

City Council Special Called Meeting Transcript – 2/17/2016

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>> Mayor Adler: We have a quorum. Today is February 17, 2016. We are in the city council chamber, 301 west 2nd. We are at the special called meeting to consider setting an election and with the incident ballot language. We have a quorum. I'm calling this meeting to order. It's been suggested that as we begin this meeting we break for executive session to see if anybody has any questions for council before we come out and then consider this item and move forward. So if there's no objection we'll go ahead and do that. The city council will go into closed session to take up one item pursuant to section 551.071 of the government code. City council will discuss item 1. The only thing on the agenda. Legal issues related to the ordinance approving the municipal election on may 7 and setting ballot language. Is there any objection? Hearing none, we're now going to go into executive session. [Executive session]

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[Executive session].

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[Executive session]

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>> Mayor Adler: Are we ready to go ahead? Seeing not a second -- the motion has got to come from Ms. Kitchen. She's not on the dais. I think she's making copies or something. So hang on. >> Mayor, I have questions that I want to ask of budget. I don't know if you want to do -- I don't think budget is here to answer the questions. I was one of the few to -->> Mayor Adler: We're out of cold session. We took up legal matters related to item one. Now we're discussing this issue. >> I was one of the councilmembers who voted against putting this on the ballot from the standpoint of the cost to the city being estimated at \$500,000 to \$800,000. As part of this discussion, I would like to hear from budget or transportation or whomever is going to be paying the cost of that. I would like to understand where the money is going to come from. To pay for the cost of that election. I don't know if the assistant city manager wants to speak to that or -- thank you, thank you. 6. >> The city clerk's office will pay for it. There will be a budget amendment that will have to come before council to improve an increase in our budget, because it's not something that we budgeted for. So we will be working with the budget office and the law department

to bring forward the second item on the cost in which hopefully by then we will get a better feel from the county on how many other entities are growing to be on the may ballot and what our actual costs will be for that election. Now where do the funds come from? I'm not sure where the magical pot is that we pull from for this sort of unexpected

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expenditures. >> Gallo: That's my concern as we talk about adopting policy and making decisions that cost that we have a very clear understanding from the council's standpoint of where that money would be taken from. So do we have any idea when that would be brought forward to us. I guess we could proceed on ward would be the worst possible case from the standpoint of the costs. >> Gallo: Yes. Until we know specifically, we would proceed with the worst case scenario. And I don't know if on the fiscal note that we attached to this item if the budget office included where the funds would come from. I didn't print out the copy of the fiscal note. And I think it was what was included on it. >> Gallo: I don't have a copy of that. Does anyone have a copy of that. >> Support services fund? >> Gallo: Support services fund is what councilmember Garza is saying? >> Garza: The backup says there's sufficient funding available in the balance of the support services fund to cover this expense an staff will bring the recommended amendment once the final cost is determined. >> Gallo: That department has been a good conversation. >> Support services is not actually an individual department. It is kind of the umbrella that the clerk's office and a number of other department, internal service provider departments belong under. Instead of the general fund, I'm a support services fund department. So apparently there's enough in that fund that is not currently allocated. And here comes our chief. >> Gallo: Thank you for coming down. >> I don't know if the mic is on, Elaine hart, chief financial officer. The money for this election will come from the ending balance of the support services fund. In the budget that was approved by council, we do zero out the

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fund. However, when we closed out the fiscal year 2015, we had about \$1.7 million in savings that will move forward. We will use those savings to cover the cost of this election. We need to bring a budget amendment forward in a general election. We'll do that in March. >> Thank you for the clarification. >> Mayor Adler: All right, is there a motion? >> Casar: Mayor. I had a motion ready to put on the overhead. But if councilmember Gallo wants to go first. >> Gallo: Point of order. >> Mayor Adler: I recognize Ms. Kitchen for. Anyone else have anything they want to say? >> Kitchen: I'm passing out a motion sheet. I will ask to put it on the overhead. Can you give me -- I need one. I move passage of the ballot language we're putting on the overhead right now that I passed out on the dais. I'll read it for the clarification of folks. It says shall the city code be amended to repeal city ordinance 1217-075 related to transportation network companies and replace it with a ordinance that would repeal and prohibit quired fingerprinting, repeal the requirement to identify the vehicle with a distinctive emblem, repeal the prohibition of loading and unloading passengers in a travel lane and

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relying on other transportation network companies. So I move the passage of this ballot language. >> Mayor Adler: To set around election on may 7, and in association, to adopt this language as the ballot language, moved by Ms. Kitchen, seconded by Mr. Renteria. >> If I could get a copy of that. I guess there weren't enough to get all the way to the end of the dais. >> Kitchen: I would state this goes with the language of the law to make provisions and be clear and accurate in the statements. >> Mayor Adler:

Further discussion on the dais on this issue. Mr. Zimmerman? >> Zimmerman: Before we started to go down this path, I wanted to make a motion to amend by substitution with a shorter version of the ballot language. We could put it on the screen if I could get a second for discussion. This would be, I guess we call it the mjw. Is it up here now. >> Mayor Adler: This is what's been handed out to us. The shorter language that has the pink highlighted mjw -- >> Zimmerman: Can you push it up so you can see the bottom. I'm not seeing the bottom. It's got the mjw in the lower left corner, the date and time. >> Mayor Adler: Mr. Zimmerman has moved to amend the kitchen motion by changing the ballot language consistent with what's been posted, the mjw language. Is there a second to that amendment? Second set of amendments. The discussion on the amendment, Mr. Zimmerman? >> Mr. Zimmerman: Thank you,

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Mayor. I'd like to speak in favor of this amendment. I think the advantage of this smaller and shorter language. I know we're going to get in a conversation here shortly that I predict is going to get quite complex and if I can get -- I don't know if it's proper to get an opinion on whether that language is adequate. There's quite a bit of leeway in the judgment on the part of the council on what we think is necessary to properly describe what's in front of the voters. It does comply based on what I've heard, the interpretations of legal cases, it does comply to describe the ordinance. The other thing that we're going to have to talk about is whether what we're describing to voters is a contrast or a difference between the December council ordinance. And whether we're just talking about what the ordinance establishes. And I know that the key feature compared to the Leffingwell ordinance in 2015 that a fee would be established, there was no fee. So I believe as of today, as of right now, the city collects nothing, is that correct? From the TMZs, the city collects no fee today. >> Mayor Adler: The city ordinance provides for a 1% fee with an additional 1% fee that would not be applied in certain cases. I think that's the extent ordinance right now. >> Zimmerman: My thinking is if the people vote for this, what happens is they strike the December ordinance. So it goes back to no fee which is what it was. Then it goes back to no fee and establishing 1% with the ordinance they're voting on. So for me, the 1% is a very important point. Because if we don't put that in a ballot language then people could be left with the incorrect presumption that we're repealing the fee that's in the December

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ordinance and it doesn't show that we're putting 1% into the new ordinance. I think that's a big problem that this shorter language corrects. >> Mayor Adler: Ms. Houston? >> Houston: Thank you, mayor. You know, as I sit there and listen to the conversation, there was some conversation about a key feature. But the draft that I see on the board, it's not there anymore, but you passed out, this is the key feature I think this all hinges on, and B that's about fingerprinting. And so I would suggest that it does not meet the requirements. >> Mayor Adler: Ms. Pool? >> Pool: Yes, thank you, mayor. I think the amendment being offered and his explanation of it is unnecessarily complicated and the shorter version fails to take us on at least three points. It doesn't adequately or credibly -- and I know that our legal staff can probably give me the vaguest references but I think it fails in almost all areas. Thank you. >> Mayor Adler: Further discussion on the Zimmerman amendment. Then we'll take a vote. Those in favor of the Zimmerman amendment, please raise your hands? Zimmerman and Troxclair. That's the balance of the dais. That's back to Ms. Kitchen's motion on the special election on May 7 with the language that's been set out. If we have eight votes, it would be to declare an emergency. Any further discussion, Ms. Troxclair? >> Troxclair: Could we take separate votes on the two separate elections, I would like to vote in the election in a separate election than we vote on the ballot language. Is that possible?

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>> The ordinance calling the election must include the ballot language. >> Mayor Adler: Any further discussion. Mr. Zimmerman? >> Zimmerman: Could we put the kitchen amendment back on the overhead for just a moment. Put it back in the overhead. Consider this for a couple of minutes? I do want to be recognized as a appropriate time to speak against. >> Mayor Adler: This would be the appropriate time to speak against. I'm going to be voting against this. One of the key features that we do, that the city is gaining a 1% fee, it's one of the key features. So it's -- it's true that the December ordinance did put in I guess 1.5%, 2%, I'm not clear exactly on what the fee was. But there was a fee included. So if we pass this, we're saying that we're repealing the fee, which is a benefit to the city. Maybe \$1 million a year in revenue. This language says we're repealing that. So the fee is removed. And then we do not include the fact that the city is gaining a 1% fee. So to me, the problem with this language is it construes the negative things of what you're losing -- you're losing a perceived fingerprinting benefit for safety. You're repealing or losing the potential trade address or a mark that identifies the vehicle. There's a repeal. In other words, this is cast as all of the negatives that are going to happen if you vote in favor of the ordinance. So I agree -- I disagree with the way this is couched because this is -- it's written to say you are going to lose this, lose this, lose this. You gain nothing. You don't even get a 1% fee

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every year. So I think the language here is not going to be acceptable. >> Mayor Adler: Ms. Pool? >> Pool: I think what I would say about that is, again, councilmember Zimmerman is not complicating our actions here today and the fee itself really has never been a point of contention in any of our conversations. So I would not be -- I am completely supportive of this motion sheet that councilmember kitchen has put up on the screen. >> Mayor Adler: Any further discussion? Ms. Troxclair? >> Troxclair: When does the ordinance that was passed in December go into effect? >> Mayor Adler: February 29. >> Troxclair: I don't understand, all of our conversations thus far seem to frame the issue in regards to the Leffingwell -- the previous existing city codes. This is the first time we're talking about framing -- framing ballot language based on what was passed in December. I'm confused how we can pass ballot language that refers to city ordinance as a -- as a city law when we -- that actually hasn't even gone into effect yet. >> Mayor Adler: Ms. Kitchen? >> Kitchen: I can speak to that. What this ballot language does is it describes what's in the ordinance that's in front of us, the petition ordinance. The petition ordinance actually includes the language to repeal. So that's why it's relevant that this language speaks back to that. In the language of the petition

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ordinance that's the first line. >> Mayor Adler: Is the ordinance that the petition seeks to repeal the one passed in December? >> Kitchen: Yes. >> Mayor Adler: As opposed to the Leffingwell ordinance or the one that was passed in 2014. >> Kitchen: Right, part one of the petition ordinance. >> Mayor Adler: The petition ordinance spoke to what we did in December. >> Troxclair: So I just think it's -- it's a clear attempt to try to sway voters the way this is framed. And, again, all of our previous discussions have approached the issue from the opposite directions. They've said that they're going to add a fee, that they're going to -- I mean, it talks about the different things that they're going to be added to the regular tags and they're in line with the petition as opposed to framing this as a repealing of required fingerprinting which, of course, the city currently doesn't have. So I -- I mean, I think it's confusing -- I

think it's confusing. I think that it -- this is the first time we've had a conversation with this kind of framing and I -- it's just -- well, I guess -- I mean I wish that I would be able to vote for calling the election but being able to express my dissatisfaction with the way that I think this language is intended to guide voters to a certain decision. >> Mayor Adler: Further discussion on the motion? Those in fay -- Mr. Zimmerman? >> Zimmerman: One more thing to say about it. So, I disagree with the confusion argument. I think that it is abundantly clear that this ballot language supports the city council's majority opinion that you should vote down the ordinance. I think it's very clear.

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It's negative. You lose this, you lose this, you lose this, you lose this. It's written negatively. I think it does reflect that the majority will of council. We lost a vote 9-2. I would expect this ballot language to pass, 9-2. So I'll be voting no. >> Mayor Adler: Ms. Tovo. Mayor pro tem? >> Tovo: At the risk of pointing out the obvious, it's clear that many people in our community don't want us to have an ordinance that has required fingerprinting. For many people that's not going to be a give. I think as council member Houston alluded to earlier says this identifies the chief element which is a responsibility to the voters. >> Mayor Adler: Okay, further discussion. We'll take a vote. Those in favor of the kitchen motion, just raise your hand. Those opposed? Troxclair and Zimmerman voting no. The motion passes to set it for may 7 to declare it an emergency so it goes to immediate effect and it passes. That said, we're pulling down the special called session for tomorrow and the day after because there's no need for us to act. And this meeting is adjourned. >> Kitchen: Could I -- I just wanted to take the opportunity to let the council know that we have posted an item for next week that will relate to cleaning up some of the language that we said before that we were going to fix that puts -- puts all ground transportation on an equal playing field and that relates to the national background check for all ground transportation. So just a heads up, that will be coming back. And also as I mentioned, I believe last week, I have asked our staff, our transportation department staff to give some thought to the range of regulations that we have for ground transportation and come

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back to us. But there are suggestions for any kind of a regulatory relief or changes to make things more on an equal playing field. So -->> Mayor Adler: Further discussion? This meeting stands adjourned.