, we need to just say if we have an interest in doing so when we would consider this -- this matrix to be effective as opposed to any emergency adoption or anything like that? >> Correct. That's not applicable. >> Mayor Leffingwell: So that brings up the question, for any of these exceptions, two-thirds council vote is required and that's enforceable by the resolution? >> The matrix is adopted by resolution and so it's incorporated in totality by reference and so if that's something that the council chooses to vote on and include in the matrix, it would be enforceable as part of the resolution. However, council always has the option to waive resolution

requirements -- >> Mayor Leffingwell: By a simple majority? >> Correct. >> Mayor Leffingwell: So -- I always have had that problem with even the ordinances requiring a super majority, buzz by a simple majority you can change the ordinance or change the resolution, either way, because by that, so it is kind of for show because it has no real force and effect. >> Riley: Mayor. >> Mayor Leffingwell: Council member riley. >> Riley: I want to ask a question about the transit components, the criteria that we have just gone over. I no that as council member martinez discussed, there would be incentives for locating in a -- within half mile of a rail stop or

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a public transit center, not a bus stop but a public transit center. Does that currently -- is that currently the standard in our matrix? I know we have been asking about -- have been asking the similar question in the questionnaire, that firms are expected to fill out, but I didn't recall if it was actually something that would score points in the matrix. >> Currently the matrix does not look at public transit or transit stops. It is a question that is now asked at the business information form intake. >> Riley: Right. >> In response to council resolution to ask the questions. So, yes, this is -- we have heard imply will not apply to bus stops. >> Riley: And so -- and it's not -- we've already identified rail stops, like public transit center, would that refer to a park and ride, or what do we mean by public transit center? >> This is actually new to us. We just received this friday so we aren't sure exactly what a public transit center means. >> Riley: I think if the council would be amenable, I would be interested on working on that language. I do think there ought to be some reward for locating near a transit line, even if it is a bus line. Certainly a metro rapid line. Locating on a metro rapid line or even a bus line, for that matter, ought to be worth some encouragement as compared with locating in a place that's completely disconnected from our transit network, so I think if -- the majority would be amenable, I would like to work on some revised language on that between now and thursday. >> Spelman: Mayor. >> Mayor Leffingwell: I think that is a requirement that would be -- would make a company eligible for a bonus consideration but not an absolute requirement and I would, you know -- how many transit stations do we

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have now in the city? I assume maybe you would park -- all park and ride facility that, wouldn't you? Maybe there are three or four of those? >> Riley: There are a number of those and I am not clear why we would incentivize a location near a park and ride as compared with, a metro rapid stop or a bus stop for that matter. >> Mayor Leffingwell: I was made clear it would not be a bus stop. >> Riley: Right. I am questioning that. >> Martinez: Mayor. >> Mayor Leffingwell: Council member martinez. >> Martinez: Certainly it's open to working on that language. We have 2900 bus stops in austin and so -- and many of them are in the drinking water protection zone and not development zone so we are trying to come up with a criteria that met a higher threshold than any of our 2900 bus stops. >> Mayor Leffingwell: As council member riley said why wouldn't you want to give some additional credit for even being near a bus stop? >> Martinez: We agree. We couldn't come up with the language at the last minute so we put that in there. Happy to take any amendments to that -- >> Riley: Sure. We do have at least one park and ride in the drinking water protection zone and the goal was to stay away from there, then this standard

doesn't make sense to me. >> Mayor Leffingwell: Is that the oak hill? >> Riley: That's right. >> Cole: Mayor. >> Mayor Leffingwell: Mayor pro tem. >> Cole: Mayor, I notice in reference to the comment, there is a 7-mile proximity bonus related to a firm that is within a 7-mile radius of downtown and the desired development zone and there is also a proximity bonus. Maybe the transportation issue could fill within one of those bonus systems. Maybe it could fit within one of those bonus systems.

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>> Mayor Leffingwell: Council member morrison. >> Morrison: To clarify, the very first minimum requirement is that you be located in the desired development zone so the park and ride and the protection zone wouldn't be even on the table. >> Council member, the staff recommendation for that is found on page 33, and there are three recommendations. The firm will locate in a high frequency transit corridor or targeted redevelopment area including tods, the firm is less than one mile location from fran sit and has pedestrian or safe bicycle route to the transit and the firm will develop a program to encourage employees who use alternative transportation modes through such practices such as transportation demand management which includes car pooling, flex time work schedules and subsidizing transit costs for employees, so we were thinking along the same lines but detailed it in three items that could be used for bonuses. >> Mayor Leffingwell: Council member riley. >> Riley: That sounds like a very sensible staff recommendation. I would support that. I think it ought to be on the table for consideration. >> Morrison: Mayor. >> Mayor Leffingwell: Council member morrison. >> Morrison: I think one thing we do need to think about in those terms is right now we have all of the locations with regard to transit in one bonus area where they could achieve up to 10%. If we add three different ones, suggesting to them they may add up to 30% if they do all of them, I don't know if that's necessarily the way we want to do it. So we may want to think about, do we want to do one or the others, combine those and do it less sensory -- keep it at one or the other. It is all discretionary in the end but I think setting expectations is important, too. >> Mayor Leffingwell: Sure. Let me just say I am not going to be able to support any resolution or ordinance that includes prevailing wage and minimum wage as a

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threshold requirement, although I do support both of those concepts. When the committee was meeting, I was on the committee. I was sort of the fourth wheel in that committee. And did not support the committee's recommendation. What I did support and what I would support today is a proposal that would put prevailing wage and minimum wage in as a potential for a bonus and at least be able to enter into that discussion, but I really believe that the way it is now, we will never enter into that discussion. Companies that are considering locating in austin won't initiate the discussion. They will take a look at this requirement and say, we don't even need to bother to talk to the people here in austin. I think that loses a lot of flexibility for us. I think at the end of the day, it's going to be a job killer. We will lose a lot of jobs. We will lose a lot of potential companies. Apple, for example, I don't -- I think my prediction is correct -- would never -- this would have cost them more money than they got as a rebate from the city and there are several other instances, agreements that are in place. It is not something that the city has used or used to any great extent in the last ten years since we've had economic incentives in place, we

have done 15 agreements. 15 agreements in ten years. ... I would like to see some data how that compares to other cities, even in the state of Texas. I feel this is going to take us out of the competition, even though we have a lot of other things to offer. We can get into that competition because of the other things that we have to offer, even though we aren't competitive in that part of it, but with this, I don't think we will even start the dialogue.

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>> Spelman: Mayor. >> Mayor Leffingwell: Council member Spelman. >> Spelman: If both living wage and prevailing wage were exceptionable, meaning Apple and some employer would say here is why we don't have to abide by it and here is why instead, would that meet your requirements. >> Mayor Leffingwell: That would be better and I think it will still mean the process won't be as meaningful for several reasons. I don't think the companies will be willing to negotiate that discussion and be all the way in the public process and they have to go public a week before and go to do a briefing and then go the council to ask for a form to ask for an exception that they know by the resolution would require 2/3 council vote, that is not enough assurance, I believe, that they would even want to get into that process, like I said, primarily because they have to go public before they have any indication on whether or not they are going to be qualified for this. >> Cole: I have a follow-up question for you, Mayor. >> Mayor Leffingwell: Mayor pro tem. >> Cole: You have been involved in economic incentive deals early in the process. Do you -- do you believe that a company that was considering Austin would not know or even if they did know that we had a 2/3 majority option for the incentives that they were asking for still would not consider option? >> Mayor Leffingwell: Yeah, that's what I just said. I really don't believe they will look at this exception process as meaningful. Like I said, because they are going to have to lay all of their cards on the table. Everybody else in the country, all of their competitors are going to know what they are doing. It is sort of a semi commitment by the time they come to council. In other words, now they know they have met all of the basic requirements, so it's just a case of making their case and they have a very good chance of doing it, because our screening process is so selective. The things that are brought

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to council are all good projects. The record shows, I think since I have been on council -- I forget the exact number, 7 or 8 or 9 projects that have come before us all have been approved, all but one unanimously. And that was on a 5-2 vote. The U.S. Fair thing and only because -- I won't say only because because that will be in a position of those who voted against it, I am guessing because they did not pay a living wage. All the others did. So I don't think that the exception process is going to get us out of the woods as far as beginning a dialogue with new businesses, and I think it's going to cost us, and I think at the end of the day the people that really get hurt are the people who are looking for jobs. Any other comments? >> Martinez: Mayor. >> Mayor Leffingwell: Council member Martinez. >> Martinez: We've heard those concerns, and I certainly do appreciate the sentiment that -- the effect that this could have, but we have been talking about this for 18 months happened we continue to have these conversations. Every time an economic incentive agreement comes to us. All we are doing is codifying the conversations we have had the last several years and putting it into the process. Yes, we are creating

a higher threshold. As I believe we should create a higher threshold. But we also didn't have the additional bonus provisions that now are contemplated when those previous agreements came. Those additional bonus criteria could easily make up the difference of 5 to 10% on construction costs because of living wage and prevailing wage. A company that only qualified for 30% abatement

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that now would have to apply prevailing and living wage now has the option to go up 100%, 70% more in the previous ordinance. It can easily pay for that cost moving forward. We did take that into consideration. We have realized the cost implications could cause a company, you know, to have some caution about moving forward. What we tried to do was add to the program so that if those concerns were raised, we gave them options to alleviate those -- those additional cost burdens. And, again, I stand by what I said earlier. I think this is a much better economic incentive policy than what we have in place. It completely incorporates the values that we continually talk about and quite honestly that we end up in 11th hour conversations about with, you know, a bunch of wrangling back and forth and in the end, imparting most of them, anyway, into the agreements. So if there are some issues that transpire as you have indicated, mayor, I promise you this council will do everything we can to revisit that issue so we can continue with the job growth, but as we found out today, we have been having this conversation for 18 months. We have companies right now that are applying to come to austin and seeking incentive and they know exactly the conversation we are having. They know exactly the potential conversation they are going to have when their item comes before the council but it hadn't precluded them from applying. So, you know, I appreciate those concerns. I don't want to see that come to fruition, it is not our intent here. The intent is to improve policy and add some values that we keep adding in an ad hoc manner each time the agreements come before us. >> Mayor Leffingwell: I agree with you on one point, we won't have to have these long conversations at council meetings that much anymore if this happens. [Laughter] but, again, if we say, and I

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agree, prevailing wage is a community value that I support. Living wage is a community value that I support, and the others, but if we made these a -- if we are community value, we should make a decision our taxpayers will pay for them. Not them. If we put them in as a bonus -- potential for a bonus if they did these things, then we would be paying additional taxpayer dollars to them in reward for fulfilling a community value instead of not being able to start the dialogue, have the conversation in the first place, have a deal that cuts it off right now. Basically we have had two requirements in place for a long time. We have had the requirement that you not be located in the drinking water protection zone. No exceptions. Now we have abcde requirements. So two new ones, and one of those is prevailing wage. We see what happens now when a company -- they don't even -- they don't even start the discussion. Our people don't start the discussion with them if they are planning to locate in the drinking water protection zone, and it will be the same with item e. They won't even start the discussion. >> Mayor. >> Mayor Leffingwell: We will never know -- we will never know we missed it. Council member morrison. >> Morrison: I want to make sort of a broad comment. I read an article this mornings that

completely on point here. And the title of the article was something to the effect of, quality of life is not just about having a job. It's really fundamentally about accumulation of wealth. Apart of that is having a job but it needs to be a good job that actually pays a certain amount of money. It also mentioned the fact that accumulation of wealth has to do, for instance, of

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having to be able to depend on public transit, instead of having to pay for a car. It has to do with having childcare subsidized and many of the other things that we've built in here. So for me economic development in the broader terms or not just creating jobs but helping folks accumulate wealth, that's what we are building in here, and, really adding to the level of sophistication of the way we are thinking about economic development and I think that's entirely appropriate. >> Mayor Leffingwell: Bottom line, it will cost jobs in this city. Anyone else? >> Martinez: Yes, mayor. >> Mayor Leffingwell: You council member martinez. >> Martinez: You stepped out earlier and so I want to make a comment that you made earlier. Youd talked about how you prefer it be an additional bonus and if that's what this body decides, then that's what it is, moving forward. We are putting this forward as recommendations from the committee or the cosponsors, not the whole committee but the cosponsors of this item but if there are amendments drafted, as I said earlier when you were out of the room, we still move forward with it, and I still think it will be a better policy even with those potential amendments. >> Mayor Leffingwell: I appreciate that. I appreciate that comment. Okay. All right. It looks like we are down to -- I have to leave in 15 minutes but we are down to an briefing with the interlocal agreement with the lone star rail. >> Cole:65? >> We did 65. >> Cole: Oh, we did. >> Mayor Leffingwell: Wait a minute. Is there another item? >> Morrison: I covered that in tandem with 51, thank you. >> Tovo: While they are assembling, and I forgot

[05:29:49]

which item it is on this agenda, on the hike and bike trail which I don't want to reopen it but I submitted a question from a q and a process, we didn't receive from apd police the best practice information. I would like to get that so we know what the best practice -- what their initial survey of other cities looked like in terms of information around I wanted to also let you know that shannon halle on my staff has been surveying the top biking communities. I think she has been in four of the top five and at this point it looks like most of them do now have curfews -- do not have curfews on those trails and use them as endeavored roadways and so I will use that as a q and a to distribute that information as it comes in. It is very initial, almost anecdotal but I think it does provide us with some sense of what other cities are doing with regard to that issue. >> Mayor Leffingwell: Maybe you were off the dais but we did get a verbal briefing by chief acevedo and he went through a number of cities. >> Tovo: And we asked for that -- >> Mayor Leffingwell: It seemed to me it was a split. I wouldn't know how to describe it. >> Tovo: I wouldn't either, without really reviewing it again and we asked that to be presented through us through the q and a process so we have an opportunity to read it. It was not presented as q and a process and this week I submitted a formal question so I could read it and review it and I can make a decision on that by doing research independently. But I was here. It was one of the reasons why I wanted to delve it into

it further. >> Mayor. >> Mayor Leffingwell: Council member riley. >> Riley: One other item I wanted to raise for a very brief discussion and that's item 20 related to the council schedule for next year. I just wanted to raise a couple of questions about that. And I don't know if you want to hash through this now or if we could -- but apparently that's the only way we can work this out, so

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I thought it might be worth mentioning. >> Mayor Leffingwell: Sure. >> Riley: One concern relates to the first scheduled meeting, which is on january 9th, which means under our usual practice, deadline for circulating items would be on january 1st, which is a city holiday so I wanted to make sure we are all on board -- we all understand -- I don't recall the council meeting that early before and I want to raise the question of whether we want to do that. >> Mayor Leffingwell: I think you can probably blame me for that one because there is a meeting later on in the month -- I forget the exact dates, that I am not going to be available for. If you want to have a meeting on that day without me, we can -- be my guest. >> Riley: No, I am -- I can live with that but it will be -- I wanted to make sure we are already for -- what we want to talk about perhaps adjusting our usual circulation deadlines or anything like that. It seems like now would be a good time to at least raise the issue. >> Mayor Leffingwell: Well, thanks for the heads up on that one because I think this will probably be a discussion item. >> Riley: On thursday? >> Mayor Leffingwell: Yeah. >> Mayor and council, ray berry, assistant to the city manager. When we look at the first draft of council meeting calendar of 2014, we originally put january the 16th as a council meeting. That would have been the first council meeting of the year. However, because the city of austin has been selected as well as travis county to participate in the integrated emergency management course over in maryland, we thought it would be prudent to try to move that meeting either moving it up earlier in the month or later in the month, or even into february, anticipating that probably several council members might be attending that a along with senior staff. >> Cole: What meeting is that again? >> Mayor Leffingwell: There are reasons ... >> Riley: Mayor -- >> Cole: I just didn't catch the meeting that you thought council member -- >> right.

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I think a memo might be going out very shortly if it hasn't already. It is about the fema course over in 'em emittsberg, maryland, it is through january 19 through 20 and that's why the january 16 meeting was affected. It is a meeting where senior staff around the city as well as council members as well would be going up to attend the integrated emergency management course. Again, trying to be prudent, we moved the meeting up, anticipating that there might be enough council members who may want to go to that training course. >> Riley: Mayor, I am fine with that meeting date but maybe if we do want to adjust the circulation deadlines or anything else relating to that meeting, we might want to get a memo out at some point to that effect and I just wanted to -- >> Mayor Leffingwell: Is there another one? >> Riley: Yes, there is another one, and that was in june. This year -- and I don't recall past years but this year we met the last two weeks of june, which was useful in advance of the july break so as not to put too much pressure in the last meeting in june. This year we are skipping the next to last week of june, june 19, I wanted to raise a question about that, partly for selfish reasons because there is a conference

earlier in june, june 4 through 7 that some of us have attend and in the past and council member martinez and I attended last year and the city staff typically attend that conference. It is the congress -- and the staff have participated in the past and I want to raise that as an issue, since we -- whether we want to skip that third week of june or whether -- it would be useful to go ahead and meet that week. >> Mayor Leffingwell: Okay. >> Okay. Mayor. >> Mayor Leffingwell: Council member tovo. >> Tovo: Can I ask a question? Did somebody want to respond to the one about june? Because I wanted to get back to the january one again.

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>> Riley: Does no one else have issues about june? No problem skipping the third week? >> Mayor Leffingwell: I don't have any problem with it. I usually don't make the congress of new organism meeting but ... >> Cole: I would like council members to change it if they don't have a problem, is that what you are suggesting. >> Riley: Sorry? >> Cole: I am trying to figure out exactly what you are suggesting. >> Riley: If there is an interest in adjusting the schedule for june, I know there are a number of staff who attend that conference who would likely be -- who may well be prevented from going -- >> Cole: I am going for adjusting the schedule. [Multiple voices] >> Riley: If you are interested in adjusting that schedule for june, that will be convenient for some. >> Cole: I will supp that. >> Cole: Perhaps moving june 5 meeting to june 19. >> Mayor Leffingwell: All right. Thanks for the heads up. Let's go the briefing. >> Tovo: Mayor, I want to get to the january meeting. >> Mayor Leffingwell: Can we not have this discussion? On thursday. >> Tovo: Well -- >> Mayor Leffingwell: One minute. >> Tovo: Yes. With regard to january, would it work to have the 16th -- make the 16th or the 23rd a council meeting? Which of those -- was one of those two -- >> Mayor Leffingwell: The 23rd I have a conflict with, but I am willing to make a sacrifice. >> Tovo: I am wondering to bumping the other one back to a council meeting so we avoid having a january 1st deadline for items. I throw it out for consideration. We can talk about it for extensive time on thursday if you want. >> Cole: I would prefer that. >> Tovo: Something to think about. >> I would prefer that. >> To the 16th? >> Tovo: We can figure out, mayor, which of those cancel dates, the 16th or the 23rd. >> The reason we didn't

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recommend the 23rd is because typically there is informal policy that there is no council meeting on the same week where you have a monday as a holiday so january 20th is the martin luther king holiday. >> Tovo: I see. >> Spelman: Mayor. >> Mayor Leffingwell: See how squeaky it gets when you go out of town. >> Spelman: If we have january 9th and posting deadline is january 1st and we didn't post too many ifcs that would give the city manager and his staff a week off. They almost never get a week off. That might not be a bad idea. >> Mayor Leffingwell: That is a point well made, council member. >> One thing we were going to do with the agenda office is please get your items in very, very early and we will try to work on that. >> Mayor Leffingwell: Before christmas? >> That's correct. >> Tovo: I will point out, they will have a longer break if we didn't have a meeting on the 9th. >> Mayor Leffingwell: Whatever. Okay. So go ahead. I am only going to be here for 5 minutes. >> Good morning. We are here to give you an update on the interlocal agreement negotiation process with lone star rail, and on this -- I don't have

a clicky. Can you pull up the slide, please? I won't go over the agenda because we have limited time, but this briefing is in response to direction that we -- direction we received from council at the end of august that calls the council in that resolution voted to support their -- the regional vision of the campo transit working group, and it provided direction to the city manager on a number of items. One was to work with lone star rail and capital metro,

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to develop an interlocal agreement and any ordinances to provide value capture revenue from the proposed rail stations in austin, and we were to allow sufficient time for the council's consideration and public input prior to a december 31 decision goal. It also directed the city manager to create a restricted fund -- a city restricted fund to retain the value capture revenue and that revenue was to be dispersed only if the lone star rail district's passenger rail system became operational. It also asks city support the conditional upon support of other central texas local jurisdictions which would be evidenced by lone star rail providing their adopted resolutions on or before october 31st. So quickly, I will summarize the lone star rail -- the proposed 'ask' in the interlocal agreement and these are to be made by the lone star district to be included in terms in the interlocal agreement which we have a draft of and have been working on. They would like to begin setting aside property tax revenue prior to the rail system development. That is their "ask." So we are setting aside the revenue in advance of any construction work. The funding ask in the agreement has been extended from o and more, to operations -- o and m to all operations as all project costs as part of the definition. They are asking for value capture and -- >> sorry for interrupting. I just want to be careful about the phrase, you are saying we are setting aside. More accurately say, we would be. >> Would be.

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>> Ott: Because understand, these are the conversations we are having here and nothing has been decided here. This is simply an update to characterize what we are talking about in those negotiations. >> These are just the talking points that -- when we discuss the agreement. I apologize. I am trying to hurry through this because we have limited time. We are talking about value capture which has not changed the last year or more and that's tax increment financing and that's the revenue from the zones that are identified around the stations. We are talking about 50% increment within a half mile radius. For 6 of the stations in austin, and a quarter mile radius around the seaholm station, which includes the seaholm tif and those terms to ask for that have not changed over time. Again, we are talking about tifying now or creating a zone in the tif now but the economic zone would occur later and may be due to economic stimulated growth or rail stimulated growth as well. We are talking about lone star rail managing the revenue from the value capture in a tax increment fund that will capture all of the tax increment from all of the local government into one fund, as the current proposal. The agreement at this point is -- has a new "ask" that adds station parking, street parking revenue as a funding source for the project costs. And then the terms that being proposed and discussed is a 40-year term with automatic renewal for 40 years unless in year 39 an

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opt-out provision is exercised. To give you an idea of the costs for the projected operations of the I star service, these are numbers that have been provided by the lone star rail district. They are looking at covering their operating costs from three segments. The small cities in the counties of bexar, travis, williamson and they are looking at austin, austin college district, or acc, and south central they are looking at san antonio and bexar county and they are projecting or forecasting by 2018 from each of those segments they would need about \$10 million or \$30 million would be the operating costs, to return the rail service with basic service level. And then we've got additional projections by 2023. It would escalate to 59 million and they are escalating costs in this forecast at 2 and a half percent annually. Next slide. We received this morning a preliminary value capture estimate for the central texas area -- or the central texas leg of the one-third -- to cover one-third of the o and m. This is broken out with the three entities -- local government entities that would participate in that segment, austin, travis county, and austin college district. Again, by 2018, the initial investment of the value capture or the property tax revenue that would be set aside is a little bit less

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than \$1 million. And that is based on the lone star ask for a 50% value capture. They have included -- these numbers include both the rail influenced growth as well as the economic growth that would have occurred without the rail development -- or that's not attributed to having rail service in those areas, and these amounts, we -- as I said, we just received so we really have not had an opportunity to look at them, but they would escalate out to 2023 to 7 million a year with 3 million of that coming from the city of austin tax revenue and so on. So the basic framework of the interlocal agreement, it's really going to be about three interlocal agreements, one for each county but each of the documents is identical at this point so they are taking a basic template and negotiating with each of the local government entities. The reason they are breaking the three because later on you will see the zones may have to be adjusted. So when it is difficult to get an interlocal adopted by 18 entities so if you are adjusting them from time to time you want a smaller group to go back to update. So that's really the crux of why they've proposed that at this point. Their proposal includes using a transportation infrastructure zone or a taz which would be created under their laws or the transportation code, which will provide for the zone, which will be where they get the value capture. In this proposal, the lone star rail district will be the governing body for the project, for the zone or zones that are created for the rail schedule as well as the rail operations. And, again, their funding

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sources from the local -- local government entities would include tax increment financing or the value capture and that would include both property tax and sales tax, although they are only asking austin for a property tax value capture. That would include other revenues such as parking revenues from some of the other entities, and in addition to that, they have asked for in-kind contributions from some of the smaller cities, so the ask for austin is only for a property tax value capture at this point, and they are also

asking us for the parking revenues. The way they are structuring the funding from the local government, it's pay as you go funding, so you begin setting aside the ask as -- you will begin setting aside money now so you accumulate enough that you have a sufficient balance to start working with it, either at a trigger date of something happens, like the rail starts operating or until you have a sufficient balance accumulated. Again, lone star rail is proposing to manage the revenue in the tax increment fund and that would be used to fund all costs, including administrative costs and operating costs. And then while they have identified the station locations within austin at this point, they are considered preliminary because they can't be finalized until the nepa requirements are met and once the nepa requirements are met, it may require some adjustment of the zone which would trigger an amendment to the interlocal. So we have -- during the course of the meetings and looking at the meetings with lone star rail and looking at the draft interlocal agreement, we have -- have some points of disagreement, which I would like to go over now. Foremost in our mind was that council direction that we got, was that you wanted

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the city funds retained in a restricted account and they only be used for o and m, operation and maintenance cost and only when the district became operational. So it is kind of overarching guideline that is the council provided to us. And in a couple of places, we have got sections of the interlocal agreement that do conflict with that council direction. Lone star is asking for the ability to retain and manage the tax increment fund, or, in other words, we would write them a check nor the value capture for our property tax and they would maintain it in their account and manage it. Another is is they be allowed -- another 'ask' is they be allowed to use it in the tax increment fund prior to the rail operations beginning, which is in direct conflict. Again, these are still points we are trying to negotiate through so these are not final but we want to update where you were at this stage. This value capture we have been asked to provide for lone star rail are not like any of our other city tifs. Our tifs have been based on the economics of the zone. We don't have updated economic studies for zones proposing. We are working on them but we don't expect them to support a 50% value capture so we want to make sure the council understood that they are asking for more than -- more value capture than probably the rail operations will throw off so they are providing those kind of breakdowns and the split on economic growth in those areas for the zone -- of the zones at the stations. The request or the add to

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have austin provide station parking revenue as a funding source is a new "ask." It is not something we have heard previously, so we've got direction for value capture only, and so we have told them that we don't want that included in our agreement, although we are -- we have knowledge from them that they are asking some of the smaller cities to pay for it. And we are not in agreement of the term of 40 years. It's actually very long and automatic renewal of 40 years would put this at an 80-year agreement. They don't currently have a plan for the end of the tif term, to provide additional revenue. But at some -- all of our tifs really that we have done so far have been really related to debt, not operating costs and so those tifs had a natural end tied to the debt service payments. So at the end of the term, all of the value

capture revenue -- tax revenue came back to the city to fund local government needs and so with -- 40 years is ten years longer than our longest tif and so we really -- we prefer not to have that automatic renewal. There is a year 39 opt out. But there is a noticing provision there. And then their proposal to set up the zones as a transportation infrastructure zone using their legislation would just -- it can be done but their legislation is -- their guidance in their legislation is very brief. It does not require a public process of any kind, but this will give you a sense of some of the kinds of things that we are trying to work through with the rail district, and I know that they are working with a couple of other cities and they are working through the

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same issues because we all have identical documents. The next section, some of this is really just for your information, because I have covered it already in some of the comments so I may go through some of this quickly. On the governance structure, again, lone star board would serve as the zone board. They have outlined their responsibilities in the proposed ila, the proposed responsibilities would be to manage the project, the zone, tax increment fund and determine all of the scheduling and basically the level of service that they would provide in the operations for the rail service. They would create a zone advisory board. The comments that we would have as staff to council really is to let you know the lone star board would really have broad powers. You as council would have one seat on the board. You would have one seat on the zone advisory board as it is styled in the document as it is currently proposed. Austin college district is being asked to participate in our area for central texas for funding for the rail service. They are currently not on the lone star board. And I assume they would have a place on the zone advisory board but they do not have a seat on the lone star board currently. And then just a note, for our opportunity tifs, our city council appoints the boards. In the draft interlocal agreement, project costs has been defined as a defined term very, very broadly. It includes not only the capital or construction costs. It includes operating and maintenance cost and administrative costs and then the middle column, you can see all of the kinds of

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things that it includes. We really believe operating costs should be separated their" ask "at this point is to cover all of the funding and the project costs in addition to the o and m so that is different from the the council, to limit our proposal to the operating costs. I think the next slide on local funding, euc have covered the first two -- I have in the first two items including value capture. They are including single residence on the zone. There won't be value on the properties. They are honoring our other economic development agreements, our 380s and other tifs and there is a netting of that and there is map -- in a later slide, they are prorating undeveloped properties until they have been subdivided and that's whether they are in or out of the zone so they are providing for some, again, later adjustments of the zone depending on what happens. And then one other point is that if there is tax exempt property in the zone or -- they would -- once it is privately developed, they will add it and do the value capture on the new privately-held property. On the economic development agreements, they are honoring our existing agreements but there is limits on our abilities with respect to current and future ones. We can't take any

actions that would serve to reduce

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the rails capture. They asked for 50% so we can't tif an addition to that so they don't get their full 50%. Is the intent of that. On the tax increment fund, again, their proposal is they will manage it. They did offer an alternative and consider the escrow account held by the trustee but they still want to be able too direct the trustee and this conflicts, again, with the direction we got from council. We as staff feel like the city should control its funds until the rail service is operational. It comingles all of the local government funding into one tax increment fund. They do allow us the opportunity -- or the authority in the document to audit their records and maintain open records for us. I think we have covered all of that. Then on the next slide, I probably already covered in my comments on the terms, and we can read the rest of that. I did want to point out two zones. The one on the left is the mcneil zone and the one on the right is the seaholm zone. You've got maps of all of the zones in your backup material. The red circle on the left in the very center of that is the quarter mile and the blue circle is the half mile and the right seaholm is a red circle because they are asking a quarter mile be in the zone but there are pieces of parcels that are outside the blue so I want to point out it is not a perfect world. While they do have a

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circular radius or oval, they will be looking at incorporating some of those properties outside the circle as they are subdivided. And then the dark dotted line on the bottom right is our current tif for the seaholm tif. I already covered the rest of the comments there. Our next steps are continuing on with our negotiations. We meet weekly with lone star rail and have other conversations, emails as we need to. Lone star rail district needs to provide and is an exhibit 2 the interlocal -- a project plan which includes project description and the estimated cost and actually that is a requirement of the transportation code in setting up their zone. We still need the economic studies for the value capture and they are still continuing to work on that, although we have preliminary numbers there, and then the council asked for adopted resolution of other local governments on october 31st. With respect to timeline moving forward, council asked the staff to provide the draft interlocal agreement to council by november 4. We will continue to work towards that deadline but we do have a number of items that we do need to continue to work through and then council wanted to take action by their december 31st goal and there are only three council meetings left, the 7th of november, 21st, and december 12th. >> Ott: So your intent in regard to november 4th date is to express some concern about the likelihood of being able to meet that date. Is that correct? >> Yes, sir. >> Ott: Okay. >> I think we can provide a draft but it may not be one that we can recommend. >> Cole: Elaine and robert, greg, I want to thank you

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for all of the work you have done thusfar. I know it has been a lot of work. There still is a lot of work to do. I first want to say that this is an item that I think requires a lot of discussion by council. I mean, we certainly are considering other rail on our end as a city and we talk about the extent that we are going to

be involved with project connect and lone star rail is a part of that and so I think when it comes to the financing of lone star rail, we have a lot of discussion that needs to be done and probably needs to be done at a committee level, and I know that have several council members who are interested in this. I am thinking, while it's already past 12:00 o'clock that we should do one of two things. Either we should invite council member riley to audit and finance meeting or we should invite council member spelman to a comprehensive planning and transportation committee meeting and I said that because council member riley actually sits on the capital metro board and council member spelman and I actually sit on the lone star rail board and council member morrison has shown a keen interest in tifs and you've actually briefed us in audit and finance on that. So why don't -- if I can get -- or we can have special called -- is that what you were suggesting -- >> Morrison: I was going to say maybe finance and audit special call meeting in which all of the council members can be invited and make sure it aligns with council member riley's schedule. And if it's special called -- you know, we never had time to talk about this in public. It is always briefings and then we are out of time so if we had a special called meeting and, you know, you could bring us up to date on where we are and then delve into the issues. That's really what is needed. Because I agree with you, there is a lot of

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discussion. >> Cole: Details about who is going to manage the account, who is operational, how much of the tif we are going to fund, the fact of the economic -- I want to get guidance -- the fact the economic studies are not complete and we don't have any idea what those numbers are. I think it would be hard to delve into any discussion without that. So let's plan on a special called meeting or we can have a special called meeting. It doesn't necessarily have to be audit or financing and then we can invite the entire council and then actually have a discussion about financing of lone star rail and -- now, wait a minute, chris, you just did a resolution, you and mike, about capital metro. >> Project connect. >> Cole: In project connect and financing, isn't that correct? >> That's correct and it directed the city manager to present a draft financing plan by april 30th of next year. >> Cole: So that is a while. >> Riley: Right. >> Spelman: Mayor pro tem. >> Mayor Leffingwell: Dr. Clay -- council member riley. [Laughter]. City manager, as you know, was equally messed up. >> Ott: We are happy to meet with council any time you choose especially called meeting or otherwise. I do want to point out, though, with respect to the direction at hand, that we were providing update in regard to today that much in terms of what you heard from the request from my perspective falls outside of the parameters of the direction that we were given. Nevertheless, we thought it was important to provide you with what have been the requests made at the negotiating table, but, again, pointing out that much of that falls outside of the strict direction that the council gave us and so we are willing to proceed ultimately to conduct ourselves in these negotiations in the context of the direction that we were given. >> Cole: I believe you

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should continue to make those discussions and even about the items that we have discussed today. I am not trying to halt that at all. I am just trying to get more council input so it can give you clearer directions

because we have so many items on the table. Any further discussion, comments? Without objection, the special -- I mean the city council work session is adjourned. [Meeting adjourned].