

Closed Caption Log, Council Meeting, 01/10/12

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[08:44:07]

I am mayor mayor and I will call to order of this work session on tuesday, january 10th, 2012.

It is 9:03 a.m.

We are meeting in the board and commissions room, austin city hall 301 west second street.

So the first item on the agenda is item b1, to discuss a town hall meeting, and the posters are council member tovo and council member martinez.

>> Thanks, lee.

This is just a discussion item number that council member tovo and I are considering.

It is not really a city council meeting.

I am actually glad that someone brought forth potential cost projections, because I think that's important to have that conversation as to what it would cost us to do it, a saturday town hall style meeting.

The way I envisioned it is simply those council members who are willing to or can attend would simply be present for questions and or comments from citizens and respond, if we could, but if we don't have a response, take that through our normal change of requesting staff's assistance later on at a later date and getting back to those citizens.

I don't envision this being something that is on channel 6.

I don't envision this being something that is requiring staff members from the city to attend , it is just allowing a saturday input session, if you will.

We don't have to call it a town hall meeting.

There is really no presentation.

Just a start input session where we give citizens the opportunity to speak to council members outside of our normal procedures, outside of monday, 8 to 5 and outside of thursday's regular scheduled council meeting and, again, it would be something that we would post in case there is

a quorum of council members, but obviously maybe not all council members would want to or could attend.

so there is no particular topic?

>> Martinez: Absolutely not.

>> Mayor leffingwell: Kathie.

>> Tovo: Apologies for being a few minutes late and I may repeat what some of my colleague said.

But the intention -- this was an idea that was suggested to us by several citizens and I think it makes a lot of sense.

It is -- having been on the other side of this equation and planning ahead and calling two weeks ahead to get on the citizen's communication agenda and then needing to take off 00, it can pose some difficulty for members of our community 00 or during weekday work hours and so I think this is an opportunity to allow a broader cross-section of folks to come down and talk to us.

And, again, the intent is to really minimize the impact on staff and city resources and so that is why there is no particular topic.

It will be broad, wide open, so that citizens can come down and address on any topics of their choice, so it will be extended citizen's communications day.

>> The posting is for sometime in 2012.

I would just suggest that the springtime is going to be a very busy time for the council as a whole and some of us in particular.

Maybe we could hold it off until summer time, sometime like.

>> Tovo: Well we -- sorry.

>> That's all right.

I think because it is an open invitation and it is not something that is mandatory, if you are busy, then you don't have to attend.

So I don't have -- we can hold it in the summer.

We can hold it in the spring and the summer and the fall.

I mean it just -- because it is not -- it is not structured like a regular council meeting and because we won't need legal staff and cmo staff.

It is simply an extended citizens' communication session.

We could hold it this Saturday if we wanted to.

>> Mayor, can I -- I just want to -- even though it is not a regular council meeting, there is still going to be some requirements when members of the governmental body gather related to the open meetings act, and so we want to make sure that we have properly posted it, that a quorum is present, and when you are dealing with just having, you know, kind of a general session, currently like citizen communication, we ask most members of the public to tell us what they are going to talk about and under the open meetings act, that gives you, the council, an opportunity to, then, engage in the discussion with them.

For those members of the public who currently don't want to put, you know, the specific topic that they want to discuss during citizen communication, the open meetings act kind of has some restrictions on what you as the governmental body -- how you can interact and I think we've talked about that a little bit before.

It basically says that you can answer them with, you know, a current policy that's in place, give them as an answer but you can't really have a discussion as a citizen or you can ask the staff, to then put that item on a future agenda so there will be some limitations if the members of the public don't identify the topics that they would like to have a discussion with you about.

I know that seems a little more constrictive in maybe what you are anticipating but the open meetings act will still come into play during that type of session.

>> And I think that's an important aspect of it, too, that the topics for discussion -- for discussion would have to be posted, at least 72 hours in advance.

It could not be the kind of free-for-all where somebody comes in and says I want to talk about dogs running loose in my neighborhood, for example, and what do you think about that.

About the most you could say is, as the city attorney said, okay, we have a leash law in this city.

We can possibly post it for future council meeting but it would not be the kind of open discussion on any topic that you might think it would be.

Normally when we have town hall meetings, there is a specific topic for discussion.

>> Tovo: Mayor, maybe the better term, then, here would be a listening session.

I regard this as, you know, a 2-3 hour listening session with the citizens and certainly they -- we will receive information that we will need to follow up on or we will be able to encourage them to follow up with.

but i understand it will work in the same which that citizen communication does in terms of our ability to respond with the public.

i think that would -- that would be a lot better if it were posted as a listening session and made very clear that there wouldn't be any interactive discussion of particular items unless they were posted in advance on the agenda.

Because I -- I don't want to create a false expectation here.

>> Tovo: That there is going to be a lot of dialogue.

for people to come in and think this will be a lot of interaction.

>> Spelman: Mayor, I don't know if this is a question or comment or both.

If people were able to say in advance what they are going to talk about and it is listed on the agenda and 62 hours in advance -- 72 hours in advance and it is talking about territories, people want to talk about a particular class of land use issues, okay, it is something we can have a dialogue on.

If having marked out that territory is up for grabs in the discussion, if other people want to talk about the same issue, we can engage with the other people even if they have not posted that item.

Is that the way I hear it?

>> Mayor leffingwell: yes.

That's exactly what we do on every meeting on citizen communication, most people post their topic and we can discussion that and some people say city issues or tba and you can't engage in dialogue on that.

>> Spelman: I am asking slightly different question.

If somebody comes in and says they want to tuck about vmus and we posted that as something that is a topic for discussion and joe comes talks about vmus as schedule and sarah comes in after that and says I want to talk about vmus, too, can we talk with sarah about that because it would be posted.

>> Mayor leffingwell: yes.

>> Spelman: We can do that.

It seems like people who want to specifically talk about something, they can say here is specifically what I want to talk about a and that's marking off certain territory we can talk about and if somebody talks about vmus and they can talk about that and have three or four people talk about that and engage in the discussion on that issue.

And I think the other value of that would be that we are also having a concentrated discussion on one issue rather than bopping back and forth between land use, fluoride and god knows what else.

i think it's probably that it's not as simple as it sounds, so I guess I would suggest that maybe the staff law department try to answer some of these questions in writing and set forth a set of guidelines for, quote, a listening session.

>> We are happy to do that mayor.

and come back with a later date for those.

>> We will try to get it out to you before the end of the week.

>> Martinez: I don't understand why it is so complicated, say, for example, the practice, the subcommittee meetings, our subcommittee meetings have citizen communication and we don't know what they are and allowed to talk about and we allow them to sign up that day, right then and there and they ask us questions and we respond.

what we are seeing is that is probably illegal.

>> I don't know if it is illegal, mayor.

I wouldn't go there.

it depends on the question.

>> I think sometimes those subcommittee meetings -- [laughter] the subcommittee is talking about items on the agenda.

We can work with this and have an open session, as i said, similar to what we do in citizen communication, and like council member spelman said, I think there could be broad topics that we know citizens want to speak on and I think we could craft a listening session agenda that would comply with the open meetings act and also give the council some flexibility, but I don't want to imply that it is an impossibility.

I want to make sure that the council recognizes that there are some limitations in having this kind of forum, but I think it's doable.

>> Martinez: So the reason i bring that final point up is because my intention is to eliminate the burden of having to presign up and having to prelist the topics.

Literally the intention is if you want to come down on a saturday and say something to us about any given topic, that you have that ability to do so.

So I want to -- I want to make sure that we preserve that opportunity that if some citizen that didn't come down to city hall and didn't sign in advance can still show up on the Saturday morning and sign up and say, this is what I want to talk about, even though we may not be able to engage with them.

and there is absolutely nothing wrong with that, but another suggestion, just throwing it out there, would be to have less than a quorum of council members present at these sessions.

>> Martinez: You will be the first to volunteer to not do that?

>> I think that would be a little more problematic and I want to look at that, mayor, so I don't want to go on the record on what I would advise on that but I want to look at that a little closer.

>> Mayor Leffingwell: okay.

I think that's what we need to do, is, Karen, have your department take a look at what potential problems might be and try to bring that to our attention.

>> Tovo: A question for the group.

You mentioned the timing of it.

Ideally I would hope we could get on a schedule of doing this every quarter or twice a year and my concern about doing it in the summer months is that we are on recess for part of that time and then we are in the budget session and people are coming in specifically talking about budget and I think this could easily be a budget discussion rather than a more open forum, so, I guess I would like to hear from the rest of you about whether a spring session would work.

I understand some of you are going to be very busy, but there are very few years where that's not going to be the case for somebody on this council and I would rather get started and have this session before we get into the budget session this is summer.

Lee.

>> Mayor Leffingwell: Sheryl.

>> I would like to make a suggestion that some of the topics we list for our council retreat actually be posted for discussion for the citizens.

I get the idea we want a free-for-all for what the citizens want to hear, but I think the citizens need to know what we are going to be contemplating, and that's of a high urgency for us to hear before -- or even after a retreat.

I guess I am just putting that out there to whoever wants to comment on that.

>> Mayor Leffingwell: Laura.

>> Morrison: I have a question I am not quite sure I understand.

Are you talking about the topics that are going to be on our retreat, that they also be included in the listening session?

>> Cole: Maybe not all of them because trying to keep it down to 2-3 hour a session but as council member tovo suggested we do quarterly meetings, that if we have nine topics and we post three of them.

That way, there is at least some structure and then we still have it open for the free-for-all, but at least staff has some idea of what we think we are going to hear and we have some idea of items that we are going to be contemplating and so i think it might be more of a useful dialogue.

>> Morrison: And I can see that when we are discussing items at our retreat, maybe that's something we can talk about, is this an item that we really need to have broader discussion and input on and really see which ones naturally evolve into something that we need to be reaching out, and I do want to comment, also, in terms of just in general -- the idea, I appreciate you all bringing it up because i think it's a good idea.

In terms of doing it on a regular basis, I can certainly see that developing and I think it would be real interesting to do one and get some lessons learned and figure out how we might be able to make them more productive, to sort of do a pilot, and I am not sure if you are contemplating doing this in different areas of town if we do it on a regular basis, but I think it would be certainly something to think about.

>> Mayor leffingwell: okay.

All good ideas.

We are going to get preadvice from the staff and law department and we will have lessons learned from the first one, I guess.

I don't know who put this out, the estimated costs of a town hall meeting.

It just appeared.

>> Martinez: I think we were asked; is that correct.

>> Yes.

>> Of cost?

is there some way to cut down on this?

>> It sounds like based on the description that I heard a moment ago about staff minimizing or no staff, not being televised, you know, -- I would imagine much of the 3,000 goes away and much of the 750 goes away and building services may be the same, ctm.

I mean there is a difference -- I don't know if this includes -- it doesn't.

It is just a technology, probably the mics and those kinds of things and so it is probably a good number so cost wise I think it is substantially less than what you see here based on what I heard in this conversation.

>> Martinez: Yes.

I think at a minimum if you back out the city staff and channel 6 and this is with the assumption we are holding it here at city hall and that would not be the case, that would be \$525 to have the building services of ctm available according to this estimate but if it happened in spring, we wouldn't need either, not security or ctm, literally a listening session.

Maybe a pa system, I don't know, but, again, I think we can minimize the cost to be very minimal, if nothing at all and I am more than willing to help fund it out of my own personal income if we need to rent a pa system for that.

we will put you down for that.

[Laughter] do you want to buy it or rent it?

>> Martinez: Actually, I have two or three, lee.

You can crew use them any time for a small fee.

we will come back at a later day with more information on this and go from there.

So without objection, council will go into executive session to take up 11 of the city government code and seek legal counsel to d1 to discuss legal issues related to Austin -- to discuss legal issues related to Austin Life Care versus the City of Austin et al and Roman Catholic Daughters of Austin et al versus the City of Austin et al.

Is there any objection in going into executive session on the item?

Hearing none, the council will go into executive session.

Bergstrom, Susan Austin-Bergstrom, Susan Test.

we discussed legal issues related to item d1.

So what is next is anything on the agenda that council members would like to bring up.

>> Morrison: Lee.

>> Mayor Leffingwell: Laura.

>> Morrison: I guess I would like to jump right in on item number 68, which is the item -- ifc brought forward by bill and Chris about short term rentals, proposing an indefinite suspension to collect more information and it raises some concern for me, especially because there has been a lot of work going on in terms of getting regulations in place, in terms of being on hold for adjustment action from the current board of adjustment ruling and so at this point I would like to understand the rationale for bringing this forward.

>> I will happily address that.

First, though, I should mention that making its way around is a slightly revised version of the resolution.

I had a meeting with some folks from the Zilker and Allendale neighborhoods a few days ago and they brought up a couple of points which I think were well taken and fed back into the resolution.

There are a couple of changes.

Let me back up.

The reason for the resolution, I think, is because this is a case where we have not just a difference of opinion as to what the council ought to do but a difference of opinion that is almost -- diametric opposition as to what the facts of the case.

I have heard from the board of realtors and particularly Zilker and Allendale neighborhoods.

They have short term rentals that are very short and the short term on their list seems to be located in Zilker and Allendale neighborhoods and it doesn't have a significant impact and the Zilker and Allendale have a long list which have properties not well kept up and have code violations and a number of police and fire reports.

We have a few differences of opinion on what the basic facts are in that respect.

I don't know how many short term rentals we have.

I don't know how many code violations we have and how many crime calls and 3-1-1 calls in this area and it seems to pass an ordinance without getting the basic facts of what really is at issue may be a problem.

In particular the neighborhoods are suggesting there is an important distinction between what they are referring to as commercial short term rentals.

They are houses by people using them only for short term rental purposes and owner occupy short term rentals, a person out for a week and wants to rent his house, for example, for south by southwest.

It seems like reasonable distinction on its face but I don't know if the public cost short term rentals are substantially different than owner occupy rentals and either to be associated with the cost of long term rentals or owner occupy single family houses by themselves, I don't know where we are in this and I have a lot of anecdotal evidence collected mostly from the neighborhoods.

We also have anecdotal evidence collected by the board of realtors which is in diametric opposition it seems the best thing to do is rather than pass an ordinance in a vacuum to collect information that we agree to.

Here are facts that we all agree are facts and look at those and then make a decision as to what we ought to do once we have facts on the table that everybody can agree to.

So what this is doing, it is asking for the city auditor who already has some background in the issue, having collected a lot of information about short term rentals that are not paying bed taxes, they have a better list than anybody else does right now.

Improve the list and come up with a list that is fairly universal and then tell us what is going on in these places, how many 9-1-1 and 3-1-1 calls are there, how many code violations are there, to what extent can we believe the class of short term rentals are adding to the cost of the general public, which seems to me to be the best single basis for making a decision as to what kind of regulation is necessary.

>> Morrison: Okay.

I, in theory, obviously having data and information on what to base our decision is important.

I guess I have a question for staff and that maybe can't be answered right now but come up and give it a try, Jerry.

I department want to put you on the spot.

One question is what is the chance -- like why haven't we collected this information already?

This has been a topic of discussion and work by the planning commission and your department, Jerry, for how long?

Eighteen months?

>> Jerry from plan and development review, the code ordinance of the planning commission indicated last year, we have been working on, the full commission appointed working group that we held meetings over several months.

The working group came up with a recommendation which was then forwarded to the codes and ordinances subcommittee again, because the ordinance of the subcommittee added some items to the working group's recommendations and where we are at right now is we are getting prepared to bring the item to the full planning commission for their recommendation prior to coming to city council.

We have been gathering data and studying what other peer cities do, but mostly we have been dealing with staffing the subcommittee and the working group and attending their meetings and putting together their recommendations, so we haven't done a lot of the data gathering that is called for in this resolution, because there is -- it is just never.

>> Morrison: Is it feasible to do this data gathering, since there is -- well there is a requirement to register because people are supposed to be paying a hotel tax but we know that's not a good measure of how many short term rentals there are out there.

So is it feasible to collect this data?

>> Yes, I believe it would be feasible to collect this data.

These things are hiding in plain sight.

It doesn't work to have a short term rental unless you advertise it so it is rather easy to find out who it is.

Just a labor intensive task.

Because they are on all different places.

A lot on the internet.

Different websites and to my knowledge, you can gather different places you can find short term rentals and do research on issues that are identified in the resolution.

>> Morrison: And then you will also need to do research on whether the property is homesteaded or not?

Right?

>> Correct.

>> Morrison: To determine if it's --

>> the recommendation in the code ordinance of the subcommittee had a two tier as council member spelman referred to, a two tier set of regulations, one for those homestead properties and one for those that are not and I presume that would be part of the research as well, comparing the two in seeing if there is a difference in terms of code violations or police calls goes.

>> And then another issue you would need to pay attention to, I understand there is a new law that has taken in effect at the state that makes it -- you have to go through a few more steps to actually homestead a property now because there is a big -- a lot of folks are homesteading a whole bunch of properties so it is not just a matter of whether or not they're homesteaded on tax rules to determine whether or not they are owner occupied place?

>> The other thing is, while the auditor is doing this work which presumably will be done mostly by auditor's office, there is stig thing planning can do, we can work on the ordinance language.

We haven't put the paper yet.

We still haven't worked out among ourselves how we would actually enforce this ordinance or which department would handle what aspects of it, registration, inspection, et cetera, and a lot of issues haven't been worked out yet and we can keep working on those issues internally among the city departments while the auditor is doing this, so we won't just sit back doing nothing, waiting for the auditor's work.

>> And then that does bring up the issue that, as i understand it, the director had put out a memo that said -- well, just to back up, just to review the board of adjustments, made a ruling of interpretation some months ago stating that, I think, anything that was rented for less than.

>> Ten days.

>> Morrison: Ten days was not allowed if sf zoning and then that has not been ebb enforced so it would shut a lot of these down.

It had not been enforce and the director sent out a memo saying it would be enforced after december 31st.

>> There was two 'em memos, one was a memo to council member which the board of adjustment summarized and then also in discussions with compliance department, ourselves and the assistant city manager office, we decided it would not be a wise idea at this point to enforce that action, one, because we are talking about over 300 properties in the city, and the -- echcause me, and the planning commission was actively considering a code amendment and they are still doing so, and so 300 plus people -- telling 300 plus people they are in violation of the code and then having the same fine, there is also that the interpretation of that is to change, it seems like follow foolish idea that would cause a lot of unnecessary grief among people reminisce sent of the discussion involving the flood plain and so we don't want to go down that path and the other reason is we have a pending lawsuit that has been filed by some short term rental owners contesting the board's action and whether the applicability of the board's action is city wide or whether it's applicable to one address, whether the board's action was legal, correct, et cetera, et cetera.

Right now the lawsuit is being held kind of as part while the code amendment process goes through.

However, if we were to start enforcing the action we are told by the plaintiffs in the lawsuit that they will get the lawsuit moving and then we will be fighting that battle at the similar time we are trying to do code amendment.

We thought the best action to hold steady and wait the process to run its course.

There was another memos will sent by the director, sometimes the director has multiple authors but went to the two parties in board adjustment case, mckell meade representing allendale and the other with the property owners and they said they will not pursue enforcement but there would be a date and anticipating this done december 20th and start enforcing whatever the code was at that time and that letter anticipated that the code amendment would be done obviously before december 20th if not, so there is a new memo sent out by the two individuals but said we are continuing that enforcement but does not have a date pending the final action by the council on the code amendment.

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>>i haven't been working on the law enforcement issue but we can get a response to you by thursday.

>> That would be great.

And we also -- I wonder if an auditor might be able to give us some ideas on how long this is going to take and I guess I would have a -- question them for why it's just indefinite.

Why don't we have a particular date in here.

>> Good morning, council members.

Good morning, mayor pro tem.

I don't know why you have the indefinite date.

I think maybe it's because i said it when we initially started talking about it, we didn't know exactly how long it was going to take.

We had some opportunity to take a look at it at this point.

We think probably the shortest amount of time we need would be about three months.

And let me explain why we think that may be the case to look at it.

When we look at the web sites they don't necessarily have an address and we have to do investigations in order to try and identify WHERE THESE ICRs ARE Located.

We've done some of that work.

We had an audit back in June of this year where we identified about 266 of these short-term rentals, and were able to identify addresses at that point of 200.

But that took a team of about six people to actually investigate it, go find it, sometimes even visit the site to identify those short-term rental and we would have to do the same type of thing right now.

The thing about short-term rentals and you're aware of this, is they change over periods of time and we would to verify those are the ones that are there.

The difficulty at this particular point is when we did this it was during the SXSW --

>> Morrison: SXSW.

>> SXSW activity -- I'm so excited about Alabama having won last night.

I'm an Alabama fan.

Still not over it at this point.

So we had an opportunity, people were putting them on the web site, we had an opportunity to actually identify them.

That is not the case right now.

We're going to have to, you know, just look for them to be posted and determine where they're at.

So depending on the degree of the universe that you want identified and the information you want available, that's going to take time to get that done.

We can report out when you ask us to report out, it will be the information we have available attachment on top of that we're looking for revenue, we were not looking at complaints, citations, things of that nature.

That would be new to the audit.

And depending how that information is registered and filed, you know, the ability for us to be able to find it and connect it to the actual site, we don't know exactly how much time that's going to take as well.

I guess I have a question about some of the feasibility of actually going after this, because if somebody is -- they live in their place and they're going to rent it out three times a year when they're on vacation, there's no way you can find that unless it happens to be advertised in the time that you're investigating.

>> That is correct.

>> Morrison: okay.

So that -- I guess the chance of finding the commercial is more likely.

Anyway, so I have -- I have concerns about what this is really going to bring us, and I'm just going to throw out there what my sense of this is, and that is we've done a ton of work already.

I'm not sure this is really going to bring us a fundamental -- a better fundamental understanding of what's going on.

From my perspective if there -- if there are a whole lot of them and the people that are saying there are a whole lot of them are right, then I think we certainly have some issues because I'm real concerned about the sustainability of our central neighborhoods especially, because, you know, just to the extreme, which isn't going to happen, I presume, but to look at it in the extreme, if you have all of zilker or all of allandale commercial short-term rentals, you no longer have a neighborhood.

And I'm -- and that's a policy I would fight, you know, having them all do short-term rentals.

If they're -- so in that case it would make sense to have some limits.

And I think the planning commission and the working group, I'm really pleased with the work that they've done.

I know it doesn't go -- it goes farther than some people want and doesn't go as far as some people want, but it basically suggests, and jerry, correct me if I'm wrong, that there will be a -- that they be grandfathered and that for new ones that they not be closer than a thousand feet, sort of like bed and breakfasts.

>> Right, and a conditional use permit.

and a conditional use permit.

If there's a ton of them like some people say, then that's a problem and we we ought to put something in place.

If there are very few of them, like others say, then nobody should mind limiting them because there just aren't that many of them.

So to me there's a logical reason that says it makes sense to move forward, especially in light of I'm not sure how much this new data can be complete or really help us understand the problem.

That's where I am on this and I'm certainly looking forward to hearing what other folks have to say about it.

it seems to me like having a good, sound, at least initial database, it sounds to me like right now we don't really have one, a good database on who and where and all that kind of stuff, is essential to what I would consider to be one of the most important parts of this ordinance, which is enforceability.

If you don't have good enforcement, none of this stuff is going to work, and if you don't know exactly who and where and all that, it's going to be very hard, I would think, to enforce.

That's just kind of off the top of my head thinking, but -- laura?

I think the point is it's not clear what kind of data we can -- i understand that.

you're suggesting if we can't get data we shouldn't have -- no, i didn't make any kind of I'm just saying it's going to be -- regardless of what happens, retaining this data I think would be important to that aspect of it, enforceability.

So regardless of what happens, I think that the audit should go forward whether or not -- depending -- I don't know when it should be implemented or -- I'm just saying this as a separate statement, that the audit itself should stand -- so it could be that we would move forward with the ordinance and the audit wouldn't go forward to help us with the enforceability of the ordinance?

well, I think that has to be one of the possibilities, yeah.

There could be several, and I haven't thought too much about that but --

>> cole: mayor?

>> Mayor leffingwell: sheryl?

I have a different line of questions on this, and there is the issue about enforceability of the short-term rental status from a planning and commission and office information that we've received, jerry, from your office, but you've met with the neighbors; is that correct?

>> Yes.

and you've met with the subcommittee of the planning commission?

>> Yes, multiple times.

and you've met with the real estate representatives?

>> For the subcommittee as well.

now, is my understanding that all those groups agree that these entities should be paying the hotel occupancy tax?

>> Yes, that's correct.

and so what I want to focus on is why we can't immediately go forward or on -- maybe in a shorter time period than indefinite, on some ways to start having improved procedures for collecting this tax while we gather this data and work out these thorny issues.

I don't want that left open.

So I guess I'll first lob that at the auditor.

>> I think you can do that.

I think we did an audit early on the year where we identified some of these short -- shortages in the approach to short-term rentals and made recommendations about working with the industry, working with, you know, the vendors that are actually offering it, and I think that work is in process.

When you talk about getting the whole universe, I think you're right, it's unlikely we'll ever have the whole universe because there's going to be some one-offs we're not going to identify.

I think when you look, you know, at the overall issue that I think you all are addressing, we can probably get a majority or, you know, maybe 70%, 75%, or even more of that identified.

We'll never know what the right percentage is until -- we just won't know what that is, but what I would -- you know, if I'm asked to do this I want to give you the best data that I can get given the constraints around what we're trying to do, and that's what we would aim at.

Now, with regard to the code enforcement, you know, if we don't know who they are, unless you receive a complaint, it's pretty difficult to go find them and get the revenues coming in and -- well, I want to put the code enforcement issue aside and those that we don't know, but those that are currently classified as short-term rentals, i believe you all have presented some recommendations and audit and finance, and I'm sure there are more, especially through their web site, that we could immediately start to implement to have improved collection of the hotel occupancy tax.

>> I think that is in process and it's ongoing.

When we do the audits, we also try to educate the short-term rentals.

I think the industry representatives are providing training on how to do this and do it properly.

I know the controller is working on trying to improve the web site and provide easier means of them reporting and registering with the city.

I'm not going to say that it's 100% complete because i don't know that.

I doubt that it is at this point, but it is improving.

And I think the efforts are under way at this point.

And I think we've also had some discussions with code compliance.

I'm not quite sure, you know, everything that went on, but we're trying to work together as a city team to get it done.

>> Well, one of the recommendations of the subcommittee and actually it was a staff recommendation very early on in this process was to create a registration so that if you were doing this, you had to register with us, that would make it easier for us to check to see if you paid your tax.

So if you said you were doing this, you're registered as a short-term rental property, if you're -- it would be simpler for us to compare to see if you had paid your hotel tax.

So that's one of the very, you know -- recommendations.

as far as council member cole's direct question, going ahead with collecting these taxes, that's ongoing.

>> Yes, it is.

that's ongoing anyway, sheryl.

I guess what I'm wanting to do is to amend this resolution because i know that it is ongoing, but I also know that nothing has happened, and I don't think the compliance issue needs to hold up those efforts, and we need to be very clear with city staff, the auditor and the short-term rental -- and they all agree to this, that we want to have immediate implementation of the registering procedure together with the recommendations of the audit and finance -- I mean, the audit tour together with the recommendations of the comptroller for improved collection procedures, and I'd like know the thoughts of council member spelman -- or council member riley.

council member riley is not here -- well, now he's back but since i have the floor let me pursue this.

What, ken, were your suggestions for any changes in procedures for collecting bed taxes from short-term rentals?

>> I'm not sure I can remember them all at this point but I'll do my best.

We did recommend -- we worked and recommended that we work with the vendors and get them to contact all of their short-term people and make sure that they did the filings and paid their taxes.

We worked with the industry representatives and worked on setting up training and provided information from the industry perspective to do the same thing going forward.

We had discussions with the controller in trying to improve the web site and actually, you know, continue to provide that information.

There may be other recommendations at this point and I cannot recall them.

have you gotten help on on this from the industry?

>> I wouldn't get help as the auditor but I think the city is getting help and they've done training.

I think council member morrison may have had some of that information provided to her directly that I may not be privy to at this point.

I'm sorry to put you on the spot, council member.

I'm not sure what you're talking about.

I know that there was a special session held.

Is that what you're talking about?

>> Yeah.

and invited, was it a board that held it or -- I can't remember.

>> I think it was -- I think it was in your office as a result of the audit where we had industry members came in.

I was there, you were there, we had the discussion.

I think diana thomas was also there as well.

And I know -- what i understand is that there was follow-up to that and there was actually some training that went on and some outreach on it.

yes, yes, and i think that that has continued.

>> It has to continue.

I think it's the kind of environment we can't -- you got to continue auditing, you got to continue doing outreach and grabbing these people as they start offering their homes for short-term rentals.

Not just one time.

Must be ongoing.

so from your point of view, ken, we're actually in progress doing the things that you were recommending?

>> That is my understanding.

We'll probably come back on a follow-up on it as well.

>> Spelman: I understand.

Jerry, that's your understanding, that we're in the process of implementing

[10:46:00]

that stuff?

>> Yes, what I was addressing before was the code enforcement side of it.

There's never been a suspension of the revenue collection.

As a matter of fact I was referring to there's been an attempt to improve that.

So no one is in disagreement right now about the fact we need to be collecting these taxes now.

nobody is in disagreement.

I understand that.

Conceptually people owe us money, we'll try and collect it.

But are we changing our procedures, or are we doing anything proactive to make sure we're getting the taxes that are owed?

>> My understanding is the auditor's office has been working with the controller's office on smoothing out that process.

and i agree with the auditor that it's not a one-time deal, that you have to continually add and subtract names from this list, so it will be -- it will be a process that goes on and on.

But it's important to get it done initially too.

>> And mayor, others is we continue the -- on the other side is suicide is we continue the audits, we're doing two to four audits a year, to comply.

>>> Kathie?

>> Just to kind of sum up, your office has been working on this issue for, what would you say, at least a year, trying to collect revenues from the short-term rentals that are not occurring paying hotel/motel tax?

>> We focused on the short-term the past year, 2011.

Prior to that we've done many audits with regard to hotel okayancy, which may or may not have included what could be defined as short-term because there's a range, obviously.

But short-term, yes, one year.

so we've got at least a year's worth of numbers looking at how many there are in this area, would you say?

>> Yeah, we did two audits on it.

The first audit was really what was the condition, and they really didn't look at numbers at that point and we had recommendations as a result of that, which ended up in, you know, some of these other organizations getting involved and correcting the problem.

The second audit was actually looking at the numbers along with hotels, we put them together, so we're looking partially short-term, partially at the

[10:48:00]

hotels but also always the tax.

So really one audit of numbers at this point.

but in essence you've already done what is being asked for.

You've taken a look within the time you had to get some sense of how many there are in the city so that you could begin to collect taxes from them?

>> From the tax perspective that is correct.

From citation, violation, et cetera, we have not looked at that at all.

and I want to get to that point in a minute because we have done -- my staff has talked a little bit with code enforcement about what the viability is of getting information or data from code enforcement that's actually going to be useful in this regard, but i just want to make the point that, you know, for about a year the auditor has been collecting numbers that we can use in making our decision on this ordinance when it comes forward from planning commission.

So I -- you know, I guess i share council members' concerns about a further delay because I'm not sure that that delay is going to get us any different information than we have here today, or that we'll have here in a few weeks.

And I think it's also worth emphasizing that, you know, this is a process that began more than a year ago, but i mean, eve heard concerns about short-term rentals from communities where they are being converted from residences to what many people regard as a hotel/motel use.

I've heard those concerns for a couple years.

It's only been a year since the planning commission has initiated a code amendment process, but it has been, i think, jerry, just about a year.

I know those meetings, those stakeholder meetings started early in 2011.

>> Yeah, I think it was april.

Look at some of the documents in my folder.

so by the time -- things don't always move quite as quickly around here as you think they could, but for a whole year almost people have been -- the planning commissioners have been studying this issue, looking at it, meeting with stakeholders, taking input and considering best practices or what other

[10:50:00]

municipalities have done and there's a wide variety.

Environmental, we have municipalities around the country that have banned them.

We have municipalities that are proposing some kind of regulation and as council member morrison said, we've got a recommendation that the planning commission is going to be considering that really, I think, doesn't go as far as some people want and goes too far for others.

So that I may be a good sense that, you know, it's somewhere in the middle, because no one is -- we don't have 100% consensus on it but it represents in some people's minds sort of a middle position.

So again, I guess back to the delay, I'm really quite concerned about it.

>> Council member, I want to make sure that I have not misled you.

We've worked on it but it was a limited look and it was limited to the sources we looked at and the number we looked at from a revenue perspective.

So we were looking at, you know, where is the beef with regard to the amount of revenue we could collect.

It was not a universe type or attempt at a universe type study to identify all of them.

you were looking maybe less at how many but which are the high -- which are maybe the ones where you might get the most revenue from initially?

>> That's correct.

and your numbers were in the 200 range.

I know we've received information from home away suggesting that they've got 370 registered in this area so it's not like we have no information on this subject.

>> And we did look at home away and we were not able to identify addresses for all of those as well and some of these were not within the city.

We think there may be up to 6, 7 or more hundred that we could identify but that would not be the austin number.

That would include people outside the austin city limits.

and we could certainly cycle back to home away and ask them where there are 300 in the city limits or outside.

I think we'll still be in the ballpark of some estimates of how many we have in our city.

rusthoven, my understanding of the

[10:52:00]

information we have available from code enforcement, is when code complaints come in they haven't always been logged, being related to a short-term rental.

So can you speak to that issue?

Are we going -- there's not a search one could do that's going to return a big list of code violations that are logged to shor rentals.

>> I'm sorry, I'm not aware of how compliance organizes their data.

that's my understanding.

It wasn't a direct conversation I had.

It was one joi harden on my staff had.

But maybe we could get something from code compliance here on thursday and I guess my point in raising this is I don't think even with more time, even with an indefinite amount of time, that we're going to get information from code compliance that's going to be thorough or comprehensive in terms of how many -- you know, whether short-term rentals tend to have more or fewer code violations.

I think we'll have -- we'll have violations that are out there that weren't logged to a short-term rental and short -- you know, anyway, council member?

if I could address that very briefly.

I wouldn't want to second-guess how ken is going to do his work, but my best guess is if we've got a list of addresses, we can go back on an address by address basis and see how many violations or what was the nature of the violations we had at each individual address, and even if the code's folks did not have breakdown by long-term verses short-term or vacant, even if they didn't have a clue as to what was going on, if they had an address and we knew it was a short-term rental we would be able to break it down.

So I think there's a good chance we'd be able to collect some decent information as to what was going on at those addresses so long as we can get that universe of addresses, and it's my understanding that's what ken and his people have been working on for the last year is to come up with that list.

So I think we can collect better information than we've got right now.

Whether it's going to be sufficient to change your mind or anybody else's mind is something I'll leave to

[10:54:00]

you, but it would certainly be very useful information for me.

>> Morrison: mayor?

>> Mayor leffingwell: laura.

mayor, just to that point, that raises a concern what you're talking about for me, just having to base it on the address, because structures are sometimes short-term rentals and sometimes not, and so what we're talking about is giving -- we're not getting really data.

We're just -- we just need to be real clear what the data is, and that it's not necessarily going to be telling us what we think it's going to be telling us and that gets us into dangerous territory.

>> Spelman: in what sense?

just because there is an address that we have some address is a short-term rental today, it might be a short-term rental on and off, it might fit in long-term rentals when the call was made, if -- let's say there's a code compliance code to the particular address on a given date.

We don't know the status of what that structure was on that date.

we may be able to find that out.

I don't know.

you mean you're going to go back in history and say, on march was that being rented at a short-term rental?

no, but we may be able to find out if that had been used at a short-term rental on and off starting on a particular date.

we could potentially be able to find that out but likely we won't be able to for some of the assesses so we're getting into a rely/ -- we're getting data that's not going to be telling us what we think it might be telling us and then it's going to be -- for me it's worse to have wrong data than it is to have a lack of data.

for me it's worse to have no information to making decision blind and I feel like that's a decision I'm in right now, having no information about what the public costs of any of the short-term rentals are, commercial, private or otherwise.

so you're looking for public cost of the short-term rental?

that's what we're focusing on here, the enforcement issues, 911 and 311 calls, code enforcement,

[10:56:01]

911 and 311 calls are what's listed in this resolution and that's public cost issue.

>> Morrison: okay.

And I get that, but I really have to question whether we're going to be able to line up and get information about compliance issues for known short-term rentals because we don't know if they were short-term rentals or not.

They might at some time have been short-term rentals when the compliance issue arose, but we don't -- we don't know that, so we're just going to be getting into having to argue about whether or not the data means anything.

Because it may well have been a compliance call against a long-term rental, and we will have no way to determine that, we'll only have suggestions that sometimes this structure was used as a

short-term rental so it may or may not have been a short-term rental call spell I can't second-guess the persuasiveness of ken's data in advance.

From my point of view, i think there's a good point of view we can get data which will be persuasive to me.

If it's not going to be persuasive to you, it won't to you.

You'd have to vote against the resolution, I guess.

just to be clear, it's not clear it's going to be data, it's going to be suggestions about this property had a compliance call and sometimes it was used as short-term rental.

that doesn't mean it's not data.

It just means it's not data that you're not persuaded by.

no, it just means we need to be real clear about what the data is.

>> Spelman: sure.

I think clarity is always a good thing and it's one of the reasons I'm happy the auditor is willing to take this on because they are extremely clear what it is that they can and can't say.

clarity is always a good thing.

Kathie?

>> I agree.

I want to follow up to the issue of public cost, and i appreciate that, that we do need to take into account public cost of short-term rentals, but this does not address that -- that public cost you're mentioning doesn't address the public costs of the sustainability or lack thereof of our neighborhoods, which is another issue.

[10:58:00]

it's another issue.

do you think you could provide us with backup information that you already have in terms of the number that your audit found when you looked at numbers for the purpose of collecting hotel/motel tax?

>> I'm sorry, could you say it again?

>> Tovo: sure.

Your office has done?

Work in collecting numbers on hotel/motel tax.

I wonder if you could provide us those backup materials for our meeting on thursday with some numbers, you know, how many of those your data returned and maybe by zip code?

Is that something that's feasible between now and thursday?

>> We can try to do it by zip code.

We looked at, I think, 11 zip codes -- excuse me, 30 zip codes, the ones we thought were the most likely ones, and we actually located 246 of about 266 addresses were identified in the short -- in the study we did over those several months, but there's potentially a lot more out there that we need to look at.

So, you know, we've already provided that in the audit that was released this year, I believe it was in june -- excuse me, last june 2011, so we can certainly provide that informa.

If you want more detail it might take a minute to go into the work papers, the aca and auditing charge have left the city.

One retired and the other went to chicago.

Why I don't know but he went to chicago.

Okay?

So it would take us a minute to make sure we've got the right information, depending on what the question was that you were asking us.

>> Tovo: okay, thanks.

>> I do need to say of those amounts we didn't look at 246 in the audit because when we do the audits we have to go in and look at all the, when they paid it, when they didn't pay it, all the paperwork so we normally do maybe 30 to 35 in each audit because it takes a long time first of all to get the information from them.

Short-term rentals aren't the best at keeping their records, and when we do get their records quite obvious oftenthey can be incomplete so we have to work with them over a period of time to get that information.

So I want you to know even though we have that many we didn't complete a lot of them.

They're going to be done over a period of time.

but do you have addresses for about 246 of the 260 that you identified?

>> That's correct.

and so we could at least see where those 246 are and whether they're spread across the 30 zip codes or whether they tend to be located and he can doad al evidence or to suggest in the central city?

>> Well, they would be in the central city because the zip codes we selected were the ones we felt were most likely to be renting for the kind of events that you would do that for.

So it's already biased toward that.

>> Tovo: got it.

So -- I was going to wrap up my comments from earlier saying, you know, I think that the benefit -- the additional information we might receive with a delay is not going to be any more helpful than the information we already have, in my opinion, and this is a multi-year issue that is involved -- involved probably hundreds of stakeholders at one point or another coming to meetings to participate in this process and for me it is a fundamental land use decision and we make them with some regularity.

It's a planning decision about what -- you know, whether -- what our central city land uses should be and why it is appropriate -- what is appropriate within a single-family use neighborhood.

Were we're talking about -- what we're talking about in my opinion is taking structures out of their primary function as a residence and converting them into something that's more like a hotel/motel use and I think that really should be balanced against our goal, our city-wide goal of trying to reverse the trend of families moving out of our central district.

It's a serious trend.

We have to take strong actions if we want to see any measurable reversal of that trend and converting residence in our central city neighborhoods which are losing families with children, converting those into hotel/motel uses that are not going to be serving families with children in our community, is not something we should continue to delay.

I think we do need some form of regulation and I think delaying is not of great benefit.

so I under your directive here, which is to distinguish those short-term rentals where a homeowner lives on-site from those where the homeowner does not live on-site, I'm assuming that means distinguish between buildings that are permanent short-term rentals and those that are only rented out occasionally, and seems to me like that's a very important thing to know but also seems like it's going to be really hard to determine.

What are your comments on that?

>> We have not done that in the audit that we've done so we'd have to go back and we do that on these ones we've looked at -- the ones you've looked at have all been like permanent?

>> We have not made that distinction.

you have not.

>> No, whether someone lives there or doesn't live there.

It was just whether it was short-term rentals, do they owe the money.

It was a simple, focused audit so we would have to go back and look at that.

With enough time we can do just about anything.

We'll send people out there that when we did this particular project we hired a consultant to identify and then we had a team of interns headed up by our audit staff to call, visit and do that kind of work.

So we can go out there and check that kind of information, investigate it -- it seems to me like that's a really, really important thing to know, if it's at all possible to be able to know that, that would -- because if it's a permanent str, then that truly is a land use decision, without question.

>> The only thing I can suggest, and I don't know if this would meet the needs of all the city council members or a portion of it, but we can try to do it on a sample basis, which would make it a much smaller project for us, and as long as you are willing to accept a valid statistical sampling as opposed to an attempted universe, that might be a better way of approaching it.

But that's something you all need to consider in determining if you want to do that or not.

>> Mayor leffingwell: chris?

assuming that at the end of this process some short-term rentals are still allowed, even if it's just residential short-term rentals, someone leaves town for sxsw and rents it out.

Your office would occasionally be expected to look at the compliance in terms of paying the appropriate hotel/motel taxes with those.

Isn't that right?

>> That has been the direction of the city council from the beginning and that's why we continue to do this, from a -- from a monetary impact to the city, et cetera, it's not the largest amount we could be looking at, but because of the importance of it city council has indicated they want us to do that, and we've been doing it for several years.

but to date i think what I heard is you haven't really done an exhaustive assess him of the short-term rentals that are out there in the city.

So what I'm getting at, is it -- it seems like taking some time now to do some work, some additional research to cast a wider net and figure out where all the short-term rentals are -- it seems like that would be valuable information to have regardless of the outcome of this -- of this whole discussion.

Whatever we decide to do with short-term rentals, it seems like if you have built your database based on the work that's proposed with this resolution, seems like that database would put you in a much -- in a significantly improved position going forward in terms of your ability to stay on top of the short-term rentals that are out there for purposes of ensuring compliance with hotel/motel taxes in the future.

Isn't that fair?

>> That would be useful, yes.

>> Rile this would be a valuable exercise.

It's not just getting additional information in order to make sure we make the right decision on this issue.

This is about us in the best think so that we're able to conduct appropriate enforcement and monitoring of short-term rentals in the future.

>> I would say it would be useful for us, we don't audit everything in one time but it would be useful information for the controller as well to monitor whether they're registered or not.

So --

>> riley: okay.

Thanks.

>> Tovo: mayor?

who's first here?

Laura?

Go ahead.

just a couple comments in response to this most recent idea of going out and trying to get an exhaustive -- exhaustive database, and clearly one is needed for enforcement of hotel tax payment.

About you to me that's not necessarily -- to have our auditors and their resources used to go out and find that, which is going to be a pretty difficult challenge, is not necessarily the most cost-effective way to do that, because if we can get this issue settled and then do some outreach to the community, I think that there will probably be many people who would just voluntarily say, yeah, I'm here and this is what I do, you know, I rent my house out twice a year or whatever.

So -- but it does bring me to the question of the amount of effort.

You mentioned the possibility of just doing a sampling, a statistically valid samp.

I'm not sure how you do a statistically valid sample if you're not quite sure what the size of the universe is.

But there are a lot of complications like for instance there are homes that are [inaudible] like for instance a garage apartment is used as a short-term rental full-time, so -- and then that's a different situation from when you might have a single residence being used as a short-term rental three times a year.

But my question is, you mentioned before that previously it took six of your investigators, what -

>> well, it took two auditors and interns from ut.

to do the most recent effort that you did.

So -- and then you also mentioned that the shortest amount of time you might be able to do this effort is three months, and how many people were you thinking that would be working on it?

I guess I'm trying to get a sense of the amount of resources you're going to have to expend in gathering this information.

>> I think it would be a similar number of interns and auditors, plus we would need to use some of the consulting money we have in the budget to hire the consultant we used previously.

And yeah, the three months would not be -- first of all, I don't believe I can do an exhaustive -- it's just not possible, because there are outliers that I'm never going to find, even if I did try to do it but I think we could probably get a very substantial number of them so that --

>> mayor leffingwel99% would be enough, I think.

[Laughter]

>> I'm not even sure I can do that.

Probably somewhat less than that.

But yeah, there would be a gap between what you say would be an exhaustive, and the sample would be based on the known universe that we identify.

and so do you have an assessment of the hours that this effort would take?

>> Can you define what the effort is for me again?

Because I'm a little confused about -- let's just say what's written right now in the --

>> well, right now, you know, we think at a minimum three months, depending what we run into, particularly with regard to, you know, what the files are in code compliance and the police department.

We need to find out how we can pull that data and dot matching.

three months and how many people?

>> It would probably be a couple of my staff plus some interns that we'd be working, probably four.

so maybe -- i guess you'll probably be bringing forward a fiscal analysis for this by thursday?

That will give us the dollar amount?

>> I can do that, I wasn't going to do that but I will do that.

[Laughter] well, we get them on and off for various [inaudible].

I'm not sure when it's determined whether we'll get a fiscal analysis or not, but it sounds like it's a nontrivial amount of resources.

>> It would require some of our resources, yes, and i want to get an estimate what we think it would take for the three-month period.

>> Cole: okay.

Colleagues, any other item we want to move on to or are we ready to move on?

Council member tovo.

sorry, I did have one follow-up question, really for council member riley.

I guess I'm still struggling with where we're treating this differently than other land use decisions.

We don't typically survey how many bars there are across our city or other kinds of land uses before we decide, you know, that we need a classification specific to that land use.

So there's no doubt that the auditor is, and I support this effort, going to continue to try to find them to make sure that they're paying their hotel/motel taxes, and that can go on independent of a delay here and will go on independent of a delay because we want to be sure they're complying with the requirement to pay hotel/motel taxes.

But I -- if you would just sort of talk me through why you feel that a delay would be necessary when what we are making is a decision about the kinds of land uses we want in our residential neighborhood, and we certainly didn't do this kind of analysis before the council decided to have some regulations particular to bed and breakfast, for example.

that was a whole different thing.

We could discuss that at length.

With respect to this decision, it's -- I think there is a fairly basic disagreement about the extent of the problems posed by short-term rentals.

You have one side as council member spelman was saying -- you have one side saying there is no problem here, that in general short-term rentals are maintained better than longer term rentals and have not presented issues for code and compliance.

You have another side saying it really is a problem.

You've got all sorts of issues there.

So just from the standpoint of making a well-informed decision, there is value in having good data.

Beyond that I think there is significant value in having a -- a working base of information about the short-term rentals that are out there for purposes of ensuring that we're collecting appropriate taxes in the future.

And I think taking a little bit of time now to make sure that we're making a good decision will have benefits in the future in terms of our ability to actually make sure that people are paying appropriate taxes.

So it just seems like -- i don't -- I would not expect this would be a very lengthy delay.

I heard some -- I heard three months suggested.

I don't know if that's -- if that's the best estimate of how much time we're looking at, but if we have to take three months to make a well-informed decision that will put us in a good decision going forward, then it seems to me that that kind of delay would be worth it.

council member, are we ready to move on to other items?

I immediately have a 66, spops sponsored by council member morrison, council member tovo and mike martinez.

Can you explain to me what the peak hour surcharge is and how that works?

well, before we do that I wonder if our legal department wants to talk about the fact that these both need -- that 66 and 65 need to be postponed.

>> Cole: oh, okay.

because of the posting issue.

>> Yes, council member, deborah thomas with the law department, 65 and 66 lack a little bit of clarity.

[Chuckle] and so we have recommended that we post post postpone those until the 26th agenda to give us time post those.

>> We will remind the mayor and anyone listening knows they will be postponed.

>> It will be in the announcements in changes and corrections at the beginning of the meeting so people will know that's going to happen.

>> Next item, council member riley?

the point is if we got resolutions related to taxicabs it would be helpful to use the word "taxicabs" when we're posting.

>> Yes.

if I could just add, in fact, this is a little bit of a failure of our process because we had one resolution covering both items originally.

That's how we had drafted it and it talked about taxicabs in the posting, and then when they got pulled apart the word taxicab fell out of both.

So live and learn.

deborah is here, if I could.

On the same subject, if you could take a look at the posting language for 35, 36 and 37, these are not quite as random.

They happen to be together because I think it's a similar kind of a problem.

In 35 we're authorizing award and execution of a contract [inaudible] single lots of detail on exactly what kind of fiberoptic cable.

Sounds like [inaudible].

What kind?

Fiberoptic cable.

But we're not saying what the devil we're going to use it for.

It might be helpful to say here's the department that's going to be using the fiberoptic cable and very, very roughly put what the reason for it is.

>> Council member spelman, i believe these are purchasing items.

>> Spelman: I understand.

>> And I just want to let you know that we have an attorney right now assigned to purchasing it and we are looking at these kind of templates, how we post for other departments that have lots of items, looking at having templates that, you know -- more specifically tell you what we're doing, of course they meet the open meetings requirement, about you they're uniform so that you know, you know, when you see this item, particularly what it might be about because you'll have a uniform template.

We're working on that.

the template we're working off specifies what and how much, which is really good.

If we could add to that for whom and for what.

>> We'll write that down.

I think that lawyer is here right now in the back.

[Laughter]

>> spelman: thank you.

>> Mayor, I have another question for deborah.

council member martinez.

deborah, i wanted to ask on 65 and 66, who drafted the posting language?

>> Council member, I'm not quite sure where it came from, but the law department reviews all the posting language.

and so if we have these posting requirements that council tries to meet and staff had the proposal ten days prior -- the wednesday prior to this coming thursday, how can we not have fixed it in wednesday and friday saying we need to work on this posting language?

I mean, once we as a council member submit something, obviously we've put our best foot forward to drafting and/or contemplating whatever the item is, but we submit it specifically for legal review and staff review to tell us if there is something wrong or if there's concerns or if there's edits or additions and yet we heard nothing.

>> Let me just take that, council member.

I think there was a mistake.

We had -- this is no excuse.

There is a new lawyer that was working on this, and she's, you know, getting up to speed, but we also have a team, and everybody just missed it.

So we apologize for that, but I think we have an obligation to pull it down when we don't believe it meets the requirements of the law, but we just missed it.

right, and i certainly am not asking that line of question to deborah to try and point fingers.

I'm trying to respond to council member riley's point that, you know, the word taxi should be in there, and what I'm trying to emphasize is we did have it in there, and, you know, it should have been captured when it was split apart into two different items.

>> We agree.

>> Martinez: thanks.

could I just real quickly bring up item no. 50?

Because I think we have some folks here that could answer just a quick question, maybe bert.

I'm assuming that's grant money we're spending?

It's just a big number.

I just want to be clear that ...

>> Carlos rivera, director health & human services.

Yes, it's grant money.

It's from cppw, communities putting prevention to work.

>> Mayor leffingwell: okay.

That would be a handy piece of information to have in the posting language too.

That's all I have.

Laura?

could I just add to that before you guys go away, it does look like a big number going to an advertising firm but i imagine a lot of that money is for the media -- media buys themselves and do you have any breakdown of that?

Could you fill us in?

>> I don't have a breakdown with me, but we can provide that.

The grant is coming to an end.

It ends at the end of march, so this is our last significant media buy for this campaign.

The total grant was 7 1/2 million.

>> Byron johnson, purchasing officer.

Yes, in the backup, the -- excuse me, the contract amendment has \$833,425 is actual media placement, and that's in the backup on the agenda item.

>> Morrison: thank you.

council member tovo.

just a quick question about that.

The backup talked about the deobligated grant funds, that these are deobligated grant funds.

What does that mean exactly?

Are they deobligated in the sense that these are grants that could be shifted to other health & human services issues or does it need to stay within the same grant but it's deobligated for the purposes for which you had initially intended to use it.

>> I'm not familiar with the "

sort of new to me too.

i never heard it either.

>> But I do know that it was, I guess, repurposed, i guess would be the -- generally the same thing.

It's meant to be for this particular grant.

It can't be moved to any other campaign that we have in the department.

So as long as it is related to tobacco cessation, use it as such.

but you could use it for any purpose within that overall mission?

>> Yes, council member.

Part of the grant funds, it's part of the stimulus programs and as the funds are being allocated out around the country, unallocated funds come back to that programs that are able to use it and the city as part of our live free tobacco program these funds are allocated back to us.

>> Tovo: okay.

So it was deobligated from another municipality to -- okay.

I gotcha.

So it could be used for anything within this grant -- within this program, not necessarily media buys?

wong is phil wong is responsible for the prosecuting and in his -- program, and in his determination would be best used -- I suppose we could have used it elsewhere but in his determination -- the highest -- okay.

Thank you.

other items?

Okay.

I assume there are no questions on any other agenda items.

Kathie, are you checking or -- okay.

Okay.

Go ahead.

I just want to throw out a quick question.

You know, we have -- on our agenda is an item to set a public hearing for january 26 to make a decision about the austin energy rates, and I guess i would just -- I wonder -- that date could be changed on the dice.

on the 26th or on thursday -- it will be changed day after tomorrow.

>> Tovo: sure.

Well, what are your general thoughts?

I mean, to me that seems pretty quick, and I think -- I think -- my general thought is it seems pretty quick.

>> Tovo: okay.

Thank you for that feedback.

Others -- will we have an option what would a more appropria on the dais?

yes, we will.

Council member martinez?

go ahead -- i know there are a lot of people who want to talk about the electric rates, and that's -- the public 107 on our agenda, it's the last item.

Given that the last item, like all public hearings, could be held anytime after -- I've already set it for 6:00.

It will come out in changes and corrections.

00 or actually since we usually have proclamations and live music 30 we might put it for 30 since it's unlikely we'll get started till 6:30.

i don't think it makes much difference but we could get 00 and 30 minutes --

>> spelman: flexibility.

Okay.

Good.

>> Mayor leffingwell: katie?

I have some questions for the sponsors, mayor, or council member martinez.

Could you just talk for a 70, the resolution for the waterfront planning advisory board, what you envision coming out of that and what your resolution -- well, basically what this addresses is the fact that boards and commissions generally can't have work sessions in the bylaws, they either can't or they have very limited work sessions, and I had a request from the chair of that group saying that they had this important work to do and they would like to have some work sessions.

So that's all this does, is allows them to have work sessions until they complete this mission.

>> Tovo: okay.

Great.

>> Mayor leffingwell: mike?

>> Martinez: thanks, lee.

I didn't really have any questions, but I do want to publicly acknowledge and thank the city manager for his efforts to resecure funding for weatherization at the mount carmel -- we've gone through this issue for the last few meetings.

I realize that the minority participation opportunities are limited because much of the additional funding that was secured is for actual hvac replacement, but I do appreciate the efforts of you and your staff going back after those funds to make sure that those needy families are taken care of this winter.

Thank you.

>> Mayor leffingwell: yeah.

Anything further?

Without objection we stand adjourned at 11:25 a.m.