

Audit and Finance Committee Meeting Transcript –2/24/2016

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>> Tovo: Good morning, I'm Kathy tovo and I chair the meeting for the audit and financial council. It is 9:08. We're going to get started. Just as kind of a general overview, at 9:30 we're going to start our interviews. So whatever we're doing at niep 30:00, we're going to rap up and move to the executive session. And just for a head's up, if somebody can help me with some executive session language. Okay. We're going to start by looking at the minutes. Has everybody had an opportunity to glance at those? >> One quick note on the minutes on the agenda, they're posted as January 15, they should be January 16th. >> Tovo: Thank you. All right. Is there a motion to approve the minutes? >> Yes. >> Tovo: Vice chair troxclair moves approval. Councilmember Renteria seconds it. All in favor? And that's unanimous. So we'll move right on to our affordability review from our city auditor. I think we've all had an opportunity to talk with our auditor about the affordability review plan, and I understand there's a very brief presentation here today. >> There is. So at the work session -- at a work session earlier this month, we talked about a proposal for an affordability review. We've done a little more planning work related to this. One of the things we need to do in order to have room on our plan to conduct the review is to make some audit plan adjustments. So as we mentioned at the work session and, again, here, we're talking about doing this as a two-phased project, with the first phase really focused on gathering information.

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[Lapse in audio] Related to city initiatives, policies, programs that affect those areas identified in terms of household expenses. So that's phase 1 is really about gathering the information. Phase 2 is where we could do an analysis or evaluation. That will be where we evaluate effectiveness of the information or based on information gathered in the first phase. So in -- as I mentioned, to do that data gathering and analysis, we're looking at various options for that. With E do know that the data is not as readily available as we had hoped it would be at the district level, but we're working through that right now to try to identify potential data sources. In terms of the adjustments to the audit plan, we're proposing deferring two audits from the plan, basically our construction management process audit. That's an audit that we believe there are initiatives currently underway by city management that would overlap with that proposed audit and the mobile device security which from an I.T. Perspective, while that is definitely a risk we had other I.T. Risks we're covering on the plan. If we need additional hours we're proposing -- we originally thought it was a 2,000 hour project, rather than propose another audit for removal, we are proposing taking hours from the council special

request budget. We have 1200 hours on that and right now we have used zero of those, so we're proposing in the event that we need a contingency, looking to that council special request and we could certainly update the committee if that was necessary. And that's my presentation. >> Tovo: Thanks for that. >> Could you explain just a little bit more about the mobile security of it, what that entails and how –

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whether we would still be able to do some work in that area if we gave those hours back. >> Certainly. And when we say defer, what we really mean is basically considering it for next year's plan. So not necessarily taking this topic off the table forever, but bringing it back as we look at various projects next year and considering that as a potential topic. So I think the risk would still be covered, just not in this fiscal year. But the other thing, the mobile device security, the concept of that audit was to look at the policies and procedures and whether or not they're being followed related to the various mobile devices that we as city employees have, whether that's your phone, your tablet, but then also out in the field, we have a lot of mobile readers, mobile data collection devices, et cetera, so it would be looking at those. >> Thanks. >> Uh-huh. >> Tovo: Are there other questions? Okay. I think I need to ask our staff -- oh, no. What we need to do then is move approval of these changes to the audit plan. Is that correct? >> Yes. We would like a recommendation to the full council to amend the audit plan, by at this point, the 1750 hours. >> Tovo: Okay. Is there a motion to that effect? Vice chair troxclair moves approval of those changes to the audit plan. Councilmember pool seconds it. All in favor? And that's unanimous on the dais. Thanks very much for your work on that interesting initiative and for figuring out how to do it within your existing budget. >> Absolutely. >> Tovo: That piece of it. Okay. So I just want to check in with our staff about our municipal civil service interviews. Is our first one actually at 9:30 on the dot? >> Rebecca Kennedy with human resources. Yes, the first one starts at 9:30. >> Tovo: Okay, at that case I think we should agree to wrap up at 9:25 so we can be

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back in our room and kind of organized by then. The only other item on our agenda is the resolution that is slated for council tomorrow, and I understand that our discussion on this is going to have to be pretty limited, given our time frame. But I just want to lay out a few things about it. We -- I think in the months since the really unfortunate training session, I think we've all -- we've witnessed a lot of discussion around the city about -- about women in the city workplace. I've gotten some anonymous letters. There are several staff members who have appeared before the human resources commission. And the human resources commission really dug into the issue and tried to identify some of -- some strategies that they thought would -- would be useful here at the city of Austin. And so this resolution [lapse in audio] Our city manager look at our antidiscrimination practices and protocol and updating them, clarifying the process, making -- making people aware, making staff members aware of what the investigation looks like, if they're going through the city process, so that -- so that we have really enhanced our -- the transparency and accountability around that process. And so I think they did -- I really thank them for the work that they did. They did some really in-depth work with our staff and really thinking about how to improve the processes. The resolution that is on our agenda for Thursday would take that -- push those recommendations further, and also take -- take a look at what another process might be. And so there is a request to our human resources director to initiate some changes to the municipal civil service commission to expand their scope to include claims related to discrimination, retaliation and harassment.

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And that would offer our city employees another venue, if they have gone through the human resources department, they have another venue, an appeal venue that is within the city before they need to take things to the -- out into the world of the court system, if that's their choice. We did get a memo from -- I guess I'll

stop there and answer any questions. And just note that, unfortunately, after our work session yesterday, we did get a memo from our human resources department, so it was -- it did not come through in time to ask any questions in our work session, but I see our staff here today to answer any questions that people have about some of the -- some of the information that they provided. And so I'd invite them -- I'd invite them up to maybe summarize a couple of their points, and then I have some questions for you. >> Good morning. Joya Heys, interim director of human resources. Thank you for this quick opportunity. We have very respectful of the limited time you had today. Hr had the opportunity to see the resolution for the first time on Friday. And in preparation for our big presentations on yesterday and on Monday, we had not had an opportunity to fully vet the information from the resolution. So our attempt was to provide this memorandum to you on last night, just so that we could provide you with as much detail as possible. We have here with me our employee relations manager, who's responsible for our investigations and employee relations process. And all of that information is included here. What I'd like to share in the limited time that I have before you, are just some preliminary concerns we have with the resolution as it relates to its impact on our city process and our city government. The first one, and the one I think is most pertinent, is that the department really truly feels that we would like to request a postponement, simply to

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allow us an opportunity to work with the law department. We're very concerned that the way the charter is written, we need to evaluate whether or not we have the capacity to add this scope of work to the actual municipal civil service commission. So that's one piece. We've been in discussions with the law department, and they are evaluating it, and so we wanted some additional time for their analysis. Our second concern is that currently, with the municipal civil service process E when an employee -- when an employee files a complaint, management has 10 days to respond. And the director has 25 days to respond from the initial grievance, or complaint. And so the concern is, when we look at our investigations, sometimes it takes us anywhere from 90 to 120 days to complete a thorough investigation, particularly understanding that with an investigation, could come 15 to 20 allegations. So trying to limit an investigatory process to that current municipal civil service process, would really have a significant impact on our ability to develop qualified investigations to present before the commission. So that's our second concern. In addition to that, the current process allows employees to go through the entire process, and if after a thorough investigation, if an employee disagrees with our findings and they take that information to this board, that board may not take into consideration the key components of that investigation that were done. And based on testimony, make a decision, and we're really concerned, because with that commission's ruling, that employee then has the opportunity to go to eeoc, and they take with them, one, an investigation from the city saying we found no allegations. And this commission could then say we did, and it thus puts the city in a liability in terms of how we then put ourselves in a position of defending eeoc cases as they

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move forward. So that was another -- [lapse in audio] -- And Jeff can go into some detail if you'd like to hear it, but there's no precedence set for other municipal civil service cities to allow discrimination, harassment and retaliation at the municipal civil service commission level. It's a precedence unset. I think we very much value and respect the goal and intent of the resolution. I think we want an opportunity to discuss if there are other opportunities, ways and methods within the city government to address providing an additional opportunity for discrimination cases to be heard without creating undue liability and inconsistencies by doing it in this method. And so we wanted some additional time to evaluate and explore those opportunities and bring them forth to the commission. So those are just some of the bigger, broader issues, and we've got more detail in the powerpoint and are available for questions. >> Tovo: Thank you. And is that powerpoint something you've distributed. >> Yes, I sent it in an e-mail to all committee members yesterday along with the memorandum. >> Is it under your name? >> Yes. >> Tovo: Okay, I did not see the powerpoint come

through. >> We have copies. >> Tovo: We've got about five minutes so I don't think we have time for the detailed benchmarks and other things, but I do have a couple of questions that I wanted to ask you about the points that you've made. And this is certainly we can talk about tomorrow in the -- thank you -- in the council discussion, but we've looked pretty closely at the charter language. If I understand your first point, you're suggesting that the charter language doesn't support an expansion for the municipal civil service commission to include these duties, because that was not our assessment of the charter language. >> Yes, in an analysis of the cmo office, they had some similar concerns, I can let Lee speak to those concerns about how they were articulated, but -- articulated but there is an overall concern about the ability to expand their

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roles. So if you'd like to get more details of that concern, I'll refer to the law department to explain that piece. >> Tovo: I think that I would like to understand the nature of the concerns, whether -- and I am probably not going to have time to pull the charter language. >> I think they're continuing to explore that. >> Tovo: Right here, but that was -- so -- and let me say about the time frame, and this is, again, I think a more detailed conversation we can have tomorrow. The municipal civil service commission is already hearing cases that are fairly complicated, and so the staff's process of investigating -- I assume that you have to comply to a similar -- you have to comply to that timetable for any kinds of investigations that are going to the municipal civil service commission, and some of those -- I mean, we had one recently that involved some criminal charges as well, and so those are pretty complicated cases, and you're able to do the investigations within that time period. So I will want to have that discussion tomorrow about why -- why you believe these cases would not work within that time frame. >> Okay. >> Tovo: And as I recall, the time frame was one proposed by the human resources department as it went through the rules process for the municipal civil service commission, so you had -- you had and have control over that time frame. >> Yes, and we can explain that tomorrow due to time. I can explain it now or provide you an answer tomorrow. The areas that the commission currently covers are denial of promotion, disciplinary, demotion, and disciplinary suspension and discharge, this is located on page eight of your powerpoint. Those are very distinct actions that take place that don't require the same level of investigation. So when these issues come up, employees have not received an opportunity for promotion once they go through the process, they file that complaint. The department can easily evaluate whether or not that person met the burden in terms of explaining themselves with that process. With discharge, that paperwork has already been complete because the Progressive discipline process has happened. So in short, the current

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areas that are covered by the municipal service commission are areas that can fit within those timeline and parameters. It was never developed with the timelines to incorporate areas such as discrimination/harassment. I also want to point out that a lot of employees will identify their concerns as harassment, discrimination, or retaliation. We may find other violations of employee conduct, but it doesn't necessarily fit those particular parameters. And so you find often that an employee will say that this is what it is, but oftentimes we find that there may be a violation, but it's not those that are identified. So there is more complexity to these other types of cases that were not taken into consideration when we developed that timeline. >> Tovo: But the timeline, just to get back -- just to circle back to one of my points, the timeline is something that you could propose a change to, if the timeline does not fit these particular cases and you feel that these cases would require a longer time frame, that's certainly within the power of the human resources director to propose a rules change [lapse in audio] -- >> It would bring some delay to that employee's ability to address those issues because we would need due time. So as long as that's taken into consideration. >> Tovo: Yeah, that seems like a problem that could be solved. Anyway -- >> I have a quick question. >> Tovo: Sure. >> And this just goes to the process. It sounds like if you have a complaint that is -- one of the ones that we're talking about here, discrimination or harassment or retaliation, it sounds like it would go through the

hr office -- I mean, don't we already have an established process, so what this does is simply add an additional opportunity for a board to take up these issues? You will have already done the investigation? >> Well, if the employee complains, then the way the grievance process, and I can let Jeff speak to the process. Under municipal civil

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service, the timeline begins when the employee makes the complaint. In this instance, we would have to create a rule where we would -- the timeline would begin after, I guess, when the investigation report is complete, if we wanted to take into consideration the investigation time. So right now under these areas that are covered under municipal civil service, that timeline begins when that employee files a formal complaint, not necessarily when an investigation has been completed. >> Okay. But what I'm saying is, though, by the time they get to the formal complaint, you will have already likely done an investigation. >> The formal complaint will initiate the investigation. So when they file a complaint against anyone for harassment, discrimination or retaliation, then we do the investigation. It's a different type of timeline. When an employee complains, we then do the investigation. >> I think what would be helpful then for us would be to see what the time frames and procedures are, if we could get a chart that just shows the initiation of complaint and what kind it is and what the -- what time frames are attached and what offices are involved, and then -- because I think what we're trying to do here and what the human rights commission was so clearly supportive of was adding the additional ability in-house, for our employees to have a forum for potential redress before going out into the courts. And I think that that is a really good idea for a lot of reasons, and one of them is purely financial for the employee, plus it takes a lot of guts to stand up and make these -- and file these complaints. It takes a lot of guts. And we shouldn't be throwing unnecessary obstacles in people's way. We should have a really clear, transparent and easily understandable process. >> Okay. >> Tovo: Thank you. And so we are at our time, and so I'm not sure if you could encapsulate what you regard as the charter challenge from the

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management's perspective? >> Certainly, mayor pro tem. Lee Crawford, city law department. I think what Joya is talking about is of course we have charter language that prescribes the way that rules and amendments to rules for the municipal civil service commission are formulated. The rules and that charter language are actually relatively new, and this is simply the first time that we've been through, as a city, considering whether to amend the rules or not. I think we had some discussions with your office last week, mayor pro tem, and I think we're all comfortable with the idea that the charter provides a way to amend the rules. We simply want to make sure that we've read through the language carefully and determine whether the particular type of rules -- amendments that we're talking about here would fit within the language. I think we can have that worked out certainly by the end of the day and certainly by the time the council takes that up tomorrow. So I don't think that would be an issue in terms of timing. Since this is our first time through, we want to make sure our analysis is complete and we're giving the city the best advice. >> Tovo: I really appreciate your help, Mr. Crawford and help you for working out the language and resolution so we are in compliance with the charter. I'm glad we heard that sum summary, because it sounds to me -- it does not sound to me, at least in a very brief discussion, as if there's a concern that the language in the charter would not support such an expansion. It's more of a concern about how one adopts the rules because this is our first time through. >> That's correct. >> Tovo: Okay. I appreciate that. Thank you. Okay. So I'm sorry to abbreviate that discussion. Councilmember Renteria? >> Renteria: I just want to know, are we going to take action -- do you feel pretty courtable about being able to get -- comfortable about being able to us by this afternoon. >> Certainly by the time the council meets tomorrow. We're parsing it in our office right now, so I'm very comfortable that we'll be able to put the council at least in a position where you can make a decision on your resolution tomorrow

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with clarity on what the legal issues are. >> Renteria: Okay. Well, I just -- I'm just a little concerned that -- [lapse in audio] -- overnight, so I do have a concern, but, yeah, I'm willing to see what you can come up with for tonight, if possible. >> Yes, sir. >> Tovo: Let me just say that this request that they initiate a process regarding the rules, it doesn't -- it -- regardless of our action tomorrow, those rules don't happen without a process, they would work with the municipal civil service commission, determine if they have a capacity. This kind of kicks off something rather than nails it. Vice chair troxclair? >> Troxclair: So even if the legal department is able to provide us with information tomorrow, it sounds like human resources is still going to request a postponement. >> We want to be cooperative. We would like an opportunity to have further dialogue about the committee about current and existing policies. We already have existing opportunities for anonymous complaints. There's already an ab buds man in case the employees do not like the response of the investigation, so we haven't had a full opportunity to take you through our current processes and what options are there. So, yes, we would like an opportunity to come back to this committee to further communicate what's existing now before we have a broader discussion of what we'd like to change relative to the scope and role of municipal civil service. Troks -- >> Troxclair: I guess I would just want to understand from you some time tomorrow whether you intend to move forward with it or whether there would be time during the council meeting to have that discussion or whether you're going to be okay with the postponement, because I do have a couple of follow-up questions. I want to understand the

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background to it. >> Tovo: So we do need to get -- I want to honor our commitment to the folks who have taken off time from work for our interview, I want to wrap up now. It is my intent to move forward tomorrow and have a full discussion at council. I think we've got recommendations from the human rights commission that have been pending a long time. I think there's a great need for action. Just yesterday after the resolution, you know, in light of the resolution posted, I got two more anonymous -- a call and a note urging that we move forward. I think there is a lot of -- I believe that we need to take some bold action on the part of the city to show people that we're interested in enhancing our process. And I think this is a very fruitful way to consider doing it. Okay. So let's see. We are -- the committee will go into closed session pursuant to section 551.074 of the Texas government code to take up one item which is. >> Six. >> Tovo: It is still six. Thank you. Discussion regarding candidates for appointment to the municipal civil service commission. Is there any objection into going closed session. >> No. >> Tovo: The city will now go into closed session. And thanks very much. I'm sorry we had to abbreviate that conversation.

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[Executive session]

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>>> >> >>> >> >>> >> Tovo: Hello. Welcome back. We're out of closed session. In closed session we took up and discussed personnel matters related to item 6. And the time is 12:13. We did interview a great body of candidates for the municipal civil service commission, and again, I just want to thank everyone who applied and the candidates we interviewed today were all really strong. So it was a difficult decision, but I would just entertain any motions now from this group if anyone feels prepared at this point to make a motion for a recommendation to the council. >> Renteria: Yes. And are we going to take the open seat first? >> Tovo: It's

your choice, councilmember. >> Renteria: Well, I was very impressed with all the candidates that showed up. I mean, if I had an option, we could have five openings, I would appoint all five that we interviewed today. But we did have to make the hard decision so I feel like Melissa Rogers was the best candidate. She just -- in how I voted she just barely squeezed out by half a point over some of the other candidates. So I would like to make a nomination -- nominate Melissa roger for the open seat. >> Tovo: Thank you. Councilmember Renteria recommends that we -- moves that recommend to the full council the appointment of Melissa Rogers, who would be taking an unexpired seat that is available immediately and expires in may 2016. >> Pool: I'll second. >> Tovo: Councilmember pool seconds that. So would you like to -- >> Pool: Also on that one,

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I think -- oh, did you want to talk about the fact that that one expires? >> Tovo: Yeah. I would entertain any additional thoughts you have about that particular candidate or if you want to address the situation of the seat expiring. >> Pool: Okay. So this position expires in may of this year, but then what we are thinking is that barring any untoward circumstances that should arise, we would like to see the same candidate be continued on at the may reappointment time frame. >> Tovo: So councilmember Renteria, are you comfortable with that being part of your motion that we would be recommending to council that they appoint Ms. Rogers with the expectation that she would be reappointed in may 2016 for continuing? >> Renteria: Yes, I am. >> Tovo: We can come back and revisit that decision prior to the may expiration time frame. So if we could make sure that we have a spot on our council agenda, on our audit and finance agenda prior to may just as a group to reconfirm that that's our intention to recommend her for reappointment to the full council. Are the maker and the second comfortable with that being part of the motion. >> Yes. >> We are. >> Tovo: Any other discussion? All those in favor? That's unanimous on the dais. She will be our recommendation to the full council. And that will go forward to the full council for its consideration on March 3rd. >> Pool: And then I have another motion. >> Tovo: Okay. Councilmember pool. >> Pool: I would like to make a motion -- I know that Theresa pares' appointment also expires in may and we did interview her and she has been very impressive. She has been on the commission since the beginning and had a hand in helping craft the rules and knows them very well. I would like to move that she be reappointed at the expiration of her term, which I think is may.

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>> Tovo: Councilmember pool moves that we recommend to council that Ms. Perez-wisely be reappointed when her term expires in 2016. >> Renteria: I'll second that. >> Tovo: Councilmember Renteria seconds that. Is there any other discussion? I would concur with the comments of my colleague. I think she has been a very strong commissioner and has a lot of institutional knowledge and we're very fortunate that she wants to continue in that capacity. Okay. All those in favor? And so that is our recommendation to the full council. And I'm not sure whether that goes forward now to the full council or it will just go forward at the appointment time for her reappointment. In may. >> Rebecca Kennedy. We will push that forward closer to the time of the expiration because as soon as it goes to council then that's when the term would start. So she would want to wait until the expiration in may. Then we will come back in April to discuss the chair of the commission, which this body also recommends to the full council. >> Tovo: Thank you. So at our April audit and finance meeting we will touch base, reconfirm our intention at that point. That's my expectation that we would be reconfirming our intention to recommend the continuation of Ms. Rogers if she's the one who is appointed by the council on March 3rd and then we would also determine the chair. >> Yes, ma'am. >> Tovo: And we will not need to reconsider -- we will not need to vote again on Theresa perez-wisely's seat because that will just move forward. >> Correct. >> Tovo: Okay. Very good. Is that plan fine with everyone? Okay. Well, is there any other business before us? Seeing none, we stand adjourned at 12:18. Thanks very much to all of our staff who helped wuss this process. Appreciate it.