

City Council Regular Meeting Transcript –10/02/2014

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>>> Good morning. I'm austin mayor lee leffingwell. We begin with the invocation from dusty McCormick. Please rise.

>> Good morning. City manager, staff, community. Let us go with god in prayer. Heavenly father, eternal god, creator of the heaven and earth, heavens and earth and all that is within and upon it. We stand before your throne of grace and ask that thy blessings be upon this council meeting, that we may sense a new responsibility as servants and citizens in our offices, in our homes, in our environments overall. Allow us to run to you with thanksgiving upon our lips and in our hearts. The fact that we are here alive and well today means that you have blessed us yet again and again and again. You have loved us out loud and our bountiful blessings are too numerous to count, yet we must remember them lest we lose our humility and duration. Eternal god, you have given us a mind to know you, a will to serve you and a heart to love you. Be with us in all that we do so that your light may shine out from within our lives. Help us to be today what you have created us to be so that we may praise your name in all that we do and we serve. When we look upon each other, cause us not to simply see through the other but more importantly see each other through. Heavenly father, we praise thee for this good land of ours and for the heritage which has come to us through the efforts of those whom freedom, justice and righteousness. Give us inspiration to meet the needs of the future while not forgetting the least of your children. Give us wisdom to make the right decisions, persistence to support them, and the thoughtfulness that will win others toward us. Lord, you have begun a good work within us so help us to ensure that what we begin today in effort and cooperation, that it be done with your inspiration, be continued with your help, and be completed with your guidance. For it is with thee that we are at our best. You are the light and the life of every soul and my only source of hope. I recognize others may choose other sources for their hope, but as for me, I pray in the name of that suffering savior, your darling son who gave it all for your people, his name is jesus christ. Amen.

[00:03:54]

>> Mayor Leffingwell: Amen. Please be seated. A quorum is present so I'll call this meeting to order at 10:08 a.m. We're meeting in the Travis County Administration Building, 700 Lavaca Street, first floor, Austin, Texas. We'll start with the changes and corrections to today's agenda. Item 7, 8, 17 and 20 are postponed till OCTOBER 23rd, 2014. Items 30, 31, 39, 45 and 50 are withdrawn. On item 43, add as a second co-sponsor Mayor Lee Leffingwell. On item 44, add as a second co-sponsor Mayor Lee Leffingwell. On item 46, strike 2014-2015 and insert 2015-2016. On item 47, add as a second co-sponsor Councilmember Chris Riley. Noting on item 76 at its 4:00 p.m. Time certain, Councilmember Riley will request this item be postponed until October 16, 2014. At 12 noon we'll have our general citizens communications. At 2:00 p.m. We'll take up zoning matters. At 4:00 p.m. We'll have a briefing on code next with approach alternatives. At 4:00 p.m. We'll have our public hearings. At 5:30 proclamations. Consent agenda for today is items 1 through 57 plus item 78 and 79. I will read into the record item number 34 which will remain on consent. These are our nominations and waivers to our boards and commissions. To the Animal Advisory Commission, Sara Palmer Newhouse is Councilmember Riley's nominee. To the Low-Income Consumer Advisory Task Force, Dan Pruitt is Mayor Leffingwell's nominee. Approve a waiver of attendance requirement in section 2-1-26 of the code for the service of Lucey Katz on the Residential Design and Compatibility Commission. The waiver includes absences through today's date.

[00:06:37]

>> Mayor?

>> Mayor Leffingwell: Councilmember Tovo.

>> Tovo: I'm sorry, but did you say 49 is postponed? My colleague to my left thinks you did. I just wanted to verify.

>> Mayor Leffingwell: I did not read

-- item 49 is postponed until OCTOBER 16th.

>> Tovo: Perfect. Thank you.

>> Mayor Leffingwell: The following items are pulled off the consent agenda. Items 14 and 15 are pulled for a brief presentation by the law department. Items 35, 36, 37 and 38 are pulled to be heard after executive session. Item 78 is pulled by Councilmember Spelman. Items 13, 43 and 44 are pulled for speakers. And I only have one speaker on the consent agenda. I haven't seen him in the chamber, it's Bill Clinton. Is Bill Clinton here? [Laughter]

>> Mayor Leffingwell: Dot to read it out, you know. So

-- so with that I'll entertain a motion to approve the consent agenda. Mayor pro tem cole so moves.
Councilmember morrison.

>> Morrison: I would like to pull 42. I have a question about that. And then also I

-- maybe it would be more appropriate to talk about this later, but I understand you said that at 4:00 p.M. There would be a request to postpone 76, and I was curious about the rationale for the postponement.

>> Mayor Leffingwell: Councilmember riley, we're really not supposed to discuss that until 4:00 p.M., But if there is no objection. Councilmember riley, would you want to discuss this now or at 4:00?

>> Riley: Happy to discuss it now if that's the council's pleasure.

>> Mayor Leffingwell: If you just want to answer the question.

>> Riley: I just think it needs more work.

>> Mayor Leffingwell: That's the answer. We can discuss it at 4:00.

[00:08:37]

>> Morrison: Okay.

>> Mayor Leffingwell: Councilmember martinez.

>> Martinez: I would like to recommend postponement or pull item 31 so I can make a motion to postpone. I think there's been late questions sent in to us that I haven't had a chance to talk with staff about. Item 31.

>> Mayor Leffingwell: Councilmember martinez pulls item number 31.

>> Martinez:ER IN MIND, Mayor, you read it was withdrawn. I apologize.

>> Mayor Leffingwell: Is there a second to the motion to approve the consent agenda? Seconded by councilmember martinez. Councilmember riley.

>> Riley: One brief comment about item 20 which is being postponed until october 23. That is the item related to all night concrete pours downtown. In addition to extending the boundaries, it also includes provisions staff would be able to take to mitigate the late night pours. There are some that are affecting downtown residents and I'm hopeful that while we are postponing this today that in the meantime, but until this comes back, staff will do everything they can within their administrative authority to address the issues still ongoing. And they won't just put that off for another couple weeks.

>> Mayor Leffingwell: Those in favor of the motion say aye.

>> Aye.

>> Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. So we'll go now to item number 13 which is pulled for speakers. First speaker is bob thompson. Is bob thompson here? Okay. How about linda thompson. So you have up to six minutes.

[00:10:50]

>> Mayor and council, my name is bob thompson. I'm here representing myself and my wife as owners of smaller, older rental property, and also similarly situated other owners of smaller, older rental property. And I'm opposed to the source of income ordinance. I'm passing around a handout and I'm only going to talk really about the first page of this handout. What is the problem that the source of income ordinance seeks to solve and how big is it? That's the first question to be addressed. And I should also say that I did attend the stakeholders meetings which have occurred since this ordinance was initially authorized. And some of the information came forth during that stakeholders meeting. The essential problem is that some families with vouchers are having difficulty finding an apartment that accepts the vouchers or else the apartments may be illusive in the desired geographical part of town they would like to live. The following data was given out by lisa garcia at hochs who is extremely knowledgeable about the existing housing program and she revealed in the first stakeholders meeting that the present number of families with vouchers is about 5,800. I noticed in yesterday's article in the statesman that a figure of 5600 was quoted so maybe it shrunk just a little bit. Families here occupy one unit and average family is comprised of about 2.2 to 2.4 individuals. However, there's no intention or capability to increase the number of vouchers because this program is federally funded and the funds are limited and declining as by the sequester reductions and there may be future reductions in the future. However, there is presently a monthly turnover of about 240 vouchers families vacating one apartment that accepts vouchers and another 240 families seeking new apartments that accept vouchers. And this is the monthly turnover. Of those 200 are use moving from a to b and 40 families have lost their vouchers for whatever good or bad reason and there are 40 new families drawn from the waiting list to be given vouchers. So the conclusion is that a fraction of these 240 monthly turnover families say 100 families or so are having difficulty locating a suitable apartment and that is the size of the problem. To put that size into context, the total number of rental units in austin exceeds 200,000. I'm.

[00:13:55]

>> Engineer and scientist and from my perspective when you have 100 families having a

-- in a universe that consists of 200,000 units, that is not a gigantic problem. It's a manageable small problem. Let's not say it shouldn't be solved, it absolutely should be solved and I dare say there's no one in the room that thinks it shouldn't be solved, but it's not the sort of problem that is so large to justify turning the entire housing market upside down in Austin. As the mandatory [indiscernible] feature of this ordinance is likely to do. The tax solutions are two categories. First would be a cooperative voluntary amicable team work type of approach and the second would be a imposed coercive mandatory legislative solution. Normally in this city we first try the initial approach, the cooperative, amicable approach. And particularly for a problem of this size, that amicable approach is almost certain to succeed. In the legislative mandated approach is almost certain or is certain to have extremely large collateral damage effects to other low-income families in Austin. It is also estimated that there are about 15,000 to 17,000 units out of the 206,000 universe which are presently available and would accept vouchers and have rents low enough to qualify under the program. I had prepared a chart to justify this which I've handed out and discussed with some of you and your aids, but I think I can dispense with going over that. In the article that appeared in yesterday's Statesman, it reported that a survey by the Austin Tenants Council in 2012 found 7820 units out of 109,000 units would accept vouchers. If you scale that up to the 200,000 plus rental units we presently have available, you would get to about 15,000. So that result agrees with my own estimate. An incentive program, which might be an important feature of this voluntary cooperative stakeholder team work effort, could probably double that number of units willing to accept vouchers to over 30,000, which would be about 15% or so of the universe. If you think about it, even 15,000 units available is way more than enough

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[00:17:02]

[buzzer sounding]

-- have my six minutes expired?

>> Yes, sir.

>> Let me just say in closing that there are more than 50,000 families that would suffer from rent increases, security deposit increases and I would ask that you pay some attention to them. About a third of the housing stock

--

>> Mayor Leffingwell: Your time has expired.

>> Okay. Sorry.

>> Mayor Leffingwell: [Inaudible]. Not here. Dana bolts. Karen timborius. Stewart hirsch. Mandy demayo.

>> Mayor, mayor pro tem, councilmembers, mandy demayo with housing works austin. I want to reframe this source of income issue differently because to me and housing works it's all about access to choice and opportunity for low-income and vulnerable populations. Just to remind you, it's common knowledge, rent and occupancy are at historic highs right now. Our recently released comprehensive market study shows our housing needs confirmed what we already believed was true was that housing needs are enormous. Right now we have a gap of about 48,000 units for folks who earn at or below \$25,000 a year or less. So we have enormous housing needs and challenges in front of us. The austin tenants council study from 2012 showed that only 6% of multi-family units, and those are larger multi-family rental properties, 50 units and above, accepts section 8 vouchers. Housing works did a study of smaller multi-family properties and the results were a little bit better, but not much better and that was 14% of smaller multi-family rental properties, and those are properties from 5 to 50 units except section 8 vouchers. It's not enough folks who are accepting section 8 vouchers and when you look at the map of where section 8 vouchers are located, it is primarily in lower

-- lower opportunity areas. They tend to be concentrated in lower income, higher poverty census tracts. So the challenge before us is to connect low-income vulnerable populations with opportunity. And this is one way that we can actually accomplish that. This is something that we have talked about for years, as far back as 1996, the analysis of impediments to fair housing, a federally required document and study, as far back as 1996, that document recommended the inclusion of source of income in the local fair housing ordinance. That's almost 20 years that we've been talking about this issue. We are in the process of doing our current analysis of impediments and anticipating that will be completed in september of this year. This would be an enormous step forward to show we are looking at impediments to fair housing choice and actively taking steps to limit those impediments to fair housing choice. I want to conclude briefly with a reminder about our three core values when it comes to affordable housing. One is deep afford aability been one of our most problems is geographic traffic dispersion. What you have before you today is an opportunity really to tackle that head on and to really further our fair housing choice here locally. Thank you for considering this very important item. We are excited about this moving forward.

[00:20:58]

>> Mayor Leffingwell: Thank you. Councilmember morrison.

>> Morrison: Thank you. Mandy, I wonder if you could, you know, your comments are in contrast to mr. Thompson's comments and I wonder if you could maybe lay out for us, if we pass this, what do you

-- what do you think will change? Like, do you think that map will change basically, is that practical?

>> I do think the map will change and one of the main reasons it may be incremental is the reality of the section 8 vouchers, you can only use a voucher where the rent is within the fair market rent. So in a very high income census tract, maybe in 78701 or high rent, high rent, like downtown, we may not see people utilizing section 8 vouchers there. We may not see as many people utilizing them in central west austin where it's more expensive. If the rent falls within the fair market rent, it provides pokes the opportunity to access. It's not guaranteeing, but it provides them with more choice. And, you know, in conversations with the housing authority of city of austin, I know they are doing extensive outreach. They do a lot of education with their new vouchers holders about where opportunity exists in the city of austin if you have small children, where are the high performing schools? And when you overlay the existing section 8 voucher holder locations with the cure one opportunity map what you find is that those vouchers holders are really concentrated in the lower opportunity areas. I don't think it's going to be a dramatic shift. I think it's going to be an incremental shift and I think it's a positive step forward. Any sort of shift is a positive step forward. It gets to the imagine austin complete community idea. All types of people in all parts of town which is critical in one of our core values.

>> Morrison: And as you mentioned geographic dispersion is one of the main values of affordable housing and we have to look at that just chipping away is my experience.

[00:23:09]

>> One other thing, mr. Thompson talked about, we're not getting more section 8 vouchers any time soon. I would hope in the future the federal government will fully fund this program and expand this program because it's been enormous success. But we are getting more tdhca administers vouchers programs. The veterans affairs program. There are different funding sources that we can access. So our number really is only anticipated to go up in terms of voucher holders. It won't be huge. We're not going to get hundreds of thousands of vouchers. I wish we would. That would help solve some of our affordable housing issues but we are taking a step in the right direction.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: Mandy, just one question. Mr. Thompson was suggesting a cooperative voluntary amicable team work solution as opposed to imposing a mandate and just leaving it at that. Do you see any room for

-- and cooperative, amicable team work solution even with a mandate in place so that, for instance, we might allow room for an ongoing conversation with the apartment association or property owners to identify and address issues as they come up?

>> Absolutely. And I think it's in all of our best interests and if I'm not mistaken, I can't remember the agenda item, but you all are somewhere down the line you all are looking at a good landlord program and different kind of cooperative

-- we've had conversations with the apartment association and appreciate those

-- I feel like we're moving the conversation forward, but I think they can go hand in hand. I think that's part of educating all of the apartment owners and managers about the section 8 program and other vouchers programs. And I

-- I hope that those can go hand in hand, that an incentive based cooperative program and as well as rules about minimum requirements, about accepting a variety of income

-- source of income.

[00:25:21]

>> Riley: Great. Thanks.

>> Mayor Leffingwell: Robbie robinson. And is brook mahoney here? So you have up to six minutes.

>> Mayor, mayor pro tem, council, my name is robbie robinson. I'm currently the president of the austin apartment association. Aaa is a volunteer led trade association that represents owners, managers, staff and suppliers of over 200,000 homes in austin. Personally I work in the multi-family industry for 20 years. I manage 4,843 apartment homes in austin. As many of you are aware, aaa members are very concerned about this proposed ordinance to create a protected class for source of income. Explaining our concerns that include legal concerns, elective challenges and unintended consequences to affordability. In addition to concerns about the ordinance aaa fears a lost opportunity to do something better. We believe a cooperative program that encompasses the city of austin, haca would be more effective and less inflammatory than creaing a class. Including those that don't rental receive vouchers. We are hopeful for this possibility and look forward to working through the good landlord program as proposed in item 44 on today's agenda. Because creating a protected class is only one of many possible options for addressing greater voucher acceptance, we hope this council will fully consider all options including the consequences before moving ahead. Thank you and I'm available for questions.

>> Mayor Leffingwell: You spoke about unintended consequences. Is there a possibility this could incentivize landords such as raising rent, increasing or required deposits and so forth?

[00:27:28]

>> I think due to us being forced into the contract and superseding the taa lease there are going to be tougher eviction processes. Vacancy laws due to apartment inspections. Several things that are going to

be passed on to the renter because of the lost income that the owners are going to see with this program.

>> Mayor Leffingwell: So it could actually cause rents to go up.

>> Yes, sir.

>> Mayor Leffingwell: Okay. Thank you.

>> Thank you.

>> Mayor Leffingwell: Those are all the speakers that we have.

>> [Inaudible]

>> Mayor Leffingwell: Mr. Pena, I don't see your name on the list, but you are welcome to come up and speak for three minutes.

>> I signed up yesterday, after I got out of the hospital.

>> Mayor, city manager, gus pena, proud east austinite, proud marine corps veteran. We're talking about discrimination. I am a former federal discrimination complaints investigator. I used to this help out epa and the austin fire association and whoever needs help. It's right here if you want to see it. Been over 35 years now. A lot of discrimination out there as far as house ing is concerned. Let me touch briefly on the h.U.D. Program. This is a voucher for homeless veterans, male or female or fee male with family. There's a lot of discrimination and first and foremost we have the proud statement or secretary of veterans affairs will be in austin to discuss this issue at the clinic. Some will accept vouchers, some will not. Some look down at you like as if you are a piece of dirt. We serve our country. We served in vietnam, whatever conflicts. Look at our record. I'm there. Anybody else who is also a veteran deserves due diligence. You have a statutory, fiduciary responsibility to each and every citizen in austin to provide affordable housing. You ain't doing it. You have developers who get incentives. They are not doing it. That small portion they delegate for affordable housing is not good enough. We give too much. We receive too little. You all need to wake up. This is a wake-up call. Especially for you running for mayor, mr. Martinez. I'm not discriminating against you, but what I'm saying is this, we have a lot of

-- we have a lot of people that are out there crying, hurting because they will not accept vouchers. You had people testify about aca and we've dealt with it and it is a discriminatory process. Eve and every one of you have to rethink how you are going forward. More single room occupancy. Weave more families hurting. We have single women, single female women, veterans that have families that are not accepted at the salvation army because they do not have enough space. This is not austin, texas. We need something more to hold these owners accountable. They say, well, you know, you are going to raise up the rents. We don't have to mandate them. Look at your heart. The lord is either going to accept you or the devil is going to accept you. But we have to do something for the people and more people moving in. This is an expensive town and it's going to get more worse. Not enough units out there. Do your joplin.

[00:31:17]

-- Job. We need to have more

-- and clearly define afford built. [Buzzer sounding] we need more units that are affordable and more respect nor the veterans.

>> Mayor Leffingwell: Thank you. If the clerk would add mr. Pena's name to the list. Councilmember martinez.

>> Martinez: I just want to let mr. Pena know my wife and I proudly rent to a section 8 program and it's the best renter we've ever have.

>> Appreciate that.

>> Mayor Leffingwell: Those are all the speakers. I'll entertain a motion. Mayor pro tem cole.

>> Cole: I'd like to move approval.

>> Mayor Leffingwell: Motion to approve by councilmember cole. Councilmember spelman.

>> Spelman: I have three amendments I would like to propose. I believe they will all be friendly and they are certainly offered in a friendly way. The first amendment is in response to many of the concerns we've had from the apartment community. There is a distinction in experience between people who are renting small apartments, duplexes up to four-plex and people renting apartment building, operating apartment buildings. People who operate apartment buildings have to deal with lots of units, have to deal with a large number of renters and are relatively sophisticated in their ability to use the taa provisions and to deal with federal government often other governments. Renters of small properties tend not to have that level of experience although many of them do. What first amendment would do was to impart relief renters f single-family dwellings, duplexes or triplexes from the strict adherence to the nondiscrimination clause. Basically they would get a bye. Although they would not

-- they would still be prohibited against discriminatory advertising.

[00:33:26]

>> Mayor Leffingwell: Mayor pro tem?

>> Cole: I have is a question for you, councilmember spelman. Is this

-- I seem to recall that we have a basic exemption for units under five in other areas of our fair housing laws. Is that correct or is that what you are getting at, small communities?

>> Spelman: This idea was based on the ordinance that was proposed in new york city which had the same

-- exactly the same effect. They used different words but they had the same effect. There may be other exemptions in our code already. I'm not aware of any. That's why we had to write this one up.

>> Cole: I believe this is friendly, mayor.

>> Mayor Leffingwell: You accept? Councilmember martinez?

>> Martinez: Can you explain a little more, councilmember spelman, and help me understand that the discriminatory practices on the basis of source of income shall not apply to the rental of

-- and then it ends by saying except that the prohibition against discriminatory advertising shall apply to dwellings described in this paragraph.

>> Spelman: You are advertising no renter of an apartment of any size would be able to say we will not accept section 8 vouchers.

>> Martinez: Say that again.

>> Spelman: If you are advertising an apartment, in your advertising you would not be able to say we will not section 8 vouchers. If you are renting a single-family house, duplex or quad plex, you could choose if this amendment were passed not to accept someone with a voucher just because they have a voucher. The primary reason is the experience of some people who rent small apartments in dealing with the taa lease and the federal government, they may be getting themselves into more trouble than somebody who is more experienced who runs a larger

-- who works for a larger apartment complex.

[00:35:32]

>> Martinez: I understand it now and it goes directly against what we're trying to do in this item. I do not accept that as friendly. If you are going to take single-family dwellings, duplexes, triplexes and four-plex out all you have left on apartments. And so I do not support allowing discrimination to occur on source of income in any dwelling. I don't accept it as friendly.

>> Spelman: I would like to propose it as a formal amendment.

>> Mayor Leffingwell: Amendment by councilmember spelman. Is there a second? I'll second.
Councilmember tovo.

>> Tovo: Yeah, I'd like to

-- if she's willing to call back mandy from housing works to speak to

-- if you

-- again, if you have a thought on how this might impact those who have section 8 vouchers.

>> My understanding, it would be helpful to have a fair housing attorney here, my understanding is that in the general fair housi law, that owner occupied

-- there is an exemption for owner occupied properties that are smaller than five units. So that

-- I believe mayor pro tem, that is what you were referring to. So if it's owner occupied, that is exempt from

-- typically from fair housing law. I would need to look at the

--

>> Tovo: Sorry to put you on the spot.

>>

-- The data to understand what is the unsoldiers of single-family homes being rented. Certainly our concern is making sure that the whole breadth of the population including families with children and I would need to understand are families with children more likely to rent single-family homes. We would hate to see any more discriminatory practice that would limit opportunity but we are also committed to workable solutions and policies that get to the common ground. So I'm a little on the fence which is not particularly helpful.

[00:37:34]

>> Tovo: No, no, I understand and I appreciate you jumping in without any warning. I'm not going to support. We have a fair number of duplexes and tri-plexes that could offer good rental opportunities. I'm going to stick with the ordinance as currently drafted.

>> Mayor Leffingwell: Other comments on the amendment? Mayor pro tem.

>> Cole: I would simply say that I also lease to vouchers and section 8 tenants also. I think this is really trying to get at a national practice of not requiring occupancy, people in single-family occupancy or too

small of complexes of having to deal with the outreach efforts and the administrative upheaval of complying with this source of income provision. All in all we need to pass this so I will not be supporting

-- I will be supporting the amendment.

>> Mayor Leffingwell: And let me say I'll be supporting the amendment also and I'll be proposing another amendment later to limit this to first reading only because this is a big change. It's going to require a lot

-- potentially a the look of extra work on the part of landlords and I think it makes sense to at least limit its scope while we go ahead and see how it works. Any other comments? Those in favor say aye. Opposed say no. Councilmember morrison.

>> Morrison: Aye.

>> Mayor Leffingwell: Passes 5-2 with councilmember martinez and tovo voting no.

[00:39:34]

>> Spelman: This would add regular income. The issue that came up I think may have been a one off, but it's one of those things is a potential whole of the code which we can easily plug and that is if somebody has on the lottery or is a persistent player of online games annotation a and makes a gambling income, it may be persistent over a period of time but they can't expect to win all the time and they would like to restrict people's incomes to things they can count on the regular basis. Regular is the only word to be added here.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I accept that as friendly. Councilmember martinez? That's anticipated.

>> Spelman: One more amendment which is not written down partly because I want to talk about it. That is that the

-- as usual for our ordinances, there is a blank space for when the ordinance would become active. And it seems to me that given the difficulties

-- regardless of whether the apartment association or the board of realtors or any individual apartment owner or operator is in favor of this or against this, there's going to be some time necessary in order to revise leases, to change forms and do other things to make this a reality. And rather than

-- our usual practice for an ordinance is take effect 10 days after it's passed. I think that would be a mistake in this because they are going to need more time. I would suggest it be december 1 of this year.

>> Mayor Leffingwell: Effective december 1. Mayor pro tem.

>> Cole: I believe we are asking the real estate community to make a vast change and we want their cooperation and giving them more time to do it would be prudent. So I would accept that as friendly.

>> Mayor Leffingwell: Councilmember martinez.

>> Martinez: Yeah, I will accept it as friendly. But I don't subscribe to the notion that we're asking folks to do a whole lot more. It takes one inspection, it takes one form to fill out to become section 8 renter. But I'm fine if we want to

-- I just want this ordinance to go into effect. If it's december 1, that's fine with me.

[00:41:55]

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Councilmember martinez, I agree with you the compliance requirements are relatively smaller, considerably smaller than most owners and operators of apartments believe it will be. But it's going to take at least a couple months for people to start to believe that.

>> Mayor Leffingwell: So that's accepted as a friendly amendment. And I would like to offer a friendly amendment that this be on first reading only. Primarily because we have another sort of companion resolution, item number 44, that will be coming forward shortly and I think it would make sense to consider

-- finally consider both of these items together. Mayor pro tem.

>> Cole: I accept that as friendly, mayor.

>> Mayor Leffingwell: Councilmember martinez?

>> Martinez: Sure.

>> Mayor Leffingwell: So this will be first reading only. All those in favor say aye. Opposed say no. Passes on a vote of 7-0. We'll go to item 14. There are no speakers signed up. This is pulled for a briefing by the law department, items 14 and 15.

>> Good morning, mayor, mayor pro tem, councilmembers. Megan riley on behalf of the law department. I'm here today to recommend that approve a payment of \$155,000 to settle a claim submitted by pauline small. As we discussed during executive session, this is a claim related to an april 2013 incident where ms. Small allegations ems personnel were negligent during a transport and also seeks damages as a result of personal injury. In exchange for this payment, the city will obtain a full and

final release that basically releases the city and any and all claims that could have been asserted as a result of a lawsuit. The law department recommends you approve payment on these basic terms.

>> Mayor Leffingwell: I'll entertain a motion on item 14. Councilmember martinez moves approval. Seconded by councilmember spelman. Comments, all those in favor say aye. Opposed say no. That passes on a vote of 7-0. Item 15.

[00:44:07]

>> For item 15, again, megan riley on behalf of the law department. I recommend that you approve a settlement of just over \$75,000, specifically \$75,309.70 to settle a lawsuit filed by mr. Louis rodriguez and lauren cuellar. This is related to an august 2012 car wreck involving an austin resource recovery vehicle where the plaintiffs allege both property damage and personal injury as a result of the accident. Again, in exchange for this payment, the city will obtain a full and final release. Just to note because the settlement does involve a minor child, a guardian ad litem will need to review both the release as well as the settlement terms and based on this the law department recommends you approve a payment pursuant to these terms.

>> Mayor Leffingwell: I'll entertain a motion on item 15. Councilmember riley moves approval. Seconded by councilmember spelman. All in favor say aye. Opposed say no. That passes on a vote of 7-0. Thank you. And that brings us to item 35. That will be considered after executive session. 35, 36, 37, 38. Item number 42. Has no speakers and that's pulled by councilmember morrison.

>> Morrison: Thank you, mayor. This is an item from council having to do with private parties. And while I understand that there is good reason to perhaps have a discussion in the community and see if we need to adjust things, I wanted to ask staff particularly about one whereas. It says whereas until this permit is created, staff may work with students to allow some flexibility in the permit requirement while ensuring safety and quality of life are maintained. And I wanted to understand what that means. Precisely what kind of

-- flexibility is going to be incorporated into the way things are done. Because there's a reason we have certain things in place now and for protection

-- for safety and quality of life for all the parties involved. And I just wanted to understand more precisely what

-- what will change if this passes.

[00:46:51]

>> Mayor Leffingwell: We have someone from staff here to discuss this?

>> Morrison: I'm not sure if this might be a code compliance, a pace thing, I just don't know.

>> Good morning, mayor, council bill manos, special events program manager. Could you please restate the question?

>> Morrison: Are you familiar with resolution number 42?

>> Yes, ma'am.

>> Morrison: In it it says until this is created, staff may work with students to allow flexibility in the permit requirements while ensuring safety and quality of life are maintained. And so what is

-- how is that going to change what you do?

>> That's a difficult question because flexibility, when you are talking about public safety, we have to go by existing codes, city codes and fire codes.

>> Morrison: I guess one could logically assume that there are some parts of the current permitting process that are not there to ensure safety and quality of life. And so

-- and those are the ones that are being suggested. Because it says make sure you even sure safety and quality of life. What are we doing that's not ensuring safety and quality of life and what is

-- so what are you not going to do? It's a hard question, but I just need to understand and maybe the sponsors have something that they were envisioning, but I just wanted to understand the impact of what we might approve.

>> Well, these type of events are special events, they are events. So one thing we informed them they would be required to do the ace application, the austin center for events application. Previously it was just a review by fire department for the temporary change of use permit. Now it's going to be reviewed by all departments within ace to make sure all applicable codes are followed. But again, as far as the flexibility, code is pretty specific.

[00:49:07]

>> Morrison: So I guess I could ask the sonars, does it make sense

-- it doesn't sound like this is specifically addressing anything and would it

-- would it make sense to strike it, for instance, or perhaps you can fill me in on my understanding.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: Thanks, mayor. Just to provide context. There was what precipitated this was some discussion going on recently in regard to very significant changes in the way our code

-- our codes are applied in west campus. There was an article that appeared on line, quoted at a.P.D. Officer saying what's been allowed previously is going to come to an end. 99% of you will not be able to get the permit you need. Meanwhile, have you organizations and individuals who are trying to plan events, even events sometime in the future, in the spring and so on. And so there is

-- there's a lot of uncertainty as to whether any events at all will be allowed to proceed in the west campus area because of the messaging that's gone out. Certainly there are public

-- to the extent there are public safety issues at stake, we certainly need to abide by all of our applicable codes. But there are also provisions that may be imposed that are not necessarily public safety related. They are, for instance, notification requirements. There's a question about the number of

-- numbers of different departments that review permits, the time for processing permits, the hope we could allow some flexibility to work cooperatively with those trying to plan events with an eye towards resolving these issues in a way that addresses public safety concerns, but still allows some planning to proceed as opposed to just simply shutting them down. That was the spirit behind the language in the resolution.

[00:51:09]

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Councilmember riley, thank you for pointing that out and maybe I need to ask the question to the

-- the person who said that. That 99% of you are not going to be able to get your permit. Maybe I could ask that person or you said that was a.P.D. That said that?

>> Riley: Officer rainbow perez.

>> Morrison: From a.P.D.'S perspective 99% are not going to get permits and I would like to ask why, what's changed and what are those things that are going to keep 99% of the applicants from getting a permit. I think that would be

-- some action in the back. Perhaps we'll be able to find someone.

>> I can't really speak to that specific remark.

>> Mayor Leffingwell: What's your name?

>> Oh, I'm sorry. Chris Swenson, I'm the division chief, fire marshal for the Austin fire department. I can't speak specifically for what that officer's comments. I can kind of

-- I can think to what they may be relating to. This new process was put in place because in the past we had

-- the fire department was the only one that would actually be required to be there at these events through the old process. We were taking care of basic public safety issues, taking care of basically the fire code. What we did see there are other ordinances that through our work with our other departments through the ACE group, we knew that other ordinances were definitely being broken, specifically the sound ordinance, that type of thing. It made it very difficult on my fire marshals when they are out here to know that other ordinances were being broken. Through our work with the ACE group, the decision was made that we need to let these other groups know basically what was going on. Through the same process that's used for all other special events. So this was a way to allow them to know. In the past, for instance, what would be done, one of those large events would come through to us. We would go ahead and process the stuff that the fire department has to handle and then we would explain to the person requesting it you probably need to

-- it looks like on these plans you have a big stage planned, I guess you are going to have amplified sound. You need to contact the sound folks and get a permit for that. We would tell them that, we would show up to the event and, of course, that hasn't been done. We're not there to specifically enforce those ordinances. We're there to enforce fire code and make sure the public is safe. Which is exactly what we do. Over time to see that repeated and repeated and repeated, knowing that other ordinances were not really being followed properly, we decided to bring it to the ACE group. The ACE group decided yes, this should go through the same permitting process so that all of the parties were at least informed that these were going on so that they could have their input. And that I believe is the

--

[00:54:31]

>> Morrison: Great. That's helpful to me. So if it's the sound ordinance, the sound ordinance is a quality of life ordinance, if you ask me. And I hope that that would be recognized within this, quote, flexibility because I don't think it's fair in any way to start waiving the sound ordinance. That's a huge issue for people that live in the center city and we've made great strides in being able to work with folks that

-- that want to do amplified sound, and our wonderful music division works with them and finds a way to find a balance so that it can happen in a good way. So I just want to make it clear that

-- that the sound ordinance will not be waived as part of this

-- as part of this resolution.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: You make a good point, that we have a music office that has managed to work cooperatively with venues and neighbors towards resolving issues in a way that allows some events to proceed. That's exactly what the sort of conversations that I hope would be allowed as a result of this resolution. We have a lot of people who are very eager to get to the table, to have conversations about what rules we could get in place, what rules and processes we could have in place to ensure that all of these concerns are addressed fairly. And I think that that

-- that that sets up a very healthy dialogue that could take place in the coming weeks. That is different from the messaging that is going out currently which is simply party is over, there will be no events, it's shut down. If you are going to have an event, you can do that outside the scope of our regulatory framework. I think the idea here is to get everyone to the table, let's talk about what we can do about noise, how we can address concerns for neighbors and exactly the way that the music office has done with music venues in other areas.

[00:56:45]

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I don't see any reasonable way to waive the sound ordinance and I certainly won't support even while things are

-- while things are being discussed waiving the sound ordinance, I don't understand why that makes sense at all. We have it in place for a reason. I would like to

-- if some of the problem is the messaging that's going out, I really would like to hear from a.P.D. Since it was their message. And understand if that's really the message you wanted to send to the community, that all events are being shut down.

>> Good morning. Raul, assistant chief. As far as the messaging for special events that occurs, we as a police department do support as long as they follow all the rules. As far as the messaging that's gone out, that's the first I've heard of it and something I'll be going back to address. We do support the process that is in place and we haven't had any policy decisions at the police department changing any of that as far as how we operate or how we police the events.

>> Morrison: Do you consider the sound ordinance a quality of life ordinance?

>> Most definitely I do.

>> Morrison: All right, good. Just to be clear that this whereas does not suggest that we should show any flexibility in the sound ordinance. Because the sound ordinance is a quality of life ordinance.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: The language, to be clear, the language we're talking about says, whereas until this permit is created, staff may work with students to allow some flexibility in the permit requirements while ensuring safety and quality of life are maintained. There's no question that people there are significant quality of life interests at stake in west campus and all other areas, so no, there's no suggestion that we should be waiving quality of life. It's just that we do need to allow some room for conversations with an eye towards resolving disputes in a cooperative way as opposed to simply closing the door on further events in west campus.

[00:59:04]

>> And that would be consistent with the way we've been policing the downtown business area and it's been with compromise and involving all the stakeholders and we will continue to do that for whatever part of the austin community the issue comes up with.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: What does this line mean to you? That until this permit is required, staff may work with students to allow some flexibility while ensuring safety and quality of life are maintained.

>> Right now just looking at it very quickly, we're going to work with them and try to

-- there's some areas we could be flexible with, some areas we're not, but it also involved having discussions with our stakeholders and also the community members. This impacts

-- I've been to numerous meetings with the community, different homeowners associations and music, loud music is a quality of life issue that's brought up continually. But it does take a

-- going through a negotiation process with all the stakeholders and I think this is what this is intending is to make sure that occurs. That it's not just a complete shutdown of events.

>> Morrison: Thank you.

>> Mayor Leffingwell: I'll entertain a motion on item 42. Councilmember riley moves approval, I second. Seconded by councilmember tovo. Further discussion? All in favor say aye. Councilmember tovo.

>> Tovo: I just had a quick comment. I want to first of all thank the staff. They've provided me with a lot of information over the last couple of weeks. I think I'm still

-- it's a little unclear why this arose in the way it did, but I think we've had some opportunities to talk about that. It would have been a very major transformation in how

-- in our enforcement techniques and I believe it really is wise to bring the stakeholders together and talk about what

-- how best to move forward and make sure that

-- that there's

-- you know, clearly the activities that are going on on west campus can be supported and the quality of life for nearby residents can be too. I think there is a lot of room for

-- for a reasonable

-- some reasonable solutions if all the parties are brought together. And, you know, there are a lot of charity events and other philanthropic activities going on in west campus. It's not

-- I don't believe it was anybody's intent to shut all of those down so I'm pleased to support this and see a more thoughtful dialogue go forward on how you can protect the health and safety of all of our residents. But still allow those activities to continue in reasonable ways.

[01:01:55]

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I have a quick question. Were there any discussions with the u.T. Student government about this? I thought I remembered a letter or

-- and I'm directing that to councilmember riley.

>> Riley: We have discussed this extensively with the student government and the entrepreneurial council and a number of other interested students.

>> Mayor Leffingwell: Anything else? All in favor say aye? Opposed say no. Passes 6-0 with councilmember martinez off the dais. Item 43 pulled for speakers. Gus pena. Gus pena. Jane nelson. Jane nelson. Mike reyes. Mike reyes. Those are all of the speakers that we have signed up wishing to speak. I'll entertain a motion on item 43. Mayor pro tem moves approval. Is there a second? Seconded by councilmember spelman. Discussion? All in favor say aye. Opposed say no. That passes on a vote of 7-0. Which brings us to item 44 also pulled for speakers. Gus pena. Jane nelson. Mike reyes. Rachel fisher. Rachel fisher. Sandy

-- those are all the speakers we have signed up wish to go speak. I'll entertain a motion on item 44.

[01:03:58]

>> [Inaudible]

>> Mayor Leffingwell: Oh. Where did you come from? Go ahead. You have three minutes.

>> Rachel Fisher. I represent the Austin Apartment Association. As we are named in the stakeholder on the resolution, I just wanted to thank the sponsors for making that distinction and acknowledgement. Obviously at this time we are remaining neutral because of the direct relationship to the item we talked about earlier in the day and I'll be available for questions if anyone has them. Great. Thank you.

>> Cole: Mayor, I move approval.

>> Mayor Leffingwell: Mayor pro tem moves approval, seconded by Councilmember Spelman. I would like to ask a question of staff with regard to the timeline implementation or the time for the city manager to come back with this. Basically it's been suggested to me that 60 days would be a more appropriate time to come back with this ordinance. Does that give you enough time to address it?

>> Betsy Spencer, I think it depends what we are coming back with in two months. My professional experience to create, design and implement a new program is through six months. We can report back in 60 days, all the partners and things like that. For a very effective program, that's usually three to six months.

>> Mayor Leffingwell: Thank you. So I'd like to offer that we add that, a report back from staff in 60 days.

>> Cole: I have it lined up, I think there's an amendment for December 11, 2014 and the idea was line it up with the source of income item that we just voted on. The timing.

>> Mayor Leffingwell: Okay, are you offering

-- you are the maker of the motion. Are you amending your own motion?

[01:06:01]

>> Cole: Yes.

>> Mayor Leffingwell: Councilmember Spelman.

>> Spelman: I was second but in the current motion it has bring the program back to council for final approval by December 11.

>> Mayor Leffingwell: Okay.

>> Cole: We've addressed that.

>> Mayor Leffingwell: All right. So those in favor of the motion say aye. Opposed say no. That passes on a vote of 7-0. So there are no more items that we can address prior to executive session. Let me ask, we have two citizens signed up to speak on item 35. I want to offer you the opportunity to speak. We won't formally take any action on this item until after executive session. You are welcome to wait until then or I'll give you the opportunity to speak now so that will probably be several hours from now. And those two speakers are adrian nealy and nelson linder. Not in the chambers.

>> They are right here.

>> Mayor Leffingwell: Okay.

>> Thank you, mayor and councilmembers and mayor pro tem. I'm adrian nealy. I wanted to address you regarding item 35. We understand that you'll be going into executive session to discussion the compensation of our city manager and I wanted to take the opportunity to reiterate how our community feels about our city manager and what he's done for our community and the positive benefits that he's brought to this community. In past years this community has been challenged. Economically as well as socially. During the course of his tenure, he has been very helpful in maintaining a good city budget, getting several awards on throughout the country as far as managing a city this size immaterial I'm asking that you consider the positive aspects of the city manager. This is political year. Please don't use this time of the year to address this issue as far as politics is concerned. His performance should be based on his performance. Not political issues, not personal vendettas, not just hearsay, he say, she say, but on the positive aspects of his performance. I appreciate your

-- your diligence and your work and we appreciate the opportunity to speak to you kind of out of order. Thank you, mayor pro tem, and councilmembers, and please consider our desires in your deliberations. Thank you.

[01:09:07]

>> Mayor Leffingwell: Thank you. [Applause]

>> Mayor Leffingwell: Nelson linder.

>> I am nelson linder and this is a real civil rights organization. We fight all issues, not just political issues. We've said it before this city manager has been judged by standards around the country. He stands high above the average level. He's outstanding, frankly. This letter here is frankly a piece of crap. We oppose it. If you want to address

-- address the african-american quality of life. This is nothing more than an underhanded attempt to harass the city manager like you harass black people in the city every day. You need to stop it, address the real issues and write the real policies and address why poverty occurs. It's not the city manager, it's the city council. You write some policies that address the systemic causes of poverty and racism, we can have [indiscernible]. Stand up and fight the real issues and come join a real civil rights organization. Thank you very much.

>> Mayor Leffingwell: Thank you. And we just picked

-- item 78 is an addendum item pulled off consent by councilmember Spelman.

>> Spelman: I have a couple questions of staff on item 78. Somebody from our code staff available? Okay.

[01:11:13]

>> Mayor, council, Carl Smart, director of Austin Code Department.

>> Spelman: Good morning, Mr. Smart. One of the things item 78 would have you do is put up a map of the city with more or less dots on it corresponding to repeat offenders. And I was a little bit surprised in your recent memo to find we have 12 properties, repeat offenders requirements?

>> That

-- that's correct. Councilmember. We've been focusing on the larger apartment complex as we get this program started. And right now we have

-- you are right, 12 complexes that represent a fairly good number of apartment units. But those have been clearly identified and repeat offenders. The problem

-- the challenge, if you will, that we've been facing is the criteria in order to qualify for the program. The first criteria is 2-5-2. And you either got to have two notices of violations that were not complied with within a 12-month period, or the five notices of violation during a 12-month period whether they were complied or not, or the two citations that were issued during that 12-month period. So the two five two criteria has to fit first and then the second level of criteria is the habitability of the unit themselves. Whether or not it has violations that impair the quality of life in that particular unit. So we've been having to scream through those

-- through the cases and it's been somewhat of a challenge, but the 12 that we have are clearly

-- clearly meet the criteria as repeat offenders.

>> Spelman: The usual rules for repeat offender programs is not to have them be too big because if everybody turns out to fit in the program a purpose of which is increase scrutiny, then everybody gets the same level of scrutiny we're back where we started. I understand there's value to having a relatively small number of repeat offenders identified. But I am surprised there are only 12 inside the city. What you have done then is you've done a manual count of notices of violation issued of citations issued on a unit by unit basis starting with the big ones. Is that how you've done this?

[01:13:48]

>> Yeah, that's correct, but it's not

-- it doesn't start off manual. The data is in our system, the system we refer to as amanda, which is the enterprise system. The first step is to extract as much data as possible that identifies the

-- two or more notices of violations within the 12-month period of time. We extract that information out of amanda and manually go through it in order to confirm.

>> Spelman: I remember asking your staff for that list of number of notices of violations by address and it seemed to be relatively easy to get out of amanda. Just sort of pull out by address how many violations and gave the date, but you can easily count since it was sorted by address. So that was easy to do. What you are saying is once you've got that, identifying whether the notice of violation were corrected or not in a timely manner requires manual activity.

>> Correct.

>> Spelman: There's no way of

-- I'm not familiar with amanda. I have programmed other databases in the past but there's no switch you can throw, have a record reference other records with the same address so you could automate this process?

>> Well, we are working on that. We're working with ctm and working with our internal staff to identify ways to make it easier to electronically identify those properties and make it a more efficient process. But it's taking a little time to get there. I think that the 12 that we have are good

-- representative number, but there's more, there's more out there, that I think there's more properties on the 50 criteria for repeat violations. Additionally, those that are single, duplexes, triplexes, also looking at those units also because they are included in the ordinance, and identifying those that might fit those criteria also.

[01:15:49]

>> Spelman: But you are working your way generally from larger buildings down to smaller ones so it will take a while before you get to the these and fours.

>> That's correct.

>> Spelman: You mentioned a few minutes ago that habitability was an issue. Is there

-- is the definition of habitability too narrow? Is it too vague? What's with the issue there?

>> It's subjective. And it's not necessarily we can't work our way through it, but it's taking some time. The ordinance basically says if it affects habitability such that it impairs quality the life. That's where subjectist comes into play. There may be a way to better define that particular part of the ordinance. And when we come back with a report to this council, we would like to bring back a recommendation of a better way to define that. We're not saying completely get rid of it. We understand that's important, that's an important issue. But there may be a better way to define it and provide more objectist in order to identify those properties that meet that criteria.

>> Spelman: The idea behind inhabitability is come up with a clause, this is not something which is a technical violation of the code but in fact does in the have a substantial effect on the people who have to live there or live close to there. This is something which is real and really counts. And I'm not sure

-- a better way to define it, you guys are more familiar with the code so if you can come up with a better way of defining it which would be less subjective or at least easier to apply on a case-by-case basis, what's in and what's out, I would very much like to hear about it.

>> Yes, sir.

>> Spelman: The last question, of the three triggers, two nov's not tykely corrected or five in 12 months or two citations in 12 months, which of those three criteria are responsible for the bulk of those 12 properties that you have so far identified?

[01:18:10]

>> The first.

>> Spelman: Okay.

>> Two notices of violation comply within a 12 month period of time is probably most effective of those three.

>> Spelman: Because it's the easiest to find or most frequently encountered?

>> Most frequently encountered. A little bit of a challenge in that 12 month is rolling 12 months is that you find a property that has been issued a notice of violation, has not been complied with, then you look back over a 12-month period of time and see if there's another notice of violation issued during that time. It also was not complied with.

>> Spelman: Right. Q. So it's pretty clear. It just takes a little time to identify those properties.

>> Spelman: I don't want to go digging further into the weeds, mayor, but I have one question and I need to ask the now. In the line for a particular violation in your database, is there a flag as to

-- does somebody go back in the database and flag it when compliance takes place? Do we have a date of compliance or do we know there was compliance in the database?

>> Yes, we do. There is a date of compliance that is entered into the database that will let us know when the inspector checked it and it was in compliance at that time.

>> Spelman: Okay. So at least in the database is complete with rap to all the characteristics you need to look at. You know when there's two or more notices of violation which are not timely complied with, that's in the database. You know whether there are five or more, that's in the database and two or morsi stations is also in the database.

>> That's correct.

>> Spelman: We haven't figured out how to code that that it's automatic rather than pull the cases and look at them individually.

>> Yes.

>> Spelman: I look forward to hearing more about that and if you have

-- if there's anything we can do up here to make that an easier chore so instead of having to spend hours and hours, you can push a couple buttons and get a regular printout, that was my intention when I started framing this stuff in the first place is this be easy and procedural and not something that's going to take hours and hours of your people's time. I would like to be able to trim back on the time and make it an easier thing for you to do.

[01:20:29]

>> We'll certainly keep that in mind. Thank you so much.

>> Tovo: I have a question.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I want to echo my colleague's comments, if there are policy actions that would facilitate your work, I would certainly like to see those recommendations before you report back time. Can you remind me when it is?

>> I think the resolution that's before you know in 78 talks about december the 10th or 11th coming back with a report. We will be ready for that date.

>> Tovo: I would like to suggest once there's a motion on the table that we encourage staff at least to come back with a definition of habitability, if you believe that's one of the fixes that needs to happen. I don't see a reason really to wait until the end of december to address that. Especially because we had a pretty vigorous discussion about whether to have a proactive rental registration program or repeat offenders program and given the kind of evidence we've heard from our community since we've proceeded with just a repeat offender program, I would like to see this more successfully capture the repeat offender. And reading your memo from SEPTEMBER 18th, I'M SORRY To tread some of the same ground that my colleague did, but I need to better understand why if a property has received two separate notices of violation for conditions that are dangerous, which is defined as likely to cause physical harm or injury to someone or impair habitability, how could they then not meet the criteria for habitability? I mean if the reason they are getting a violation is either that it's a dangerous condition or it impairs habitability, why don't they meet that

-- why don't they meet that same standard on the second check which is about habitability? It just doesn't

-- I'm having trouble understanding that.

[01:22:37]

>> Well, if I could try to explain, councilmember, I think the ordinance tries to distinguish between those violations that impair habitability and those violations that are makes the property substandard. And that's where

-- making that distinction probably is the challenge there because there's a number of violations that can make a property substandard, but the question is whether or not those substandard violations impair the habitability of the property itself. If it's a dangerous condition, then that clearly

-- there is no question, if the condition is dangerous or hazardous to the occupants or to the property, then that's a clear distinction. But when we have regular substandard code violations, whether they impair habitability is the question. I think that we can find an answer in better defining exactly what we mean when we talk about impairing.

>> Tovo: Well, I guess

-- I think we're

-- I can understand that it's

-- maybe needs some clarity. I think it would be helpful to see some examples, especially as we look toward a definition that works. But if they've received notices of violation for impairing habitability, that would seem to carry them through the next criteria, but I think it would be interesting to see examples of property that met the standard of having two violations, but in the staff's estimation didn't seem to be impairing habitability.

>> We'll be glad to include that in the report. We can identify it, like in the 12 what clearly was violations that impaired versus ones that did not meet that criteria. You could see that comparison. Hopefully by then we'll have suggested language for staff.

[01:24:45]

>> Tovo: That sounds again, but I would encourage to you bring forward language. I think it's imperative we take more assertive action and if we can help you by considering that language sooner so that this program can be even more effective, then it would be

-- that would be my interest.

>> Thank you. [One moment, please, for change in captioners]

>> we're in recess until 12 noon.

>> Mayor Leffingwell: We're out of resource. And we'll go ahead with our citizens. The first speaker is john goldstone. Topic is cameras, surveillance, aric, occupy and infusion center.

>> I have some material [indiscernible]. Mayor, councilmembers, my name is john goldstone and I am not a terrorist. But I am probably on a list at a.P.D.'S fusion center. I warned this body february 4th, 2010 in the public safety COMMISSION MAY 3rd, 2010, those speeches are attached, that allowing cameras at the corner of 12th and chicon based on my extreme fear now realize that the images would be available to anyone who asked for them would show innocent people taking showers, would show license plates of visitors in private home driveways and would allow all sorts of undetermined a.P.D., Fbi and homeland security personnel unfettered access to a host of personal information on innocent people. All of which collection and access is without a warrant and unconstitutional. We're a country of innocent

until proven guilty and that is the purpose of the fourth and fifth amendments. You are the gate keepers of personal data, video images and more specifically facial recognition images. Once that data is sent and collected to your fusion center, operated by your a.P.D., All that data is available forever can by any fool who will asks for it. I'm here to show you some evidence of my predicted failure that a.P.D. Would use its assets unconstitutionally. I was horrified when I picked up the august 29th, 2014 chronicle and saw the article on the fusion center the u.S. Marshall center and the a.P.D.'S illegal and unconstitutional cooperation regarding illegal gathering in front of the federal courthouse in 2011 by michael ryan. Turns out michael ryan was put on a list by a.P.D.'S fusion center, solely for applying for and receiving a permit for a legal gathering, even though the fusion center claims we don't keep lists of people. I warned you about this. This is an arbitrary and intentional

[00:02:11]

[indiscernible], which is an acronym for the fbi's famous 1960's illegal file creating without warrants of americans who were deemed a danger to the administration. You should watch hbo's nixon by nixon to see the abuse of da illegally collected by the government. It will scare the crap out of you. You have failed. Failed at supervising a.P.D., Failed at being the sacred gate keepers of innocent and data on austinites, michael ryan, and anyone else, including me, who might have spoken with or community at a legal gathering where a permit was acquired. I was assured in 2010 by the a.P.D., Demander gay and others that I had nothing to worry about regarding misuse 6:00 surveillance images. The evidence shows that to be a lie. I am very worried. Innocent until proven guilty. No more cameras. And for that matter no more public data gathering without a warrant as is required by the fourth amendment of the constitution of the united states. You have no control of the data, including images from surveillance cameras once it hits a.P.D.'S computers so don't collect the data in the first place. What might your political open pents do with such images and data in a campaign? Nixon did it.

[Buzzer sounds] thank you. And I told you so. [Applause].

>> Mayor Leffingwell: Johnette mason is not here. Johnette mason is not here. So we'll go to sylvia servin. Sylvia is not here. You're here? Topic is swimming pool for senior citizens. Nice hat.

>> Hello. It's me again. I think it's been almost two years now since I've had to come speak about something. Thank you for my three minutes. Do you know why kings had jesters in medieval times, because they wanted to be entertained. They would bring a email to their master's face if they were feeling angry or unwell. The court jester was one of the few characters in the could freely speak his mind and could joke about the court and ladies of the court. Jesters came from a wide variety of backgrounds and many were well educated. That's where I come in. Today I'm city council's jester. Ugabooga. I'm lactose intolerant. If I drink this milk the first three rows are going to move back. Can you guess? If I sing and drink milk they will move even further back. It's coming... Did I or didn't i? I'm just kidding or am i? Silent by deadly. Security, you're going to earn your paycheck today. Okay. Enough of that. Now to why

I'm really here. I would like a city pool built for the citizens of austin, texas. They've payed their dues, their taxes and now they need to reap the benefits. It by ihop's definition I'm a senior citizen, I qualify for the early bird special. You only have to be 55. I'm serving

-- survey says most seniors would like a heated, indoor year-round swimming pool. Let's see if you can accommodate them in their golden years and make their wishes come true. I've notified parks and recreation and the aquatics division. They seem to think it's a great idea. Now I'm asking you all if anybody can do this. You all can. Thanks again for your time and wise decisions.

[00:06:12]

[Applause].

>> Mayor Leffingwell: Thank you. Stephen bega. Don't see servin 15 bega. Ray adler olenick. Water fluoridation.

>> Today I'm going to coin a new word, dentacratss. They have dental degrees, but their thinking is 100% bureaucratic. In austin they're represented by the parade of policy sized dentists who regularly show up to push fluoride when its safety and our efficacy is publicly called into question. Dentacratss fluoridation has claimed the high ground based on a self styled compassion for low income children whom they tell us it will benefit. Because compassion is so key here, it's instructive to hear what one top dentacrat had to say in an unguarded moment. Please listen carefully.

>> I am a referral base for md anderson. I give people who come to me with oral head and neck cancers that have been radiated from the shoulder up. They have no more salivary glands, they have no more saliva. Saliva being the primary buffering agents of the acids that bacteria produce. Saliva also being the primary plasma reservoir for fluoride ions that ooze up around the gum line in the plasma layers. And the number one thing that we do to these people is put them in fluoride trays every single night with at least five thousand parts per million of topical application [indiscernible]. That is to kill the bugs because it's bacteria cide. It's to reinforce the enamel and expose root surface tissues and sterilize them. And I guarantee you that they don't sit with that in their mouth for 10 minutes without swallowing some. Now, granted, who cares if [indiscernible].

[00:08:44]

[Inaudible].

>> Okay. A squamous cell carcinoma being cancer inside the mouth. Well, first I would

-- I would think that patients or their loved ones might care. Second, his crude, cruel joke made in public is outrageous, but it does serve to I will human mate the mindset of those forcing fluoride on everybody, like it or not. Do you want someone like that making melt decisions for you and your family? I sure don't. Thank you.

>> Mayor Leffingwell: Next speaker is rose marie schwartzer. And her topic is lighting. Do you want to sit at the table, ma'am? Okay.

>> I'm here

-- what I handed you was a copy of an article. There were several in the people around that time about a small city like westlake. They have rules about excessive lights in residential areas, and I have found out that in austin all they have is a noise ruling about no noise after 10:30. And I want to know why because I live at the bottom of a hill. Mr. Finley lives at the top. And between us on 250 by 110-foot lots they built two three and a half story houses with five bedrooms, five bathrooms. The one next to me, counting lights in the trees without the shade to make sure that the-- it focuses straight down and not all over the neighborhood, the house next to me has 13 lights, 24/7. On the northside they have

-- on the second and third floor they have two door size windows with lamps about this long hanging in them lit. They have one on the front of the house that goes in an arc like the shape of your stand here. And another one. In the back they have two on the garage door sides and then one one above t they have one on the house and they have big windows on the house in the back with no shades or curtains of any kind. And they also shine out. So that means since they moved in 24/7 my front yard is lit up, my bedroom and sun porch are lit up from those door size windows and the tree lights. And my backyard is completely lit up. I was sitting on my scene porch one day, I turned off the tv to go in the house and this one light came across where I was sitting like a search light. And it was one of those. I have not had a decent night's sleep since these people moved in and I want to know when austin is going to think it's big enough because if you go outside at 10:00 at night the entire neighborhood has no lights, we never had had lit after 10:00. And it was dark, peaceful and quiet. Now I cannot sep and I'm sorry, but I've lived in my house since the 60's and they're telling me you can always get blackout curtains. And I don't think I should have to. I think at 10, 10:30 there should be a law or a ruling that you must turn off excessive lights outside. And I don't know what else to do except come to you with my complaints hoping you will do something about it.

[00:13:21]

>> Mayor Leffingwell: Thank you. Can we have somebody from code to talk to ms. Schwartzer about her issue and see if there are any rules that apply? Do you want to address

--

>> I'm sorry to interrupt you, mayor, but I forgot to add that somebody in the neighborhood did call the compliance department. They sent an investigator out. And I'm sorry, but he must have been paid under the table. His report was that there were absolutely no lights lit on that house. I even went out there at five a.M.

>> Mayor Leffingwell: So we have a city lawyer who is back here that is willing to talk to you about it.

>> I've got the name of a lawyer, but retired school teachers can't afford such things.

>> Mayor Leffingwell: I understand. Thank you, ma'am. Appreciate your comments. [Applause]. Tara martin? Tara martin has a zoning issue. Dike mayor and members of the city council, my name is tara martin and on june the 12th you adopted a procedural rule on vested rights determination around the state law. Section 25541 d of the ordinance requires the director prove a written

-- provide a written determination to the applicant which must state whether the petition is approved or denied in whole or in part and the basis of the decision. The second is findings of fact in support of the decision. I own one of three undeveloped lots in river place section 16 on big view drive along lake austin. All of these lots in this section along lake austin were built under sf-2 standards. City staff is insisting that my building permitting subject to la standards even though director guernsey approved vested rights determination that sf-2 standards apply to the lot three doors down from my lot. The original denial of vested rights was issued ON JULY 11th, 2014 With no explanation of the reason in violation of your ordinance. The appeal hearing was held on september 2nd and was essentially denied with an explanation that was never addressed in the appeal hearing making a mockery of the due process hearing. I am handing you a copy of the written determination I received only after my attorney complained that the director was not following the ordinance he recommended to you which you adopted in june. I have highlighted in yellow the factual errors and the written determination which are as follows. The address is wrong. It describes the commercial property and not my residential property. The case number is wrong and the description of the date of the first permit is wrong. We are now ready and we submitted a fair notice application along with the 1704 tow only get denied with no explanation as to why. We purchased the slot in 2010 during our architectural process. We were made aware of this zoning and at that time we hired a consultant who had researched and was told by guernsey via email that we would need to fill out 1704 application and guernsey forwarded an approved application on river place lot for reference. We believe our rights have been infringed upon under an equal protection provision of the constitution and the city's own procedural rules. The city cannot grant treatment of a lot as sf 2 for all the lots in our m.U.D. District and try to take the rights away from us. We have spent money on this lot as sf-2, money on attorneys and consultants and it has been nothing short of a nightmare for my family. My attorney requested a hearing in a letter to the city manager and director guernsey because of all the factual errors and the due process failure and there has been no response. I urge you to direct the city manager to afford me a due process hearing and approve this application.

[00:17:36]

>> Mayor Leffingwell: Thank you, ma'am. Could we have someone from the law department confer with ms. Martin and her issue and see where we go from here? Thank you. Carolannrose kennedy, vice-presidential aspirations.

>> Howdy neighborhoods. Where's bill? Tell him I missed him. Mayor lee, I've known you for 10 years and you'll have to admit I've cleaned up my potty mouth tremendously.

>> Mayor Leffingwell: It's been that long. We appreciate that.

>> It seems like 10 decades. There's a typo in this title. I did not ask for aspirations, ass, I swear on a stack of bibles I did not do that.

>> Mayor Leffingwell: I tried to let you off of that, but go ahead.

>> Huh?

>> Mayor Leffingwell: I said I tried to overlook that.

>> I swear I didn't do it.

>> Mayor Leffingwell: Okay. We believe you. Okay. Aimed here with y'all today to express my deepest gratitude to each one of the nine of you for every moment of your service to the city of austin, texas. I've been watching you and listening to you and working with you and playing with you for the most recent 10 years of my life. It's been fun, it's been real, soul searching and mind boggling and heartbreaking, but real fun. Weird, but exhilarating and full to the brim with challenges and opportunities. I see and feel and hear in this present austin city council's words and actions as a unique team of diverse and dedicated austinians a commitment to austin for better, for worse until the end of your term do you part. I thank each and every one of you for your perseverance, sense of humor, tenacity, bull headedness, availability, free advice, compassion, kindness, generosity, friendship and neighborship. The best in piece peace is yet to come for all of us. I thank the council and every austinian for everything y'all did or didn't do to create, design and build the feinstein caliber 10-1 city government. I feel like I've won the lottery by coming one of the seven city council candidate dots for district 5. Our future mayors have their work cut out for them. Better rest up. But try to look at us, the new council, as a tight, strong, enduring family giant of unit of 10 overgrown children. Peer pressure is powerful. I guarantee you that at every city council meeting there will be a bossy one, a bratty one, a wimpy one, a cool, calm, collected one. One playing hooky, one who didn't do her homework, a sick one, one in last night's party clothes, one rebel, 11 candidates for sainthood, a silent one, a potty mouthy one. Oh our poor mayor. Soupled begging you to get out and vote and if you need a ride to the polls, call me and I'll pick you up in my big blue bus.

[00:21:21]

[Applause].

>> Mayor Leffingwell: Thank you. Paul robbins. City and budget issues.

>> Council, I was a fan of the late science fiction television show the x files. Though generally dramatic the show was often funny in the way it took paranoid conspiracy theories to extremes as it portrayed the u.S. Government behind the plot to keep the existence of aliens secret from the public. The series was fun while it lasted, but in the real world, my real world anyway, the reason for the way things happen are not that black and white. Things that some people would real gate to conspiracy are relegated to other things, including human error. Fear of censure or job loss and occasionally ineptitude. While I am skeptical of conspiracy theories, I have to wonder why water treatment plant number four has not been commissioned. According to documents the plant was operational for six months of the last fiscal year, which you know just independented. The utility never tires of stating that they believe there will be energy savings for the new plant, so it would be in its own self interest to turn the plant

-- is that my time?

>> Mayor Leffingwell: Set it for one minute.

>> The utility never tires of stating that they believe that there will be energy savings from the new plant so it would be in its own self interest to turn the plant on as soon as possible. Yet there's no indication of when the grand opening party will be, not that I expect to be invited. Now, I'm sure that the utility will have a concise reason for the delay that will explain away conspiracy theories acknowledged try to real gate it to the complexities of construction. And upon hearing their explanation I might even agree, however I want to point out two things. First the utility has spent \$550 million on a plant that according to its own revised forecast will not be needed for capacity for 17 years now. Second, there will be an election in about a month and no public institution wants its mistakes to be a political football in an election, conspiracy or not.

[00:24:06]

[Applause].

>> Mayor Leffingwell: Next speaker is carlos leon. Return to god through god, losers blaze chem trails. The truth pulverizes lies.

>> Thank you, mayor leffingwell. Carlos leon in austin, texas. And october 2, 2014 to speak what's right. First and foremost, [speaking in spanish] for letting me fight evil. Second, since last thursday no austin chem trails to report. Third, according to info wars reporters dan [indiscernible] and adam salazar, school safety expert wolf gang [indiscernible] believes the sandy hook was a script staged event of two

years planning where first responders and others train on incident management and mass was wellty response to man-made or natural disasters. Quote, a homeland security fema capstone exercise starts at the white house, at the president's desk, goes all the way through congress, through the attorney general who just resigned, down through the fbi all the way down to the local government. It is a whole community event. I'm telling you nobody died, end quote. Mr. [Indiscernible]'s rational conclusion explains much better why the official fbi report documents zero deaths in new town, connecticut in 2012 than the lying criminal obama administration's emotionally manipulate claims. In new town's trouble the state of connecticut paid almost \$50 million to demolish sandy hook, remove asbestos from the building and construct a brand new school in its place according to the new town bee. Recently a commission of educators and officials assembled by their governor used the apparent sandy hook fraud to wrongly recommend greater oversight of homeschoolers who wrongly attempt to control and track their independent learning and tree thinking. It's the public government and school system psychotic control freaks who threaten our constitutional rights to life, liberty and pursuit of happiness. According to the september 26th, 2014 new york post, former new york fed worker car mine

[00:26:40]

[indiscernible], but was torpedoed by co-workers in bed with the bank they were supposed to be holding accountable. When a goldman sachs employee says once clients are wealthy enough certain consumer laws don't apply to them, her senior colleagues wrongly told her to forget what she heard, that her notes were wrong and that she needed to change them. When [indiscernible] rightly refused and stood her ground, a senior colleague told her, quote, credibility at the fed is about subtleties and about perceptions as opposed to reality. A capstone statement that accurately summarizes our financial sector, the economy, sandy hook and kenyan obama's false presidency, epic moral failure. Let's repent fear and follow god and ask him for his help to defeat evil and rebuild right usually, in jesus name I pray, amen. Thank you, mayor leffingwell.

>> Mayor Leffingwell: I understand stephen bega is now here. His topic is flooding due to construction on joe tanner and highway 290.

>> Yes, sir. Thank you. As the city council may be aware, I represent oak hill youth sports ocean sorry in oak hill. It's a baseball and softball league been in existence since 1968. As you may be aware we experienced significant flooding last year in october. There was a big response from the city in regards to helping us put those fields back together. In a span of 11 months we have experienced tremendous damage out to our facilities in the amount of \$150,000. This is significant to us because the only explanation and response that we've been provided from the city and from watershed is that gloria 25 year explain so therefore there's nothing we can do and kind of shake their hands and say that that's all that you can do. I'm asking you to reconsider that and think about ways to help us solve this problem. I have provided a packet for you with photographs of the damage that we experienced back in october and also as recently as two weeks ago. I've also included for you some data in terms of rainfall at that

particular geographic sites that shows that being in a 25 year explain isn't the answer. It's not the only responsibility for this particular damage that we have experienced. If you will look at that data, and that data by the way was obtained by local meteorologists as well as the lcra, jim spencer, gave us this information. So it's reliable data. It the data that all meteorologists use when they're determining rain gauge and so forth. So that's significant because we have experienced larger rain falls than what we have experienced in the last 11 months on three different occasions, last october and again this past september and we've not experienced that damage. I've also included photographs. Joe tanner road that is directly adjacent to our property that shows the debris in williamson creek. Again, watershed has been out there and tells us there's nothing we can do. We've looked at that site. There's nothing we can do. I big to differ. If you look at those photographs you will still see rocks and sediment and debris that is existing at that location right upon that joe tanner bridge that's not been cleared since last october. And that's something that we've gone round and round with watershed to do. If you look at those photographs you can't mel me what has been to be done with watershed or anybody else. I would like to talk for a moment about the importance of youth sports in austin and I think that's a mark that a lot of you guys are missing quite frankly. I know that some of you have been involved in that but the youth on associations and youth sports bridge all kinds of gaps and generations, race, nationalities, socioeconomic patterns. You're missing the boat in not helping youth associations be more responsible and helping them in their time of need. Any association in austin cannot continue to put in \$150,000

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[00:30:56]

[buzzer sounds]

-- worth of work every time there's a significant rainfall.

>> Mayor Leffingwell: Thank you.

>> All I'm asking is for your assistance to help us find solutions to this problem.

>> Mayor Leffingwell: Thank you. [Applause]. Councilmember martinez.

>> Martinez: Mr. Bega, I have a question for you. Are these ball fields used with an agreement through pard?

>> That's

-- I can have another three minutes an talk about that. But we are a private organization but it is subject to the pard agreement. I appreciate you asking that agreement. When I said a lot of you are missing the mark, you actually are not. I know that you are involved with wawa and helping us resolve a lot of these issues and there are issues. I don't know if you're aware of that. This has been an issue with youth

associations and that's been going back and forth for three years and it goes more than just beyond whatever budget that the city is allowing us. It goes into simple things such as the agreements between that and these youth associations. They're not giving us the help that we need to be able to do that. As an example, they now have put a new requirement on all youth associations to turn over information for every child. They want the child's name as well as the address for every child in our association. And that to me

-- first of all, there's privacy concerns about that, but when we go back to that all they say is this is what the city legal department is requiring us to do. This is what the city council is requiring us to do. And we have begged, the youth associations have begged for three years now to get some of you out at these meetings. Come to those meetings and listen to what we're saying. Listen to what that is making us do with these agreements because it's really putting a strain on all of us. It really is. And it's fortunate.

>> Martinez: I did attend the last meeting over at fiesta gardens. I don't believe you were there for that meeting. Maybe you were. But I was in attendance. I'm happy to get one of my staff members to work with you because we have worked with waya, we've worked with Montopolis, we've worked with the east austin youth league. I'm happy to sit down with you and see what we could do to help as well.

[00:33:06]

>> Thank you, tier.

>> Martinez: My staff member will be coming out shortly.

>> Mayor Leffingwell: Okay. City council will now go into closed session to take up five items pursuant to section 551.074 of the government code, the city council will discuss the following items: Personnel matters related to the evaluation, compensation and benefits of number 63, the city manager, number 64, the city clerk, number 65, the city auditor, number 66, municipal court clerk. And then pursuant to Texas 551.071 of the government code the council will consult with legal counsel regarding the following items: Item 67, legal issues related to transportation networking companies, noting that item 60, 61 and 62 are withdrawn. Without objection the council will now go into executive session.

So the Council will go back into closed session to take up 5 items pursuant section 551.071 of the government code the Council will consult with legal council regarding the following items: 63, 64, 65, 66 and 67. Without objection the Council will go into executive session.

>> Mayor Leffingwell: We're out of closed session. We took up and related issues related to items 63 through 67. We'll go through our consentzoning cases.

>> Greg guernsey

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>> Mayor Leffingwell: I don't think you are on. Item nu npa-2014-0020.01, for the property at 113 east

-- excuse me, 113 industrial boulevard, 4323 south congress and 4300 block of willow springs road in the south congress combined neighborhood planning area, a plan amendment. The related item, 69, c 14-2014-0034 for the same properties. The neighborhood and applicant have agreed to postponement to the 23rd which I understand will be in this same building. With the understanding that it will be an ordinance ready. That's october 23, there will be an ordinance ready for possible action of the planning commission's recommendation.

>> Mayor Leffingwell: My understanding is we may be back at city hall on the 23rd.

[00:02:01]

>> No, no, no.

>> Mayor Leffingwell: We're not? Okay.

>> With that understanding and having the ordinance ready, both sides have agreed to a postponement to october 23. Item number 70, the applicant asked for an extension. The adjacent property owner has agreed to postponement october 16 meeting. Item number 71 for the property at 1023 spring dale road, staff is requesting a postponement to your 10-23 meeting. Item number 72, for the property at pollyanna avenue. The recommendation was to grant the family residence zoning. This is ready for consent approval on first reading only. Item 72. Item number 73, for the property at 4201 manchaca road and fort view, zoning change to commercial liquor sales. The planning commission's recommendation was to grant commercial liquor sales, conditional overlay, combined district zoning with conditions. This is only ready for first reading only. I don't believe you have anyone signed up for this item.

>> Mayor Leffingwell: Right. That's correct.

>> So we could offer this item by consent. Item 74, for the property located at 2428 and 2432 south first street to zone to cs district zoning. The recommendation was to grant general commercial services or cs-co planning district for tract 1 and Irco for tract 2. And limited office conditional overlay or lo-co for tract 3. The applicant is in agreement with the commission's recommendation and this is ready for consent approval on all three readings.

[00:04:38]

>> Mayor Leffingwell: Okay, so the consent agenda is o postpone items 68 and 69 to october 23. Postpone item 71 until october 23. Close the public hearing and approve on item 72 and 73 on first reading only. To close the public hearing and approve on all three readings item 74.

>> And mayor, for correction, item 73, that should be commercial liquor sales mixed use, conditional overlay combining district zoning, noting that can stilling offered by consent on first reading.

>> Mayor Leffingwell: So reading. I'll entertain a motion to approve the consent agenda. Councilmember spelman moves approval. Councilmember martinez seconds. All in favor say aye. Opposed say no. Passes on a vote of 7-0. We'll go to item 35.

>> Thank you, mayor.

>> Mayor Leffingwell: The only speaker signed up has already spoken. So we can address items 35 through 38 at the same time. Oil recognize councilmember spelman for a motion.

>> Spelman: Move approval, mayor.

>> Mayor Leffingwell: We have to read in the numbers. 35 through 38. The motion is to approve items 35 to 38.

[00:06:43]

>> Spelman: Mayor, I have a copy if you would like me to read.

>> Mayor Leffingwell: I'm fine. I'm just trying to figure out the start. The resolution provides for 3.5% adjustment to his current annual salary that results in a new annual salary of \$279,198.40, the same amount as the annual base pay adjustments for

-- that noncivil service employees are receiving as part of their annual budget process beginning in the first pay period of the 2014-2015 fiscal year. The resolution for the city clerk provides for a 5.5%

adjustment to her current annual salary that results in a new annual salary of \$123,094.40 beginning this the first pay period of the 2014-2015 fiscal year. The resolution for the city auditor will keep the city auditor's annual salary at current amount of \$142,563.20. The ordinance for the municipal clerk provides for 3.5% adjustment to her current annual salary, new salary of \$128,190.40, which is the same as the annual base pay adjustments nonsworn employees receive as part of the annual budget process beginning if the first period of the 2014-2015 fiscal year. The ordinance proposes increase in her cell phone allowance of \$43.86 each pay period to be in alignment with the allowance provided to the city clerk and the city auditor. That is the motion by councilmember spelman. Is there a second? Mayor pro tem seconds. Any further discussion?

>> [Inaudible]

>> Mayor Leffingwell: All right. All those in favor say aye. Opposed say no. Councilmember martinez votes no on 35. A aye on the other items, correct?

[00:08:57]

>> Martinez: Correct.

>> Mayor Leffingwell: Councilmember spelman.

>> Morrison: Mayor, I thought we had disposed of the issue. Have we not?

>> Mayor Leffingwell: It is disposed 35, 36, 37, 38 have been approved.

>> No addendum attached.

>> Mayor Leffingwell: No.

>> Spelman: Okay.

>> Mayor Leffingwell: Okay, so we'll go to item 58. Councilmember martinez.

>> Martinez: I thought we were going to have the council vote on an addendum for item 35 that was presented in executive session.

>> Spelman: That was my understanding.

>> Mayor Leffingwell: No amendments were offered.

>> Martinez: I understand, but it was my understanding that councilmember spelman was working on a revised draft and was going to present it.

>> Spelman: Mayor, I move that we reconsider item 35 so we can have this discussion.

>> Mayor Leffingwell: Councilmember spelman moves to reconsider item 35. Is there a second for that. Mayor pro tem. Those in favor of the reconsideration say aye. Opposed say no. 6-1 with myself voting know, and councilmember spelman, do you want the floor?

>> Spelman: It was my understanding after the executive session that we held on the 26th of June that it was the general will of the council, we didn't take a vote, but it was the general will of most members of the council there be notes taken on the conversation that we had in executive session with the manager. Taken the notes and distributing a rough draft, my apologies for the roughness and the chicken scratch, but we have not been able to get the printer working in this building so you are going to have to put up with a little of my handwriting along the way. But this is my best estimate for what actually took place in that conversation and I move, mayor, this be added as addendum to the resolution on item 35.

[00:11:31]

>> Mayor Leffingwell: Councilmember spelman moves to add this draft language as an addendum to item number 35. Is there a second to that? Seconded my councilmember martinez. Let me just say that I intend to vote no on this addendum. I am concerned that there hasn't been adequate recognition given to the city manager for the

-- really the outstanding performance of the city of austin relative to the other cities during his entire tenure as city manager. And that this addition of an addendum to the resolution to the compensation resolution represents an unusual departure, unique departure, in my experience, from what we have done in the past and therefore merits I think merits particular attention and for that reason I'm going to vote no on the amendment. Councilmember martinez.

>> Martinez: Certainly appreciate those sentiments and there's obviously still time to add language should anyone wish. The only reason I wanted this to be brought forward was plain and simple. We discussed it in executive session and it was presented in executive session, therefore it was made subject to public information request. And I wanted us to be completely transparent in everything that we've discussed that's subject to the public's notice and so I'm supporting this item out of transparency. I think it's a well written letter, I didn't write it, obviously that's why it's a well written letter, and I thank councilmember spelman for drafting this for us. But my vote is to make sure that we are being as transparent as we possibly can. And making sure that we have these discussions. Not only because we can have them in executive session, but because we should also have them in open sessions when we put down documents as we did during personnel matters. That's why I'm supporting this item.

[00:13:53]

>> Mayor Leffingwell: I would say comments like this and others that are not included here, virtually anything can be offered on the dais at the time the resolution is approved. I'm just saying that putting this in writing and attaching it as an addendum to the resolution is unique and I've never seen it done before. It kind of stands out as something new and different. So those in favor

-- councilmember morrison.

>> Morrison: Yeah, I just want to chime in and say I appreciate councilmember spelman for doing this and but mostly I appreciate the city manager for having

-- coming into executive session and having a good conversation and to be clear that this is

-- this is a matter of something that's documenting the

-- a lot of the very positive work that you have done also and the fact of the matter is there are frank conversations and I appreciate that we can have those frank conversations. But I do believe in taking a proactive stand on transparency in this and I appreciate the work that everyone has done on this.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I just want to say to the city manager that I feel you have done a very good job for the city, especially considering that you came here when we were in a recession and now we are experiencing economic prosperity and you and your leadership and team has been a big part of that. And so you should be complimented for that and I know you have received awards nationally for much of the work that you have done here on our behalf. I also want to applaud my colleague bill spelman for his work and also share the sentiments of councilmember martinez that it is a very well written document and I think that it is a good summary of some of those discussions, but I will not be voting to add it to the evaluation for a couple of different reasons. One, I think we do have transparency in that we are taking a public vote about the the document and it is a public document and can be requested by any member of the public or media as they so wish. And also I think I share sentiments of the mayor in that we are departing from the policy that we have been doing with all our other direct hires.

[00:16:26]

>> Mayor Leffingwell: I'll second everybody else's comments. I do believe it's a thoughtful and well written document and that is not my criticism of it, it's the fact it's unique and note that we have just approved three other resolutions without such an addendum. So it does stand out and seem to be unusual and that's

-- that's why I'm going to vote against it. So those in favor say aye. Opposed say no. No. That passes on a vote of

-- passes on a vote of 4 to 2 with mayor pro tem cole and myself voting no and councilmember tovo abstaining. Councilmember tovo.

>> Tovo: I wanted to explain why I did that. I do, I also want to thank councilmember spelman for writing this and capturing some of the most salient points of our discussion with the city manager and I also want to thank the city manager for his work and for that discussion. I think it was a useful one. I abstained because the no suggests there is something not quite accurate about the letter and I think it did accurately capture our discussion and the high point of the successes here as well as some of the issues that were identified as opportunities for the city to improve, but I didn't feel strongly that it needed to be attached to the resolution.

>> Mayor Leffingwell: And I would just ask that we furnish a clean copy to the clerk for inclusion as an addendum.

>> Spelman: The only reason you haven't got a clean copy now is because the printer in the county building is not working.

>> Mayor Leffingwell: We work with these hardships, councilmember. Big bucks for. All right. Thank you all. So let's see where we are. I believe we need to go back and pass the

-- since we reconsidered the motion we need to repass with the dandy.

[00:18:49]

>> Spelman: Move approval.

>> Mayor Leffingwell: Councilmember spelman moves approval. Is there a second? Seconded by councilmember morrison. Those in favor say aye. Opposed say no. No. Mayor pro tem, what is your vote?

>> [Inaudible]

>> Mayor Leffingwell: And councilmember tovo? It passes. I'm going to change my vote and vote aye so it passes on a vote of 7-0. [One moment, please, for change in captioners]

>> Mayor Leffingwell: So I'll entertain a motion. Councilmember riley?

>> Riley: I'm passing out a yellow copy on the dais that addresses some changes. I'd like to go over some of the issues that were discussed at the last meeting that were going to be the matter of some continued discussion, just a report on where I think we are. First with respect to the issue about

accessible service. And that was really the biggest substantive issue that I thought we needed to address in more detail and I'm happy to report we have good progress on that front. If you see on page 5 of the new draft there is some new language that clarifies that the goal is it to have accessible rights with wait times that are equivalent to those of other tnc rides. And very significantly there is a new provision that introduces a requirement for an accessible service request indicator. And the concept is fairly simple. If you're a tnc customer, the customer of a traffic network company, like uber or lyft, and you really require a wheelchair capable vehicle, then we are requiring that the company provide that opportunity so that when you sign up for the service, when you download the app and indicate that you would like to use these services, there would be an opportunity for you to say, yes, I need a wheelchair capable vehicle. That is not something that we expect to be available immediately upon passage of the ordinance, but we do want that to be a goal. It is something we strive for. And so we have

-- the language that you have in front of you provides that an accessible service request indicate kerr must be available on the app within three months of the initial agreement at which time the driver can provide the request for an accessible ride and they must provide an accessible transportation arrangement. I'm glad that we now actually are envisioning a mechanism that could provide a good, workable service for those who need wheelchair-capable vehicles. A couple of other things that I wanted to mention on the issue of reporting, that was a subject that we talked about in some detail and the question was whether we would require monthly or quarterly reports. And what the draft before you resolves that by providing something of both. The idea would be that the tnc would provide quarterly reports that would provide information on a month-to-month basis so that we would still have that information and we would still be able to see variations from month to month in terms of patterns and we would be able to see the variation that occurs in march or other unusual months. But that data would be provided on quarterly bathe r. Basis and we would be able to see progress from one month to the next. There's a few other technical tweaks addressed in redlining on the draft. The other thing is that I would suggest that we pass this on an emergency basis, which would simply mean that we don't have a mandatory 10-day waiting period before the ordinance goes into effect. That means it would take effect immediately. That doesn't mean that tnc service would be legal immediately because from here obviously once this ordinance is in place staff will need to go and try to work out agreements with the companies that are involved. And there's no certainty that any agreement could be arrived at within 10 days, but that

-- it is conceivable that that could happen. And the important point is that there is real urgency to this. This conversation is driven by public safety concerns. We have

-- there is a real need to provide safe options for traveling in austin. And that's why we're having this conversation. And so if agreements can be worked out within 10 days, then I don't see any reason why we wouldn't allow for that possibility. I would have that we approve this on an emergency basis. So with all that, mayor, I would ask that

-- I would move that we approve this with these changes on second and third reading.

[00:25:11]

>> Mayor Leffingwell: Motion by councilmember riley to approve on second and third reading with emergency passage, and that is

-- mayor pro tem cole is the second. I just want to point out the addition of

-- since last week of a new part 12 because I think it's very important as we all know we have a process ongoing to try to come up with a final solution in this situation, and I'm going to read it because it's very short. The city manager is directed to seek equity in the treatment of taxis and tnc's with regard to fares charged, dynamic pricing, fleet size, accessibility, insurance, vehicle safety and driver background among other relevant factors. The tnc stakeholder group should explore these issues and provide recommendations accordingly. I believe that's coming back to us in a few months, and my

-- I want to make sure that we provide a level playing field. I realize we're in a changing environment here and this is primarily a health and safety issue that we're trying to address here today. But at the end of the day the playing field should be level. And I think if these factors are considered when it comes back, that can be accomplished. Councilmember riley.

>> Riley: I certainly agree with all that. And the clerk had asked me to clarify one other thing. On the old copy I just passed out at the top of the first page it says item 77, and that is a holdover from last week and that should actually say item 58 since that's the number on this week's agenda.

>> Mayor Leffingwell: That is noted. Councilmember morrison.

>> Morrison: Thank you. I have several questions and request for clarification. I think I stated last time I don't think it's an emergency and would much prefer to see

-- would much prefer to see the whole issue go forward with the issue of

-- as the mayor mentioned, equity for taxis to make sure that our taxi drivers are going to be able to stay in business. But if we are going to pass this, I do want to get a few things clarified and make sure that we have the language right. I'm working from

-- I'm going to be working from the version that came out yesterday at 2:57 p.M., Which is pretty close to yours, councilmember riley, I think we'll be able to follow along. I want to ask first about the language in part 3, part a. It says a tnc may operate in accordance with the process set forward in this ordinance. One of the things I did was look at

-- first try and do a side by side comparison of the working draft that came to us from staff from the taskforce report, and it really raised the issue for me because it says a tnc may operate as prescribed herein, but I'm concerned about ensuring that it's lawful for them

-- una lawful for them to operate otherwise. And the language that we have from the working draft is it shall be unlawful for a tnc to operate within the corporate limits of the city without the proper authority. So I think that language should be probably added right there. I don't have motion sheets or anything like that. But I would suggest

-- I would make that motion that that kind of language needs to be incorporated.

[00:28:56]

>> Mayor Leffingwell: Is that a friendly amendment?

>> Riley: I'm sorry, the idea is someone operating outside the bounds of this ordinance, that that would not be lawful?

>> Morrison: We want to make it clear that you can't

-- you can only operate a tnc within these bounds. And right here it just says well, you may operate a tnc like this. It doesn't say it's the only way you can operate it.

>> Riley: I would direct your attention to part 7 of the ordinance on page 7 which says any person, partnerships, sole proprietor or anyone else who operates without an agreement with the city

-- with the city above described commits a class c misdemeanor punishable by a fine of not less than \$500 per offense. That actually strengthens our authority to take action against those who are not acting within an agreement as prescribed herein.

>> Morrison: Okay. So that's an indirect way of saying it's illegal to do it otherwise.

>> Riley: I think it's a very direct way of saying that. It's saying if you are operating as the tnc, you're not doing it pursuant to an agreement worked out here, that's an offense and we can fine you in the amount of \$500.

>> Morrison: Thank you for that clarification. Then in part 3, it says insurance coverage required by section c 1 and b 2 may be placed within eligible service lines in order. Insured and I'm not sure what that is and I wonder if someone could explain that.

>> Riley: I would to to turn from someone from the law department.

>> I'm leslie novo, the risk manager for the city. An eligible surplus lines carrier is a carrier eligible to do business in the state, but is not regulated by the texas department of insurance. So rates and insurance forms and coverage parts are not regulated by the state itself. The texas surplus line stamping office we views financials and authorized surplus lines carriers to work here, but they do not regulate the coverage forms. So that's what is a surplus lines carrier is that's eligible.

[00:31:18]

>> Morrison: What's the significance of that?

>> It gives more flexibility to create forms for different businesses that can't find standard lines insurance in the state. So they can add certain provisions in the coverage part and write businesses other carriers won't write.

>> Morrison: Thank you. My next question is in part 4, we're talking about the tnc drivers and they must use a vehicle that is in compliance with texas' vehicle quality requirements for private vehicles. And I'm not quite sure what that means. Perhaps somewhere else

-- does it say anywhere it has to have a valid inspection on it? And I'm not sure what this means, the usual inspections that I'm used to.

>> I believe that we had some help with legal on that language. Would our law department be able to respond to that question?

>> I'm angela rodriguez from the law department. Actually, this is not one of the lines I wrote. This is one that I lifted from existing contracts that were in place in other jurisdictions. So I sadly can't speak to that. But maybe mr. Thomas can.

>> Carlton thomas, austin transportation department. I believe that that would mean a state inspection. That would be the equivalent to a state inspection sticker and nothing more.

>> Morrison: Is there any reason we're not saying state inspection sticker?

>> I didn't

-- I do not know?

>> Maybe we could find a person that could

--

>> Riley: If the council would prefer that we say state inspection sticker I would certainly be happy to say that.

[00:33:34]

>> Mayor Leffingwell: Mayor pro tem? So that's expected.

>> I can make that clarification. I didn't realize that was going to cause confusion, but now

-- I'm sorry, I will fix that. Thank you.

>> Morrison: And this is a small thing probably, but in section b--- 5-b, it says a tnc driver history check is required and must prevent anyone with more than three moving violations or anyone charged with driving without insurance or a suspended license within the three-year period prior to the history check from driving for a tnc. The three moving violations would have had to happen in the last three years or ever in their records?

>> Table the three-year

-- I believe the three-year period was intended to apply to both, but I can get clarification on the standards that had been applied elsewhere. I believe that

-- I guess I would look to

-- when we get

-- we'll work at the law department to clarify that language. But the intent is that if you've got the three moving violations or any of those violations within treat-year period prior to the check, then you would not be allowed to drive for the tnc.

>> Angela rodriguez. As long as you're telling me that

--

>> Riley: We can clarify that. >>Ky clean it up, yes, sir

-- I can clean it up, yes, sir.

>> Mayor Leffingwell: That friendly amendment is accepted by the maker and the second. Might as well stay there.

>> Morrison: In section number 9 it says a tnc app used to connect drivers to riders must display an accurate picture of drivers and then some additional information. And I'm just curious about the requirement that the

-- this is a philosophical, the requirement that the apps display a picture of the drivers. I feel like that takes us a little bit down a road of potential discriminatory behavior based on what is in a picture. And maybe there's some experience that folks have in other cities, but it just brings that up for me and I wanted to get people's thoughts on the manner. I think the requirement is based on when you're in a tnc a private vehicle is pulling up and someone is giving you a ride in that vehicle. If you have never seen that person before you want some assurance that it is that person and it's not some stranger's car. So

the idea is you know exactly who to expect. And the person who turns up is not the person you expect to see based on the app you don't get into that car. It's an assurance of safety to the passenger.

[00:36:51]

>> Morrison: Thank you for that. There's probably a few different ways to look at it and I wasn't thinking of that, but that does make sense. And then in section 10 where we're talking about the fund, this really raised an issue for me because it looks like the intent is that the fund for the accessible fee surcharge is a fund that the tnc has and manages and gets to decide how to spend.

>> Riley: That's correct.

>> Morrison: Completely at their discretion?

>> Riley: That's right. This is based on what they've done in chicago. And the idea is we're concerned about outcomes. We want to provide an equivalent level of service for people who need we will chair capable vans or have other disabilities. We really want that transportation experience to be equivalent to the experience provided to other passengers. And that

-- it's really up to the tnc to figure out how to do that. And we've had a number of discussions about that in the short-term that might well entail hiring drivers specifically for that purpose, contracting with those who are able to provide that service. Whatever they need to do we want to make sure that they are providing that equivalent level of service.

>> Morrison: So I wonder if I could ask staff, I notice it sounds like in the taskforce version of the working draft

-- hello, mr. Thomas

-- tat it's the

-- it looks like the city would in fact

-- that this would be a city fund. Is that correct?

>> Carlton thomas again. That is correct. And in the recommendation that we pass along to council basically defines that fund as a fund which would

-- which would be contributed to by tnc's as well as taxis and the monies in that fund would be used to outfit, retrofit vehicles to be wheelchair accessible or even go towards purchasing accessible vehicles. But the city of austin would manage those funds.

[00:39:11]

>> Morrison: I see. So the city would support with those funds some of the industry

-- some of the companies actually buying those cars? Okay. So we're not going to be in the business of running the cars.

>> Not at all.

>> Morrison: So I could see it either way, although having absolutely no oversight on to this fund

-- on or maybe there's some oversight that's actually integrated into the auditing. It seems like there needs to be some oversight of actually

-- how many rides

-- prove to us how many rides, how much money, how it's been spent, and some standards for it to be spent efficiently. The only standard here is that they work toward the goal of accessible rides being met with weight times tim to others

-- with weight times being similar to others. And I don't know how to suggest that, but it does seem some accountability for those funds would be appropriate.

>> Yes. The records on those funds would be subject to audit that is required by the ordinance I believe and newly numbered paragraph 20. And I just would ask

--

>> we could also request reports for outcomes and uses and we could require those kind of informational loads in the data requirement.

>> Riley: If I may, mayor, in that same paragraph about the audit, the paragraph a talking about the reports, and it says that the tnc must evaluate and report information by month, including rider and dropoff patterns, cost of trip, length of trip and a.D.A. Service comparison to help the city evaluate the roles of tnc's on transportation issues. It's similar to what we're requiring of taxis. We have required taxis to provide the length of times and the weight times for people requiring a.D.A. Service?

[00:41:21]

>> Morrison: Are you saying that language covers that accountability that we're looking for?

>> Riley: Believe so. That was certainly the intent.

>> Morrison: I guess I don't quite see t we want to know how they spent their money, right? What did you use your

-- how much money came in and maybe that's under uncaught but the report should include that, I would think.

>> Riley: It was the intent on the audit language in the lead paragraph saying that the records must be available for audit by private agreed upon third party. The audit shall be paid for by the tnc. The intent with that audit would encompass the records for regarding those funds. But we can certainly clarify that if it is there.

>> Morrison: I think it would be good to clarify that and I have other questions about that because it looks like in the part b, 19 b or maybe it's 20 b, I'm not sure where the change happened, the tnc reports required under this section must document and evaluate. It looks like we're just asking for collective data, right, and so we're going to just ask them how many rides did you provide and then multiply that times 10 cents. We're not asking them for any more specific data like in the reports that be being asked in the taskforce report. It concerns me that we're only asking for collective data as opposed to if you look at

-- let me find it real fast. The working draft from the taskforce requires four-hour blocks of data. Needed four hour blocks of data. And here we're just asking for collective data over the past

-- I guess is it changed to a month, on a monthly basis? My question is can we adequately

-- can an auditor automatically look at

-- get the information needs to confirm that we're getting the

-- that they're actually contributing the right amount of money, for instance, into the tnc fund.

[00:43:55]

>> Riley: I would suspect it would be a fairly simple calculation if we look at the number of rides provided over the course of a month and we expect 10 cents per ride to go into that fund we can see it's a fairly simple calculation to see what amount should have gone into the account.

>> Morrison: But I'm just saying we don't get any more proof for them or evidence from them that that's the number of rides.

>> Riley: No, I guess that's true. It is a third-party audit, but I don't know what more we could do to verify the exact number of rides.

>> Morrison: Let me ask mr. Thomas, if I may, because the working

-- the work that you are doing actually asks for data from four hour blocks. That means you want to know what happens every four hours sort of collectively as opposed to how

--

>> and that information is comparable to the information that we recently receive from the taxi franchises.

>> I notice in here it's your understanding you need that information to sort of assess access and how things have to be managed. Can you give us a better idea of what that really means?

>> I think Gordon would probably be better. Mr. Durr?

>> Gordon Durr, Austin transportation department. When we get into the data that we look at, we can certainly see the patterns over the day about what trips are being taken, when we're getting phone calls. And it varies considerably 70% of the call trips from 2:00 in the morning to 6:00 in the morning get trips. It's about 30% from midnight to two a.m. So there's a pretty wide variation in activity level and also response to activity level. That's why we ask for it by blocks of the day so that we can get that picture and make it fit with the taxis and the other vehicles for hire that we're going to have in our system and that we've got to get to play with each other.

[00:46:02]

>> Morrison: So under the ordinance right here you're not going to get that level of data. So what does that mean in terms of you being able to do your job?

>> Well, still the framework that we understand the council is setting forth with us doesn't constrain us from asking for additional information. So I think that's still helpful and something that we'll request as we move forward and then we negotiate from there.

>> Okay. And the councilmember Riley, you've added that this data should come in by month.

>> Riley: That's right.

>> Morrison: And one of the things I noticed in the taskforce working, it had a timeliness element to it, within 15 days or something like that. I think that would be useful here also if you would accept that.

>> My understanding of the current proposal is they would give a report quarterly, which had data by month.

>> Morrison: Okay. Down to quarterly, by month. But how about time limits even if it's only coming in three times a year?

>> Timeliness?

>> Morrison: That there should be some kind of expectation in here of how soon after the quarter ends they should provide the data.

>> Riley: Certainly. And I think that

--

>> you could certainly write that into the requirements.

>> Riley: I don't know what

--

>> the 15th day after the end of the month is when the reports are required from the vehicles for hire at the moment.

>> Riley: So that's a general rule for vehicles per hire. I certainly expect that same approach would apply here.

>> Morrison: Is that something we can add in here?

>> Riley: Sure.

>> Morrison: Great.

>> Mayor Leffingwell: Mayor pro tem? So that's added.

>> Morrison: And then in section 3 b 13, it says a tnc driver may not drive for more than 12 consecutive hours. So first of all how do we define drive and second of all is it when the app is on is what we mean? And then the second question is how much downtime before they could have a second 12 hours? I think that's ambiguity in that statement. I think I would ask the crafter of the motion.

[00:48:40]

>> Riley: And know that I believe it's true that that is not expressly addressed in the ordinance and I don't know if there are similar requirements. Carlton, could you address the similar requirements with respect to taxi cabs and how that works? You.

>> Currently the code requires that after 12 consecutive hours of operation they're required to go down to eight hours. That is actually something that is being considered to be changed as we work forward with the taxi cab taskforce, and we are looking for requiring 12 hours within a 24 hour period, which allows time to go on [indiscernible]. Currently we notice that a taxi cab driver works 11 hours and

doesn't meet that 12 consecutive hour, they can go down and then come back up. We want to avoid that.

>> Morrison: So you're saying you're looking at no more than 12 hours with any

-- within any midnight to midnight or within any 24 hour period?

>> We were looking at within a 24-hour period. It would begin when they first went on. And within the next 24 hours they would be entitled to operate for 12 hours.

>> Morrison: I see. You have the language that drivers will not operate for more than 12 hours consecutively within a 24. You're talking about no more than 12 within any 24.

>> Correct.

>> Morrison: So you're not recommending the consecutive nature of it because that's where it starts getting game.

>> That's correct. I'll be happy to take that as a friendly amendment to say any tnc driver could not drive for more than 12 hours in any 24 hour period.

>> Mayor Leffingwell: That's accepted as friendly.

>> Morrison: Thank you. And then in section 14 it says a tnc shall establish a driver training program designed to ensure that each driver safely operates his or her vehicle prior to the driver being able to offer the service. I don't see any training requirements anywhere in the ordinance. Maybe I missed it. But the way I read this is to satisfy this all they have to do is establish the program, but obviously with the expectation that the drivers will be required to take it. Is

-- are they required to take it on an ongoing basis at all, once a year or anything like that, just once?

[00:51:28]

>> For purposes of this ordinance, no, there was no interim provision about periodic training.

>> Morrison: Okay. Thank you. Then in section 15 a tnc shall implement a zero tolerance policy on the use of drugs or alcohol. And advertise is. And advertise it on the website along with procedures for filing complaints about a tnc driver suspected of using drugs or alcohol while driving. When I first read that it sounded to me like you were suggesting that the policy had to be that drivers may not ever use drugs or alcohol. I presume it's a zero tolerance for driving under the influence. Is that correct? Because I read it to mean like if you have a beer you can't ever drive.

>> Riley: That was not the intent. That was what

-- the idea was that you can't use drugs or alcohol while driving.

>> Right. I wonder if there might be some clarifying language.

>> Absolutely. It does say while driving, but while driving for the tnc may be better. Is that acceptable?

>> Sure.

>> Morrison: It's all about actually they have to advertise the zero tolerance policy and then talk about procedures for filing a complaint, but about a certain thing, but you still have that there's a zero tolerance policy on the use of drugs and alcohol. Which stands alone the way I read it.

>> I see your point. So I can add drugs or alcohol while operating under the tnc. I will add it there and also add it after while driving. I will make sure that is explicit, if that's okay.

[00:53:41]

>> Morrison: Thank you. And then in section 16, the tnc shall conduct outreach events to community organizations with a.D.A. Compliant vehicles and report back to the city on results quarterly. I

-- it would be helpful to me to get an understanding of what that is meant to be all about because I don't know what a community organizations with a.D.A.-Compliant vehicles, so that's like carts and things like that? What are we talking about?

>> Riley: If I may, mayor, there are many institutions that have a.D.A.-Compliant vehicles, churches, schools, 501(c)3's, various organizations have vehicles that are available. So the idea is to reach out to those organizations to make known the need for such vehicles and drivers who could provide these services so that we can actually connect these vehicles and those drivers with those who need their services.

>> Morrison: So you're saying that the churches with the a.D.A.-Compliant vehicles might become uber drivers?

>> Riley: To the extent that they have those vehicles and they have occasion to provide services they have drivers. If they have vehicles and drivers that could be used for transporting people who need those sort of vehicles, then certainly we would want to reach out to them and invite their participation in these services.

>> Morrison: Given that this is a law in 16 there could be some

-- at least some goal of what the outreach events are supposed to accomplish. I have

-- it's very open and it just says do outreach and report back. I think to be able to define what the goal is would be helpful. Otherwise it's pretty meaningless.

>> Riley: We could certainly provide language about

-- to publicize the need for a.D.A. Services with the goal of providing equivalent services to all passengers. Something we could certainly add language to that effect.

[00:55:56]

>> Morrison: Did you get that?

>> I'll get it later. Is that acceptable to you?

>> Morrison: I just want

-- yeah. I just need some kind of explanation.

>> Riley: This has been the subject of a lot discussion with both the tnc's and with members of the disability community. And I think we were all on the same page about what was intended, but I'm happy to add clarifying language if there's any confusion.

>> Mayor Leffingwell: And we can only do that if mayor pro tem cole says okay.

>> Cole: Hmm... Okay.

>> Mayor Leffingwell: It's really the maker and the second have to agree, not you three.

>> Okay.

>> Morrison: Councilmember riley, if you want to restate that, just one time restate it so we know the goal is that will go in here.

>> Riley: The ultimate goal would be to provide an equivalent level of services to all passengers. And the intermediate goal, I suppose, would be to make known to those with these vehicles and with access to those drivers that there is a need for that's vehicles and drivers in order to meet the goal of providing an equivalent service.

>> Morrison: Thank you for that explanation.

>> Mayor pro tem?

>> Morrison: The next thing, a tnc shall conduct outreach events to marginalized communities and report back to the city quarterly. I guess my first question is how are the tnc's going to understand what marginalized communities are? And then also to get a goal in here would be helpful.

>> Riley: This is something that has come up with other cities and I would invite anyone with either uber or lyft to come up and provide

-- and shed some light on this. Ty see ms. Mimms with lyft approaching.

[00:57:59]

>> Hi. So in terms of defining what marginalized communities are, all I can speak from is my experience. It's our understanding that in other communities, for example, in Chicago there's a definition within the transportation code that defines what underserved community means. I think it's defined based on your socioeconomic status. So what your income is. I'm not sure if there's an equivalent provision in the Austin code, but I would imagine there would be a way to figure out what the metrics are. And what we figure out what those communities are the outreach would be directed towards those communities.

>> Riley: Mayor? Part of the idea of carrying this data, this information is that we would get a good sense of where the request for service are. We would see what areas are not

-- where these services are not penetrating. Who isn't accessing these services. And can anything be done to recognize that. And is any outreach warranted to make sure that everyone has access to these services. That's the idea.

>> Mayor, I think we might suddenly consider instead of using the term marginalized that matches Chicago code that we use the word underserved.

>> Riley: That would certainly be friendly.

>> Mayor Leffingwell: That's another friendly amendment. Is that it?

>> Morrison: No. I have quite a few more. And what about

-- could you state the goal of that outreach? And add it in here so we know what we were trying to do.

>> Riley: The goal would be that all members of the community have similar access to these services.

[01:00:09]

>> Mayor Leffingwell: And I thought it was more about whether they would be serving that area or not. How does that help an underserved community get access to uber or these drivers if they're not

-- if they're not interested in going to that part of town.

>> Riley: Certainly nobody is going to require anybody to take a tnc ride. For instance, if there's

-- I know there has been a history of some neighborhoods in town having difficulty accessing taxi service. And so the idea is to learn from that experience and to try to address it in advance by saying if there's an area that appears to be underserved, let's see what we can do to address that. Is this a matter of them

-- of a lack of awareness of the availability of these services, and if so, outreach might well be helpful to provide information about the services.

>> Morrison: Okay. So it's really about ensuring that the underserved communities are aware that this service exists.

>> Riley: That is certainly one issue. I have also heard a concern that not everyone may have access to smartphone technology. Whatever barriers there might be. And I don't know. Certainly we've addressed

-- we've been focused on the disability community, but there may be other communities that turn up in the course of a review of the information that would shed some light on this. I see ms. Mimms approaching.

>> I just wanted to add this is something I talked about at the last hearing. One of the benefits of the driver application is that when a driver sends out a signal it's sent to the closest available passenger so the person putting out that ride request. I think one of the things we've done at lyft and we've started to do and need to do more is we want to recruit drivers who are in communities that are traditionally underserved with the goal that there would be

-- that there would be a group of drivers who have been trained who meet our requirements who are on the app so when requests are going out in that community there are people in a close amount of time and that signal would be sent out to them and they would start receiving more coverage than maybe they had traditionally. That would be the goal as part of the outreach.

[01:02:23]

>> Cole: So it's my understanding that it works both ways it's not just about the underserved community knowing about tnc's, it's also about tnc's knowing where the underserved community is. And I think the outreach everyday has to be done primarily that reason, but it's both.

>> Morrison: I'm not arguing against doing an outreach effort. I'm just trying to understand what the foundation of it is because there was no explanation in here at all. And I think that to have the expectations and the goals set in the ordinance is important. But then there's another issue that I know there was a question about local presence for the tnc's, so I'm concerned if there are very light requirements for local ties from the tnc corporately, how do they know where those communities are and how to interact with them?

>> I think that's part of the outreach efforts and what we're trying to establish here. Do you have a comment on that, ms. Mimms?

>> I was going to say we did a driver recruiting event in Chicago and one of the things we did was we recognized that we didn't have as much on the ground experience so we developed a partnership with the Urban League and they had relationships on the Southside of Chicago and so we were able to partner with them to do a driver recruiting event to bring people into the community, to talk to them about what requirements are to join the platform, to talk to them about what the flexible supplemental income opportunities were. And so that was one of the ways in which we were able to get that on the ground expertise on is by doing community partnerships?

>> I appreciate that and that's the kind of thing that's going to need to happen. What I see in this ordinance is just a tnc just has to do this and there's no accountability for doing it well or for any kind of oversight of the city. It's just the staff will get a report and it might just be not such a good report. Maybe they did outreach and they failed to do it. And that's such a subjective thing. So I don't know how to deal with that but I do think just handing it over to tnc's do your best is really not adequate. I appreciate that did you that. We can hope that everybody good d that kind of thing, but I think there should be some requirements in the law to

-- that allow us at least to evaluate it and put new requirements in their agreements if they're not doing it adequately.

[01:05:03]

>> Councilmember Riley.

>> Riley: The requirement says the tnc shall provide quarterly reports to the city, providing information on the effectiveness of the platform to address gaps in Austin's transportation network. And to develop this the tnc must evaluate and report information by month including rider pickup and dropoff patterns, peak ridership times, popular pick up and dropoff locations. The idea is this will be a learning process. This is an interim measure that is

-- that hopefully will be providing helpful information as we continue to work on longer term regulations. And so I don't know how many of these reports we would get. I don't know how many quarters we can expect these particular provisions to be in effect, but certainly if we see

-- if they're in effect long enough for us to be able to identify some gap that is not being addressed, then certainly that would be an appropriate thing to address either by way of the longer term regulations or if this is still in effect by some amendment to these standards. But I don't know that we can anticipate every single gap and how to address it in this interim measure.

>> Morrison: Mayor pro tem, if I may?

>> Cole: Yes. I was going to ask

-- go ahead. Councilmember morrison. Are you still on the subject?

>> Morrison: Yes. So I guess you're trying to identify the gaps that this is going to be sort of a process for identifying the gaps, but I'm talking about how do we make sure that there's outreach, at least some accountability that their outreach was reasonable outreach? Because if the outreach is just

-- is not reasonable and they don't do a good job of it and they don't partner with folks, we're not going to be able to learn what the gaps are. So this is

-- you're saying that this is core

-- doing this outreach is going to help us figure out what the gaps are. And what if they just don't do a good job of the outreach in the first place? I'm suggesting there should be accountability in terms of being able to provide to the city their outreach plan or something.

[01:07:16]

>> Cole: Councilmember riley.

>> Riley: The information we're getting on a quarterly basis is what tells us where those gaps are. Are there parts of town that just aren't getting served. And then we could ask what

-- the idea is outreach efforts would be helpful to address that. So for instance, if we find there's some part of town where we're not seeing any use of tnc services, and then at that point there could be some consideration about outreach in those areas to enlist more drivers, to make

-- to promote awareness of the availability of the services. I see one of our partners

-- one of the tnc service providers here. So I would invite you to add anything.

>> Yeah. This is Chris Johnson with Uber. I just wanted to reiterate, our company we do have a team on the ground here based in Austin and so we have a staff, we have an office set up here. So it's

-- we are learning nuances of the city. Obviously our operations have only been here since May, so there's a lot of work that's still being done. Meeting with community groups, learning about the community and finding where the gaps are, where transportation services are missing or lacking and providing that information. So that's the type of thing that we're looking to do is continue to build a relationship with the community because it's part of building a business.

>> Morrison: I appreciate that and I agree. And the benevolence of the companies is terrific, but we're writing an ordinance here and what if we identify that there's a gap from the report, we want to be able to have

-- to close the loop and to be able to go back and direct to the TNC's, you should do outreach in this area. And this ordinance doesn't do that. This ordinance just lets the TNC's just do the outreach and then they just report to us. I'm just trying to suggest that there should be some feedback and the city should have some ability in the agreements to control some of the outreach that they do.

[01:09:23]

>> Cole: Councilmember Morrison and Councilmember Riley, let me try to take a stab at some potential language to get at what I think you're getting at. Outreach events to underserved communities in collaboration with the nonprofit sector and to include the effectiveness of that in the platform that will be provided monthly.

>> Morrison: Report that will be provided?

>> Cole: So we'll say work with the nonprofits and provide that information as part of your platform. Councilmember Riley.

>> Riley: I'd just note there's been a lot of talk about providing an equal level playing field. Of course we don't require taxis to do any outreach and even though we know there are long-standing gaps in the service that that's provided, there's been no effective measure to address those gaps. So I appreciate the desire to ensure that there's good service, but I just want to point out that we're going well beyond the measures that we have ever put in place on taxi cabs.

>> Tovo: Mayor?

>> Mayor Leffingwell: Councilmember Tovo.

>> Tovo: I know one of my colleagues has the floor, but I wonder if you would allow me to ask a question of staff. This assertion has been made a few times so I wonder if you could tell us, mr. Thomas, or someone else from our transportation staff, what

-- whether it's accurate that there are gaps in our

-- in terms of the neighborhoods that are served by our taxi cabs. And if so, what actions transportation staff have done to rectify those? It was my understanding that taxi cab drivers have a responsibility of taking the calls that come in regardless of where they originate.

>> That's currently with the franchise agreements that all three franchises have here in town there's a requirement to serve the city

-- to provide citywide service and to provide that service 24 hours a day, seven days a week. We are not aware of any predominantly underserved areas in town. That has just not been brought to our attention.

[01:11:31]

>> Tovo: Thanks for that. I think it's important if we're making comments up here that they be accurate in terms of our transportation staff experience. Mr. Thomas, if there were

-- if you did start to hear complaints from certain areas of town that they were not able to receive taxi cab service or that when they called they were given, you know, longer

-- I don't know what that would look like. Longer waits to discourage them from taking a cab or what might be the other ways in which they would not be served sufficiently, what would be the response?

>> We would then bring in the franchises and discuss any deficiencies that have been brought to our attention and provide that they correct it.

>> So we have measures in our code to make sure that there are not underserved areas in our town in terms of taxi cab service.

>> I think that was a big intent of the franchise ordinance agreements.

>> Tovo: Thank you. And in your experience, just to make it abundantly clear, you're not aware of any problems in that regard?

>> We are not.

>> Tovo: Thank you.

>> Cole: Mayor?

>> Mayor Leffingwell: Let me just say there are a number of very detailed amendments that we're going through right now in this process, and I think we need to keep in mind that this is really an interim ordinance. It's only going to be in effect a few months and we have a taskforce in place that I think could more properly and more fully address all of these issues before we come out with the final thing. So I'm really questioning the productivity of adding all of these detailed, very detailed type amendments and going into these issues here on the dais on the fly. I'll just offer that off the top of my head. Who has the floor? Councilmember morrison or councilmember tovo?

>> Morrison: I guess I do. And I disagree, mayor. I think that we should at least know what this law is that we're putting into place. And these are fair questions to ask, I think.

[01:13:34]

>> Mayor Leffingwell: I didn't say they weren't fair, councilmember.

>> Morrison: I guess it was just unproductive.

>> Mayor Leffingwell: Yes.

>> Morrison: Right. And I disagree. I mean, I think that good quality law making requires that you know what you're approving and why. So the

-- I guess with regard to outreach purposes we're not really anywhere. So that's fine. So

-- and number 20, a tnc may not allow it's drivers to refuse a passenger who is disabled. Can you help me understand how all that works? Because a driver might refuse. Is that an internal thing, we would expect them to fire the driver or how does that all work within this language of the law?

>> Mayor Leffingwell: Is that a question for staff? Councilmember riley.

>> Riley: We certainly

-- I would expect that that would be subject to complaint process and then I would turn to staff and ask what happens when we get a complaint in regard to any other ground transportation service that is in violation of some requirement. I assume that there would be some similar action to what staff just described where the provider could be called in for a discussion and appropriate action could be taken.

>> Unfortunately, taxi drivers are not afforded the ability to refuse to convey. They do that

-- if they do that it's a violation of the current city code.

>> Riley: We all know that and we also know that we get

-- at least I have gotten anecdotal reports of violations of that rule. And carlton, are you understanding your head to say you have heard some reports of those rules being violated?

>> Yes, we have.

>> Riley: So that does happen on occasion. And what happens? So when you hear a complaint, what action is taken?

[01:15:39]

>> We investigate, and you are correct in that most times it is brought to our attention through the complaint process. If the investigation indicates that the driver did in fact refuse to convey someone for someone that is not given as an exception in the code then the driver is ticketed after the fact. We also conduct undercover operations in which we go out ourselves to see if this activity is occurring.

>> Riley: And given this language with these requirements, you could conduct similar operations with respect to tnc service?

>> Yes, we could investigate.

>> Morrison: Thank you for that clarification. Then I want to go to rt 1 in the findings and I have a question about part t. It says some members of the stakeholder group have expressed concerns about the information that the stakeholder group is receiving. The way that input is being handled with the stakeholder group and over the composition of the stakeholder group. So my question is do we have hopes of getting

-- I know we have maybe some representatives from the stakeholder. I wonder if you could introduce you're yourself and help me understand the statement.

>> My name is eric dos and I represent stake hold group and not the taxis. I think the stakeholder group is making slow, iterative process, but many of the issues that we're discussing y'all resolved in a few amendments quickly. And the reason that's important is because when you have wildly different parties on both sides of the issue, the stakeholder group will never reach consensus and that's why you're seeing five-two and four-three votes in your council to resolve these issues because ultimately you have to make the hard decisions and you are doing that and making much more progress, much more quickly than we have in the stakeholder process so far. So I appreciate y'all making those cuts and moving forward.

[01:18:00]

>> Mayor Leffingwell: So I thought this was to do a quirk and dirty ordinance and etcetera leticia you guys do your work. So you're thinking oh, the stakeholder group will just do what's in this ordinance?

>> I think the stakeholder group will continue to work, but it's helpful to see y'all make policy cuts because it's just logically impossible for the stakeholder group to agree on any one thing because its composition includes people opposed to tnc's and people in favor of tnc's because of their business models. So we'll continue to get recommendations and staff will filter them out like they have before. So the stakeholder report you've had is staff's view of the issue.

>> Morrison: Right. Let me ask you this: There are concepts in the staff treatment of sort of what's floating out there right now that are nowhere near here in this ordinance. Things like certifications, like the tnc has to certify and be able to prove to the city that certain things are being followed. Are you all still talking about those things? I guess I'm just real concerned that if you

-- I don't want anyone to assume that just because it's not in this ordinance that there's been a policy

--

>> everything is on the table at the working group and we'll continue to meet as called for by this ordinance and your previous may 15th ordinance.

>> Morrison: Thank you. And are you getting the information you need?

>> Yeah. I feel confident that the tnc is working. I took one to come to this meeting. I'm looking forward to making sure it's legal.

>> Morrison: Okay. Thank you. And then I have a couple of questions about a few things that popped up in the

-- in the staff working group, something that raised questions for me. For instance, there's a line item in that draft that says that the tnc permits are whatever it is that authorization from the city is not transferable or otherwise assignable. And I didn't see that in here. And I wanted to ask, especially our staff and/or our legal folks, if there should be a line like that in this ordinance.

[01:20:09]

>> Well, again it goes along the lines of the taxi franchises and that the city council felt it appropriate to indicate in the code that a franchise cannot have a sale or transaction without council approval. So that's what's behind that particular item.

>> Morrison: So if this if there were a sale or a transaction from a company to another it would be

-- you would be allowed to actually transfer this authorization from the city.

>> I think another issue which we heard anecdotally was in other places that there were personals responding

-- persons responding that weren't the permitted driver and weren't

-- it was somebody's friends, uber/lyft, and it wasn't the vehicle. So again, if we're going to go to the

-- if we're going to permit the driver and permit the vehicle, we want to make sure those are married up and not someone else just wanting to make a buck because their friend.

>> Morrison: I see. So that doesn't make any sense within this one because this isn't permitting drivers, right? The current ordinance.

>> Correct.

>> Morrison: Okay. Then also there was a mention about fulfilling the requirements of 13-2-161 which is the application requirements. And I wondered if that had applicability in this ordinance.

>> Which section was that in?

>> It's 13-2-161, which is the application information that's required. There's no mention of that in this ordinance. Is there a problem?

>> So the problem that currently exists requires that anyone that seeks authorization to operate in austin provide a certain amount of information on their officers, their plans and those things are what are currently required in code. It would be something that would be very useful to the department.

[01:22:14]

>> Morrison: So I would like to suggest that we consider adding that line, that requirement into this ordinance because you have to keep writing those requirements and it helps you in terms of understanding the organization and keeping track of it. So that's under section, if I can find it. It's actually on the first page of the recommended guidelines, it says at the top, 2014. This is in the staff memo that they sent us on the 24th of september. It's under company requirements roman numeral two, licensing. It says to submit an application should be submitted pursuant to 13-2-161. So that would be a motion to include that.

>> Riley: I think that would be fine.

>> Mayor Leffingwell: Mayor pro tem? That's accepted.

>> Morrison: And I think there's one question that I'm sure some folks have received emails on and I just want to get the question out there. And that is with regard to the phases we have in this ordinance of insurance when the app is on and then the insurance no longer has to cover you once the app

-- once you don't have a driver anymore. Passenger anymore. And the issue was what happens and who covers it if you're backing out

-- if you drop off your passenger, turn off your app, back out of the driveway and have a terrible accident. And this

-- have you seen that email, councilmember?

[01:24:23]

>> I did see the email and I would be glad to ask one of the insurance experts about that.

>> Curtis scott for uber, insurance counsel. I heard your fact pattern. It's a little broad. I'll try to give you a simple answer. If the person is in the course of exiting the vehicle the ontrip insurance would cover that. So if the person was backed over and they exited on one side and they're struck it would be covered by that-million-dollar commercial policy that we have during the trip acceptance phase. To give you a different example if they were to get out of the vehicle, go across the street, have a cup of coffee, turn it off and come back later and be backed over, it's probably personal use at that standpoint.

>> Morrison: Okay. I know there were some concerns about that. And then one last question and maybe I could ask you your experience with this, it's my understanding that in the state of texas every one of the drivers for one of these tnc's will be required

-- will be under law required to pay tax on their car as business equipment. And so I wonder what your experience is with that. That of course is tax money that comes to the city for us to use with our general fund. So what is your expectation of your drivers?

>> I unfortunately can't comment for either company or the industry on that because I don't have any experience. I'm an insurance attorney and didn't go on the tax track at law school, but I would be happy to defer to a different colleague that could answer the question.

>> Morrison: Great. I would love to hear from what experience you have in that.

>> So with respect to

-- just so I can clarify what the question is. Whether the drivers whether the drivers would be providing ad valorem taxes to the state. Is that a question?

[01:26:34]

>> Morrison: It's not a question. They are required in the state of Texas to do that. So what is your expectation of your drivers and how do you help to make sure that the city that you're operating in is receiving its legally due tax revenue.

>> Well, I think with respect to the companies from our perspective we don't own a fleet and we don't have any employees. So that relationship between the employee and the company in terms of what we're able to compel them to do is a little bit

-- it's a little less connected. I think we would assume that drivers would comply with whatever the state law is, but I do know that there is some ambiguity as to whether the activities that they're providing, they would be required to pay ad valorem taxes because they're using their personal vehicles and they're engaging in

-- at what we call sharing of rides. And right now we're on a donation-based platform. So I do think that that issue needs to be explored and we look forward to having that conversation at the state level because we know it's important and that it has been expressed here. And so we look forward to being involved in those conversations.

>> Morrison: Okay. It's my understanding that it is required and that

-- maybe not because if you're on a donation basis, but if it's our legal

-- if it's the legal opinion of the city that that payment does need to be made and we are entering into agreements with companies that basically have a partnership with these

-- I know they're not employees, but basically have a partnership with these folks that owe the city tax money that can be used for parks and police and all of that, that I think that it's very fair for us to start looking at an expectation in the final version where we finally get taxis equalized and all of that. And expectation and an accountability to ensure that those drivers are paying the taxes to the city. Otherwise we're just giving them a pass. And since the city's agreement is with the tnc, it is absolutely a fair game discussion to put into our agreements. And otherwise we're just allowing this money to go

-- to not come into the city. And guess what? We need the funds. It looks like we have somebody else behind you that might be interested in commenting.

[01:29:12]

>> Yeah. I just wanted to add, similar to state income taxes or any other income taxes

--

>> Mayor Leffingwell: Name, please.

>> Chris Johnson with Uber. We provide

-- drivers are independent contractors, our driver partners are independent contractors, so they're responsible to pay any taxes required in the jurisdictions in which they operate as independent contractors. We have advised them in regard to income taxes and 1099, they have to pay taxes on their own. If there's a requirement in the state regarding taxes on this, then it's the responsibility of the driver to do that.

>> Morrison: Not would it be the responsibility of the drivers, but what I would like to see in the council discussions about this is that we should have an expectation that the tnc will help to ensure that their drivers do pay their fair share of taxes. And there should be some ways that we could get into the agreement some actions that they could take to encourage that to make it more likely.

>> I would only agree to that if that is the case with all independent contractors within the city of Austin that they do the same thing.

>> Morrison: Well, thank you for telling me what you might agree to, but

-- so with that I don't think this is an emergency. I am still

-- I still think that it is not appropriate for us to move forward. I don't know what the emergency is. I know there was some interest in getting, I guess, Uber legal before ACL because they were going to partner with them, but they are not necessarily going to be legal unless it passes on emergency. And then maybe next week they might be legal. But I look forward to the taskforce's work and I think that going down this path of an interim is really putting the taxi and other for-hires into a bind in the coming months. And it's not an easy business out there. And for the taxi drivers. I'm very disappointed to see this go forward. I appreciate my colleagues taking the time to answer the questions and try to add a little more clarity, but I won't be able to support it.

[01:31:25]

>> Mayor Leffingwell: Councilmember Tovo.

>> Tovo: I have some questions and some amendments, and before I get started, I will just answer the question you raised before about whether it's appropriate for us to be up here making changes to an ordinance on the dais. And I would just simply say all of us, I believe, voted for a resolution last spring that allowed the stakeholders to come together in a thoughtful, careful, diplomatic active way with our

-- deliberative way with our staff and other outside experts to craft a pilot program. My colleague on council has decided to step ahead of that process and so yeah, that's what we're left with, we're trying to very quickly integrate as many of those recommendations from our staff, from our city legal, from the stakeholders as possible. This is one we had an opportunity to talk about in executive session and it is one we talked about this time and I believe it is one of the items that my colleagues indicated they would be willing to consider again on second reading. And that relates to insurance. And that is on page 8 that we received on the dais. You remember last time I made an amendment that added the word primary h 1 on page 4, this is part three, subsection b, and this would

-- and that was

-- in b 1, we did not get agreement on inserting primary commercial into the second part of that. And I'd like to revisit that issue and I'd like to ask our staff, perhaps risk management staff who made the recommendation about it being

-- or city legal. I'm happy for whatever staff member who feels best able to answer this question. I wonder if you could talk us through why the recommendation from both the taskforce and from our own risk management staff was that there be primary commercial inserted before. Before insurance on this part two, where the application is turned on. But there's not

-- there's not yet a passenger in the car.

[01:34:04]

>> Angela rodriguez again. I just wanted to clarify the proposal that risk management

-- pardon me, that we put forward was that it be commercial. That it exclusively be commercial insurance and then the discussion that we had was if the word primary would be necessary. And so

-- I just wanted to give ms. Tovo some context. She wasn't in executive session. [One moment, please, for change in captioners]

>> Tovo: ... There could be a problem for a driver who has a personal policy and the personal policy is expected to handle the claim first when they are engaging in a commercial activity, that they could, in fact, be jeopardizing their personal insurance policy.

>> There could be situations where there are certain coverage gaps. It's of concern.

>> Tovo: Would the insertion of

-- would an amendment addressing that alleviate that concern?

>> Well my recommendation to the stakeholders is that drivers who drive in businesses need to have a commercial insurance policy, and that commercial insurance policy should cover them wherever they go and it would be their own insurance policy, not tnc's insurance policy. This, though, is kind of a hybrid which brings in a surplus lines concept, because I am assuming the reason for that is there is many part-time drivers and the insurance would cost them more money and this would allow the part-time drivers some flexibility. We could try to insert language in here that would make primary

-- the concern is that [mumbling]

[01:36:47]

>> Tovo: I have an amendment and I will give an extra copy and to my colleagues, I am distributing, in essence, largely the same amendment that we discussed last time. We had an opportunity to discuss this a little further in executive session and I would just submit to you that I think we are exposing the drivers to some level of risk if we don't require

-- the tnc provide primary commercial coverage at the time they have their application on for the reasons we discussed earlier. So that's my friendly amendment.

>> I would certainly like to say the word "must" instead of "may."

>> Council member riley

--

>> and I was thinking we were going towards the houston concept where if the app was on, the commercial insurance was enforced.

>> Tovo: And I believe that's what my amendment does.

>> Mayor Leffingwell: Council member riley.

>> Riley: To be clear, the amendment we received, is that prime

-- between the time

-- well, beginning when a tnc driver has logged on to the tnc digital network and indicated they are available, from that time until the time they

-- they

-- the driver accepts a request for transportation through the tnc, during that window of time, primary commercial insurance coverage must be provided of 30,000 per person for bodily injury, 60,000 for

personal injury up to two or more persons and at least 25,000 of property damage. The required insurance coverage must be provided by the tnc. And the change

-- the changes that

-- the changes that represents is inserting the words "primary commercial" and then in the last sentence

-- current language says the required insurance how far may be provided by the tnc, the tnc driver or combination of the policies maintained by either so we are talking about some flexibility with respect to provide the coverage during that window. We are talking about changing that to it must be primary commercial and it must be provided to the tnc. And I would just like to ask mr. Scott, who has been helping us with some of these issues, about his reaction to that change.

[01:39:06]

>> Sure, thank you, council member riley. Two different issue there, the first is with regard to it expressly being commercial insurance. As I stated last time I was here, the personal insurers industry has expressed interest in looking to create tnc specific insurance products that drivers can purchase to cover this very narrow period of time that would sit within a personal policy, requiring a commercial standard therefore closes that possibility and discourages the industry to continue down the path that they are already working on. As I stated last time, uber and lyft has stated, we are in talks with personal insurers to create these exact type of products. May, in the last sentence, is the ability for the tnc driver to procure that type of coverage. If I can respond, also to the surplus lines issue is they often are the portion of the insurance market that covers new and innovative companies. They have more robust underwriting expertise and are able to create ratings for these new industries first and your admitted market often catches up over time which is the natural progression we are seeing here now with personal insurers speaking with us.

>> Riley: So it's that sense that there is a time of some change for the insurance industry, that there is some discussion going on with regard to up novations that could

-- innovations that could address these situations and the language that's currently in there that allows some flexibility with which coverage would apply, that that would encourage

-- that would support some continued discussions and innovation?

>> That's correct.

>> Tovo: And, in fact, then if we, say it must be primary commercial and it must be provided by the tnc, period, what effect would that have?

[01:41:12]

>> It would foreclose the ability for them to do that because there would be no market for that in Austin. If you required it to be commercial and required it to be held by the tnc, the personal insurer wouldn't be able to sell that.

>> Riley: So looking at this from the stand point of the driver, does the driver have anything to gain

-- why wouldn't be in the driver's interest for the tnc to cover all of those costs? Does the driver have anything to gain involving the type of flexibility you would like to see?

>> Sure, they have the flexibility in having really a simplified

-- their policy covering this period of time when they are at the car at all times, when the risks look like personal use. You don't have to have, you know, two policies there anymore. It is a very natural extension of what they are doing and they really affirmatively covering what we already see regularly in terms of pizza drivers, attorneys driving in the cars with their clients, real estate agents, and so this activity is very common among the marketplace with businesses. What we are doing is working with insurers to create affirmative coverage for additional peace of mind. The coverage is already so broad it covers all bodily injury and property damage unless expressly excluded.

>> Riley: Why wouldn't a driver have a peace of mind in all on the tnc? Why not rest easy knowing the tnc will cover it whenever I have my app on?

>> I think what we are trying to do here is identify where the actual risks rest. Like I said here, during period one, it is hard to identify necessarily who a driver is associated with. They are not under an employment contract and they are not under tnc's direction. It is not until they accept the ride that it's identifiable that hey, I have now taken a ride through the uber app to go pick up Joe who has requested this ride.

>> Riley: I see. From insurance stand point, it makes more sense to assign the risks to where the

-- where the discretion lies?

[01:43:17]

>> Correct, and there are endorsements out there in other states and places to that that are

-- have addressed this issue in some similar context, and you are starting to see this come to fruition now for tnc. I see endorsements that allow a traveling minister, for instance, to remove a certain exclusion so he can have his personal property covered, you know, services.

>> Riley: Okay. Do you see a down side from the driver standpoint that

-- there has been talk about putting the drivers at risk, that if we

-- that if we allow this flexibility, that the driver could be somehow jeopardized.

>> No, it doesn't put them

-- it actually doesn't create any additional risk whatsoever and it puts them in an insurance marketplace that they are most comfortable with and accustomed to already either being direct insurers or their local agent, if you will from state farm or all state or farmer's. Take your pick.

>> Riley: Thanks.

>> Mayor Leffingwell: Thank you.

>> Tovo: Mayor.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I guess I would like to ask the same question to the staff. Do you see an increased risk for drivers with the insurance as it is?

>> Well, the main thing we were concerned about is the personal lines insurance company being a completely different insurance company than tnc's insurance company and the two are basically both trying to deny the coverage, and so the driver is stuck in the middle with two insurance companies arguing with each other about who is going to handle the claim. And the claim goes on for months and

-- and the person who suffers the most are the claimants or somebody injured or the property damage that's ensued.

>> Tovo: So it does sound like there is increased risk for the driver under this situation?

>> There is certainly increased complications.

>> Tovo: And potentially for any passengers that could be hurt. It could delay coverage not just for a driver getting his or her car fixed but also for another car that's involved, also for any passengers that are hurt. They might

-- it might delay their coverage, their reimbursement, their ability to get care?

[01:45:34]

>> Yes.

>> Tovo: Potentially? To me I think that's a good reason to, you know, with all due respect, if the insurance companies are working to create this hybrid product or this new product to meet this new demand, my guess is that level of innovation is going to go on and we can always amend what is already an interim

-- intend and as an interim ordinance, so I don't believe stifling innovation in the insurance industry should be our abiding concern here. I think limiting the risk as per our

-- the suggests we have heard from staff is where we should go on that, so, again, I am proposing that as a friendly amendment.

>> Mayor Leffingwell: Council member Riley.

>> Riley: To be clear, there is mention of risk for passengers. I just want to emphasize we are talking about a period of time when there is no passenger in the vehicle. We are talking about a period before the driver accepts a ride. And so I

-- and what we have heard is that there is

-- there is an ongoing discussion within the insurance industry about how to provide a product that is specifically directed at that situation and that if we

-- if we foreclose that conversation by just saying, no, we aren't going to have any of that. We just want this to be covered by the tnc, then we could actually be shutting off possibilities that could ultimately be helpful for the driver

-- the driver and, Mr. Scott, by summary, is that correct?

>> You have and I want to address, I think, one other misconception again, that there is no coverage gap. The policy that we maintain during this period one is specifically written to provide coverage should a personal line policy not provide coverage. And adds I dated last

-- and as I stated last time I was here, there are already very effective shapes rules in place right now that dictates how a coverage investigation amongst different policies is to occur and expeditiously reach a conclusion. Very, very common for multiple insurance policies to be involved in a single accident.

[01:47:40]

>> Riley: For all instances, Mayor, that amendment is not friendly.

>> Mayor Leffingwell: Not accepted.

>> Tovo: Okay. I will make that as a formal amendment, then. Amendme amendme nt by council member tovo. Is there a second? Seconded by council member spelman. All those in favor, say aye. Opposed say no. No. And that was mayor pro tem, myself, and council member riley voting no so it passes on a vote of 4-3.

>> Tovo: Okay. I have a question for the maker of the amendments and the sponsor on the accessibility provision. First of all, I want to start by saying I appreciate that there was additional consideration to that area. I think that was a real important area to address in this ordinance. Can you explain why

-- why

-- what the time

-- why the 3-month time frame? I would assume that the accessible service request indicator could be added to the application more quickly than three months, and so council member riley, I would like to ask you why you arrived at 3 months as the target for that. It would seem to me to be important to move forward in making sure those two need an accessible vehicle can do so immediately upon implementation of the ordinance.

>> Riley: And if I may, mayor, that was based on discussion

--

>> Mayor Leffingwell: Council member riley.

>> Riley: That was based on discussions with the providers and I would have to speak with ms. Mims or uber before that, why not say before you provide it legally in austin, you have to provide that option, when somebody signs up with you as an app, you have to request the ada

-- a wheelchair capable vehicle?

>> I think I am a little confused as to what the question is, I am sorry.

>> Riley: I was trying to restate it. Right now with the

-- we are currently allowing three months for development

-- to put the accessible service request indicator in place, so when someone signs up, downloads the app and registers, that they would have the option of indicating, I need a wheelchair capable vehicle. Why can't we put that in place today? Why can't we say you must have that before you operate legally in austin?

[01:50:01]

>> Well, so part of that has to do with

-- that it's going to require extensive changes within a digital application and so the engineers are going to have to get together and figure out how to provide that additional option, so a lot of it is logistics, making sure that's in place and also another part of the requirement is if we are unable to fulfill that ride, we are able to provide that outreach to another person through the digital application, so we are going to have to take some time to figure out what the partnerships are and how we can make sure that that referral is happening, so it's going to require an extensive amount of time to do that.

>> Tovo: So it's less the technology than figuring out how to

--

>> it is more technology. It's going to be difficult to do.

>> Tovo: Are there any markets where you have the ability

-- where passengers have the ability to make

-- an accessible vehicle?

>> I have to check. I believe right now in california, they are working on that. I am not sure where it is in that process because it is not my region but perhaps uber could provide more information about that.

>> Tovo: In none of your markets right now do you provide an option for your people to request an additional vehicle?

>> Yes, we do provide that option. The process in place right now is if a passenger does need a wheelchair accessible vehicle, what they do is when they make the request, they would call the driver ahead of time and let them know what their needs are with respect to having a foldable wheelchair, whether they have a service animal, which our drivers are required to accept, or any other equipment. And so at that time the driver would be informed and they would provide feedback as to whether they had those

-- that applicability in their vehicle.

>> Tovo: I see. It's handled a person to person instance?

>> Correct.

>> Mayor.

>> Mayor Leffingwell: Council member martinez.

[01:52:01]

>> Martinez: I can't help but note the irony of technology being the impediment providing access service when that's exactly what we are talking about is innovation and technology as it relates to uber and lyft. When someone signs up for an app, which I don't have, so I don't know the answer to this, does that customer provide that cell phone number or that device's number? To uber or lyft?

>> So they sign up through their smart phone, so anyone who wants to use, for example, a lyft application, they will go to the app store and they will download the lyft app and then they will fill out the credit card information and the other information. They will accept our terms of use and then at that point, as a passenger, you will have access to the platform.

>> Martinez: The reason I am asking the question, because if it's going to take some time

-- if you are saying you can get there. It will just take some time for technology to get it figured out. Why wouldn't you just simply have someone at your company access that person via a direct phone call? If they are using their device, you know they are holding it. Why not call back and ensure the services they are requesting and then provide that service as necessary?

>> Well, that's not

-- I mean, that's not something we have done so far. I think the goal is that because we are an app-based company and all of our communications happen through the app that we would have an app based solution to that. I know the california pec, part of their requirements are very similar to what the requirements are in this proposed ordinance in terms of making sure there is a feature on the app where someone can indicate whether they have accessibility concerns, they have a wheelchair accessible vehicle and we will help direct them to that appropriate transportation. So we are a connector, a convener, and that's what our service does and we want to provide a way for our app to do that.

>> Martinez: I understand that. We are trying to provide a policy based solution, not an app based solution and I don't see how we can't figure out an interim fix while you are working on your technological issues that you have with your app.

[01:54:20]

>> Just to clarify, the uber app does have that capability right now. Right now we do have a special view in cities where we have vehicles in california, chicago, new york, and right now the challenge right now is identifying and partnering with organizations and/or companies, drivers that have those vehicles, and so we are constant

-- currently in discussions with companies and

-- to provide those vehicles for our network, so ...

>> Tovo: Mayor.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: Sir, when you say the challenge now is trying to partner with those

-- with those organizations

-- I think we heard a suggestion of churches earlier that might have those vehicles

-- are you talking about here in austin, or are you talking about having challenges in the other markets, identifying partners with vehicles?

>> No, I am not. So in chicago and new york, we partner with existing taxicab companies that have way vehicles on their fleets to provide these services and philadelphia, it is taxicab companies or other private paratransit companies that have these vehicles.

>> Tovo: I see. Thank you. My next question about the amendments that have been added, we had a discussion at our last one I proposed an amendment that passed to provide monthly reports and the draft before us changes it back to quarterly with monthly information collection. I would like to ask our staff about that issue. It seemed to me that we heard a strong recommendation from staff about seeing information on a monthly basis, and there was a rationale offered, and I would like for you to explain how a proposal that is before us today addresses some of

-- some of your needs as transportation staff to get the data that allows you to respond in a timely fashion.

>> So as

-- carlton thomas, austin transportation department, as mr. Derr mentioned earlier today, getting information, the more granular we can get will be beneficial to the department so we could have information on demand and supplies in those areas.

[01:56:43]

>> Tovo: You are getting that on a granular basis but not as frequently as we agreed on in our last meeting?

>> Correct.

>> Tovo: So does this represent a better position from your perspective, the same, or would you have recommended monthly reporting?

>> So it's a question of how responsive we could be with the information if there was an anomaly in january and we didn't get the report until april, we couldn't expect to be responsive to address those issues.

>> Tovo: And those issues

-- would those issues also include issues of accessibility? We

-- I heard the discussion earlier, but it wasn't clear to me whether you would be receiving information about accessibility on a more regular basis, or it would just be quarterly?

>> Quarterly data recorded on a monthly basis would be acceptable to the department.

>> Tovo: Okay. Thank you. Okay. So we had talked also about criminal background checks and there was not, as I recall, support for having the city conduct those. I wonder

-- I did ask staff to do some thinking about the comparative analyses. I certainly have heard concerns out in the community and I believe the statesman editorial yesterday asked the question of

-- or suggested that criminal background checks run by the city are preferable, so I wonder if you can chime in on

-- after looking more closely at the requirements and the way that the background checks are handled by tncs versus what

-- what the city requires, do you have a recommendation on that front?

[01:58:44]

>> So the city currently accepts

-- conducts the background checks. It

-- it informs the city as to who is out there operating ground transportation vehicles. And additionally, it assure it is city for those who are operating those vehicles have met the requirements to conduct themselves as a chauffeur.

>> So the proposal before us offers a different path. Do you feel as confident that this different path, this outside handling of background checks is going to provide the kind of security that we need?

>> This particular process, the city would not be aware of who would be driving the vehicles.

>> Tovo: And in the research that either my staff member did or you all did and provided her with, other major cities it looks like houston, I believe, dallas, the other major cities in texas perform those

-- let's see, here is my list. Houston and dallas conduct background checks on drivers. Chicago, if the driver will operate more than 20 hours a week. New york does the background checks and seattle does as well.

>> That is correct.

>> Tovo: It really is mixed and that's what I think the uber representative told us last time that it really depends on the city but it looks like the other two major

-- [multiple voices]

>> Tovo: The other two texas cities do the checks themselves?

>> That is correct.

>> Mayor Leffingwell: Council member tovo yield to council member moralities.

>> Morrison: So mr. Thomas, I get that you wouldn't know if the

-- that the city wouldn't have the information if the drivers had passed a criminal background check or not. Is there any

-- in this ordinance, is there any accountability for the tncs to be able to allow us, for instance, the city to audit their criminal background information or anything like that? I am just looking at it right now and realizing that we are going to be taking their word for it.

[02:01:05]

>> My understanding in looking at the recommended language is that the audit would be done

-- conducted by an independent third party and not the city.

>> Morrison: But

-- but can the audit, the way it's written now, actually audit for criminal background checks?

>> I don't think so.

>> Morrison: So at this point not only is the city not doing it. We will have to take their word for it? They don't have to provide any information about that?

>> That's my understanding.

>> Morrison: See one of the things

-- I know this proposal was made last time and I didn't second

-- I didn't second the motion. I had an opportunity to do that. I was under the impression that at least that information could be audited by a third party, and I was wrong about that, and so I think that there has to be some accountability. We have to be able to at least ask them to prove up that they have done it.

>> Tovo: So perhaps some

-- go ahead.

>> Riley: Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: So paragraph 20, regarding the audit, it says a tnc must maintain accurate records of all drivers providing service and discontinue from providing service through the platform and must be available for audit by a private agreed upon third party at any time. I

-- I assumed that that

-- when

-- if the record is regarding all of the drivers are available for audit, that we would be able to conduct an audit with respect to all aspects of the ordinance and so it would be fairly straightforward matter for us to require that

-- look at the criminal background checks of drivers by way of that audit. Why wouldn't that be the case?

>> It is our understanding of reading this language that that audit would only be inclusive of the drivers' names and not any background information associated with that driver.

[02:03:13]

>> Riley: Okay. I will be happy to add clarifying language, that certainly the

-- I would certainly expect us to be able to audit whether the background checks were being performed, and I

-- that

-- I am

-- and I apologize assuming that law had covered that but it was a basic part of the ordinance and we all expect that third party audits would cover the ordinance, and law was helping us craft this language and I am sorry that we did not

-- it didn't cover what we expected, but I will be happy to ask law to flesh that out a little bit more, to make sure that we would be able to audit that.

>> Morrison: Mayor.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: I guess I would like to suggest that

-- that it be fleshed out to be sure that we can audit any of the information upon which this

-- this ordinance rests. So, for instance, to ensure that the drivers are trained and things like that, so this will be ms. Rodriguez that gets to sign some language with that

-- does that make sense to you ms. Rodriguez?

>> Sorry, can you repeat it?

>> Morrison: I was suggesting that we want to make sure that the audit can address

-- can audit information, and we will have access to information, to audit anything that this ordinance addresses. So, for instance, if it says there has to be criminal background checks, then the audit will be able to look and specifically check and make sure that all of the drivers have that, as well as training, and there is probably a lot of other things, too, so that was the broad expectation of this language then

--

>> if that was the intent of this language, then I can certainly make it more specific to add all of the items that you are suggesting, as long as it's the will of council, obviously.

[02:05:14]

>> Mayor Leffingwell: Okay. Mayor pro tem.

>> Cole: No, I am good.

>> Mayor Leffingwell: Excuse me, was that a friendly amendment?

>> Riley: Sure.

>> Mayor Leffingwell: All right. Mayor pro tem. Okay. So you can incorporate that language into

--

>> perfect, thank you.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I appreciate that. I think we have an obligation to ensure that criminal background checks are being done and though I like the city

-- I prefer the city to do that with other drivers for hire and other cities are doing, I think this is a reasonable solution for the moment. Next I would like to talk about

-- right now we do have a review at 6 months and this is in part 6

-- it is entirely possible and I certainly hope our stakeholder group will be back and completed by then, they are scheduled to be finished by mid november, at which point most of this, I hope, going to be replaced by something

-- by some additional provisions, but in the interim, I think that we should review no later than six months after the date of passage. That was an amendment last time, and then I would like to add the language, at which time the city council may, in its sole discretion appeal or amend the ordinance, to provide the opportunity to really address any concerns that might arise in the interim that we haven't anticipated. You know, we are doing this very quickly. We are making a lot of changes here in large response to the stakeholder recommendations but they are still being done rather quickly and so I would

-- I would

-- I would add that language in the interest of the public in making sure we have a system that's working well.

>> So to clarify that the council may, in its sole discretion amend

-- first of all, council always has discretion to amend or modify an ordinance.

[02:07:22]

>> Tovo: I want to signal what I don't want to happen is that there is an expectation on the part of the company there could be changes but, yes, we have the right to appeal and amend it but this is transparent in that and makes that clear that at 6 months, when there is a council review, a more comprehensive council review, they, at their discretion could decide to make amendments or repeal it, that that might warrant.

>> Riley: Sure, happy to add that language and I also note in the preceding paragraph, part five that the agreement is executed pursuant to this provision are cancelable at any time if

-- are cancelable if council adopts code amendments to regulate tncs so it is clear based on the language that's already there, nothing about having an agreement is immune to code amendments. We can certainly adopt a code amendment which would allow us to cancel any of the amendments but I am happy to add that, again, in the next paragraph if it's the pleasure of the council.

>> Mayor Leffingwell: Do you accept that? Mayor pro tem accepts.

>> Tovo: And then the last of my amendments, gets back to I think one of the really substantial issues which is gouge pricing

-- and I hate to do with my colleagues on the dais

-- here comes one. Last time I made an amendment to mr. Hint there pricing it

-- make an amendment that this

-- to prohibit this pricing it wasn't successful. And so I

-- for the service of time I would like to reintroduce the amendment that my colleague, I was just saying

-- and I will repeat for your benefit. I would like to reintroduce the amendment that we considered last time to cap dynamic pricing at 2.5. 2 and a half. Which allows, I think a reasonable incentive for drivers but does not

-- does not allow a limited increase in pricing.

[02:10:02]

>> Mayor Leffingwell: Okay. Amendment by council member tovo. Is there a second?

>> Tovo: And I prefer to do the prohibition all together. So that is my

--

>> Mayor Leffingwell: Which is your motion.

>> Tovo: That that is my amendment, the one I distributed, to cap it two and a half.

>> Mayor Leffingwell: The there a second to that proposed amendment? Seconded by council member martinez. Further discussion? Council member spelman.

>> Spelman: I may have asked this question last week, I may have but I don't remember. I will ask it now. For any of the points of view, can you tell me how frequently surge pricing, a, happens at all, and, b, how high it gets? Is it something your platforms take

-- keep track of.

>> This is april at lyft. Honestly, I couldn't tell you how often it happens except for a user not platform. I have some idea living in california and living in san francisco, where I use it every day

-- you know, I would say during times where there is commuting involved, there is that prime time feature that is available in order to incentivize drivers to get on the road and make sure supply is meeting demand

-- I don't want to speak out of turn but I do feel like this is an opportunity to talk about the business platform and the reason why, since I know

--

>> Spelman: You don't need to sell me but you may need to sell other members of the council.

>> Is it okay for my to continue?

>> Spelman: Yes, the business aspects of the surge very briefly to remind us why the surge pricing or prime time as you have been euphemizing it is a great idea.

>> So dynamic pricing is used on our platform to make sure supply meets demand. We understand in austin, there is a huge problem with people drunk driving, there is a huge nightlife industry and we heard from atx streets and other groups we work with is that supply not necessarily meeting demand. You have long periods of time, especially youth who have been drinking are not being able to receive ride home. The beauty of the

-- of these app based platforms is we know where the demand is. Our drivers are not allowed to respond to hails or to respond to any kind of soliciting outside of the app so through the app we know all of the time what the requests are for ride. If those requests are not able to be met by the number of drivers on the road, our app is set up so it automatically goes into prime time mode, to try to insen tvize the drivers to get on the road to start driving to make sures that happening.

[02:12:37]

>> Spelman: Is there a natural limit, ms. Mims as to how high that gets?

>> We don't have a limit right now imposed right now but I will say that rarely does the amount on the platform double what it normally is in san francisco from our experience. However, we want to make

sure supply is meeting demand and putting artificial caps is not the app based or market based solution that's going to solve some of these problems.

>> Spelman: Remind me, also, when

-- if I were using the lyft app, before I walk into the car, I would know whether prime time is in effect before I walk in the car and I would know what the multiple of the regular price would be before I walk into the car. Is that right?

>> As I pull lyft up, the second thing in bold letters you will see is prime time and that's the first indication you are operating prime time and if you were to request a ride, you would have pop-up feature that automatically says we are in prime time right now. The fare is going to be 25%, 30% more than it normally would be. 50%, and then at that point you have to confirm that you understand that that is the amount that rate increase before the ride request would go out to the driver. So the passengers informed at all times in the process and then when you receive

-- after the ride is completed, you will also receive an electronic receipt indicating where the driver went, what the fare was, that you were in prime time, and then you can also

-- there is a link you can send it directly to the tnc link, to lyft, if you have any questions about what you were charged. We are a consumer based platform so if people are concerned about what they were charged, we want to correct that.

>> Spelman: Thank you. Fellow from uber, the same question. Is there a natural limit as to what your surge pricing multiple can be?

[02:14:39]

>> The limit is based on what the market demand is indicating. I personally have not seen or what the

-- seen actual numbers as to the highest it's ever been or lowest it will ever be. It is basically designed to incentivize drivers and based on what the market is needed to incentivize drivers is where it is and also I mirror what ms. Mims said, the uber has to make the rates and the drivers can accept the rate at the quote price so there is two or three steps, they will have to indicate what the separate will be, whether it's 2.5 or 3 or 1.5. There is also, in our app, an option to be notified when surge pricing, which as we have been told, an hour, 30 minutes where the equilibrium begins to occur. That individual has the chance to wait that certain period of time before the surge price has been brought back down.

>> Spelman: It is not in your long-term interest to take advantage of your drivers or they won't be taking advantage of you?

>> No, absolutely. And it is our goal through our business practices to actually not have surge take place because that means supply has been fulfilled within that marketplace but if there is a need for additional supply when there is high demand, then we are creating that supply unlike for a

-- for example, a hotel. A hotel knows there is high demand for rooms. They cannot just build a new hotel or extension right next to them when they anticipate that or they know that high demand is in place so their prices go up. We, on the other hand, are actually creating more supply to bring the prices back down.

>> Mayor Leffingwell: Council member riley.

[02:16:41]

>> Ms. Mims.

>> I learned from the operations team that we do cap at 200%, so I do believe as a policy in making sure supply meets demand, it doesn't make sense to put caps in place so I wanted to direct correct that on the record. Correct that on the record.

>> Riley: Ms. Mims, when you are in prime time and surge pricing is in effect. Does that affect everyone in the city who is using lyft?

>> Yes, my understanding is that it would

-- it would affect everyone for that small window of time.

>> Riley: Could I ask the same question of mr. Johnson?

>> For uber, the surge would only take place where the geographical area where the high demand is at. It would not take place in the entire city.

>> Riley: It only applies to the particular area where the surge is occurring?

>> Yes, not the entire city.

>> Riley: Okay. Thanks.

>> >>Reporter: So further discussion? Those in favor of the amendment say aye.

>> Aye.

>> Mayor Leffingwell: Opposed say no. No. That fails on a vote of 3-4 with council member riley, myself, council member spelman, mayor pro tem cole voting no.

>> Tovo: Okay. One last one, well, I think

-- so new york has prohibited dynamic pricing

-- excuse me, set limits on dynamic pricing, ie surge pricing, during abnormal market disruptions, natural disasters, other kinds of things because there was

-- as I understand it, imcaught of the hurricane sandy

-- it came out of the hurricane sandy situation and I would like to propose an amendment

-- it is not entirely

-- this was assuming the 2 and a half percent cap passed and it was building on that based on normal market disruptions. What I instead will do is provide you with the language and make one adjustment to it. This would prohibit

-- and so the adjustment is under 19

[02:18:49]

(d) what you see proposed as 19d, during periods of abnormal disuptive times, the surge pricing may not exceed 2 times the normal rate. I believe new york has it at 2 and a half but I am proposing setting it at 2 times the normal rate.

>> Mayor Leffingwell: So that's 100% increase?

>> Tovo: Which I will just say is not optimal but I am trying to work within the parameters that we have before us, which are not, in my opinion consumer friendly, student friendly.

>> Mayor Leffingwell: Is that easily understood? What would be a disaster.

>> Tovo: It's my understanding that staff used the language that came out of the new york ordinance and they were satisfied that it will work well for our purposes, but why don't I ask city legal just to verify that so you don't have to take my word for it?

>> Rodriguez again, yes, I did model it after the new york one that prohibits the surge pricing in times of abnormal phenomenon, or I can't recall the exact words so I did believe it sufficient for our state and our city, the definition of abnormal phenomenon.

>> Mayor Leffingwell: Council member riley, do you accept that?

>> Riley: Yes, this would apply during abnormal market disruptions and the disruptions are defined to be a situation that results in a declaration of state of emergency by the governor, I would consider that friendly. That is not

-- I don't expect that to be a frequent occurrence but I am happy to accept that amendment for those periods, sure.

>> Mayor Leffingwell: Mayor pro tem accepts thanker so that's incorporated.

[02:20:50]

>> Martinez: Mayor.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: Just for conversation sake, in a declaration of emergency, would you entertain as fri surging as all, as opposed to 100% surging? Like if we are in a disaster and a state of emergency, it's about public safety and health and I would hope that the companies would agree to not surging during that period?

>> I would just.

>> Riley: Yes

--

>> Mayor Leffingwell: You have to incentivize people to get out. That's when you want to really incentivize them to get out and man the calves.

>> Martinez: Well, I think the incentive is a disaster.

>> Mayor Leffingwell: Well, in some people's opinions.

>> Riley: Mayor, if we can get some input from mr. Johnson.

>> Yes, I just wanted to say, as the mayor mentioned, there is an insen tv to get the drivers on the road but I also want to point out we have national partnership with the red cross and during the time of emergencies where there is surgeries taking a place in the areas there are declared emergencies we are donating that portion, the 20% which is what the company receives from the ride, is actually going to the red cross during those periods of time so we are actually not receiving any income as a company during that period of time, so that's a national partnership that we have and that would cover anything that would occur in austin.

>> Mayor Leffingwell: Okay. Are you ready to vote on this item as amended? Is that a friendly amendment? I didn't hear that? Is it friendly?

>> Riley: I gathered

-- mr. Johnson, I gather what you are saying, the 20%, I gather there would be surging pricing or not?

>> That's correct, with surge pricing.

>> Riley: And the idea would be as an additional incentive. Incentive

-- I don't think that will come in often and new york prohibited surge pricing during those periods. Actually I have a fair degree of confidence in the austin community that we would see a healthy turnout of people wanting to provide this service so I frankly don't, during those rare times, I don't think we would actually have the same problem getting drivers out so I am inclined to accept the amendment as friendly to say, to go ahead and prohibit surge pricing done in those areas as was done in new york, based on the expectation we would meet the demand better than usual without surge pricing. Is that

--

[02:23:21]

>> for clarification, are you recommending prohibition on surge pricing during an emergency?

>> Riley: During state of emergency, the proposal is to go ahead and instead of allowing twice the normal rate

-- actually prohibit surge pricing during those periods, which

-- which do not happen often. When those periods do

-- austin has actually a record of stepping up during emergencies and providing help just because of the emergency and so I actually have some confidence there would be less of an issue in enlisting an army of drivers during those periods than we have at other times. Actually, I don't think there would be much of a need for surge pricing during those periods.

>> As representative of a company, we would be opposed to a complete prohibition during that time.

>> I suspected there would be a disagreement on that. I would be willing to consider that friendly. I don't think

-- I think

-- I have confidence that we would actually see the healthy supply of drivers during those periods.

>> And actually, bear in mind, this is

-- again, this is an interim ordinance. What we are talking about is the likelihood of state of emergency coming up the next few months under these terms and I would be willing to consider the amendment friendly for present purposes. Ms. Mims, did you have a reaction to that?

>> Can I make a suggestion, is it possible

-- so one of the things we do as part of our platform, we do a lot of social media outreach. We have a number of online forums that are hosted by the driver community, and they work together to make sure that they are keeping each other informed whenever there are issues happening within those respective communities, so I think what it would make sense during that period of time is we would be required

-- if there was a state of emergency, instead of providing a prohibition against dynamic pricing, which is doing a great job of making sure that supply meets demand, is requiring us to explicitly provide that information and to encourage those people to get out on the road and to start providing those ride. Ride if there was a state of energy.

[02:25:36]

>> Cole: Pro tem.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I appreciate your comments but I simply think that we do not know always what is going to happen in any particular state of emergency, and like in the instance of katrina, you would have thought there would have been help all over the place and it didn't turn out to be that way, even from our federal government, so I will be supporting this one.

>> Mayor Leffingwell: All right. That's accepted. As a friendly amendment. So we have a motion and a second, third reading, emergency passage.

>> Morrison: I have one question.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: I have a question for staff and that would be I would be real interested to know

-- how our enforcement efforts

-- I have a feeling now this is going to pass

-- but what our enforcement efforts are going to be, how we are going to be monitoring this. I am particularly concerned because the situation we have now without a law, what I had heard was, an

attitude that, well, if it's not enforce, we will take that as passive approval but I really thought of flagrant disregard to the law, so now we will have a law in place. The question I think we need to watch is: Is it being adhered to? And I would be interested to know what your enforcement plans are in monitoring to ensure it is being followed.

>> Gordon derr austin transportation department. We are looking at increasing the regulatory staff in continued work with the austin police department, to identify those, because although uber and lyft are participating, there is a number of other actors within the current

-- that are out in the field taking trips, so we need to do that. We will be working with the city attorneys to make sure we have better understanding of what it takes to actually get those bad actors off of the roadway.

[02:27:45]

>> Morrison: Okay. I appreciate that and I think it will probabl useful to keep council informed of what you are finding.

>> We certainly will.

>> Morrison: Thank you.

>> Mayor Leffingwell: Those in favor

--

>> Riley: Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: Are we voting on final passage?

>> Mayor Leffingwell: Yes.

>> Riley: I have a final question. I actually see ms. Rodriguez on the podium, is there a issue you would like to raise? A legal issue.

>> Yes, there is a legal issue, thank you, it goes to emergency passage provision. In order to pass it on emergency basis, council needs to make a finding of a health and safety reason an r and I didn't hear one if there is one and there needs to be an official finding and include that in the emergency passage.

>> Riley: Mayor, before we get to that, there is one thing I would like to ask of johnson and and ms. Mims, and that is having observed all of the amendments that we put in place today, I guess the emergency would be if

-- if

-- assuming all of this is still going to be workable, that there is

-- that under these terms, that it still does offer a framework of which your companies will be able to work, then that would be the emergency. If not, then we could pass this on second reading only and continue working on this until we get something in place that

-- until we get something approved that could work. I just want to ask

-- I know there have been a number of amendments including one on insurance that requires primary commercial coverage, any time that happens, even when there is no passenger in the car. So I want to make sure that will be workable. If so, then I will support second and third reading and on an emergency basis, but I want to make sure that that is going to be workable.

>> I mean, on that provision, we still have very considerable concern regarding that provision on primary insurance during the app on period and we will have to

-- I don't have an answer for that right now, because I would have to talk to people. I would

-- let's just say, above my pay grade to make that decision on where we would be add as far as agreeing to that provision. It is a very considerable issue for us as a company to require primary commercial insurance during that app on period.

[02:30:09]

>> Riley: Okay. I guess I would like to ask the same question of ms. Mims. Does this

-- does this appear to be something that would be workable? In which case we will move as quickly as we can towards an agreement? If not, we may need to take more time to think about it carefully?

>> You are revisiting the amendment

--

>> Riley: Stepping back and looking at at the whole package, including the primary commercial coverage when the app is on, whether there is a passenger or not, does that appear to be a workable framework?

>> We are deeply concerned about this provision. What I should say, first of all, is we never entered into an operating agreement that required primary coverage of period one and from our concern, it really has to do with the fact that when an app is on, that's not commercial activity. The driver could be in the vehicle. They could be sitting at home, they could be doing something completely unrelated to providing ride, so we are worried about what are the implications of setting a precedent where any time an

application is on, a tnc is required to provide that primary coverage, especially with respect to innovation. There are two tncs in the room right now but we are hoping there are more transportation platforms in the future so what are the implications and how are other tncs, aside from maybe one will be able to survive this type of costliness, especially when we don't believe there is any kind of increased risk involved. There is a big distinction between people using personal vehicles

-- the vehicles are not designed to be available for hail and because they are personal vehicles, nobody is going to have the impression that those vehicles are available for hire. If the app is on, that app is there so the driver can receive information. They may decide to accept the ride. They may decide not to so we are worried about whether the implications of providing primary coverage during that time period.

>> Riley: And your concern about that is significant enough that you have reservations as to whether this would be a workable regulatory framework for your company?

[02:32:14]

>> Right. I don't make the decisions but I am very concerned.

>> Riley: Okay. Well, given the concerns that we have heard from both of

-- both companies in the room and the uncertainty as to whether this will work at all, then I am inclined to suggest that we just pass this on second reading and give this further consideration because I don't think we want to give final approval on emergency basis only to find that it just doesn't work and so I think it's worth taking a little more time to make sure we have a workable framework in place. So with that in mind, mayor, I would move that we approve this on second reading only.

>> Mayor Leffingwell: Council member Riley amends his motion to the second reading only. Mayor pro tem, do you approve that? Okay.

>> Riley: And to be clear, it is to be brought back at the next meeting, October 16.

>> Mayor Leffingwell: All those in favor, say aye.? Opposed say no. Passes on a vote of 6-1 with council member Morrison voting no. Without objection, we are in recess until approximately 7:00 p.M. [Recess].

>> Mayor Leffingwell: Good evening. Obviously it's time for proclamations. And our first proclamation is a recognition of metastatic breast cancer awareness day. All of us know how important this is. The statistics with regard to breast cancer are frightening. I forget what the exact number is. It's something

like one in three or one in four. One in eight. I stand corrected. It's still a very large number of people who will be affected by this in their lifetime. And I heard recently that there's something like 50 some-odd different kinds of breast cancer.

>> There are, yes, sir.

>> Mayor Leffingwell: I don't know what the exact number is on that, but obviously that complicates

-- complicates the issue to devise treatments for so many different kinds of any kind of illness. Many of us have been touched in some way, wives, sisters, mothers, or at least friends. So it's very important to make people aware to take proper steps, make sure they're able to take exams and make themselves aware of the treatments that are possible. So I'll read this proclamation and then let ray anne come up here and say a few words. Be it known that whereas the american cancer society estimates that almost 233,000 new cases of invasive breast cancer will occur in 2014. And whereas metastatic breast cancer account for 40,000 deaths in the united states and people diagnosed with early stage of the disease will develop metastatic breast cancer and whereas the prognosis for those diagnosed with metastatic breast cancer is disheartening. More funding is needed to research new ways to stop the growth of breast cancer cells, strengthen the immune response against tumors and disrupt individual steps in the metastatic process. And whereas we recognize the breast cancer resource centers of texas for providing support, coping skills and community through specialized groups for those living with metastatic breast cancer. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim october 14th, 2014 as metastatic breast cancer awareness day in austin. So please accept this proclamation on behalf of the city of austin. And please come up and say a few words.

[00:03:17]

>> I appreciate that. I just wanted to thank the mayor and city council and the community for recognizing this important underrecognized community. 40,000 women and some men die every year of breast cancer, of metastatic breast cancer. And it's a month of pink. It's a month of celebration. It's a month of buy your friends something with a pink ribbon on it and see how much of that really goes to research. And only two to five percent of research dollars actually go to fund research for metastatic breast cancer. So I wanted to make sure that our community was aware of that and to thank each of you for supporting the breast cancer resource center and our endeavors to make sure that women with metastatic like my friend christina here are given the support that they need in our community by your support of the breast cancer resource center. So thank you very much. [Applause].

>> Mayor Leffingwell: Is edward latson here? They thought you were not here.

[00:05:30]

>> Wouldn't miss it.

>> Mayor Leffingwell: Okay. So tomorrow is going to be national manufacturing day. I'm proud to have Edward Latson here to accept this proclamation and he'll say a few words immediately after the proclamation. And also proud to have Kevin Johns, director of our economic development department here, highly successful department, by the way, because his department has done more

-- created more return on investment on the expense of his department than all the others, I believe. So thank you for the good work you do, Kevin. Manufacturing is coming back in America, and we want to do everything that we can do to make a comeback here in Austin, Texas. So it's so important to provide the diversity of jobs, not just the highly skilled jobs, but the jobs

-- have jobs for everyone, and manufacturing does as good a job at that as any other type of business. Be it known that whereas Austin is home to more than 1200 manufacturing companies employing over 47,000 individuals and contributing 20% of the economy's gross metropolitan product and whereas Austin's economic development department actively promotes manufacturing as a fundamental component of the economy because it provides career opportunities for economically disadvantaged workers seeking dependable jobs and good wages, and whereas the economic development department has pursued manufacturing as a sector through its involvement in community initiatives designed to attract high-tech manufacturing operations and whereas in celebration of national manufacturing day local manufacturing companies are encouraging Austin students to explore opportunities in this challenging, lucrative field made available through STEM education, vocational training or certification. Now therefore, I, Lee Leffingwell, Mayor of the City of Austin, Texas, do hereby proclaim tomorrow, OCTOBER 3rd, 2014, AS National manufacturing day in Austin. So congratulations, Mr. Latson, and this is for you. And you have the microphone.

[00:08:09]

>> Great. I would just like to start by thanking Mayor Leffingwell. We felt a lot of support from your office and we greatly appreciate it. I'd also like to thank the council for giving us this proclamation. I'm from Austin, was born here, I'm very aware of our identity as a music town and high-tech community. A lot of people don't realize that high-tech community is largely manufacturing. More than one-third of our major employers are manufacturing or have their roots in manufacturing. Some of those companies are Samsung, Freescale, National Instruments, Flextronics, Hospital Speaker A. We make some of the most advanced products right here in Austin. If any of you have a Samsung Galaxy phone in your pocket, the chip that powers that phone was made right here. Or even if you have an iPhone. That's right. And actually, many of you might know that Apple is making the MacBook Pro right off of 183. This proclamation really helps draw a little bit of attention to our community. Our challenges

are just keeping energy costs low, making sure that permitting is streamlined and we know the city is working on that and we appreciate that. As well as training programs that might support attracting and maintaining great talent. As manufacturing we provide jobs to all demographics, whether it be people with g.E.D.'S OR PEOPLE WITH Ph.D'S And we feel like that really supports the economic development of the city. With that, thank you very much and again, we appreciate your support. [Applause].

[00:11:04]

>> Mayor Leffingwell: I want to welcome the group from the austin police department that is working on organize national night out, which as all of you know is an event we celebrate not only here in austin, but all over the country. Effort is to engage the community for better policing. Have folks involved in their neighborhoods when they see something unusual, something they need to be reported, to basically be additional eyes and ears for our did police department. That way we can afford to hire a lot less of them in the future, right? I'm just joking about that part of it. Our guys do a great job, but they can do a better job with the help of everyone. I encourage people in your neighborhoods, there will be watch parties and neighborhoods all across the city to get people involved in this process. And I encourage everyone to do that, learn what they can do, do a better job of keeping their neighborhood safe. So be it known that whereas national night out is a nationwide program designed to heighten crime awareness, increase participation in local anti-crime programs, strengthen neighborhood spirit and police community partnerships and send a message to criminals that neighborhoods are organized and fighting back. And whereas the austin police department plays a vital role in establishing joint crime and drug prevention efforts that encourages citizens to attend national night out events to get to know one another and to learn how we can reduce crime and drug abuse in their neighborhoods and whereas we join with a.P.D., The travis county sheriff's office and other law enforcement agencies and other local business sponsors in supporting the 31st hundred national night out. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim october 7th, 2014 as national night out day in in austin, texas. So accreditations, chief. I'm sure you want to say a few more words about it than I just did. Please, you're welcome to the mic.

[00:13:24]

>> Thank you, mayor. First of all, I want to thank you, mayor, and city council for providing the resources we need to keep a community safe and basically thank you for playing your part. Now comes the part for the community. Gnat national night out is the one event during the year where we get business, public safety, and the community together to fight crime. What we would like to do is encourage everyone to come out, everyone in the community to participate in the events, the events that austin

police department has put together for this year will include a on saturday, what is it, october 4th, from from 10 to two p.M. At mueller park at the old mueller airport, I think everyone is familiar with the old hangar there, we'll have the kickoff event. We hope to see as many of you out there as possible. Also, we encourage everyone to participate in the watch parties on tuesday evening. We're going to have police officers out at the parties. We also expect for our public safety partners such as the fire department, e.M.S. And also can travis county to be out at these particular events. This is a great time to get to know one another, to also network with each other and also create an effective crimefighting team. And we do look forward to seeing you out there on saturday and also on tuesday evening. Thank you. [Applause]. Not just here in austin, but over the entire country. It's been a highly successful program and one of those that in my observation enjoys true bipartisan support. You're one of the true organizations that everybody likes. So it's my honor to

-- it's my honor to read this proclamation, be it known that whereas habitat for humanity is an organization founded on the belief that everyone has the right to access decent, safe and affordable place to live and for 30 years austin habitat for humanity has been helping hard working families achieve their dream of home ownership and has built more than 360 homes, transformed communities and given more than 5,000 families hope. And whereas around the world 1.6 billion people live in inadequate shelter, more than 100 million people worldwide are homeless and one in five live in conditions that are harmful to health, safety, prosperity and opportunity. Whereas realizing together we can make a difference. The united nation's general assembly finalized habitat for humanity day in 1983 which set aside the first monday in october to recognize basic need for adequate shelter and to encourage all of us to do our part in addressing that need, and whereas on october 6th, 2014 austin will kick off world habitat day with a week long door parade and advocacy campaign followed by a festival ON OCTOBER 11th, 2014 To culminate the week's activities and to raise awareness that everyone needs a safe, decent and affordable shelter. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim october 6th THROUGH THE 11th, 2014 As world habitat week in austin. So congratulations.

[00:19:22]

[Applause].

>> I couldn't have said it better myself. I would just like to thank the mayor and the council for advocating for affordable housing on behalf of our brothers and our staff

-- our board of directors, our staff, our volunteers, and our donors. We are excited that next week is world habitat week and we encourage you guys to learn more about it at austinhabitat.org. And thank you. [Applause].

>> Morrison: So we are here to recognize and celebrate october as lesbian, gay, bisexual, transgendered history month. It's the 20th anniversary of marking october as the lgbt history month. It was in 1994 that a history teacher thought that a month

-- came up with the idea that a month should be set aside to celebrate and teach about lgbt history. And gathered other community leaders and teachers and they came up with the idea of doing it in october because that's when school is back in session. And they would be able to do a lot of coordinated celebrations. So it is a history month, gay and lesbian history month has been endorsed by glaad, by the human rates campaign, by the gay and lesbian taskforce, the national education association and several other national organizations. And it was in 1995 that the national education association indicated their support at its general assembly. So the lgbt community believes that the history month is necessary because lgbt history not taught very often in many places and it's important that we all understand the contributions that the lgbt community has provided to our society, but also to ensure that there are role models and ways to learn about the community. And it was in 2012 for the first time there were two american school districts that celebrated legitimate history month

-- lgbt history month. There's broward county signed a resolution, the school district did, in support of lgbt americans, and then later that year the los angeles school district, which is america's second largest school district, also signed on. So it's definitely a month where we can celebrate and we intend to encourage honesty and openness about being lgbt. So I'm delighted to be here with the health and human services department representatives and others and we have carlos rivera is ill. He was going to be here to accept it, but we have assistant director dr. Rosa maria mario. So why don't you come up and I'll read the proclamation. It says be it known that whereas people who identify as lesbian, gay, bisexual and transgender have made countless contributions through history that have benefited the areas of health, education, science, art, literature and more and whereas the city is an annual supporter and participant in events in june and september that celebrate pride and the lgbt communities and whereas the city is working to improve their municipal quality index score and has added an lgbt community liaison to better understand the needs of the lgbt communities and whereas the city offers domestic partner benefits and protects against harassment and discrimination based on sexual orientation and gender identity. And whereas austin honors the lives of lgbt people and their allies who have stood and acted without fear and without hate in the face of oppression, discrimination and violence to advance the cause of equality and justice. Now therefore i, on behalf of lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 2014 as lesbian, gay, bisexual, transgender history month in austin, texas. Thank you very much.

[00:24:36]

[Applause].

>> Thank you, councilmember morrison. It's quite an honor to receive this from you. We appreciate that. We appreciate the city council recognizing october as lbgt history month. Lbgt history month helps

-- I'm short. Even with heels. It represents our collective efforts to remedy the experiences that annual surround the lbgt community. Austin-travis county health and human services department is committed to promoting and protecting the health of our community through use of best practices and community collaborations. In our efforts to facilitate and nurture culturally competent services in the workforce our department has established a strategic planning team to increase the department's cultural competence regarding lbgt community. The team has achieved major milestones over the last few years. We've conducted a department-wide employee survey to identify our strengths and weaknesses in the area of serving the lbgt community and in the area of creating a welcoming environment for our employees: We've also facilitated trainings, three trainings for our executive management and senior management around lbgt issues. We have converted hhsc's single occupancy restrooms into stalls depicting general neutral signage and we have this year in collaboration with with the a.P.D. Developed a history month speaker series for which we are very proud and some of the collaborators and coordinators are behind me. This year we are happy to announce that we're going to be having each thursday in october a session on issues that are very important for

[00:26:50]

the lbgt community: And we invite you. We will be touching on issues of lbgt youth and homelessness. We will be touching on issues of health disparities. With that I thank you and I look forward to seeing you at some of these speaker series.

>> Morrison: Then maybe you shouldn't have made them on thursdays. [Laughter] just kidding.

>> Great. Thank you. [Applause].

>> Morrison: So I'm here with director carl smart to celebrate october is also national code month. What do you know? And so we're here to recognize mr. Smart and the great employees and staff in the

-- in our code department. Certainly we like to observe this month to be able to raise awareness about code regulations that promote health and safety, such as some of the issues that our department has to deal with are dangerous structures, substandard living conditions, tall weeds and grass, illegal dumping and illegal signs. And you are also very active with the commercial investigation unit that looks and focuses exclusively ovigerring reports of work being done without required city permits. That probably keeps you all pretty busy. So if you believe there are code violations in your neighborhood you can call 311. I think you can also do the 311 app, right, for code violations. I have it on my phone. It's very fun. And the code department will come out and investigate for you. During the month of october it's an opportunity that you all are taking to team up with neighborhoods across the city to host some important events to raise awareness about code during the month. So I want to thank everybody in the

code department for the great work that you do and I have a proclamation here. It says here that be it known that whereas october is code awareness month to increase participation in keeping our city safe and clean, to strengthen neighborhood pride and code community partnerships. And to work together to make the code

-- the community better. And whereas the austin code department plays a vital role in ensuring that the standards required by city codes and ordinances are met and whereas code month is intended to create a partnership between the community and code encouraging the public to attend neighborhood cleanups and to learn how to work better with their neighborhood code inspector. And whereas the austin code employees take great pride in serving the austin community and strive to make austin the most liveable city in the country as well as protecting its inhabitants and their quality of life. Now therefore I on behalf of lee leffingwell, mayor of the city of austin, texas, do hereby proclaim october 24 as austin code month in austin, texas. Congratulations.

[00:31:27]

>> Thank you. Thank you, councilmember morrison and mayor leffingwell and members of the council. On behalf of our staff at the austin code department and a number of whom are here with me today and all the men and the women that work in the austin code department that are committed to helping to make this the most liveable city by enforcing the codes that we have on the books. We are committed with our new name, austin code department, to finding that balance, if you will, and councilmember, the balance between code compliance and code enforcement that we are both. We are using both code compliance strategies as well as code enforcement strategies. We have a number of events. To kick off code enforcement month in the city of austin we started off with a code industry summit, last week, thursday and friday. And we had over 120 code officials from around the state to come here to austin to discuss issues related to enforcement and getting compliance with codes in their particular jurisdictions. We have a lot of commonities, a lot of common issues that we're able to work on. And again today is an exciting day because earlier at noon we had a news conference where we announced our new name. And our rebrand. And behind you you will see some of the evidence of the rebrand including our new logo and also new wrappings potentially for our vehicles and our new themes that we'll be using. Particularly together we make the community better, emphasizing the idea of collaboration, partnership and education in getting compliance, not just enforcement strategies. So again thank you so much, councilmember. And we look forward to continuing the work with you and the rest of council in order to get this job done and make austin the most liveable city.

[00:33:36]

[Applause]. More I was made an honorary, and I quote, fireman. When I was 14 years old my brother caught on fire and I put him out, as they say. And

-- he was very badly injured. Interestingly, it was before there were flame act

--

-- it was in the 70's before there were any flameability requirements for children's pj's and the lakeway fire department made me an honorary fireman. I feel like I'm one of you.

[00:35:42]

>> But you're a life saver. Good for you.

>> Morrison: So I'm

-- I'm pleased to be here to help recognize that october is also fire prevention month. It's a very busy month. It's a very busy month with chief of staff harry evans and others to accept a proclamation. So the national fire prevention protection association reported that a home structure fire occurs every 87 seconds. It did in 2009, which is a pretty incredible statistic that we need to do better on. So this is an excellent time this month to raise everybody's awareness to take a moment and examine each and every one of our own fire preparedness. This year the austin fire department's theme is working smoke alarms save lives. The national safety council recommends that you test your smoke alarms and carbon monoxide detectors monthly and change the batteries once a year. And that's this month, everybody is supposed to remember to change their batteries. Even I know that. And if you need help with your installing a new fire alarm, smoke alarm, you can call the a.F.D. Hotline at 512-974-0299 for a free

-- to install free in any city limits, which is an amazing service that you provide.

>> It matters a lot.

>> Morrison: It matters a lot so it's worth the investment. Thank you for that. And another important thing to keep in mind is to make sure you know what your home escape route is as well as what are the main causes of fires and house fires so you can make sure you look out for them. So with that I'd like to read the proclamation. It says be it known that whereas the message for this year's fire prevention month is working smoke alarms save lives, test yours every month. To reinforce the idea that a working smoke alarm is the cheapest life insurance that money can buy. And whereas there have been three fire deaths in austin this year with at least one of those not having a working smoke alarm. Having a working smoke alarm cuts the risk of dying in a fire in half. And whereas on average three out of five home fire deaths result in fires where there are no smoke alarms or no working smoke alarms and a fourth of the deaths smoke alarms were present, but did not sound. We urge citizens to have smoke alarms throughout their homes, to test them monthly and to replace alarms every 10 years or sooner if they

don't respond when tested. Now therefore I on behalf of lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 2014 as fire prevention month in austin. Thank you, guys for your work. Would you like to say a few words.

[00:38:44]

>> I would like to [indiscernible].

>> Councilmember morrison, on behalf of the fire department I'd like to thank you, council and the mayor for your continued support in our endeavors to get to zero fire deaths. For the past three years that's been our ultimate goal to get to zero fire deaths. But that's not possible without hem from you all. What we ask you to do is ensure you have a working smoke alarm and if you do, test that every month. For those who don't have the financial resources to have smoke alarms in their homes we ask they call us and we'll send a fire crew out there to install that for free. In every bedroom and the hallway that leads to that bedroom. So once again, the only way we can get to zero fire deaths is if you help us. So thank you. [Applause].

[00:40:46]

>> Spelman: We're giving a proclamation for the national forum of black administrators. And it says national forum for black public administrator days on october 9th and OCTOBER 10th, SO I Guess it's days, be it known that whereas austin is pleased to be hosting the regional conference of the central texas chapter of the national forum for black public administrators with the theme central texas rising. Public administrators in pursuit of excellence. Sounds like a good thing. And whereas the nfbpa as the capacity of strengthening state and government managers in a multiple of disciplines through training and development programs and whereas the conference will provide workshops and forums that focus on healthy living wellness, leadership, workforce productivity and will address issues that impact attendees' communities and whereas they are partnering with the city, travis county and aisd also will introduce more than 100 high school students to the diversity of public service careers on public administration day. Now therefore i, bill spelman on behalf of lee leffingwell, ayor of the city of austin, texas, do here by proclaim october 9th and 10th of 2014 as national forum for black public administrator days. In austin.

>> Thank you, councilmember spelman. We appreciate that and we thank the rest of the council

-- the mayor and council for their support. The council has supported us for several years running and we are excited about the opportunity based upon what we do on a day-to-day basis. Our whole mission

is to increase the number of minority public administrators in senior level positions so that they can lead as

-- lead in local government, county government, state government and federal government as well. So we are here celebrating public administration day on the ninth of october. And that's a special day for us because we have an opportunity to bring in 125 youth from four area high schools that will come in and get a chance to engage in executives and fan out in about 11 different directions across the city as well as the county. And go into the job areas and take a look and see if public administration or public service is what they want to do. They get a chance to get access to that and to have that as one of their

-- one of the things they think about in terms of the future. We have that going on as well as on the rest of the conference we have about 13 workshops on professional development as well as in addition to mobile workshop. We have awards luncheon, which will be on the 10th as well. So we are excited about that. Recently here we've had the opportunity to be involved in a number of things where I think councilmember morrison was instrumental in helping us in what is called a google think tank recently over at the williams center and that was 100 youth for

-- that have come together to put together a marketing plan for google to utilize in terms of marketing some products. So that was a very successful event. In addition to that we did bowl for a cause campaign over the last 60 days that brought together our organization. We campaigned and raised funds and were able to raise about \$31,000 for area agencies who do a lot of good in the austin community. So we've been steady at it on a regular basis trying to engage not only what we do in terms of professional development, but also have an impact on the community as well. I have with me my board

-- one of my board members, mr. Carl smart, and I would like for him to have a word if he would, please.

[00:44:46]

>> Thank you, dusty. Again, I want to add my thanks to councilmember spelman, to mayor leffingwell and the members of the council for their support of national forum for black public administrators, an organization that is committed to quality public administrators and increasing the numbers of minorities that are qualified and able to compete for administration positions in local government, county and state. And so we want to do our best, as dusty has indicated, to help bring along others, our young people and working with them. So we just appreciate the city supporting that, mr. Spelman, so we will continue to work hard and working collaboratively with mayor and council to get that done. Thank you. [Applause].

>> Spelman: Last proclamation of the night, you're in luck. Be with known that whereas 12 million americans have noise induced hearing loss as a result of exposure to ongoing loud noise. I suspect that's a larger percent in austin, texas. Whereas with the austin city limits festival, hunting season and forum

During this month is an appropriate time to focus on protecting your hearing and whereas wearing hearing protection when sounds are greater than 85 decibels for 30 minutes or more, turning down the volume when listening to music on ear buds or headphones and walking away from loud noises are ways to protect hearing and whereas we join Estes Audiology, a health care provider for local musicians through the Health Alliance for Austin Musicians until urging Austinites to prevent hearing loss by caring for their ears in noisy situations. Now therefore I, Bill Spelman, on behalf of Lee Leffingwell, Mayor of the City of Austin, Texas, do hereby proclaim October 2014 as National Protect Your Hearing Month in Austin.

[00:47:48]

[Applause].

>> Thank you, Councilmember Spelman. On behalf of my business partners, I would like to thank Mayor Leffingwell and the Council entirely for recognizing October as National Protect Your Hearing Month. In audiology we strive not only to treat hearing loss, but to be active in our community in preventing hearing loss. Noise-induced hearing loss is the most preventable hearing loss that we deal with and it's unfortunate because once the loss is there there's truly no getting that hearing back. Even at the age of five when a child is exposed to noises too loud and causes damage, at that point the damage is there and we'll catch up with them at some point in their lifetime. Although hearing problems are commonly associated with the aging process, at this point in America we have 36 million Americans affected by hearing loss. Hearing loss is the third most common health problem that we encounter in the United States, led only by heart disease and arthritis. More than five million young people in the United States between the ages of six and 19 have reported some level of noise-induced hearing loss, which is preventable through the use of hearing protection and proper management. At this point in medicine there is no way to undo the effects of cochlear damage or noise induced hearing loss so it's really critical that from a young age people be educated that your hearing is that you have is all you have for a lifetime so you must protect it. So again thank you so much for having us and we appreciate it.

[Applause].

>> Mayor Leffingwell: We are out of recess and I understand that we have a postponement on item number 76.

>> Guernsey: Item 76

-- Greg Guernsey, Planning and Review Development and I understand that Chris Riley asked for a postponement this morning and I believe it's for the 16th.

>> Riley: Correct.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: Earlier in our very short discussion about the postponement, my colleagues said he thought I wasn't ready yet or something. I guess. I have can thoughts and things that I think it needs to be improved myself, so I just wondered about process, if that's something that becan do, is do it down with you

-- something we can do, is your office and folks to see if that's what is envisioned in this interim period.

>> Guernsey: We can certainly sit down with anyone in your offices. If you have questions about the amendment, I think we are ready to go forward but if there are questions or concerns, we will sit down with your offices, if you'd like, and answer them the best we can.

>> Morrison: Okay. And to be clear, what we are looking at is actually, in backup, is staff recommendation. Is that right? Because the planning commission voted against it?

>> Guernsey: That's correct.

>> Morrison: Thank you. Enterta enterta in a motion for postponement. Council member riley moves to postpone until october 16th.

>> Second.

>> Mayor Leffingwell: Second by council member spelman. All those in favor, say aye. Aye. Opposed say no. Passes on a vote of 5-0, with council member tovo, mayor pro tem cole off the dais. Now we will go to our codenext briefing.

[00:02:10]

>> Guernsey: And I will turn it over to george, our department.

>> Good evening, item 75 is the presentation of code approachment alternatives and annotated outline reports from codenext, the program to revise the city's land development code. This item is on our agenda tonight as a briefing. We will be back before you on october 23rd for a public hearing, and at that time we will also be asking council to select a preferred approach to provide direction for the update and revision of the land development code. Presentation this evening will be made by mr. Dan parolic of optocose design, the lead consultant on this project.

>> Good evening mayor leffingwell around council. It is a pleasure to be back in austin to present this important milestone for the codenext project. I think I joined the flood of austin city limits bound folks on the airplane out here yesterday, so here we are, talking about codenext. So I am going to

-- since many of you have seen this presentation, I am actually going to give a short 15-minute presentation tonight and then me and peter parks who another core team member of the codenext core team writing team will answer your questions.

-- So just an overview, there are three primary components and I want to give you an overview of the three approach alternatives. Second of all, I just wanted to talk a little bit about the introduction of the elements that are inherent in each of the alternatives and last, but not least, wanted to talk about why we are approaching approach alternative number 2, the deep, clean, and reset. I wanted to mention as I kick off this presentation tonight that, how this code writing process is different than many others is this is a community character based process, where we are very carefully, through the community character manual process sort of studying, learning, and identifying unique characteristics of the different neighborhoods throughout austin and using that as a foundation by which we are actually going to jump into the code drafting early next year. So I also think it's very important to start this conversation, to be really clear about what the selection of an approach alternative does and does not do. In terms of what it does not do, the selection of approach alternative is not changing existing regulations or changing policies or neighborhood plans. We are not at this point, in terms of selecting an approach revising zoning districts or recreating new districts

-- and creating new districts and last of all we are not making an approach of where rare and district zoning applies, and all of that happens as we move to drafting of the code early next year and in the early drafting of the new code document but what this selection does is it gives the codenext a really solid foundation and a framework and roadmap for very quickly transitioning over into the actual drafting of the new land development code in 2015. A little bit of background, I just wanted to mention that the work that has been done to document, both in terms of the codenext process in the listening to the community report and in the code diagnosis, as well as the work done prior to this process in the imagine austin process as well as the neighborhood planning efforts, are really providing an excellent and solid foundation for us as we move through the land development code rewrite. I just wanted to mention that we are continuously and continually be referring back

[00:06:13]

-- the growth concept map because that is a document that sort of focuses the primary areas of change that will happen throughout the city in the activity centers

-- centers and the activity corridors. So now jumping to an overview of the three alternatives. The three alternatives are the brisk sweep, the deep clean and reset, which is our recommended approach, and the complete make over. So in terms of the brisk sweep, approach alternative number 1, this alternative, there would be no major structural changes to the land development code. We would actually use the existing structure of the land development code and refine that and make additions and revisions that content within that existing structure. There would be targeted cleanup and refinements

to ensure consistency and clarity but what we found was that by you trying to use existing code framework, it would actually be much more challenging for us than to actual create an easy to use and easy to understand code. In the brisk sweep alternative, we would be creating a thorn based code component but it would have extremely limited application in the codenext process but used to apply to a areas in the plans in approach alternative 1. Approach alternative 2, the deep clean and reset which is our recommended approach. What is important to understand about this approach is it's a complete reworking of the code structure. We'd

-- actual the reset in this title basically implies that we are going to actually be getting rid of the existing framework, existing structure. Taking a step back and trying to

-- establishing a framework that we feel makes the most sense in terms of long-term effectiveness and clarity and then plug new regulations and refined regulations back into this new framework. We substantially improve the usability, larity and consistency in an approach alternative 2 and important aspect is we would be forming a form based component of this and we would be selecting a targeted number of catalyst areas in neighborhoods that as part of the codenext process, we would actually be testing and applying the new form based standards to those targeted areas. And in the approach alternative 2, the hybrid nature of this code, which mixes euclidian form based and performance based standards would be flushed out to the point where we would be trying to push for by write review in as many locations as possible but there still would be a good balance of the discretion discretionary view and customized zoning in those areas where it makes sense for that type of review to happen. The last thing to mention about approach alternative 2 is the complex layers we make in approach alternative and we would be taking steps in this approach alternative step to get rid of the layers, compress the layers and pull the intent through and create a much clearer, much more effective system by doing that. Approach alternative number 3 is the complete makeover. This approach alternative sort of embodies the most extensive modifications to the land development code. It represents significant reworking of both the content and the structure but I do want to mention that the structure that's proposed for approach alternative number 2 and approach alternative number 3 are actually the same framework, so you would be starting from the same solid foundation of a new framework in each

-- either of the alternatives. Approach alternative 3, like 2, we would be creating city wide form based code system. The difference between 2 and 3 is approach alternative 3 would take a much more progressive approach in terms of determines larger geographic areas of the city to immediately apply the form based coding in the short term and approach alternative number 3 because of the high level of refinement, thought and care that's gone into the refinement, we thought it would really push the ability for bi' right review

-- by right review system to be across the city and the approach alternative 3 would have the using the existing layers of the combining district and I make it a much more effective system. Introduction to the elements. The elements are the ingredients toe each of the approaches. Each of the approaches has his three elements. Code format and organization, development review models and development standards models. I am not going to go into a lot of depth in these and I will be happy to answer questions about them but what I did want to say is that part of this process, we created a set of criteria that you see up

on your screen here that were derived from what we heard to the listening community report process as well as the code diagnosis and we utilized that criteria to put these tables in sort of rating system throughout the document of sort of the elements along the left-hand side, the criteria across the top, and then for each of the elements in the criteria, we sort of said, does it meet the criteria on high level, medium level, low level and so we looked at the different elements in how they are combined to the different approaches and that led to our recommendation. And so I want to mention that graphic clarity and usability is very important in any of the approach alternatives and we would be taking a very aggressive approach in terms of graphic clarity and user approach in all of these alternatives. Lastly comparison of the alternatives and more simply why the codenext team is recommending the deep clean and reset. So this table here from the approach alternatives document, I tell people if they are going to sort of carefully look at one page in the document, this is a really good page to study because what this page does, it has the columns, 1, 2, 3, that represent each of the approach alternatives, the green rows represent each of the three elements and then we very systematically went through this and defined, just as an example, how each of the elements would be integrated into the approaches. So just as one example, the reorganization of the content, which is the second row underneath code format, in approach alternative 1, the content would have limited reorganization and approach alternative 2 and 3 would undergo very extensive modifications, as I mentioned earlier. So why do we think the deep clean and reset is the right approach for austin? Number 1, we feel that it is necessary to actually take a step back, get rid of the existing organization and start fresh, to create the most effective clear and usable code. Approach alternative number 2 does that. In terms of the approach standard models, we feel this approach is creating a hybrid code

-- we talked about this before

-- that very effectively uses use base code and form base codes to the actual context that we are defining in the community character manual process. The second

-- in terms of the development review models, we feel that this approach sort of introduces a good balance of by-right review and discretionary review where it makes sense to have the level of review and review loops to achieve the desired results. We feel the deep clean and reset can very effectively implement your goals of image austin, your priority plans that are related to the land development code and I think last is I do feel the approach to deep clean and reset does not represent a compromise. We feel very strongly this would be a progressive code. This is a progressive approach. It would be one that, after it's adopted, communities across the country will look at as a model of how to regulate a city of this scale and the complexity of austin and ultimately feel that it will give the staff time, the decision makers time and the development community and the consultants the time to learn the code, sort of vet the code and then it can hit the ground running and can actually spread quite rapidly. A couple of concluding thoughts in terms of the road ahead, the process we feel has been very iterative to date and will continue to be iterative. It has been a really important part of this process in terms of the feedback we have been getting and how we've integrated it into the products that we are developing. I wanted to mention, questions have come up how we will define different contexts like walkable urban, drivable suburban and the transitional, I want to show an example, in Cincinnati, Ohio, we created this map that

with these quarter mile pedestrian sheds or the circles defined the 42 walkable urban neighborhoods in Cincinnati where the form based coding would apply and the

-- coding would apply and the areas between that is where the areas of the Euclidean design would apply so there is an approach here to go forward. I want to mention a couple of closing thoughts, this community character manual. We vice president had a whole lot of time to talk about it and present it and get feedback. We have gotten a lot of feedback but as we move forward to the drafting of the code, we want a chance to take the community character manual out to fine tune it and extract any characteristics of the neighborhoods throughout Austin, and this community character in the box, which is part of the community character manual have been extremely effective in terms of us enabling sort of community members to actively participate and to help us define the character of their neighborhoods both through photography and comments on the maps. We are going to continue to do that throughout this

-- throughout the early parts of this process. And in terms of future steps, so, you know, we will be coming back in early 2015 for a reconfirmation from the council, in terms of the direction we get from you all later this month. We are going to very quickly

-- we want to keep the momentum moving forward to actually jump in to the drafting of the code sort of early 2015 as well. But as you can see, I mean, it's a long time frame. You know, there is going to be some testing and discussions happening in late 2015-2016 to test areas, but we are really looking at late 2016, where the actual adoption draft is going to be released, and then the mapping would happen subsequently in 2017, but we are really excited about the work to date, the engagement and participation we have had from the communities. We are continuing to find out more every trip and every sort of aspect of the community character manual we sort of dive into. And we are really looking forward to kind of utilizing the momentum, utilizing the feedback and comments to jump in to early next year, into the drafting of the code so people can actually start to ask questions specifically about how these concepts, or they can see how these concepts can effectively regulate and implement the goals of Imagine Austin. Thank you.

[00:18:21]

>> Mayor Leffingwell: Thank you. Any comments? Council member Riley.

>> Riley: I do want to talk about one thing I have heard

-- gotten input on. The local folks involved with the American Society of Landscape Architects have been raising questions about how we are going to be able to adequately address questions related to green infrastructure as we go forward with the code revision process, and the suggestion has come up that it might well take some additional resources to do that and that could be either a matter of expanding the scope of your work or providing some funding for additional staff help on

-- on our side, either in

-- on the review or

-- the planning and development review or on watershed protection. I want to ask your thoughts on that. Whether it's something we ought to be considering at this point? And if so, what would be the most appropriate solution?

>> Yes, I think it definitely is being considered and should continue to be addressed. The

-- the staff is currently meeting with priority program teams and I think the intent, for example, of using with the infrastructure and green water resources, to be more specific about what the desired direction is on the green infrastructure because that's a pretty broad category. We need some more clear direction and we can work with them to decide, does it make sense

-- who does it make the most sense to lead that effort? How does it plug in to the codenext? Is it in position with our team and a staff with an additional consultant? But the first step is to need to define what specifically is the desire to integrate into the code update, the starting point.

>> Riley: Good, so those conversations are ongoing now and someone will be bringing us recommendations either from our staff side or from your team. Is that?

[00:20:24]

>> That would be the intent, yes.

>> Riley: Okay. Great. I also want to ask one other question and first

-- I should really start by thanking you for all of the work on this. We've had the opportunity to get at least one presentation on this previously and I really appreciate all of the thought and effort that are going into it.

>> Thank you.

>> Riley: The general subject did come up at our last meeting, when we had a presentation about work that's ongoing in the colony park area, and they've got

-- as you know, doug farr is leading a team that's doing great planning up there. We talked at that time how their work would relate to the work you are doing. It raises a more general question about what we do about planning efforts in particular areas while this code revision process is ongoing, because there are

-- in addition to colony park, there is certainly other areas

-- highland mall, airport boulevard, for instance, where there is significant interest in making some progress on some planning sooner rather than later. So the question is how can these all fit together? How can all of these processes be in sync? Doug mentioned speaking with your el team about whether those efforts would be in sync and I want to get your general thoughts on that. Is it your sense that we need to put the brakes on all of the plans we are doing here

-- all of planning we are doing here or do you see some opportunities to make additional process in particular areas within austin while your work is ongoing?

>> Yeah, I

-- first of all, I just

-- to be a little bit truthful in saying it has been hard to keep up with all of the different things happening that are kind of happening in parallel with our process, but we, you know, have done our best job doing that and will continue to get more up to date with all of the different moving parts as we

-- particularly as we dive into the code. The colony park effort in particular, we have the benefit that laura tubes is actually on our team as well, so

-- and they just happen to be in town a lot of same times we have over the course of the last year and a half, so we have met with them fairly regularly to just keep up to date, because their process is moving forward a lot more quickly than ours, so we have kept abreast of what is happening in colony park and I do feel like there is some good synergy between those two efforts in particular, and we can learn from kind of that testing of some of doug farr's concepts, sustainability concepts, so we look forward to doing that. In terms of just coordination with the other efforts, I

-- I mean, I think

-- it is going to take a lot of time and energy, but it's necessary. I wouldn't recommend stopping those initiatives but I do think we need to be

-- our team and the core management team needs to be aware of them and sort of be thinking about them and how we need to either plug in or inform

-- or they need to inform our process.

[00:23:30]

>> Riley: And in particular I wanted to ask about airport boulevard and highland mall. That is one that your team has been asked to take a look at. Is there anything you can tell us about where that stands?

>> We are in

-- basically we've done an initial assessment of the airport boulevard code. We have not yet made a recommendation on what to do with it. I understand there is some movement from the property owner's part, from highland mall figuring out how to get their project entitled. That's sort of impacting that conversation. But we have done an initial assessment. It's going to be more helpful as we kind of move into early next year the drafting of the overall code to understand

-- we've basically been given the direct that the ideal objective is it's folded into the new land development code and shares a system, so ...

>> Riley: I do know that there has been hope that

-- on airport boulevard in particular, even the areas apart from highland mall but there would be some possibility of making some progress on that since that planning effort has been underway for some time now and there has been broad support within the neighborhoods in that area to see

-- to see some movement forward and a lot of work invested in developing some plans for that area. I know there has been some hope about making some progress there sooner rather than later. Is that realistic?

>> I don't know that I have an answer for that. I don't

-- I think the easiest answer is, if it wants to share the same system with the new code, we need to draft the new code first to share that system. If it seems to make sense

-- because there was a lot of time and energy and thought put into that process if it doesn't make sense to go forward on a parallel or even a tangent, you know, based on the support that's there and the desire to get it implemented earlier, then that may make sense as well.

[00:25:40]

>> Riley: Okay. I see george approaching.

>> Good evening, council, george adams, planning and development review department. Just a couple of things I wanted to add. We have talked about the potential

-- because of the interest at highland mall of trying to accelerate that piece somewhat and another discussion point we've had internally is given the amount of community outreach and planning that has gone on in that corridor, this might be an area where we, in essence, test the code once we have an initial draft because we

-- you know, we kind of have that basis of all of the good work that was done previously in that area.

>> Riley: And that

-- and with that in mind, there might well be

-- I am hopeful there will be opportunities to make use of the code that's already been developed in a way that would be inconsistent in the code you are anticipating for the whole city. Do you see any potential for that?

>> Whatever we do, I can't imagine we would be making decisions that would change, for example, intensities or mix the building types that the current draft code allows. It would just simply be trying to create a system or use the same system from the new code to implement those decisions that were made as part of that process, so ...

>> Riley: Okay. Okay. Well, I look forward to continued conversations about that and everything else you are doing, and I appreciate your being here tonight for this presentation.

>> Thank you.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: Thanks. I have to start by saying one statement really jumped out at me and you said you wanted to make sure we knew this is not a compromise. That's really funny to hear because usually it's all about compromises down here but I get your point. [Laughter] I just have to say it was very interesting to hear you use that language. And what I gathered from that statement is you really believe this is the right way to go. It's not like trying to find the least bad solution, would you

-- is that a fair statement?

[00:27:51]

>> Yeah, absolutely. I mean, we are not the type of firm that takes the easiest route. We want to kind of come in and

-- for you as the client and actually solve your problems, and I feel that we wouldn't be recommending approach alternative 2 if we didn't feel it could solve your problems, and we are confident that it can.

>> Morrison: So it was my planning commissioner, commissioner zaragosa that abstained on the vote on that and she told me about that, she told me it is not that she thought necessarily it is the wrong approach. It is just she was concerned about moving farther and farther down the road of committing to form based code without really getting straight what that was going to mean for some folks, and she brought up examples

-- she said there are some situations where, for her, the use of the activity far outweighs the form of the building. The form can be fine. The use is what's the problem in terms of creating compatible situations and I heard you

-- you were clear today saying that euclidian zoning is a failure, but really, I think I

-- it would be helpful to me to understand as we go forward

-- because I think this is where a lot of the tension and the discussion is

-- when we hear

-- when I hear you talk about, you know, form based code would be used in certain areas or small area plans, where we would buy them, I guess I don't understand

-- we are not throwing out euclidian

-- well, let's not use that language. We are talking about use

-- still regulating use to some degree and also regulating the form at the building. But what I also don't understand is we also talk about, say

-- and you talk about especially doing that in the central

-- maybe more urban cores, but, on the other hand, we talk about with, well, we have areas of stability and areas of change. Well, if you are talking about the neighborhood and the residential area in the central core and it's an area of stability, are we talking about taking residential off the table as a requirement and only talking about form? You see why I think this is getting confused?

[00:30:19]

>> Yes, and, you know, I would say that could we have done a better job of educating about form based codes leading up to this? Probably. We will continue to educate as we move forward to clarify the misperceptions. Yes, form based coding regulates the desired form first but it thinks very carefully about use and in a central austin neighborhood, that is primarily residential, we wouldn't leave the use open, but we do feel form-based coding

-- we have used it effectively to regulate compatible development in primarily residential neighborhoods so we feel that it can do that. I do want to correct sort of the quote in the paper today. My point was we have not

-- I feel that form

-- euclidian zoning has not effectively regulated walkable urban environment. It is really hard. It is the wrong tool. It is like trying to use a hammer when you need a screwdriver for walkable urban areas so we feel very strongly that the form-based coding or form-based approach is the most workable tool for this and whereas euclidian is good for those that are suburban and want to remain suburban.

>> Morrison: For me, I don't understand why

-- I don't know why form-based code wouldn't work in the suburban areas, too, so that's why I feel a little confused.

>> We can talk more about that, I am sure we will. But I think if there is a suburban area, maybe a large undeveloped area that is designated as a community center and wants to be compact connected, it can absolutely use the form based code to achieve that goal. Whereas if there is a suburban corridor that seen its better days, days of disinvestment, gray field opportunity sites that wants to become walkable center of sorts, it could use the form-based code, so it's suburban develops that are either undeveloped and want to be walkable areas or the one with sprawl areas and want to be walkable can use form based coding but euclidian was to do to separate the uses and does a really good job in suburban context of doing that.

[00:32:49]

>> Morrison: That's right. In fact, we have a zoning case on our agenda today where there was a request to move from industrial zoning to residential zoning and the other industrial sites around there were raising concerns. We are not sure we want residential next to us, because then they mr. Not going to like us being here.

>> Uh-huh.

>> Morrison: So that's, in fact, why euclidian code was

-- but I think the message that needs to come out is, when we are talking about form-based codes, we are not talking about abandoning the concept of use.

>> Yes.

>> Morrison: It's still the issue of residential versus office versus industrial because it would be a huge failure if we just were regulating where we put buildings and in what form?

>> We would not do that and that's a common misperception, but it's absolutely not true. Just the use isn't driving the regulations. It is kind of a supplementary and supportive set of standards. It's still very carefully thought about.

>> Morrison: I think that

-- I am sure you plan on talking and doing more educating, but to have one of our

-- the code talks to delve into that and to put some examples on the table. I think it will really help the conversation come along a little bit better.

>> Yes, I agree.

>> Morrison: Thank you.

>> Mayor Leffingwell: Okay. Thank you very much.

>> Thank you.

>> Mayor Leffingwell: Item 77.

>> Thank you mr. Mayor, mayor pro tem, council, kevin shawn floodplain administrator from the watershed protection department. Item 77 is the floodplain variance request for 1010 west 10th street which is in the shoal creek watershed that should be coming up on our screen momentarily, thank you. Here is the property outlined in red. It is at north lamar and 10th street or baylor and 10th street, if you will. You can see the darker color there, the 25 year floodplain and the 100 year floodplain

-- the majority of properties were in the 100 year floodplain of shoal creek. A little closer up view

-- the current use of the property is a parking lot currently that has about 33 spaces in it used for some businesses in the area for reserved parking. There was a single family home on the lot actually dating back to 1929. It was demolished in 2008. Currently there are no buildings on the property itself. The applicant has a commercial site plan application under review and the proposed development is a three story residential building that's around 33,000 square feet of growth area. They have 14-3 bedroom condo units proposed. 29 parking spaces will be underneath the building. Really, the issue for this floodplain variance request is all about parking. The building itself is located more than 7 feet above the 100 year floodplain. The building has safe access to baylor street, so the building itself meets the floodplain rules, although it encroaches in the floodplain. The issue at hand here is really the parking requirement and the code doesn't require parking in the floodplain. At least it meets some specific depth requirements which this one does not meet. For the parking area, where there are about 29 spaces, the floodplain depths for the 100 year flood range from about 5 feet to 6 and a half feet, pretty significant depths. For 25 year, it is about 3 and a half feet to probably about 4 and a half feet. Now, we met with the applicant preapplication and talked just very previously kind of about some

-- very brief lip about some of their proposed

-- briefly about the proposeds and then we give them information that we could probably process in administratively and once it came in and we saw this isn't necessarily a building that's built on top of existing parking. Whereas it is brand new parking, everything is brand new. However, they are reducing the number of parking spaces compared to now to what is proposed, so that's why we feel that it could not be approved administratively and needed to bring it to you for consideration. So the variance requests, again, as I mentioned, it's to allow the building and the parking to exist there in the floodplain and then the typical drainage easement request to exclude the footprint of the building from the 100 year

-- from the drainage easement requirement. Just a quick note about parking in the floodplain. This is a picture from the october 13th storm of last year over on ectum circle and williamson creek. They had about a foot and a half flooding in this area. Moved cars around, obviously demolished a lot of cars. That is with a foot and a half of water and for this particular area in west shore, we are talking about the 10 and a half flood, 6 and a half feet of water and it is a significant amount of water and what we are worried about is whether the residents of the building will want to get their cars and get it out of the floodplain and because of the flashing nature of shoal creek and flash flood alley here, how floods happen fast, that certainly would not be a safe process for them to do. That's our main concern, again, it's parking in the floodplain which is the main issue. The applicant has provided information to us that indicates that the development will not cause adverse flooding on the other properties. We are comfortable with that information they provided. They even provided structural certification to indicate the cars themselves won't float off the property. It is essentially not a parking cage, if you will but but financing around it so they won't float off. The building has safe access, the finished floor is about 7 feet above the 100 year floodplain. However, the prose pod parking does have significant flood risks. There is

-- and it does not meet the hardship conditions. One thing I didn't mention about the site itself, is back in 2008, the owner of that property at that time submitted a site plan application request to us and get a site plan permit and they got an administrative floodplain variance and the reason is that proposal had parking elevated up on structural level so the parking was not in the floodplain and had the residential units above that. We have seen application come in that has to the most extent possible, met the floodplain rules, they got administrative floodplain variance. However, this is slightly different in so much they are leaving the parking there in the floodplain as it exists today. If you would like to look at the draft ordinance that's in your packet, there are three conditions on there. One

-- two fairly standard once for the elevation certificate requirement and the drainage easement. The third one is something that we put in there that we feel is important, really, if the ordinance is passed, we just want to make sure that the people who live there, who are buying there know what they are getting into, and

-- know what they are getting into and first of all, making the parking reserve parking. Not general parking but whoever is parking here should know the risk and they

-- those are the people

-- the only people who will be parking there. They will have some signs in the parking area to remind them that the parking area is in the floodplain and then the last one indicates that, to some degree

-- and we are working with the applicant with this

-- to some form in the condo documents, sometime at the time of sale, that that information will be passed on to the person so that they understand, yes, they are buying a condo here, but are also buying a parking parking area that has flood risks so that education information is important to us, if we think it's going to be passed, then we think it's an important tool for the residents. That's all I have. I am happy to answer any questions and I believe the applicant's agent is here as well.

[00:41:14]

>> Mayor Leffingwell: Okay. Applicant james schisler

-- you don't look like james schisler.

>> I am not. He is in the black. Mchim meade with hush blackwell hand jim schisler is the architect on the project and we also have kevin alter and joe boyle if you have questions, and kevin always does such author row presentation, I am going to probably skill a lot of mine, but I am going to go to

-- just want to speak a little bit about the development that's being proposed

-- we think that

-- this site was poised for development and many started and stopped on it many times. Actually a lot of us who were consulting on it have worked on this site before. It is really a site that is a little bit of eyesore in this area and something needs to happen on it. We feel like the proposal is reasonable and addresses the concerns that kevin raised, which are valid concerns, but we feel like those have been addressed in our proposal. So the code provides for the council to consider several factors when looking at these variances and we feel that in

-- with respect to the request and the conditions that kevin went through, that the developers agreed to, all of those factors are in our favor. As kevin said the finished floor elevation will be 7.2 feet above the 100 year floodplain and so that means none of the residences or

-- there is actually an office also in this building proposed that kevin didn't mention, but none of those will be below the 7.2-foot mark, so nobody is at risk of being in the residence when there is a flood and being within the floodplain area. And unlike a lot of these variances that you all see, particularly in downtown, where the floodplain is extensive, this development actually has safe access. We aren't asking for a variance or a waiver from that requirement. I don't know that kevin mentioned that the building will be flood proofed, and then, also

-- and jim can speak more about this, but the site is actually located in an ineffective flow area, meaning buildings already exist on both sides so the velocity and the duration of the flood and the rate of the rise of the flood in this location is actually very minimal. And we thought that was worthy of pointing out. Kevin did mention, with this proposal if the variance is granted, there is no increase danger to downstream properties and no increased burden, I think it's worth pointing out, on governmental resources because all of the utilities will be located outside of the floodplain. And kevin mentioned that, you know, parking

-- this really is a case about parking and the parking is a risk, but we feel very strongly about pointing out that the risk is to our own residents, number one. And we have agreed to put measures in place to make that risk minimal and then also

-- I should have brought a photo

-- but any way our building will exit on baylor street so that side of the building where any resident or office tenant was exit in the event of a flood is out of the floodplain f. You have been on that section of baylor street, you also know there is a parking on both sides of the street and one option for the residents that I don't think kevin mentioned is that in the event a flood is on the way, a person wouldn't have the option to park their car on that street but even if a resident does park their car in a garage

-- kevin mentioned this and I think it's a critical factor

-- the parking garage will be gated and fenced. Whereas you have a parking lot on this property right now so any cars there now will be flowing down the creek and will cause damage to the properties. No car will be able to flow out of this garage. Anything that shou move in the garage would stay put. With regard, finally, to the findings

-- we do think we meet the findings. It is really a unique site. Only 22 feet of the lot is above the floodplain and the lot has an unusual slope from baylor street down toward lamar, but that slope allows us to be able to have a safe access and not need to ask for that variance, and the lot really is not developable. Only 22 feet of the lot is outside of the flood area right now and so where somebody could possibly

-- if there is a small development, it is really not realistically developable. The prior site plan, I think jim worked on that site plan, that kevin talked about was for a very small project that really would have been in our

-- in the architect's opinion in conflict with everything else that the city is seeking in its code concerning having parking at the pedestrian level because essentially the whole building is on piers. And so, you know, one could argue any time you have a lot in a floodplain, you could put the building on piers and in this case, because of the topography of the lot, that would mean you have the parking

-- where whereas you saw the rendering of the baylor street, you would have essentially half of your parking garage there in place. And then the other two findings are that there is no increased flood risk. Kevin talked about that and mentioned it. But the proposed development will not do anything to increase flood heights. Again, it has safe access, and then that what is being requested is the minimum necessary. Were only asking for those two variances and, you know, our alternative

-- and I didn't speak about this. I sort of fast-forwarded past it, the alternative is a code variance to that, that we comply with the neighborhood plan

-- I should say the neighborhood plan, although the site is cs, to put height restriction on it that it cannot essentially exceed 4 stories which was done to protect views which is understandable, but that's really what's driving the need to put the parking on the ground floor and the building

-- the three levels of building above. So as I said, architects are here to answer questions. Civil engineer is also here to answer questions and as am i.

[00:48:08]

>> Mayor Leffingwell: So I think the key points for me is there is egress from all of the habitable space on to land that is not in the floodplain?

>> Correct. And we actually have a graphic that shows sort of how the building is situated in relationship to the floodplain, and then this one

-- the next one actually shows

-- whoops

-- how every unit in the building would egress on to baylor street. I know that I received a question from a council member who wanted confirmation that every unit including the office would be able to exit on to baylor street and so this is what this graphic depicts.

>> Mayor Leffingwell: Okay. I think it's key, also, that the lot is undevelopable without

-- without this variance.

>> Correct.

>> Mayor Leffingwell: And I am not overly concerned about the cars being in the floodplain. Cars are replaceable type things.

>> Exactly.

>> Mayor Leffingwell: But it is key that it's not possible for the cars to be swept down the stream. That's the question I was going to have which you answered.

>> That's right. And mayor, the situation that they have now with there just being a parking lot, then you do end up risking not only damaging the cars but those cars actually injuring people.

>> Mayor Leffingwell: Thank you. That's all I have. Council member tovo.

>> Tovo: Thanks for providing this in answer to

-- that was my question. I have a question for staff about that. But I wanted to ask you about the space in the front, the little grassy area

-- I appreciate the information you provided us about the square footage, I think it's about 1,000 square foot, 1,000 square foot space and you say it will be accessible to the office tenant and also to the residents.

>> Correct.

>> Tovo: Not accessible to the public?

>> I should probably let Kevin speak to that, but, no, I think the idea is that it's not a huge space, so the idea was to be a dog run and place for the residents and the office tenant to fit and sort of gathering area just for the residents. I don't know if you want to add anything to that. You designed it.

[00:50:19]

>> [Indiscernible]

>> sure. Sure. Sure.

>> I think

-- sorry, Kevin Altar, I am one of the people involved with the design, and I think the thought was we want to make a pedestrian-friendly street and so we designed an open sidewalk with handsome planting and I think the thought was the yard was really for if unit and there has been conversation back and forth with the client about whether a fence or not should go there but in my mind it was really like a front yard for the building, not

-- but I guess in that way, it is just like your front yard in your home if you live in a home like that is yours. It participates in the public realm.

>> Tovo: And some front yards aren't fenced, of course. I guess my real question here, though, is this in the floodplain?

>> The grassy area?

>> No.

>> No, it is not.

>> You actually can't see what is in the floodplain on this

--

>> because of the grass?

>> Yes, exactly.

>> Tovo: And I have another question for mr.

-- For our staff member. So you have seen a diagram that the egress is going to be all on to baylor. Is the applicant tied to that, if they changed their design plan, that would make a significant

-- a significant difference, but as I understand it, they would have to come back and ask for a variance for safe access.

>> That's correct.

>> Tovo: They changed it in a way that didn't allow direct access to baylor?

>> That's absolutely correct.

>> Tovo: Okay. Great. And what is staff's recommendation?

>> Our recommendation is denial.

>> Mayor Leffingwell: That's a rubber stamp, isn't it?

>> Not necessarily. It is just a flood risk because of the parking. We aren't talking about a foot here. We are talking about a significant amount of water.

>> Tovo: And there will be

-- there is some containment effort from the cars, as I recall from our discussion?

>> Yes, the garage will be both gated and fenced and so cars will not be able to escape. They won't be able to leave if there were a flood.

[00:52:26]

>> Tovo: Okay. Thank you.

>> Mayor Leffingwell: So one last question. Do the recommended staff recommendations, are they agreeable to you?

>> Yes, we agree to all of them.

>> How many are you talking about? 14 residential and one office space.

>> Riley: Okay, on the baylor side, I didn't catch if there is a fence

--

>> there is not a fence on if baylor side. This graphic depicts the baylor side, so that sidewalk is right along baylor street and the darker area is

-- [multiple voices]

>> Riley: So it's a fairly nice pedestrian area, nice sidewalk with nice planting.

>> That's correct.

>> Riley: Okay. You mentioned the last project that was planned here was a very small project. Do you recall how many units that was? 7 units

-- 8 units.

>> Riley: Okay. Okay. Thanks very much.

>> [Indiscernible]

>> Mayor Leffingwell: That was council member spelman off the mic who moves close public hearing and approve all three readings with staff conditions. Is that correct? Is there a second? Seconded by council member riley. Discussion? All those in favor, say aye. Aye. Opposed say no. Passes on a vote of 7-0. And there being no more business before this body tonight, without objection, we stand adjourned at 8:00 p.m.